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Report on the Chardstock Parish Neighbourhood Plan 2013- 2031

An Examination undertaken for East Devon District Council with the support of Chardstock Parish Council on the 2017 submission version of the Plan.

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Date of Report: 8 May 2017

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Main Findings - Executive Summary

From my examination of the Chardstock Parish Neighbourhood Plan (the 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 – the Parish Council;
- The Plan has been prepared for an area properly designated – the parish of Chardstock as shown on Figure 3.1 of the Plan;
- The Plan specifies the period to which it is to take effect – 20132031; 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

The Chardstock Parish Neighbourhood Plan 2013- 2031

1.1 Chardstock is a small rural parish, the bulk of which is in the Blackdown Hills Area of Outstanding Natural Beauty (AONB). Chardstock village, with its Conservation Area, is the main settlement in the parish which also includes several hamlets. Much of the land in the parish comprise sites of statutory or non-statutory biodiversity interest.

1.2 The Plan relates to the whole parish and was prepared by a Neighbourhood Plan Steering Group under the aegis of Chardstock Parish Council (the Parish Council).

The Independent Examiner

1.3 As the Plan has now reached the examination stage, I have been appointed as the examiner of the East Devon District Council (the District Council) with the agreement of the Parish Council.

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1.4 I am a chartered town planner and former government Planning Inspector with considerable experience of examining development plans. I am an independent examiner, and do not have an interest in any of the land that may be affected by the 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 Plan is submitted to a referendum without changes; or
- (b) that modifications are made and that the modified Plan is submitted to a referendum; or
- (c) that the 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) ('the 2004 Act'). 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').

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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. To meet the Basic Conditions, the 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 the area, not including documents relating to excluded minerals and waste development, is the East Devon Local Plan 2016 ('the Local Plan'). The District Council is progressing a Proposed Submission Villages Plan Development Plan Document which is out for consultation until May 2017. It identifies built up area boundaries for those other settlements identified in Local Plan Strategy 27. Chardstock is not listed in Strategy 27. East Devon District Council is also partner 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.

2.2 The planning policy for England is set out principally in the National Planning Policy Framework (the Framework). 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 Chardstock Parish Neighbourhood Plan 2013 -2031, published in January 2017;
- Figure 3.1 of the Plan which identifies the area to which the proposed neighbourhood development plan relates;
- the Chardstock Neighbourhood Plan Consultation Statement;
- the Chardstock Neighbourhood Development Plan Basic Conditions Statement, January 2017;
- all the representations that have been made in accordance with the Regulation 16 consultation; and
- The Strategic Environmental Assessment (SEA) and Habitat Regulation Assessment (HRA) Screening Report prepared by the District Council, dated June 2016.

Site Visit

2.4 I made an unaccompanied site visit to the Neighbourhood Plan Area on 11 April 2017 to familiarise myself with it, and visit relevant sites and areas referred to in the Plan and in evidence.

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 set out the objections to the Plan and these, together with the parish Council's response to my letter asking for their comments on the Regulation 16 representations, provided an adequate basis on which I could judge whether the Plan was suitable to proceed to a referendum. No suggestion to the contrary was contained in the representations.

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. The text of these modifications is set out in the Appendix.

3. Procedural Compliance and Human Rights

Qualifying Body and Neighbourhood Plan Area

- 3.1 The Plan has been prepared and submitted for examination by Chardstock Parish Council which is a qualifying body.
- 3.2 It is the only neighbourhood plan for parish of Chardstock, 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 2013 to 2031.

Neighbourhood Plan Preparation and Consultation

- 3.4 Various methods were used to keep local residents, businesses and farmers informed on progress in the preparation of the Plan and to enable them to comment on it. These include the parish newsletter (delivered to every household), Facebook, the internet, e mails, exhibitions, fliers, posters and items in the local press.
- 3.5 Consultation, as required by Regulation 14 of the 2012 Regulations was carried out in September to November 2016 and this elicited 8 responses. Several amendments were made as a result of the consultation responses received and these were incorporated into the Submission Version of the Plan. The requirements of Regulation 14 have, therefore, been complied with.
- 3.6 The Submission Version of the Plan was then the subject of a further round of consultation, as required by Regulation 16 of the 2012 Regulations, which closed on 20 March 2017. This led to 11 responses all of which I have had regard to in preparing this report.
- 3.7 I am satisfied that the Plan was publicised in a manner likely to bring it to the attention of people who live, work or carry on business in the neighbourhood area and therefore, that the Plan has met its legal requirements in this respect.

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 2004 Act.

Excluded Development

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3.9 The Plan does not include provisions and policies for 'excluded development'.
Human Rights

3.10 The District Council is satisfied that the Plan does not breach Human Rights (within the meaning of the Human Rights Act 1998). I have considered this matter independently and I have found no reason to disagree with that position.

