

Agenda for Cabinet

Wednesday, 14 June 2017; 5.30pm

[Members of Cabinet](#)

Venue: Council Chamber, Knowle, Sidmouth, EX10 8HL

[View directions](#)

Contact: [Amanda Coombes](#), 01395 517543

(or group number 01395 517546)

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East Devon District Council
Knowle
Sidmouth
Devon
EX10 8HL

DX 48705 Sidmouth

Tel: 01395 516551

Fax: 01395 517507

www.eastdevon.gov.uk

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Members of the public exercising their right to speak during Public Question Time will be recorded.

- 1 [Public speaking](#)
- 2 Minutes of 10 May 2017 (pages 4-11), to be signed as a true record
- 3 Apologies
- 4 [Declarations of interest](#)
- 5 [Matters of urgency](#)
- 6 Confidential/exempt items – there is one item which officers recommend should be dealt with in this way.
- 7 Forward Plan for key decisions for the period 1 July 2017 to 31 October 2017 (pages 12-14)

- 8 Minutes of the Scrutiny Committee held on 9 May 2017 (pages 16-20)
Recommendations for Cabinet consideration can be found on page 15

Part A matters for decision

- 9 **Revenue and Capital Outturn Report 2016/17** (pages 21-28)
During 2016/17 monthly budget monitoring reports have informed members of budget variations and the anticipated year-end financial position. This report contains the final position for the year and compares this outturn position against the budgets set.
- 10 **Monthly Performance reports – April 2017** (pages 29-31)
Performance information for the 2016/17 financial year for April 2017 is supplied to allow the Cabinet to monitor progress with selected performance measures and identify any service areas where improvement is necessary.
Appendix 1 - April 2017 snapshot
- 11 **Axmouth Harbour Quay improvement** (pages 32-33)
To agree leading the application for funding of improved fish landing facilities at Axmouth Harbour and to contribute £25,000 towards the project
- 12 **New Feniton Flood Alleviation Scheme** (pages 34-37)
To agree procurement of Phase 3 and Phase 4 of a Flood Alleviation Scheme for Feniton
- 13 **Whimble Flood Alleviation Scheme** (pages 38-40)
To agree procurement of a Flood Alleviation Scheme for Whimble
- 14 **Access to information 2016/17** (pages 41-44)
This report provides information about requests received under the Freedom of Information Act (and Environmental Information Regulations) between 1 April 2016 and 31 March 2017. The report also looks at steps taken during the last 12 months to improve the accessibility of information.
- 15 **Leader's annual report on urgent executive decisions** (pages 45-46)
Local Authorities (Executive Arrangements)(Meetings and Access to Information)(England) Regulations:
Under Regulation 19, there is a requirement to submit an annual report containing details of each executive decision which was agreed as urgent under Regulation 11 (Cases of special urgency) where less than 5 days' notice could be given.
- 16 **Chardstock Neighbourhood Plan Examiners Report** (pages 47-50)
To provide feedback and set out proposed changes following the examination of the Chardstock Neighbourhood Plan
- 17 **Yarcombe with Marsh Neighbourhood Plan Examiners Report** (pages 51-59)
To provide feedback and set out proposed changes following the examination of the Yarcombe with Marsh Neighbourhood Plan

18 Appointment of Inspector to examine the Dunkeswell Neighbourhood Plan, exemption to standing orders (pages 60-64)

Exemption to standing orders has been applied in order to appoint an independent examiner to examine the Dunkeswell Neighbourhood Plan. In order to secure a speedy examination and to accord with the wishes of the plan producers we have secured the services of Mary O'Rourke. Mary spent 24 years in the Planning Inspectorate and examined various structure and local plans, and nationally significant infrastructure projects. She is also an experienced Neighbourhood Plan Examiner, having recently examined the Coleshill Neighbourhood Plan (North Warwickshire) and the Yarcombe and Marsh Neighbourhood Plan in East Devon. Early adoption of the Neighbourhood Plan will help with establish a positive planning policy framework for the parish to inform determination of planning applications in Dunkeswell. She is scheduled to commence the examination on the 5 June 2017.

Private meeting: Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012: Notice is given of intention to hold this part of the meeting in private as required by the Regulations. The statements of reasons for meeting to be held in private, details of any representations received why the meeting should be open to the public in response to the '28 clear days' notice' already posted on the Council's website, and the Council's response to the representations, are set out against each agenda item below. Where it has been impracticable to comply with the private meeting notice procedures, the required agreement has been obtained from the relevant chairman or vice chairman that the meeting is urgent and cannot reasonably be deferred. Notice of this agreement, if relevant to this meeting, may be viewed on the council's website. [View statutory exclusion information here.](#)

19 The Vice Chairman to move the following:

"that under Section 100(A) (4) of the Local Government Act 1972 the public (including the press) be excluded from the meeting as exempt information, of the description set out on the agenda, is likely to be disclosed and on balance the public interest is in discussing this item in private session (Part B)".

Part B Matters for Decision

20 Branscombe Beach Public Conveniences (pages 65-67)

To seek approval to make minor amendments to the recommendations resolved by Cabinet on 7 October 2015

Reasons for consideration in Part B:

- 1) Para 3 Schedule 12A Information relating to the finance or business affairs of any particular person
- 2) The report includes details of negotiations between the Council and current landowner with specific detail of the landowner's finances

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EAST DEVON DISTRICT COUNCIL
Minutes of the meeting of Cabinet held
at Knowle, Sidmouth on 10 May 2017

Attendance list at end of document

The meeting started at 5.33pm and ended at 6.10pm

***215 Public Speaking**

There were no members of the public present who wished to speak.

***216 Minutes**

The minutes of the Cabinet meeting held on 5 April 2017 were confirmed and signed as a true record.

***217 Declarations**

Councillor Paul Diviani – Minute 227

Interest: Personal

Reason: Member of District's Health and Wellbeing Scrutiny Committee

Councillor Geoff Pook – Minute 231

Interest: Personal

Reason: Member of the Construction Industry

Councillor Phil Twiss – Minute 235

Interest: Personal

Reason: Member of Exeter Airport Consultative Committee on behalf of EDDC

***218 Matter of urgency**

None

***219 Matters referred to the Cabinet**

There were no matters referred to the Cabinet by the Overview and Scrutiny Committees.

***220 Exclusion of the public**

There were no confidential items that officers recommended should be dealt with in this way.

***221 Forward Plan**

Members noted the contents of the forward plan for key decisions for the period 1 June 2017 to 30 September 2017.

***222 Minutes of the Overview Committee held on 28 March 2017**

Members received the Minutes of the Overview Committee held on 28 March 2017.

RESOLVED (1) that the following recommendations be approved
Minute 24 East Devon Local Economy

1. the East Devon Local Economy report formed the basis of an Action Plan and further work to confirm the priorities, projects and financing arrangement for a future pipeline of Local Economic Development activity,

2. a report be submitted to Cabinet to agree the direction and detail of the Council's Local Economic Development activity to include rural economic development,
3. a report be presented in Autumn 2017 as part of the preparation of a future Economic Development Investment Plan for the Council within the overall budget planning for 2018/19 onwards.

Minute 25 Housing Delivery Task and Finish Forum

1. Overview welcomed the Cabinet decision to support the proposal for establishing a Local Housing Company for the Council, as a means of delivering more housing,
2. Council continue to maintain as a priority the delivery of affordable homes in its Council Plan,
3. Cabinet ask relevant officers to undertake further research into the financial model of affordability, considering new practices emerging in other local authorities, to report back to the Overview Committee,
4. Cabinet ask relevant officers to look at means of attracting other registered providers to the District in order to have a wider choice of providers than the dominant Devon and Cornwall Homes (DCH),
5. Council explore how it could better support existing Community Land Trusts, and help bring forward new Trusts, through using partner organisations such as the Wessex Community Housing Project, and regular promotion of successful projects,
6. Cabinet explore investment into property as a means of better financial return on reserves,
7. the forthcoming District Design Guide (under the adopted Local Plan) was developed not only to improve the quality of new buildings, but to be innovative in seeking high quality of design, sustainability, and build, in order to drive a higher quality of planning applications submitted,
8. Consideration be given to encouraging the use of off-site manufacture for both developers in the area and for those interested in self-build, and
9. Council ensures a robust response to the government on the Housing White Paper including a request for a more coherent national housing policy; a return to a grant providing scheme of funding to stimulate growth; and practical solutions to deliver more diversity in the housing market.

***223 Minutes of the South East Devon Habitat Regulations Executive Committee held on 29 March 2017**

Members received and noted the Minutes of the South East Devon Habitat Regulations Executive Committee held on 29 March 2017.

***224 Minutes of the Scrutiny Committee held on 30 March 2017**

Members received the Minutes of the Scrutiny Committee held on 30 March 2017.

***225 Notes of the Exmouth Regeneration Programme Board held 30 March 2017**

Members received the Notes of the Exmouth Regeneration Programme Board held 30 March 2017.

*226 **Sidmouth Beach Management Plan**

The Strategic Lead - Housing, Health and Environment presented the report, which primarily intention was to secure authority to enter into contracts for the next stage of the project.

RESOLVED:

1. that necessary works to produce the Outline Business Case for consideration by the Environment Agency be progressed within the allocated budget, and
2. that the Strategic Lead Governance and Licensing, and Strategic Lead Housing, Health and Environment be authorised to enter into contracts for provision of the consultancy and surveying services required to do so.

REASON:

To progress a Sidmouth Beach Management Scheme so that there was an integrated, justifiable and sustainable approach to:

- Maintaining the 1990's Sidmouth Coastal Defence Scheme Standard of Service (protection against flooding and erosion); and
- reducing the rate of beach and cliff erosion to the east of the River Sid (East Beach); and
- to ensure that EDDC had the best possible case for Flood and Coastal Erosion Risk Management Grant in Aid from DEFRA to finance the necessary flood mitigation and coastal protection works.

This required the appointment of a consultant (and associated surveyors) with appropriate experience and expertise to produce an Outline Business Case so that EDDC could seek formal Environment Agency approval for Sidmouth Beach Management Scheme.

*227 **Cranbrook Healthy New Town Programme: summary of first year's activities 2016/17**

The Strategic Lead - Housing, Health and Environment presented the report. The summary gave an overview of the progress on NHS England's national Healthy New Town [HNT] Programme for Cranbrook, through which five priority areas were selected to make a positive difference to Cranbrook residents' health and wellbeing.

RESOLVED:

that the achievements of the programme to date be recognized, and to note the change in emphasis towards new care models and the programme lead role being passed to Devon County Council's Director of Public Health.

REASON:

To help ensure that members and staff across the Council were aware of this national programme and able to support activities which support health and wellbeing in Cranbrook.

228 **Street Trading – Designation of Streets Under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982**

The item was deferred until a later date.

***229 Seaton Beach Management Plan**

The Strategic Lead - Housing, Health and Environment presented the report, which required agreement for the procurement of services to progress the Seaton Beach Management Plan.

RESOLVED:

that the Strategic Lead Governance and Licensing, and Strategic Lead Housing, Health and Environment be authorised to enter into a contract with CH2M for provision of the services to produce a Beach Management Plan for Seaton.

REASON:

To progress a Beach Management Plan for Seaton so that there was an integrated, justifiable and sustainable approach to managing the risk of flooding and coastal erosion from the Axe Estuary to Seaton Hole.

***230 Monthly Performance reports – March 2017**

The report set out performance information for March 2017. This allowed Cabinet to monitor progress with selected performance measures and identify any service areas where improvement was necessary.

There were four indicators that were showing excellent performance:

- Percentage of Council Tax Collected
- Percentage of Non-domestic Rates Collected
- % of invoices paid in 10 working days
- Working days lost due to sickness absence

There were two performance indicator showing as concern:

- Percentage of planning appeal decisions allowed against the authority's decision to refuse - The Development Manager was in the process of assessing all the appeal decisions to establish any trends that could be identified, learnt from and addressed. It was proposed that these findings would be presented to the next meeting of the Strategic Planning Committee as part of the annual report into the performance on appeals.
- Days taken to process Housing Benefit / Council Tax Benefit new claims and change events - March was the assessment team's busiest month assisting customers and receiving a large volume of new claims. The increase in NI181 was due to the impact of this additional work pressure on resources. The reduced performance in March 2017 compared with March 2016 was a reflection of these additional pressures.

The Portfolio Holder Sustainable Homes and Communities congratulated Health and Local Food for Families (HALFF) Axminster for winning the People's Projects vote.

RESOLVED:

that the progress and proposed improvement action for performance measures for the 2016/17 financial year for March 2017 be noted.

REASON:

The performance reports highlighted progress using a monthly snapshot report; SPAR report on monthly performance indicators and system thinking measures in key service areas including Development Management, Housing and Revenues and Benefits.

***231 Housing White Paper – Fixing our broken housing market**

The Service Lead, Planning Strategy and Development Management presented the report, which set out the main elements of the Housing White Paper published in February, which set out the government's thinking in respect of national housing policy for the future. The four principle themes of the White Paper were outlined. The White Paper contained an Annex, which posed a series of questions. The report provided a proposed set of responses to the questions, which were recommended to form the submission by the Council.

Discussions included the following:

- Sustainable Development criteria sometimes stopped villages getting the development they actually need
- A 5 Year Land Supply should not necessarily mean developments happen by submitting to developers' demands just because it is a key indicator. Some communities end up with houses they did not want
- The White Paper encouraged sub-division of bigger plots which conflicted with the Conservation Areas' restrictions
- The White Paper did not help Councils with their own housing stock
- Affordable housing was not just needed for young people, older people were desperate to downsize but developments for over 55s were too expensive

RESOLVED:

that the responses to the questions set out in the Housing White Paper as detailed in the report were noted and endorsed having already been forwarded to Government.

REASON:

To ensure that the Council provided feedback to the Government in respect of the White Paper.

***232 Response to Dunkeswell Neighbourhood Plan Submission**

To agree the response by the Council to the current consultation for the Dunkeswell Neighbourhood Plan.

