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Report on Membury Neighbourhood Plan 2018 - 2031

An Examination undertaken for East Devon District Council with the support of the Membury Parish Council on the February 2018 submission version of the Plan.

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Main Findings - Executive Summary

From my examination of the Membury Neighbourhood Plan (the Plan /NP) and its supporting documentation, including the representations made, I have concluded that, subject to the policy modifications set out in this report, the Plan meets the Basic Conditions.

I have also concluded that:

- The Plan has been prepared and submitted for examination by a qualifying body – the Membury Parish Council;
- The Plan has been prepared for an area properly designated – the whole of the Parish of Membury, as shown on the back cover of the submitted Plan;
- The Plan specifies the period to which it is to take effect: 2018 - 2031; and
- The policies relate to the development and use of land for a designated neighbourhood area.

I recommend that the Plan, once modified, proceeds to Referendum on the basis that it has met all the relevant legal requirements.

I have considered whether the referendum area should extend beyond the designated area to which the Plan relates and have concluded that it should not.

1. Introduction and Background

Membury Neighbourhood Plan 2018 - 2031

- 1.1 Membury parish is located in an extremely rural part of the East Devon countryside within the Blackdown Hills Area of Outstanding Natural Beauty (AONB). The area is characterised by long uncluttered views from hilltops, with steep valleys connected by narrow lanes, mostly enclosed by Devon banks. The landscape has a general north to south grain and this is reflected in the elongated shape of the parish.
- 1.2 The 2011 Census lists 501 residents in Membury parish. The focal point of the parish is Membury village, just over 5 km to the north west of Axminster, which contains a church, primary school, pre-school and toddler facilities, Village Hall and a shop/Post Office/licenced Meeting Place and library.
- 1.3 Preparation of the NP began in 2014. A Steering Group was established by Membury Parish Council. An exhibition/consultation was held. Questionnaires were provided. The steering group organised further

exhibitions, surveys and presentations throughout the period from 2014 to 2017. The NP represents about 4 years' work by those involved.

- 1.4 The vision for the area derived from the results of questionnaires and local meetings is included on page 4 of the Plan and states: "*To maintain and enhance the unique character and sense of community within Membury parish whilst permitting small scale sustainable growth that is in line with the needs and wishes of the community.*"
- 1.5 Eight aims have also been listed, which lead to eight topics to be dealt with as policy areas: the natural environment, built and historic environment, housing and population, community facilities and services, managing flood risk, transport and access, economy and employment, energy and low carbon. The section on each topic includes the relevant aims and objectives, the background and reasoning for the subsequent policies, with a final section on community actions, where appropriate. The commendable logical presentation of the NP made it easy to read and understand.

The Independent Examiner

- 1.6 As the Plan has now reached the examination stage, I have been appointed as the examiner of the Membury Neighbourhood Plan by East Devon District Council (EDDC), with the agreement of the Membury Parish Council.
- 1.7 I am a chartered town planner and former government Planning Inspector and have experience of examining neighbourhood plans. I am an independent examiner, and do not have an interest in any of the land that may be affected by the draft Plan.

The Scope of the Examination

- 1.8 As the independent examiner, I am required to produce this report and recommend either:
 - (a) that the neighbourhood plan is submitted to a referendum without changes; or
 - (b) that modifications are made and that the modified neighbourhood plan is submitted to a referendum; or
 - (c) that the neighbourhood plan does not proceed to a referendum on the basis that it does not meet the necessary legal requirements.
- 1.9 The scope of the examination is set out in Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990 (as amended) ('the 1990 Act'). The examiner must consider:
 - Whether the Plan meets the Basic Conditions;

- Whether the Plan complies with provisions under s.38A and s.38B of the Planning and Compulsory Purchase Act 2004 (as amended) ('the 2004 Act'). These are:
 - it has been prepared and submitted for examination by a qualifying body, for an area that has been properly designated by the local planning authority;
 - it sets out policies in relation to the development and use of land;
 - it specifies the period during which it has effect;
 - it does not include provisions and policies for 'excluded development';
 - it is the only neighbourhood plan for the area and does not relate to land outside the designated neighbourhood area;
 - whether the referendum boundary should be extended beyond the designated area, should the Plan proceed to referendum; and
- Such matters as prescribed in the Neighbourhood Planning (General) Regulations 2012 (as amended) ('the 2012 Regulations').

1.10 I have considered only matters that fall within Paragraph 8(1) of Schedule 4B to the 1990 Act, with one exception. That is the requirement that the Plan is compatible with the Human Rights Convention.

