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**INDEPENDENT EXAMINER'S REPORT OF  
THE KILMINGTON NEIGHBOURHOOD DEVELOPMENT PLAN**

Deborah McCann

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## **SECTION 2**

### **Summary**

As the Independent Examiner appointed by East Devon District Council to examine the Kilmington Neighbourhood Development Plan, I can summarise my findings as follows:

1. I find the Kilmington Neighbourhood Development Plan and the policies within it, subject to the recommended modifications does meet the Basic Conditions.
2. I am satisfied that the Referendum Area should be the same as the Plan Area, should the Kilmington Neighbourhood Development Plan go to Referendum.
3. I have read the Kilmington Consultation Statement and the representations made in connection with this subject I consider that the consultation process was robust and that the Neighbourhood Plan and its policies reflects the outcome of the consultation process including recording representations and tracking the changes made as a result of those representations.
4. I find that the Kilmington Neighbourhood Development Plan can, subject to the recommended modifications proceed to Referendum.
5. At the time of my examination the adopted local plan was the East Devon Local Plan 2013 – 2031 (adopted 2016) however EDDC began preparing a new replacement Local Plan for East Devon in 2020, following 5 year review of the adopted Plan. This work is still in the early stages.

## **SECTION 3**

### **3.Introduction**

#### **3.1. Neighbourhood Plan Examination.**

My name is Deborah McCann, and I am the Independent Examiner appointed to examine the Kilmington Neighbourhood Development Plan.

I am independent of the qualifying body, I do not have any interest in the land in the plan area, and I have appropriate qualifications and experience, including experience in public, private and community sectors.

My role is to consider whether the submitted Kilmington Neighbourhood Development Plan meets the Basic Conditions and has taken into account human rights; and to recommend whether the Kilmington Neighbourhood Development Plan should proceed to Referendum. My role is as set out in more detail below under the section covering the Examiner's Role. My recommendation is given in summary in Section 2 and in full under Section 5 of this document.

The Kilmington Neighbourhood Development Plan must be independently examined following processes set out in the Town and County Planning Act 1990 (as amended by the Localism Act 2011) and the subsequent Neighbourhood Planning (General) Regulations 2012.

The expectation is that the examination of the issues by the examiner will be by written representations. However, there are two circumstances when an examiner may consider it necessary to hold a hearing. These are where the examiner considers that it is necessary to ensure adequate examination of an issue or to ensure a person has a fair chance to put a case. Having read the plan and considered the representations I did require clarification on a number of issues. These points were dealt with by written representations in a question and answer format. This additional information is publicly available on the East Devon District Council website and covered in my report within the relevant policy. I did not consider that it was necessary to hold a hearing.

#### **3.2. The Role of Examiner including the examination process and legislative**

## **background.**

The examiner is required to check whether the neighbourhood plan:

- Has been prepared and submitted for examination by a qualifying body
- Has been prepared for an area that has been properly designated for a neighbourhood plan.
- Meets the requirements to
  - i) specify the period to which it has effect;
  - ii) not include excluded development; and
  - iii) not relate to more than one neighbourhood area and
- Its policies relate to the development and use of land for a designated neighbourhood area.

The examiner must assess whether a neighbourhood plan meets the basic conditions and other matters set out in paragraph 8 of Schedule 4B of the Town and Country Planning Act 1990 (as amended).

As an independent Examiner, having examined the Plan, I am required to make one of the following recommendations:

1. The Plan can proceed to a Referendum

2. The Plan with recommended modifications can proceed to a Referendum

Where a policy does not meet the Basic Conditions or other legal requirement I may, on occasion, need to delete wording, including potentially an entire plan policy and/or section of text, although I will first consider modifying the policy rather than deleting it. Where a policy concerns a non-land use matter, advice in the Planning Practice Guidance states “Wider community aspirations than those relating to development and use of land can be included in a neighbourhood plan, but actions dealing with non-land use matters should be clearly identifiable. For example, set out in a companion document or annex.” As such, when considering the deletion of any non-land use matters from the plan, I will consider if I can make a modification to place the relevant proposed actions in a non-statutory annex to the plan, dealing with ‘Wider Community Aspirations’. I will not generally refer back to parties on these detailed revisions. I will

make modification either in order to meet the Basic Conditions, to correct errors or provide clarification. However, the focus of my examination, as set out in legislation is relatively narrow, I must focus on compliance with the Basic Conditions. The main purpose of a neighbourhood plan is to provide a framework for the determination of planning applications, policies in a plan which have elements which either seek to control things which fall outside the scope of the planning system or introduce requirements which are indiscriminate in terms of the size of development or overly onerous and would not meet the Basic Conditions. In these circumstances it will be necessary to make modifications to the plan. In making any modifications I have a duty to ensure that the Basic Conditions are met however I am also very careful to ensure, where possible that the intention and spirit of the plan is retained so that the plan, when modified still reflects the community's intent in producing their neighbourhood plan.

3. The Plan does not meet the legal requirements and cannot proceed to Referendum

I am also required to recommend whether the Referendum Area should be different from the Plan Area, should the Kilmington Neighbourhood Development Plan go to Referendum.

In examining the Plan, I am required to check, under Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990, whether:

- the policies in the Plan relate to the development and use of land for a designated Neighbourhood Area are in line with the requirements of Section 38A of the Planning and Compulsory Purchase Act 2004:
- The Plan meets the requirements of Section 38B of the Planning and Compulsory Purchase Act 2004 to specify the period for which it has effect
- the Plan has been prepared for an area designated under the Localism Act 2011 and has been developed and submitted for examination by a qualifying body.

I am also required to determine whether the Plan complies with the Basic Conditions, which are that the proposed Neighbourhood Plan:

- Has regard to national policies and advice contained in guidance issued by the Secretary of State;
- Contributes to the achievement of sustainable development; and
- Is in general conformity with the strategic policies contained in the Development Plan for the area; and
- Does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017; and
- Does not breach, and otherwise is compatible with EU obligations and Human Rights requirements.

