

EAST DEVON DISTRICT COUNCIL

YARCOMBE AND MARSDH NEIGHBOURHOOD PLAN DECISION STATEMENT

1. Summary

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

2. Background

- 2.1 On 4 June 2014, East Devon District Council designated the area comprising the parish of Yarcombe 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 Yarcombe and Marsh Neighbourhood Plan to the Council, the plan was publicised and representations were invited. The publicity period ended on 8 March 2017.
- 2.4 East Devon District Council appointed an independent examiner, Ms Mary O'Rourke, to review whether the Plan should proceed to referendum.
- 2.5 The examiner's report concludes that subject to making the minor modifications recommended by the examiner, the Plan meets the basic conditions set out in the legislation and should proceed to a Neighbourhood Planning referendum.

3. Decision and Reasons

- 3.1 The District Council has made the following modifications, to secure that the draft plan meets the basic conditions set out in legislation, for the reasons given:

<u>Examiner's Reason for Change</u>	<u>Recommended change</u>
<p>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'.</p>	<p><u>PM1- Modify NE1 i) and iii) to read:</u></p> <p><i>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.</i></p> <p><i>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</i></p>

	<i>setting in the landscape, biodiversity and habitats.</i>
Again, in the interests of consistency and the achievement of sustainable development, I am recommending a modification to the policy to replace <i>'development will only be supported where it demonstrates.....'</i> with <i>'development should demonstrate.....'</i> , which makes it clearer how the policy would be applied	<u>PM2-</u> Modify policy NE2 to read: <i>To ensure that the tranquillity of the parish and our dark skies are maintained, development should demonstrate that it:</i>
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 <i>'comply with'</i> and insert <i>'take account of'</i> . Other minor modifications are also recommended to make clear how the policy would be applied in the interests of clarity and consistency	<u>PM3-</u> Modify policy BHE1 i) and ii) to read: <i>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.</i> <i>proposals for any development should enhance the visual amenity of the setting</i>
I agree with East Devon District Council that the justification for the policy should clarify that <i>'appropriate exception sites'</i> 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 <i>'close to the main villages'</i> 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 <i>'physically well related'</i> 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.	<u>PM4-</u> Modify policy PH1 to read: <i>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:</i> <i>a) the development is small scale</i> <i>b) the Blackdown Hills Design Guide for Houses is taken into account.</i> <i>Any development does not</i>
Minor typographical errors	<u>PM5-</u> In paragraph 5.2 2nd line delete <i>'new emerging'</i> In paragraph 5.4 4th line, add before <i>'a popular traditional pub in Marsh'</i>, the words <i>' and The Flintlock Inn,'</i>
In my view, <i>'enhance'</i> is sufficiently similar in definition and practice to <i>'improve'</i> that the	<u>PM6-</u> Modify policy CFS1 to read:

<p>policy need only refer to the latter¹. 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</p>	<p><i>Development proposals which seek to improve Yarcombe's existing local community facilities and amenities will be supported where:</i></p> <p><i>i) As in NP</i> <i>ii) As in NP</i></p> <p><i>They do not have a significant adverse impact</i></p>
<p>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 areas². 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'</p>	<p><u>PM7- Modify policy CFS2 by:</u></p> <p><i>Deleting ii)</i></p> <p><i>In iii) add 'significant' before 'adverse impact'</i></p> <p><i>Delete the words 'and not threaten any existing businesses' from paragraph 6.8.</i></p> <p><i>Delete paragraph 6.9</i></p>
<p>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'. Nor is it clear in iii) what motorised vehicles should be prevented from doing. Byways Open to All</p>	<p><u>PM8- Modify policy TRA1 to read: Policy TRA1 – to maintain and if possible enhance the network of public rights of way.</u></p> <p><i>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.</i></p>

¹ Oxford Living Dictionaries: Enhance – to intensify, increase or further improve the quality, value or extent.
Improve – make or become better.

² NPPF paragraph 28 1st bullet point.

<p>Traffic (BOATs) are public rights of way and do have recognised rights permitting their use by mechanically propelled vehicles.</p>	
<p>As drafted the policy only supports the conversion of buildings <i>'where it is justified to support farm diversification in the interests of viability'</i>. 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 <i>'harmful impacts'</i>, <i>'unacceptable impacts'</i>, and <i>'unacceptable conflicts'</i>, 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</p>	<p><u>PM9-</u> Modify policy EE1 to read: <i>When considering proposals for the conversion of existing agricultural buildings for business or business related purposes, regard will be had to:</i></p> <ul style="list-style-type: none"> <i>i. The surrounding rural landscape;</i> <i>ii. The local road network and highway safety;</i> <i>iii. Agricultural and other land based activities in the area;</i> <i>iv. The amenities of neighbouring residents and other uses; and</i> <i>v. Whether the buildings can be converted without requiring substantial rebuilding or disproportionate extension.</i>
<p>The policy is awkwardly worded and it is unclear how developments could provide <i>'appropriate landscaping used where necessary to protect the quality of biodiversity, tranquillity and wildlife habitats'</i>. Nor is there evidence as to why this would be necessary or even relevant in all cases. The 2nd 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 3rd 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.</p>	<p><u>PM10-</u> Modify part i) of policy ELC1 to read: <i>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.</i></p> <p><i>Delete parts ii) and iii).</i></p>
<p>As to policy ELC2, it is negatively worded and does not promote renewable and low carbon schemes, contrary to national policy which</p>	<p><u>PM11-</u> Delete policy ELC2</p>

<p>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.</p> <p>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.</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 Yarcombe and Marsh to help it decide planning applications in the neighbourhood area?' will be held in the parish of Yarcombe.
- 3.4 The date on which the referendum will take place is agreed as 27 July 2017.

EAST DEVON DISTRICT COUNCIL CABINET
22 June 2017