The Basic Conditions

1.11 The 'Basic Conditions' are set out in Paragraph 8(2) of Schedule 4B to the 1990 Act. In order to meet the Basic Conditions, the neighbourhood plan must:

- Have regard to national policies and advice contained in guidance issued by the Secretary of State;
- Contribute to the achievement of sustainable development;
- Be in general conformity with the strategic policies of the development plan for the area;
- Be compatible with and not breach European Union (EU) obligations; and
- Meet prescribed conditions and comply with prescribed matters.

- 1.12 Regulation 32 of the 2012 Regulations prescribes a further Basic Condition for a neighbourhood plan. This requires that the neighbourhood plan should not be likely to have a significant effect on a European Site (as defined in the Conservation of Habitats and Species Regulations 2017) or a European Offshore Marine Site (as defined in the Offshore Marine Conservation (Natural Habitats etc.) Regulations 2007), either alone or in combination with other plans or projects.

2. Approach to the Examination

Planning Policy Context

- 2.1 The Development Plan for EDDC, not including documents relating to minerals and waste development, is the East Devon Local Plan (EDLP) 2013 – 2031 which was adopted in 2016. The East Devon Villages Plan (EDVP) 2016 – 2031 is at the examination stage, with Proposed Modifications to the submitted plan having been the subject of consultation.
- 2.2 The planning policy for England is set out principally in the National Planning Policy Framework (NPPF). The Planning Practice Guidance (PPG) offers guidance on how this policy should be implemented. PPG makes clear that whilst a neighbourhood plan is not tested against the policies in an emerging Local Plan, the reasoning and evidence informing the Local Plan process is likely to be relevant to the consideration of the Basic Conditions against which a neighbourhood plan is tested. It cites, as an example, that up-to-date housing needs evidence is relevant to the question of whether a housing supply policy in a neighbourhood plan contributes to the achievement of sustainable development¹. Paragraph 184 of the NPPF also provides, “The ambition of the neighbourhood should be aligned with the strategic needs and priorities of the wider area”. On this basis, I may refer to the emerging Local Plan, the EDVP, in the report.

Submitted Documents

- 2.3 I have considered all policy, guidance and other reference documents I consider relevant to the examination, including those submitted which comprise:
- the draft Membury Neighbourhood Plan 2018 - 2031;
 - the map on the back cover of the Plan which identifies the area to which the proposed neighbourhood development plan relates;
 - the Consultation Statement, January 2018;
 - the Basic Conditions Statement, February 2018;

¹ PPG Reference ID: 41-009-20160211.

- all the representations that have been made in accordance with the Regulation 16 consultation;
- the Strategic Environmental Assessment (SEA) and Habitat Regulations Assessment (HRA) Final Screening Report prepared by EDDC, January 2017;
- the Strategic Environmental Assessment Environmental Report, August 2017; and
- the request for additional clarification sought in my letter of 2 April 2018 and the responses on the 11 April 2018 provided by the Parish and District Councils, both of which are available on the Parish Council website².

Site Visit

2.4 I made an unaccompanied site visit to the NP Area on 6 April 2018 to familiarise myself with it and visit relevant sites and areas referenced in the Plan and evidential documents.

Written Representations with or without Public Hearing

2.5 This examination has been dealt with by written representations. I considered hearing sessions to be unnecessary as the consultation responses clearly articulated the objections to the Plan and presented arguments for and against the Plan's suitability to proceed to a referendum. As noted in paragraph 2.3 above, the Parish and District Council helpfully answered in writing the questions which I put to them in my letter of 2 April. No requests for a hearing session were received.

Modifications

2.6 Where necessary, I have recommended modifications to the Plan (**PMs**) in this report in order that it meets the Basic Conditions and other legal requirements. For ease of reference, I have listed these modifications separately in the Appendix.

3. Procedural Compliance and Human Rights

Qualifying Body and Neighbourhood Plan Area

3.1 The Membury Neighbourhood Plan has been prepared and submitted for examination by Membury Parish Council which is a qualifying body. The

² View at: <http://memburyparish.org.uk/planning/neighbourhood-plan>

NP states that it extends over the whole of Membury Parish. This constitutes the area of the Plan designated by EDDC on 2 April 2014. The NP includes a map on the back cover on which the area of the NP is delineated.

- 3.2 It is the only neighbourhood plan for Membury Parish and does not relate to land outside the designated neighbourhood area.

Plan Period

- 3.3 The front cover of the submission Plan specifies clearly the period for which it is to take effect (from 2018 to 2031).