East Devon District Council will consider my report and decide whether it is satisfied with my recommendations. The Council will publicise its decision on whether the plan will be submitted to a referendum, with or without modifications. If the Neighbourhood Plan is submitted to a referendum, then 28 working days' notice will be given of the referendum procedure and Neighbourhood Plan details. If the referendum results in more than half those voting (i.e., greater than 50%), voting in favour of the plan, then the District Council must "make" the Neighbourhood Plan a part of its Development Plan as soon as possible. If approved by a referendum and then "made" by the local planning authority, the Neighbourhood Plan then forms part of the Development Plan.

## **SECTION 4**

### **4.The Report**

#### **4.1. Appointment of the Independent examiner**

East Devon District Council appointed me as the Independent Examiner for the Kilmington Neighbourhood Development Plan with the agreement of Kilmington Parish Council.

#### **4.2. Qualifying body**

I am satisfied that Kilmington Parish Council is the Qualifying Body.

#### **4.3. Neighbourhood Plan Area**

Kilmington Parish Council applied for designation as a Neighbourhood Plan Area in November 2015 under Planning Regulations 2012 (part 2 S6) and approved by East Devon District Council under the Neighbourhood on the 14<sup>th</sup> of January 2016.

The designated Kilmington Neighbourhood Area covers the Parish of Kilmington.

The Basic Conditions Statement submitted with the Kilmington Neighbourhood Development Plan confirms there are no other Neighbourhood Plans covering the Area of the Kilmington Neighbourhood Development Plan.

#### **4.4. Plan Period**

The Basic Conditions Statement states that the Kilmington Neighbourhood Development Plan will cover the period 2020-2031, chosen to align with the East Devon Local Plan. The Plan period should be included on the cover of the Kilmington Neighbourhood Plan.

#### **4.5. East Devon District Council initial assessment of the Plan (Regulation 15).**

Kilmington Council submitted the draft Kilmington Neighbourhood Plan to East Devon District Council for consideration under Regulation 15 of the Neighbourhood Planning (General) Regulations 2012 in January 2022. East Devon District Council made an initial assessment of the Neighbourhood Development Plan and the supporting



documents and is satisfied that these comply with the specified criteria.

#### **4.6 Site Visit**

I carried out an unaccompanied site visit on the 7<sup>th</sup> of May 2022 to familiarise myself with the Neighbourhood Plan Area.

#### **4.7. The Consultation Process**

The Kilmington Neighbourhood Development Plan has been submitted for examination with a Consultation Report which sets out the consultation process that has led to the production of the plan, as set out in the regulations in the Neighbourhood Planning (General) Regulations 2012.

The Statement describes the approach to consultation, the stages undertaken and explains how the Plan has been amended in relation to comments received. It is set out according to the requirements in Regulation 15.1.b of the Neighbourhood Planning (General) Regulations 2012):

- (a) It contains details of the persons and bodies who were consulted about the proposed neighbourhood development plan;
- (b) It explains how they were consulted;
- (c) It summarises the main issues and concerns raised by the persons consulted; and
- (d) It describes how these issues and concerns were considered and, where relevant, addressed in the proposed neighbourhood development plan.

Examination of the documents and representations submitted in connection with this matter have led me to conclude that the consultation process was thorough, well conducted and recorded.

A list of statutory bodies consulted is included in the Consultation Statement.

#### **4.8. Regulation 16 consultation by East Devon District Council and record of responses.**

East Devon District Council placed the Kilmington Neighbourhood Development Plan

out for consultation under Regulation 16 for 7 weeks from the 9th of February 2022 to the 30th of March 2022.

A number of representations were received during the consultation period, and these were made available by East Devon District Council as part of the supporting information supplied for the examination process. I considered the representations, have taken them into account in my examination of the plan and made reference to them where appropriate.

#### **4.9. Compliance with the Basic Conditions**

A Basic Conditions Statement was produced for the Kilmington Neighbourhood Development Plan. The purpose of this statement is to set out in detail how the Neighbourhood Development Plan, as submitted meets the Basic Conditions. It is the Examiner's Role to take this document into consideration but also make take an independent view as to whether the assessment as submitted is correct.

I have to determine whether the Kilmington Neighbourhood Development Plan:

1. Has regard to national policies and advice
2. Contributes to sustainable development
3. Is in general conformity with the strategic policies in the appropriate Development Plan
4. Is not in breach and is otherwise compatible with EU obligations and Human Rights requirements.
5. Does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017. (Prescribed Conditions)

Documents brought to my attention by East Devon District Council for my examination include:

(a) The Kilmington Neighbourhood Development Plan:

This is the main document, which includes the policies developed by the community.

(b) The Consultation Statement:

This is a statement setting out how the community and other stakeholders have been involved in the preparation of the Kilmington Neighbourhood Development Plan and is supported by an evidence base, which arose from the consultation.

(c) Basic Conditions Statement.

This is a statement setting out how Kilmington Neighbourhood Development Plan Working Group considers that the Neighbourhood Development Plan meets the Basic Conditions. This statement also includes the screening report for the Strategic Environmental Appraisal and Habitats Regulations Assessment and addresses how the plan contributes to the achievement of sustainable development.

(d) Heritage Impact Review of the Kilmington

(e) Landscape and Visual Appraisal

(f) EDDC Strategic Planning Committee report regarding the River Axe nutrient levels.

### **Comment on Documents submitted**

I am satisfied having regard to these documents and other relevant documents, policies, and legislation that the Kilmington Neighbourhood Development Plan does, subject to the recommended modifications, meet the Basic Conditions.

## **4.10 Planning Policy**

### **4.10.1. National Planning Policy**

National Policy guidance is set out in the National Planning Policy Framework (NPPF) 2021.

To meet the Basic Conditions, the Plan must have “regard to national policy and advice”. In addition, the NPPF requires that a Neighbourhood Plan “must be in general conformity with the strategic policies of the local plan”.

Paragraph 29 states:

“Neighbourhood planning gives communities the power to develop a shared vision for their area. Neighbourhood plans can shape, direct and help to deliver sustainable development, by influencing local planning decisions as part of the statutory development plan. Neighbourhood plans should not promote less development than set out in the strategic policies for the area or undermine those strategic policies.”

The Kilmington Neighbourhood Development Plan does not need to repeat national policy, but to demonstrate it has taken them into account.

