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# **Report on Yarcombe and Marsh Neighbourhood Plan 2014-2031**

**An Examination undertaken for East Devon District Council with the support of the Yarcombe and Marsh Parish Council on the September 2016 submission version of the Plan.**

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## **Main Findings - Executive Summary**

From my examination of the Yarcombe and Marsh Neighbourhood Plan and its supporting documentation, including the representations made, I have concluded that subject to the policy modifications set out in this report, the plan meets the Basic Conditions.

I have also concluded that:

- The plan has been prepared and submitted for examination by a qualifying body – Yarcombe Parish Council;
- The plan has been prepared for an area properly designated – the Parish Council area as shown on Figure 1];
- The plan specifies the period to which it is to take effect – from 2014 to 2031; and
- The policies relate to the development and use of land for a designated neighbourhood area.

I recommend that the plan, once modified, proceeds to Referendum on the basis that it has met all the relevant legal requirements.

I have considered whether the referendum area should extend beyond the designated area to which the plan relates and have concluded that it should not.

## **1. Introduction and Background**

### *Yarcombe and Marsh Neighbourhood Plan 2014 – 2031*

- 1.1 The parish of Yarcombe lies in the north-easternmost corner of Devon and the River Yarty along its eastern boundary is on the border between Devon and Somerset. It is a rural parish, situated in the heart of the Blackdown Hills Area of Outstanding Natural Beauty (ANOB) with a population of 500 in 203 households. There are two small settlements in the parish; Yarcombe equidistant from both Honiton and Chard, which lies on the A30 and to the north the ribbon village of Marsh which is now bypassed by the A303. The area is predominantly in agricultural use with a scatter of small farmsteads served by a network of narrow lanes.
- 1.2 The Neighbourhood Plan has been prepared by a steering group comprising residents and parish councillors. Work on the Neighbourhood Plan (NP) started in early 2014 with the formal application for designation as a Neighbourhood Area which was approved by East Devon District Council in June 2014. A Consultation, Engagement and Communication Plan was then prepared setting out the relationship between the development of the NP and consultation and engagement with the local community and the Consultation Statement, which accompanied the

submission version of the Plan, details the stages in the plan preparation process.

### *The Independent Examiner*

1.3 As the plan has now reached the examination stage, I have been appointed as the examiner of the Yarcombe and Marsh Neighbourhood Plan by East Devon District Council, with the agreement of the Yarcombe Parish Council.

1.4 I am a chartered town planner and former government Planning Inspector, with some 40 years of experience in the public and private sector, most recently determining major planning appeals and examining development plans and national infrastructure projects. I am an independent examiner, and do not have an interest in any of the land that may be affected by the draft plan.

### *The Scope of the Examination*

1.5 As the independent examiner I am required to produce this report and recommend either:

(a) that the neighbourhood plan is submitted to a referendum without changes; or

(b) that modifications are made and that the modified neighbourhood plan is submitted to a referendum; or

(c) that the neighbourhood plan does not proceed to a referendum on the basis that it does not meet the necessary legal requirements.

1.6 The scope of the examination is set out in Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990 (as amended) ('the 1990 Act'). The examiner must consider:

- Whether the plan meets the Basic Conditions;
- Whether the plan complies with provisions under s.38A and s.38B of the Planning and Compulsory Purchase Act 2004 (as amended). These are:
  - it has been prepared and submitted for examination by a qualifying body, for an area that has been properly designated by the Local Planning Authority;
  - it sets out policies in relation to the development and use of land;
  - it specifies the period during which it has effect;

- it does not include provisions and policies for 'excluded development';
- it is the only Neighbourhood Plan for the area and does not relate to land outside the designated neighbourhood area;
- whether the referendum boundary should be extended beyond the designated area, should the plan proceed to referendum; and
- Such matters as prescribed in the Neighbourhood Planning (General) Regulations 2012 ('the 2012 Regulations').

1.7 I have considered only matters that fall within Paragraph 8(1) of Schedule 4B to the 1990 Act, with one exception. That is the requirement that the Plan is compatible with the Human Rights Convention.

*The Basic Conditions*

1.8 The 'Basic Conditions' are set out in Paragraph 8(2) of Schedule 4B to the 1990 Act. In order to meet the Basic Conditions, the neighbourhood plan must:

- Have regard to national policies and advice contained in guidance issued by the Secretary of State;
- Contribute to the achievement of sustainable development;
- Be in general conformity with the strategic policies of the development plan for the area;
- Be compatible with and not breach European Union (EU) obligations; and
- Meet prescribed conditions and comply with prescribed matters.

1.9 Regulation 32 of the 2012 Regulations prescribes a further Basic Condition for a neighbourhood plan. This requires that the neighbourhood plan should not be likely to have a significant effect on a European Site (as defined in the Conservation of Habitats and Species Regulations 2012) or a European Offshore Marine Site (as defined in the Offshore Marine Conservation (Natural Habitats etc.) Regulations 2007), either alone or in combination with other plans or projects.