4. Compliance with the Basic Conditions

Main Issues

4.1 Having considered whether the Plan complies with various procedural and legal requirements it is now necessary to deal with whether it complies with the Basic Conditions (see paragraph 1.8 of this report), particularly whether it has regard to national policy and guidance; the contribution it makes to sustainable development; whether it is in general conformity with strategic development plan policies; and whether it is compatible with European Union obligations. This is done by considering:

- General issues of compliance of the Plan as a whole; and
- Specific issues of compliance of the Plan's policies.

General Issues of Compliance

Regard to National Policy and Guidance

4.2 Broadly speaking, the Plan aims to support local businesses; reduce the parish's carbon footprint; protect the integrity of Chardstock's Conservation Area and its listed buildings; ensure that development respects its setting; safeguard the peaceful rural atmosphere of the parish and protect all natural environments and habitats particularly in the AONB. These aims are aligned with National Policy and Guidance insofar as this seeks to support a prosperous rural economy, meet the challenge of climate change and conserve and enhance the natural and historic environment.

4.3 National policy seeks to boost significantly the supply of housing and to ensure that plans meet the full, objectively assessed need for housing both market and affordable. The Plan does not make any provision for additional housing.

4.4 However Chardstock is, it is not disputed, in an unsustainable location for development. The parish in general has no viable public transport and its residents are reliant on private cars to commute, to travel to larger shops and to gain access to services such as medical facilities, services, and

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employment. Its roads are narrow and unsuitable for heavy traffic. The parish is not, in other words, a sustainable location for development when judged against the terms of National Policy and Guidance. There is also a low level of housing need in the parish - a point I will return to.

4.5 With all these points in mind I am satisfied that, subject to comments made below, the Plan has had regard to National Policy and Guidance thus meeting this Basic Condition.

Contribution to Sustainable Development

4.6 As has been established, the parish of Chardstock is not a sustainable location for development. It is not surprising, therefore, that the Plan does not contain proposals for significant amounts of development. However, the Plan does not preclude development. Rather it seeks to ensure that development supports the local economy; reduces the parish's carbon footprint; protects Chardstock's Conservation Area and the Listed Buildings throughout the parish; respects the streetscene and peaceful rural nature of the parish; protects natural environments, habitats and landscapes; and does not place significant stress on the parish's road system. In this manner, the Plan makes a contribution to the economic, social and environmental aspects of sustainable development. This Basic Condition is thus met.

General Conformity with Strategic Development Plan Policies

4.7 At the outset, it is necessary to deal with the fact that the Plan does not, as has already been established, allocate additional housing in the parish. The Local Plan similarly makes no such allocations. Indeed, it defines the whole parish as being in the countryside where development will only be permitted where it is in accordance with a Local or Neighbourhood Plan Policy that specifically permits it and where it would not harm the distinctive landscape, amenity and environmental qualities within which it is located.

4.8 It is within such a restrictive context that the Plan has been prepared. The decision not to allocate houses has clearly been influenced by the low level of need for such housing. The Housing Needs Report identifies a need for two affordable houses at some future date. The Parish Council has made the judgement that that this is not sufficient to justify making provision for more housing in the Plan. This is a judgement it is well placed to make and a judgement that has attracted no objection. If matters change then the situation will be reviewed and there is nothing in the Plan's policies which would preclude a suitably designed and located housing scheme.

4.9 It has been pointed out that there may be an early review of the Local Plan. If that happens there is nothing in the Plan which would prevent limited development to meet a proven local need.

4.10 As to the individual policies in the Plan these are dealt with in the following section. Subject to comments made there I am satisfied that the Plan is in general conformity with the strategic policies in the Local Plan and this Basic Condition is therefore met.

EU Obligations

4.11 The Plan was screened for SEA and a HRA by the District Council. The Screening Report concluded that the Plan was unlikely to have a significant effect on the environment or a negative impact on Natura 2000 sites. It was unnecessary, therefore, to undertake either a SEA or an HRA. Historic England and Natural England agreed with this conclusion. The Environment Agency were consulted but did not respond. On the basis of the information provided and my independent consideration, I am satisfied that the Plan is compatible with EU obligations and meets this Basic Condition.

Specific Issues of Compliance

Policy CPNP 01: Sustainable Development

4.12 This policy contains several strands all of which sit comfortably with national policy and guidance and with the equivalent policies in the Local Plan. *Policy CPNP 1* seeks to minimise additional stress on infrastructure as does the Framework with its emphasis on coordinating development with infrastructure provision (*paragraph 7, first bullet point*) and as do Local Plan *Policies TC7* (roads), *EN19* (foul sewers) and *EN22* (surface water). It seeks to provide local employment rather than encouraging commuting and to promote home working as does the Framework with its emphasis on supporting sustainable economic development and a low carbon future (*paragraph 17, bullet points 3 and 6*) and as do *Strategy 4* and *Strategy 34* of the Local Plan. Finally, it seeks to provide sustainable design and construction, an aim which is consistent with The Framework with its emphasis on meeting the challenge of climate change (*paragraph 95*) and with Local Plan *Strategy 38* which deals specifically with sustainable design and construction.

