



LYMPSTONE PARISH COUNCIL

Clerk to the Council: A J Le Riche, DMS,
43 Salisbury Road, Exmouth, EX8 1SL
Tel 279665/ 07866 535580

Email: clerk@lympstone.org

www.lympstone.org

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BASIC CONDITIONS STATEMENT LYMPSTONE NEIGHBOURHOOD PLAN JULY 2014

www.lympstone.org/parish-council/lympstone-neighbourhood-plan-documents

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1. Introduction

This statement introduces the Lympstone Neighbourhood Plan Proposal and sets out how the Plan has been prepared in accordance with the Neighbourhood Planning (General) Regulations 2012 ('the Regulations'), and how the basic conditions prescribed by Paragraph 8 of Schedule 4B to the Town and Country Planning Act 1990 ('the 1990 Act') together with the other legal requirements including the Planning and Compulsory Purchase Act 2004 ('2004 Act'), have been met. The statement has been prepared by the Lympstone Parish Council as the qualified body for the designated neighbourhood plan area of Lympstone Parish (as set out in Figure 1.)

Below is a brief introduction to Lympstone and why the Neighbourhood Plan has been prepared. This is followed by a summary of compliance statement indicating how the Neighbourhood Plan has been prepared in line with the Regulations and the 1990 Act. The remaining sections of the document provide evidence as to how the Neighbourhood Plan meets the basic conditions of paragraph 8 of Schedule 4B of the 1990 Act.

2. Why Lympstone needs a Neighbourhood Plan

Pages 1 to 11 of the Lympstone Neighbourhood Plan cover the background to The Plan.

Lympstone is a small compact parish situated adjacent to the largest town in Devon – Exmouth. The growth in Exmouth over the last 30 years has been extensive and whilst Lympstone as a community relies on the services provided within Exmouth there is a fear that in time our community and identity will be swamped by the urban sprawl. Protection against coalescence is given in the Local Plan but the community feel that it is of such importance that we must enforce the Local Plan by utilising provisions within the Localism Act 2011. The Neighbourhood Plan by using Development Management Policies allows The Community to define where and how new development should take place within the overarching strategy of the Local Plan. By using Community Action Policies the Neighbourhood Plan lays down guidance and strategy for the Parish Council in dealing with local issues of importance to the community but outside of the DMPs.

3. Summary of Compliance Statement

The Neighbourhood Plan has been prepared by Lypstone Parish Council who are a qualifying body in accordance with the Regulations.

The policies described in the Neighbourhood Plan relate to the development and use of land in a Neighbourhood Area, which covers the whole Parish of Lypstone, as designated by East Devon District Council in accordance with the Regulations (please see the Neighbourhood Planning pages on the District Council's website http://www.eastdevon.gov.uk/planning-neighbourhood_plans). This is the only Neighbourhood Plan for the Neighbourhood Area (*cf* to requirements of Section 38B (1)(b) of the 2004 Act).

The Neighbourhood Plan will apply until the adoption of a new Local Plan for East Devon and does not contain policies relating to excluded development in accordance with the Regulations (*cf* to Sections 38B(1)(a) and, 38B(1)(b) of the 2004 Act and Section 61K of the 1990 Act).

All the documents required by Regulation 15(1) of the Regulations are included in the submission package for the Neighbourhood Plan. The requirements include provision of the following;

- (a) a map or statement which identifies the area to which the proposed neighbourhood development plan relates; .
- (b) a consultation statement; .
- (c) the proposed neighbourhood development plan; and
- (d) statement explaining how the proposed neighbourhood development plan meets the requirements of paragraph 8 of Schedule 4B to the 1990 Act.

Requirements (a)-(c) are referred to later in this statement and are provided as part of the Neighbourhood Plan or its appendices.

With reference to point (d) the Neighbourhood Plan is considered to have met the Basic Conditions, which are:

- (a) having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the neighbourhood development plan,
- (b) having special regard to the desirability of preserving any listed building or its setting or any features of special architectural or historic interest that it possesses, it is appropriate to make the neighbourhood development plan,
- (c) having special regard to the desirability of preserving or enhancing the character or appearance of any conservation area, it is appropriate to make the neighbourhood development plan,
- (d) the making of the neighbourhood development plan contributes to the achievement of sustainable development,
- (e) the making of the neighbourhood development plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area),
- (f) the making of the neighbourhood development plan does not breach, and is otherwise compatible with, EU obligations, and
- (g) prescribed conditions are met in relation to the order and prescribed matters have been complied with in connection with the proposal for the order.