RESOLVED:

1. that Members note the formal submission of the Dunkeswell Neighbourhood Plan and congratulate the producers of the plan on the dedicated hard work and commitment in producing the document, and
2. that the Council make the proposed representation set out at paragraph 5.2 in the report in response to the consultation.

REASON:

To ensure that the view of the District Council is recorded and informs the consideration of the neighbourhood plan by the Independent Examiner.

***233 Contract Standing Order Exemption for Locum Legal cover**

The report advised Cabinet that exemption to standing orders had been applied in order to appoint a locum solicitor to cover the period whilst a new permanent solicitor was hired, following the resignation of a solicitor. A candidate had been identified who had the right mix of skills required and had been engaged through a reputable agency, which had been used previously. It was envisaged that a replacement solicitor would start in June.

RESOLVED:

that the exemption to Contract Standing Order to enable the appointment of a locum solicitor be noted.

REASON:

To ensure that sufficient legal resources were in place to deliver a first rate legal service.

***234 Camperdown seawall**

An exemption from standing orders was sought for urgent repairs to the estuary wall adjacent to Camperdown Creek, Exmouth, as well as capital funding for urgent repairs to the estuary wall adjacent to Camperdown Creek, Exmouth.

RESOLVED:

that the following be agreed;

1. an exemption from standing orders for urgent repairs to the estuary wall at Camperdown Creek.
2. £30,000 of capital funding for urgent repairs to the estuary wall at Camperdown Creek.

REASON:

To prevent further collapse of EDDC land in advance of the Exmouth Tidal Defence Scheme. Failure to undertake repairs was likely to result in further collapse of the wall and result in:

- Washout of made ground behind
- Collapse of boats stored in the area onto the foreshore below
- A public safety hazard to people using the area above and below the wall

***235 To approve the appointment of Cyrrus to identify the upgrade works required to the existing Instrumental Landing System at Exeter International Airport.**

The East of Exeter Projects Director advised that exemption to standing orders had been requested to appoint Cyrrus to analyse of the existing Instrumental Landing System (ILS) for Exeter International Airport, and the works required to upgrade the ILS to enable continued development in the West End of East Devon.

Cyrrus provide a specialist consultancy service on instrumental landing systems for civil aviation. This was the current provider for Exeter International Airport with knowledge of the airport operation. It was unlikely that the consultancy support could be procured from another provider. The estimated cost of the contract is £25,000.

RESOLVED:

that the exemption to Contract Standing Order to enable the appointment of Cyrrus to undertake the analysis of the current Instrumental Landing System and identify works required for upgrade to enable continued development in the West End of East Devon, be agreed.

REASON:

To ensure that East Devon were able to support the continued development of employment space in the West End of the district without adverse impact upon Exeter International Airport.

The Chairman welcomed newly elected Councillor Eleanor Rylance and Sue Howl, the new Democratic Services Manager.

Attendance list

Present:

Paul Diviani Leader
Andrew Moulding Deputy Leader/Strategic Development and Partnership

Portfolio Holders:

Iain Chubb Environment
Jill Elson Sustainable Homes and Communities
Phil Twiss Corporate Services
Ian Thomas Finance
Tom Wright Corporate Business

Cabinet Members without Portfolio:

Geoff Pook
Eileen Wragg

Non-Cabinet apologies:

Ian Hall
Mike Howe
Pat Graham
Val Ranger
Brenda Taylor
Mark Williamson

Officer apologies:

Mark Williams, Chief Executive

Also present (for some or all of the meeting)

Councillors:

Megan Armstrong
Brian Bailey
Colin Brown
Jenny Brown
Maddy Chapman
Bruce de Saram
Alan Dent
John Dyson
Peter Faithfull
Steve Gazzard
Roger Giles
Graham Godbeer
Steve Hall
Marcus Hartnell
John Humphreys
Geoff Jung
Rob Longhurst
John O'Leary
Eleanor Rylance
Pauline Stott

Also present:

Officers:

Richard Cohen, Deputy Chief Executive

Simon Davey, Strategic Lead – Finance

Henry Gordon Lennox - Strategic Lead - Governance and Licensing

John Golding. Strategic Lead – Housing, Health and Environment

Karen Jenkins, Strategic Lead – Organisational Development and Transformation

Ed Freeman, Service Lead – Planning Strategy and Development Management

Andy Wood, East of Exeter Projects Director

Sue Howl, Democratic Services Manager

Amanda Coombes, Democratic Services Officer

Chairman Date.....

EAST DEVON DISTRICT COUNCIL
Forward Plan of Key Decisions - For the 4 month period 1 July 2017 to 31 October 2017

This plan contains all the (i) important decisions that the Council and (ii) Key Decisions that the Council's Cabinet expects to make during the 4-month period referred to above. The plan is rolled forward every month.

Key Decisions are defined by law as “**an executive decision** which is likely:–

- (a) to result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council's budget for the service or function to which the decision relates; or
- (b) to be significant in terms of its effects on communities living or working in an area comprising two or more wards in the Council's area

In accordance with section 9Q of the Local Government Act 2000, in determining the meaning of “significant” in (a) and (b) above regard shall be had to any guidance for the time being issued by the Secretary of State.

A public notice period of 28 clear days is required when a Key Decision is to be taken by the Council's Cabinet even if the meeting is wholly or partly to be in private. Key Decisions and the relevant Cabinet meeting are shown in bold.

The Cabinet may only take Key Decisions in accordance with the requirements of the Executive Procedure Rules set out in Part 4 of the Constitution and the Local Authorities (Executive Arrangements)(Meetings and Access to information)(England) Regulations 2012. A minute of each key decision is published within 2 days of it having been made. This is available for public inspection on the Council's website <http://www.eastdevon.gov.uk>, and at the Council Offices, Knowle, Sidmouth, Devon. The law and the Council's constitution provide for urgent key decisions to be made without 28 clear days' notice of the proposed decisions having been published. A decision notice will be published for these in exactly the same way.

This document includes notice of any matter the Council considers to be Key Decisions which, at this stage, should be considered in the private part of the meeting and the reason why. Any written representations that a particular decision should be moved to the public part of the meeting should be sent to the Democratic Services Team (address as above) as soon as possible. **Members of the public have the opportunity to speak on the relevant decision at meetings (in accordance with public speaking rules) unless shown in italics.**

Obtaining documents

Committee reports made available on the Council's website including those in respect of Key Decisions include links to the relevant background documents. If a printed copy of all or part of any report or document included with the report or background document is required please contact Democratic Services (address as above).

Decision		List of documents.	Lead/reporting Officer	Decision maker and proposed date for decision	Other meeting dates where the matter is to be debated / considered	Operative Date for decision (assuming, where applicable, no call-in)	Part A = Public meeting Part B = private meeting [and reasons]
1.	Public Toilet Review		Service Lead – Street Scene	Cabinet 13 July 2017	Asset Management Forum 15 June 2017	21 July 2017	Part A
2.	Sports and Activity clubs – Rent and Rent support Scheme Outcomes		Deputy Chief Executive	Council 26 July 2017	Cabinet 13 July 2017	27 July 2017	Part A
3.	East Devon Local Economy		Deputy Chief Executive	Council	Cabinet date tbc		Part A
4.	Exmouth Regeneration Update		Deputy Chief Executive	Council	Cabinet date tbc		Part A
5.	Port Royal Update		Deputy Chief Executive	Council 26 July 2017	Cabinet 13 July 2017	27 July 2017	Part A

Table showing potential future important / key decisions which are yet to be included in the current Forward Plan

Future Decisions		Lead / reporting Officer	Consultation and meeting dates (Committees, principal groups and organisations) To be confirmed	Operative Date for decision To be confirmed
1	Business Support – options for the future	Deputy Chief Executive (RC)		

The members of the Cabinet are as follows: Cllr Paul Diviani (Leader of the Council and Chairman of the Cabinet), Cllr Andrew Moulding (Strategic Development and Partnerships Portfolio Holder), Cllr Tom Wright (Corporate Business Portfolio Holder), Cllr Phil Twiss (Corporate Services Portfolio Holder), Cllr Philip Skinner (Economy Portfolio Holder), Cllr Iain Chubb (Environment Portfolio Holder), Cllr Ian Thomas (Finance Portfolio Holder), Cllr Jill Elson (Sustainable Homes and Communities Portfolio Holder), and Cabinet Members without Portfolio - Cllr Geoff Pook and Cllr Eileen Wragg. Members of the public who wish to make any representations or comments concerning any of the key decisions referred to in this Forward Plan may do so by writing to the identified Lead Member of the Cabinet (Leader of the Council) c/o the Democratic Services Team, Council Offices, Knowle, Sidmouth, Devon, EX10 8HL. Telephone 01395 517546.

June 2017

Recommendations for Cabinet that will resolve in an action being taken:

Scrutiny Committee on 9 May 2017

Minute 56 Manor Pavilion Car Park

RECOMMENDED by the Scrutiny Committee that

1. The Manor Pavilion Car Park fee paying charges only apply up to 6pm;
2. Endorse the maximum stay for the car park at four hours;
3. Officers are reminded that there must be early consultation with the local ward member(s) and the relevant town or parish council for any significant service change that affects a local community.

EAST DEVON DISTRICT COUNCIL

Minutes of a meeting of the Scrutiny Committee held at Knowle, Sidmouth on 9 May 2017

Attendance list at end of document

The meeting started at 6.00pm and ended at 7.54pm

***54 Public speaking**

Alderman Graham Liverton reported to the Committee the decision made to withdraw officer support for the Manor Pavilion Theatre Management Steering Committee. He felt this was because of the disagreement over the Manor Pavilion Car Park becoming a pay and display car park. He made reference to an earlier Portfolio Holder decision relating to Sidmouth and a concession to sell coffee, citing this as another example of a lack of consultation with local users and Members. He felt that the Council had acted in an arrogant fashion with poor communication, and concluded that the East Devon Alliance would agree with his view.

***55 Minutes**

The minutes of the Scrutiny Committee held on the 30 March 2017 were confirmed and signed as a true record.

56 Manor Pavilion Car Park

The Chairman, along with five other members of the Scrutiny Committee, had requested a call-in of the Cabinet decision of 5 April 2017 "that public pay and display parking in Sidmouth's Manor Pavilion car park be offered". The Chief Executive had determined that the call-in was not valid and the Chairman explained to the committee the reasons given.

The committee still had the opportunity to discuss the issue and put forward a representation to the parking places order before a formal variation to the order is made.

The Strategic Lead Housing, Health and Environmental, and the Service Lead Countryside & Leisure, outlined the process undertaken to date in reaching the proposal to make the car park pay and display. Officers were proud of the culture offer available and wanted to maintain and enhance that offer for the benefit of residents and visitors alike. As part of the Council's agreed transformation strategy, this had to be balanced with the need to manage assets well – leaving income from the car park to go towards the costs of the Theatre. There would be a statutory consultation period on the parking places order, and comments made would be taken into account, including the debate at this meeting.

Local Ward Members for Sidmouth outlined their concerns on the proposal. Whilst most were in agreement with the principle of charging for the car park, they felt that charging after 6pm was out of line with surrounding car parks. There was also some dispute about when, and whom, were consulted on the proposal prior to the draft budget meeting of the Overview and Scrutiny Committees in January, or indeed after that. There was also some dispute about how heavily the car park was used. Concern was raised that introducing a charge would reduce the number of users, which would ultimately be counter-productive.

Officers outlined the practicalities and considerations of the car park becoming pay and display, including:

- Direct email contact with relevant Ward Members;
- Some discussion already undertaken at the draft budget meeting;
- Changing the initially proposed three hour maximum stay to four hours, following a comment about the impact on visitors to matinee performances;

- Better management of the car park to prevent local residents, shoppers and beach users using the carpark to the detriment of theatre users, for which the car park was intended;
- Better use of a council asset to provide an additional income stream to the Theatre.

Debate covered:

- Doubts by some Members that fees would be paid after 6pm when other free parking was available in relatively close proximity, both on and off street;
- Some expenditure was required initially for resurfacing, lining and the installation of a ticket machine. Calculations on the expected income had been made based on income from other car parks in the town, and the recent change to pay and display for a Beer car park – reaching a professional estimate at £1000 per space per year;
- Raising income through the car park would provide another income stream to the Theatre to be put towards the maintenance and development of the site, helping to relieve some of the subsidy by the taxpayer in running the theatre;
- Annual permit holders could use the car park for the maximum stay, but officers felt it was unlikely that the car park would be taken up entirely by such users;
- Users unable to walk from the other car parks in the area could park directly outside the venue on the single yellow line, provided they could display a blue badge or it was after 6 pm; no disabled user spaces had been designated in the redesign of the layout of the car park;
- Concern that a mixed use of the site for both public cars and delivery lorries would not be practical; the Theatre Manager outlined the proposed new layout of the car park, including two access points, to give confidence that the car park could operate effectively;
- The car park already had a sign to make clear that the car park was for theatre users only;
- Ward Members were made aware through emails in March of this year of the detail of the proposal; as well as the opportunity to comment at Cabinet on 5 April 2017;
- Look at practicalities of clamping to deter misuse of the car park;
- Some Members felt the existing Steering Group should remain as a group supported by Council Officers, despite being advised that the group could continue in its own capacity and report to the Arts and Culture Forum;
- Look again at a joint ticketing venture; this was cautioned against because of the impact that would have operationally on the Theatre Manager, having to act as a car park attendant when his role is to manage the operation of the theatre.

RECOMMENDED that

1. The Manor Pavilion Car Park fee paying charges only apply up to 6pm;
2. Endorse the maximum stay for the car park at four hours;
3. Officers are reminded that there must be early consultation with the local ward member(s) and the relevant town or parish council for any significant service change that affects a local community.

***57 Mental Health Services for East Devon**

The Chairman of the Honiton Hospital League of Friends and the Honiton Dementia Action Alliance, Heather Penwarden, spoke with the Committee on her background and current role. She asked Members to consider the current state of mental health services in the district. This request was as a result of the recent closure of 'the Haven', Honiton, run by MIND and the transfer of the East Devon Community Mental Health Team from Honiton to Exeter. Discussion on mental health was particularly relevant in Mental Health Awareness Week.

