

Review of East Devon Local Plan 2013 to 2031 – Duty to Co-operate report, January 2021

1. Local plans must be reviewed at least once every five years, to assess whether they need to be updated. The East Devon Local Plan 2013 to 2031 was adopted on 28 January 2016, so its review must be completed by 28 January 2021. As reviewing a plan is an “activity” under Section 33A(3)(d) of the Planning and Compulsory Purchase Act 2004, East Devon District Council (EDDC) must comply with the “duty to co-operate” with certain organisations on strategic planning matters that cross administrative boundaries, and/or is a county matter, or would have a significant impact on a county matter.
2. The council undertook a review of the Local Plan 2013 to 2031, comprised of Toolkit Part 1 and Part 2. The review identified several issues that meant an update of the Plan was required. In December 2020, comments were sought from the duty to co-operate bodies on these findings, with regards to any strategic planning matters that cross administrative boundaries.¹
3. The following duty to co-operate organisations submitted a comment:
 - Devon County Council
 - Highways England
 - Historic England
 - Natural England
 - South Somerset District Council
4. All of the duty to co-operate organisations welcomed the opportunity to comment on the Local Plan review findings, and look forward to continuing engagement with East Devon in preparing an updated Local Plan.
5. As a result of the comments, Toolkit Part 1 was amended with to highlight the potential for development in South Somerset to adversely impact upon the stretch of the River Axe Special Area of Conservation (SAC) in East Devon; reference added to the emerging Clyst Valley Regional Park Masterplan; and text to make clear that suitable alternative natural green space (SANGs) and other habitat mitigation measures should be considered in preparing an updated Local Plan. More generally, the council will discuss the other points made with the Duty to Co-operate bodies in work on a revised Local Plan.
6. The following table (figure 1) sets out the comments received and the councils’ response.

¹ The review that was subject to consultation is available at: Toolkit Part 1 – East Devon Local Plan 2013 to 2031 review assessment

<https://eastdevon.gov.uk/papers/strategicplanning/201020bpitem7lpreviewappendix1pastoolkitpart1localplanreviewoct2019.pdf> ; and

Toolkit Part 2 – East Devon Local Plan 2013 to 2031 form and content checklist

<https://eastdevon.gov.uk/papers/strategicplanning/201020bpitem7lpreviewappendix2pastoolkitpart2localplancontent.pdf>

Figure 1: Comments received from Duty to Co-operate organisations on the review of the East Devon Local Plan 2013 to 2031

Organisation and Comment	EDDC Officer response
<p>Devon County Council</p> <p>As has been discussed recently at the Devon Planning Officers Group, we are in the process of reviewing our shared Duty to Cooperate Protocol. The establishment of this wider-Devon protocol forms a basis for discussing and understanding strategic issues, evaluating options to address such issues, and agreeing shared outcomes and conclusions wherever possible.</p> <p>We look forward to working closely with the District in taking the plan review forward over the coming months.</p>	<p>Comment noted. EDDC will continue to work with Devon County Council in addressing strategic planning matters.</p> <p><i>Action: No change to Local Plan review required. Engage with Devon County Council in preparing a revised Local Plan.</i></p>
<p>Highways England</p> <p>Highways England is responsible for operating, maintaining and improving the strategic road network (SRN), which in the East Devon Local Plan area comprises stretches of the A30, A35, A38 and A303 trunk roads together with the M5 motorway including Junctions 29 and 30. It is on the basis of these responsibilities that we provide the comments that follow.</p> <p>As set out in your email, the DtC requires the Council to engage with statutory and other prescribed bodies in relation to cross-boundary strategic matters through the preparation of Local Plans. The National Planning Policy Framework (NPPF) also requires that Councils produce Statements of Common Ground (SoCGs) throughout the Plan-making process to record progress made on strategic cross-boundary issues and to document the cooperation taking place between partners in relation to these issues.</p> <p>At this stage the Council has not published any suggested cross-boundary issues to be addressed by the East Devon Local Plan Review. The Local Plan Review will need to be supported by a robust transport evidence base, the development of which will require a collaborative approach between East Devon District Council, Devon County Council as the local Highway Authority and Highways England as the strategic Highway Authority. As such the Council may wish to consider addressing Local Plan Review transport matters, including the identification of strategic infrastructure required to support the Plan,</p>	<p>The responsibilities of Highways England for the strategic road network in East Devon are noted (although our understanding is that the A38 does not extend into East Devon).</p> <p>The purpose of the review of the adopted East Devon Local Plan 2013 to 2031 is to assess the existing policies to determine whether they need updating. The forthcoming revision of the Local Plan (i.e. new Local Plan) will identify any cross-boundary issues, informed by a transport evidence base, and addressed through Statements of Common Ground as appropriate. We welcome the offer of early engagement from Highways England on such matters through the emerging revised Local Plan.</p> <p><i>Action: No change to Local Plan review required. Engage with Highways England on the transport</i></p>

