

Report to: Cabinet



Date of Meeting 14th July 2021

Document classification: Part A Public Document

Exemption applied: None

Review date for release N/A

Response to the Dalwood Neighbourhood Plan Submission

Report summary:

The purpose of the report is to formally agree the response by this Council to the submission consultation for the Dalwood Neighbourhood Plan. Dalwood Parish Council has formally submitted their Neighbourhood Plan to the District Council. The Neighbourhood Planning (General) Regulations 2012 (Regulation 16) require the District Council to formally consult on the Plan for a minimum of 6 weeks. As part of this consultation the District Council has the opportunity to comment on the Neighbourhood Plan. Officer observations are set out at the end of this report and members are asked to endorse these as the formal representation on the plan. The comments of this Council and all other comments received during the consultation will be submitted to an independent Examiner who will inspect the Plan against a series of conditions that must be met in order for it to proceed to a referendum.

Is the proposed decision in accordance with:

Budget Yes No

Policy Framework Yes No

Recommendation:

1. That Cabinet note the formal submission of the Dalwood Neighbourhood Plan and congratulate the producers of the plan on their dedicated hard work and commitment in producing the document.
2. That Cabinet make the proposed representation set out at paragraph 1.19 in this report in response to the consultation.

Reason for recommendation:

To ensure that the view of the District Council is formally recorded and informs the consideration of the Neighbourhood Plan by the independent Examiner.

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Portfolio(s) (check which apply):

- Climate Action and Emergencies
- Coast, Country and Environment
- Council and Corporate Co-ordination
- Culture, Tourism, Leisure and Sport

- Democracy and Transparency
- Economy and Assets
- Finance
- Strategic Planning
- Sustainable Homes and Communities

Equalities impact Low Impact

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

Climate change Low Impact

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 to which all plans must comply.

Links to background information [The Localism Act](#); [Plain English Guide to the Localism Act](#); [National Planning Policy Framework \(2019\)](#); [Neighbourhood Planning Regulations](#); [Neighbourhood Planning Roadmap Guide](#); [East Devon Neighbourhood Planning webpages](#).

Link to Council Plan:

Priorities (check which apply)

- Outstanding Place and Environment
 - Outstanding Homes and Communities
 - Outstanding Economic Growth, Productivity, and Prosperity
 - Outstanding Council and Council Services
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Report in full

Background to the Dalwood Neighbourhood Plan

- 1.1 Dalwood Parish Council commenced work on their Neighbourhood Plan following the Neighbourhood Area being designated on 30 August 2016.
- 1.2 Since then, the Parish Council and volunteers from the local community have spent considerable time and effort consulting with residents of the parish and other stakeholders to produce a plan which endeavours to reflect the aspirations of the community.
- 1.3 The Dalwood Neighbourhood Plan contains 13 policies designed to both protect and enhance the special qualities of the parish of Dalwood. The policies relate to: the natural environment; the built and historic environment; housing and population; community facilities and services; transport and accessibility; economy and employment, and; energy and low carbon. The Plan aims to secure the parish's future as a "vibrant, active and friendly community that is a special place to live, work and visit", through matters relating to the use of land to 2031.
- 1.4 Prior to submitting the Plan to East Devon District Council, Dalwood 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). This finished on 3rd March 2021, so was able to take place prior to restrictions related to the Covid-19 pandemic. The comments made during this consultation, including informal

comments by District Council officers, have been considered and the plan updated prior to formal submission to East Devon District Council.

