



# **East Devon District Council**

## **Kilmington Neighbourhood Plan Decision Statement**

### **1. Summary**

Following an independent examination, East Devon District Council now confirms that the Kilmington Neighbourhood Development Plan will proceed to a Neighbourhood Planning Referendum.

### **2. Background**

On 15 January 2016, East Devon District Council designated the area comprising the parish of Kilmington as a Neighbourhood Area for the purpose of preparing a Neighbourhood Plan in accordance with Part Two of the Town and Country Planning (England), Neighbourhood Planning (General) Regulations 2012.

Following the submission of the Kilmington Neighbourhood Plan to the Council, the plan was publicised and representations were invited. The publicity period ended on 30 March 2022.

East Devon District Council appointed an independent examiner, Deborah McCann, to review whether the Plan should proceed to referendum.

The examiner's report concludes that subject to making the modifications recommended by the examiner, the Plan meets the basic conditions set out in the legislation and should proceed to a Neighbourhood Planning referendum.

## 3. Decision and Reasons

### 3.1 Modifications

The District Council has made the modifications shown overleaf to the Submission Version of the Neighbourhood Plan, incorporating the examiner's modifications in full, to secure that the draft plan is clear, accurate, and meets the basic conditions set out in legislation.

### 3.2 Referendum

The District Council has considered whether to extend the area in which the referendum is to take place. Like the examiner, the District Council has decided that there is no reason to extend the Neighbourhood Plan area for the purpose of holding the referendum.

The examiner has concluded that with the below modifications made, the Plan meets the basic conditions and other relevant legal requirements. The Council concurs with this view. Therefore, to meet the requirements of the Localism Act 2011, a referendum which poses the question, 'Do you want East Devon District Council to use the Neighbourhood Plan for Kilmington to help it decide planning applications in the neighbourhood area?' will be held in the parish of Kilmington.

The referendum will take place on 8<sup>th</sup> September 2022. The details will be available on the [EDDC website](#)).

### 3.3 Referendum Version of the Plan

This Decision Statement and a Referendum Version of the Kilmington Neighbourhood Plan, incorporating the changes set out in this Decision Statement, will be available to view on the [Neighbourhood Planning pages](#) of the District Council website ([www.eastdevon.gov.uk](http://www.eastdevon.gov.uk)).

Hard copies will also be available to view at:

- a) East Devon District Council Offices, Blackdown House, Border Road, Heathpark Industrial Estate, Honiton, EX14 1EJ **BY APPOINTMENT ONLY** between the hours of 8.30am to 5.00pm Monday to Friday, **by calling 01404 515616**.

b) Axminster Library, South Street, Axminster, EX13 5AD, Tel. 0129732693

Paper copies can also be provided by post if necessary. To request a hard copy please contact Angela King, Neighbourhood Planning Officer by calling 01395 571740 or emailing: [AKing@eastdevon.gov.uk](mailto:AKing@eastdevon.gov.uk).

In accordance with the Government's Neighbourhood Planning Guidance (updated September 2020), the effect of this Decision Statement is to give the Kilminster Neighbourhood Plan (Referendum Version) significant weight as a material consideration in decision-making on planning applications.

East Devon District Council is working with Kilminster Neighbourhood Plan Steering Group regarding the accessibility of the plan document. (Note: This may require some changes in formatting and layout, together with addition of descriptive text ('alt text') for images, but will not otherwise amend any part of the plan.)

## **4. Modifications Made**

The following modifications were agreed to be made to the Submission Version of the Kilminster Neighbourhood Plan by East Devon District Council, further to the [findings of the independent examination](#) and consideration of the plan and examiners report at [EDDC Cabinet on 13 July 2022](#):

### **1. Plan period**

The Plan period (2020-2031) to be included on the cover.

### **2. Policy HD1: Community Engagement**

Paragraph 2 to be modified to reduce the requirement from 'must' to 'strongly encourage', with specific reference to the minimum expectation to 'meet the requirements of the EDDC Statement of Community Consultation'.