Neighbourhood Plan Preparation and Consultation

- 3.4 The Consultation Statement, completed in January 2018, indicates a process of several stages from June 2014 to the approval of the NP by Membury Parish Council in November 2017 for submission to EDDC. The Consultation Statement describes the details of the public consultations, the questionnaires and the surveys.
- 3.5 The first NP exhibition was held between 20th June and 21st June 2014 attended by 129 adults and 40 children under 16. The next steps included a Neighbourhood Plan Questionnaire which was sent to each household in the parish, together with pupils and staff at the school. In order to clarify imprecision in population and housing, a Housing Needs Survey was then circulated to every household, with a further well-attended exhibition, to show the results of the questionnaire and the Housing Needs Survey. A final consultation was held on 9th April 2016 with an exhibition and an exit questionnaire indicating an overwhelming majority in favour of the Plan.
- 3.6 The Draft Plan was published for consultation under Regulation 14 of the 2012 Regulations for a period of six weeks from 14th August 2017 to 25th September 2017. Consultation in accordance with Regulation 16, when the Plan was submitted to EDDC, was carried out for a period of just over six weeks from 31st January 2018 until 16th March 2018. 9 responses were received. I am satisfied that a transparent, fair and inclusive consultation process has been followed for this Neighbourhood Plan that has had regard to advice in the PPG on plan preparation and is procedurally compliant in accordance with legal requirements.

Development and Use of Land

- 3.7 The Plan sets out policies in relation to the development and use of land in accordance with s.38A of the 2004 Act.

Excluded Development

- 3.8 The Plan does not include provisions and policies for 'excluded development'.

Human Rights

- 3.9 The Basic Conditions Statement advises that, in preparing the NP, regard was had to the fundamental rights and freedoms guaranteed under the European Convention on Human Rights and that it complies with the Human Rights Act 1998. EDDC has not alleged that Human Rights might be breached. I have considered this matter independently and I have found no reason to disagree with that position.

4. Compliance with the Basic Conditions

EU Obligations

- 4.1 The NP was screened for SEA and HRA by EDDC and submitted with the NP in accordance with the legal requirement under Regulation 15(e)(i) of the 2012 Regulations. The Council found that it was necessary to undertake SEA but not HRA. Natural England, when consulted, agreed with that assessment. So far as HRA was concerned, Natural England concurred with the view of EDDC that significant effects would be unlikely to occur to European sites, either alone or in combination. The NP Area includes Furley Chalk Pit geological Site of Special Scientific Interest. However, the designated features are not sensitive to air pollution impacts, such as car emissions, recreational pressure or water quality impacts. The site is therefore, unlikely to be affected by impacts from small scale housing in nearby settlements or other plan proposals
- 4.2 Nevertheless, the Plan provides for small scale expansions at Membury village and hamlets in the Plan area which is within the Blackdown Hills Area of Outstanding Natural Beauty (AONB), a nationally designated landscape. According to Natural England, when the EDLP was prepared, the SEA did not consider the amount of development potentially sought in the Membury NP Area. Therefore, Natural England recommended that SEA of the NP should be undertaken, focussing on the likely effect on the AONB.
- 4.3 EDDC commented that the Membury NP would be likely to have a significant environmental impact beyond that which was previously identified through the SEA of the EDLP. Membury is located in a sensitive area in the district and the policies of the Plan would result in further development in the villages and hamlets, in locations not generally accessible to local services and facilities. EDDC recommended that the

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environmental impact of the proposals should therefore be considered through an accompanying SEA to the NP. Having read the SEA and HRA Screening Opinions and the other information provided, and considered the matter independently, I agree with those conclusions.

- 4.4 Accordingly, an SEA Environmental Report was prepared on behalf of Membury PC and published along with the NP during the Regulation 14 consultation period of six weeks. The SEA Environmental Report drew attention to significant positive effects of the Plan (housing provision, access to cultural, social and leisure provision, landscape character) and some uncertain effects (local character, biodiversity and greenhouse gas emissions). A minor negative effect was identified relating to climatic factors.
- 4.5 The SEA report recommended mitigation for the minor negative and uncertain effects. The recommendations focussed on the detailed wording of policies. The changes to the Plan as a result of the mitigation have consequently altered the SEA Screening Report conclusions. Effects which previously were described as uncertain in the SEA Screening Report have now become defined as positive. Therefore, overall, I am satisfied that the NP is compatible with EU obligations.

