

## EAST DEVON DISTRICT COUNCIL

### UPLYME NEIGHBOURHOOD PLAN DECISION STATEMENT

#### 1. Summary

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

#### 2. Background

- 2.1 On 4<sup>th</sup> September 2013, East Devon District Council designated the area comprising the parish of Uplyme 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 Uplyme Neighbourhood Plan to the Council, the plan was publicised and representations were invited. The publicity period ended on 27 January 2017.
- 2.4 East Devon District Council appointed an independent examiner, Mr John Mattocks, 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
Section 9 in the plan dealing with transport matters and including two policies (TR1 and TR2) is dealing with matters which are either not land-use related at all or are aspirational in nature and should be moved to an annex or companion document. Recognising the strength of feeling locally, the Examiner has allowed a degree of flexibility in how this is carried out.	<b>Recommendation 1</b> <b>Ensure that the whole of section 9 in the plan – 'Transport, highways and pedestrian access' is presented in such a way that it is clearly identifiable as representing community aspirations on such matters and is distinct from those sections which together make up the statutory neighbourhood development plan. Delete the 'policy' headings for TR1 and TR2. Omit the Crogg Lane scheme (TR2) from the Proposals Map (Appendix I).</b>
A Neighbourhood Plan is not the appropriate mechanism for designating a Conservation area. The text should be amended to clarify that it is a community aspiration and the maps should be amended for clarity.	<b>Recommendation 2</b> <b>Ensure that paragraph 10.1.2 entitled 'Proposed Conservation Area for Uplyme' is clearly identifiable as a community aspiration in so far as there is no formal plan proposal, as part of the statutory plan, that such a designation be made.</b>
There is a lengthy justification for the changes, in the Examiners report. Essentially, the policy clarifies the relationship between the EDLP and NP with	<b>Recommendation 3</b> <b>a. Replace Policy UHG1 by the following modified policy:- The Built-up Area Boundary (BUAB) for Uplyme is shown on the Proposals Map. Proposals for development within</b>

<p>regard to built-up area boundaries to ensure that it is clear which boundary should apply.</p>	<p><b>the BUAB will be approved, provided that the requirements of Policy Strategy 6 of the Local Plan and other policies in this Neighbourhood Plan are met.</b></p> <p><b>b. In the supporting text, paragraph 6.1.1., lines 9 to 15, delete the sentence: ‘The suggested revised BUAB is ... the revised boundary.’ And substitute: ‘Following publication of this Plan, the EDDC subsequently selected this reviewed boundary as their preferred approach for the Villages Plan. This revised BUAB is shown on the Proposals Map (Appendix I).’</b></p>
<p>There is a lengthy justification for the changes, in the Examiners report. Essentially, they clarify the position with regard to affordable housing, exception sites and the relationship to EDLP Policy.</p>	<p><b>Recommendation 4</b></p> <p><b>a. In the first line of Policy UHG2 delete the words ‘within the BUAB and on exception sites’.</b></p> <p><b>b. Remove the bracketed comment commencing ‘Although this policy is part of the EDLP ...’ from the blue box of Policy UHG3 and place it in the accompanying text.</b></p> <p><b>c. Insert a cross-reference to EDLP Policy Strategy Policy 35 under both policies UHG3 and UHG4.</b></p> <p><b>d. Delete the second paragraph in the text under paragraph 6.1.3 that is ‘Exception sites (outside the boundary) ... can be justified.’</b></p> <p><b>e. Amend the heading of Policy UHG4 to read ‘Exception mixed market and affordable housing outside the Built-Up Area Boundary’ and on the first line of the policy delete ‘exception’ and insert ‘mixed market and affordable’.</b></p>
<p>It is unusual to find a policy such as this within a neighbourhood plan. It is very closely modelled on paragraph 14 of the NPPF although that applies to the consideration of planning applications against the development plan as a whole not individual parts of it. It is also not for a neighbourhood plan policy to state that decisions should be taken in accordance with another statutory planning document, in this case the EDLP. It is for the LPA in taking decisions to weigh the different parts of the development plan in the light of paragraph 14 of the NPPF. There is no difficulty, however, if the policy refers simply to ‘this plan’ and the NPPF. In view of the fact that the plan area is within an AONB a reference to specific national policies which restrict development is an important addition.</p>	<p><b>Recommendation 5</b></p> <p><b>In the second line of Policy USD1 replace the words ‘the Neighbourhood Plan and the Local Plan’ by ‘this plan’; in line 5 replace ‘the Neighbourhood Plan’ by ‘this plan’; at the end of the policy, replace the words ‘and Local Plan’ by ‘taken as a whole’ and add ‘or specific policies in the Framework indicate that development should be restricted.’</b></p>
<p>In order to ensure maximum flexibility for the siting of the dwellings on this site to minimise visual impact, the area shown on the Proposal Map should be re-drawn to include the frontages to the two lanes down to the Lime Kiln Lane junction with the Carswell farm track. Policy UHG4 should include a requirement for a flood risk assessment to ensure that adequate regard has been had to meeting the requirements of national and local policy for dealing with</p>	<p><b>Recommendation 6</b></p> <p><b>a. Include an additional requirement for a flood risk assessment within the site-specific policy provisions for the Lime Kiln Lane site under Policy UHG4.</b></p> <p><b>b. Amend the area shown on the Proposals Map (Appendix I) for the Lime Kiln Lane allocation to show the site abutting the lanes on the south and east sides.</b></p>