Mrs Penwarden outlined the issues brought to her attention in two separate approaches – one through an existing service user with a long term condition who was directly affected by the closure of “The Haven”; and one a service professional, on the change from local service assessment to a centralised service. Both cases highlighted the negative impact on both existing service users and those to be assessed in two clear ways: the loss of a community feel drop-in centre, leading to a lack of social contact that adversely affected the patient; and the negative impact of travelling, for some great distances, that may not be possible both financially and emotionally.

The committee discussed the importance of mental health services being easily accessible and properly funded. Discussion included:

- Links to recent decision to close local hospital inpatient beds;
- Need to ensure that Devon County Council’s Health and Wellbeing Scrutiny Committee were examining the funding and transformation decisions made on mental health services;
- Similar examples elsewhere in the District, including the removal of self-referral for ongoing treatment which impacted adversely on recovery for the patient;
- Belief that the impact of centralising service provision will only make patients unwell, because of the removal of the social and community feel of drop-in centres.

RESOLVED

1. that the Committee regrets the recent closure of “The Haven” and would have wished to see alternative local services to be established before its closure;
2. that the Chairman write to the appropriate Portfolio Holder, at Devon County Council, to advise that the Committee wished to debate the current state of mental health services in the district and ask him and officers to attend, giving him the chance to respond; and this this includes a request for officers to attend from the Devon Partnership Trust to cover the two funding streams that cover mental health services;
3. that the Chairman write to the new Chairman of the Health and Wellbeing Scrutiny Committee to advise of the Committee’s intended debate on mental health service issues in the district and invite his attendance to respond in respect of the allocation of resources for health services.

The Chairman thanked Heather Penwarden for her useful insights, and pledged to continue pursuing both health and social services to attend a future meeting for further discussion, on what is an important issue for the District.

***58 New Devon CCG decision on reducing community hospital inpatient beds**

The Chairman had requested the Chief Operating Officer of the NEW Devon CCG to attend the meeting, in light of the recent decision by the CGG on bed closures. The officer was unable to attend but had agreed to update the committee at their next meeting on the 22 June 2017.

***59 Draft Scrutiny Annual Report to Council**

The draft report presented will be updated to reflect the final meeting of the civic term. A request was made to number the paragraphs; other comments made would be taken into account and the final report agreed by the Chairman and Vice Chairman.

RESOLVED that the report be finalised by the Chairman and Vice Chairman on behalf of the committee, taking into account comments made at the meeting, prior to submission to Annual Council.

***60 Scrutiny Forward Plan and suggestions to scope**

The committee's forward plan was updated at the meeting to include an update from the New Devon CCG on the 22 June 2017 meeting. Broadband (including mobile phone coverage) updates would continue.

Topics put forward for scoping were:

- review of the procurement approach agreed by the Housing Review Board at their meeting of 9 March 2017;
- How sites are put forward for the Local Plan or for future plans, such as the GESP;
- Building regulation limits of internal room sizes; in particular for houses of multiple occupation;
- Multiple consultation examples had been considered previously by the committee, but the consultation process still remained a guide and not a policy;
- The role of the District Councillor in communication with local town or parish councillor in dissemination of information from a district level (as linked to consultation on changes in service provision or charges that impact at a local level).

A request was made to make contact with the Local Government Association with a view to establishing what was expected of scrutineers. The Lead Councillor for Member Development, Councillor Maddy Chapman, offered to work with Democratic Services on future training for the committee.

Attendance list (present for all or part of the meeting):

Scrutiny Members present:

Roger Giles
Alan Dent
Dean Barrow
Maddy Chapman
Bruce de Saram
Cathy Gardner
Simon Grundy
Cherry Nicholas
Val Ranger
Marianne Rixson

Other Members

Megan Armstrong
David Barratt
John Dyson
Peter Faithfull
Phil Twiss
Pauline Stott
Geoff Jung
Brian Bailey
Stuart Hughes
Rob Longhurst
Tom Wright

Officers present:

John Golding, Strategic Lead Housing, Health and Environmental
Charlie Plowden, Service Lead Countryside and Leisure
Graham Whitlock, Manor Pavilion Theatre Manager
Giles Salter, Solicitor
Sue Howl, Democratic Services Manager
Debbie Meakin, Democratic Services Officer

Apologies:

Marcus Hartnell
Bill Nash
Darryl Nicholas
Colin Brown
Jill Elson

Chairman Date.....

Report to: Cabinet
Date of Meeting: 14 June 2017
Public Document: Yes
Exemption: None



Agenda item: 9

Subject: Revenue and Capital Outturn Report 2016/17

Purpose of report:

During 2016/17 monthly budget monitoring reports have informed members of budget variations and the anticipated year end financial position. This report contains the final position for the year and compares this outturn position against the budgets set.

The report outlines the implications of these results on the Council's reserves and makes recommendations on reserve transfers.

Recommendation:

1. The Cabinet agree the outturn position for 2016/17.
2. To agree with the level of Reserves detailed in the report and the transfers/use as recommended; namely
 - a) The transfer of £0.606m from the General Fund as one off savings in 2016/17 to the Capital Reserve to help fund future capital programme commitments (detailed in 2.6 – 2.7 of the report).
 - b) The transfer of £0.294m from the Business Rates Volatility Fund into the General Fund to meet the shortfall on business rates income against budget in 2016/17 (detailed in 2.8 of the report).
 - c) That an adopted range is determined for the HRA Balance to be held of between £2.1m and £3.1m, and that £3.970m held above this level is transferred to a new Reserve "Future Housing Development Fund" (detailed in 3.3 -3.4 of the report).
 - d) That £2.8m is transferred from the HRA Business Plan Volatility Fund into the Future Housing Development Fund (detailed in 3.5 of the report).
 - e) The Transfers to other earmarked reserves for specific projects where funding contributions have been made in advance of spend and monies are held at year end to fund this work in future years. The Outturn Book contains full details of these transfers in 2016/17.

Reason for recommendation:

To report the Outturn position for the Council's approved budgets for the General Fund, Housing Revenue Account and Capital Expenditure. This final position will be presented in the Council's Statement of Accounts.

Members are asked to note the variations from the budgets identified within the report and consider the final position.

It is appropriate at this stage to reflect on the reserves and balances held by the Council and determine if these are the right reserves at the right levels going forward.

Officer:

Simon Davey, Strategic Lead Finance (CFO/S151)

sdavey@eastdevon.gov.uk 01395 517490

Financial implications:

The financial details are outlined in the report

Legal implications:

There are no legal implications requiring comment.

Equalities impact:

Low Impact

No decisions are required which effect service/customer provision

Risk:

Low Risk

Financial monitoring reports have kept members informed during the year of budget variations and the projected outturn position of the Council's finances. No areas of concern were raised with the Council maintaining its net spending within overall approved budget levels. All predetermined Balance and Reserve levels were maintained comfortably above the adopted minimum levels. This position has now proven correct in the final outturn position presented in this report.

The report also looks at the monies the Council holds in balances and reserves and considers these in the light of the Council's future financial position and future Government funding cuts. Consideration is given to the Council's financial track record, internal and external audit reports on financial controls and is reflective of occurrences from external factors which affect the Council's finances.

Links to background information:

[Outturn Booklet 2016/17](#)

Link to Council Plan:

A sound financial position allows the Council to deliver its priorities and outcomes set out in the Council Plan.

1. Introduction

- 1.1 This report compares the outturn position (actual amount spent or income received for the year) against budgets set for the financial year 2016/17 for the General Fund, Housing Revenue Account (HRA) and the Capital Programme.

- 1.2 A summary position is contained in this report for each of these areas with an accompanying 'Outturn Book' giving detailed information on actual spend against the budget set by members. The Book gives an explanation of any significant variations of spend or income against budget and highlights other matters to be drawn to Members' attention.
- 1.3 The report looks at the effect the outturn figures have on the Council's balances and reserves and considers future policy for holding these sums.

2. General Fund position

2.1 The 2016/17 original budget was set as a balanced budget; with no transfer to or from the General Fund Balance. During the course of 2016/17 the Council agreed to:

- Carry forward £0.813m of items of expenditure planned to be spent in 2015/16 but approved at year end to be carried forward and spent in 2016/17 (details contained in the 2015/16 Outturn Report to Cabinet in June 2016). These being funded from the savings in the related budget in 2015/16 with monies placed in earmarked reserves to fund the expenditure.
- The Council also approved five supplementary estimates during the year totalling £0.303m to be funded from the General Fund Balance. Reports were presented to Cabinet for recommendation to Council, the items approved were:

• Enterprise Zone preparation funding	£0.025m
• Community Infrastructure Levy support	£0.030m
• Cranbrook Team additional support	£0.124m
• Sidmouth Beach Management Plan	£0.054m
• Greater Exeter Strategic Plan	<u>£0.070m</u>
	<u>£0.303m</u>

2.2 The final outturn position is that instead of requiring a transfer from the General Fund Balance of £0.303m to balance the 2016/17 budget, there is a surplus of £0.443m to be paid into the General Fund Balance. Giving an overall variation of £0.746m.

- 2.3 A budget variation analysis by portfolio and service is contained in the Outturn Book linked to this report, an indication of the main variations are given below.

General Fund 2016/17 – main outturn variations against budget	Variation £000
Employee savings from vacant posts, most significant savings from; <ul style="list-style-type: none"> • Property & Estates Service Lead • Economic Development Funding & Research Officer • Growth Point/Cranbrook project team positions • Car Parks • Development Management 	(495)
Car Park income higher than projected	(189)
Recycling credits higher than estimated through significant increased volumes	(128)
Increased Revenues & Benefits admin grant for new requirements & initiatives	(227)
Increase in Housing Benefit Payments, offset by additional subsidy and increased benefit overpayments recovered	149

Note: Amount in brackets () are saving items or additional income. Unspent budgets to be carried forwarded as delayed spend in future years have been ignored from this analysis.

- 2.4 In addition two earmarked reserves previously set aside are now no longer required totalling £0.138m and will be transferred back into the General Fund Balance. The main one being £0.125m from the Growth Point Reserves where external funding has now been secured mitigating the need for this reserve (project work).
- 2.5 This gives the overall General Fund position at year end with a transfer into the Balance of £0.581m (£0.443m + £0.138m). The updated position for the General Fund Balance is given below.

General Fund Balance Position	£000	£000
Opening Balance 1/4/2016		(3,625)
Supplementary Estimates approved in 2016/17	303	
Outturn variation 2016/17	(746)	(443)
Earmarked Reserves transferred back to General Fund Balance		(138)
Closing Balance 31/3/2017		(4,206)

Note: No use of the General Fund Balance has been budgeted in 2017/18.

- 2.6 Taking the General Fund Balance at £4.206m this is £0.606m above the adopted range previously determined by Council, this being between £2.8m and £3.6m. This range is still considered the appropriate level as there has been no key change to the factors used in its determination. This represents approximately 10% of our net budget equivalent to a two year operational period giving £2.8m; to this is added £0.8m headroom to give £3.6m as a top of the range figure. This is the range we stipulate the General Fund Balance to be within before members need to take action; whether above or below the range.
- 2.7 It is recommended that the sum above the adopted range, £0.606m, is transferred into the Council's Capital Reserve which has been depleted in 2016/17 and the monies are used to help fund the capital programme going forward.

- 2.8 The Council has set aside a reserve to manage the volatility of business rate income; at the beginning of 2016/17 the NNDR Volatility Fund stood at £0.933m. In 2016/17 business rate income received is less than budget by £0.294m, this sum has been taken from the Volatility Fund to make good this loss. It is anticipated that the income will be above budget in 2017/18 and a transfer will be made back into the Reserve.

3. Housing Revenue Account (HRA)

- 3.1 The 2016/17 budget was set to achieve a surplus of £0.213m, the Outturn position shows a final surplus for the year of £1.935m; the main variations are given below.

HRA 2016/17 – Outturn variations against budget	Variation £000
Revenue Contribution to Capital & Major Repair costs - underspend on capital programme with the level of works anticipated not undertaken in year due to resourcing and an ambitious plan. Also additional capital receipts were received available for funding.	(931)
Rent income (including garage rents) were higher due to collection rates and better void levels than budgeted - a prudent approach was taken.	(342)
A loan was budgeted for £0.7m but this was not taken out as not required.	700
Storm damage insurance claim - which was offset in part by overspends incurred on responsive repairs and other associated works previously funded from the HRA.	(1,043)
Supervision & Management – underspend on employee budget because of vacant posts and late appointments.	(72)
Stock condition survey not commenced as planned, more detailed work required as to the most suitable approach.	(68)

- 3.2 The updated position of the HRA Balance with the surplus transfer of £1.935m is given below.

HRA Balance Position	£000	£000
Opening Balance 1/4/2016		(5,135)
Original Budget approval transfer to Balance in 2016/17	(213)	
Outturn variation 2016/17	(1,722)	(1,935)
Closing Balance 31/3/2017		(7,070)

Note: A surplus of £0.521m is budgeted in 2017/18.

- 3.3 The adopted minimum level for the HRA Balance is £2.1m, based on £490 per property and this is considered to be the minimum Fund Balance that should be held for unexpected/emergency situations. It would also seem sensible to introduce a maximum sum to hold thereby creating an adopted range the Council is comfortable holding the HRA Balance between before members need to make a decision; whether above or below the range. It is therefore proposed to add headroom of £1m to the minimum level to give an

adopted range for the HRA Balance of between £2.1m and £3.1m. This is in line with the principles agreed with the General Fund Balance.

- 3.4 The HRA balance is therefore significantly above the proposed adopted range by £3.970m and it proposed that this transferred into a new Fund - Future Housing Development Fund, to be used to provide additional dwellings within HRA and used to match fund the one to one replacement capital receipts required to be spent within set deadlines or required to be returned to Government with an interest payment.
- 3.5 The HRA also has a HRA Business Plan Volatility Reserve which was created in 2012/13 to provide a cushion for repaying the self financing loans should adverse fluctuations in spending and/or rent income occur. The balance in the reserve is currently £4.4m. This Reserve has not been required and the HRA continues to meet loan repayments and make annual surpluses, it is therefore questionable whether this Reserve is still required at this level, or at all. However this will best be evidenced with a refresh of the HRA Business Plan alongside an updated of the stock condition survey; it is therefore proposed to transfer £2.8m from the HRA Business Plan Volatility Fund into Future Housing Development Fund funding the next two years of proposed development, thereby still leaving £1.6m to help meet loan repayments should it be required. Its requirement can be revisited once other factors are known.

