

Report to: Cabinet
Date of Meeting: TBC (20th May meeting cancelled)
Public Document: Yes
Exemption: None



Review date for release None

Agenda item: To be completed by Democratic Services.

Subject: **Response to the Newton Poppleford & Harpford Neighbourhood Plan Submission**

Purpose of report: To agree the response by this Council to the current Regulation 16 submission consultation for the Newton Poppleford & Harpford Neighbourhood Plan.

Recommendation:

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

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

Officer: Angela King, Neighbourhood Planning Officer,
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Financial implications: No specific financial considerations at this stage

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

Regulation 16 of the Neighbourhood Planning (General) Regulations 2012 requires EDDC, as local planning authority, to publicise the neighbourhood plan proposal etc. on our website and also in such other manner as we consider is likely to bring the proposal to the attention of the people who live, work or carry on business in the neighbourhood area. EDDC is alert to the implications of the current pandemic on the publicising of the plan documents and problems which may arise from accessing the documents due the closure of the Council offices and public libraries.

EDDC has therefore, as well as publicising the neighbourhood plan documents on its website, endeavoured to ensure anyone who wishes to view a hard copy of the plan documents may do so by contacting the Council or the Parish Council. The Neighbourhood Plan group have also circulated posters around the parish, emailed businesses and members of the public as well as carried out a post drop to members of the public who commented with postal addresses and email addresses to the 2020 consultation. Together with the EDDC website, the Parish Council website also sign posts the consultation.

Equalities impact:

Low Impact

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

Risk:

Low Risk

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

Links to background information:

- [The Localism Act](#)
- [Plain English Guide to the Localism Act](#)
- [National Planning Policy Framework \(2019\)](#)
- [National Planning Policy Framework: \(2012 version applies for the examination of this plan based on submission date\)](#)
- [Neighbourhood Planning Regulations](#)
- [East Devon Neighbourhood Planning](#)

Link to Council Plan:

Neighbourhood planning helps to deliver the priorities identified in the Council plan by actively encouraging, promoting and supporting the development of:

Outstanding place and environment

Outstanding homes and communities

Outstanding economic growth, productivity and prosperity

1.0 Report Summary

- 1.1 Newton Poppleford & Harpford Parish Council submitted their Neighbourhood Plan to the District Council and the Regulation 16 submission consultation commenced on 18 March 2020. The District Council is required to formally consult on the Plan for a minimum of 6 weeks before appointing an independent Examiner to inspect the Plan against a series of conditions that must be met in order for it to proceed to a referendum.
- 1.2 During this consultation the District Council has the opportunity to comment on the Neighbourhood Plan. This report is brought before Members with a request that they endorse the Officers' observations, which are set out at the end of this report, as the formal representation on the plan.

2.0 Background to the Newton Poppleford & Harpford Neighbourhood Plan

- 2.1 Newton Poppleford & Harpford Parish Council commenced work on their Neighbourhood Plan following their Neighbourhood Area being designated on 14 June 2014.
- 2.2 Since then, the Parish Council and volunteers from the local community have spent considerable time and effort consulting with residents of the parish and producing a plan which reflects the aspirations of the community with regards to the use of land until 2031.
- 2.3 The Newton Poppleford & Harpford Neighbourhood Plan contains 29 policies (relating to: the strategic transport network, environmental protection; housing, heritage and design; education, community facilities and leisure; local green space, trees and hedgerows; local medical facilities, and; employment and Business) designed to protect and enhance the special qualities of the Parish of Newton Poppleford & Harpford. The Plan aims to secure a sustainable future for the area in environmental, economic, and social terms.
- 2.4 Prior to submitting the Plan to East Devon District Council, Newton Poppleford & Harpford Parish Council have held their own 6 week public consultation on a draft version of the plan; a step which is also required by the Neighbourhood Planning (General) Regulations 2012 (Regulation 14). The group took into consideration comments made during this stage and updated the plan for submission to East Devon District Council.