The details and evidence documenting compliance with these conditions is provided in the following sections.

4. The Content of the Neighbourhood Plan Proposal

A number of documents have been produced in order to support the plan and meet the Basic Conditions. These include:

- The Lympstone Neighbourhood Plan: This is the main document which includes projects and policies developed by the community.
- The Lympstone Neighbourhood Plan Evidence Base: This is a body of information prepared by the community to ensure due consideration of social, economic and environmental issues within the Parish.
- The Consultation Statement: This is a statement setting out how the community and other stakeholders have been involved in the preparation of the Neighbourhood Plan.
- The Planning Policy Appraisal: This is an appraisal of Neighbourhood Plan policies against national policies and strategic policies of the local authority, East Devon District Council.
- The Strategic Environmental Assessment: An appraisal of the environmental impact of the Neighbourhood Plan and its policies.

Involvement of the Local Community and Stakeholders

The Neighbourhood Plan has been prepared with extensive input from the community and stakeholders as set out in the accompanying Consultation Statement (CS). The Draft Neighbourhood Plan has been consulted on as required by the Neighbourhood Planning Regulations 2011 and responses have been recorded and changes have been made as per the schedule set out in the appendices to the CS. The CS has been prepared by members of the Neighbourhood Forum and meets the requirements set out in Paragraph 15 (2) of the Regulations.

Evidence

There is an extensive evidence base supporting the Neighbourhood Plan. The Evidence Base was prepared by the Working Party. There was extensive work carried out on the EDDC Village Boundary Exercise to determine housing allocation sites. This was reinforced by Village Meetings (3), focus groups and a questionnaire. These are all contained on the village web site www.lympstone.org/parish-council/lympstone-neighbourhood-plan-documents. The early data is the raw output from the meetings and by following that it is evidential how the Plan has evolved.

The Evidence Base provides data and draws conclusions which will help to ensure that the Neighbourhood Plan meets the basic conditions, including:

- a summary of the key East Devon Local Plan Policies. From this review the evidence base identifies the issues that the Neighbourhood Plan will need to address to be in conformity with national and strategic policies of East Devon District Council;
- a review of the key economic and social issues in Lympstone including the location of services, schools, community groups, charities, services and accommodation for groups with particular needs. It considers the social and economic profile of Lympstone and identifies those issues that need to be addressed to ensure that Lympstone continues to be a sustainable community which provides for the housing and other needs of all sectors of the population;
- an appraisal of the environmental designations, landscape considerations and open space provision in the Parish and specific proposals to make improvements to support the environmental role of planning and contribute to sustainable development as defined by the NPPF and the East Devon Local Plan.
- The policies set out in the Neighbourhood Plan are in conformity with the overarching strategic policies in the emerging East Devon Local Plan.

As part of the Neighbourhood Plan Process, Planning Aid assisted with producing a review of the process and a critique of its legal suitability. This is contained in Appendix I “Consultation Statement”.

5. The Basic Conditions

5.1. Conformity with national policies and Secretary of State Guidance

The National Planning Policy Framework (NPPF) states that the purpose of the planning system is to contribute to the achievement of sustainable development, and that the policies contained in the NPPF, taken as a whole, constitute the Government’s view of what sustainable development in England means in practice for the planning system.

The NPPF sets out 12 core land-use planning principles that should underpin plan-making and decision-taking. These are that planning should:

- Be genuinely plan-led, empowering local people to shape their surroundings, with succinct local and neighbourhood plans setting out a positive vision for the future of the area
- Be a creative exercise in finding ways to enhance and improve the places in which people live their lives;
- proactively drive and support sustainable economic development to deliver the homes, businesses and industrial units, infrastructure and thriving local places that the country needs. Every effort should be made objectively to identify and then meet the housing, business and other development needs of an area, and respond positively to wider opportunities for growth. Plans should take account of market signals, such as land prices and housing affordability, and set out a clear strategy for allocating sufficient land which is suitable for development in their area, taking account of the needs of the residential and business communities.
- Always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings;
- Take account of the different roles and character of different area, promoting the vitality of our main urban areas, protecting the Green Belts around them, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it;
- Support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change, and encourage the reuse of existing resources, including conversion of existing buildings, and encourage the use of renewable resources (for example by the development of renewable energy)
- Contribute to conserving and enhancing the natural environment and reducing pollution
- Encourage the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental value;
- Promote mixed use developments, and encourage multiple benefits from the use of land in urban and rural areas, recognising that some open land can perform many functions