Submission of the Dalwood Neighbourhood Plan

- 1.5 The District Council received formal submission of a Neighbourhood Plan from Dalwood Parish Council in mid April 2021. The Plan and its supporting documents are available to view on the [planning pages](#) of the District Council website.
- 1.6 This is the twenty-third 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 the Ministry for Housing Communities and Local Government.
- 1.7 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’ consultation. The public consultation period ran from 5 May 2021 to 30 June 2021. The Plan proposal was publicised through notices on the District Council website, a press release and social media, email sent to all Members, adjoining authorities and statutory consultees, including Devon County Council, Natural England, Historic England and the Environment Agency, and publicised widely locally through the Parish Council. In addition, to make allowance for restrictions relating to the Covid-19 pandemic, the usual timeframe was extended from 6 weeks to 8 weeks and hard copies of the Plan were made available on request and at Honiton and Axminster libraries.
- 1.8 One of the statutory roles of the District Council is to consider whether the Plan meets the legislative requirements, in production process terms. 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.
- 1.9 Anyone may comment on a neighbourhood plan. It is particularly important that the District Council comments. This is because the plan will eventually (if adopted) form part of the statutory Development Plan for East Devon, 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 formally submitted to the Examiner undertaking the Plan examination.

Neighbourhood Plan Examination and Referendum

- 1.10 In preparation for the examination that will follow the current consultation period, the District Council has confirmed the appointment of Jill Kingaby as the ‘appropriately qualified and independent Examiner’. This appointment was agreed in liaison with Dalwood Parish Council. Jill Kingaby has extensive relevant experience, including of neighbourhood plan examinations, and has carried out several in East Devon, including for recently made Otterton and Newton Poppleford neighbourhood plans.

- 1.11 All responses from the consultation (including any made by this Council) are forwarded to the Examiner who will consider them, either by written representations or at an oral hearing (if she decides one is necessary). The District Council is responsible for paying the costs of the examination but can recoup these expenses by claiming funding from Central Government of £20,000.
- 1.12 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 (in this case the adopted East Devon Local Plan 2013-2031);
 - is compatible with human rights requirements;
 - is compatible with any retained EU obligations.
- 1.13 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.
- 1.14 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.
- 1.15 Once the Plan has been finalised 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 currently not be able to take place until after 6 May 2021. However, once it has been formally decided by this Council that it should proceed to a referendum, the Plan will then carry significant weight in the determination of planning applications in Dalwood parish.

The Dalwood Neighbourhood Plan Response

- 1.16 As part of the current 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.
- 1.17 Officers have reviewed the Neighbourhood Plan contents, and recommend that the following representation of East Devon District Council be formally submitted to the examiner. It should be noted that comments we make at this stage are primarily restricted to land use planning policy matters rather than other content on the Plan including supporting text or community actions and are made on the basis of:
- Do Dalwood 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?
- 1.18 Overall it is noted that the District Council comments made at the previous Regulation 14 consultation have been given consideration by the Parish Council and various amendments to the Plan made accordingly. In terms of the planned replacement of the adopted Local Plan with a new Local Plan for east Devon, this is at too early a stage for conformity or otherwise with emerging strategy and policy to be assessed. However, the relationship between the emerging neighbourhood plan and emerging new Local Plan are not currently referred to within the neighbourhood plan and the need to acknowledge this forms part of the officer recommendations below.
- 1.19 East Devon District Council comments on the Regulation 16 Submission Version of the Plan are proposed as follows (a full schedule of the Plan policies is provided in Annex 1 for reference):

Policy NE1: Conserving and Enhancing the Natural Beauty of the Parish

- Paragraph 2 - replace 'unavoidably required' with a more positive phrase. Suggest 'where any adverse landscape impact can be suitably mitigated, this must ensure appropriate landscaping compatible with local landscape character'.
- Paragraph 4 – suggest removing the list of possible instances and concluding the first sentence with the words, "even where they are not afforded specific protection by law". Sustainable should read 'suitable' in the second part of this paragraph in line with our comments made at Regulation 14.
- Paragraph 5 – suggest adding a web-link to the Devon County Council Highways Protocol as a footnote or within supporting text.

Policy NE2 Preserving Tranquillity and Dark Skies

- Noted that there is a community action to encourage the use of the Blackdown Hills guide on limiting light pollution from new & replacement lighting. Suggest reference to this guide could be made a requirement in the policy to strengthen it.