Main Issues

- 4.6 Having considered whether the Plan complies with various procedural and legal requirements it is now necessary to deal with whether it complies with the Basic Conditions, particularly the regard it pays to national policy and guidance, the contribution it makes to the achievement of sustainable development and whether it is in general conformity with strategic development plan policies. I test the Plan against the Basic Conditions by considering specific issues of compliance of all the Plan's policies.
- 4.7 As part of that assessment, I consider whether the policies are sufficiently clear and unambiguous, having regard to advice in the PPG. The NP should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. It should be concise, precise and supported by appropriate evidence³.
- 4.8 Having regard to the Membury NP, the consultation responses, other evidence⁴ and the site visit, I consider that there are three main issues relating to the Basic Conditions for this examination. These are:

³ PPG Reference ID: 41-041-20140306.

⁴ The other evidence includes my letter to the Parish and District Councils seeking clarification and the replies.

Issue 1: Whether the proposals for homes are in general conformity with the adopted strategic planning policies (and align with those emerging), whether they would contribute to the achievement of sustainable development and whether they have regard to national policy and guidance.

Issue 2: Whether the proposals for safeguarding the character and appearance of the natural, built and historic environment have regard to national guidance, contribute to sustainable development and generally conform with strategic statutory planning policies, striking the right balance with rural needs.

Issue 3: Whether the remaining policies (other matters) in the Plan provide an appropriate framework to shape and direct sustainable development whilst maintaining the essential character of the Plan area and supporting essential facilities and services in meeting the Basic Conditions.

Issue 1: Whether the proposals for homes are in general conformity with the adopted strategic planning policies (and align with those emerging), whether they would contribute to the achievement of sustainable development and whether they have regard to national policy and guidance.

- 4.9 The EDLP envisages that the majority of the 6,781 new houses allocated in the District during the period of the Plan will be accommodated at the West End (part of the Exeter Sub Region) and the Area Centres. Villages and Rural Areas would accommodate 206 dwellings, excluding windfall development⁵. Strategy 6 of the EDLP provides for the definition of Built-Up Area Boundaries (BUAB) around certain towns in East Devon which are considered appropriate through strategic policy to accommodate growth and development. The emerging EDVP is defining BUABs for a list of selected villages, which does not include Membury.
- 4.10 Nevertheless, Strategy 6 also states that where a local community prepares a neighbourhood plan they may specifically allocate sites and/or include criteria based or other policies for promoting development/land uses beyond the boundary. Such "outside of boundaries" policy provision would supercede relevant constraint considerations set out in Strategy 7 Development in the Countryside and also other relevant constraint policies.
- 4.11 EDLP defines the countryside as all those parts of the Plan area that are outside the BUABs and site-specific allocations shown on the Proposals Map. Strategy 7 states that development in the countryside will only be permitted where it is in accordance with a specific Local or Neighbourhood

⁵ EDLP Strategy 2, Page 32 and EDLP Paragraph 6.13.

Plan policy that explicitly permits such development and where it would not harm the distinctive landscape, amenity and environmental qualities within which it is located, including the land form and patterns of settlement.

- 4.12 Therefore, the spatial strategy of the EDLP is to focus new development mainly on the West End (part of the Exeter sub region) and the seven main towns of the district. Outside these locations, a moderate level of growth will be focused in the smaller towns and larger villages, particularly where this meets local needs, for affordable housing, new jobs or sheltered homes. Suitability of places for growth and the scale and nature of that growth should be determined on the basis of a range of social, environmental and economic issues and should be informed by detailed local needs studies and village or parish plans⁶.
- 4.13 The EDLP also states that some settlements may wish to see development to help deliver facilities or provide housing to meet a specific need. This will be acceptable provided it is justified by evidence and a Neighbourhood Plan demonstrating that the local community is supportive⁷.
- 4.14 The NP Area lies in open countryside as defined by the EDLP and hence falls under Strategy 7. The NP states that it seeks to modify this status by recognising the impact that the (named) hamlets have in supporting the parish as a whole and that parishioners would wish to see development spread across the parish.
- 4.15 Policies dealing with housing in the Plan are covered in Policies HP1 to HP5. Policy HP1 states that, within the Plan period, the numbers of “new build” dwellings to be developed should not exceed 15, providing they are “infill” within Membury or in the named hamlets of Furley, Longbridge, Rock and Webble Green and there are no more than 3 “new builds” in any of those places over the Plan period, other than development in accordance with Policies HP3 and HP4. The NP defines “infill” as a plot between houses within the existing hamlet developed envelope which is capable of taking up to six dwellings. The reasoning for Policy HP3 indicates that any community housing or development of suitable accommodation for older residents should only be built within the Membury village built up envelope.
- 4.16 I have very strong reservations about the locational principles of the housing policies which seek to enable dwellings to be built in open countryside, albeit in four named hamlets. The EDLP indicates that in rural areas outside villages the policy approach is one of development constraint and countryside conservation, whilst recognising the needs of

⁶ EDLP Paragraph 15.2 a).