<p>the effects of climate change and thus fully meeting the basic conditions.</p>	
<p>The inclusion of a statement referring to a potential housing site at Raymond's Hill, intended as a 'suggestion' or not, introduces uncertainty for plan-users. The statement would almost certainly be put forward as a 'material consideration' should an application be made for planning permission. Such a statement the plan would fail to meet the basic conditions and deletion would overcome that difficulty.</p>	<p><b>Recommendation 7</b> Delete the last paragraph in section 6.1.5 of the plan, page 19, referring to possible market housing on the south side of Harcombe Road, Raymond's Hill.</p>
<p>Bearing in mind the need for the plan to contribute to sustainable development, leaving the reference to isolated locations in the text would result in uncertainty for the decision-taker which would be contrary to practice guidance. Also, as this factor is covered by EDLP Policy D8, it should be included in the UNP policy to avoid ambiguity in policy interpretation.</p>	<p><b>Recommendation 8</b> In policy UHG5, line 2, replace the words 'in rural areas' by 'outside the built-up area boundary' and, in line 3, replace the words 'favourably considered' by 'approved'; modify the second criterion to commence 'the buildings are not in an isolated location with no nearby built development and' (are capable ...)</p>
<p>In summary, these policies provide positive and general support to development for businesses in the parish (not the development of businesses). Policy should be amended to reflect Paragraph 28 of the NPPF which, whilst strongly supportive of the rural economy, stresses the need for development to be sustainable. An additional criterion is required in both policies UEM1 and 2. There is no clear justification for the requirement in UEM3 for there to be a specific need for the residential element of a live-work unit, although that would be the case if the site was outside the village BUAB. That requires clarification in the policy. Policy UEM3 is almost identically worded to Policy UHG5. The same considerations apply, including the undesirability of the development of business uses in isolated, unsustainable locations. Therefore, the same recommendation for modification applies to that policy.</p>	<p><b>Recommendation 9</b> a. In policies UEM1 and UEM2 insert the following additional criterion: 'the development is in an accessible and sustainable location'; b. preface the provision within Policy UEM2 for live-work units by the words 'Outside of the built-up area boundary'; c. in policy UEM3, line 2 and 3, replace the words 'in rural areas' by 'outside the built-up area boundary' and 'favourably considered' by 'approved'; modify the second criterion to commence 'the buildings are not in an isolated location with no nearby built development and' (are capable ...)</p>
<p>There is an extensive justification for the rewording and merging of these two policies. In summary, they relate to the same site and objectives so should be combined into an unambiguous land use policy. The Examiner is unable to recommend that the Policy go beyond saying that a business centre will be permitted on the site (he does not have the power to state eg. That other uses would be refused as this is not supported by the evidence, would not meet the basic</p>	<p><b>Recommendation 10</b> Delete the first part of Policy UCF2 and combine it with a re-worded Policy UEM5, the new policy to read as follows: <b>Policy UEM5 – Re-use of the Primary School buildings as a Business Centre</b> A site is allocated in the plan adjacent to the village hall, as shown on the Proposals Map, for the development of a new primary school. The re-use of the current school land and buildings as a small business centre (for Classes A2 and B1) will be permitted subject to compliance with other relevant policies in this plan.</p>