4 Capital Budget

- 4.1 The revised Capital budget for 2016/17 totalled net expenditure of £19.039m; the Outturn position is lower at £16.242m, a variation of £2.797m. The majority of this underspend is from scheme slippage and a need to re-profile expenditure into 2017/18 or later years. The main variations against the revised budget are given below with further details contained in the Outturn Book.

Capital 2016/17 – main outturn variations against Budget	Variation £000
Knowle Relocation project – re-profiling of budget spend required, underspend carried forward	(581)
Exmouth swimming Pool improvements – LED requests for tranche payments slipped into 2017/18	(212)
Disabled Facility Grants – Demand not as high as budget/grant allocation from Devon County Council.	(336)
New Feniton Flood Alleviation Scheme – slipped to 2017/18 due to ongoing discussions with Network Rail	(893)
Refuse & Recycling vehicles & equipment– slipped to 2017/18 in line with roll out requirements	(516)

- 4.2 The Capital Reserve at the end of 2016/17 is nil, being fully used to fund the 2016/17 capital programme; the use of the Reserve in 2016/17 was £2.405m.
- 4.3 The Capital Reserve being fully used was expected and has been highlighted to Members. The balance of funding in 2016/17, after the use of New Homes Bonus grant, Capital Receipts, Revenue Contributions and finally the Capital Reserve has been met through internal borrowing (£2.189m). This has increased the underlying need for the Council to borrow (Capital Financing Requirement) and the Council’s cash flow position is monitored carefully to determine if there is need to actually borrow to meet costs or whether it is preferable to use internally available funds. This is a balance between considering

expected interest rates achieved on investments, the cost of borrowing and the Council's future requirement on cash flows. These considerations are all made within the perimeters of the Council's approved Treasury Management Strategy.

- 4.4 The future capital funding position, along with revenue, will be debated further with the presentation of the Financial Plan (2018-2023) to be considered in September/October by Cabinet once considered by other member working groups of the Council.
- 4.5 **This report recommends the one off savings from the General Fund of £0.606m in 2016/17 is transferred to the Capital Reserve to assist with future capital schemes,** particularly those that are mandatory and have no income generation to support their investment.
5. **Other Main Reserves and Balances Available (not considered above) – year end position**

Transformation Reserve

The balance as at 31/3/17 is £0.483m. This sum is set aside to assist the Council's transformation programme by meeting upfront costs necessarily incurred in order to produce savings/efficiencies in future years.

Local Authority Business Growth Incentive Scheme Reserve

The purpose of this reserve is to promote and deliver economic development. A programme of spend and authority for spend has been approved by Council. The balance on this reserve as at 31/3/17 is £0.139m.

Asset Maintenance Reserve

This reserve is used to support the Council's General Fund Assets and planned maintenance backlog/essential work/asset failure (created from one off VAT refunds).

The year end balance is £0.997m. This Reserve is currently used at a rate of around £0.100m to 0.200m annually. Details of spend are agreed by SMT (Strategic Management Team) presented to the Asset Management Forum to ensure they do not conflict with asset strategy

Business Rates Volatility Fund

The Balance of this Reserve as at 31/3/17 is £0.639m taking account of the transfer from this Reserve in 2016/17 of £0.294 (detailed in 2.8 above). The Reserve is used to mitigate the volatility of business rate income should income fall below the expected budget and allows the Council to set a level in the budget with certainty in relation to an income source that can fluctuate.

New Homes Bonus Volatility Fund

New Homes Bonus Grant income is utilised to support General Fund service expenditure in part, the risk of using such income was acknowledged and the principle agreed of setting up a Fund to mitigate the risk and protect the Authority.

The balance of this reserve as at 31/3/17 is £1.431m which is at the agreed level inline with using £1.5m of NHB annually to support revenue. The outcome of the NHB government consultation is now known resulting in a significant reduction in this income source and

thereby increasing significantly the percentage of this grant income which is relied on in the General Fund, thereby increasing the risk that the income does not match the budgeted amount. It is sensible to retain this Reserve to even out annual fluctuations in revenue to protect the General Fund. Currently the level held is deemed reasonable but this will be considered in the Financial Plan presented later in the year when further modelling will consider on future income predictions from NHB.

Other Earmarked Reserves

There are other earmarked reserves for specific projects where funding or contributions have been made in advance of spend and monies are held at year end to fund this work in future years. The Outturn Book contains details of these transfers being made in 2016/17 at outturn stage with a complete list of all Reserves held.

Report to: Cabinet
Date of Meeting: 14 June 2017
Public Document: Yes
Exemption: None

Review date for release None

Agenda item: 10

Subject: Monthly Performance Report April 2017

Purpose of report: Performance information for the 2017/18 financial year for April 2017 is supplied to allow the Cabinet to monitor progress with selected performance measures and identify any service areas where improvement is necessary.

Recommendation: That the Cabinet considers the progress and proposed improvement action for performance measures for the 2017/18 financial year for April 2017.

Reason for recommendation: This performance report highlights progress using a monthly snapshot report; SPAR report on monthly performance indicators and system thinking measures in key service areas including Development Management, Housing and Revenues and Benefits.

Officer: Karen Jenkins, Strategic Lead – Organisational Development and Transformation

kjenkins@eastdevon.gov.uk

ext 2762

Financial implications: There are no direct financial implications

Legal implications: There are none arising from the recommendations in this report

Equalities impact: Low Impact

Risk: Low Risk

A failure to monitor performance may result in customer complaints, poor service delivery and may compromise the Council's reputation.

Links to background information:

- [Appendix A – Monthly Performance Snapshot for April 2017](#)
- [Appendix B - The Performance Indicator Monitoring Report for the 2017/18 financial year up to April 2017](#)
- [Appendix C – System Thinking Reports for Housing, Revenues and Benefits, Streetscene and Development Management for April 2017](#)

Link to Council Plan: Continuously improving to be an outstanding Council



Report in full

1. Performance information is provided on a monthly basis. In summary most of the measures are showing acceptable performance.
2. There are two indicators that are showing excellent performance:
 - Percentage of Non-domestic Rates Collected
 - Working days lost due to sickness absence
3. There are two performance indicators showing as concern.
 - **Percentage of planning appeal decisions allowed against the authority's decision to refuse** - The Council received 5 appeal decisions for this month, 3 appeals were dismissed, 1 appeal was allowed and 1 appeal resulted in a split decision. The Council is not able to issue a split decision on a planning application even if part of the proposal is considered to be acceptable, however, the Planning Inspectorate can. In this case, the Inspector deciding the appeal agreed with the Council's decision to refuse that part of the proposal which was unacceptable. The Council had raised no objections to that part of the scheme which the Inspector allowed.
 - **Days taken to process Housing Benefit / Council Tax Benefit new claims and change events** - April and May are two of the busiest months for work coming into Revenues & Benefits following annual billing. Although we try and gear up for this additional work we have had some staff changes that have meant that we have not been able to achieve targeted performance. However it should be recognised that we have an excellent track record of being one of the top performing councils in the country for our speed of processing.

We know that we can still make improvements to the way customers apply as this is now mainly done on-line but yet customers still need to provide additional evidence. We are currently working with Strata to introduce a new claim process that will have the facility for customers to upload their evidence using a portal. Currently this has to come to us by a different channel. By offering a portal will enable supporting evidence to get to us more quickly.
4. Monthly Performance Snapshot for April is attached for information in [Appendix A](#).
5. A full report showing more detail for all the performance indicators mentioned above appears in [Appendix B](#).
6. Rolling reports/charts for Housing, Revenues and Benefits, Streetscene and Development Management appear in [Appendix C](#).

Monthly Performance Snapshot – April 2017



This monthly performance snapshot shows our performance over the last month:

- **6 days** to process your Housing or Council Tax Benefit claims
- An estimated **46%** of all waste collected was recycled in April
- Less than **3** days on average to clear fly tipping cases, dealing with **41** cases in April
- We dealt with 155 reactive building maintenance cases at EDDC's public buildings during April 2017, this compares with 187 in the previous month, and 208 in April of 2016
- Sales were up **+61%** and visitors were up **+93%** on last April for the Roger Mayne photography exhibition
- We removed **115** tonnes of sweepings from our roads across East Devon.
- We dealt with **41** cases of flytipping and cleaned these up in less than 3 days.

Latest headlines:

- The officer team working on the Greater Exeter Strategic Plan (GESP) was established including two officers from our Planning Policy Team. Based in Exeter the team comprises officers from Teignbridge, Exeter, Mid-Devon and Devon County Councils who are now working full time on production of the joint plan.
- Easter proved to be a very busy and successful time for the Manor Pavilion Theatre with all performances of the musical 42ND Street selling out as well as record breaking bar takings for the week. Top West End Producer Paul Taylor- Mills has announced this year's Summer Play Season, 12 great plays in 12 weeks. Variety by the Sea show which is not due in the theatre until December has gone on sale with advance ticket sales breaking all previous records with over 100 tickets already sold.
- Thelma Hulbert Gallery welcomed 410 visitors to their first Spring Fair on Saturday 22 April jointly held with Toast Café showing the best craft from South West makers.
- The Switch Easter Experience this year was based at the Seaton Wetlands where we made full use of Penny Evans and Countryside's equipment. A great campfire circle where we cooked food and lots of fun activities on site. During the 3 days we also took part in Stand Up Paddle boarding, kayaking (river and sea), shelter building at Holyford Woods, a trip on Seaton Tramway and finally our annual trek exploring the countryside ending up at Beer Quarry caves where we had a guide show us around and Dr Fiona Matthews giving a small lecture on the horseshoe bats that were still sleeping in the caves.

Report to: Cabinet
Date of Meeting: 14 June 2017
Public Document: Yes
Exemption: None

Review date for release None

Agenda item: 11

Subject: Axmouth Harbour Quay improvement

Purpose of report: To agree leading the application for funding of improved fish landing facilities at Axmouth Harbour and to contribute £17,000 towards the project.

Recommendation: **It is recommended that Streetscene Engineers assist the East Devon Fishermen's Association in obtaining funding for improved fish landing facilities at Axmouth Harbour, and that £17,000 of capital funding is allocated towards the project in the 2017/18 financial year.**

Reason for recommendation: To improve facilities for local fishermen operating from Axmouth Harbours to improve the viability of their continued operation and ensure continued income to EDDC for fishing at Axmouth.

Officer: Dave Turner
dturner@eastdevon.gov.uk
01395 571619

Financial implications: The £17,000 requested as a capital contribution from EDDC would be dependent on a successful bid for £70,000 funding from EMFF and a further £8,000 from East Devon Fishermens Association. The total project costs are estimated at £95,000.

Legal implications: There are no legal implications requiring comment

Equalities impact: Low Impact

Risk: Low Risk

Links to background information: .

Link to Council Plan: Encouraging communities to be outstanding
Developing an outstanding local economy
Delivering and promoting our outstanding environment

1 Background

- 1.1 Dorset and East Devon Fisheries Local Action Group (FLAG) are seeking expressions of interest for the European Maritime and Fisheries Fund (EMFF).



- 1.2 The priorities of FLAG are to:
- 1.2.1 Encourage and enable effective collaborative working across and within sectors
 - 1.2.2 Strengthen the aquaculture sector in Dorset and East Devon
 - 1.2.3 Infrastructure and equipment improvements to enable safe, sustainable working ports and harbours Enable innovation to increase the value of catch and products
 - 1.2.4 Support the industry by enabling diversification, up-skilling and training, and increase the knowledge and understanding of the sector to attract a younger workforce

1.3 The principle priorities of the EMFF FLAG scheme in England are:

- 1.3.1 supporting fishing communities to adapt to the reformed Common Fisheries Policy (CFP) and
- 1.3.2 supporting sustainable economic growth

1.4 East Devon Fishermen's Association (EDFA) have approached EDDC to submit a bid with them to the fund to improve facilities as the amount available from the fund is increased with EDDC as the lead partner.

1.5 EDDC own the harbour which is leased in part to EDFA.

1.6 The existing landing is unsurfaced, which making landing fish in a hygienic way difficult, and dirty fish boxes can affect the desirability of the catch at market.

2 **Proposal**

2.1 It is proposed to construct a concrete apron adjacent to the harbour wall.

2.2 Ducting will be laid in the concrete apron for future cable for the possible future installation of task lighting for landing fish.

2.3 The concrete apron will complement the chiller unit, which includes an ice making machine and thermal boxes installed by EDFA in 2014.

2.4 The works will help the local fishermen comply with EU directives for landing of fish, as well as improving the viability of the local fishing fleet. Ultimately, this will help ensure the continued income from Axmouth Harbour for EDDC.

2.5 The proposed works are estimated to cost £95,000, of which £70,000 is potentially available from EMFF with a further £8,000 available from EDFA funds.

2.6 It is proposed that EDDC as owner of the harbour contribute the remaining £17,000 to make up the remaining funding for the scheme should the bid be successful.

2.7 It is proposed that EDDC contribute officers' time to the project to lead the bid, and maximise the amount available from EMFF.

2.8 EDFA will procure and supervise the works, with advice and support from EDDC officers as necessary.

Report to: Cabinet
Date of Meeting: 14 June 2017
Public Document: Yes
Exemption: None

Review date for release None

Agenda item: 12

Subject: **New Feniton Flood Alleviation Scheme**

Purpose of report: To agree procurement of Phase 3 and Phase 4 of a Flood Alleviation Scheme for Feniton

Recommendation: **That Cabinet**

- 1. approve the exemptions to contract standing orders for appointment of WSP PB and Network Rail to design and carry out the Feniton UTX respectively, and**
- 2. delegate authority to the Strategic Lead (Housing, Health and Environment) in consultation with the Strategic Led (Governance and Licensing) to enter into contracts for the completion of the Feniton Flood Alleviation Scheme (including Phase 4 following a tender process subject to this being within budget) and the Basic Asset Protection Agreements with Network Rail.**

Reason for recommendation: To progress Phase 3 (the undertrack crossing) and Phase 4 (the remainder of the relief culvert) of Flood Alleviation Scheme for Feniton to reduce the risk of flooding to 72 homes including 63 properties which are currently considered at very significant risk.