- Conserve heritage assets in a manner appropriate to their significance ,so that they can be enjoyed for their contribution to the quality of life of this and future generations
- Actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable: and
- Take account of and support local strategies to improve health ,social and cultural wellbeing for all, and deliver sufficient community and cultural facilities and service to meet local needs

Sections 2.5 and 2.6 of the plan set out the importance that has been attached to a plan led approach to the development of the parish and the key five points that have guided the work. These accord with the principles of the NPPF.

Each section of the NPPF relevant to Lympstone will now be considered in turn .

The Neighbourhood Plan was prepared to be in conformity with the NPPF and the strategic policies of both the adopted East Devon Local Plan and the emerging East Devon Local Plan (eEDLP). The eEDLP proposes that provision be made in Lympstone for 40 houses. It was anticipated that the eEDLP would have been adopted prior to the examination of the Neighbourhood Plan. However following the Local Plan examination additional work is required in relation to the overall housing numbers and the distribution of housing within the District. Rather than delay still further the progress of the Neighbourhood Plan the requirement in Strategy 27 of the eEDLP for the provision of 40 houses in Lympstone has been followed. If further sites are required the Neighbourhood Plan will be revised within a period of 6 months from the date of adoption of the Local Plan.

Both the relevant policies of the adopted Local Plan and the relevant strategic policies of the eEDLP are referenced. The adopted Local Plan policies are listed first followed by the strategies of the eEDLP

1 Building a strong, competitive economy

Policy E2 (Employment generating development in built-up areas)

Policy E3 (Safeguarding employment land and premises)

Policy E5 (Rural diversification)

Policy E6 (Small scale employment development in rural areas)

Policy SH6 (Change of use of village shops or services)

Strategies 27 and 32 Resisting loss of employment and retail buildings

The plan encourages the provision of small workshops and storage facilities for small businesses - DMP8 Policies 15 -17. It is also important to retain retail facilities within the village and this is covered by DMP9 and Policies 18 and 19. There are a number of sole traders/ home workers within the parish , with building and professional services predominating. An improved,faster broadband service would make a significant difference to current and future business activity and therefore CAP2 seeks to ensure that Lympstone in not compromised by the lack of technology infrastructure.

2 Promoting Sustainable Transport

Policy TA1 (Accessibility of new development)

Policy TA9 (Parking provision in new development)

Strategy 5b Sustainable Transport

The village is well served by public transport links by both rail and bus. CAP 10 and CAP 11 seek to improve these services .The recently completed Exe Estuary Trail connects Lympstone with Exmouth

and Topsham. This is promoted as a sustainable means of transport for pedestrians and cyclists but at present carries only modest commuter traffic.

There are 6km of public footpaths in the parish. CAP 8 proposes to maintain the existing footpaths and create new permissive footpaths as opportunities arise.

There is a high rate of car ownership and a consequent problem with parking within the village. Policy DMP10 - Policies 20 -21 set out how additional parking capacity is to be increased. While increasing parking provision may be seen as working against sustainable transport policies CAP 19 seeks to find a means of reducing car ownership by providing for car sharing and the establishment of a car club.

Devon County Council Local Transport Plan 2011-2026 has a proposal to extend a major arterial road in Exmouth, Dinan Way to the A376 Exmouth to Exeter road. This extension would be through an attractive rural valley and while having to accept this proposal CAP9 seeks to minimise the detrimental effects to the environment and character of the local landscape.

3 Supporting high quality communications infrastructure

The plan supports this objective through CAP2

4 Delivering a wide choice of high quality homes

Policy S3 (Built-up area boundaries for villages)
Policy S4(Development within built-up area boundaries)
Policy S5 (Countryside protection)
Policy H4 (Affordable housing)

Strategies 27, 22 Development at Exmouth, 7 Development in the Countryside.

The Plan relies on the evidence base of the eEDLP and its requirement for sites to be allocated for 40 houses. A housing need survey carried out in 2011 showed a need for 11 affordable homes . A social housing development in the village for 9 homes went part way to satisfying this and since that date a further developments providing for 10 affordable homes has been approved. These meet the identified local need for affordable housing in the immediate future. A need for bungalows and smaller houses for the elderly wishing to down size has been identified. DMP 4 Policy 9 sets out the approach to housing need .