I have examined the Kilmington Neighbourhood Development Plan and consider that, subject to modification, the plan does have “regard for National Policy and Advice” and therefore the Plan, subject to modification does meet the Basic Conditions in this respect.

#### **4.10.2. Local Planning Policy- The Development Plan**

Kilmington lies within the area covered by East Devon District Council. The relevant development plan is the East Devon Local Plan 2013 – 2031 (adopted 2016).

**4.10.3** To meet the Basic Conditions, the Kilmington Neighbourhood Development Plan must be in “general conformity” with the strategic policies of the development plan.

The NPPF 2021 (updated) states:

“20. Strategic policies should set out an overall strategy for the pattern, scale and quality of development, and make sufficient provision<sup>12</sup> for:

a) housing (including affordable housing), employment, retail, leisure and other commercial development;

b) infrastructure for transport, telecommunications, security, waste management, water supply, wastewater, flood risk and coastal change management, and the provision of minerals and energy (including heat);

c) community facilities (such as health, education and cultural infrastructure); and

d) conservation and enhancement of the natural, built and historic environment, including landscapes and green infrastructure, and planning measures to address climate change mitigation and adaptation.”

**4.10.4** Neighbourhood Plans should only contain non-strategic policies. The NPPF 2021(updated) states:

“Non-strategic policies

28. non-strategic policies should be used by local planning authorities and communities to set out more detailed policies for specific areas, neighbourhoods or types of development. This can include allocating sites, the provision of infrastructure and community facilities at a local level, establishing design principles, conserving and enhancing the natural and historic environment and setting out other development management policies.

29. Neighbourhood planning gives communities the power to develop a shared vision for their area. Neighbourhood plans can shape, direct and help to deliver sustainable development, by influencing local planning decisions as part of the statutory development plan. Neighbourhood plans should not promote less development than set out in the strategic policies for the area or undermine those strategic policies.”

**4.10.5** Should there be a conflict between a policy in a neighbourhood plan and a policy in a Local Plan, section 38(5) of the Planning and Compulsory Purchase Act 2004 requires that the conflict must be resolved in favour of the policy, which is contained in the last document to become part of the development plan.

**4.10.6** The distinction between strategic and non-strategic policies is important because of the relationship with Neighbourhood Plans. Neighbourhood Plans only have to be in general conformity with the strategic policies of the development plan (Localism Act 2011, Schedule 4B, s7 (2)(e)) When made, neighbourhood plan policies take precedence over existing non-strategic policies in the local plan, where they are in conflict.

**4.10.7** Planning Policy Guidance paragraph 41-076-20140306 sets out that:

“Strategic policies will be different in each local planning authority area. When reaching

a view on whether a policy is a strategic policy the following are useful considerations:

- whether the policy sets out an overarching direction or objective
- whether the policy seeks to shape the broad characteristics of development
- the scale at which the policy is intended to operate
- whether the policy sets a framework for decisions on how competing priorities should be balanced
- whether the policy sets a standard or other requirement that is essential to achieving the wider vision and aspirations in the Local Plan
- in the case of site allocations, whether bringing the site forward is central to achieving the vision and aspirations of the Local Plan
- whether the Local Plan identifies the policy as being strategic”

I have considered the Strategic policies of the Development Plan and the Policies of the Kilmington Neighbourhood Development Plan and consider that, subject to the recommended modifications, the Plan does meet the Basic Condition in this respect and is in general conformity with the Strategic policies of the East Devon District Council Local Plan 2016.

#### **4.11. Other Relevant Policy Considerations**

##### **4.11.1 European Convention on Human Rights (ECMR) and other European Union Obligations**

As a ‘local plan’, the Neighbourhood Development Plan is required to take cognisance of the EU Strategic Environmental Assessment (SEA) Directive 2001/42/EC Office.

In the case of Directive 2001/42/EC a screening opinion was obtained from East Devon District Council in terms of the need for Strategic Environmental Assessment (SEA) in July 2021. The conclusion of the screening was:

" With regard to the SEA, the conclusion of the assessment is that the Plan is unlikely to result in a significant adverse effect on the environment, subsequently SEA is not required."

The statutory consultees were consulted at the time of the screening and whilst the Environment Agency agreed with the conclusion that no SEA was required Historic England and Natural England required further evidence to establish the potential impact of the proposed allocations in policies HD3 and 4 on the historic environment and landscape before reaching a conclusion. In response EDDC prepared a Heritage Impact Review of the Kilmington NDP and a landscape and visual appraisal of the two proposed allocations. Historic England made further comment at Regulation 16 and stated as follows:

"Our Regulation 14 consultation response noted our concern regarding the absence of a comprehensive heritage evidence base. We felt that such an evidence base was essential, given the potential impact from the two allocated development sites. Although a full Strategic Environmental Assessment (SEA) would have addressed our concerns, we suggested a lighter-touch approach, focused mainly on the allocated sites.

Therefore, we welcome the preparation of the Landscape and Visual Appraisal and the Heritage Impact Review. These reports, which both include a detailed consideration of the two allocated housing sites, seems rigorous and well evidenced. We assume that these studies have been attached and/or referenced as part of the final, submitted neighbourhood plan to make them binding.

I can confirm that there are no further issues associated with the Plan itself upon which we wish to comment."

I am therefore satisfied with the conclusion of EDDC that no SEA was required.

Directive 92/43/EEC and Directive 2009/147/EC seek to protect and improve Europe's most important habitats and species. As part of the screening request for the SEA a Habitats Regulations Assessment Screening request was also submitted to East Devon District Council as the Appropriate Authority. At consultation stage, NE raised concerns that the screening report was not sufficiently robust and considered that an

Appropriate Assessment was required. EDDC carried out an Appropriate Assessment and concluded that:

"With regard to the HRA, the assessment demonstrates that there is potential for significant effects on a European site, the River Axe SAC, through pollution from household effluent. An Appropriate Assessment has been carried out and strategic mitigation is in place through Policy EN19 of the East Devon Local Plan/ amendments to KNP policies to ensure that there will be no significant effects on the features of the SAC. It is therefore possible to conclude that, in combination with the Local Plan Policy, there will be no impact on the integrity of the European site."