Officer: Dave Turner

dturner@eastdevon.gov.uk

01395 571619

Financial implications: Feniton Flood Alleviation Scheme is an ongoing project with approved capital funding. This proposal is to seek approval for a change of contractor for aspects of the work in order to mitigate financial risk to EDDC. Once the works are confirmed, further cabinet approval will be sought for any additional EDDC contribution.

Legal implications: This report seeks approval to change the parties involved in delivery of Phase 3 of the Feniton Flood Alleviation Scheme which is an already approved scheme. The reasons for this are detailed in the report but essentially it related to the unacceptable level of risk that EDDC was being asked to take. To change the designer and contractors is acceptable provided the sums remain within approved budgets. In order to comply with the Council's contract standing orders, an exemption needs to be given pursuant to paragraph 3.1. An exemption can only be given where the contract sums are below the EU thresholds and it has been confirmed that the sums are below these levels. Accordingly Cabinet can grant an exemption and there is a strong rationale for doing so in this case. Cabinet are also agreeing to



give delegated authority to officers for the relevant contract documentation to be entered into in order to deliver Phase 3 and (provided the tenders are within budget) Phase 4. As the report notes in paragraph 6.7 there is risk to EDDC. However the Legal Department will be involved in the preparation / negotiation of the relevant documentation and will seek to manage and reduce the risk to EDDC through the process.

Equalities impact: Low Impact

Risk: High Risk

Risk Associated with construction works beneath an operational railway will require management through the project.

Links to background information: .

Link to Council Plan: Encouraging communities to be outstanding

Developing an outstanding local economy

Delivering and promoting our outstanding environment

1 Background

- 1.1 New Feniton is a relative recent residential development (post 1960s) that grew up around a railway station (originally called Sidmouth Junction and now called Feniton Station) on the Exeter to Waterloo line.
- 1.2 The area of the village that suffers flooding was built in the late 1960s and lies between Station Road and the railway; it is called Feniton Gardens.
- 1.3 An unnamed ordinary watercourse drains the catchment running from north to south into the River Otter south of the small hamlet of Gosford. The watercourse is carried in a man-made ditch along field boundaries upstream of New Feniton; mainly in a culvert (300mm diameter) through the village; and in road-side culverts and channels downstream of the village where it acts as a road drainage system for the New Feniton to Ottery St Mary road. Beyond Gosford the watercourse is again carried in man-made field side ditches to the River Otter.
- 1.4 Flooding in New Feniton has been an issue since the development was built in the late 1960s; however there are no formal records of flooding prior to 1999. In 1999 Ian Howick and Partners carried out a review of flooding in East Devon for East Devon District Council and following interviews with residents it was recorded that some flooding occurred every year and internal flooding every 2 to 3 years.
- 1.5 The only well recorded event was in late October 2008 when there was serious flooding in Feniton Gardens. This event resulted in the internal flooding of 58 properties with flood depths of up to 1.0m. The return period has been estimated to be 1 in 57 year by modelling carried out as part of the flood alleviation project.
- 1.6 Modelling confirms a very low standard of protection, currently estimated to be 50% (1 in 2) probability of flooding in any year to the lowest lying properties in Feniton Gardens.
- 1.7 A Project Appraisal Report (PAR) was submitted to the Environment Agency (EA) in 2013 for approval of DEFRA funding for the scheme for a bypass culvert around the village to provide as a minimum a standard of protection of 0.013% (1 in 75) which is the threshold for insurance purposes.

1.8 The PAR approval included funding of the scheme as follows:

1.8.1	Flood Defence Grant in Aid	£380k
1.8.2	Local Levey	£300k
1.8.3	Devon County Council	£215k
1.8.4	East Devon District Council for future maintenance)	£554k (incl a discounted sum of £54k
1.8.5	Developer Contributions	£300k

2 **Works to date**

2.1 The scheme has been split in 4 phases, consisting of

- 2.1.1 Phase 1 – bypass channel downstream of the railway to take the increased flows from the new culvert
- 2.1.2 Phase 2 – property level resilience measures of downstream properties
- 2.1.3 Phase 3 – undertrack crossing of the Exeter to Waterloo line
- 2.1.4 Phase 4 – completion of culvert

2.2 Phase 1 and Phase 2 were completed in 2016

3 **Phase 3**

3.1 An exemption was agreed in 2015 for procurement of the design and construction of the undertrack crossing (UTX) through Balfour Beatty Rail (BBR) who were understood at that time to be Network Rails (NR) preferred contractor with the works planned for October 2016.

3.2 However as part of that works EDDC were required to take unlimited liability of NR damages, for example payments to train operators should a speed restriction or line closure be required as a result of the works.

3.3 For the Exeter to Waterloo line, the worst case damages to NR is approximately £4,000 per minute, although typically it is far lower (around £1,000 per train).

3.4 BBR liability to EDDC was limited to approximately £250k, so should the works of resulted in closure or a speed restriction as a result of an overrun of more than 60 minutes then EDDC would have been liable for NR costs.

3.5 As such, EDDC did not proceed with the BBR works in October 2016.

4 **Proposal**

4.1 Following the discussions in October, EDDC have been working with NR to agree a way forwards.

4.2 This culminated in a meeting with NR in March 2017, at which NR agreed to undertake the construction works in house with EDDC to appoint a designer in order to complete the NR approval process (Form 1, 2, 3 and 4).

4.3 NR will undertake the works on the same basis they would for their own projects, and as such the timescales for agreeing possession of the railway line for the UTX is reduced.

5 **Next Steps**

- 5.1 EDDC are currently in discussions with WSP who have recent experience of working with EDDC (Underfleet Car Park, Queens Drive, Exmouth Tidal Defence Scheme) as well as a close working relationship with NR on the Exeter to Waterloo line for completion of the design and NR approvals.
- 5.2 It is intended for WSP PB to work with NR and EDDC to agree a program for the UTX. The UTX cannot take place over the summer as ballast cannot be disturbed when the rail tracks are under most stress (due to expansion in warmer weather).
- 5.3 An exemption from standing orders is sought to appoint WSP as the designer, and Network Rail as the contractor for the works, within the approved overall scheme budget (£1,695,000).
- 5.4 Once the program for the UTX is confirmed, the tender for Phase 4 will be issued for completion of the works.
- 5.5 WSP PB have also been asked to re-examine the benefits appraisal in the PAR, so that additional FDGiA funding can be drawn down as necessary to complete the scheme.
- 5.6 Further cabinet approval will be sought if additional EDDC contribution is required following tendering of Phase 4.

6 **Risks**

- 6.1 NR have agreed to take on the project as they would for an internal client, with NR taking the construction risk. However EDDC as the designer would remain liable for risks associated with the design.
- 6.2 There is a risk that the UTX works will result in movement of the rails.
- 6.3 Whilst the worst case amount due is £4,000 per minute, it is understood from NR teams frequently undertaking works on the Exeter to Waterloo route that on average the amount due per affected train is closer to £1,000 per train affected.
- 6.4 Should movement be detected, remedial work would be required by a tamping machine which lifts each sleeper and the rails up, and packs ballast underneath to restore the track alignment.
- 6.5 NR have the resources to get a tamping machine to site quickly should movement occur, minimising the risk.
- 6.6 Through design and approvals process with WSP PB working for EDDC to manage the risk, and ensure the design and construction methodology seeks to minimise the risk to EDDC.
- 6.7 EDDC will appoint a suitably qualified and experienced Engineer to supervise the contract, and ensure the risks continued to be managed in EDDC's best interest.

Report to: Cabinet
Date of Meeting: 14 June 2017
Public Document: Yes
Exemption: None

Review date for release None

Agenda item: 13

Subject: Whimble Flood Alleviation Scheme

Purpose of report: To agree procurement of a Flood Alleviation Scheme for Whimble

Recommendation: That Cabinet delegate authority to the Strategic Lead (Housing, Health and Environment) in consultation with the Strategic Lead (Governance and Licensing) to enter into contracts for the completion of the Whimble Flood Alleviation Scheme and the Basic Asset Protection Agreements with Network Rail following completion of the tender exercise.

Reason for recommendation: To progress a Flood Alleviation Scheme for Whimble to reduce the risk of flooding to 53 homes including 19 properties which are currently considered at very significant risk.

Officer: Dave Turner
dturner@eastdevon.gov.uk
01395 571619

Financial implications: There is £30,000 in the Capital Programme for 2017/18 as an EDDC contribution to an Environment Agency led project. The proposal is to set aside the £30,000 as an EDDC contribution to a total contingency pot of £460,000, with additional DEFRA funding resulting in the project being 100% funded.

Legal implications: This report seeks delegated authority to enter into contracts with the successful tenderer to provide the Whimble Flood Alleviation Scheme. This is acceptable provided the scheme is 100% funded by FDGiA and that this money has been secured or it is otherwise budgeted. As the report notes in section 4 there is risk to EDDC. In this instance there is a contingency budget, however the Legal Department will be involved in the preparation / negotiation of the relevant documentation and will seek to manage and reduce the risk to EDDC through the process to minimise possible reliance on the contingency budget.

Equalities impact: Low Impact

Risk: High Risk
Risk Associated with construction works beneath an operational railway will require management throughout the design and construction of the scheme.



Links to background information:

- Link to Council Plan:** Encouraging communities to be outstanding
Developing an outstanding local economy
Delivering and promoting our outstanding environment

1 Background

- 1.1 The mainline London Waterloo to Exeter railway is carried by an 8 metre high embankment that intersects the village of Whimple. Cranny Brook passes through the embankment in a culvert which acts as a major bottleneck to flood flows, significantly increasing the upstream flood levels. The problem is exacerbated by a sewer cast in concrete that raises the original culvert invert by 0.3m and further limits the flood flow capacity. Hydraulic modelling confirms the restricted flood flow capacity, with peak flood levels 3m higher upstream of the railway culvert compared with downstream.
- 1.2 Historic flooding confirms a very low standard of protection, currently estimated to be 20% (1 in 5) chance of flooding in any year affecting people and property. Flood depths of over 1m affect 15 properties (1% event) leading to significant risk to life. Climate change is forecast to increase the number of properties at significant or very significant risk to 30 and reduce the standard of protection to 50% AEP (1 in 2 years). The main roads are flooded and railway embankment is placed at risk of failure during flood events.
- 1.3 There is an extensive history of flooding at Whimple, and East Devon District Council looked at making improvements there as far back as 20 years ago.
- 1.4 A Project Appraisal Report (PAR) was submitted by the Environment Agency (EA) for DEFRA funding for a scheme in 2014 to lower the invert of the existing culvert. Funding was approved for £1.05M made up of contributions from Flood Defence Grant in Aid (FDGiA), Devon County Council, East Devon District Council, South West Water and Local Levy.
- 1.5 Following approval of the PAR the culvert lowering work was tendered through the EA, unfortunately none of their suppliers would take on the project due to the risk associated with altering the existing structure beneath the railway.
- 1.6 One supplier put forwards an alternative solution, to tunnel a new culvert parallel to the existing to provide increased capacity. However this was unaffordable based on the benefits within the PAR at that time.
- 1.7 Since then, EA, Devon County Council (DCC) and EDDC officers have been working together to find a solution to flooding at Whimple.

2 Proposal

- 2.1 It is proposed to transfer the project from the EA to EDDC which will enable a project to tunnel an additional culvert under the railway to be tendered to a wider pool of potential suppliers, which will include suppliers who are more familiar with and capable of managing projects involving mainline railways.
- 2.2 In addition to this the project benefits have been reviewed, and as a result additional DEFRA funding is likely to be available. As a result it is projected that the project will be 100% funded through FDGiA.
- 2.3 Contributions from DCC, EDDC and Local Levy will be retained as a risk pot which at this time totals £460,000.

3 **Next Steps**

- 3.1 CH2M are completing Form 1 sign off for Network Rail Agreement in principle for the new culvert (the existing agreement related to the previous proposals).
- 3.2 Following this, EDDC will commission a suitably qualified consultant to put together a revised tender package (based on previous EA documents) for the detailed design, approvals, and construction of Whimple FAS.
- 3.3 Following completion of the culvert, the ownership of the inlet/outlet structures will revert to the EA, and the culvert will be taken on by Network Rail (NR).

4 **Risk**

- 4.1 As part of the project, EDDC will be asked to sign up to a Basic Asset Protection Agreement (BAPA) by NR, as part of the NR process for managing access to the railway for construction work.
- 4.2 As part of the BAPA, EDDC will be liable for rail services disrupted should the railway be disturbed.
- 4.3 The worst case amount EDDC would be liable for under this agreement would be £4,000 per minute which is the amount due to the franchise who operate trains on this route.
- 4.4 However in NR experience it is more common for a train which is cancelled or delayed to cost around £1,000 total.
- 4.5 A delay, or cancellation is most likely to occur if there tunnelling results in a movement in the tracks for which there are strict criteria. If this occurred, services would be stopped, or a speed restriction imposed until the stability of the ballast and track levels can be restored.
- 4.6 Through the tendering of the project, and NR approvals process, EDDC will require our supplier to manage and mitigate this risk, this could include:
 - 4.6.1 Ensuring the contractor takes a sufficient proportion of the financial risk under the contract
 - 4.6.2 Continuous monitoring of rail levels/alignment
 - 4.6.3 Working outside of rail operating times (overnight)
 - 4.6.4 Further site and ground investigations
 - 4.6.5 Ensuring the availability of tamping equipment
 - 4.6.6 Ensuring there is a sufficient risk pot in place from EDDC, DCC and Local Levy funds
- 4.7 EDDC will appoint a suitably qualified and experienced Engineer to supervise the contract, and ensure the design / build contractor is managing all risks in EDDC's best interest.