DMP 1 Policy 1 sets out the proposed locations for housing development. The choice of these was made by assessing sites against a set of sustainability criteria. The results of this assessment are given in Appendix H. 4 sites providing for 40 dwellings are proposed - these are all deliverable and indeed 2 have now been given planning permission. In addition windfall sites will continue to come forward as they have in past years.

The eEDLP identifies a site on the edge of Exmouth for mixed use development including some 350 houses. Part of this site is within Lypstone parish. The need to provide additional housing for Exmouth is accepted. DMP2 Polices 2-6 set out the policies which will ensure a minimum of disruption to Lypstone residents and that the parish receives appropriate funding from the development.

DMP3 Policies 7 and 8 restrict the type of development that may be allowed outside the Built Up Area Boundary

DMP5 Policies 10 and 11 set out the density and scale that is appropriate for Lypstone

This suite of policies meet the requirements set out in the NPPF.

5 Requiring good design

Policy D1 (Design and local distinctiveness)

Strategy 48 Local distinctiveness in the built environment

Lympstone has a Village Design Statement which describes the distinctive character of the village and provides design principles based on this local character. Key elements of this are embodied in DMP6 Policy 12. This also allows for imaginative new design sympathetic to the traditional buildings of Lympstone .

6 Promoting healthy communities

Section 9 of the plan includes a number of CAPs that seek to facilitate social interaction and create a healthy inclusive community. CAP 14 seeks to retain and develop strong community groups and to help them develop. CAP 15 seeks the retention of the village surgery and supports the use of sport and exercise facilities. CAP 16 relates to the provision of a wide range of leisure activities through clubs and societies. CAP 17 seeks to ensure that children in Lympstone can attend both the preschool and the recently enlarged village school. Many families of the Royal Marines based at the Commando Training Centre Royal Marines (CTCRM) live in the village and CAP 18 refers to the need to include these families in the community.

DMP 13 Policies 28 -30 require the retention of current public open spaces and the allotments and propose a new 'village green' opposite the church. These will ensure access to high quality open spaces which can contribute to the health and well-being of the community.

7 Protecting Green Belt land

Policy S6 Development in Green Wedges

Strategy 8 Development in Green Wedges

Although the village does not have a Green Belt as technically defined the e EDLP defines a Green Wedge between the village and Exmouth serving similar purposes to those outlined in paragraph 80 of the NPPF. DMP3 policy 8 seeks to strictly control development within this area to retain the rural identity of the village and prevent its coalescence with Exmouth.

8 Meeting the challenge of climate change, flooding and coastal change.

Policy EN20 (River and coastal flooding)

Policy EN21 (Surface run-off implications of new development)

Strategies 38 Sustainable design and construction, 39 Renewable and Low Carbon Energy Projects

As a coastal community Lympstone is very aware of the impact of climate change. DMP 12 Policies 23 and 25 require development to be carbon neutral and ensure that they do not increase the risk of flooding. Policy 24 promotes renewable and low carbon energy development provided it does not harm the character of the village or be detrimental to the landscape. DMP7 Policy13 requires new homes to meet suitable sustainability criteria. CAP 20 is intended to ensure that the risk of flooding in the lower village and along the Wotton Valley will not be increased.

9 Conserving and enhancing the natural environment

Policy EN2 (Areas of great landscape value)

Policy EN4 (Nationally important sites)

Strategy 47 Nature Conservation and Geology

The Plan recognises the significance of the Exe Estuary and the Pebblebed Heaths which are of national importance and of the East Devon Area of Outstanding Beauty of which a small part is within

the parish. DMP 12 Policy 27 states commitment to relevant national policies for these. It also supports the District Council's policies for the Coastal Preservation Area and the Green Wedge. The East Devon Way is an important footpath route through the parish. Policy 26 seeks to protect its setting. CAP 21 sets out a policy for the protection of important trees and woodland and encourages the planting of hedgerows of native species.

10 Conserving and enhancing the historic environment

Policy EN9 (Extension,alteration or change of use of buildings of special architectural and historic interest

Policy EN10 (Demolition of a listed building)

Policy EN11 (Preservation and enhancement of Conservation Areas)

Policy EN12 (Demolition of unlisted buildings in Conservation Areas)

Strategy 49 The built heritage and building conservation.

