

EAST DEVON DISTRICT COUNCIL

EAST BUDLEIGH WITH BICTON NEIGHBOURHOOD PLAN DECISION STATEMENT

1. Summary

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

2. Background

- 2.1 On 30 June 2015, East Devon District Council designated the area comprising the parishes of East Budleigh and Bicton 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 East Budleigh with Bicton Neighbourhood Plan to the Council, the plan was publicised and representations were invited. The publicity period ended on 17 October 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 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 report, a number of additional minor wording amendments were made to the Plan by the Local Authority, and agreed with by the East Budleigh Neighbourhood Plan producers.

3. Decision and Reasons

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

Reason for Change	Change made
The Introduction provides in informative opening section, but contains some factual inaccuracies.	Paragraph 1.4, change to “...These procedures take into account the Neighbourhood Planning...Compulsory Purchase Act 2004.” (delete remainder of sentence) Paragraph 1.5, change to “The EBB NP has been considered in the light of European Regulations...” Paragraph 1.6, change to “...A Consultation Statement was submitted alongside the Neighbourhood Plan and is available...gov.uk.” (delete final sentence)
Paragraphs 1.11 to 1.13 have been overtaken by events and I recommend	Delete Paragraphs 1.11 to 1.13
The Methodology chapter is a helpful inclusion. However, some of the wording is unclear and introduces confusion, therefore, for clarity, I recommend:	Paragraph 2.2, first line, delete “(Submission)” and “current” Paragraph 2.6, final bullet point, change to

	<p>“The need to be transparent and provide Objectives that are robust.”</p> <p>Paragraph 2.9, change to “...in relevant cases, considered how the...”</p> <p>Paragraph 2.10, change to “The Consultation Statement demonstrates the extent of the engagement undertaken, leading the Working Party to...”</p>
<p>The first Paragraph of the “Policies and proposals” section on Page 15 is confusingly worded and this detracts from the precise nature of the Neighbourhood Plan. I recommend:</p>	<p>Paragraph 4.6, delete first sentence (there are many things that a Neighbourhood Plan does not do and the reference in this sentence adds unnecessary confusion) and delete the last sentence, which is inaccurate. Paragraph 4.6 therefore to comprise a single sentence “The Neighbourhood...Period will help to achieve the...Parish.”</p>
<p>The Policy chapters of the Neighbourhood Plan contain “Conformity Reference” information underneath each Policy. Whilst I acknowledge that the information provided may have comprised helpful references as the plan emerged through consultation, it appears as a subjective and limited selection of District--wide policies and National Planning Policy Framework references. As such, it is not comprehensive and is an unnecessary and potentially confusing inclusion.</p>	<p>Delete all “Conformity Reference” sections from beneath each Policy in the Neighbourhood Plan</p> <p>Paragraph 4.7, delete “...and is accompanied...development plan.”</p>
<p>Following each Community Action is a “Responsibility.” Whilst I acknowledge that East Budleigh with Bicton Parish Council can carry out its own responsibilities, the Neighbourhood Plan does not provide a mechanism for Community Action responsibilities to be imposed upon third parties.</p>	<p>Delete “Responsibility” after each Community Action</p>
<p><u>Policy P1</u> The Framework, in Chapter 3 “Supporting a prosperous rural economy,” promotes the growth and diversification of rural businesses. In addition, Policies E4 (Rural Diversification) and E5 (Small Scale Economic Development in Rural Areas) of the East Devon Local Plan 2013--2031, support business and economic development proposals that respect their rural surroundings.</p> <p>Policy P1 sets out a positive, supportive approach to business development. It has regard to national policy and is in general conformity with local strategic policies. Whilst the criteria set out in the second part of the Policy serve to protect business development from causing undue harm, they fail to include reference to heritage assets.</p> <p>Elsewhere in the Neighbourhood Plan, the heritage of East Budleigh with Bicton is identified as “a fundamental quality of the Parish.” Given this and the comprehensive approach adopted in the latter part of Policy P1</p>	<p>Policy P1, add criteria “(e) heritage assets.” (and change “.” to “;” at the end of the preceding bullet point)</p>
<p><u>Policy P2</u> The second part of Policy P2 seeks to establish an onerous requirement, whereby all forms of development will be required to provide for broadband and other communication networks and produce a connectivity statement. No evidence is provided to demonstrate that such a requirement will be viable, having regard to Paragraph 173 of the Framework, which requires that:</p> <p>“Plans should be deliverable. Therefore, the...scale of development identified in the plan should not be subject to such a scale of obligations and policy burdens that their ability to be</p>	<p>Policy P2, delete second paragraph “All new development...into account.”</p> <p>Delete Paragraphs 5.14 and 5.15</p>