I am satisfied with this conclusion.

Regulation 32 of the Neighbourhood Planning (General) Regulations 2012 (as amended) set out a further basic condition for a Neighbourhood Development Plan in addition to those set out in the primary legislation. Being that:

- the making of the neighbourhood plan is not likely to have a significant effect on a European site (as defined in the Conservation of Habitats and Species Regulations 2012) or a European offshore marine site (as defined in the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007) (either alone or in combination with other plans or projects). (See Schedule 2 to the Neighbourhood Planning (General) Regulations 2012 (as amended) in relation to the examination of neighbourhood development plans.)

I am satisfied that the Kilmington Neighbourhood Development Plan, subject to modification meets this Basic Conditions on EU obligations.

#### **4.11.2 Sustainable development**

The Basic Conditions Statement sets out how the plan addresses achieving sustainable development:

I am satisfied having regard to this document and other relevant documents, policies and legislation that the Kilmington Neighbourhood Development Plan does, subject to the recommended modifications, meet the Basic Conditions in this regard.



### **4.11.3 European Convention of Human Rights and to comply with the Human Rights Act 1998.**

The Neighbourhood Development Plan is required to take cognisance of the European Convention of Human Rights and to comply with the Human Rights Act 1998.

The Basic Conditions Statement refers to how the development of the plan and its policies accord with EU Human Rights obligations.

I am satisfied with this conclusion.

### **4.11.4 Excluded development**

I am satisfied that the Kilmington Neighbourhood Development Plan does not cover County matters (mineral extraction and waste development), nationally significant infrastructure such as highways and railways or other matters set out in Section 61K of the Town and Country Planning Act 1990.

### **4.11.5 Development and use of land**

I am satisfied that the Kilmington Neighbourhood Development Plan covers development and land use matters.

## **4.12.1 Kilmington Neighbourhood Development Plan Policies**

### **4.12.2 General comments**

Planning Guidance on preparing neighbourhood plans and policies is clear, it states:

“A policy in a neighbourhood plan should be clear and unambiguous. It 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 evidence. It should be distinct to reflect and respond to the unique characteristics and planning context of the specific neighbourhood area for which it has been prepared.

Neighbourhood planning can inspire local people and businesses to consider other ways to improve their neighbourhood than through the development and use of land.

They may identify specific action or policies to deliver these improvements. Wider community aspirations than those relating to development and use of land can be included in a neighbourhood plan, but actions dealing with non-land use matters should be clearly identifiable. For example, set out in a companion document or annex.”

In order to provide clarity and to ensure that the policies in the Kilmington Neighbourhood Development Plan meet the Basic Conditions it has been necessary for me to make modifications to a number of policies. This includes modifications where:

- Policies have sought to introduce controls outside the scope of the planning system or where existing policy already sets out the scope of control.
- A policy has not been drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications.

The details of these modifications are set out within my comments on the related policies. My comments on policies are in [blue](#) with the modified policies in [red](#).

### **4.12.3. The Neighbourhood Plan Vision, Strategic Aims and Policies**

#### **4.12.5 VISION**

##### **The vision for the Kilmington Parish is:**

“We recognise that Kilmington village and its surrounding Parish is a special place to live, lying within two Areas of Outstanding Natural Beauty. While recognising the need for evolution and development within the Parish, the community wishes the Parish to retain its unique and intimate character. We aim to maintain these qualities, whilst enhancing the rural and built environment by allowing limited incremental development to meet the needs of local people until 2031, in a way that will not compromise future generations and will encourage the maintenance of a sustainable and balanced rural community.”

The Plan themes are:

- Housing Development and Community Facilities
- Getting Around- Transport and Traffic
- Heritage and Design
- Countryside and Green Areas
- Small Scale renewables and Low Carbon Generation

## COMMENT

**I am satisfied that the Kilmington NDP vision and themes were developed from the consultation process and that the policies within the plan reflect both the vision and themes.**

### **Housing Development and Community Facilities**

#### **Policy HD1: Community Engagement**

1. Applications for developments will be expected to clearly demonstrate how proposals meet the aims and objectives of the Neighbourhood Plan. Accordingly, proposers of development (other than for minor domestic proposals), are strongly encouraged to engage with the Parish Council and the local community at the earliest opportunity prior to submission of a planning application stage to ensure local views and the aims and objectives of the Neighbourhood Plan are understood and taken account of.

2. Where major development is proposed (10 or more dwellings or for other uses, 1000sq metres or 1ha or more), the applicant must consult the local community prior to submitting the planning application and demonstrate how the issues raised through the consultation have been addressed. As a minimum, proposals should be sent to Kilmington Parish Council, available to view online, a staffed public exhibition should be held, and the local community should be notified in writing and by public notice.

3. Where other applications are likely to result in a significant local impact, pre-application consultation may be required. Accordingly, proposers of development (other than for minor domestic proposals), are strongly encouraged to engage with the Parish Council and the local community at the earliest opportunity prior to

submission of a planning application stage to ensure local views and the aims and objectives of the Neighbourhood Plan are understood and taken account of.

## COMMENT

Whilst the NPPF (2021) states that it is good practice for developers to engage with communities at an early stage it is not an absolute policy requirement. The provisions set out in paragraph 2 reflect the requirements of EDDC in their Statement of Community Consultation, this is not policy. For clarity and to meet the Basic Conditions paragraph 2. Of this policy should be modified as follows:

### **Policy HD1: Community Engagement**

**2. Where major development is proposed (10 or more dwellings or for other uses, 1000sq metres or 1ha or more), the applicant is strongly encouraged to consult the local community prior to submitting the planning application and demonstrate how the issues raised through the consultation have been addressed. As a minimum to meet the requirements of the EDDC Statement of Community Consultation, proposals should be sent to Kilmington Parish Council, available to view online, a staffed public exhibition should be held, and the local community should be notified in writing and by public notice.**

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

1. The preferred location for new housing development is within the defined Kilmington Built-Up Area Boundary. This is reproduced in Figure 6 and is consistent with that in the adopted East Devon Villages Plan 2018. Proposals for new dwellings outside the BUAB, other than those allowed for in the allocations and policies of this Plan, will not normally be supported.