## **2. Approach to the Examination**

### *Planning Policy Context*

- 2.1 The Development Plan for this part of East Devon District Council, not including documents relating to excluded minerals and waste development, is the East Devon Local Plan 2013-2031, adopted in 2016. It is up to date and provides the relevant strategic background for assessing general conformity. The District Council is progressing a Proposed Submission Villages Plan DPD which is out for consultation until May 2017. It identifies built up area boundaries for those other settlements identified in Local Plan Strategy 27. Neither Yarcombe nor Marsh are listed in Strategy 27.
- 2.2 East Devon District Council are also partners in the emerging Greater Exeter Strategic Plan, along with Exeter City, Teignbridge and Mid Devon Councils. It is at a very early stage in preparation with a recent consultation on issues and a call for evidence.
- 2.3 The planning policy for England is set out principally in the National Planning Policy Framework (NPPF). The Planning Practice Guidance (PPG) offers guidance on how this policy should be implemented.

### *Submitted Documents*

- 2.3 I have considered all policy, guidance and other reference documents I consider relevant to the examination, including those submitted which comprise:
- the draft Yarcombe and Marsh Neighbourhood Plan 2014 -2031;
  - Figure 1 of the plan which identifies the area to which the proposed neighbourhood development plan relates;
  - the Consultation Statement, September 2016;
  - the Basic Conditions Statement, September 2016;
  - all the representations that have been made in accordance with the Regulation 16 consultation; and
  - the Strategic Environmental Assessment (SEA) Screening Opinion prepared by East Devon District Council dated June 2016<sup>1</sup>.

### *Site Visit*

- 2.4 I made an unaccompanied site visit to the Neighbourhood Plan Area on 31 March 2017 to familiarise myself with it, and visit relevant sites and areas referenced in the plan and evidential documents.

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<sup>1</sup> Attached as Appendix 3 to the Basic Conditions Statement.

### *Written Representations or Public Hearing*

2.5 This examination has been dealt with by written representations. I considered hearing sessions to be unnecessary as the consultation responses clearly articulated the objections to the plan, and presented arguments for and against the plan's suitability to proceed to a referendum. There has been no request for hearing sessions to be held.

### *Modifications*

2.6 Where necessary, I have recommended modifications to the plan (**PMs**) in this report in order that it meets the Basic Conditions and other legal requirements. For ease of reference, I have listed these modifications separately in the Appendix.

## **3. Procedural Compliance and Human Rights**

### *Qualifying Body and Neighbourhood Plan Area*

3.1 The Yarcombe and Marsh Neighbourhood Plan has been prepared and submitted for examination by Yarcombe Parish Council which is a qualifying body, for an area designated by East Devon District Council on 4 June 2014.

3.2 It is the only neighbourhood plan for Yarcombe Parish, and does not relate to land outside the designated neighbourhood area.

### *Plan Period*

3.3 The plan specifies clearly the period to which it is to take effect, which is from 2014 to 2031. Whilst the Basic Conditions statement notes that the NP period aligns with that of the East Devon Local Plan, that is incorrect as the LP covers the period 2013-2031. This is not a matter on which anything rests in this case.

### *Neighbourhood Plan Preparation and Consultation*

3.4 The Consultation Statement (September 2016) provides full details of the public engagement that has taken place in the evolution of the NP. The Parish Council decided to prepare a Neighbourhood Plan early in 2014, applying for designation and establishing a steering group comprising volunteers from the local community working with parish councillors and the parish clerk to lead that process. The importance of community engagement was recognised with the early production of a Consultation Engagement and Communication Plan and a Neighbourhood Plan page was set up on the village website.

3.5 A launch event was held in July 2014 on the same day as the monthly Saturday Village Market and a community questionnaire was distributed to

every household and was made available online. Eighty-one were completed and returned. Community based organisations, groups and local businesses were also contacted. There was a further consultation and questionnaire in October/November specifically aimed at engaging young people in the Plan process with another 13 responses received. In addition, articles were placed in the village magazine, notices put on the village noticeboards and presentations made at local village events and at the Annual Parish Meeting. A schedule of consultation events is given on page 4 of the Consultation Statement and the key findings are summarised at Appendices 5 and 9. These indicate a high level of support for the identified issues and draft aims.

3.6 The Regulation 14 consultation on the emerging Yarcombe and Marsh Neighbourhood Plan was held from 28 February to 9 April 2016. A letter and response form was circulated to all residents and copies of the Plan were made available online and at various locations in the parish. Of the two responses received, one congratulated the Steering Group on the draft Plan whilst the other suggested a minor amendment to the list of hamlets. Subsequently a late representation was made in early November 2016 by the recently formed Yarcombe Parish Community Land Trust which was accepted by the Parish Council and an agreed amendment was made to the Plan to make explicit the location of any limited affordable housing development. Key stakeholders were also consulted and the 7 responses are summarised at Appendix D of the Consultation Statement<sup>2</sup>.