<p>developed viably is threatened.”</p> <p>In this regard, I am mindful that provision for broadband and other communication networks may be neither possible nor relevant in the case of some development proposals – for example, new windows in a Listed Building, or a household extension.</p> <p>I also note that the Framework requires that the provision of information to support a planning application should only be that which is:</p> <p>“relevant, necessary and material to the application in question.” (Paragraph 193)</p>	
<p>Policy P3 Policy P3 seeks to protect Grade 1 agricultural land from development, other than in prescribed circumstances. Whilst distinctive to the Neighbourhood Area, this approach has regard to national policy and it is in general conformity with Local Plan Policy EN13, subject to clarification in regard of a proposal not needing to meet every criteria. Were this the case, development would be limited to that for agriculture or forestry. This would conflict with national and local policy and result in Policy P3 failing to meet the basic conditions.</p> <p>Further to the above, the second part of criterion c) is unjustified. It effectively states that development as set out may take place on Grade 1 agricultural land as long as the Grade 1 agricultural land has not been used for five years and it could not be brought into agricultural use. This does not make any sense as Grade 1 agricultural land is simply that. In any case, criterion c) refers to Policy D2 and I recommend the deletion of that Policy later in this Report.</p>	<p>Policy P3, replace full stop after each of a) and b) with “; or it”</p> <p>Delete criterion c) and delete “and c)” from the first line of the final paragraph of the Policy</p>
<p>Policy C1 the Policy is confusing in its use of the terms “facilities” and “assets.” The supporting text provides a definition of an Asset of Community Value. No evidence is provided to demonstrate that the facilities protected by Policy C1 appear on East Devon District Council’s Register of Community Assets and that they are, therefore, Assets of Community Value.</p> <p>Consequently, I find that the reference to assets leads the Policy to appear imprecise and consequently, the Policy does not have regard to Planning Practice Guidance, which requires planning policies to be precise and concise.</p> <p>Policy C1 also includes a requirement relating to Local Plan Policy RC6 (Local Community Facilities). The Neighbourhood Plan does not control the management of Local Plan Policies and the reference is therefore inappropriate.</p>	<p>Policy C1, change first line to “...following community facilities as...”</p> <p>Change first line of second paragraph to “...community value of the facilities will be...”</p> <p>Last line of second paragraph, delete “...which meet criteria...Plan.”</p> <p>Next line, change to “The loss of these community facilities...”</p> <p>Last word, change to “...facility.”</p>
<p>Policy E1 the Policy criteria are imprecise in parts and having regard to Paragraph 173 of the Framework, there is no evidence to demonstrate that, in all circumstances, it would be viable, reasonable or even relevant for development to enhance the College’s position as a school and major local employer.</p> <p>The Policy refers explicitly to the “central built core” of the Bickton College campus. However, the plan referenced does not show any central built core, but rather, simply refers to “Bickton College.” This results in an imprecise Policy.</p>	<p>Policy E1, change first bullet point to “are sympathetic to the Listed Building and its rural setting;”</p> <p>Change second bullet point to “avoid impacts on the AONB, including locally and historically significant views, and where this is not achievable, mitigate any harm arising;”</p> <p>Change penultimate bullet point to “are landscaped having regard to local character;”</p> <p>Delete final bullet point.</p> <p>Change reference in Key to Map 7.25 to</p>