2. Preferred sites will be:

- i) On previously developed land; or,
- ii) On an infill site in line with, and between, existing built properties; or,

iii) For “annexes” to be used by family or other household members as ancillary accommodation, which will remain tied to, and part of, the original property in perpetuity. Annexes will be supported where they are physically attached or closely related and subservient to the main dwelling and can be accessed without the addition of a separate driveway.

3. Proposals for new dwellings should demonstrate that they will not adversely impact the road network and safe movement of traffic; do not exacerbate transport constraints identified in Policy TT1 and will provide sufficient additional off-road parking for the new dwelling.

4. Proposals should demonstrate they will be of a density, scale and massing appropriate to the character, built form and setting of the site and its surroundings.

5. Trees and hedgerows are valued for their habitat for wildlife, biodiversity, air purification and amenity value and should not be removed, unless there is a sound ecological or community benefit for doing so.

## **COMMENT**

**In order for a built-up area policy to be robust it should be based on a clear and logical methodology. During the course of my examination, I sought clarification on the methodology, process of and intention behind the proposed Built-Up Area Boundary for Kilmington. I noted that there are areas of existing built development which fall outside the proposed built-up area boundary, in particular the area adjacent to the site allocation in Policy HD3. I also wanted to understand why the decision was made not to include the two proposed housing allocations (Policy HD3 and Policy HD4) within the built-up-area boundary. I also noted that whilst the sites are outside the built-up area boundary they are not identified as Rural Exception sites.**

**Relevant extracts from the response from the QB are as follows (the full response can be viewed on the EDDC website):**

**" The Kilmington Neighbourhood Plan does not propose the Built-Up Area**

Boundary (BUAB), but instead utilises the BUAB for the village set by East Devon District Council via the adopted Villages Plan, which was consulted on in the early stages of preparation of the neighbourhood plan.

The Villages Plan (adopted in 2018) sits alongside the adopted Local Plan, as part of the statutory development plan for the area.

The report of the assessment for Kilminster ([kilminster-site-by-site-assessment-publication.pdf](http://eastdevon.gov.uk/kilminster-site-by-site-assessment-publication.pdf) ([eastdevon.gov.uk](http://eastdevon.gov.uk))) explains in detail the rationale for the location of the built-up area boundary.

There was therefore a recent and robust basis for relying on the Built-Up Area Boundary set in the Villages Plan during the preparatory stages of the Neighbourhood Plan, and dialogue has taken place between EDDC and the KNP group on a regular basis throughout the Plan process.

The criteria in the methodology and how they were applied in Kilminster set out in the documentation above clarifies why there are areas of built development that are not included in the boundary, including the Dares Field development adjacent to proposed site allocation HD3. As a Rural Exception Scheme, this was expressly excluded on the basis of Criteria B1.

EDDC officers and the Kilminster Neighbourhood plan group discussed the option of amending and extending the BUAB through the neighbourhood plan process to include both proposed allocation sites (HD3 and HD4). It was agreed through discussion not to do so due to the reduced control this would give to the community, by providing the land with in principle presumption in favour of development, thereby increasing the likelihood that the sites could be developed for predominantly market housing, and not fulfil the intended purpose of the allocations. The allocations are exceptions to policy, under Strategy 6, “Where a local community prepare a Neighbourhood Plan, they may specifically allocate sites and/or include criteria based or other policies for promoting development/land uses beyond the boundary”.

By retaining the sites within the area defined as countryside in the Local Plan,

Strategy 7 will apply, in so far as, “Development [...] will only be permitted where it is in accordance with a specific Local or Neighbourhood Plan policy that explicitly permits such development”.

The sites have not been defined as Rural Exception Schemes, in terms of the definition of schemes that would be permitted under Strategy 35 of the Local Plan. Rather these are evidence-based proposals to meet specific community needs identified through the neighbourhood plan process and Housing Needs Assessment, with site HD4 in particular seeking primarily to provide accessible/adaptable housing for older people, rather than affordable housing per se."

I am satisfied that this response clearly sets out that an appropriate methodology was used to establish the BUAB and the reasons for the decision not to include the two housing allocation sites covered by HD3 and HD4. I do however consider that for clarity and to respond to representation made by EDDC, the policy should be modified as follows:

### **Policy HD2: Housing Development**

**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.**

**2.Sites should be located:**

**i) On previously developed land; or,**

**ii) On an infill site in line with, and between, existing built properties; or,**

**iii)For “annexes” to be used by family or other household members as ancillary accommodation, which will remain tied to, and part of, the original property in perpetuity. Annexes will be supported where they are physically attached or closely related and subservient to the main dwelling and can be accessed without the addition of a separate driveway.**

**3. Proposals for new dwellings should demonstrate that they will not adversely impact the road network and safe movement of traffic; do not exacerbate transport constraints identified in Policy TT1 and will provide sufficient additional off-road parking for the new dwelling.**

**4. Proposals should demonstrate they will be of a density, scale and massing appropriate to the character, built form and setting of the site and its surroundings.**

**5. Trees and hedgerows are valued for their habitat for wildlife, biodiversity, air purification and amenity value and should not be removed, unless there is a sound ecological or community benefit for doing so.**

**EDDC have made the following representation:**

**"The NP recognises that Strategy 27 of the East Devon District Adopted Local Plan allows for development beyond the settlement boundaries were allocated through a Neighbourhood Plan. The NP also refers to Strategy 35 which allows for exceptions to countryside policy, subject to compliance with policy criteria.**

**•Within the context of the identified housing needs and an aspiration for gradual growth of the village, the NP allocates land for development. However, the allocation of land is framed within the context of Strategy 35 of the Local Plan, as an exception to policy. The correct policy framework for the allocation of land beyond the settlement boundary of Kilminster is Strategy 27. Policy 35 would apply to any additional land proposed for development beyond the settlement boundary which is not identified for development within the Local Plan or Neighbourhood Plan.**

**•The penultimate paragraph on page 30 should be amended accordingly."**

**I agree that this error should be corrected.**

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

**1. Land off George Lane (adjacent to Dares Field) defined in Figure 7 is allocated for**



around 14 dwellings to meet the housing demands and needs of the local community during the term of this plan.