⁷ EDLP Paragraph 15.3.

those who live or work there. There will be scope for small villages without BUABs to benefit from limited development specifically to meet a proven local need, for instance for affordable housing or local employment, but generally these settlements will be expected to look to the larger villages and towns to provide general housing, employment and facilities. I note that, prior to the adoption of the EDLP, Membury used to have a BUAB. However, this is no longer the case and Membury is not identified in the emerging Villages Local Plan as a village where a BUAB is being defined.

- 4.17 Strategies 6 and 27 of the EDLP enable development to be proposed at settlements without a BUAB by the production of a Neighbourhood Plan. The definition of a settlement is not included in the EDLP but whereas, due its size and function, I accept that Membury is a settlement, I consider that Rock, Furley, Webble Green and Longbridge are hamlets and are locations in the open countryside where the EDLP would not normally seek to locate new houses. Therefore, in this regard, Policy HP1 is not in general conformity with strategic policies and I shall recommend the deletion of the named hamlets.
- 4.18 I realise that a strong theme of the Plan is to disperse development away from Membury village and several reasons are given. The NP states that the EDLP restriction on "small scale (hamlet) development" will encourage an ageing population, but there is no evidence that this would be the case any more than building focussed on Membury. The higher than national average number of people working from home and the investment in broadband facilities are not sound reasons to encourage the building of new houses in the four small hamlets in the open countryside in the AONB. The dispersal of new houses to the hamlets outside Membury would encourage car usage to obtain services and facilities found in the village. There is no public transport and the interconnecting lanes are very narrow, mostly steep and lack safe paths. I agree that maintaining the primary school and the pre-school facilities are important. However, any children from Longbridge or Webble Green may well use educational facilities at Stockland rather than Membury.
- 4.19 Finally, the Statement of Principle in the NP emphasises the risk of flooding as a reason why development in Membury village should not be the only focus of new additional housing in the parish. The Environment Agency flood risk map shows that the lowest parts of the valley where Membury is built are defined as Flood Zone 3. There is no evidence to indicate whether the Zone is Flood Risk 3a or 3b but, assuming the least worst case, the more vulnerable uses such as buildings used as dwelling houses, should only be permitted in Flood Zone 3 following the Sequential and the Exception Tests because sites have not been allocated in a development plan, neither the EDLP nor this Plan⁸.

⁸ NPPF paragraphs 100 – 104 Technical Guidance to the NPPF paragraphs 3 – 5 & Table 2. Intelligent Plans and Examinations (IPE) Ltd, Regency Offices, 37 Gay Street, Bath BA1 2NT
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- 4.20 Furthermore, two of the named hamlets, Rock, just to the south and downstream of Membury, and Longbridge, adjacent to the River Yarty, are also within Flood Zone 3. The same circumstances as described above would apply and the development proposed by the NP in those named hamlets would have to be subject to the same level of testing, in which case the avoidance of flood risk sought in the Plan would not occur.
- 4.21 Therefore, I consider that any new housing development as provided for in the Plan should only be located at Membury village. There may still be issues of flood risk and, given the narrow and steep roads, access. However, for development management purposes, this Plan has to be read alongside the EDLP as part of the development plan. Proposals for development would have to satisfy Policies 21 and 22 regarding flooding and surface water run-off, Policy TC7 which concerns the adequacy of the road network and site access and other relevant policies of the EDLP. Accordingly, I recommend the deletion of the Statement of Principle focussing new housing development on Membury and the four named hamlets. **(PM1)**
- 4.22 NP Policy HP1 requires that new housing development should be built as infill, which is defined as a plot between houses within the existing hamlet developed envelope, capable of taking up to six dwellings. I have already concluded that there should be no provision for new houses in the hamlets. Moreover, this definition, combined with the Policy HP1 3), lacks the necessary precision for effective development management. The existing developed envelope is not defined and, from what I saw on my inspection of the various loosely scattered groups of dwellings, such a delineation would be extremely difficult. Infill is normally taken to mean minor housing development in an appropriate location surrounded by other houses, whereas building six dwellings at any of the named hamlets would be far from small scale in relation to what currently exists. I recommend that the definition of infill should be deleted. **(PM2)**
- 4.23 Policy HP1 4) limits the "new builds" to no more than 3 in the village or named hamlets over the Plan period. Consequent on my recommended deletion to the reference to named hamlets, criterion 4) should be deleted.
- 4.24 Policy HP1 5) states that the cumulative "new build" within the whole parish over the Plan period should not exceed 10 to 15 new properties. Given that I am recommending that the focus of new housing should be at Membury village, I shall modify the policy accordingly. Furthermore, relating the new housing limitation to the whole parish would not take into account any dwellings permitted under EDLP Policy H4 for those employed in rural businesses. In order to be sufficiently clear, I shall place the housing limitation at 15 new dwellings permitted over the Plan period

