

Report to: Cabinet
Date of Meeting: 2 May 2018
Public Document: Yes
Exemption: None



Review date for release None

Agenda item: To be completed by Democratic Services.

Subject: **Response to Clyst St George Neighbourhood Plan Submission**

Purpose of report: To agree the response by this Council to the current consultation for the Clyst St George Neighbourhood Plan.

Recommendation :

- 1. That Members note the formal submission of the Clyst St George Neighbourhood Plan and congratulate the producers of the plan on the dedicated hard work and commitment in producing the document.**
- 2. That this council make the proposed representation set out at paragraph 5.2 in this report in response to the consultation.**

Reason for recommendation: To ensure that the view of the District Council is recorded and informs the consideration of the Neighbourhood Plan by the Independent Examiner.

Officer: Phil Twamley, Neighbourhood Planning Officer,
[REDACTED]

Financial implications: No additional financial implications.

Legal implications: The legal implications are fully set out within the report. It is important that EDDC comment on the content of the Neighbourhood Plan (given that it will form part of the Development Plan and therefore help guide decision making on planning applications) to ensure it sits within the strategic requirements of the District Council's Local Plan.

Equalities impact: Low Impact

The Neighbourhood Plan has gone through wide consultation with the community and has been advertised in a variety of formats to increase accessibility. Neighbourhood Planning is designed to be inclusive and extensive consultation is a fundamental requirement. All electors are invited to vote in the referendum.

Risk: Low Risk

There is a risk that the Neighbourhood Plan could fail the examination if it is considered to conflict with the basic conditions.

Links to background information:

- Localism Act 2011
<http://www.legislation.gov.uk/ukpga/2011/20/contents/enacted>
- Neighbourhood Planning Regulations 2012
http://www.legislation.gov.uk/uksi/2012/637/pdfs/uksi_20120637_en.pdf
- Neighbourhood Planning Roadmap Guide
<http://locality.org.uk/wp-content/uploads/Roadmap-worksheets-map-May-13.pdf>

Link to Council Plan:

EDDC Local Plan 2013-2031

<http://eastdevon.gov.uk/media/1772841/local-plan-final-adopted-plan-2016.pdf>

1.0 Report Summary

- 1.1 Clyst St George Parish Council submitted their Neighbourhood Plan to the District Council and publication of the submission commenced on the 23 March 2018. The District Council is required to formally consult on the Plan for 6 weeks before appointing an Independent Examiner to inspect the plan against a series of conditions that the plan must meet in order for it to proceed to a referendum.
- 1.2 During this consultation the District Council has the opportunity to comment on the Neighbourhood Plan and this report is brought before members with a request that they endorse the Officers observations as the formal representation on the plan, which is set out at the end of this report.

2.0 Background to the Clyst St George Neighbourhood Plan

- 2.1 Clyst St George Parish Council commenced work on their Neighbourhood Plan following their Neighbourhood Area being designated on the 11th March 2015.
- 2.2 Since then, the Parish Council and volunteers from the local community have spent considerable time and effort consulting with residents of the parish and producing a plan which reflects the aspirations of the community with regards to the use of land until 2031.

- 2.3 The plan itself contains a range of policies, on topics covering local employment, housing, heritage and the environment.
- 2.4 Prior to submitting the Plan to East Devon District Council, Clyst St George Parish Council have held their own 6 week public consultation on a draft version of the plan; a step which is also required by the neighbourhood planning regulations. The group took into account comments made during this stage and made various amendments to the version that has now been submitted to East Devon District Council. The group are keen to facilitate additional affordable development in the Parish and have allocated a site to meet this need.

3.0 Submission of the Clyst St George Neighbourhood Plan

- 3.1 The District Council has received a Neighbourhood Plan from Clyst St George Parish Council. The Plan and its supporting documents can be viewed at the following link: <http://eastdevon.gov.uk/planning/neighbourhood-and-community-plans/neighbourhood-plans/neighbourhood-plans-being-produced-in-east-devon/clyst-st-george>
- 3.2 This is the fifteenth completed (ready for final consultation) Neighbourhood Plan in the District. The Parish Council has received regular support from the District Council and additional financial support from DCLG.
- 3.3 The statutory regulations require that the District Council organise and undertake a consultation on a plan when it reaches this stage. This is commonly referred to as the submission or 'formal' 6 week consultation. The consultation period commenced on 23rd March and is due to finish on 4th May 2018. The Plan proposal has been publicised on notice boards within the Parish, notices on the EDDC and Parish Council websites and an email to all the bodies mentioned in the consultation statement, including adjoining authorities and the statutory consultees of Devon County Council, Natural England, Historic England and the Environment Agency.
- 3.4 One of the statutory roles of the District Council is to consider whether the plan meets, in production process terms, the legislative requirements. Cabinet has previously endorsed a protocol for District Council involvement into Neighbourhood Plans and in accordance with this protocol an officer review has been completed. Officer assessment is that legislative requirements are met.
- 3.5 Anyone may comment on a Neighbourhood Plan. It is particularly important that the District Council comments, given that the Neighbourhood Plan (if adopted) will form part of the Development Plan, and should conform to the strategic policies of the Local Plan. This report provides a summary overview of the plan and recommends comments of this authority on the plan to be submitted to the Examiner undertaking the Plan Examination.