<p>conditions and would require further consultation)</p>	
<p>I accept the point made by the Parish Council that recreational facilities should serve the needs of all within the parish, not just Uplyme village itself. However, as the EDDC state the indication in the policy that the provision of new facilities will be 'supported' but if new sites are accessible by sustainable means they will be 'especially supported' is confusing for the decision-maker. As I indicate in paragraph 4.06 of this report it is possible for the approach which may be taken by the Parish Council when consulted on applications to be spelt out in the plan text but not in the policies themselves.</p> <p>The EDDC have suggested revised wording for the last part of this policy. The recommendation is based on that but takes account of the need to serve Raymond's Hill as well as Uplyme. It is helpful to expand on the meaning of 'sustainable means'.</p>	<p><b>Recommendation 11</b>  <b>Modify the last sentence in Policy UCF3 to read:</b>  <b>New sites should be easily accessible by sustainable means, including by public transport, bicycle or on foot.</b></p>
<p>The second part of this policy applies to 'new housing or development schemes' but the first part more generally to 'development proposals'. As the EDDC have pointed out the term 'development schemes' is confusing as it may not be appropriate to require tree planting for minor development or the re-use of existing buildings, which is still 'development'. The UPC have accepted that.</p> <p>The first part of the policy is ambiguous. It is not clear whether it is addressing the protection of trees during development or in the long term given the importance of the landscape within an AONB. However, the long-term protection of trees can only be achieved by the use of Tree Preservation Orders. Repword the policy for clarity.</p>	<p><b>Recommendation 12</b>  <b>Modify Policy UEN5 to read:</b>  <b>Proposals for new housing or business development should include measures for the protection during the course of development of existing trees/hedgerows of significant landscape, amenity, historic or conservation value. Where appropriate, such proposals should include provision for additional planting of trees and hedges to enhance the landscape character of the immediate neighbourhood and wider parish.</b></p>
<p>Clarify the terminology to reflect the NPPF and that individual spaces are being designated (as a larger area would not comply with the NPPF). Clarify the types of development which may be acceptable, in the justification.</p> <p>An appeal lodged against the EDDC's refusal of an application for the erection of a dwelling on area E was allowed on appeal in January this year. If implemented the development would negate the purpose of identifying most of area E as a Local Green Space. In the circumstances, including Area E as LGS would not meet the</p>	<p><b>Recommendation 13</b>  <b>a. Modify policy UEN7 as to read as follows:-</b>  <b>Policy UEN7 – Local Green Spaces in Uplyme</b>  <b>The areas of Local Green Space defined in Appendix F and on the Proposals Map provide an important green link and green corridor within the built-up area of Uplyme. These areas are to be retained as undeveloped land which physically links important landscape and/or open areas; the areas will be protected for their landscape, recreational and/or amenity value, as well as for benefits to wildlife.</b>  <b>Notwithstanding the location of part of this corridor within the Built-Up Area Boundary for Uplyme, proposals for inappropriate development within these areas of Local</b></p>

<p>basic conditions and the area should be deleted.</p>	<p><b>Green Space will not be permitted except in very special circumstances.</b>  <b>b. Include a statement in the supporting text that ‘permanent built development’ is inappropriate within an area of Local Green Space but that the erection of temporary or permanent buildings and structures which would result in a community benefit directly related to the function and purpose of the Local Green Space and which would retain their open-ness will not be inappropriate.</b>  <b>c. Delete area E from the list of Local Green Spaces in the table in paragraph 10.6.1 of the plan, from the plan of the Green Space Area(s) in Appendix F and from the Proposals Map.</b></p>
<p>Some of the introductory sections of the plan, in particular, were related to the pre-examination submission stage and make references to the examination which will be superfluous at the final stage. I indicate below those sections of the plan which will need to be revised in that light. I also make a ‘catch-all’ recommendation to authorise amendments which will be necessary consequentially upon my recommendations for modifications to the policies in the plan.</p>	<p><b>Recommendation 14</b>  <b>Ensure that all procedural references in the plan are up-to-date and make any amendments to the supporting text in the plan which is required as a consequence of modifications to the policies made in response to the recommendations in this report.</b></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 Uplyme to help it decide planning applications in the neighbourhood area?’ will be held in the parish of Uplyme.
- 3.4 The date on which the referendum will take place is agreed as 26 October 2017.

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