Report to: Cabinet
Date of Meeting: 14 June 2017
Public Document: Yes
Exemption: None
Review date for release: None



Agenda item: 14

Subject: Access to information 2016/17

Purpose of report: This report provides information about requests received under the Freedom of Information Act (and Environmental Information Regulations) between 1 April 2016 and 31 March 2017. The report also looks at steps taken during the last 12 months to improve the accessibility of information.

Recommendation: That Cabinet considers the number and type of requests received under the Freedom of Information Act and the steps being taken to improve access to information.

Reason for recommendation: To continue to improve the way we deal with requests for information

Officer: Henry Gordon Lennox, Monitoring Officer
hgordonlennox@eastdevon.gov.uk

Financial implications: There are no direct financial implications relating to this report

Legal implications: There are no direct legal implications arising from the report. It is a legal requirement to provide the information within the 20 working day time period but it is acknowledged that this is not always possible due to a variety of reasons.

Equalities impact: Low Impact

Risk: Low Risk

Links to background information:

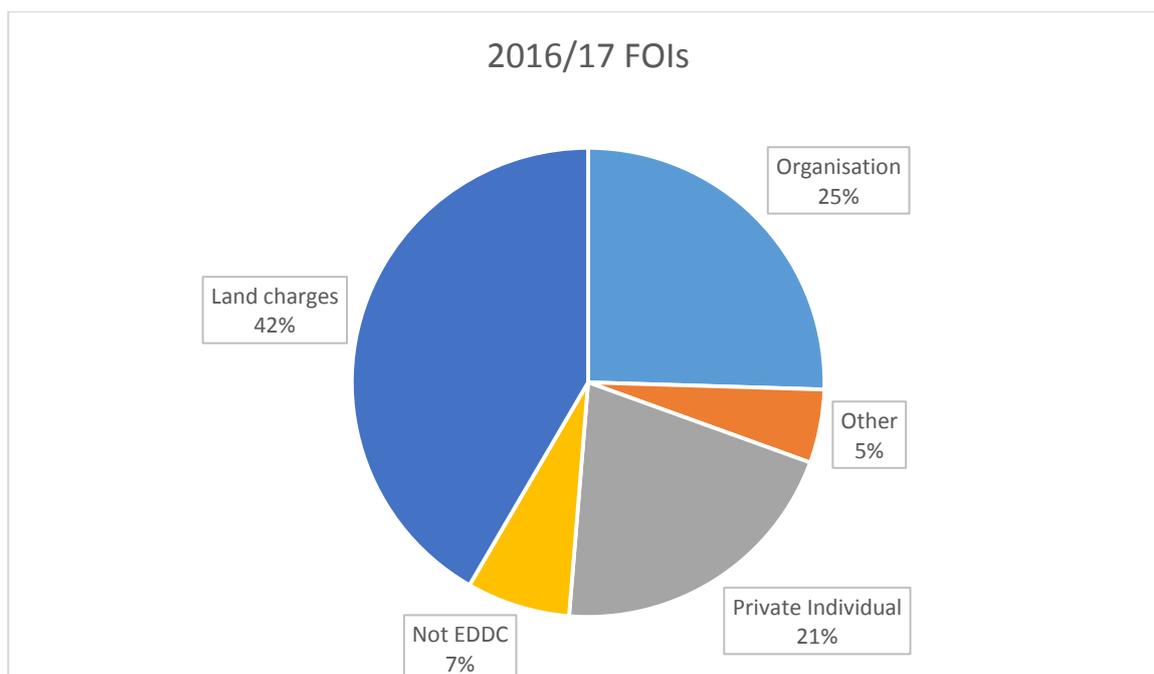
- <http://eastdevon.gov.uk/access-to-information/>
- <http://search.ico.org.uk/ico/search/decisionnotice>

Link to Council Plan: Continuously improving to be an outstanding council

Report in full

1 Summary of requests received

- 1.1 658 requests have been dealt with under the Freedom of Information Act (Environmental Information Regulations) during the year 2016/17.
- 1.2 This figure has risen from 588 in 2015/16.
- 1.3 There continues to be a trend for requests originating from commercial organisations asking questions relating to council contracts; information pertaining to businesses and their payment of business rates; and topics of general news interest like the impact of changing legislation.
- 1.4 The council's major projects, such as the office re-location and the regeneration of Exmouth seafront are also continuing to generate interest amongst local residents, and campaign groups, although these requests form a relatively small proportion of the overall number received.
- 1.5 The service areas receiving the highest number of requests are Council Tax, Environmental Health and Planning.
- 1.6 The pie chart below shows the origin of requests received during the year. The "other" category includes MPs, academic institutions and requests received through public archive websites.
- 1.7 Requests received from organisations include news agencies and press enquiries which tend to centre around national news topics such as welfare reform, council income streams and legislative changes.
- 1.8 The figures below also include requests received by the council but which were treated as invalid (usually those which should have been sent to other organisations) and also requests received by our Local Land Charges team under the Environmental Information Regulations.



2 Request handling

- 2.1 Our current average response time is 7.75 working days – well within the statutory deadline of 20 working days. This is a significant improvement on 2015/16 where the average was circa 16 days over the year.
- 2.3 During 2017/18 we will continue to actively monitor response times to seek to ensure continuous improvement.
- 2.4 The council recently contributed to a benchmarking exercise involving 92 district and county/unitary councils across the country. This was looking specifically at FOI requests responded to during the first 6 months of 2016/17.
- 2.5 EDDC was one of only 5 councils with a 100% record of responses provided within the statutory deadline. The council was also within the top 1/3 in terms of numbers of requests received.
- 2.6 During the year as a whole, only 1 response exceeded the statutory deadline.

3 Customer satisfaction

- 3.1 If a customer feels dissatisfied with the way we have responded to their request for information, they have the right to complain to the Information Commissioner (ICO).
- 3.2 6 decision notices were issued in respect of complaints made to the ICO by 2 individuals during 2016/17. This represents less than 1% of the total number of requests received, indicating a very high level of satisfaction with information request handling overall.
- 3.3 2 complaints were upheld in full. These were complaints from a local individual who wanted the council to disclose a copy of the conditional contract it had entered into with Pegasus Life for the sale of Knowle, and also to disclose the price Pegasus had agreed to pay for the land. At the time of the requests the council felt that this disclosure would prejudice the project as the contract was still conditional upon planning approval being granted. The ICO did not agree with this stance and required the council to disclose the information.
- 3.4 The council felt that the ICO had misinterpreted the legislation in respect of commercial confidentiality and prepared an appeal to the first tier tribunal on that basis. However, before the appeal was heard, the council disclosed the information once it became clear that planning approval had not been granted and there was therefore no longer the same degree of commercial confidentiality attached to the information.
- 3.5 In respect of the relocation project, and as the council repeatedly informs any requester, we remain committed to making information available to the public at appropriate project milestones and at a time when disclosure will not harm the economic interest of the council itself, or a third party. However, it is important to note that it is often a difficult balance between what may be “of interest” to some sectors of the community as opposed to what is actually in the greater public interest in terms of enabling the council to achieve best value in its commercial dealings.

- 3.6 In a separate complaint, the same requestor asked for information relating to the predicted energy costs for Knowle, in respect of the re-location project. The council had provided some information in response but had not specifically referred to a computer model containing further calculations. The ICO required the council to issue a refusal notice to the requestor outlining the reasons why this model is currently being withheld from publication.
- 3.7 The same requestor also asked the council to disclose information relating to estimated build costs for its new office premises. The commissioner agreed with the council that the balance of public interest rests in withholding this information and that the council applied the correct exception under the Environmental Information Regulations.
- 3.8 In two further complaints, the commissioner found no fault in the way the council had responded to the requests – in terms of the information provided or exemptions applied – but did point out that in both cases the response times had exceeded 20 working days. No steps were required to be taken in either case. It should be noted that the complaints related to requests received in 2015 and that the council has since successfully taken steps to improve its response times.

4 Access to information

- 4.1 We are continuing to be proactive in making information available to the public in a timely way and to only hold documents as confidential where it is necessary to do so. We have a dedicated section on our website for documentation produced in connection with the office re-location project.
- 4.2 In addition we continue towards publication of historic information which has previously been withheld as confidential. Reports which were previously considered under part B at our committee meetings (in closed session) are now being published, where it is appropriate to do so.
- 4.3 Generally we have also seen a significant reduction in the number of reports being presented to Cabinet under part B. In 2016/17, 2 reports were considered in Cabinet's closed session which compares with 32 in 2014.

Agenda Item: 15

Local Authorities (Executive Arrangements)(Meetings and Access to Information)(England) Regulations

Under Regulation 19, there is a requirement to submit an annual report containing details of each executive decision which was agreed as urgent under Regulation 11 (Cases of special urgency) where less than 5 days' notice could be given.

<p>14 September 2016</p>	<p>Potential land purchase at Sowton</p>	<p>Approval was sought to submit an informal tender for purchase of land at Sowton village for use as public open space. A recommendation to submit an informal tender was put to the vote and lost.</p> <p>Reason for urgency: On 7 September 2016, the Vendor's agent sent the Council an invitation to submit an informal tender by the deadline of 5 October 2016.</p>
<p>Decision Minute *52</p>	<p>That an informal tender be not submitted in respect of land identified at Sowton.</p>	
<p>Reason for decision:</p>	<p>For budget reasons</p>	
<p>Decision made by Council</p>	<p>21 October 2015, Minute 39</p>	
<p>5 April 2017</p>	<p>Notes of the New Homes Bonus Panel, 23 March 2017</p>	<p>The Chairman agreed to this late item for Notes of the New Homes Bonus Panel held on 23 March 2017, requested by the Community Engagement and Funding Officer.</p> <p>Reasons for urgency: The recommendations in the minutes were a matter of urgency for towns and parishes to use the funding once agreed.</p>
<p>Decision Minute *185</p>	<ol style="list-style-type: none"> 1. Application from Cranbrook Town Council, Broadclyst, Clyst Honiton and Rockbeare Parish councils – Chelsea's Choice – child sexual exploitation play - £1,125.82 2. Application from Otterton and Woodbury Parish Councils – Educational countryside signage - £3,289.50 3. Application from Seaton Town Council– Tourism app and booklet projects- £7,124.70 4. Application from Plymtree and Talaton Parish Councils Community marquee project - £520 	

	<ol style="list-style-type: none"> 5. Application for Sidmouth Town Council – Wildflowers Project - £8,532.38 6. Application from Cranbrook Town Council, Aylesbeare, Plymtree and Talaton Parish Councils – Noticeboards - £1,509.30 7. Application from Broadclyst, Clyst Honiton and Poltimore Parish Councils and Cranbrook Town Council – Community heli-pad - £2,829.82 8. Application from All Saints and Chardstock Parish Councils and Axminster Town council – Defibrillators - £7,236.90 9. Application from Buckerell Parish Council – Drainage - £233.20 10. Clyst St George Parish Council – Drainage - £658.90 11. Colaton Raleigh Parish Council Drainage - £627 12. Cotleigh Parish Council- Drainage - £193.60 13. Gittisham drainage - £1,457.50 14. Luppitt drainage - £421.30 15. Lympstone Parish Council – Drainage -£1,722.60 16. Newton Popleford Parish Council – Drainage - £1,905.20 17. Payhembury Parish Council – drainage - £614.90 18. Stockland Parish Council – Drainage - £580.80 19. Upottery Parish Council–Drainage - £587.60 20. Kilmington Parish Council drainage - £755.70 21. Dalwood Parish Council – Drainage - £392.70 22. Feniton Parish Council – Drainage - £1,653.30 23. Membury Drainage - £396
Decision made by Council	26 April 2017, Minute 70

Report to: Cabinet
Date of Meeting: 14 June 2017
Public Document: Yes
Exemption: None



Review date for release None

Agenda item: 16

Subject: Chardstock Neighbourhood Plan Examiners Report

Purpose of report: To provide feedback and set out proposed changes following the examination of the Chardstock Neighbourhood Plan

Recommendation :

- 1. That members endorse the examiners recommendations on the Chardstock Neighbourhood Plan.**
- 2. That members agree that a 'referendum version' of the Neighbourhood Plan (incorporating the examiners modifications) should proceed to referendum and a decision notice to this effect be published.**
- 3. That members congratulate the Neighbourhood Plan group on their hard work.**

Reason for recommendation: The legislation requires a decision notice to be produced at this stage in the process. The Neighbourhood Plan is the product of extensive local consultation and has been recommended to proceed to referendum by the Examiner subject to modifications, which, subject to additional changes, are accepted by the Parish Council.

Officer: Claire Rodway, Senior Planning Officer
crodney@eastdevon.gov.uk 01395 571543

Financial implications: There are no financial implications

Legal implications: As the report identifies, it is a formal requirement for the Council to consider the Examiner's recommendations and satisfy itself that the proposed plan meets the prescribed 'Basic Conditions'. The purpose of the report is to satisfy this formal requirement. Assuming Members agree then the Council is obliged to publish notice to this effect, pursuant to the applicable Regulations, and Recommendation 2 covers this aspect. The report also identifies that the District Council is responsible for organising

the referendum and requires a resolution to progress this. At this stage there are no other legal observations arising

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 referendum if a majority of the community vote against it.

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>
- Chardstock Neighbourhood Plan and Examiners Report
<http://eastdevon.gov.uk/media/2113549/chardstock-report-final.pdf>

Link to Council Plan: Living in this Outstanding Place.

1.0 The Examination

- 1.1 The Chardstock Neighbourhood Plan has now been examined and, subject to two minor modifications, it has been recommended that it proceed to referendum. The Examiner, Robert Yuille, was chosen by EDDC in consultation with Chardstock Parish Council, due to his extensive experience as a Planning Inspector.
- 1.2 The examination was undertaken on the basis of considering the written material which forms the Plan, its appendices and accompanying statements as well as any representations received in response to the formal consultations. Mr Yuille did not consider it necessary to hold a public hearing as there were no issues that he felt warranted it, although he did request further information from the Parish Council, which they promptly supplied. The neighbourhood plan and examiners report are available to download on our website <http://eastdevon.gov.uk/media/2113549/chardstock-report-final.pdf>.
- 1.3 The legislation, reflected in the Council's Neighbourhood Planning protocol (excerpt below), requires the Policy Team to notify members of the findings and recommendations of the Examiner and how the Council proposes to respond to the recommendations. This response will then be published as a decision notice.