3.7 Consultation in accordance with Regulation 16, when the Plan was submitted to East Devon District Council, was carried out for a six-week period ending 8 March 2017 and 7 responses were received. I am satisfied that a transparent, fair and inclusive consultation process has been followed for this Neighbourhood Plan, in accordance with legal requirements.

#### *Development and Use of Land*

3.8 The plan sets out policies in relation to the development and use of land in accordance with s.38A of the Planning and Compulsory Purchase Act 2004 (as amended).

#### *Excluded Development*

3.9 The plan does not include provisions and policies for 'excluded development'.

#### *Human Rights*

3.10 The Basic Conditions Statement advises that in preparing the Neighbourhood Plan, regard was had to the fundamental rights and freedoms guaranteed under the European Convention on Human Rights and that it complies with the Human Rights Act 1998. East Devon District

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<sup>2</sup> Paragraph 6.4 has an error in referring to 8 responses being received from statutory consultees; only 7 are included in the schedule at Appendix D.



Council has not alleged that Human Rights might be breached. I have considered this matter independently and I have found no reason to disagree with that position.

#### **4. Compliance with the Basic Conditions**

##### *EU Obligations*

4.1 The Neighbourhood Plan was screened for SEA by East Devon District Council. This is also a legal requirement under Regulation 15 of the 2012 Regulations. The District Council found that it was unnecessary to undertake SEA and neither Historic England, Natural England or the Environment Agency, when consulted, disagreed with that assessment. Having read the SEA Screening Opinion, and considered this matter independently, I concur with that conclusion.

4.2 The Neighbourhood Plan was further screened for Habitats Regulations Assessment (HRA), which also was not triggered. The Neighbourhood Plan Area is not in close proximity to a European designated nature site. Natural England agreed with the conclusion of East Devon District Council that the proposal could be screened out from further stages of assessment because significant effects are unlikely to occur, either alone or in combination. On the basis of the information provided and my independent consideration, I am satisfied that the Plan is compatible with EU obligations.

##### *Main Issues*

4.3 Having regard for the Submission Version of the Yarcombe and Marsh Neighbourhood Plan, the consultation responses and other evidence and the site visit, I consider that there are three main issues relating to the Basic Conditions for this examination. These are:

1. whether, having regard for the parish's location within the Blackdown Hills AONB, the Neighbourhood Plan will protect and conserve the natural and historic environment of Yarcombe parish appropriately in line with national policy and in general conformity with the strategic policies in the Local Plan;
2. whether the policies for housing, community facilities, the economy and transport and accessibility provide an appropriate framework to shape and direct sustainable development, having regard to national policy and guidance and are in general conformity with the strategic policies in the Local Plan; and
3. whether the energy policies in the Plan meet the Basic Conditions, with particular reference to having regard to national policy and guidance.

## *Introduction*

4.4 The Yarcombe and Marsh Neighbourhood Plan begins with a brief description of the parish and its two main areas of population, Yarcombe and Marsh. Throughout the NP the parish is often simply referred to as Yarcombe and paragraph 1.4 clarifies that the intention is to include both settlements in all references. I have taken a similar approach in this report. Chapter 1 then goes on to explain how the neighbourhood planning process has been followed, helpfully setting out the plan's status, when made, and its relation to the development plan, and the requirements for neighbourhood plans to have regard to national policy (with relevant quotes from the NPPF) and to contribute to the achievement of sustainable development.

4.5 Chapter 2 of the NP sets out the Vision Statement and aims and objectives for the NP which emerged from the consultation exercises from which policies and community objectives have been developed. These introductory chapters set out a clear and robust structure for the planning of the area over the next 14 years, stemming from consultation with the local population and having regard to national and local planning policy. In addition to its 11 policies, the NP includes a number of community actions and projects. They are clearly identified as such in the Plan and do not fall to be considered in this examination against the Basic Conditions. I now turn, in the following paragraphs, to address each of my three main issues.

### Issue 1 – Protecting and conserving the natural and historic environment

4.6 Yarcombe is a deeply dissected upland plateau within the Blackdown Hills AONB. It is an agricultural area and many of the characteristic landscape features are the result of centuries of considered land management. Features include the woodland and copses, field patterns and hedge banks which are also recognised as important for nature conservation and which contribute to biodiversity. Although there are no internationally or nationally designated nature conservation sites in the parish, there are six locally designated biodiversity sites.