3.0 Submission of the Newton Poppleford & Harpford Neighbourhood Plan

- 3.1 The District Council has received a Neighbourhood Plan from Newton Poppleford & Harpford Parish Council. [The Plan and its supporting documents are available to view.](#)
- 3.2 This is the twentieth neighbourhood plan to reach submission stage in the District. The Parish Council has received regular support from the District Council and additional financial support from MHCLG.
- 3.3 The statutory regulations require that the District Council organise and undertake a consultation on a plan when it reaches this stage. This is commonly referred to as the submission or 'formal' 6 week consultation. The consultation period commenced on 18

March and is due to finish on 1 May 2020. The Plan proposal has been publicised through notices on the District Council website and an email sent to all the bodies mentioned in the consultation statement, including adjoining authorities and the statutory consultees of Devon County Council, Natural England, Historic England and the Environment Agency.

3.4 One of the statutory roles of the District Council is to consider whether the Plan meets, in production process terms, the legislative requirements. Cabinet has previously endorsed a protocol for District Council involvement into neighbourhood plans and in accordance with this protocol an officer review has been completed. Officer assessment is that legislative requirements are met.

3.5 Anyone may comment on a neighbourhood plan. It is particularly important that the District Council comments, given that the Newton Poppleford & Harpford Neighbourhood Plan (if adopted) will form part of the Development Plan, and should conform to the strategic policies of the Local Plan. This report provides the recommended representations on the Plan, made by officers of this authority, to be submitted to the Examiner undertaking the Plan examination.

4.0 Neighbourhood Plan Examination and Referendum

4.1 Following the consultation the District Council must appoint an 'appropriately qualified and independent Examiner' agreed with Newton Poppleford & Harpford Parish Council. All responses from the six week consultation (including any made by this council) will be forwarded to the Examiner who will consider them, either by written representations or at an oral hearing (if s/he decides one is necessary). The District Council is responsible for paying the costs of the examination although the District Council can recoup these expenses by claiming funding from Central Government of £20,000 once a date has been set for referendum following a successful examination.

4.2 The Parish Council have indicated that a preference to use Jill Kingaby as their examiner, as she has experience of examining Neighbourhood Plans in East Devon (with Exmouth and Otterton being the most recent).

4.3 The Neighbourhood Plan examination is different to a Local Plan examination. The Examiner is only testing whether the plan meets the Basic Conditions and other relevant legal requirements – they are not testing the soundness of the plan or looking at other material considerations. The Examiner will be considering whether the plan:

- has appropriate regard to national policy and advice contained in guidance issued by the Secretary of State
- contributes to the achievement of sustainable development
- is in general conformity with the strategic policies in the development plan for the local area
- is compatible with human rights requirements
- is compatible with EU obligations.

- 4.4 As part of the Development Plan used in future planning decisions, it is in the interests of the District, Town and Parish Councils to produce high quality neighbourhood development plans.
- 4.5 Following the examination, the Examiner's Final Report will set out the extent to which the draft plan proposal meets the Basic Conditions and what modifications (if any) are needed to ensure it meets the Basic Conditions. The Examiner has 3 options for recommendation:
- A. That the Plan proceeds to referendum as submitted.
 - B. The Plan is modified by the District Council to meet Basic Conditions and then the modified version proceeds to referendum.
 - C. That the Plan does not proceed to referendum.

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

- 4.6 Once the Plan has been modified it will be subject to a referendum where everyone on the electoral roll (for the defined area) will have a right to vote for or against it. If at least half of votes cast support the Plan then it can be brought into legal force. It should be noted that due to the Coronavirus Act 2020 and the Local Government and Police and Crime Commissioner (Coronavirus) (Postponement of Elections and Referendums) (England and Wales) Regulations 2020 made in response to the coronavirus crisis, the referendum will not be able to take place until after 6 May 2021.