Policy BHE1 Maintaining the Built Character of the Parish through High-Quality Design

- Suggest the policy could be amended to apply to all new development, including but not limited to housing to broaden its application.
- Criteria vi – ‘includes’ to read ‘include’.

Policy BHE2 Protecting Locally Valued Heritage Assets

- With reference to informal officer comments made at Regulation 14 and to avoid confusion in implementation, the plan needs to use the correct terminology relating to heritage assets (i.e. designated and non-designated heritage assets). It also needs to clarify the status of the identified ‘valued assets’ i.e. which are designated heritage assets (including, but not limited to listed buildings), which are non-designated heritage assets, and the status of these i.e. whether they are already identified on the local list, whether the community wishes to them forward for inclusion, and / or the basis on which they have been identified and assessed as such.
- The policy wording in the first sentence to read, “Proposals for development affecting designated and non-designated heritage assets and their setting....”
- Figure 7 – considered that reference to this figure should be removed from formal policy wording, and more appropriately located within the supporting text to illustrate the community views on most valued assets.
- Criteria (ii) – to note that this requires tighter wording if it is to be used to refuse an application. It could be improved somewhat by including specific reference demonstrating that they have ‘fully considered the Historic Environment Record (HER)’ as well as other ‘available local evidence documenting local historic sites.’

Policy HP1 Housing Development in Dalwood

- To note that, taking a lead from the ‘made’ Payhembury plan, this plan proposes the introduction of a ‘settlement boundary’ for the village of Dalwood, using a similar methodology for the designation of Built Up Area Boundaries (BUABs) for villages used in the EDDC Villages Plan. Applying the criteria currently being used to assess the role and function of settlements in the district as part of work on the new Local Plan it is considered that the services and facilities available in Dalwood are less than those in Payhembury. In addition, Dalwood is located within the Blackdown Hills Area of Outstanding Natural Beauty and so the impact of the proposed policy on sustainable development criteria would be significantly greater than at Payhembury.
- Strategy 27 of the adopted Local Plan does allow for communities to make provision for development through a Neighbourhood Plan other than that supported through Local Plan strategy, and the associated Villages Plan acknowledges that neighbourhood plans may propose further development boundaries than contained in that document. It is also acknowledged that the proposed settlement boundary is very tightly drawn, with apparent limited opportunities for infill and plot sub-division and that there is community support for the approach, which is intended to enable a very small amount of growth in the most sustainable location in the parish. Furthermore, there has been engagement with EDDC in the setting of this boundary.

- Notwithstanding this, we would raise some concern about the approach. The reason being (i) the work that has commenced since on the new Local Plan, (ii) the ever-increasing priority given to sustainability of development, (iii) the potential for confusion between the status / role of a ‘settlement boundary’ as opposed to a ‘BUAB’, and; (iv) potential unintended consequences for this small village with limited services and facilities in the AONB. For instance, by promoting opportunities for the redevelopment of existing sites and buildings within the boundary at a higher density, it is considered that the policy could start to erode the character of the village, have landscape impacts and lead to the loss of valued community assets.
- In line with Strategy 27 of the Local Plan, we would therefore seek the examination to test further the justification for the setting of this boundary, and in particular, how it would promote the objectives of sustainable development in the local context. Careful consideration is also needed through the examination of the potential impacts of the policy and the types of development that could arise and whether they would meet the aspirations of the plan as a whole.
- To increase longevity of the 2nd part of the policy, given the work on the emerging Local Plan, it is suggested that reference to Strategy 35 of the adopted Local Plan be re-framed (in the absence yet of any equivalent or replacement policy). Specifically to say, “provided it is evidenced in accordance with Strategy 35 of East Devon District Council’s Local Plan and provides up to 15 dwellings, at least two-thirds of which must be affordable homes”.
- Suggest this policy includes a cross reference to the need to adhere to the design criteria set out Policy BHE1.