which would meet the aspirations of the NP for the parish and which would still be subject to criteria 1) and 2) of Policy HP1. I have recommended appropriate modifications to the policy to reflect my conclusions outlined above. **(PM3)**

- 4.25 I appreciate that concentrating new housing at Membury village may not be the preferred approach within Membury parish, as illustrated in the responses to the questionnaire on page 22 of the Plan. However, paragraph 8(2) of Schedule 4B to the 1990 Act provides that the neighbourhood plan must be in general conformity with the strategic policies contained in the development plan for the area. Development as proposed in the named hamlets would not be in general conformity with the EDLP. In the NP, one of the reasons to spread the development across Membury and the named hamlets is to avoid excessive flood risk in the village. However, any new housing development has still to satisfy NP Policy F1 and EDLP development management Policies 21 and 22 and it may be that, if planning permission is not achievable due to flood risk, the village is not capable of accommodating additional new housing, even at the small scale envisaged.
- 4.26 Policy HP2 considers attached and detached residential annexes with the aim of accommodating family members. On the basis of the possibility of a detached family annexe being allowed in the grounds of a property deemed sufficiently large to accommodate it and with the personal circumstances subsequently changing (e.g. young family members moving on, or elderly family members passing away), I questioned whether the local planning authority was satisfied that reasonable development management measures would enable such an annexe to be maintained for the permitted purpose and not turned into another ancillary use such as holiday accommodation, or indeed segregated from its host dwelling. However, EDDC accepted that Policy HP2 could be effectively managed through planning conditions to ensure annexes are maintained for the permitted purpose only⁹. Therefore, I am satisfied that the policy would be in general conformity with the EDLP.
- 4.27 Policy HP3 seeks to meet the need for community housing. The Plan explains that such housing should only be accepted in Membury village and would be additional to the 3 “new builds” provided for in Policy HP1 as submitted. Policy HP1, as recommended to be modified, would focus development on Membury village and would not limit development to three “new builds” over the Plan period, but the aim of the policy is still sound and in general conformity with the EDLP.
- 4.28 Policy HP4 considers the reuse of redundant or disused buildings which would result in the enhancement of its immediate setting. I consider that

⁹ EDDC Response to my questions of 2 April 2018 dated 11 April 2018.

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the policy would be in general conformity with Policy D8 of the EDLP and also has regard to paragraph 55 of the NPPF.

- 4.29. Policy HP5 aims to support small scale self-build housing development which is encouraged in paragraph 50 of the NPPF. Criterion 5 of the policy refers to building in the named hamlets which I have recommended to be deleted from Policy HP1 and I shall recommend that they should be deleted from Policy HP5 for the same reasons. Paragraph 55 of the NPPF states that local planning authorities should avoid new isolated homes in the countryside. The phrase "are located within the built extent and be well related to..." is too imprecise for effective development management so I shall recommend adoption of the criteria for new housing development in Policy HP1. **(PM4)**
- 4.30. Accordingly, with the recommended modifications, I consider that the policies concerning the provision of homes would generally conform with strategic statutory policies, would contribute to the achievement of sustainable development and have due regard to national policy and guidance. Therefore, the Basic Conditions are met.

Issue 2: Whether the proposals for safeguarding the character and appearance of the natural, built and historic environment have regard to national guidance, contribute to sustainable development and generally conform with strategic statutory planning policies, striking the right balance with rural needs.