### **3. Policy HD2: Housing Development within the Built-up Area Boundary**

- i. Amend paragraph 1 to read, “1. The preferred location for new housing development is within the defined Kilmington Built-Up Area Boundary **as shown on Figure 6**. Proposals for new dwellings outside the BUAB, **other than in accordance with Policies HD3, HD4 and HD5 of this Plan**, will not normally be supported.”
- ii. Amend the opening clause of paragraph 2, from “Preferred sites will be located”, to “Sites should be located”.
- iii. Remove the hyphen from “built-form” in paragraph 4.

#### **4. Policy HD3: Land off George Lane (adjacent to Dares Field)**

- i. Modify paragraph 1 to clarify the allocation is for, “**up to or around 14** dwellings to meet the **housing needs** of the local community during the term of this plan”
- ii. Move the clause relating to the issue regarding phosphates in the River Axe to the top of the list of criteria.
- iii. Remove the requirement for proposers of development to engage with the local community and Parish Council, prior to submission of a planning application, from paragraph 2, and require instead that the Development Brief for the site takes account of the aims and objectives of the neighbourhood plan, and the views of the local community.
- iv. Omit the explicit reference in the policy clauses to the affordable housing requirement of 50% being ‘subject to viability’.
- v. For logical flow, separate or link and re-order policy clauses in line with the Examiner’s report
- vi. Remove all three uses of the term ‘consider’ from clauses to increase the likelihood of those certain aspects being secured (set back from the northern boundary, orchard planting and advance planting)
- vii. Draw together and strengthen the various requirements relating to landscaping/ planting under an overarching requirement for a “**detailed** landscaping scheme”.
- viii. Strengthen the biodiversity requirement to better reflect the national requirement, replacing “...enhance biodiversity...” with, “include provision for, as a minimum, biodiversity net gain in compliance with national policy...”
- ix. Delete the cross-reference to a ‘Transport Plan’ in criteria ‘v) c’.

#### **5. Policy HD4: Land off Whitford Road (north of The Beacon)**

- i. Move the clause relating to the issue regarding phosphates in the River Axe to the top of the list of criteria.
- ii. Remove the requirement for proposers of development to engage with the local community and Parish Council, prior to submission of a planning application, from paragraph 2, and require instead that the Development Brief

- for the site takes account of the aims and objectives of the neighbourhood plan, and the views of the local community.
- iii. To include reference to affordable housing in policy clause 4(ii) as part of the potential housing mix.
  - iv. For logical flow, separate or link and re-order policy clauses in line with the Examiner's report.
  - v. Remove both uses of the term 'consider' from clauses to increase the likelihood of those aspects (orchard planting and advance planting) being secured.
  - vi. Draw together and strengthen the various requirements relating to landscaping/ planting under an overarching requirement for a "detailed landscaping scheme" with the additional of a requirement (in line with that in Policy HD3) to provide, "a detailed management plan for the ongoing care and maintenance of trees and hedgerows on the site"
  - vii. Strengthen the biodiversity requirement to better reflect the national requirement, replacing "...enhance biodiversity..." with, "include provision for, as a minimum, biodiversity net gain in compliance with national policy..."
  - viii. Clarify the size requirement as being "up to or around" the 96m2.
  - ix. Remove cross reference to the Building Regulations in relation to required accessibility standards.

## **5. Housing Site Allocations Justification**

Correct and replace the text in the last two sentences of the penultimate paragraph of the supporting text for the housing site allocations at the bottom of page 30 of the Neighbourhood Plan (Submission Version), to read, "The sites lie outside but adjacent to the **Built-Up Area Boundary** and are allocated for development further to Strategy 27 of the adopted Local Plan, which enables communities to promote development in such locations through a neighbourhood plan, where they promote the objectives of sustainable development. The sites are designed to meet specific identified local needs and are not 'Rural Exception Schemes' as such under Strategy 35 of the Local Plan, however there are also links to this strategy in respect of the requirements for occupancy of the/any affordable housing".