The present Conservation Area extends from the early settlement around the harbour to Lypstone House and includes the Mill and the open space between this and the church. It was designated in 1973. The District Council has prepared a Conservation Area Appraisal and a Conservation Area Management Plan. This included the proposed extension of the Conservation Area to include the historic properties along Longmeadow Road. Consultation on this was carried out in April 2012 with the proposed extension and management plan receiving broad support. It was hoped that the designation process for the proposed extension would have been completed by autumn 2013 and the management plan formerly adopted. CAP 23 therefore includes a request for this process to be completed. The Conservation Area Appraisal picks out a number of elements that are considered to result in a deterioration of character. The management plan addresses these. Included in these elements are poor quality roof replacement/repair and several instances of insensitive and prominent extensions (e.g flat roofs, and first floors on stanchions) especially as later additions to buildings overlooking the estuary. DMP 6 Policy 12 addresses these issues requiring the use of natural building materials to be used for alterations and extensions to old buildings and for roofs generally to be pitched. There is already an Article 4 direction covering the properties to the west of the Strand.

The Listed Building re-survey of 1985 was very thorough and no further historic assets have been identified that need to be added to the list. CAP 23 states that all listed buildings will be protected.

To conclude the Plan embodies the principles of the NPPF and is in accordance with the relevant strategic policies of the emerging and adopted EDLP

5.2 Desirability of preserving any listed building or its setting or any features of special architectural or historic interest that it possesses and 5.3 Desirability of preserving or enhancing the character or appearance of any conservation area

5.2 and 5.3 These requirements are addressed together as they both cover the need to protect, preserve and enhance historic assets and their setting. The preceding section sets out the general approach to preserving the conservation area and listed buildings in the village. The Plan proposes the allocation of a site – the Nursery Site – for 6 dwellings. This site is within the conservation area, opposite the Grade II* listed church and in close proximity to a number of Grade II listed cottages. Until last year it operated as a working nursery and garden centre and is occupied by a variety of greenhouses and polytunnels in various stages of dilapidation. In front of these is a roughly surfaced parking area. These features do not enhance the character of the conservation area and detract from the setting of the church and other listed buildings. It was therefore considered that its redevelopment with 6 houses would potentially enhance the character of the conservation area and setting of nearby listed buildings. There is also the opportunity to provide for much need parking for the church and adjacent properties as well as the creation of a 'village green'. The field adjacent to the site, over which there are some of the best views of the church, will remain as open space. Because of the sensitivity of the site a development brief for it is being prepared by a conservation architect. The site provides an opportunity to both enhance the conservation area and provide additional facilities for the

village entirely in accord with the principles of the NPPF.

5.4. Contribution to the achievement of Sustainable Development

The Neighbourhood Planning Process was set up to incorporate the principles of sustainable development from the outset. This involved working to address all three strands of planning- social, economic and environmental- as set out in the NPPF from the outset of the plan making process.

- The Neighbourhood Plan has been drafted to be in conformity with the East Devon Local Plan and the sustainable development objectives that underpin it.
- The Neighbourhood Plan sets out policies to ensure Lympstone continues to be a sustainable community where people can live, work and visit and where their day-to-day needs can be met. The Plan recognises that, despite being a rural community with high car dependence, there are opportunities to increase and promote alternative forms of transport, and policies promote the improvement and increase of public transport (by bus and train), walking and cycling as well as reducing existing congestion and improving highway safety through the provision of additional car parking spaces, off road paths and a cycleway.
- The Neighbourhood Plan includes policies which promote the development of two small residential sites, very well related to the village centre and its facilities, as well as recognising several recent planning permissions which will contribute to the allocation in the Local Plan.
- The Neighbourhood Plan identifies the need for additional community facilities, such as a football/cricket pitch, and whilst it doesn't identify sites for such uses, it does provide in principle support.
- The Neighbourhood Plan identifies and promotes the protection of green spaces in the Parish and encourages the provision of additional areas. It includes policies to protect their biodiversity and manage climate change.
- Design policies will protect and enhance the historic centre of the village whilst promoting contemporary, well-designed development which takes into account the challenge of climate change and the need to reduce on-road parking.
- There are a number of policies which are intended to promote partnership working between the Parish Council and other bodies, for instance Devon County Council, in order to achieve the communities aspirations, for instance improving public transport and reducing highway danger.