- 4.31 The conservation and enhancement of the natural beauty of the parish and the preservation of tranquillity and dark skies are considered in Policies NE1 and NE2. Policy NE1 would fit with the aims described in paragraph 18.31 of the EDLP for conserving and enhancing the landscape of East Devon and would be in general conformity with paragraph 109 of the NPPF.
- 4.32 The aims of Policy NE2 have regard to paragraphs 123 and 125 of the NPPF, subject to the introduction of the test of significance. This would also ensure general conformity with the EDLP paragraph 22.18. **(PM5)**
- 4.33 Policies BHE1 and BHE2 seek to protect historic assets and maintain high quality design. The protection of the setting of listed buildings and monuments is referred to in the title of Policy BHE1 but not the text. Therefore, I shall modify point 2) accordingly. **(PM6)** Point 1) of the policy considers the impact of the delivery of construction materials on lanes leading to and from a site of development. As mentioned by Membury Parish Council in response to one of my questions, it is a matter for the highway authority and not the NP and so should be deleted from the policy. The point is also too imprecise for any effective development management.

- 4.34 Nevertheless, considering the very narrow lanes and high Devon banks in the area, I can appreciate the concern and suggest (rather than recommend) that the point could be developed as one of the Community Actions listed following the policy. Policy BHE1 3) states that proposals for development will only be supported where they encourage the enhancement of listed assets. Firstly, there is no basis for seeking such enhancement where proposals have no adverse effect on a heritage asset or its setting. Secondly, it would be unreasonable to seek enhancement of a heritage asset in one part of the NP area, e.g. Membury, if the proposed development was located in the north of the parish. Therefore, I shall delete the point from the policy. **(PM7)**
- 4.35 Policy BEH2 seeks high quality design and is in general conformity with EDLP Policy D1 Design and Local Distinctiveness. Accordingly, with the recommended modifications, I consider that the natural, built and historic environment policies have regard to national guidance, contribute to sustainable development and generally conform with strategic statutory planning policies, striking the appropriate balance with rural needs, thereby meeting the Basic Conditions.

Issue 3: Whether the remaining policies (other matters) in the Plan provide an appropriate framework to shape and direct sustainable development whilst maintaining the essential character of the Plan area and supporting essential facilities and services in meeting the Basic Conditions.

- 4.36 There are three policies which consider community services and facilities. Policies CFS1 and CFS3 seek to protect, maintain and increase the range of facilities which serve the local community. Policy CFS2 supports the provision of facilities at Membury Primary Academy. The policies have regard to NPPF paragraph 70 and are in general conformity with EDLP Strategy 32, subject to the change in the period of marketing in Policy CF3 point 2 in order to be consistent with point 3 of Strategy 32. This would alter "at least two years" to "at least 12 months (and up to 2 years depending on market conditions)". **(PM8)**
- 4.37 Policy F1 aims to control and possibly reduce flood risk by requiring a flood risk assessment for all proposals for development in an area defined on Map F1. EDLP Policies 21 and 22 each deal very comprehensively with river and coastal flooding and surface run off implications for new development. Policy F1 extends the scope of managing flood risk beyond the EDLP policies by extending the requirement for a flood risk assessment to proposals beyond Flood Zones 2 and 3 and into Flood Zone 1 on the edge of Membury village. However, given the evidence of the incidents of flash flooding and the likelihood of critical drainage problems, I accept that this section of the policy has regard to the objectives of NPPF guidance to ensure flood risk is not caused outside the site of a planning

application¹⁰. Moreover, EDDC has not challenged Policy F1 in its Regulation 16 response.

- 4.38 However, Policy F1 also seeks to remove permitted development rights in cases where development is permitted within the area delineated on Map F1. It is not clear which classes of development are sought to be included, given that there are many types of building works and changes of use which could fall within “permitted development”, many of which would not have any impact on flood risk¹¹. In any event, if planning permission is sought for development on land within the zone shown on Map F1, standard EDDC development management procedures would enable the consideration of whether certain permitted development rights should be withdrawn and would be assessed depending on the circumstances of the case. I shall recommend the appropriate modifications to Policy F1. **(PM9)**
- 4.39 The support for public footpaths and bridleways is addressed in Policy TRA1 which is in general conformity with EDLP Policy TC4 and has regard to NPPF paragraph 75.
- 4.40 Policies EE1, EE2 and EE3 consider economy and employment. Policy EE1 supports the development of super-fast broadband infrastructure which is recognised as a frequent defect in rural areas in East Devon and a hindrance to business start-up and expansion¹². The NPPF states that high quality communications infrastructure is essential for sustainable economic growth¹³.
- 4.41 Policy EE2 supports the conversion of agricultural buildings for business or business-related purposes, subject to certain criteria. The policy has regard to the aim to support a prosperous rural economy in the NPPF¹⁴. The policy is also in general conformity with EDLP Policy D8 Re-Use of Buildings Outside Settlements. Policy EE3 deals with Farming (New Development Proposals) and seeks to protect or enhance best farming practice, especially due to the impact on the AONB landscape. I consider the policy has regard to the protection of the landscape in the AONB as advised in the NPPF and is in general conformity with Policy D7 of the EDLP¹⁵.
- 4.42 Policies ELC1 and ELC2 address small scale and large scale renewable and low carbon energy schemes and support such schemes provided that

¹⁰ NPPF paragraph 103.