	<p>“Bicton College central built core”</p>
<p><u>Policy L1</u> Policy L1 simply states that outdoor sport and recreation facilities “will be protected.” However, it fails to set out how this will occur and consequently, the Policy is imprecise and fails to meet the basic conditions in this regard.</p> <p>All Policies of the Neighbourhood Plan should be read together and there is therefore no need for Policy L1 to include a reference to one other Policy in the document.</p>	<p>Title of Policy L1, change to “Enhancing Recreational Facilities”</p> <p>Policy L1, change first line to “Proposals to enhance and improve outdoor sports and recreation facilities will be supported where they:”</p> <p>Delete “The following outdoor...” and delete a) to d)</p> <p>Delete the last line of the Policy</p>
<p><u>Policy G1</u> the Policy then goes on to state that the rural setting, biodiversity and views from public rights of way will be protected.</p> <p>No detailed information in respect of precisely what the “rural setting” of all public rights of way comprises is provided. Similarly, there is nothing setting out what the biodiversity of public rights of way actually is. Furthermore, “important locally significant views” from public rights of way are not defined.</p> <p>Taking the above into account, part of Policy G1 is imprecise and 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.</p>	<p>Policy G1, delete “This includes the...wildlife corridors.”</p>
<p><u>Policy N1</u> Policy N1 is a long Policy. Its opening sentence comprises a sweeping statement that presents an onerous requirement for all development to enhance landscape, biodiversity and countryside character wherever possible. No definition of “wherever possible” is provided, rendering this first part of the Policy unmanageable. It is imprecise and does not provide a decision maker with a clear indication of how to react to a development proposal.</p> <p>The first criterion requires all development to enhance the components of natural beauty within the AONB. As these are not defined, it is unclear how every proposal for development can achieve this requirement.</p> <p>The second criterion seeks to prevent any development outside the Built Up Area Boundary and requires all development to “be of a scale to complement the historic core” of East Budleigh. It goes on to require a Local Plan Policy to be taken into account, although this is not within the capabilities of a Neighbourhood Plan. There is nothing in national or local planning policy which prevents any form of development outside a built-up area boundary. Furthermore, no indication is provided of what scale of development would complement East Budleigh’s historic core.</p> <p>The third criterion seeks to prevent development on prominent sites on the edge of the village, but does not set out what these sites are. The village has an edge all around it and there is nothing to indicate what leads a site to be “prominent” in Policy terms.</p> <p>The fourth criterion refers to locally significant views, but it provides no indication of where such views are from and/or what they include.</p> <p>Whilst the remaining criteria generally provide for the</p>	<p>Policy N1, delete first sentence.</p> <p>Delete criteria a), b), c), d) and g)</p> <p>Criteria f), change to “Development should seek to protect and enhance existing wildlife and habitats and where this is not possible or practical, lost habitats should be replaced within the development. New...new habitats and...”</p> <p>Criteria f), delete “A biodiversity appraisal...rural buildings.”</p> <p>Criteria h), change to “The provision of a landscaping scheme to ensure that development complements local character and enhances biodiversity.”</p> <p>Delete Paragraph 11.9, which reads as though it is a Policy, but is not.</p>

<p>protection and enhancement of biodiversity and local character, they include imprecise and onerous requirements without having regard to the requirements of Paragraph 173 or 193 of the Framework, identified earlier in this Report.</p> <p>Further to the above, it is not clear why all forms and processes that constitute and shape the earth (“geodiversity”) must be enhanced. This Policy criterion effectively comprises a sweeping requirement. It lacks appropriate detail and is imprecise.</p>	
<p>Policy N2 the final sentence of the text introduces a form of development control that fails to have regard to national policy. With regards Local Green Space, national policy is explicit:</p> <p>“Local policy for managing development within a Local Green Space should be consistent with policy for Green Belts.” (Paragraph 78, the Framework)</p> <p>Policy N2 is not consistent with Green Belt policy and there is neither any evidence to the contrary nor any justification for the different approach Policy N2 seeks to introduce. I note that the supporting text to the Policy describes Local Green Space 6 as a “conservation area,” which it is not and I address this in the recommendations below.</p>	<p>Policy N2, delete last sentence and replace with “Development within Local Green Space is ruled out other than in very special circumstances.”</p> <p>Local Green Space 6 description on Page 60, delete “(used as a conservation area outside the curtilage of nearby dwellings)”</p>
<p>Policy N3 East Devon District Council has identified a small error in the text</p>	<p>Page 65, annotation to photograph, delete “be”</p>
<p>Policy N4 no evidence is provided to demonstrate that Policy N4 is viable or deliverable, having regard to Paragraph 173 of the Framework. Whilst the supporting text states that “funding can be obtained” to create a green wildlife corridor, there is no evidence to demonstrate that this is the case.</p> <p>There is no reference in the Neighbourhood Plan to the ownership of the proposed land allocation, or to the willingness of the landowner to provide the land as a “green corridor,” nor is there any evidence that the Parish Council has negotiated an agreement to purchase the land so allocated. The Policy simply sets out an aspiration, rather than a land use planning policy that the Neighbourhood Plan can control.</p> <p>Taking the above into account, Policy N4 does not meet the basic conditions.</p> <p>However, in Chapter 11 of the Framework, “Conserving and enhancing the natural environment,” national policy promotes net gains in biodiversity planning positively for green infrastructure. Part of the purpose of Policy N4 is to promote the conservation and enhancement of biodiversity</p>	<p>Policy N4, change to “The provision of a green wildlife corridor, to include a green informal open space planted with native trees and wildflowers, to protect and enhance the biodiversity and character of Footpath EB14 that links Middletown Lane to EB15 and the open countryside, will be supported.”</p>
<p>Policy B1 The first part of Policy B1 seeks to introduce a new requirement for heritage assets and their settings not referred to in either national or local strategic planning policy. It requires any development affecting heritage assets to enhance the assets, and their settings, and any special features. No justification is provided for this departure from national or local strategic policy and there is no substantive evidence to demonstrate that such an onerous requirement would be viable or deliverable, having regard to national policy.</p> <p>The second paragraph of Policy B1 does not set out any land use planning requirement but seeks to establish that the Policy applies to designated and non--- designated heritage assets. However, this then conflicts with the final part of the</p>	<p>Delete the wording of Policy B1 and replace with “Development that results in harm to, or the loss of, the significance of designated and undesignated heritage assets or their settings will not be supported.”</p> <p>Delete Paragraph 12.2 (there is only one heritage Policy)</p>