5.0 The Newton Poppleford & Harpford Neighbourhood Plan Response

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

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

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

| EDDC Comment No. | Reference / Policy No. | Comment |
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| 1 | Policy T1 | <p>Adequate Parking The Policy should state the specific requirements, in place of the examples given, in order to clarify what they are for developers and the LPA and therefore increase the ability to apply and enforce the policy. As previously agreed, replace ‘e.g.’ with ‘This means that’.</p> |
| 2 | Policy T2 | <p>Traffic Calming Criterion a) road safety – change to ‘road safety will be a priority in design terms...’</p> <p>Criterion c) HGV movements - suggest replace the term increase with ‘will generate new’ and suggest that ‘existing’ is deleted, as these are not known, so that new movements can be assessed as part of the application and refused if it is deemed to be excessive.</p> <p>The requirement for parish council sign off of a Transport Statement or Assessment should be removed as final sign off is the role of the Local Planning Authority, following consultation with the Parish Council.</p> |
| 3 | Policy T3 | <p>Rights of Way Suggest move the aspiration for a “future Parish “Footpath and Cycling Strategy” out of the Policy and into an Objective.</p> |
| 4 | Policy EP1 | <p>Conservation and enhancement of the East Devon AONB and Natural Environment The reference to Map 9 detailing cherished public views is welcomed but the map title only describes them as seven ‘sample views’. The map should make direct reference to the policy and describe the views as ‘cherished public views’.</p> <p>Suggest the penultimate sentence be amended to state “Proposals to facilitate the RSPB taking over management of the Old Quarry in Venn Ottery will be supported, subject to compliance with other policies.”</p> <p>Suggest a further revision of the wording of criteria (f) for clarity to: “not protrude above, or appear dominant when viewed against, skylines or significant lines or groups of large, mature trees”</p> |
| 5 | EP2 | <p>Development on designated Floodzones This policy is not considered to fully reflect the sequential test approach as set out in the NPPF. However, in line with prior comments, Policy EP2 is considered to be made redundant by Policy EP4 and should therefore be deleted.</p> |
| 6 | EP3 | <p>Minimise damage to existing properties Would query whether this policy needs to apply to <u>all</u> development – including changes of use and small house extensions.</p> <p>Suggest minor re-word of the policy title to “<u>Minimising</u> damage to existing properties”.</p> |

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| 7 | EP4 | <p>Flood Risk Assessment</p> <p>As above, we would suggest that having regard to the contents of Policy EP4, Policy EP2 is made redundant and should be deleted.</p> <p>The policy should give appropriate emphasis to the sequential test which must always be applied. The Policy should be re-worded to make clear the sequential text must be done first with references to the advice in the PPG.</p> <p>To this end, the following amendments are suggested:</p> <p>Amend policy title to “Flood Risk”</p> <p>Amend wording to avoid pre-empting the outcome of an FRA to: “...Flood Risk Assessment that establishes whether the development will be safe, without increasing flood risk elsewhere and, whether it is possible for flood risk overall to be reduced”.</p> <p>Amended wording to reflect the most up to date information available on flood risk as follows, “Residential developments within flood zones 2 or 3, in flood zone 1 (over 1 hectare in size), or in areas affected by other sources of flooding (for example surface water flooding), as identified in the Strategic Flood Risk Assessment for the area, or other more recent information, should be subject to a site-specific flood risk assessment.” The source of information currently quoted has been superseded.</p> <p>Minor wording change to reflect the distinction in the role of the FRA from that of the LPA to, “The findings of the Flood Risk Assessment will show whether the Exception Test can be satisfied.”</p> <p>Suggest add the following concluding statement to the last sentence of the Policy: “The Exception Test also requires development to provide wider sustainability benefits to the community that outweigh the flood risk.”</p> <p>Suggest replace “wet spots” with “at risk of flooding” as more appropriate terminology</p> |
| 8 | EP7 | <p>Local Amenity</p> <p>Suggested further revision to assist application of policy by removing reference to ‘nuisance’, to read: “Development proposals that adversely impact on residential amenity will not be supported.”</p> |
| 9 | EP8 | <p>Protect Agricultural Land</p> <p>To note that this repeats Local Plan policy EN13</p> <p>Suggest amending policy title to “Protecting Agricultural Land” and definition of agricultural land should be amended to reflect the NPPF definition.</p> |
| 10 | H1 | <p>Meeting Demand for Smaller Dwellings</p> <p>Suggest minor wording amend for clarity to “Residential development will be supported within the Built-up Area Boundary providing that dwellings are small, defined as a maximum 93 square metres* internal space (<u>Gross Internal Area</u>), and have no more than three bedrooms.</p> |