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<p>through DtC, and as set out in the NPPF, the development of a SOCG. Highways England would welcome early engagement with the Council in respect of DtC and the development of a SoCG to ensure the timely development of a robust transport evidence base required to support the Local Plan Review.</p>	<p><i>evidence base in preparing a revised Local Plan. This is likely to involve preparation of a statement of common ground with Highways England.</i></p>
<p>Historic England</p> <p>Historic England is pleased to see from the National Planning Policy Framework Checklist (point 90 on page 36) that you have identified the need for changes to adopted Local Plan policies and supporting text as part of setting out a positive strategy for the conservation and enjoyment of the historic environment as required by paragraph 185 of the NPPF. We particularly welcome the opportunities that this review offers to deliver the aims of the adopted Heritage Strategy (2019-2031), make provision for the conservation and enhancement of local heritage assets and address heritage at risk. Our Heritage at Risk Register 2020 was recently issued and is updated annually.</p> <p>We also welcome the opportunity to consider how the Local Plan can promote the positive contribution of historic environment to:</p> <ul style="list-style-type: none"> <input type="checkbox"/> local character and distinctiveness through place-shaping; <input type="checkbox"/> helping historic town centres and high streets respond to and recover from added challenges of COVID-19; and <input type="checkbox"/> mitigating and adapting to climate change and sustainability. <p>Bearing in mind that the Duty to Cooperate is an ongoing process and our role as a statutory consultee in plan-making, we hope to continue to work closely with the Council on strategic and non-strategic matters that affect the historic environment in terms of both the evidence base and changes to policies during the Local Plan review and updating. We note, for example, that the review may consider new allocations and as such, we would welcome early discussions with the Council about the need for heritage impact assessments to inform decisions about the suitability of sites selected for allocation as well as the content of masterplans and site specific policies (where relevant).</p> <p>Useful information and advice</p>	<p>Support for the Local Plan review is noted.</p> <p><i>Action: No change to Local Plan review required. Continue to work closely with Historic England (HE) in updating the Local Plan, including by reference to HE advice, and when considering potential site allocations.</i></p>

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<p>Finally, we would like to point out that Historic England publishes a lot of relevant information advice on our website that can assist the Council in the review and updating of the Local Plan in respect of the plan-making process and particular topics. Some of these will have been published after the preparation and/or adoption of the current Local Plan and key ones are:</p> <ul style="list-style-type: none"> □ GPA 1: The Historic Environment and Local Plans (2015); □ GPA 3: The Setting of Heritage Assets (2017); □ HEAN 3: The Historic Environment and Site Allocations in Local Plans (2015); and □ HEAN 8: Sustainability Appraisal and Strategy Environmental Assessment (2016). <p>These should assist the Council in achieving an updated Local Plan that can be found ‘sound’ at examination and that will contribute to the achievement of sustainable development from an historic environment perspective.</p>	
<p>Natural England</p> <p>We have considered the Local Plan Review documents and welcome the opportunity to provide input to the process at this early stage. Natural England has the following comments to make:</p> <p>1. We welcome the identification of the following new issues to be included within the scope of the review:</p> <ul style="list-style-type: none"> - specific consideration of Heritage Coasts within Local Plan policy, and would hope to see specific reference to protecting their distinctive character; and - a means to achieve measurable net gains for biodiversity <p>2. We note that a number of the current Local Plan policies and strategies relating to the natural environment are considered to be in conformity with the NPPF but advise that views are also sought as to whether the existing natural environment policies and strategies are effective and easy to implement, for example:</p> <ul style="list-style-type: none"> • Strategy 5 Environment - requires all development proposals to ‘promote ecosystem services’, how successful has implementation of this part of the policy been? 	<ol style="list-style-type: none"> 1. Support for identification of new issues relating to Heritage Coasts and biodiversity net gain is noted. 2. Comments relating to the effectiveness and implementation of existing policies are noted – these points will be addressed in drafting new policies in the revised Local Plan, including in relation to Pebblebed Heaths and Beer Quarry and Caves. Agree that the emerging Clyst Valley Regional Park Masterplan should be reflected in a revised Local Plan as appropriate; and that future SANGS provision and other habitat mitigation measures will also need to be considered. <p>It is understood that Natural England (NE), through their involvement on the South and East</p>