## **6. Policy HD5: Self-build (and custom build) Housing**

- i. Move the clause relating to the issue regarding phosphates in the River Axe to the top of the list of criteria.
- ii. Ensure the Policy refers throughout to 'custom built' as well as self-build.
- iii. Minor adjustment to the definition of self-build / custom-build dwellings to shorten the clause without affecting its meaning, to read, "the dwelling is to be occupied by the person who builds it or commissions it (i.e., the first occupant has the primary input into the design of the home) as their main residence for a minimum period of 3 years after completion unless exceptional

- circumstances prevent this as agreed in writing by the local planning authority;”
- iv. Insert, “To reduce embodied carbon” to the start of the clause relating to replacement dwellings.
  - v. Remove the absolute requirement for foul drainage to be available at the plot boundary from criteria (vii).

## **7. Policy HD7: Retaining Community Facilities, Amenities and Assets**

Refer to all the community facilities, amenities and assets listed in the policy by name.

## **8. Policy EB1: Local Employment in Agriculture and Forestry**

- i. Add a cross-reference within policy clause ii) to Policy CGS1 of the Plan, which identifies the ‘locally valued landscapes and views’.
- ii. Replace, “Net gains in biodiversity will be sought wherever possible” in policy clause iii) with, “the proposals demonstrate how a biodiversity net gain equal to or exceeding national policy requirements will be delivered”.

## **9. Policy EB2: Local Tourism and Leisure Opportunities**

- i. Replace ‘tourism facilities and attractions’ in the first sentence with “holiday accommodation and tourist attractions”.
- ii. Replace ‘landscape setting’ with ‘setting’ in clause i).
- iii. Insert a new additional criteria labelled ii) to read, “are in a sustainable location with safe and good access to local facilities and amenities”.
- iv. Add a cross-reference to Policy CGS1 of the Plan within policy clause v) (now clause vi) which identifies the ‘locally valued landscapes and views’.

## **10. Policy EB3: Change of Use of Agricultural Buildings Development**

- i. Insert ‘Where planning permission is required,’ at the start of the policy
- ii. Delete ‘Net gains in biodiversity will be sought wherever possible’ from clause iv) and insert a new additional clause below to read, “v) the proposals demonstrate how a biodiversity net gain equal to or exceeding national policy requirements will be delivered”.

## **11. Policy DE1: High Quality Design**

Amend the wording of criteria xii) to read, “as a minimum meeting and wherever possible exceeding the latest Government Standards in relation to energy efficiency of materials and thereby achieving any policy requirement to reduce CO2 emissions;”

## **12. Policy CGS2: Locally Valued Areas of Biodiversity, Geodiversity and Habitat**

Add a cross-reference to Figure 20 of the Plan which shows the ‘locally valued areas of biodiversity, geodiversity and habitat’ to the first sentence of the policy.

## **13. Policy CGS3: Local Green Space and Associated Maps**

- i. Remove St Giles Churchyard and St Giles Cemetery as proposed Local Green Spaces from the Plan.
- ii. Replace clauses 2, 3 and 4 of the policy with a new clause (2.) to read, “Inappropriate development will not be supported except in very special circumstances.”
- iii. Provide a larger scale map in the Plan which clearly shows the boundaries to each Local Green Space.

## **14. Policy CGS4: Protecting the Stream Corridor**

Amend clause 2 of the policy to read,

“2. With the exception of householder applications, proposals for development should demonstrate that:

- i) They are designed to avoid any negative impact on phosphate levels, sediment run off and flooding in relation to the stream (as part of the Axe, Yarty and Corry Catchment), and
- ii) Seek to contribute to achieving, “Good Ecological Status” where applicable, feasible and viable, and
- iii) Will not contribute to deterioration of the current ecological status of the stream (as part of the Axe, Yarty and Corry Catchment).”

**Note:** In line with [National Planning Guidance on Neighbourhood Planning](#), a number of minor (non-material) amendments consequential to implementing the

Examiner's recommended modifications, and other minor changes and corrections, have been made and agreed in writing with Kilmington Parish Council, to create the Referendum Version of the Plan.

**EAST DEVON DISTRICT COUNCIL**

**19 July 2022 (effective date of decision)**