2. Proposers of development should engage with the local community and Parish Council, prior to submission of a planning application to the local planning authority, to ensure that proposals take into account both this plan's aims and objectives and the views of the local community.

3. A development brief will be prepared for the site and development on the site will be expected to:

i) subject to viability, deliver a mix of dwelling types and sizes which meet demonstrable up-to- date local needs to help maintain a balanced and thriving local community.

ii) provide at least 50% 'affordable' housing (a mix of low cost, shared ownership, and subsidised rent) and an element of 'self-build' subject to meeting the requirements in Policy HD5. Local evidence at present suggests 7 affordable 2-3 bedroom houses, 3 self-build 3-4 bedroom houses and 4 open market 3-4 bedroom houses; the self-build element is in addition to and not part of the required affordable housing provision for this site.

iii) the initial and subsequent occupancy of the affordable housing is restricted to a person(s) who:

a. Does not have access to general market housing and is in housing need; and

b. Is a resident of that parish group (as defined in The Local Plan) or has a local connection with that parish group because of family ties or a need to be near **their** workplace.

In the event that an occupier who fulfils both criterion (a) or (b) cannot be found within a reasonable period of time, then the criterion will be widened firstly to a person(s) with a local connection to the parish group because of family ties or a need to be near their workplace, and subsequently to a person(s) with an East Devon connection (Reference: EDDC Local Plan Strategy 35 or equivalent replacement policy);

iv) provide an adequate connection to the public sewer before the development can commence;

v) Comply with the Policy EN19 of the East Devon Local Plan 2013-2031 and the measures set out in the emerging Axe Catchment Area Nutrient Management Plan. Permission will not be granted, and the development must not commence, until the development can demonstrate that there will be no increase in phosphates as a result of the development and this has been approved in writing by the Local Planning Authority;

vi) consider within the layout of the overall scheme, the opportunity to set built development back into the site from the northern boundary as far as is practically possible;

vii) minimise loss of existing hedges and trees. Where loss is unavoidable, development proposals must provide for appropriate replacement planting with native trees and hedgerow on the site to improve landscape structure, screening and biodiversity value;

viii) provide (at least) a 10-metre buffer on the northern edge of the site between new development and the A35 which will be landscaped and planted before first occupation of the houses, in order to:

a. minimise particulate and other pollution levels on the new site

b. minimise noise from the A35

c. enhance the boundary with the A35 to make a positive contribution to the “A35 green corridor” (see Transport Plan)

d. retain and enhance biodiversity and habitat on the site

ix) provide strategic planting and landscaping to reinforce the existing field boundary on the eastern edge of the site to act as a buffer;

x) consider some orchard planting on the site;

- xi) consider advance planting where possible;
- xii) provide a management plan for the ongoing care and maintenance of trees and hedgerows on the site;
- xiii) retain and enhance biodiversity and habitat on the site, including installing a minimum of one integral nesting brick or bird box into each new build residential unit. Wherever possible and practicable, this minimum requirement should be exceeded through other appropriate measures including, but not limited to, external nest cups for house martins and swallows;
- xiv) provide safe pedestrian and cycle access on-site to help enable good access to community facilities and local services;
- xv) not adversely impact the local road network, to provide adequate parking and options for sustainable travel (Policy TT1); and,
- xvi) agree with the Parish Council a route for, and then provide a foot and cycle path at the southern end of the site to act as a west-east link from land north of The Orchard to the land to the east of the development site, together with a link to Meadowbank residential area.

#### 4. The dwellings should:

- i) be limited to two storeys;
- ii) be of a design, form, scale and density appropriate to and in keeping with the character of this part of the village, relating positively to the existing development on the adjacent site;
- iii) follow the guidance in the Blackdown Hills AONB Design Guide for Houses and the requirements set out in the Kilmington Village Design Statement;
- iv) use appropriate materials, particularly stone elevations to properties adjacent to A35 and George Lane with slate roofs; and,

v) avoid conspicuous gables and large window openings particularly to elevations facing open countryside.

5. The development will be expected to satisfy the requirements of the other policies in this plan.

## **COMMENT**

**This policy is very long and in places lacks clarity or does not meet the Basic Conditions. EDDC comment that this site is not a Rural Exception Site but is an allocation and as such the Council's affordable housing requirement should be 50% in accordance with Local Plan Strategy 34. For clarity and to meet the Basic Conditions the policy should be modified as follows:**

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

**1. Land off George Lane (adjacent to Dares Field) defined in Figure 7 is allocated for up to or around 14 dwellings to meet the housing needs of the local community during the term of this plan. Any proposals must comply with Policy EN19 of the East Devon Local Plan 2013-2031 and the measures set out in the emerging Axe Catchment Area Nutrient Management Plan. Permission will not be granted, nor can development commence until it can be demonstrated that there will be no increase in phosphates as a result of the proposed development.**

**2. A Development Brief should be prepared for the site which takes into account both this plan's aims, and objectives and the views of the local community established through engagement with the local community and Parish Council.**

**3. Proposals will be supported where they:**

**i) deliver a mix of dwelling types and sizes which meet demonstrable up-to-date local need to help maintain a balanced and thriving local community; and**

**ii) provide at least 50% 'affordable' housing (a mix of low cost, shared ownership, and subsidised rent). The initial and subsequent occupancy of the affordable housing is restricted to a person(s) who:**

- a. Does not have access to general market housing and is in housing need; and
- b. Is a resident of that parish group (as defined in The Local Plan) or has a local connection with that parish group because of family ties or a need to be near their workplace.

In the event that an occupier who fulfils both criterion (a) or (b) cannot be found within a reasonable period of time, then the criterion will be widened firstly to a person(s) with a local connection to the parish group because of family ties or a need to be near their workplace, and subsequently to a person(s) with an East Devon connection (Reference: EDDC Local Plan Strategy 35 or equivalent replacement policy); and

- iii) include an element of 'self-build' subject to meeting the requirements in Policy HD5.