4.7 The NPPF gives great weight to conserving landscape and scenic beauty in AONBs, which have one of the highest status of protection in relation to landscape and scenic beauty. The conservation of wildlife and cultural heritage are also important considerations<sup>3</sup> in AONBs and more generally, the NPPF advises that planning policies should seek to minimise impacts on biodiversity and geodiversity. National policy is carried forward in the objectives of the Blackdown Hills AONB Management Plan 2014-2019 and in the East Devon Local Plan through Strategy 5 (Environment), Strategy 46 (Landscape Conservation and Enhancement and the AONBs) and Strategy 47 (Nature Conservation and Geology).

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<sup>3</sup> NPPF paragraph 115.

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- 4.8 In the Consultation Statement, a key finding of the community survey was the high value placed by the community on the natural environment and features such as the landscape, woodland and Devon banks. Policy NE1 seeks to protect these features and promotes measures to protect and enhance the natural environment, including where appropriate the use of mitigation, and is in general conformity with the strategic policies of the Local Plan.
- 4.9 When made, the NP will form part of the development plan and the PPG advises that NP policy should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. Policies should be concise, precise and supported by appropriate evidence. I am not satisfied that policy NE1, as drafted, provides that clarity, precision or contributes to the achievement of sustainable development. In particular, part i) requires that there should be no adverse impacts, but if taken to extremes the effect of that would be that no development would be acceptable. I therefore am modifying the policy to include the word '*significant*' before '*adverse impacts*'. Subject to the recommended modifications to clarify how the policy will be applied (**PM1**), I am satisfied that policy NE1 has regard to national policy, would contribute to the achievement of sustainable development and meets the Basic Conditions.
- 4.10 Yacombe is an unspoilt rural area, relatively undisturbed by modern development and the Consultation Statement notes that its tranquillity and dark skies are highly valued by the local community. The natural and starry skies are recognised as one of the sights which makes the Blackdown Hills so special and it is an objective of the Blackdown Hills AONB Management Plan to conserve and enhance the AONB's tranquillity by restricting or reducing noise and light pollution. Paragraph 123 of the NPPF requires that planning policies and decisions should aim to identify and protect areas of tranquillity which remain relatively undisturbed by noise and by encouraging good design, limit the impact of light pollution on local amenity, intrinsically dark landscapes and nature conservation (paragraph 125). In addition to Strategy 46 on the AONBs, Local Plan policy EN14 deals with the control of pollution and resists development that would result in unacceptable levels of light intrusion, particularly in areas of open countryside and areas of nature conservation interest.
- 4.11 Policy NE2 of the NP, by seeking to maintain the tranquillity and dark skies of the parish and resisting increasing levels and frequency of noise and light pollution, accords with national, AONB and local planning policy. Again, in the interests of consistency and the achievement of sustainable development, I am recommending a modification to the policy to replace '*development will only be supported where it demonstrates.....*' with '*development should demonstrate.....* ', which makes it clearer how the policy

would be applied. **(PM2)** Subject to that modification, I consider that policy NE2 meets the Basic Conditions.

4.12 It is a core planning principle in the NPPF to always seek to secure high quality design. The evidence base underpinning the NP and the community consultation identified the need for a locally specific policy to reflect the parish's local distinctiveness, the importance of its historic and heritage assets and the traditional built form of the settlements. In accordance with Strategy 48 and policy D1 of the Local Plan, which support local distinctiveness in the built environment, NP policy BHE1 seeks to maintain the built character of the parish through high quality design, to best integrate small scale new development into the existing built and natural environment.

4.13 As drafted, policy BHE1 i) requires that development complies with the Blackdown Hills AONB Design Guide for Houses. It is useful guidance. However, I note the comments of the East Devon District Council in this regard, and I agree that strict compliance with guidance outside the control of the NP is too onerous a requirement. Therefore, I am modifying the policy to delete '*comply with*' and insert '*take account of*'. Other minor modifications are also recommended to make clear how the policy would be applied in the interests of clarity and consistency **(PM3)**.

4.14 Subject to these modifications being made, I am satisfied that the NP policies for the protection and conservation of the natural and built environment have regard to national policy, are in general conformity with the strategic policies of the development plan for East Devon, and would contribute to the achievement of sustainable development, thus meeting the Basic Conditions.

#### Issue 2 – Whether the Plan provides an appropriate framework to shape and direct sustainable development

4.15 The NP includes policies on housing, community facilities and services, the economy and employment, and transport and accessibility.

#### *Housing*

4.16 Chapter 5 deals with population and housing and paragraph 5.1 notes the support in national policy and guidance for the role of housing in supporting the broader sustainability and vitality of villages and smaller settlements<sup>4</sup>. However, neither Yarcombe or Marsh are identified on the Local Plan District Proposal Map as settlements with built-up area boundaries identified by East Devon Local Plan Strategy 6, as appropriate to accommodate growth and development. In the countryside, East Devon Local Plan Strategy 7 limits

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<sup>4</sup> PPG ID:50-001-20160519.

development unless permitted by a specific Local Plan policy and which would not harm the area's distinctive landscape, amenity and environmental qualities.