5.5 Conformity with strategic policies contained in the development plan for the area of the authority

The Neighbourhood Plan has been prepared with regard to national policies as set out in the National Planning Policy Framework (NPPF) and is in general conformity with the strategic policies contained in the adopted East Devon Local Plan and the emerging East Devon Local Plan.(See section 5.1)

Paragraphs 183 – 185 of the NPPF describe how Neighbourhood Planning can be used to give communities “direct power to develop a shared vision for their neighbourhood and deliver the sustainable development they need.” It continues to state that “Neighbourhood plans must be in general conformity with the strategic policies of the Local Plan.... Neighbourhood plans should reflect these policies and neighbourhoods should plan positively to support them”.

Paragraphs 14 -16 of the NPPF set out the presumption in favour of sustainable development which is at the heart of national policy. For Neighbourhood Planning this means that neighbourhoods should plan positively to support local development.

5.6. Compatibility with EU Legislation

A Strategic Environmental Assessment (SEA) was commissioned by EDDC and carried out by Land Use Consultants. Suggested amendments were incorporated into the document, which is appended to the Neighbourhood Plan submission. The SEA demonstrates that the Plan will contribute positively towards the social, economic and particularly environmental objectives of sustainable development as

defined by the NPPF.

A screening process was carried out by the local planning authority to determine whether a Habitat Regulations Assessment would be required in support of the plan. The HRA screening is attached to this document at appendix 1. The screening incorporated the comments of Natural England as a key statutory consultation body (Appendix 2). The HRA screening was carried out with regard to the Conservation Objectives of the European Sites identified by the East Devon Local Plan HRA to identify if any significant effect is likely for any European Site.

The HRA screening opinion, confirms that the Lympstone Neighbourhood Plan does not require a Habitat Regulation Assessment.

The Lympstone Neighbourhood Plan is unlikely to have an adverse effect on a European site (as defined in the Conservation of Habitats and Species Regulations 2010 (d), alone or in combination with other plans and projects. It does not propose a level of development significantly over and above that in the adopted Local Plan and is in accordance with the emerging Local Plan (which was itself subject to HRA). The mitigation strategy which comes into force on 1 August 2014 will ensure that appropriate measures are put in place so that effective mitigation is established, supported by robust evidence and applied on a consistent basis. This outcome demonstrates that the making of the Plan does not breach, and is otherwise compatible with, EU obligations with regard to HRA.

The Neighbourhood Plan has regard to the fundamental rights and freedoms guaranteed under the European Convention on Human Rights and complies with the Human Rights Act 1998.

5.7. Prescribed conditions

Currently there are no prescribed conditions to meet.

AJ Le Riche
Clerk to Lympstone Parish Council
11/07/14

Appendix 1

East Devon District Council

Statement on the need for Habitat Regulation Assessment of the Lympstone Neighbourhood Plan

East Devon District Council

Statement on the need for Habitat Regulation Assessment of the Lympstone Neighbourhood Plan

Introduction

The Lympstone Neighbourhood Plan has been produced by the local community to guide development within the Parish (which is also the Neighbourhood Area) of Lympstone. It does not propose a level of new development beyond that proposed in the emerging Local Plans for the District though it does allocate sites for development that are not allocations in the adopted plan. On adoption by East Devon District Council, the Neighbourhood Plan will be a material consideration in determining planning applications, and is intended to inform pre-application discussions.

East Devon District Council are required to assess whether plans or projects prepared to guide development within the Neighbourhood Plan require a Habitats Regulation Assessment. If one is required the Council has the responsibility to carry it out. In the first instance the Council therefore has to take a view on whether a full stage 1 Habitats Regulation Assessment is or is not required.

This statement sets out the findings of this exercise.

Background

The Conservation (Natural Habitats &c.) Regulations 1994 (The Habitats Regulations) transpose the requirements of the European Habitats Directive 92/43/EEC into UK law. The Habitats Directive and Regulations afford protection to plants, animals and habitats that are rare and vulnerable in a European context. Habitats Regulations Assessment (HRA) is a systematic process through which the performance of a plan or project can be assessed for its likely impact on the integrity of a European Site. European Sites, also referred to as Natura 2000 sites, consist of Special Protection Areas (SPA), Special Areas of Conservation (SAC); Potential Special Protection Areas and candidate Special Areas of Conservation (pSPA and cSAC); and listed or proposed Ramsar sites.