4.0 Neighbourhood Plan Examination and Referendum

- 4.1 Following the consultation the District Council must appoint an 'appropriately qualified and independent Examiner' agreed with Clyst St George Parish Council. All responses from the six week consultation (including any made by this council) will be forwarded to the Examiner who will consider them, either by written representations or at an oral hearing (if s/he

decides one is necessary). The District Council is responsible for paying the costs of the examination although the District Council can recoup these expenses by claiming funding from Central Government of £20,000 once a date has been set up for referendum following a successful examination.

- 4.2 Discussions with the Parish Council have indicated that they have no particular preference as to who to appoint to conduct the examination. Previous examinations in East Devon have been conducted by a variety of Examiners, all very experienced and well qualified and, whilst a decision has yet to be made, it is likely that we will use one of these Examiners again.
- 4.3 The Neighbourhood Plan Examination is different to a Local Plan Examination. The Examiner is only testing whether the plan meets the Basic Conditions and other relevant legal requirements – they are not testing the soundness of the plan or looking at other material considerations. The Examiner will be considering whether the plan:
- has appropriate regard to national policy and advice contained in guidance issued by the Secretary of State
 - contributes to the achievement of sustainable development.
 - is in general conformity with the strategic policies in the development plan for the local area.
 - is compatible with human rights requirements.
 - is compatible with EU obligations.
- 4.4 As part of the Development Plan used in future planning decisions, it is in the interests of the District and Parish Councils to produce a high quality Neighbourhood Development Plan.
- 4.5 Following the Examination, the Examiner's report will set out the extent to which the draft plan proposal meets the Basic Conditions and what modifications (if any) are needed to ensure it meets the Basic Conditions. The Examiner has 3 options for recommendation:
- A. That the Plan proceeds to referendum as submitted.
 - B. The Plan is modified by the District Council to meet Basic Conditions and then the modified version proceeds to referendum.
 - C. That the Plan does not proceed to referendum.

If the Examiner chooses A or B above they must also consider whether the referendum area should be extended beyond the boundaries of the Plan area (this could be applicable if Plan proposals could impact on a larger area). The report must give reasons for each recommendation and contain a summary of its findings. It is the responsibility of the District Council to accept or decline the modifications suggested by the Examiner.

- 4.6 Once the Plan has been modified it will be subject to a referendum where everyone on the electoral roll (for the defined area) will have a right to vote for or against it. If at least half of votes cast support the Plan then it can be brought into legal force.

5.0 The Clyst St George Neighbourhood Plan Response

5.1 During the current 6 weeks consultation the District Council can comment on the Plan. In terms of meeting the Basic Conditions, the Parish Council has produced a statement setting out how the Plan complies with the conditions which the Examiner will assess.

5.2 **After reviewing the Neighbourhood Plan contents, it is recommended that the following representation of East Devon District Council be submitted to the Neighbourhood Plan consultation. It should be noted that comments we make at this stage are primarily restricted to land use planning policy matters rather than background text/reasoned justification or the community policies and are made on the basis of:**

- **Does a Clyst St George Neighbourhood Plan policy comply with strategic policies in our adopted Local Plan and have appropriate regard to National Planning Policy?**
- **Do we have concerns about policy given wider objectives of the council?**
- **Are the policies workable and enforceable - could they be reasonably applied through the Development Management process? and**
- **Are they otherwise appropriate or desirable?**