Local evidence at present suggests 7 affordable 2–3-bedroom houses, 3 self-build 3–4-bedroom houses and 4 open market 3–4-bedroom houses; the self-build element is in addition to and not part of the required affordable housing provision for this site; and

- iv) demonstrate that an adequate connection to the public sewer can be provided; and

v) set built development back into the site from the northern boundary as far as is practically possible and include the provision of, as a minimum, a 10-metre buffer on the northern edge of the site between new development and the A35 which will be landscaped and planted before first occupation of the houses, in order to:

- a. minimises particulate and other pollution levels on the new site
- b. minimise noise from the A35
- c. enhance the boundary with the A35 to make a positive contribution to the “A35 green corridor” (see Transport Plan); and

vi) are designed to minimise the loss of existing hedges and trees. Where loss is unavoidable, development proposals must provide for appropriate replacement planting with native trees and hedgerow on the site to improve landscape structure, screening and bio-diversity value;

vii) provide a detailed landscaping scheme which includes:

a) strategic planting and landscaping to reinforce the existing field boundary on the eastern edge of the site to act as a buffer;

b) a mix of native and site appropriate trees including orchard planting

c) include provision for, as a minimum, biodiversity net gain in compliance with national policy which retains and enhances habitat on the site, including installing a minimum of one integral nesting brick or bird box into each new build residential unit and external nest cups for house martins and swallows;

d) include advance planting where possible and a detailed management plan for the ongoing care and maintenance of trees and hedgerows on the site; and

viii) provide safe pedestrian and cycle access on-site to help enable good access to community facilities and local services; and

ix) do not adversely impact the local road network, to provide adequate parking and options for sustainable travel (Policy TT1); and,

x) provide an East – West foot and cycle path at the southern end of the site that can, in future be extended to act as a west-east link from land north of The Orchard to the land to the east of the development site, together with a link to Meadowbank residential area; and

xi) provide dwellings of two storeys of a design, form, scale and density appropriate to and in keeping with the character of this part of the village, relating positively to the existing development on the adjacent site, following the guidance in the Blackdown Hills AONB Design Guide for Houses and the requirements set out in the Kilmington Village Design Statement; and

xii) use appropriate materials, particularly stone elevations to properties adjacent to A35 and George Lane with slate roofs; and,

xiii) avoid conspicuous gables and large window openings particularly to elevations facing open countryside.

**4. The development will be expected to satisfy the requirements of the other policies in this plan.**

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

1. Land off Whitford Road (north of The Beacon) defined in Figure 7 is allocated for up to 10 small bungalows to meet the housing demands and needs of the local community with a focus on housing for local older people as defined in the NPPF.

2. Proposers of development should engage with the local community and Parish Council, prior to submission of a planning application to the local planning authority, to ensure that proposals take into account both this plan's aims and objectives and the views of the local community;

3. A development brief will be prepared for the site and dwellings and will include:

4. Development on the site will be expected to:

i) deliver a mix of accommodation suitable for older people by design that meets the needs of a range of downsizers and promotes independent living;

ii) include a mix of market, sheltered and self-build\* plots based on an up-to-date assessment of local need;

iii) be of a design and density appropriate to and in-keeping with the character of this part of the village and pay particular regard to the requirements set out in the Kilmington Village Design Statement;

iv) respond positively to the needs of older people which should include inside or outside communal space and a 'dementia friendly' design and layout;

- v) incorporate the principles of 'secure by design' which may incorporate CCTV, secure access and mutual overlooking of shared space;
- vi) where relevant, meet the requirements of Local Plan Strategy 35 and Strategy 36 or equivalent replacement policy;
- vii) provide an adequate connection to the public sewer before the development can commence;
- viii) comply with the Policy EN19 of the East Devon Local Plan 2013-2031 and the measures set out in the emerging Axe Catchment Area Nutrient Management Plan. Permission will not be granted, and the development must not commence, until the development can demonstrate that there will be no increase in phosphates as a result of the development and this has been approved in writing by the Local Planning Authority.
- ix) route utility and other service infrastructure underground, including existing infrastructure if technically feasible;
- x) provide a 10m set-back from Whitford Road and consider orchard planting in this area between Whitford Road and the proposed building line, with built development to the south of the site as much as possible to minimise impact on the listed buildings to the north;
- xi) retain and enhance biodiversity and habitat on the site, including reinforcing the existing northern boundary through new planting and installing a minimum of one integral nesting brick or bird box into each new build residential unit. Wherever possible and practicable, this minimum requirement should be exceeded through other appropriate measures including, but not limited to, external nest cups for house martins and swallows;
- xii) consider advance planting where possible;
- xiii) provide safe pedestrian and cycle access on-site to help enable good access to community facilities and local services; and,



5. The Dwellings should:

i) be single storey;

ii) have a maximum 96m<sup>2</sup> gross internal area (as defined by RICS);

iii) not exceed 3 bedrooms; and,

iv) meet accessible and adaptable standards set out in the Building Regulations and, ideally, is

also suitable for wheelchair users.

6. Permitted development rights will be withdrawn to ensure reasonable controls exist over future extensions, increase in height and modification of dwellings in perpetuity. This is necessary in order to protect the character of the area and to ensure the size and layout of the dwelling continues to meet the identified need.

7. The development will be expected to satisfy the requirements of the other policies in this plan.

## COMMENT

The policy seeks to introduce a maximum space standard for dwellings on the site, but the policy justification does not provide any evidence or justification for this absolute requirement although I understand the reason behind wishing to keep the dwellings "small". This policy is very long and in places lacks clarity or does not meet the Basic Conditions for reasons set out in my general comments and should be modified as follows:

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

**1. Land off Whitford Road (north of The Beacon) defined in Figure 7 is allocated for up to 10 small bungalows to meet the housing demands and needs of the local community with a focus on housing for local older people as defined in the NPPF. Any proposals must comply with Policy EN19 of the East Devon Local**

**Plan 2013-2031 and the measures set out in the emerging Axe Catchment Area Nutrient Management Plan. Permission will not be granted, nor can development commence until it can be demonstrated that there will be no increase in phosphates as a result of the proposed development.**

**A Development Brief should be prepared for the site which takes into account both this plan's aims, and objectives and the views of the local community established through engagement with the local community and Parish Council. Proposals will be supported where they:**