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| | | All dwellings should provide a high standard of amenity for the occupants.” |
| 11 | H3 | <p>Outside the Built-up area boundary</p> <p>In accordance with prior comments, suggest the policy title is amended to “<u>Housing</u> Outside the Built-Up Area Boundary” for clarity.</p> <p>In addition:</p> <p>Assuming this policy is intended to relate to new dwellings and not housing extensions as it currently would via using the term all ‘residential development’, suggest the policy is amended to make that explicit to say “Any <u>new dwellings</u> outside the BUAB:”</p> <p>Suggested further revision of wording to criteria d) to say “meet the need <u>as demonstrated by a Housing Needs Survey</u>” to reflect Strategy 35 of the Local Plan and clarify the requirement.</p> <p>In respect of the 3 particular needs highlighted, suggest re-wording to “Subject to the criteria above and the other policies of this plan, proposals that help meet the following particular needs will be more favourably considered...”</p> |
| 12 | Guidance Note 1 | <p>Affordable Housing</p> <p>Suggest policy be amended to reflect the broader definition of affordable housing (to include social-rented dwellings and affordable rent dwellings) as set out in the NPPF.</p> |
| 13 | TD2 | <p>Affordable homes to meet Local Need through a Community Land Trust</p> <p>For clarity and to facilitate application and further the intention of the policy, suggest revision to the wording to:</p> <p>“In suitable locations within the Built-up Area Boundary and outside, but adjacent to, the Built-up Area Boundary, Community Land Trusts <u>may be supported</u> to bring forward small schemes of up to 5 <u>affordable and/or self-build</u> dwellings for people who meet the local connection criteria set out in Strategy 35 of the Local Plan.</p> <p>Such schemes must comply with other policies in this plan including those relating to flood risk, protection of the East Devon AONB and dwelling size.</p> <p>To <u>assist in ensuring</u> that these dwellings remain [delete relatively] affordable in perpetuity, planning conditions will be <u>sought</u> to restrict future extensions and outbuildings.”</p> |
| 14 | HQD1 | <p>Maintain the built character of our parish through High Quality Design</p> <p>In line with prior comments, at criterion g) replace ‘should’ with ‘would’ for consistency.</p> <p>In addition, suggest minor amends to:</p> |

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| | | <p>Remove reference to modern design from within criterion t) and reinstate it as a separate new criterion or statement within the policy, stating “Modern design will be supported provided the local character is respected or enhanced”</p> <p>Amend last sentence of the policy to: “All major developments within the Neighbourhood Development Plan Area should be of a high standard of design reflecting the principles set out in BfL(12) (Building for Life 12).</p> |
| 15 | EM1 | <p>Conversion from residential use</p> <p>We support the aims of the employment use policies EM1 and EM2. We recognise that there is limited scope to create new business premises and would support more positive wording to promote employment uses, if there were opportunities to do so without conflicting with other Plan policies.</p> <p>Suggest pre-submission version of Policy EM1 wording is reinstated to include use B1b (light industrial).</p> |
| 16 | EM2 | <p>Development of Small Business Enterprises</p> <p>General observation applies as per EM1 above.</p> |
| 17 | EM3 | <p>Superfast Connectivity</p> <p>Suggest further minor amend to facilitate application of policy to “Suitable ducting to accommodate FTTP broadband <u>should be provided</u> in all new development.”</p> |
| | Other: | |
| 18 | Appendix 6 Map 7 | <p>Agricultural Land Classification</p> <p>This map is based on the <u>provisional</u> agricultural land classification data held by Natural England. Where the map is referenced after Policy EP8, it should say that the classification is provisional.</p> |
| 19 | Various | <p>As a matter of style, ‘e.g.’ should be replaced with ‘For example,’; ‘etc.’ should be replaced with ‘and so on’ and ‘i.e.’ should be replaced with ‘in other words’ or ‘that is’.</p> <p>Full stops should not be used in policy headings</p> |
| 20 | Various | <p>Noted multiple instances of references within policies to applying other policy either from the Neighbourhood Plan (for example in Policy EP3 it states “Policy EP6 should also be applied”) or from the Local Plan (for example, Policy H2 which refers to Strategy 36). Noted these can be deleted as this will happen as a matter of course.</p> |