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<ul style="list-style-type: none"> • Strategy 10 Green Infrastructure in East Devon’s West End – the text supporting this policy identifies six potential Suitable Alternative Natural Green Space (SANGS) locations. The strategy should be updated in light of the recent progress made on the Clyst Valley Regional Park (CVRP) Masterplan, to include an update on the implementation of those six locations identified. • Strategy 47 Nature Conservation and Geology – The policy wording may need to be updated to make clear the legal tests under the Habitats Regulations. Natural England is concerned that lags in provision of SANGs could restrain delivery of further housing in the mitigation zone. The Local Plan Review and review of the South East Devon European Sites Mitigation Strategy provides a great opportunity to review mitigation delivery and plan for future SANGS provision into the next Local Plan period. <p>In the penultimate paragraph of Strategy 47, the justification for a restriction on residential development within 400m of the East Devon Pebblebed Heaths Special Protection Area (SPA) goes beyond the impacts of domestic cats to include direct recreational impacts, as described in the South East Devon European Sites Mitigation Strategy. As noted in paragraph 18.53 of the Local Plan, there is emerging guidance for Beer Quarry and Caves Special Area of Conservation (SAC) which may result in the need to revise the Impact Risk Zones and policy wording. We advise that your plan seeks to protect and enhance the bat roosts and the supporting habitats associated with this SAC, to be defined in the emerging guidance.</p> <ul style="list-style-type: none"> • Policy EN2 Valley Parks in Exmouth – we are unaware of progress in SANGs provision in this location. We consider this an urgent issue to be addressed in the current and the next Local Plan period. <p>3. We would also welcome the inclusion of the consideration of the following matters within the scope of the Local Plan review: Evidence Base and Monitoring</p> <ol style="list-style-type: none"> a. Local Plans and their reviews should be based on a robust and up-to-date environmental evidence base. One of the most logical sources of evidence would seem to be the results of monitoring the significant environmental effects of the existing plan, as 	<p>Devon Habitat Regulations Executive Committee, are content with progress on delivery of the habitat mitigation strategy. NE consider that the Exmouth Valley Parks do not meet criteria to be SANGs, so provision elsewhere in Exmouth is being pursued – this will continue in progress on an updated Local Plan.</p> <p><i>Action: in Part 1, Matter A9, add “Clyst Valley Regional Park Masterplan is progressing (public consultation in December 2020), and this should be reflected in a revised Local Plan. In general, habitat mitigation measures, including SANGs provision, continue to be addressed in accordance with development proposed in the adopted Local Plan. However, additional measures are likely to be required in preparing a revised Local Plan.”</i></p> <ol style="list-style-type: none"> 3. <ol style="list-style-type: none"> a. We would welcome further discussions with Natural England (NE) on monitoring environmental indicators, and will contact NE in due course. b. agree that the strategy for habitat mitigation will need to reflect the level of growth proposed in a revised Local Plan. c. d. and e. noted – the adopted Local Plan does not fully meet these requirements, and these points will be addressed in revising the Local Plan.

