

EAST DEVON DISTRICT COUNCIL

DUNKESWELL NEIGHBOURHOOD PLAN DECISION STATEMENT

1. Summary

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

2. Background

- 2.1 In October 2012, East Devon District Council designated the area comprising the parish of Dunkeswell 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 Dunkeswell Neighbourhood Plan to the Council, the plan was publicised and representations were invited. The publicity period ended on 10 May 2017.
- 2.4 East Devon District Council appointed an independent examiner, Mrs 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:

Examiner's Reason for Change	Recommended change
Paragraph 3.14 of the Plan refers to the protection of ancient woodland and that its loss should be 'wholly exceptional'. However, neither Local Plan policies D2 and D3 nor the NPPF use those words, and in the absence of any information as to their provenance, I regrettably feel I have no option but to recommend that they are deleted from the NP (PM1).	PM1 Page 11 Paragraph 3.14 line 3 delete 'where its loss should be 'wholly exceptional''
In the interests of consistency and the achievement of sustainable development, I am recommending a modification to the policy to replace in the first line 'development will only be supported where they demonstrate...' with 'development should demonstrate...', and similarly in the last part of the policy, to make it clearer how the policy will be applied.	PM2 Page 12 Modify policy NE1 to read: Proposals for development should demonstrate that there would be no significant adverse impacts on the natural environment (landscape and biodiversity) and its tranquillity, or any significant adverse impacts can be satisfactorily mitigated.

	<p>Applicants are encouraged to enhance the natural environment where there is an opportunity to do so. 2nd part as in submitted NP Proposals for development which affect traditional Devon hedges should demonstrate that:</p> <p>i) Alternative options are impractical and the proposal is the least damaging option (to the hedgerow/bank, setting in the landscape, biodiversity and habitats): and</p> <p>ii) as in submitted NP</p>
<p>A minor modification is proposed to clarify how the policy would be applied in the interests of clarity and consistency and to contribute to the achievement of sustainable development</p>	<p>PM3 Page 13 Modify policy NE2 to read: After planning permission, delete 'will only be supported where they are' and replace with 'should be...'</p>
<p>Minor modifications are recommended to make clear how the policy would be applied in the interests of clarity and consistency</p>	<p>PM4 Page 13 Modify policy BE1 as follows: In line 2 delete 'will be only supported where they' and replace with 'should: ' In the last sentence delete the word 'also'.</p>
<p>I have serious concerns that, as drafted, policy BE2 fails to have sufficient regard to national policy in the NPPF (paragraphs 126 - 141) on the staged approach that must be taken to determining the impact of a proposed development on, and the weight to be given to any harm to, the significance of a heritage asset, and the separate balancing exercises that need to be undertaken for designated and non-designated heritage assets. For this reason, I also am not satisfied that policy BE2 is in general conformity with the strategic policies of the East Devon Local Plan, more particularly Strategy 49 and policies EN6 to EN10. Furthermore, in my view, the NPPF and Local Plan policies provide sufficient protection for heritage assets. I am therefore proposing to modify the NP to delete policy BE2 (PM5) to ensure that the Plan meets the Basic Conditions.</p>	<p>PM5 Page 14 Delete policy BE2 and renumber policy BE3 as BE2</p>