Policy CFS2 Improvements to Existing Local Community Facilities, Amenities and Assets

- Paragraph 1 – suggest that it is explicitly stated that these valued community facilities are identified for protection/retention and/or improvement.
- Paragraph 2 – for clarity, this should state either that it relates to the assets identified in paragraph 1, or explicitly state that it is “including but not limited to” them.
- Paragraph 3 – as noted at Regulation 14 stage, policies cannot have an enforceable requirement for the pre-application stage. Suggested alternative wording as, “Applications for developments will be expected to clearly demonstrate how proposals meet the aims and objectives of the Neighbourhood Plan and how they have consulted and engaged with the Parish Council, users of the facility, and the wider local community.”

Policy CFS3 Loss of Local Community Facilities through Redevelopment or Change of Use

- Paragraph 2 – to reiterate same comment as set out above for paragraph 3 of Policy CFS2.

Policy TA2 Rights of Way (Public Footpaths and Bridleways)

- Second sentence – for clarity, suggest insertion of “subject to compliance with all other relevant policies in this plan”.
- Suggest the list of criteria should each be ‘and/or’ to allow for application in different circumstances as applicable.

- Criteria (iii) – suggest inserting “include measures designed to” between the words ‘they’ and ‘prevent’.
- Figure 11 map showing rights of way would benefit from some improvements for clarity, including removing or replacing ‘previous old (LP01) BUAB” with the new proposed settlement boundary. EDDC can offer assistance with map production.

Policy EE1 Superfast Connectivity

- As worded this would only appear to relate to proposals for specific installation of internet connectivity, and not to requiring wherever possible new development to be connected. Suggest this could be addressed with reference to policy wording in other neighbourhood plans, for example, the Farringdon and Newton Poppleford neighbourhood plans.

Policy EE2 Farming (New Development Proposals)

- Suggest this policy could be tightened to give better control, including that they should have to demonstrate an agricultural need and that the size is commensurate with the use.
- To reinforce and assist with implementation of Policy NE2, suggest it would be advisable for this to include requirements that lighting is minimised and screened from view.

Policy ELC1 Renewable and Low Carbon Energy Schemes

- Point 2 – suggest replace ‘lessen’ with ‘mitigate’.
- Point 3 – consider adding ‘or equivalent’ for longevity of the policy.
- In addition, suggest the potential impact on heritage assets and their setting and potential for any archaeology needs to be considered. Noted that the policy refers to avoiding adverse impact on the built environment, but suggest expanding on this with a specific heritage asset criteria to ensure harm to designated and non-designated assets, including archaeology, is considered and avoided.

Other non-policy specific comments:

- Accessibility - Plan to be made as accessible as possible, with reference to the latest Government standards (EDDC can give some guidance on this if required). Final proof read for minor corrections is also required before proceeding to the next stage.
- Aims and objectives:
 - Aim 4 – to better reflect appropriate terminology, the wording of this aim should read “Protecting the area’s heritage assets and their settings”, and the associated objective should be a more generalised one to support the protection of valued heritage assets and to seek local listing of those not currently afforded statutory protection.
 - Aim 6 – objective (a) – suggest replace ‘natural’ materials with ‘locally distinctive’ materials, or similar.
 - Aim 11 – to suggest that an alternative, more relevant objective be set to directly further this aim to help create, support and sustain local businesses.
- Relationship to new emerging Local Plan - The Plan should make reference to the work that is underway on new Local Plan for East Devon in the introduction and in the Monitoring & Review section. References to the adopted Local Plan as the ‘new

'Local Plan' at several places in the Neighbourhood Plan should be corrected to avoid confusion.

Financial implications:

As mentioned in Section 1.11 of the report, Central government Grant funding is available. This income covers not only Examination fees but also all other costs associated with Neighbourhood planning such as employment costs and all other supplies and services. Any residual funds are placed into an earmarked reserve and utilised to cover funding gaps in subsequent years.

Legal implications:

The legal implications are fully set out within the report. It is important that EDDC comment on the content of the submitted Dalwood 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.