Article 6(3) of the Habitats Directive states:

‘Any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans and projects, shall be subject to appropriate assessment of its implications for the site in view of the site’s conservation objectives’.

Sites which are relevant to the Lympstone Neighbourhood Plan are the Exe Estuary, which is designated as a Special Protection Area (SPA) and Ramsar site, and the East Devon Pebblebed Heaths, which are designated as an SPA and a Special Area of Conservation (SAC). These sites are also of national importance and designated as Sites of Special Scientific Interest (SSSI).

Natural England were consulted by Lympstone Parish Council and their response is referred to below and appended to this document. They will have a further opportunity to comment during the formal consultation on the submission document which the District Council will carry out shortly.

Screening Criteria Questions

1. Is the Neighbourhood Plan directly connected with, or necessary to the management of a European site for nature conservation?

No

2. Does the Neighbourhood Plan propose new development or allocate sites for development?

The Neighbourhood Plan allocates land for 40 new dwellings in the village. Of these, 12 new houses are allocated on two sites within or adjoining the village centre and the Plan identifies two further sites on which 28 dwellings have recently been granted planning permission.

The level of development proposed is broadly in conformity with the adopted East Devon Local Plan, which doesn't specify numbers in each settlement but has a presumption in favour of development within the Built-up Area Boundary. All of the sites allocated in the Neighbourhood Plan for development are within the Built-up Area Boundary, with one exception- a site for six houses on the old Nurseries site which lies outside but adjacent to the boundary. This site would be subject to a development brief as it is located in an historically sensitive location and would need to provide an area of public open space to benefit the wider area.

The level of development in the Plan is also in line with the emerging East Devon Local Plan which assigns 40 new dwellings to Lypmstone.

The Neighbourhood Plan does support some other non-site specific development- eg. a football/cricket field, completion of the Dinan Way link road, provision of a cycle path and footpaths and additional car parking. This is in line with Policies in both Local Plans and is largely intended to meet an existing need, for instance to alleviate on road parking and congestion. A detailed assessment of potential impacts will be carried out when specific sites come forward through the planning system. Mitigation measures may be required in line with the Local Plan Policies. More importantly, working with partners Exeter City Council and Teignbridge District Council, both of who have up to date adopted development plans, and Natural England, the District Council has agreed a mitigation strategy to address adverse impacts that could otherwise arrive at the designated sites of the Exe and Pebblebeds and also Dawlish Warren. As part of the mitigation work East Devon District Council has formally endorsed a schedule of charges that will be applied to any new dwellings that fall within defined zones (all of the Lypmstone Neighbourhood Plan area falls within a defined charging area). The charges made, by explicit design, will fund mitigation and therefore typically negate the need for proposals for new residential dwellings to go through full habitat regulations. The proposals for residential development in the Neighbourhood Plan fall in line with form of residential development that the mitigation strategy was designed to deal with. Natural England's response to the pre-submission consultation expressed the view that.

"(If) the Neighbourhood Plan is progressed in advance of the Local Plan adoption- under this scenario it is not sufficient to rely on the HRA of the Local Plan as this Plan has not yet been through Examination. The measures required to mitigate against any impacts to European sites as a result of housing (particularly recreational disturbance) are not formally in place. Should the Parish Council wish to progress the Neighbourhood Plan in the absence of an adopted Local Plan, it will be necessary to undertake an independent screening exercise with respect to the Habitats Regulations. The

screening assessment would need to assess the effects of the Neighbourhood Plan without the Local Plan being in place. The Neighbourhood Plan cannot progress if it would result in a likely significant effect on a European site and therefore reduction and/or avoidance measures may need to be incorporated into the Neighbourhood Plan to ensure compliance with the Regulations.”