<p>In the interests of consistency and the achievement of sustainable development, I am recommending a modification to the policy to replace 'will only be supported:' with 'should demonstrate that:' which makes it clearer to prospective applicants how the policy would be applied</p>	<p>PM6 Page 15 Modify policy BE3 (new policy BE2) by replacing 'will only be supported:' with 'should demonstrate that:'</p>
<p>Policies should be clear as to how they will be applied. For this reason, and in the interests of consistency and the achievement of sustainable development, I am recommending modifications to the wording of policy LE2</p>	<p>PM7 Page 15 Modify policy LE2 as follows: First sentence delete 'will be supported subject to proposed changes being' and replace with 'should be' Third sentence delete 'will only be supported where the uses do not' and replace with 'should not'. Criterion iv) traffic generation. Where there would be an increase in traffic movements, including HGVs, that cannot be safely accommodated on the rural road network, the proposal should include mitigation measures;....</p>
<p>The District Council in commenting on the submission version of the NP noted the need in developing new live-work units to ensure that the residential use is compatible with the neighbouring uses. I agree that this should be addressed in policy LE1 and I am proposing a modification to criterion iv) to add after 'unacceptable nuisance to' the words 'and would be compatible with' before 'neighbouring premises/properties'. However, in the absence of any justification as to why a local economic need for the units is required to be demonstrated and why they need to be occupied within 6 months of completion, I am deleting criterion i). I am also deleting criterion v), as drafted, as unnecessary and contradictory. The last part of the policy relates to applications to change the use of livework units to wholly residential. As drafted it includes justification as well as policy and I am recommending it be simplified to make clear how it would be applied. In the interests of clarity and consistency and the achievement of sustainable development, I am recommending that the three distinct parts of policy LE1 are clearly identified as</p>	<p>PM8 Page 16 Modify policy LE1 to read: A. Proposals for development to enable or facilitate working or living in the same building or site should demonstrate that: i) The proposed units would be well related to the uses of the surrounding land and building (preferably located on the existing industrial estate); ii) The employment floorspace would be equal or greater than that of the residential living space; iii) The proposed uses would not cause unacceptable nuisance to and would be compatible with neighbouring premises/properties; iv) The proposed development would provide satisfactory living conditions for future occupants; and v) There would be no adverse impact on: a. The character of the built environment;</p>

<p>A, B, and C and other minor modifications to clarify how it would be applied</p>	<p>b. The character of the natural environment and setting; c. Residential amenity; d. Traffic conditions; e. Noise; and f. Light pollution. B. Proposals which seek the change of use of existing employment space to form a live-work unit must demonstrate that such changes: i) Retain existing ground floor employment space; and ii) The occupancy of the living space is restricted to a person directly involved with the business being operated. C. Applications to change a livework unit to wholly residential use must demonstrate that the unit has been actively marketed for live-work for two years; that no demand exists for its continued use for live-work; and the proposed change of use would be well related to the uses of surrounding land and buildings.</p>
<p>The roads between the main housing estate, the old village and the industrial estate and airfield do not have footways and are often busy with traffic including heavy goods vehicles travelling to and from the industrial estate, discouraging walking or cycling. It is a long-held ambition of villagers to have a safe footpath link to the industrial estate. This is also supported by local businesses and the NP sets out the Parish Council's intention to be pro-active on this matter. Subject to a modification to clarify that the route is to link Highfield and the old village to the industrial estate (PM9), I am satisfied that policy TA2 relates to the use or development of land and is in general conformity with the sustainable transport policies of the Local Plan</p>	<p>PM9 Page 16 Modify policy TA2 by inserting 'and' after 'Highfield'</p>
<p>there is nothing in the NP, Basic Conditions Statement, or the written evidence, that I see as giving an expressly local dimension or any explanation as to what makes policy HP2 distinct. Moreover, I am</p>	<p>PM10 Page 18 Delete policy HP2 and supporting text in paragraph 5.11</p>