<p>Policy, which seeks to protect any “properties” that make a contribution to local character, whether heritage assets or not. This is all very confusing and ultimately results in an unclear and imprecise Policy.</p> <p>The first sentence of the last paragraph of the Policy seeks to prevent “inappropriate” development, but only where it impacts on both a designated or undesignated heritage asset, or any property that makes a contribution to local character, and the setting of that asset, or non--asset. As such, it fails to protect against harm to say, just the setting, or just the “property.” The Policy then becomes even more confusing, by stating that development must not harm the setting of “important heritage sites” (but does not refer to harm to the heritage asset itself).</p> <p>No indication of what an “important heritage site” might comprise, as opposed to an unimportant heritage site, is provided.</p> <p>Altogether, Policy B1, as worded, is unclear and imprecise. It does not provide a decision maker with a clear indication of how to react to a development proposal, having regard to Paragraph 154 of the Framework.</p>	
<p><u>Policy B2</u> it is a very unusual Policy, given that it lists fourteen different criteria, all of which “development” is expected to “demonstrate compliance” with. The nature of many of the criteria is such that they relate to reasonably sized residential developments, whereas the Neighbourhood Plan only seeks to allocate one very small site for up to three dwellings.</p> <p>It is therefore very difficult to understand what Policy B2 is actually trying to achieve. It may not be relevant to many forms of development within the Neighbourhood Area and yet it applies to “all developments.” In this regard, it is entirely unclear why, say, an application for a new shop sign must demonstrate compliance with criteria b), c), d), e), f), g) h), k), l), m) or n). Similar questions could be asked of other forms of development.</p> <p>Taking the above into account, Policy B2 fails to have regard to Paragraphs 173 and 193 of the Framework.</p> <p>The title of the Policy refers to “General Design Principles” and yet the Policy does not set out general principles, but ones that are largely very specific to reasonably large residential development schemes. I also note that Paragraph 12.16 is worded as though it is a Policy, which it is not</p>	<p>Policy B2, delete opening paragraph and replace with “All new development should incorporate good design. Development proposals should, where appropriate, demonstrate that they have taken the following into account:”</p> <p>Paragraph 12.16, change opening sentence to “The Parish Council would like to seek all new buildings and extensions:”</p>
<p><u>Policy B3</u> Whilst Policy B3 supports “infill development on previously developed land” it fails to set out what is actually meant by “infill.” No definition is provided in the Neighbourhood Plan. This is of fundamental importance – for example, the Policy goes on to refer to “inappropriate ‘back land’” development, but it does not distinguish how this differs from “infill” development and under what circumstances (other than those referred to in Policy D1, elsewhere in the Neighbourhood Plan) ‘back land’ development might be appropriate. As a consequence, this part of the Policy is imprecise and 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.</p> <p>Further, the supporting text to Policy B3 provides no clarity in terms of what “infill” comprises and includes a significant amount of text that is written as though it was a Policy,</p>	<p>Change title of Policy B3 to “Previously Developed Land”</p> <p>Policy B3, change opening sentence to “Within the Built---up Area Boundary, the development of previously developed land will be supported, subject to the following being taken into account:”</p>