4.17 The NP recognises that in many respects, Yarcombe is not a sustainable location for development. It is a rural parish with very limited public transport and few facilities set in a sensitive landscape. However, a Local Housing Needs Report produced for Yarcombe in 2012 by the Community Council of Devon on behalf of the Devon Rural Housing Partnership did identify a need in the parish for 7 affordable homes within the following 5 years and also that 8 older person households were looking for more suitable alternative accommodation in the parish<sup>5</sup>. Whilst the Written Evidence Base also shows permissions for 4 units, there is no evidence whether these have been built out nor whether they would have met any part of the identified housing need.

4.18 National policy in the NPPF requires, in rural areas, that local planning authorities should be responsive to local circumstances and plan housing to reflect local needs *'including through rural exception sites where appropriate'*<sup>6</sup>. To this end, Strategy 35 of the Local Plan allows for mixed affordable and open market housing schemes on exception sites *'outside of built-up area boundaries' .... 'where there is a proven local need demonstrated through an up to date robust housing needs survey'*. The Yarcombe Housing Needs Report is now 5 years old, nonetheless it does appear that there remains an unmet locally identified need for affordable and market housing.

4.19 Whilst the NP does not allocate any housing sites, policy PH1 is supportive of proposals for development that would meet one or more of Yarcombe's identified housing needs subject to meeting criteria to protect the sensitive environment and character of the area. As a result of the representation made by the Yarcombe Parish Community Land Trust, paragraph 5.6 makes it clear that the policy applies to both villages of Yarcombe and Marsh. I agree with East Devon District Council that the justification for the policy should clarify that *'appropriate exception sites'* are those being brought forward through Strategy 35 of the Local Plan and thus it is unnecessary in the policy to refer to the absence of a built-up area boundary. To refer to sites *'close to the main villages'* is unduly vague and I propose to modify the policy to reflect the wording in Strategy 35 which refers, in villages without a built-up area boundary, to sites/schemes being *'physically well related'* to the village. Again, in b) the Blackdown Hills AONB Design Guide for Houses should be taken into account instead of requiring its standards to be met. Subject to these modifications being made (**PM4**), I consider that policy PH1 meets the Basic Conditions.

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<sup>5</sup> Yarcombe Written Evidence Base page 156.

<sup>6</sup> NPPF paragraph 54.

4.20 I am also recommending two minor corrections to the text in Chapter 5. In paragraph 5.2, the Local Plan was adopted in 2016 and the words 'new emerging' in the 2<sup>nd</sup> line should be deleted. Paragraph 5.4, 4<sup>th</sup> line, should read '*Sheafhayne Manor (once owned by Sir Francis Drake), and The Flintlock Inn, a popular traditional Pub in Marsh*'. **(PM5)**

### *Community facilities*

4.21 The NPPF supports a prosperous rural economy and paragraph 28 advises that neighbourhood plans should promote the retention and development of local services and community facilities in villages, such as local shops, meeting places, sports venues, cultural buildings, public houses and places of worship. Paragraph 70 of the NPPF promotes healthy communities and requires that planning policies and decisions, amongst other things, should guard against the unnecessary loss of valued facilities and services and ensure that they can develop and modernise in a way that is sustainable and be retained for the benefit of the community. These objectives are carried forward in Local Plan Strategy 4 which promotes balanced communities and Strategy 32 which resists the loss of employment, retail and community sites and buildings. Local Plan policy RC6 is generally permissive of new local community facilities outside built up area boundaries where there is a proven need and environmental and amenity criteria are met.

4.22 Yarcombe is described in the NP as a thriving village community with many and varied community organisations and activities. However, there is no local village shop and whilst the public house in Marsh is clearly valued, the Yarcombe Inn closed in 2014, having for a time between 2009 and 2013 been community-run. Responses to the NP consultation exercise wanted existing local facilities to be protected and policy CFS1 makes clear that any changes to help them remain relevant and viable should ensure that they continue to directly serve the local community, are not detrimental to the character of the area and the community benefit outweighs the impact of development. However, in my view, 'enhance' is sufficiently similar in definition and practice to 'improve' that the policy need only refer to the latter<sup>7</sup>. To ensure that the policy is inclusive of facilities in Marsh, I consider it would be prudent for i) to refer to Yarcombe parish. In iii), in order to contribute to the achievement of sustainable development, an adverse impact should be 'significant' if permission is to be refused **(PM6)**.