EDDC Cmmt No.	Policy / Plan Reference	Comment
1.	Para 2.10	Amend 'County Wildlife Area' to 'County Wildlife Site'
2.	Para 2.15	It should also be noted that much of the area west of the A376 is Green Wedge (Local Plan - Strategy 8).
3.	Para 7.15	There is a lack of evidence in any of the reports accompanying this plan for the assertion that flooding has been made worse due to development. The community survey shows 39% of people are worried that further development will increase flood risk, but this is not evidence for a link. It could in fact be the poor state of agricultural soils (compaction) that is the principal cause of flooding. The reference to development should be deleted.
4.	Para 7.2	Amend 'Costal Protection Zone' to 'Coastal Protection Zone'.
5.	Aims and Objectives Box	There is clearly considerable community support for protecting the landscape and wildlife of the parish. However, as it stands, the natural environment objectives will not achieve this as they only require 'mitigation'. The first objective should be re-worded as: "Require all new development to achieve a net gain for biodiversity" (this also makes it consistent with the NPPF).
6.	Policy No. CSG5	We suggest the following amendments are made to strengthen the policy: Development proposals on land outside the confines of the settlement areas will usually be supported if they are necessary for the purposes of agriculture, or farm diversification or outdoor recreation, without harming the countryside. Such development proposals should be shown to be making make a positive contribution to the preservation of the countryside and its

EDDC Cmmt No.	Policy / Plan Reference	Comment
		<p>biodiversity and enhancing its setting, or its responsible use and enjoyment by the public.</p> <p>Development proposals will not be supported that result in the net loss of:</p> <ul style="list-style-type: none"> i. publicly accessible open space, footpaths or bridleways; ii. important views from the settlement areas; iii. landscape features; iv. biodiversity features; v. higher grade agricultural land; or vi. damage to the essential character of the area.
7.	Policy No. CSG6	<p>We suggest the following amendments are made to strengthen the policy:</p> <p>Development proposals should avoid the loss of or damage to trees, woodland or hedgerows that contribute positively to the character, amenity and biodiversity of the area. Development proposals which could result in loss or damage to aged or veteran trees will not be supported. Where it is unavoidable, development proposals must provide for appropriate replacement planting on the site, together or as close as possible to it, with a method statement for the ongoing care and maintenance of that planting. Such replacement planting will be in the ratio of three trees for loss of a large tree, two for a medium size tree, and one for a small size tree.</p> <p>New development within the proximity... (no further changes to this policy).</p>
8.	Policy No. CSG7	<p>We suggest the following amendments are made to strengthen the policy:</p> <p>The loss of hedgerows with visual, historic or wildlife importance will be resisted. Existing hedgerows should be retained, especially those on the side of roads, along historic boundaries and lanes within the Parish. Sections of hedgerows, regardless of length, should only be removed or realigned to provide proper road and footpath access to development sites. Where loss of hedgerows is such measures are unavoidable, required for development to be acceptable, they replacement planting should include the use of native hedgerow species to achieve a net gain in quantity will be wherever planting is required.</p> <p>New hedgerows, using native hedgerow species, are preferred as boundary treatments around and within new developments.</p>
9.	Policy No. CSG8	<p>We suggest referencing the 'Clyst St. George Schedule of Local Heritage Value' in this policy, serving to identify those non-statutory heritage assets.</p>
10.	Policy No. CSG11	<p>We suggest the following amendments are made to strengthen the policy:</p> <p>Development which would result in the loss of any existing sports or recreation facility to a non-sports or recreation use will not be supported unless:</p> <ul style="list-style-type: none"> i. the applicant satisfactorily demonstrates that there is no continuing demand for the facility and it is not possible to use the facility for other sports; or ii. alternative provision of at least an equivalent quality, size, suitability, convenience and accessibility within the neighbourhood area is made.

EDDC Cmmt No.	Policy / Plan Reference	Comment
11.	Policy No. CSG17	This policy requires 3 off-road parking spaces for development of any dwelling of more than 2 bedrooms and is therefore contrary to Local Plan policy TC9. The policy specifies that domestic garages cannot be counted as parking spaces, this is also contrary to national policy. In the absence of local evidence to justify the approach, we suggest the policy is removed or amended to conform with Local Plan policy TC9.
12.	Policy No. CSG18	We suggest the following amendments are made to strengthen the policy: Development proposals specifically aimed at reducing the traffic and parking problems on Clyst Road, that have the support of the local community and enhance the safety of pedestrians and cyclists, will be supported.
13.	Policy No. CSG19	Relating to business development policy related to local business parks. Several business development sites are in or close to sensitive waterways and there is a real risk of damage to them as a result. We suggest the additional criteria are added to the current list: vi. promote access on foot or bicycle; and vii. reduce flooding and improve water quality in main rivers.