¹¹ See Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

¹² EDLP paragraph 15.17.

¹³ NPPF paragraphs 42 and 43.

¹⁴ NPPF paragraph 28.

¹⁵ NPPF paragraph 115.

certain environmental criteria are met, which I believe are appropriate considering the whole of the NP area is within an AONB. Such safeguarding is consistent with balancing the weight given to conserving the landscape and scenic beauty of AONBs with approving an application if its impacts are (or can be made) acceptable¹⁶. The policies are also in general conformity with Strategy 39 of the EDLP.

- 4.43 Therefore, with the recommended modifications, I consider that the policies on other matters would be in general conformity with the strategic statutory policies and would both contribute to the achievement of sustainable development and have regard to national policy and guidance. Accordingly, the Basic Conditions are met.

Community Actions

- 4.44 Each section of the NP includes a list of Community Actions and Projects which are derived from the various consultations carried out during the preparation of the Plan. They are not within the scope of the Plan, but would bring wider benefits to the area and help to meet the Plan's vision, aims and objectives. The actions reflect the positive involvement of the community in the neighbourhood planning process and wider aspects of life in Membury.

5. Conclusions

Summary

- 5.1 The Membury Neighbourhood Plan has been duly prepared in compliance with the procedural requirements. My examination has investigated whether the Plan meets the Basic Conditions and other legal requirements for neighbourhood plans. I have had regard to all the responses made following consultation on the NP, and the evidence documents submitted with it.
- 5.2 I have made recommendations to modify a number of policies and text to ensure the Plan meets the Basic Conditions and other legal requirements. I recommend that the Plan, once modified, proceeds to referendum.

The Referendum and its Area

- 5.3 I have considered whether or not the referendum area should be extended beyond the designated area to which the Plan relates. The Membury NP, as modified, has no policy which I consider significant enough to have an impact beyond the designated Neighbourhood Plan boundary, requiring the referendum to extend to areas beyond the Plan boundary. I

¹⁶ NPPF paragraphs 98 and 115.

recommend that the boundary for the purposes of any future referendum on the Plan should be the boundary of the designated Neighbourhood Plan Area.

Overview

- 5.4 The Parish Council is to be commended for its efforts in producing a well-structured and very descriptive, concise document. Incorporating the modifications I have recommended, the NP will make a positive contribution to the development plan for the area and help to strike the right balance between additional small scale development in Membury, the safeguarding of the area from flooding and the protection of the character and appearance of the surrounding countryside.

Andrew Mead

Examiner

Appendix: Modifications

Proposed modification no. (PM)	Page no./ other reference	Modification
PM1	Page 25: Statement of Principle	Delete the Statement of Principle.
PM2	Page 25: Definition of Infill	Delete the Definition of Infill.
PM3	Policy HP1	<p>Delete policy HP1 and substitute:</p> <p>“Policy HP1 – Meeting new build within Membury</p> <p>Any proposals for new housing development must meet the requirements and standards of the Design Statement, not detract from the landscape and not increase flood risk to others and will be supported:</p> <ol style="list-style-type: none"> 1) where they are of appropriate type, design, and scale to the village, and 2) providing the cumulative effect does not harm the heritage or character of the village, and 3) the cumulative new build within the whole parish over the plan period does not exceed 15 properties.”
PM4	Policy HP5	<p>Delete point 5) and substitute:</p> <p>“5) are located within Membury village and meet the criteria of Policy HP1.”</p>
PM5	Policy NE2	<p>Change “... no adverse effect ...” in points 1) and 2) to:</p> <p>“... no significantly adverse effect...”</p>
PM6	Policy BHE1	<p>Include in point 2): “... historic assets and their settings in the parish...”</p>

PM7	Policy BHE1	Delete point 1) from the policy. Delete point 3) from the policy.
PM8	Policy CFS3 2)	Delete "... at least two years ..." and substitute: "... at least 12 months (and up to 2 years depending on market conditions) ... "
PM9	Policy F1 a) 2	Delete a) 2 from the policy.