4.23 The NP consultation exercise identified a desire in the local community, particularly from young people, to have a local village shop in Yarcombe village which would reduce the need to travel and would help strengthen the sense of community in the parish. Policy CFS2, in line with the NPPF,

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<sup>7</sup> Oxford Living Dictionaries: Enhance – to intensify, increase or further improve the quality, value or extent. Improve – make or become better.

particularly paragraph 70, encourages the provision of premises for new small scale retail and commercial business. In line with Local Plan policy RC6, as Yarcombe has no built-up area boundaries and is in the countryside, the NP policy requires that proposals for development should demonstrate that they meet a local demand and can be provided preferably through the conversion and extension of existing buildings.

4.24 It is not the role of the planning system to protect existing businesses from the impact of market forces and competition from new entrepreneurs, which would run counter to national policy to support the sustainable growth and expansion of all types of business and enterprise in rural areas<sup>8</sup>. For this reason, I am not satisfied that part ii) of policy CFS2, which requires new proposals not to have a negative impact on existing businesses, has appropriate regard to national policy. Nor would it contribute to the achievement of sustainable development. I therefore propose to modify policy CFS2 to delete ii) of CFS2, paragraph 6.9 and the last part of paragraph 6.8 after '*our community*'. For the reason explained in paragraph 4.9 above, I am modifying the policy to clarify in iii) that any '*adverse impact*' should not be '*significant*' (**PM7**).

4.25 Subject to the proposed modifications, I consider that the NP policies for community facilities and services would meet the Basic Conditions.

#### *Transport and accessibility*

4.26 The Consultation Statement noted as a key finding the importance of the public footpaths for the local community to access and enjoy the surrounding countryside. Policy TRA1 seeks to maintain and if possible enhance the local network of footpaths, including through the provision of new or extended routes and preventing their use by motorised vehicles. In that walking and cycling are sustainable modes of transport, the policy accords with the NPPF paragraph 35, with Strategy 5B and policy TC4 of the Local Plan and with access and enjoyment policies in the AONB Management Plan. It is also an objective of national planning policy to promote healthy communities and paragraph 75 of the NPPF requires that planning policies should protect and enhance public rights of way and access.

4.27 Although I am satisfied that the general intent of policy TRA1 has regard to national policy, I am concerned that the policy, as drafted, is imprecise and would in effect support any proposal, for any form of development, if it met the policy requirements. Moreover, as drafted the policy lacks clarity. The policy title only refers to footpaths, whereas the policy itself correctly refers to public rights of way. In addition, some of the terms used in the policy are confusing; for example, in i) it is unclear what difference, if any, there is between '*protect*' and '*maintain*' and in ii) between '*improve*' and '*enhance*'.

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<sup>8</sup> NPPF paragraph 28 1<sup>st</sup> bullet point.

Nor is it clear in iii) what motorised vehicles should be prevented from doing. Byways Open to All Traffic (BOATs) are public rights of way and do have recognised rights permitting their use by mechanically propelled vehicles. Subject to the modifications set out in the Appendix at **PM8**, I am satisfied that policy TRA1 would meet the Basic Conditions.

### *Economy and employment*

4.28 As a rural parish, a significant part of Yarcombe's economy and employment is based on agriculture. Whilst there are some home based and workshop based businesses, many residents commute elsewhere to work. The Community Survey carried out in 2014 indicated support for encouraging more small scale business opportunities. This accords with national policy in the NPPF which supports the sustainable growth and expansion of all types of business and enterprise in rural areas, both through the conversion of existing buildings and well-designed new buildings. Sustaining and diversifying rural enterprises is supported in the Local Plan through Strategy 28 which encourages the reuse of rural buildings to provide jobs and accommodate new and expanded businesses. The AONB Management Plan also recognises the need to support rural diversification and, in particular, encourages sustainable employment opportunities, including sustainable tourism activities, to allow people to work where they live.

4.29 Whilst the NPPF supports rural businesses in well-designed new buildings, I am satisfied that having regard to the sensitivity of Yarcombe's location within the AONB and the Steering Group's knowledge of the local area, it is appropriate for policy EE1 in the NP to only address proposals for the conversion of agricultural buildings. If proposals come forward for new buildings, there are other policies in the development plan for the countryside against which they will be assessed.

4.30 As drafted the policy only supports the conversion of buildings '*where it is justified to support farm diversification in the interests of viability*'. However, such an approach does not have regard to national policy, which does not require viability to be established, nor with Local Plan policy D8 for the re-use of rural buildings. In its comments, the District Council drew my attention to the comments of the Bishops Clyst examiner on this matter, with which I agree. The policy sets out a set of 5 criteria which conversion proposals must meet. In its references to '*harmful impacts*', '*unacceptable impacts*', and '*unacceptable conflicts*', I find that the policy does not have sufficient regard to the advice in the PPG in terms of clarity and precision and would not provide an applicant, or a decision maker, with a clear indication as to how an application might be considered and determined. Therefore, I am recommending that the policy is modified to clarify the matters which will be considered in an application but removing any value



laden terminology (**PM9**). Subject to these modifications being made, the policy would meet the Basic Conditions.