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<p>required by law under the Strategic Environmental Assessment directive. However, we understand from the Review Assessment that it has not been possible to monitor some of the Local Plan environmental indicators. We would welcome the opportunity to liaise with the council as to how to address this.</p> <p>Biodiversity</p> <p>b. The measures established in the South East Devon European Sites Mitigation Strategy are based on the levels of growth anticipated in the current Local Plan. Therefore, the Strategy will need to be reviewed in light of any expected changes to the level of growth as a result of this Local Plan Review.</p> <p>c. The hierarchy of designated sites should be explicitly referred to in policy, and not just in the supporting text. In addition, the approach to recognising and enhancing the value of Natural Capital should be set out in policy rather than just the supporting text.</p> <p>d. The updated Local Plan could be strengthened through the inclusion of a locally-specific policy that promotes the conservation, restoration and enhancement of priority habitats, and the protection and recovery of protected species (as set out in NPPF 174).</p> <p>e. The Local Plan review should take account of the changes in Regulation that affects protected sites and habitats, as set out here: Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019, and explained here: https://www.gov.uk/government/publications/changes-to-the-habitats-regulations-2017</p> <p>f. The Otter Estuary Marine Conservation Zone and the Axe Estuary Marine Conservation Zone are within the East Devon District boundary. The Local Plan review should consider the inclusion of planning policy relating to MCZ assessments, given the authority's duties under regulations 125 and 126 of the Marine and Coastal Access Act 2009.</p> <p>Biodiversity Net Gain</p>	<p>f. the identified Marine Conservation Zones will be considered in revising the Local Plan.</p> <p>g. agree – reference to the Environment Bill is contained in Part 1, Matter A9.</p> <p>h. agree – reference to the phosphates issue at the River Axe is contained in Part 1, Matter A9.</p> <p>i. At the current time, we do not consider there is sufficient justification to prepare supplementary guidance on pollution control, particularly given other priorities. However, we will address this issue in producing a revised Local Plan.</p> <p>j. Part 2 of the review toolkit notes that the adopted Local Plan does not fully meet the NPPF requirement for a Nature Recovery Network – this will be addressed in a revised Local Plan.</p> <p>k. Part 2 of the review toolkit states that the NPPF climate change chapter is not fully met by the adopted Local Plan. The points identified will be addressed in a revised Local Plan.</p> <p>l. and m. we will consider identifying Coastal Change Management Areas, and take account of the recent Shoreline Management Plan review, and the South Marine Plan (East Devon is located within this area rather than the South West Marine Plan) in a revised Local Plan.</p> <p>n. agree, evidence on green infrastructure and open space will be required in preparing a revised Local Plan.</p>

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<p>g. As the Environment Bill is nearing the end of its passage through Parliament, the Local Plan revision process will need to consider how the requirement for implementing the delivery of Biodiversity Net Gain will be achieved, if the Bill is enacted.</p> <p>Water Quality and Air Quality</p> <p>h. The updated Local Plan will need to set out the intended approach, of the Authority and its partners, for tackling the water quality (phosphate) issues affecting the River Axe SAC, with reference to the current progress/findings of the Nutrient Management Plan for the River Axe.</p> <p>i. The current East Devon Local Plan has a policy that seeks to address the control of pollution (EN14), with a specific requirement to avoid the pollution of sites of wildlife value. However, it is apparent that supplementary guidance on how to implement this part of the policy would be advantageous. To include guidance on how to assess the impacts of air quality changes due to development, and agricultural developments in particular, on sensitive wildlife sites. Similar guidance has been published and implemented by other Devon local authorities, and given that the levels of ammonia and rates of nitrogen deposition already exceed the critical load for the East Devon Pebblebed Heaths SAC, and other sensitive SSSIs, it is recommended that action is taken to strengthen the policy and provide guidance on the Council's expectations for its effective implementation.</p> <p>Nature Recovery Network</p> <p>j. The updated Local Plan should include the Authority's intended approach to delivering a Nature Recovery Network. We would like to understand how the plan review will discharge the NPPF requirements to identify, map, safeguard, and promote the conservation, restoration and enhancement of ecological networks (as set out in NPPF 174). This could include setting out the Authority's landscape-scale approach to planning for the conservation and enhancement of biodiversity, addressing cross-boundary issues and identifying opportunities for habitat restoration, creation or enhancement.</p>	<p>o. an assessment identifying potential suitable areas for renewable and low carbon energy sources and supporting infrastructure was prepared for the Greater Exeter Strategic Plan² but not yet available for the rest of East Devon. We will consider this issue in preparing a revised Local Plan.</p> <p><i>Action: have further discussions with Natural England in progressing a revised Local Plan, including in relation to monitoring environmental indicators, mitigation strategy, and policy content.</i></p>

² West End Low Carbon Study, December 2019, available at: <https://www.gesp.org.uk/evidence/>