<p>which it is not. Also, it is not clear what “planning permission will be supported” actually means in land use planning policy terms. Once a development has planning permission, support for it or otherwise is not a land use planning consideration. I address this absence of clarity and precision below.</p>	
<p><u>Policy B4</u> Policy B4 is not a land use planning policy. It specifically relates to what East Budleigh with Bicton Parish Council will “usually recommend.” In any case, the Policy does not provide a decision maker with a clear indication of how to react to a development proposal as no indication is provided of under what circumstances the Parish Council will not “recommend permission” despite the various criteria being met. The Policy does not meet the basic conditions.</p>	<p>Delete Policy B4 Replace Policy B4 with a “Community Action” and replace all of the text of the former Policy 4 within the new Community Action.</p>
<p><u>Policy F1</u> The final sentence of Policy F1 requires development to contribute to the overall reduction of flood risk in the Parish. This is an onerous requirement for development that has otherwise demonstrated that it will be safe from flood risk and not increase flood risk anywhere else. No evidence is provided to demonstrate that such a requirement has regard to Paragraph 173 of the Framework.</p> <p>A Neighbourhood Plan must meet the basic conditions. Consequently, it is unnecessary for Policies to state that they are “in line” with the Framework or the Local Plan.</p>	<p>Policy F1 – end first sentence “...in an area subject to flooding.” (delete rest of sentence)</p> <p>Policy F1 – last sentence, change to “...lifetime and not increase the flood risk elsewhere.” (delete rest of sentence)</p>
<p><u>Policy F2</u> The second sentence of the Policy unnecessarily repeats the content of the first sentence and as noted previously, it is unnecessary for Policies to state that they are “in line” with the Framework or the Local Plan.</p>	<p>Policy F2, begin first sentence “The impact from any additional...”</p> <p>Delete second sentence (“Planning...development.”)</p>
<p><u>Policy D1</u> The wording of Policy D1 is confusing. The Policy suggests that the very presence of a Built--up Area Boundary will “ensure the proven housing needs of the Parish are met up to 2031.” However, this is not the purpose of a Built--up Area Boundary and furthermore, no substantive evidence of “the proven housing needs of the Parish” is provided.</p> <p>Taking into account the Local Plan and having regard to Paragraph 17 of the Framework, the provision of a Built--up Area Boundary helps to provide for:</p> <p>“...thriving rural communities...”</p> <p>The purpose of a Built--up Area Boundary is to focus appropriate development within it. Such an approach can help to sustain the settlement whilst affording protection to the countryside around it.</p> <p>In the above regard, I am mindful of East Devon District Council’s comment that:</p> <p>“The policy should include a statement advising that housing development will be acceptable within the proposed boundary.”</p> <p>As worded, Policy D1 suggests not only that the Built--up Area Boundary, by representing “limits to development,” serves to prevent any development elsewhere, but introduces uncertainty re: the whole point of designating a Built--up Area Boundary by stating that some areas “will not necessarily be assumed to fall within the developable confines of the village.” Further reference to “areas on the edge of the village” adds to the confusion.</p>	<p>Policy D1, delete and replace with “The Built--up Area Boundary for East Budleigh is shown on the Proposals Map and on the Map on Page 84. Appropriate new development within the Built--up Area Boundary will be acceptable.”</p> <p>Paragraph 14.10, line 6, change to “...has confirmed in writing...” Paragraph 14.10, delete “EDDC had previously...this Submission Plan.”</p> <p>Paragraph 14.11, from line 4 onwards, change to “...the corrected Draft East Devon Villages Plan, July 2016. The map above illustrates the Built--up Area Boundary and compares it to the previous boundary shown.”</p> <p>Paragraph 14.12, line 4, delete “(except on the eastern edge...is not supported by this Plan.”</p> <p>Paragraph 14.12 first bullet point, change to “EDDC’s confirmation that they intended for the boundary to be drawn tighter...”</p> <p>Delete from line 8 of the third bullet point “It is considered...” to the end of the last bullet point “...extend the built form).”</p>