<p>concerned that, as drafted, policy HP2 is unclear and ambiguous in that it requires the conversion, extension and sub-division of existing homes to comply with Local Plan policy D8, when that policy deals only with the reuse and conversion of buildings in the countryside. If the intent of policy HP2 is to help bring dis-used buildings back into use, as paragraph 5.11 of the Plan suggests, then I consider that Local Plan policies provide sufficient guidance. For these reasons, I am not satisfied that policy HP2 has had sufficient regard to advice on policy drafting contained in national guidance and so fails to meet that Basic Condition and I am modifying the Plan to delete it</p>	
<p>I am deleting the reference in the policy to registered Assets of Community Value as there are no facilities or buildings in Dunkeswell on the East Devon List of such Assets. I am also modifying the wording of the policy to make it clear how it would be applied, in the interests of clarity, consistency and the achievement of sustainable development</p>	<p>PM11 Page 18 Modify policy CFS1 to delete 'and registered Assets of Community value will only be supported where:' and criteria i) and ii) and replace by: 'should demonstrate that: i) There is no reasonable prospect of a viable continued use of the existing building or facility which will benefit the local community; ii) There is a need for the proposed development; and iii) There would be no significant adverse impact on the special character of the area's natural and built environment.'</p>
<p>The East Devon Audit of Open Space in 2014 indicated that Dunkeswell was under-provided with outdoor sports pitches and amenity space and many of the existing spaces were in need of better maintenance or up-dating. I therefore see no reason why policy CFS2, which is supportive of improved facilities and accessibility, requires a need for proposed improvements to be demonstrated, subject to there being no adverse impact on nearby residents.</p>	<p>PM12 Page 19 Modify policy CFS2 by deleting 'where there is a demonstrable need for them and' and inserting the word 'significant' before 'adverse impact'.</p>
<p>Minor modifications to the wording of the policy are recommended to clarify how it would be applied</p>	<p>PM13 Page 19 Modify policy TA3 by: Deleting 'will be supported where they do' and insert 'should' In i) replace 'our' with 'the' In the second part of the policy, delete the word 'dedicated'.</p>

<p>As drafted policy LE3 requires that ‘the benefits of such development (should) outweigh any harm to local character, residential amenity or highway safety’. But it is unclear as to what would constitute ‘benefits’ and benefits to whom? This would leave an applicant, and the decision maker, without a clear indication as to how an application might be considered and determined. Having regard to the advice in the PPG on the need for clarity and precision in policy drafting, I am recommending that policy LE3 is modified to delete the reference to ‘benefits’ and to make clear the matters to be considered</p>	<p>PM14 Page 21 Modify policy LE3 to read: When considering proposals for the conversion of existing agricultural buildings for business or business related purposes, regard will be had to any impact on local character, residential amenity, and highway safety; and whether the conversion would require substantial rebuilding or result in disproportionate extension.</p>
<p>Minor modifications to the wording of the policy are recommended to clarify how it would be applied</p>	<p>PM15 Page 21 Modify policy LE4 by deleting part v)</p>
<p>Minor modifications to the wording of the policy are recommended to clarify how it would be applied. Although the 2010 study provides useful information, it is not adopted guidance, is now of some age in a fast-moving sector and, in any event, is already referred to in the policy justification</p>	<p>PM16 Page 22 Modify policy ELC1 by deleting the last sentence.</p>
<p>I have considered whether policy W1 is ‘excluded development’ and whether it should be removed from the NP. However, it seems to me after careful reading that what the policy is seeking to achieve is to encourage proposals for new development to include some form of physical provision that would help future occupants to take action to minimise their waste. For example, it might be the provision of a rain water butt or compost bin in the garden of a new home, larger bin stores to accommodate recycling and composting as well as refuse bins, or landscaping to incorporate reed beds to take surface water drainage off a car park. This list is not exclusive or exhaustive. On this interpretation, I am satisfied that policy W1 should not be deleted as it does not relate to excluded development. However, I am recommending a modification to the NP to clarify that Chapter 10 is about Recycling and not Waste.</p>	<p>PM17 Page 23 Modify the title of Chapter 10 by deleting Waste and replace with Recycling</p>
<p>Chapter 11 is entitled Delivering Priorities and refers to priorities set out in the</p>	<p>PM18 Page 24 Delete policy DP1</p>

Neighbourhood Plan Community Action Plan for projects which could draw on funding made available through Section 106 obligations and/or Community Infrastructure Levy contributions. The Community Action Plan is not part of the NP. Policies in the NP should relate to the use or development of land. As I do not know what the local priority community projects are, and therefore whether or not they relate to the use or development of land, I am modifying the Plan to delete policy DP1	
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- 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 Dunkeswell to help it decide planning applications in the neighbourhood area?' will be held in the parish of Dunkeswell.
- 3.4 The date on which the referendum will take place is agreed as 19 October 2017.

**EAST DEVON DISTRICT COUNCIL CABINET
6 September 2017**