The existing, adopted Local Plan was not subject to an HRA (it pre-dated the requirement) but, as most of the housing allocated in the Lympstone Neighbourhood Plan is within the Built-up Area Boundary, re/development has already been found to be acceptable in principle. The allocation of 6 houses outside the Built-up Area Boundary were not proposed as part of the Local Plan, however detailed proposals are to be worked up through a Development Brief and will include an area of open space which is intended to meet some recreational pressures arising from new residents and the existing population. The allocations in the Neighbourhood Plan do also accord with the emerging Local Plan for the District which is subject to an HRA. A screening opinion was provided by Land Use Consultants early in the Plan production process and an HRA was completed by Footprint Ecology before, and informed, the submission version of the Local Plan. It indicated that the Local Plan will have sufficient policy provisions to enable the subsequent delivery of necessary measures to avoid and mitigate adverse effects on the integrity of European Sites. Notwithstanding this, it was agreed by the District Council (on 2 July 2014) that a programme of mitigation measures will be put in place to deal with impacts to European sites which arise from housing across the East Devon. From 1 August 2014, these mitigation measures (which include on site works and the provision of alternative green spaces as well as dedicated management time and a funding package to implement them raised through developer contributions in affected areas) will apply to all new residential development. In the case of development at Lympstone allocated through the Neighbourhood Plan, developer contributions will be sought on all new dwellings, a network of open space will be provided at Exmouth and a small ‘village green’ will be provided as part of the development at the former Nurseries.

3. Are there any other projects or plans that together with the Neighbourhood Plan could impact on the integrity of a European Site?

No

Conclusion

The Lympstone Neighbourhood Plan does not require a Habitat Regulation Assessment.

The Lympstone Neighbourhood Plan is unlikely to have an adverse effect on a European site (as defined in the Conservation of Habitats and Species Regulations 2010 (d), alone or in combination with other plans and projects. It does not propose a level of development significantly over and above that in the adopted Local Plan and is in accordance with the emerging Local Plan (which was itself subject to HRA). The mitigation strategy which comes into force on 1 August 2014 will ensure that appropriate measures are put in place so that effective mitigation is established, supported by robust evidence and applied on a consistent basis.

Appendix 2- Response from Natural England to the Lypstone Neighbourhood Plan pre-submission consultation

Natural England - Lypstone Neighbourhood Plan – Draft

Thank you for consulting Natural England on the above Neighbourhood Plan, which is currently at consultation stage.

Natural England would like to raise an initial comment with respect to the Plan's relationship with the Local Plan and the requirement to undertake a screening exercise with regard the Habitats & Species Regulations 2010 (as amended).

The draft document states that the Neighbourhood Plan '*fits with, and does not conflict with*' the Local Plan and goes on to state that the Local Plan itself '*is still at consultation stage and must be agreed by the government*'. This is a crucial point to consider with respect to the requirements of the Habitats Regulations. Although the Local Plan has been subject to a Habitats Regulations Assessment (HRA) this document, along with the Local Plan, has not yet been through the Examination process. Therefore the Neighbourhood Plan cannot rely on the conclusions of the Local Plan HRA and the overarching policy context contained in the Local Plan until the Local Plan has been formally adopted by the Local Planning Authority. If the Parish Council intend to rely on the Local Plan HRA then the Neighbourhood Plan should not be adopted before the Local Plan to ensure the mitigation requirements in relation to European protected sites are part of the statutory policy framework for East Devon as a whole.

Below is further advice in relation to two potential scenarios:

- 1) The Neighbourhood Plan is adopted **after** the Local Plan – in this instance the Neighbourhood Plan can rely on the HRA of the Local Plan, provided that the Neighbourhood Plan does not propose any additional development over and above that contained within the Local Plan. Under this scenario the higher tier policies contained within the Local Plan, along with the mechanism to delivery mitigation in relation to impacts on European sites, will be formally adopted and therefore any uncertainty in relation to the impact of housing will have been addressed.
- 2) The Neighbourhood Plan is progressed in **advance** of the Local Plan adoption – under this scenario it is not sufficient to rely on the HRA of the Local Plan as this Plan has not yet been through Examination. The measures required to mitigate against any impacts to European sites as a result of housing (in particularly recreational disturbance) are not formally in place. Should the Parish Council wish to progress the Neighbourhood Plan in the absence of an adopted Local Plan, it will be necessary to undertake an independent screening exercise with respect to the Habitats Regulations. The screening assessment of the Neighbourhood Plan would need to assess the effects of the Neighbourhood Plan without the Local Plan being in place. **The Neighbourhood Plan cannot progress if it would result in a likely significant effect on a European site** and therefore reduction and/or avoidance measures may need to be incorporated into the Neighbourhood Plan to ensure compliance with the Regulations.

The above principles also apply in relation to Strategic Environmental Assessment (SEA) and again Natural England would expect a screening exercise to be undertaken with regard to the SEA Directive.

We trust the above offers sufficient clarity, should you wish to discuss our comments in further detail please do not hesitate to contact me.

Regards

Zoe