<p>This results in the Policy appearing imprecise.</p> <p>The final sentence of the Policy is unnecessary as it is a requirement that applications for development must be considered against the development plan as a whole.</p> <p>Whilst part of the supporting text to Policy D1 is informative and accurate, other parts are confusing and detract from the clarity of the Neighbourhood Plan. For example, Paragraph 14.8, which states that the Built-up Area Boundary will be defined at some stage in the future, is in direct conflict with Policy D1, which designates the Built-up Area Boundary.</p> <p>Paragraph 14.9 comprises unnecessary historic information that adds little but confusion and much of the text from Paragraph 14.10 to 14.12 is repetitive. For example, a drafting error by East Devon District Council is referred to on six separate occasions. Also, some of the language, for example “admitted,” appears inappropriate in the context of land use planning. Also, part of Paragraph 14.13 reads as though it is a Policy, which it is not.</p> <p>The Plan on page 84 refers to “Preferred Approach Boundary” whereas the Policy relates to the “Built-up Area Boundary” designated in the Neighbourhood Plan.</p>	
<p><u>Policy D2</u></p> <p>Policy D2 is confusing. Whilst it clearly draws from Local Plan Strategy 35, it commences by allocating a “rural exception site.” By definition, a rural exception site is one that does not comply with, and is an exception to, policy. The allocation of a site would mean that its development would be policy compliant and would not therefore, comprise an exception.</p> <p>Were an application to come forward at “Frank’s Patch” for two affordable dwellings and one market house, then it could do so on the basis of Local Plan Strategy 35, as the site is adjacent to the Built-up Area Boundary. However, for the reasons set out above, the allocation of the site as a “rural exception site” does not make sense. It results in Policy D2 appearing imprecise and it does not provide a decision maker with a clear indication of how to react to a proposal – for example, would an application be policy-compliant, or would it comprise an exception to policy ?</p> <p>The Policy goes on to partially repeat elements of Local Plan Strategy 35, but in a less clear and less comprehensive manner. For example, Policy D2 simply refers to dwellings only being available to people with “a connection to the Parish.” Unlike Local Plan Strategy 35, no detail is provided in respect of what such a connection might comprise – lifelong residency or enjoying the occasional pint at the Sir Walter Raleigh? The Policy is imprecise and is not made significantly less so by the text provided in 14.32.</p> <p>Further to the above, Policy D2 applies to “all rural exception sites.” Such an approach is not in general conformity with Local Plan Strategy 35, which, very specifically, will allow the development of exception mixed market and affordable housing development. By way of contrast, Policy D2 seeks to require any application for a rural exception site --- which is not necessarily the same thing as a mixed market and affordable housing scheme – to demonstrate something; and is not in general conformity with Local Plan Strategy 35’s positive planning context, whereby development that meets the criteria will be allowed.</p>	<p>Delete Policy D2</p> <p>Remove “Allocated Site” from Proposals Map</p>

<p>Taking all of the above into account, Policy D2 is confusing. Rather than provide for a more detailed and locally distinctive approach than Local Plan Strategy 35, it is considerably less precise, to the point that its inclusion within the development plan would provide for obfuscation rather than clarity. The Policy does not meet the basic conditions.</p>	
<p>Paragraphs 14.39 to 14.61 comprise an assessment of various sites and conclude with opinions on whether the development of the sites considered would be appropriate or supported. However, this section does not contain any Policies and consequently, it does not contain any Policy requirements.</p> <p>As a consequence, the inclusion of Paragraphs 14.39 to 14.61 is confusing, as it seems to be prioritising development sites and establishing requirements, without any Policy basis upon which to do so. The text is largely background information more commonly found within an evidence base and the recommended deletion of Policy D2 results in of these paragraphs appearing even more confusing.</p> <p>Taking the above into account, Paragraphs 14.39 to 14.61 detract from the clarity of the neighbourhood plan and I recommend</p>	<p>Delete Paragraphs 14.39 to 14.61.</p>
<p>Policy D3 There is no need for the Policy to refer to other Policies in the Neighbourhood Plan</p>	<p>Policy D3, change first sentence to “New residential development should...”</p>
<p>Other Matters I note that the recommendations made in this Report will have a subsequent impact on page numbering and Contents.</p>	<p>Update the Contents page (page 1) to reflect the recommendations above</p>

- 2.7 Upon publication of the report, East Budleigh Parish Council raised a number of concerns with some of the recommendations made by the Examiner. Following discussions with the Neighbourhood Plan group many of these complaints have been resolved, however there were a few points raised that officers of this Council considered and felt that satisfactory alternative amendments could be made to the Plan, which would sufficiently take into account the concerns of both the Neighbourhood Plan group and Examiner.
- 2.8 These alternative agreed amendments comprise of three separate changes to supporting text within the document. No differing amendments have been made to policy wording and in each instance advice provided by the Examiner has been taken into account.
- 2.9 The table below sets out these agreed changes and provides commentary on why each amendment was considered to be appropriate. All changes which differ from the Examiner’s recommended modifications and the original submission neighbourhood Plan have been highlighted in red.