Task in Neighbourhood Plan Production, Commentary and Formal Processes	Role of the Policy Team at the Council	Role of Other Services at the Council
<p>12b – Consideration of and response to the Examiner’s Report <i>(Paragraph 12 of Schedule 4B of TCPA 90)</i></p> <p>The legislation requires the Council to consider and respond to the Examiner’s recommendations.</p> <p>In addition, and before moving on to the next stage, the Council must be satisfied that the draft plan;</p> <p>(1) meets the ‘basic conditions’ being,</p> <ul style="list-style-type: none"> -Complies with national policy and guidance from SoS -Contributes to sustainable development -General Conformity with the strategic policy of the Development Plan for the area or any part of that area -Doesn’t breach or is otherwise compatible with EU obligations – this includes the Strategic Environmental Assessment Directive of 2001/42/EC -The making of the NP is not likely to have a significant effect on a European site (as defined in the Habitats Regulations or a European offshore marine site (as defined in the Offshore Marine Conservation (Natural Habitats &c) regulations 2007 9(e) (either alone or in combination with other plans or projects))” <p>(2) is compatible with the Convention rights, and (3) complies with the other legal requirements set out in Sections 38A & 38B of the TCPA 90</p> <p>12c - Produce and publish a Decision Statement <i>(Regulation 18)</i></p>	<p>Consider each of the Examiner’s recommendations and decide what action to take in response.</p> <p>This could be to accept the Examiner’s recommendations to progress to a referendum or to refuse the proposal. It could be to accept recommendations to make modifications or make our own modifications, so as to make the NP meet the ‘basic conditions’, Convention rights or other legal requirements. It could also be to extend the area for the referendum. We could also decide we are not satisfied that the plan meets the minimum requirements notwithstanding the Examiner’s view.</p> <p>We will need to consider if our proposed decision differs from the Examiner’s recommendations and whether this is as a result of new evidence or new fact. If so, and prior to making the decision, we will notify the plan producers and those making representations on the NP and invite further representations. This may entail referring this matter back to the Examiner.</p> <p>A report will be taken to the Determining Committee notifying members of the findings and recommendations of the Examiner and how the Council proposes to respond to the recommendations. In the event of the Officers recommending refusal of the proposal it will not be necessary for the matter to be considered by the Determining Committee unless a Ward Member requests the committee consider the matter..</p>	<p>The Policy Team & Legal Services will assess each of the Examiner’s recommendations and decide what action to take in response.</p> <p>Legal Services will advise whether they are satisfied that the draft plan meets the basic conditions, is compatible with the Convention rights and complies with the other legal requirements</p>

1.4 The examiner has recommended that two textual modifications be made to the Plan (appended to this report). The Examiners recommendations are as follows:

<u>Examiner’s Reason for Change</u>	<u>Recommended change</u>
<p><i>Policy CPNP 02 b) states that development affecting any listed buildings in the parish should be permitted only ‘where it will offer a specific and measurable improvement to the historical integrity of the area and</i></p>	<p><u>PM1-</u> Policy CPNP 02 iii) Development affecting any listed building, within or outside the Conservation Area</p>

<p><i>avoid harm to the setting of a heritage asset.</i> The Framework on the other hand, while seeking to conserve and enhance the historic environment, calls for a balancing of harm against public benefits (<i>paragraphs 132 -135</i>). <i>Policy EN9</i> of the East Devon Local Plan takes a similar approach. I note the importance the local community attach to preserving the parish’s heritage assets undamaged, but have seen no substantial evidence which would warrant taking what would be a more stringent approach to development affecting such heritage assets in the parish than is taken either nationally in the Framework or more locally in the Local Plan.</p>	<p>should will be permitted only where it will offer a specific and measurable improvement to the historical integrity of the area and avoid harm to the setting of a heritage asset. that outweighs any harm that it would cause to that heritage asset or its setting.</p>
<p>This policy seeks to protect the landscapes, habitats and watercourses in the parish. This clearly has regard to the Framework which similarly seeks to conserve and enhance the natural environment (<i>paragraphs 109 and 110</i>). Indeed, by using the word enhancing the Framework goes further than the policy. This is a distinction of some significance and should be reflected in the policy.</p>	<p>PM2- Policy CPNP 04: Protecting and enhancing the natural environment.</p>

1.5 Upon publication of the report, Chardstock Parish Council agreed with the recommendations made by the Examiner. They have produced a new version of the Plan to be submitted to referendum. This may be viewed here <http://eastdevon.gov.uk/planning/neighbourhood-and-community-plans/neighbourhood-plans/neighbourhood-plans-being-produced-in-east-devon/chardstock/#article-content> .

- 1.6 The legislation, which is reflected in our protocol, requires the Council to consider and respond to this report. The amendments suggested by Mr Yuille, mean that the Council can be satisfied that the Plan:
- has regard to national policies 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 of the development plan for the area;
 - does not breach, and is compatible with European Union obligations and the European Convention of Human Rights and therefore meets the ‘Basic Conditions’.

Given that this is the case and the Basic Conditions are met, there are not considered to be any grounds to reject the findings of the report. Members are asked to agree to accept the recommendations of the examiner’s report and agree that a notice to this effect be published.

- 1.7 The District Council will be responsible for arranging a referendum where all electors within the Parish of Chardstock will be invited to vote on whether the Neighbourhood Plan should be used to make planning decisions in the Parish. If more than 50% of those who vote say ‘yes’ the Neighbourhood Plan will be made and will form part of the Development Plan for East Devon.

Report to: Cabinet
Date of Meeting: 14 June 2017
Public Document: Yes
Exemption: None



Review date for release None

Agenda item: 17

Subject: Yarcombe with Marsh Neighbourhood Plan Examiners Report

Purpose of report: To provide feedback and set out proposed changes following the examination of the Yarcombe with Marsh Neighbourhood Plan

Recommendation:

- 1. That members endorse the examiners recommendations on the Yarcombe with Marsh Neighbourhood Plan.**
- 2. That members agree that a 'referendum version' of the Neighbourhood Plan (incorporating the examiners modifications) should proceed to referendum and a decision notice to this effect be published.**
- 3. That members congratulate the Neighbourhood Plan group on their hard work.**

Reason for recommendation: The legislation requires a decision notice to be produced at this stage in the process. The Neighbourhood Plan is the product of extensive local consultation and has been recommended to proceed to referendum by the Examiner subject to modifications, which, subject to additional changes, are accepted by the Parish Council.

Officer: Claire Rodway, Senior Planning Officer
crodway@eastdevon.gov.uk tel:01395 571543

Financial implications: There are no financial implications

Legal implications: As the report identifies, it is a formal requirement for the Council to consider the Examiner's recommendations and satisfy itself that the proposed plan meets the prescribed 'Basic Conditions'. The purpose of the report is to satisfy this formal requirement.

Assuming Members agree then the Council is obliged to publish notice to this effect, pursuant to the applicable Regulations, and Recommendation 2 covers this aspect. The report also identifies that the District Council is responsible for organising the referendum and requires a resolution to progress this. At this stage there are no other legal observations arising

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 referendum if a majority of the community vote against it.

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>
- Yarcombe with Marsh Neighbourhood Plan and Examiners Report
<http://eastdevon.gov.uk/media/2113531/examiner-report-yarcombe-final.pdf>

Link to Council Plan: Living in this Outstanding Place.

1.0 The Examination

- 1.1 The Yarcombe and Marsh Neighbourhood Plan has now been examined and, subject to modifications, it has been recommended that it proceed to referendum. The Examiner, Mary O'Rourke, was chosen by EDDC in consultation with Yarcombe and Marsh Parish Council, due to her extensive experience in the field of Neighbourhood Plan examinations and her experience as a Planning Inspector.
- 1.2 The examination was undertaken on the basis of considering the written material which forms the Plan, its appendices and accompanying statements as well as any representations received in response to the formal consultations.

Mrs O'Rourke did not consider it necessary to hold a public hearing as there were no issues that she felt warranted it. The neighbourhood plan and examiners report are available to download on our website

<http://eastdevon.gov.uk/media/2113531/examiner-report-yarcombe-final.pdf>

- 1.3 The legislation, reflected in the Council's Neighbourhood Planning protocol (excerpt below), requires the Policy Team to notify members of the findings and recommendations of the Examiner and how the Council proposes to respond to the recommendations. This response will then be published as a decision notice.

Task in Neighbourhood Plan Production, Commentary and Formal Processes	Role of the Policy Team at the Council	Role of Other Services at the Council
<p>12b – Consideration of and response to the Examiner’s Report <i>(Paragraph 12 of Schedule 4B of TCPA 90)</i></p> <p>The legislation requires the Council to consider and respond to the Examiner’s recommendations.</p> <p>In addition, and before moving on to the next stage, the Council must be satisfied that the draft plan;</p> <p>(1) meets the ‘basic conditions’ being,</p> <ul style="list-style-type: none"> -Complies with national policy and guidance from SoS -Contributes to sustainable development -General Conformity with the strategic policy of the Development Plan for the area or any part of that area -Doesn’t breach or is otherwise compatible with EU obligations – this includes the Strategic Environmental Assessment Directive of 2001/42/EC -The making of the NP is not likely to have a significant effect on a European site (as defined in the Habitats Regulations or a European offshore marine site (as defined in the Offshore Marine Conservation (Natural Habitats &c) regulations 2007 9(e) (either alone or in combination with other plans or projects))” <p>(2) is compatible with the Convention rights, and (3) complies with the other legal requirements set out in Sections 38A & 38B of the TCPA 90</p> <p>12c - Produce and publish a Decision Statement <i>(Regulation 18)</i></p>	<p>Consider each of the Examiner’s recommendations and decide what action to take in response.</p> <p>This could be to accept the Examiner’s recommendations to progress to a referendum or to refuse the proposal. It could be to accept recommendations to make modifications or make our own modifications, so as to make the NP meet the ‘basic conditions’, Convention rights or other legal requirements. It could also be to extend the area for the referendum. We could also decide we are not satisfied that the plan meets the minimum requirements notwithstanding the Examiner’s view.</p> <p>We will need to consider if our proposed decision differs from the Examiner’s recommendations and whether this is as a result of new evidence or new fact. If so, and prior to making the decision, we will notify the plan producers and those making representations on the NP and invite further representations. This may entail referring this matter back to the Examiner.</p> <p>A report will be taken to the Determining Committee notifying members of the findings and recommendations of the Examiner and how the Council proposes to respond to the recommendations. In the event of the Officers recommending refusal of the proposal it will not be necessary for the matter to be considered by the Determining Committee unless a Ward Member requests the committee consider the matter.</p>	<p>The Policy Team & Legal Services will assess each of the Examiner’s recommendations and decide what action to take in response.</p> <p>Legal Services will advise whether they are satisfied that the draft plan meets the basic conditions, is compatible with the Convention rights and complies with the other legal requirements</p>

1.4 Essentially the examiner has recommended a number of textual modifications to the Plan (appended to this report) and the deletion of a policy. The Examiners recommendations are as follows:

<u>Examiner’s Reason for Change</u>	<u>Recommended change</u>
<p>I am not satisfied that policy NE1, as drafted, provides that clarity, precision or contributes to the achievement of sustainable development. In particular, part i) requires that there should be no adverse impacts, but if taken to extremes the effect of that would be that no development would be acceptable. I therefore am modifying the policy to include the word ‘significant’ before ‘adverse impacts’.</p>	<p>PM1- Modify NE1 i) and iii) to read:</p> <p>i) <i>Development proposals should demonstrate that they will not result in significant adverse impacts on the landscape, biodiversity and geodiversity and that they will enhance the natural environment where there is an opportunity to do so.</i></p> <p>iii) <i>Proposals for development that would affect existing traditional Devon hedges should demonstrate that all other options have been assessed and that it is the least damaging option to the hedge, its setting in the landscape, biodiversity and habitats.</i></p>
<p>Again, in the interests of consistency and the achievement of sustainable development, I am recommending a modification to the policy to replace ‘development will only be supported where it demonstrates.....’ with ‘development should demonstrate.....’, which makes it clearer how the policy would be applied</p>	<p>PM2- Modify policy NE2 to read:</p> <p><i>To ensure that the tranquillity of the parish and our dark skies are maintained, development should demonstrate that it:</i> </p>
<p>As drafted, policy BHE1 i) requires that development complies with the Blackdown Hills AONB Design Guide for Houses. It is useful guidance. However, I note the comments of the East Devon District Council in this regard, and I agree that strict compliance with guidance outside the control of the NP is too onerous a requirement. Therefore, I am modifying the policy to delete ‘comply with’ and insert ‘take account of’. Other minor modifications are also recommended to make clear how the policy would be applied in the interests of clarity and consistency</p>	<p>PM3- Modify policy BHE1 i) and ii) to read:</p> <p>i) <i>proposals for residential development should be of a high quality design and take account of the Blackdown Hills Area of Outstanding Natural Beauty Design Guide for Houses.</i></p> <p><i>proposals for any development should enhance the visual amenity of the setting</i> </p>