4.31 Paragraph 42 of the NPPF recognises that advanced high quality communications infrastructure is essential for sustainable economic growth and Strategy 30 of the Local Plan supports improvements to electronic media links. Whilst fast and reliable connections are essential for business and residents to access services, the NP recognises that careful attention needs to be paid to the physical infrastructure to minimise its visual impact. By requiring the development of super-fast broadband infrastructure to be sensitively sited and sympathetically designed, policy EE2 has regard to national policy and is in general conformity with the development plan and is supported.

4.32 Overall I conclude on the second issue, that subject to the recommended modifications being made, the NP policies on housing, community facilities, the economy and transport and accessibility provide an appropriate framework to shape and direct sustainable development, having regard to national policy and guidance, and are in general conformity with the strategic policies in the Local Plan, thus meeting the Basic Conditions.

### Issue 3 – Energy and low carbon alternatives

4.33 The NPPF at paragraph 93 sets out the key role of planning in supporting the delivery of renewable and low carbon energy and associated infrastructure. All communities have a responsibility to contribute to energy generation from renewable or low carbon sources and policies should be designed to maximise renewable and low carbon development whilst ensuring that adverse impacts are addressed satisfactorily, including cumulative landscape and visual impacts (paragraph 97). Strategy 39 of the Local Plan in principle supports renewable or low carbon energy projects subject to adverse impacts being satisfactorily addressed.

4.34 Work on renewable energy in the Blackdown Hills AONB carried out in 2010 classified different types of energy schemes according to their scale and suitability for location in the AONB<sup>9</sup>. The approach in the NP is also based on scale with policy ELC1 generally supportive of small scale renewable and low carbon energy schemes but with policy ELC2 taking a much more restrictive line towards larger scale schemes.

4.35 I am satisfied that policy ELC1 has regard to national policy and is in general conformity with the strategic policy of the development plan to support the development of renewable and low carbon energy. However, the policy is awkwardly worded and it is unclear how developments could

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<sup>9</sup> Renewable Energy in the Blackdown Hills; Land Use Consultants in association with the Centre for Sustainable Energy 2010.

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provide 'appropriate landscaping used where necessary to protect the quality of .... biodiversity, tranquillity and wildlife habitats'. Nor is there evidence as to why this would be necessary or even relevant in all cases. The 2<sup>nd</sup> part of the policy appears to be a repeat, but in the negative, of the first part and only adds confusion and imprecision to the policy. The 3<sup>rd</sup> part requires account to be taken of the 2010 report, referred to above. Whilst it provides useful information, it is not adopted guidance and is now of some age in a fast moving sector. Given that the report is also referred to in the policy justification, I see no benefit in referring to it in policy ELC1. I recommend that the policy is modified as set out in the Appendix at **PM10**.

4.36 As to policy ELC2, it is negatively worded and does not promote renewable and low carbon schemes, contrary to national policy which does not distinguish in terms of size, type or scale of development. In their comments, East Devon District Council have referred to a similar policy struck out by the examiner from the Stockland Neighbourhood Plan. Paragraph 184 of the NPPF advises that neighbourhood plans should not promote less development than set out in the Local Plan or undermine its strategic policies. In my judgement, policy ELC2 by resisting large scale renewable and low carbon energy schemes, conflicts with the positive approach outlined in the Local Plan to support schemes in principle and undermines its strategic policy Strategy 39. For these reasons, I am modifying the NP to delete policy ELC2 (**PM11**) to ensure the Plan has sufficient regard to national guidance and contributes to the achievement of sustainable development.

4.37 On my third issue, subject to the modifications being made, I am satisfied that the remaining policy ELC1 would meet the Basic Conditions.

## **5. Conclusions**

### *Summary*

5.1 The Yarcombe and Marsh Neighbourhood Plan has been duly prepared in compliance with the procedural requirements. My examination has investigated whether the plan meets the Basic Conditions and other legal requirements for neighbourhood plans. I have had regard for all the responses made following consultation on the neighbourhood plan, and the evidence documents submitted with it.

5.2 I have made recommendations to modify a number of policies and text to ensure the plan meets the Basic Conditions and other legal requirements. I recommend that the plan, once modified, proceeds to referendum.

### *The Referendum and its Area*

5.3 I have considered whether or not the referendum area should be extended beyond the designated area to which the plan relates. The Yarcombe and Marsh Neighbourhood Plan, as modified, has no policy or proposals which I consider significant enough to have an impact beyond the designated neighbourhood plan boundary, requiring the referendum to extend to areas beyond the plan boundary. I recommend that the boundary for the purposes of any future referendum on the plan should be the boundary of the designated neighbourhood plan area.