<u>Examiners comments</u>	<u>Examiner’s recommendation</u>	<u>Commentary</u>	<u>Agreed alternative amendment</u>
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<u>Examiners comments</u>	<u>Examiner's recommendation</u>	<u>Commentary</u>	<u>Agreed alternative amendment</u>
<p>Policy P3 Whilst Policy B3 supports “infill development on previously developed land” it fails to set out what is actually meant by “infill.” No definition is provided in the Neighbourhood Plan. This is of fundamental importance – for example, the Policy goes on to refer to “inappropriate ‘back land’” development, but it does not distinguish how this differs from “infill” development and under what circumstances (other than those referred to in Policy D1, elsewhere in the Neighbourhood Plan) ‘back land’ development might be appropriate. As a consequence, this part of the Policy is imprecise and 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.</p> <p>Further, the supporting text to Policy B3 provides no clarity in terms of what “infill” comprises and includes a significant amount of text that is written as though it was a Policy, which it is not. Also, it is not clear what “planning permission will be supported” actually means in land use planning policy terms. Once a development has planning permission, support for it or otherwise is not a land use planning consideration. I address this absence of clarity and precision below.</p>	<p>Delete Paragraphs 12.19 to 12.24 inclusive. Replace with a new paragraph “Paragraph 17 of the National Planning Policy Framework recognises the effective use of previously developed land as a core planning principle. The Neighbourhood Plan supports the regeneration of brownfield land and establishes a specific policy for its reuse within the Built Up Area.”</p>	<p>The reason the Examiner deleted much of the supporting text to this policy was because of various references to the term ‘infill’ which he felt wasn’t sufficiently defined. Rather than remove the entirety of the supporting text to Policy P3, we have reached an agreement to retain paragraphs 12.19 - 12.21 but remove references to ‘infill’ and replace with ‘within the built-up area boundary’. The group felt it was important to retain these paragraphs in order to provide sufficient justification to a revised Policy P3.</p>	<p>Development within the built-up area boundary</p> <p>Paragraph 17 of the National Planning Policy Framework recognises the effective use of previously developed land as a core planning principle. The Neighbourhood Plan supports the regeneration of brownfield land and establishes a specific policy for its reuse within the Built-Up Area</p> <p>12.19 Infill (defined as the development of a relatively small gap between existing buildings) Development within the built-up area boundary can lead to developments being crammed in, often on pre-existing gardens, at inappropriate densities and with inappropriate layouts. This can have a detrimental impact on the amenity of existing residents. It can also result in a reduction in the openness of the village, increase on-road parking and lead to new buildings which are often out of keeping with the character of the village.</p> <p>12.20 Adverse impacts can include the following:</p> <ul style="list-style-type: none"> • Loss of amenity, overshadowing, overlooking. • Loss of sunlight/daylight. • Noise. • Loss of green links/trees/hedges/vegetation. • Lack of visual cohesiveness. • Loss of space between buildings. • Loss of parking. <p>12.21 It is considered important that infill development, whilst generally acceptable within the village Built-up Area Boundary, must be designed so that it sits appropriately within its surroundings.</p>
<p>Whilst part of the supporting text to Policy D1 is informative and accurate, other parts are confusing and detract from the clarity</p>	<p>Delete Paragraphs 14.8 and 14.9 and replace with, “Together, the policies of the development plan, which</p>	<p>The group wanted to include a specific mention of the high quality natural environment in the</p>	<p>“Together, the policies of the development plan, which includes the Neighbourhood Plan and the East Devon Local Plan, seek to ensure</p>