<p>I agree with East Devon District Council that the justification for the policy should clarify that <i>'appropriate exception sites'</i> are those being brought forward through Strategy 35 of the Local Plan and thus it is unnecessary in the policy to refer to the absence of a built-up area boundary. To refer to sites <i>'close to the main villages'</i> is unduly vague and I propose to modify the policy to reflect the wording in Strategy 35 which refers, in villages without a built-up area boundary, to sites/schemes being <i>'physically well related'</i> to the village. Again, in b) the Blackdown Hills AONB Design Guide for Houses should be taken into account instead of requiring its standards to be met.</p>	<p><u>PM4-</u> Modify policy PH1 to read:</p> <p><i>Development proposals on appropriate exception sites within or physically well related to the village which meet one or more of Yarcombe's identified housing needs will be supported providing that:</i></p> <p style="padding-left: 40px;"><i>a) the development is small scale</i> <i>b) the Blackdown Hills Design Guide for Houses is taken into account.</i></p> <p><i>Any development does not</i></p>
<p>Minor typographical errors</p>	<p><u>PM5-</u> In paragraph 5.2 2nd line delete 'new emerging'</p> <p>In paragraph 5.4 4th line, add before 'a popular traditional pub in Marsh', the words ' and The Flintlock Inn,'</p>
<p>In my view, <i>'enhance'</i> is sufficiently similar in definition and practice to <i>'improve'</i> that the policy need only refer to the latter¹. To ensure that the policy is inclusive of facilities in Marsh, I consider it would be prudent for i) to refer to Yarcombe parish. In iii), in order to contribute to the achievement of sustainable development, an adverse impact should be <i>'significant'</i> if permission is to be refused</p>	<p><u>PM6-</u> Modify policy CFS1 to read:</p> <p><i>Development proposals which seek to improve Yarcombe's existing local community facilities and amenities will be supported where:</i></p> <p style="padding-left: 40px;"><i>i) As in NP</i> <i>ii) As in NP</i></p> <p><i>They do not have a significant adverse impact</i></p>
<p>It is not the role of the planning system to protect existing businesses from the impact of market forces and competition from new entrepreneurs, which would run counter to national policy to support the sustainable growth and expansion of all types of business and enterprise in rural areas². For this reason, I am not satisfied that part ii) of policy CFS2, which requires new proposals not to have a negative impact on existing businesses, has appropriate regard to national policy. Nor</p>	<p><u>PM7-</u> Modify policy CFS2 by:</p> <p><i>Deleting ii)</i></p> <p><i>In iii) add 'significant' before 'adverse impact'</i></p> <p><i>Delete the words 'and not threaten any existing businesses' from paragraph 6.8.</i></p> <p><i>Delete paragraph 6.9</i></p>

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

² NPPF paragraph 28 1st bullet point.

<p>would it contribute to the achievement of sustainable development. I therefore propose to modify policy CFS2 to delete ii) of CFS2, paragraph 6.9 and the last part of paragraph 6.8 after <i>'our community'</i>. For the reason explained in paragraph 4.9 above, I am modifying the policy to clarify in iii) that any <i>'adverse impact'</i> should not be <i>'significant'</i></p>	
<p>Although I am satisfied that the general intent of policy TRA1 has regard to national policy, I am concerned that the policy, as drafted, is imprecise and would in effect support any proposal, for any form of development, if it met the policy requirements. Moreover, as drafted the policy lacks clarity. The policy title only refers to footpaths, whereas the policy itself correctly refers to public rights of way. In addition, some of the terms used in the policy are confusing; for example, in i) it is unclear what difference, if any, there is between <i>'protect'</i> and <i>'maintain'</i> and in ii) between <i>'improve'</i> and <i>'enhance'</i>. Nor is it clear in iii) what motorised vehicles should be prevented from doing. Byways Open to All Traffic (BOATs) are public rights of way and do have recognised rights permitting their use by mechanically propelled vehicles.</p>	<p>PM8- Modify policy TRA1 to read: Policy TRA1 – to maintain and if possible enhance the network of public rights of way.</p> <p><i>Development proposals which affect public rights of way should demonstrate how they would protect the existing network of public rights of way and, where possible, enhance the local network by the provision of new or extended routes, and prevention of their use by mechanically propelled vehicles where such rights do not exist.</i></p>
<p>As drafted the policy only supports the conversion of buildings <i>'where it is justified to support farm diversification in the interests of viability'</i>. However, such an approach does not have regard to national policy, which does not require viability to be established, nor with Local Plan policy D8 for the re-use of rural buildings. In its comments, the District Council drew my attention to the comments of the Bishops Clyst examiner on this matter, with which I agree. The policy sets out a set of 5 criteria which conversion proposals must meet. In its references to <i>'harmful impacts'</i>, <i>'unacceptable impacts'</i>, and <i>'unacceptable conflicts'</i>, I find that the policy does not have sufficient regard to the advice in the PPG in terms of clarity and precision and would not provide an applicant, or a decision maker, with a clear indication as to how an application might be considered and determined.</p>	<p>PM9- Modify policy EE1 to read:</p> <p><i>When considering proposals for the conversion of existing agricultural buildings for business or business related purposes, regard will be had to:</i></p> <ul style="list-style-type: none"> <i>i. The surrounding rural landscape;</i> <i>ii. The local road network and highway safety;</i> <i>iii. Agricultural and other land based activities in the area;</i> <i>iv. The amenities of neighbouring residents and other uses; and</i> <i>v. Whether the buildings can be converted without requiring substantial rebuilding or disproportionate extension.</i>

<p>Therefore, I am recommending that the policy is modified to clarify the matters which will be considered in an application but removing any value laden terminology</p>	
<p>The policy is awkwardly worded and it is unclear how developments could provide 'appropriate landscaping used where necessary to protect the quality of biodiversity, tranquillity and wildlife habitats'. Nor is there evidence as to why this would be necessary or even relevant in all cases. The 2nd part of the policy appears to be a repeat, but in the negative, of the first part and only adds confusion and imprecision to the policy. The 3rd part requires account to be taken of the 2010 report, referred to above. Whilst it provides useful information, it is not adopted guidance and is now of some age in a fast moving sector. Given that the report is also referred to in the policy justification, I see no benefit in referring to it in policy ELC1.</p>	<p><u>PM10- Modify part i) of policy ELC1 to read:</u></p> <p><i>Proposals for renewable or low carbon energy schemes should be small scale, sensitively sited, and where necessary appropriately landscaped, in order to protect the quality of the Blackdown Hills AONB's landscape, biodiversity, tranquillity and wildlife habitats.</i></p> <p><i>Delete parts ii) and iii).</i></p>
<p>As to policy ELC2, it is negatively worded and does not promote renewable and low carbon schemes, contrary to national policy which does not distinguish in terms of size, type or scale of development. In their comments, East Devon District Council have referred to a similar policy struck out by the examiner from the Stockland Neighbourhood Plan. Paragraph 184 of the NPPF advises that neighbourhood plans should not promote less development than set out in the Local Plan or undermine its strategic policies. In my judgement, policy ELC2 by resisting large scale renewable and low carbon energy schemes, conflicts with the positive approach outlined in the Local Plan to support schemes in principle and undermines its strategic policy Strategy 39.</p>	<p><u>PM11- Delete policy ELC2</u></p>

1.5 Upon publication of the report, Yarcombe Parish Council agreed with the recommendations made by the Examiner. They have produced a new version of the Plan to be submitted to referendum. This may be viewed here <http://eastdevon.gov.uk/planning/neighbourhood-and-community-plans/neighbourhood-plans/neighbourhood-plans-being-produced-in-east-devon/yarcombe/#article-content>

- 1.6 The legislation, which is reflected in our protocol, requires the Council to consider and respond to this report. The amendments suggested by Mrs O'Rourke mean that the Council can be satisfied that the Plan:
- has regard to national policies 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 of the development plan for the area;
 - does not breach, and is compatible with European Union obligations and the European Convention of Human Rights and therefore meets the 'Basic Conditions'.

Given that this is the case and the Basic Conditions are met, there are not considered to be any grounds to reject the findings of the report. Members are asked to agree to accept the recommendations of the examiner's report and agree that a notice to this effect be published.

- 1.7 The District Council will be responsible for arranging a referendum where all electors within the Parish of Yarcombe will be invited to vote on whether the Neighbourhood Plan should be used to make planning decisions in the Parish. If more than 50% of those who vote say 'yes' the Neighbourhood Plan will be made and will form part of the Development Plan for East Devon.

Report to: Cabinet
Date of Meeting: 14 June 2017
Public Document: Yes
Exemption: None



Review date for release None

Agenda item: 18

Subject: **Appointment of Inspector to Examine the Dunkeswell Neighbourhood Plan**

Purpose of report: This report is written to advise Cabinet that exemption to standing orders has been applied in order to appoint an independent examiner to examine the Dunkeswell Neighbourhood Plan. In order to secure a speedy examination and to accord with the wishes of the plan producers we have secured the services of Mary O'Rourke. Mary spent 24 years in the Planning Inspectorate and examined various structure and local plans, and nationally significant infrastructure projects. She is also an experienced Neighbourhood Plan Examiner, having recently examined the Coleshill Neighbourhood Plan (North Warwickshire) and the Yarcombe and Marsh Neighbourhood Plan in East Devon. Early adoption of the Neighbourhood Plan will help with establish a positive planning policy framework for the parish to inform determination of planning applications in Dunkeswell. She is scheduled to commence the examination on the 5 June 2017.

Recommendation: **To note the exemption to Contract Standing Order to enable the appointment of Mary O'Rourke to undertake the Examination of the Dunkeswell Neighbourhood Plan.**

Reason for recommendation: To ensure that an independent examiner is in place and appointed.

Officer: Claire Rodway, Senior Planning Officer, crodney@eastdevon.gov.uk
Tel: 01395 571543

Financial implications: The cost of the examination is a fixed £4,550 + VAT, rising to £7,000 + VAT if a hearing is necessary due to complexity (it is not envisaged this will be the case but this won't be known until the Examiner receives the files). Government funding of £20,000 is available to cover the cost of the examination once a date has been set for referendum for each plan.

Legal implications: The contract value falls below the threshold set out in the Public Contracts Regulations 2015 and therefore the EU procurement

procedure does not apply and an exemption can be validly given pursuant to the Council's Contract Standing Orders Rule 3.2.

Equalities impact:

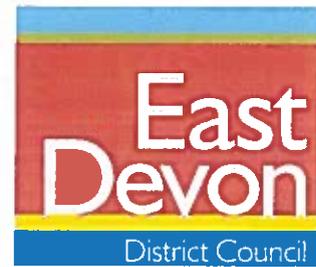
Risk:

Low Risk

A low impact is identified from the appointment.

**Link to Council
Plan:**

Living in this Outstanding Place.



REQUEST FOR EXEMPTION TO CONTRACT STANDING ORDERS

A request for exemption to Contract Standing Orders (CSO) can be made under CSO 3.1 – 3.5. No exemption can be used if the EU Procedure applies.

Name: Claire Rodway	Date: 8/05/2017
Service: Planning	Team: Planning Policy
Total contract value: £4,550 – £7,000 (+VAT)	

Background (including product and supplier details, costs etc):

Dunkeswell Parish Council have formally submitted their Neighbourhood Plan to EDDC for consideration. There is a legal requirement for us to appoint an Examiner to assess the Plan. We can use any appropriately qualified person, however to assist the process, and Officer assessment is that we wish to choose someone with significant experience of planning in a number of areas, preferably in examining Neighbourhood Plans and the planning inspectorate. Were we to use the RPTI founded NPIERS service we would be charged a standard rate of £750/day and be given the names of three Examiners without prior knowledge of their qualifications.

A service has recently been set up called Intelligent Plans and Examinations which employs individuals with significant experience in planning, mostly those with 10+ years in the planning inspectorate. The organisation advised that they could offer reduced fees to authorities commissioning them to conduct multiple examinations therefore we have negotiated a lower rate of £700/day as they have undertaken our last 3 examinations. They have provided a fixed cost for the examination of £4,550 if a hearing isn't required and £7,000 if a hearing is required. The organisation provided various names of available Examiner's and we selected Mary O'Rourke, in consultation with the group, as having the appropriate experience and because she recently carried out the examination of Yarcombe and Marsh Neighbourhood Plan which has similar policy and landscape considerations.

A DCLG grant of £20,000 should meet all costs associated with the examination, once a date has been set for referendum of the Neighbourhood Plan.

Business Reasons for an Exemption:

Although the following are justifiably accepted as valid reasons for an exemption to Contract Standing Orders, they are closely monitored and should be applied only in cases where a full procurement exercise is not a viable option. (Tick appropriate boxes)

	✓	Which CSO rule?
An Emergency		
Goods or Services to existing systems or kit		

Purchase or repair of patented or proprietary articles sold only at a fixed price		
Effective competition is prevented by government control		
Goods and/or Services recommended by a Central Government Department		
Extension to an existing contract for the purpose of achieving Best Value		
Purchase or Sale by Auction		
Where the Contract is with a Public Utility Company or other organisation which will assume liability for the works on completion e.g. sewer adoption		
Other Reasons (please provide details) Examiners have a flat rate charge of £750 + VAT when appointed through NPIERS and we have managed to negotiate a slightly lower fee in this instance. It is important that the right person with suitable experience is appointed and Mary O'Rourke has been selected for this reason.	✓	

Business Benefits for an Exemption:

Employing Ms O'Rourke will enable the examination to proceed without delay. We have negotiated a lower rate of £700 /day as opposed to the standard £750/day charged by NPIERS examiners and that we have previously paid for examinations undertaken in the district by Nigel McGurk.

What are the implications to the following:

Finance: Intelligent Plans and Examinations rate of £700 + VAT (and reasonable expenses) is to be met from the £20,000 DCLG budget. We have been provided with a fixed rate of £4,550 if a hearing isn't required and £7,000 if a hearing is required.

Human Resources: None

ICT: None

Asset Management: None

Strategic and/or Operational Objectives: None

Risk Assessment:

Detail risks here: That the Plan does not meet the basic conditions and is rejected (with the potential costs of a further examination). We are unable to claim the £20,000 funding from DCLG unless the examination is successful.

Or attach print from the RM system

<u>Signature of line manager or service head</u> 
<u>Supporting signature of Corporate Procurement Officer</u>
<u>Supporting signature of Head of Finance</u> 
<u>Supporting Signature of Corporate Legal & Democratic Services Manager</u> 

PLEASE NOTE

Rule 3.2 requires you to prepare a report for Cabinet to support the action taken. Procurement is required to keep a Register of Exemptions. **Please ensure that your report to Cabinet is copied to Procurement.**