5.4 I appreciate the significant amount of hard work which the Parish Council and its Steering Group have undertaken over more than two years to prepare a Neighbourhood Plan that reflects local opinion and which will influence the development of Yarcombe in a positive way. The submitted plan has many good features, setting out its vision, objectives and policies clearly, and recognising the need for growth and development in terms of exception housing sites, rural diversification, improving community facilities and services, and small scale renewable energy, whilst seeking to conserve and enhance the environmental assets of this rural parish. I commend the Parish Council and Steering Group for producing this plan which, subject to some modifications, should facilitate sustainable development over the next 14 years.

*Mary O'Rourke*

Examiner

## Appendix: Modifications

Proposed modification number (PM)	Page no./ other reference	Modification
PM1	Page 11	<p><b>Modify NE1 i) and iii) to read:</b></p> <p><b>i) Development proposals should demonstrate that they will not result in significant adverse impacts on the landscape, biodiversity and geodiversity and that they will enhance the natural environment where there is an opportunity to do so.</b></p> <p><b>iii) Proposals for development that would affect existing traditional Devon hedges should demonstrate that all other options have been assessed and that it is the least damaging option to the hedge, its setting in the landscape, biodiversity and habitats.</b></p>
PM2	Page 11	<p><b>Modify policy NE2 to read:</b></p> <p><b>To ensure that the tranquillity of the parish and our dark skies are maintained, development should demonstrate that it: .....</b></p>
PM3	Page 12	<p><b>Modify policy BHE1 i) and ii) to read:</b></p> <p><b>i) proposals for residential development should be of a high quality design and take account of the Blackdown Hills Area of Outstanding Natural Beauty Design Guide for Houses.</b></p> <p><b>ii) proposals for any development should enhance the visual amenity of the setting .....</b></p>

PM4	Page 13	<p><b>Modify policy PH1 to read:</b></p> <p><b>Development proposals on appropriate exception sites within or physically well related to the village which meet one or more of Yarcombe’s identified housing needs will be supported providing that:</b></p> <p><b>a) the development is small scale</b>  .....</p> <p><b>b) the Blackdown Hills Design Guide for Houses is taken into account.</b></p> <p><b>c) Any development does not .....</b></p>
PM5	Page 13	<p><b>In paragraph 5.2 2<sup>nd</sup> line delete ‘new emerging’</b></p> <p><b>In paragraph 5.4 4<sup>th</sup> line, add before ‘a popular traditional pub in Marsh’, the words ‘ and The Flintlock Inn,’</b></p>
PM6	Page 14	<p><b>Modify policy CFS1 to read:</b></p> <p><b>Development proposals which seek to improve Yarcombe’s existing local community facilities and amenities will be supported where:</b></p> <p><b>i) As in NP</b>  <b>ii) As in NP</b>  <b>iii) They do not have a significant adverse impact .....</b></p>
PM7	Page 15	<p><b>Modify policy CFS2 by:</b></p> <p><b>Deleting ii)</b></p> <p><b>In iii) add ‘significant’ before ‘adverse impact’</b></p> <p><b>Delete the words ‘and not threaten any existing businesses’ from paragraph 6.8.</b></p> <p><b>Delete paragraph 6.9</b></p>
PM8	Page 15	<p><b>Modify policy TRA1 to read: Policy TRA1 – to maintain and if possible</b></p>

		<p><b>enhance the network of public rights of way.</b></p> <p><b>Development proposals which affect public rights of way should demonstrate how they would protect the existing network of public rights of way and, where possible, enhance the local network by the provision of new or extended routes, and prevention of their use by mechanically propelled vehicles where such rights do not exist.</b></p>
PM9	Page 16	<p><b>Modify policy EE1 to read:</b>  <b>When considering proposals for the conversion of existing agricultural buildings for business or business related purposes, regard will be had to:</b></p> <ul style="list-style-type: none"> <li><b>i. The surrounding rural landscape;</b></li> <li><b>ii. The local road network and highway safety;</b></li> <li><b>iii. Agricultural and other land based activities in the area;</b></li> <li><b>iv. The amenities of neighbouring residents and other uses; and</b></li> <li><b>v. Whether the buildings can be converted without requiring substantial rebuilding or disproportionate extension.</b></li> </ul>
PM10	Page 17	<p><b>Modify part i) of policy ELC1 to read:</b>  <b>Proposals for renewable or low carbon energy schemes should be small scale, sensitively sited, and where necessary appropriately landscaped, in order to protect the quality of the Blackdown Hills AONB's landscape, biodiversity, tranquillity and wildlife habitats.</b></p> <p><b>Delete parts ii) and iii).</b></p>
PM11	Page 17	<b>Delete policy ELC2</b>