Policy CPNP 02: Protecting the Conservation Area and Other Heritage Assets

4.13 *Policy CPNP 02 b)* states that development affecting any listed buildings in the parish should be permitted only *'where it will offer a specific and measurable improvement to the historical integrity of the area and avoid harm to the setting of a heritage asset.'* The Framework on the other hand, while seeking to conserve and enhance the historic environment, calls for a balancing of harm against public benefits (*paragraphs 132 -135*). *Policy EN9* of the East Devon Local Plan takes a similar approach. I note the importance the local community attach to preserving the parish's heritage assets undamaged, but have seen no substantial evidence which would

warrant taking what would be a more stringent approach to development affecting such heritage assets in the parish than is taken either nationally in the Framework or more locally in the Local Plan.

4.14 I recommend, therefore, that Policy CPNP2 be modified to include reference to the balancing exercise as shown in **PM1** of the appendix.

Policy CPNP 03: Protecting the Built Environment

4.15 This policy deals with several topics in a manner that is consistent with the approach taken in the Framework and Local Plan policies. Its concern to protect local distinctiveness is mirrored in Local Plan *Policy D1* and in the Framework (*paragraph 60*); the priority it gives to road safety reflects the approach taken in a range of Local Plan policies including *Policy E4 (Rural Diversification)*, *Policy E5 (Small Scale Economic Development in Rural Areas)*, *Policy E16 (Holiday Accommodation)* and *Policy E20 (Visitor Attractions)* as well as in the Framework (*paragraph 32*); its concern that commercial and residential development should not harm the amenities of the area picks up on similar concerns in Local Plan *Policy E5 (Small Scale Economic Development in Rural Areas)* and Local Plan *Policy D1 (Design and Local Distinctiveness)*. The Framework (*paragraph 17*) also seeks a high quality of design and a good standard of amenity.

Policy CPNP 04: Protecting the Natural Environment

4.16 This policy seeks to protect the landscapes, habitats and watercourses in the parish. This clearly has regard to the Framework which similarly seeks to conserve and enhance the natural environment (*paragraphs 109 and 110*). Indeed, by using the word enhancing the Framework goes further than the policy. This is a distinction of some significance and should be reflected in the policy. Policy CPNP 04 should, therefore be modified to include the word 'enhancing' as shown in **PM2** in the appendix.

4.17 Similarly the policy in its modified state would align well with the Local Plan (*Strategy 3 and Strategy 5*) which also seeks to conserve and enhance the natural environment and deal with biodiversity.

4.18 It is suggested that CPNP 04 b) is ambiguous in that it is not clear whether it deals only with the part of the parish outside the AONB. I do not agree. The term 'contiguous', while somewhat obscure, is a perfectly serviceable word meaning touching, adjoining or near. With that in mind it is clear that this section of the policy refers to that part of the parish outside the AONB. It is also suggested that the policy lacks clarity. While I agree that it uses words such as 'deterioration' and 'degrade', the interpretation of which require a degree of judgement, this is not uncommon or unreasonable in policies of this type.

4.19 Subject to the policy modifications referred to above, the policies in the Plan have regard to national policy and guidance and are in general conformity with the strategic policies in the Local Plan, thus satisfying these Basic Conditions

5. Conclusions

Summary

5.1 The Chardstock Parish 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 Plan, and the evidence documents submitted with it.

5.2 I have made recommendations to modify two policies 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 the referendum area should be extended beyond the designated area to which the Plan relates. The 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 The Parish Council's Steering Group has clearly put in a great deal of hard, exacting work in preparing the Plan. That Plan has a simple, logical structure; it covers a wide variety of topics; and it is brief. The heart of even the flintiest Examiner cannot fail to be warmed by such brevity particularly where it is based on extensive evidence and evident thought.

5.5 In the interests of completeness, I should mention that the Neighbourhood Planning Act 2017 received Royal Assent on 27 April i.e. during the course of this examination. Only sections 1 to 7 are concerned with neighbourhood planning and these provisions will not come into effect for the time being.

R J Yuille

Examiner

Appendix: Modifications

Proposed modification number (PM)	Page no./ other reference	Modification
PM1	Page 7	Policy CPNP 02 Development affecting any listed building, within or outside the Conservation Area should <u>will</u> be permitted only where it will offer a specific and measurable improvement to the historical integrity of the area and avoid harm to the setting of a heritage asset. that outweighs any harm that it would cause to that heritage asset or its setting.
PM2	Page 8	Policy CPNP 04: <u>Protecting and enhancing</u> the natural environment.