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<p>Climate change</p> <p>k. The updated Local Plan should include policies to address the impacts of climate change on the natural environment, as described in the NPPF (para. 149) and the Lawton Report and recognised in the East Devon Climate Change Strategy 2020-2025. The Local Plan review should also take in to account the goals set out in the Interim Devon Carbon Plan (and final version when published), in particular those that relate to Local Plans, such as: the radical reduction of emissions, promoting coherent and long-term land-use planning for climate change and nature recovery, and protecting, restoring and enhancing habitats, ecosystems and soils.</p> <p>l. Appendix 3 of the current Local Plan sets out a list of additional work to be completed to aid future planning work, this included a commitment to complete a 'Coastal Change Management Areas assessment'. The Local Plan review should include policies that reflect the latest position, with respect to potentially identifying Coastal Change Management Areas and progress made to date with the SWEEP CCMA work. In addition, and relevant to this area of work, the Local Plan review should take in to account any findings from the recent Shoreline Management Plan review.</p> <p>m. The updated Local Plan should take account of the emerging South West Marine Plan, to ensure effective alignment of terrestrial and marine planning regimes.</p> <p>Green Infrastructure</p> <p>n. Appendix 3 of the current Local Plan sets out a list of additional work to be completed to aid future planning work, this included commitments to complete a 'Green Infrastructure Strategy for Towns' and an 'Open Space Strategy'. The Local Plan review will need to take account of the findings from these additional evidence documents.</p> <p>Landscape</p> <p>o. Appendix 3 of the current Local Plan sets out a list of additional work to be completed to aid future planning work, this includes a commitment to completing a an 'assessment identifying potential suitable areas for renewable and low carbon energy sources and</p>	

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<p>supporting infrastructure'. Has this assessment work been undertaken? The work will need to include an assessment of the landscape's sensitivity to and capacity for new renewable and low carbon energy developments.</p> <p>Land and Soils No specific comments at this stage.</p>	
<p>South Somerset District Council As referenced in Part 1 of your assessment, our Local Plan Review Preferred Options was published for consultation during 2019, and we agree that no significant development is proposed in our emerging plan that would impact upon East Devon. We recognise that the EDDC response to our Duty to Cooperate consultation earlier this year identified the clear cross-boundary links between our two districts, and the relative proximity of the towns of Chard (in South Somerset) and Axminster (in East Devon) as well as adjoining rural areas.</p> <p>The key matter of strategic significance raised by EDDC, related to the potential for new development in South Somerset to adversely impact on the stretch of the River Axe that is designated as a Special Area of Conservation (SAC) due to increases in phosphate loading.</p> <p>We wish to be involved in ongoing discussion around this issue with any potential future need for joint approaches to secure relevant and appropriate mitigation. From a South Somerset perspective this could impact on development on the southern side of Chard and southward to the boundary with East Devon. We are currently working jointly with the Somerset local planning authorities to address phosphates affecting the Somerset Levels and Moors Ramsar Site – the catchment of which covers a significant area of the district. The updated Natural England guidance for the Ramsar Site catchment published in August requires all new residential development to undertake an Appropriate</p>	<p>We note the strategic cross-boundary matter relating to the potential for new development in South Somerset to adversely impact upon the River Axe Special Area of Conservation (SAC) in East Devon due to increases in phosphate loading – this should be added to Toolkit Part 1, Matter A13 of the East Devon Local Plan review assessment. We understand that the AONB teams are leading and coordinating partnership working on the River Axe SAC phosphate issue, so South Somerset DC should already be involved in discussions on this issue.</p> <p><i>Action: in Part 1, Matter A13 of the Toolkit, add reference to the potential for development proposed in the South Somerset Local Plan to adversely impact upon the River Axe Special Area of Conservation (SAC) in East Devon. This issue is being addressed through partnership working.</i></p> <p>The DtC Statement prepared by South Somerset DC is noted – we welcome continued engagement as our respective local plans progress.</p>

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<p>Assessment to demonstrate the mitigations required to achieve nutrient neutrality. We would therefore seek to be involved in any necessary mitigations for the River Axe catchment, particularly if similar advice is issued from Natural England.</p> <p>More generally we would welcome continued engagement as the review of our respective Local Plans progresses.</p> <p>As you are aware, we consulted on strategic cross-boundary matters to develop our DtC Statement earlier this year. The statement is published here and will be updated as the plan is progressed to the Publication stage (Reg 19).</p> <p>You may also be aware that two unitary proposals have been submitted to the Secretary of State for Housing, Communities and Local Government, for his consideration. This includes the One Somerset proposal submitted by Somerset County Council, and the Stronger Somerset proposal submitted by the four district councils on 9th December. The government has been clear that it could decide to make no change, or it may select one of the two proposals for change being put forward. The case for the district's proposal can be found here.</p>	<p>The two unitary proposals in Somerset put forward to the Secretary of State are also noted.</p>