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<p>of the Neighbourhood Plan. For example, Paragraph 14.8, which states that the Built-up Area Boundary will be defined at some stage in the future, is in direct conflict with Policy D1, which designates the Built-up Area Boundary.</p> <p>Paragraph 14.9 comprises unnecessary historic information that adds little but confusion</p>	<p>includes the Neighbourhood Plan and the East Devon Local Plan, seek to ensure that development is only permitted where it is appropriate. The Parish Council will expect proposals for development within the Built-up Area Boundary to demonstrate due regard for residential amenity, local character -- including the appropriate safeguarding of heritage assets and their settings – and highway safety, amongst other things.”</p>	<p>Examiner's recommended new paragraph and this was considered acceptable.</p>	<p>that development is only permitted where it is appropriate. The Parish Council will expect proposals for development within the Built-up Area Boundary to demonstrate due regard for residential amenity, local character --- including the appropriate safeguarding of heritage assets and their settings, the high quality natural environment and highway safety, amongst other things.”</p>
<p>Policy D2 is confusing. Whilst it clearly draws from Local Plan Strategy 35, it commences by allocating a “rural exception site.” By definition, a rural exception site is one that does not comply with, and is an exception to, policy. The allocation of a site would mean that its development would be policy compliant and would not therefore, comprise an exception.</p> <p>Were an application to come forward at “Frank’s Patch” for two affordable dwellings and one market house, then it could do so on the basis of Local Plan Strategy 35, as the site is adjacent to the Built-up Area Boundary. However, for the reasons set out above, the allocation of the site as a “rural exception site” does not make sense. It results in Policy D2 appearing imprecise and it does not provide a decision maker with a clear indication of how to react to a proposal – for example, would an application be policy-compliant, or would it comprise an exception to policy ?</p> <p>The Policy goes on to partially repeat elements of Local Plan Strategy 35, but in a less clear and less comprehensive manner. For example, Policy D2 simply refers to dwellings only being available to people with “a connection to the</p>	<p>Delete Paras 14.14 to 14.34</p>	<p>Paras 14.14 to 14.34 comprised the supporting text justification to deleted policy D2 and therefore the Examiner recommended its deletion on these grounds. However, as a community action is to be retained within this section it was felt that four of the paragraphs could be retained (with some minor amendments in red) in order to provide some context and justification for the remaining community action.</p>	<p>14.13 The Adopted East Devon Local Plan identifies the need to plan for 17,100 additional housing growth across the district over the plan period to 2031. Strategy 2 indicates an allocation of 206 dwellings remained to be delivered in smaller towns, villages and rural areas in the period 2013-2031. The emphasis in the Local Plan is for development to be ‘sustainable and community led’ to meet local needs.</p> <p>14.14 Strategy 27 of the Adopted East Devon Local Plan names 15 villages including East Budleigh that are considered to be ‘sustainable’ as they offer a reasonable range of accessible services and facilities, some or many of which meet the everyday needs of the local residents and have reasonable public transport. These settlements will have a Built-up Area Boundary that will be designated in the East Devon Village DPD although land is not specially allocated for development. No housing allocations are included in the Local Plan with this being left to communities to promote through Neighbourhood Plans.</p> <p>14.15 On 15th January 2016 the Inspector reported on the examination into the East Devon Local Plan. In paragraph 30 the report states “The number remaining to be delivered through Strategy 27(206 dwellings) is relatively small compared to the overall target and lack of delivery does not pose a significant</p>

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<p>Parish.” Unlike Local Plan Strategy 35, no detail is provided in respect of what such a connection might comprise – lifelong residency or enjoying the occasional pint at the Sir Walter Raleigh? The Policy is imprecise and is not made significantly less so by the text provided in 14.32.</p> <p>Further to the above, Policy D2 applies to “all rural exception sites.” Such an approach is not in general conformity with Local Plan Strategy 35, which, very specifically, will allow the development of exception mixed market and affordable housing development. By way of contrast, Policy D2 seeks to require any application for a rural exception site -- which is not necessarily the same thing as a mixed market and affordable housing scheme – to demonstrate something; and is not in general conformity with Local Plan Strategy 35’s positive planning context, whereby development that meets the criteria will be allowed.</p> <p>Taking all of the above into account, Policy D2 is confusing. Rather than provide for a more detailed and locally distinctive approach than Local Plan Strategy 35, it is considerably less precise, to the point that its inclusion within the development plan would provide for obfuscation rather than clarity. The Policy does not meet the basic conditions.</p>			<p>threat to meeting the overall target”. Meanwhile in paragraph 33 the inspector agreed that the District has “a housing land supply in excess of 5 years”. This removes the need for the East Devon District Council to allocate additional housing numbers to the East Budleigh and Bicton Parish and especially to East Budleigh village. Hence the village can rigorously defend against developers wishing to build outside the Built-up Area Boundary. However if the Neighbourhood Plan evidence of an affordable housing need through a robust housing needs survey is proven a small number of additional homes could be considered under Strategy 35 of the Adopted East Devon Local Plan. It is however intended that a newly formed Community Land Trust or the Parish Council will carry out a robust housing need survey every 5 years to keep this information up to date.</p> <p>14.16 The Parish Council will actively explore the formation of a Community Land Trust (CLT) run by local people to develop and manage community led affordable housing development in the Parish and to manage other assets of importance to the local community. This will enable full advantage of the new rules outlined in the Budget in March 2016, whereby the extra stamp duty paid on second homes will be used to help fund community led affordable housing schemes. A Community Land Trust will also enable greater control to ensure that affordable dwellings are genuinely affordable and retained in perpetuity for people with a local affordable housing need and a connection with the Parish.</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 East Budleigh with Bicton to help it decide planning applications in the neighbourhood area?' will be held in the parishes of East Budleigh and Bicton.
- 3.4 The date on which the referendum will take place is agreed as 25 May 2017.

EAST DEVON DISTRICT COUNCIL CABINET
8 March 2017