**i) deliver a mix of accommodation suitable for older people of up to or around 96m<sup>2</sup>, designed to meet the needs of a range of downsizers and which promotes independent living;**

**ii) include a mix of market, affordable, sheltered and self-build\* plots based on an up-to-date assessment of local need;**

**iii) are of a design and density appropriate to and in-keeping with the character of this part of the village and pay particular regard to the requirements set out in the Kilmington Village Design Statement;**

**iv) respond positively to the needs of older people which should include inside or outside communal space and a 'dementia friendly' design and layout;**

**v) incorporate the principles of 'secure by design' which may incorporate CCTV, secure access and mutual overlooking of shared space;**

**vi) where relevant, meet the requirements of Local Plan Strategy 35 and Strategy 36;**

**vii) can demonstrate that an adequate connection to the public sewer can be provided;**

**viii) route utility and other service infrastructure underground, including existing infrastructure if technically feasible;**

ix) provide a 10m set-back from Whitford Road and include orchard planting in this area between Whitford Road and the proposed building line, with built development to the south of the site as much as possible to minimise impact on the listed buildings to the north;

x) provide a detailed landscaping scheme which includes:

a) reinforcing the existing northern boundary through new planting

b) a mix of native and site appropriate trees including orchard planting

c) include provision for, as a minimum, biodiversity net gain in compliance with national policy which retains and enhances habitat on the site, including installing a minimum of one integral nesting brick or bird box into each new build residential unit and external nest cups for house martins and swallows;

d) include advance planting where possible and a detailed management plan for the ongoing care and maintenance of trees and hedgerows on the site; and

xi) provide safe pedestrian and cycle access on-site to help enable good access to community facilities and local services; and,

xii) provide single storey dwellings with a maximum of 3 bedrooms that are up to or around 96m<sup>2</sup> gross internal area and meet accessible and adaptable standards and, ideally, also suitable for wheelchair users.

6. Permitted development rights will be withdrawn to ensure reasonable controls exist over future extensions, increase in height and modification of dwellings in perpetuity. This is necessary in order to protect the character of the area and to ensure the size and layout of the dwelling continues to meet the identified need.

7. The development will be expected to satisfy the requirements of the other policies in this plan.

Policy HD5: Self-build (and custom build) Housing

1. Proposals for self-build (and custom build) dwellings will be supported where:

i) the proposed development is located within or immediately adjacent to the Kilmington built-up area boundary;

ii) they do not have an adverse impact on the special character of the area's natural and built environments;

iii) the dwelling is self-built by someone who either lives in the parish of Kilmington or who has a local connection to it as defined in Strategy 35 of the Local Plan (or equivalent replacement policy);

iv) the dwelling is to be occupied by the person who builds it (i.e., the first occupant has the primary input into the design of the home). They shall occupy it 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;

v) the application be described as a self-build and will be conditioned as such;

vi) the number of dwellings granted permission as a result of this policy does not exceed 10 during the neighbourhood plan period;

vii) each plot has at least water, foul drainage and electricity supply available at the plot boundary;

viii) Comply with the Policy EN19 of the East Devon Local Plan 2013-2031 and the measures set out in the emerging Axe Catchment Area Nutrient Management Plan. Permission will not be granted, and the development must not commence, until the development can demonstrate that there will be no increase in phosphates as a result of the development and this has been approved in writing by the Local Planning Authority.

ix) the plot has suitable access, with minimal disruption to local communities, for construction vehicles necessary for the completion of the dwelling; and,

x) they satisfy the requirements of the other relevant policies in this plan.

2. Support will not normally be given for replacement dwellings unless accompanied by a robust condition survey which demonstrates the case for demolition. In this case, the existing foundations should be re-used unless the application clearly demonstrates why this is not practically possible.

3. Where appropriate, the above criteria will be enforced through legal obligations.

## **COMMENT**

**I have been provided with clarification by EDDC regarding the proposed limit on the number of self/custom build units that will be supported across the plan period. This relates information obtained from the Self Build Register held by EDDC and the Self Build Monitoring Report:**

<https://eastdevon.gov.uk/media/3723984/self-build-monitoring-report.pdf>

**I am satisfied that the limit proposed is appropriate given the level of demand within the parish and the projection of this across the plan period. For clarity and to meet the Basic Conditions the policy should be modified as follows:**

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

**1. Proposals for self-build (and custom build) dwellings must comply with Policy EN19 of the East Devon Local Plan 2013-2031 and the measures set out in the emerging Axe Catchment Area Nutrient Management Plan. Permission will not be granted, and the development must not commence, until the development can demonstrate that there will be no increase in phosphates as a result of the development. Proposals will be supported where:**

**i) the proposed development is located within or immediately adjacent to the Kilmington Built-Up Area Boundary;**

**ii) they do not have an adverse impact on the special character of the area's natural and built environments;**

**iii) the dwelling is self-built, or custom built by someone who either lives in the parish of Kilmington or who has a local connection to it as defined in Strategy 35 of the Local Plan and the number of dwellings granted permission as a result**

of this policy does not exceed 10 during the neighbourhood plan period;

iv) 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;

v) the application be described as a self-build or custom build and will be conditioned as such;

vii) each plot has at least water and electricity supply available at the plot boundary;

viii) the plot has suitable access, with minimal disruption to local communities, for construction vehicles necessary for the completion of the dwelling; and,

ix) they satisfy the requirements of the other relevant policies in this plan.

2. To reduce embodied carbon, support will not normally be given for replacement dwellings unless accompanied by a robust condition survey which demonstrates the case for demolition. In this case, the existing foundations should be re-used unless the application clearly demonstrates why this is not practically possible.

3. Where appropriate, the above criteria will be enforced through legal obligations.

### **Policy HD6: Retaining Affordable Housing in Perpetuity**

Affordable or low-cost housing should be provided in perpetuity, (in accordance with the most up- to-date Government policy), for example, through a Community Land Trust, section 106 agreements, other community housing scheme or Registered Provider which retains stock for the benefit of the local community at an accessible cost. Community housing schemes which provide and retain local affordable housing for the benefit of local people in need will be supported.

## COMMENT

I have no comment on this policy.

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

1. Existing community facilities and amenities (as identified on Figure 8 and listed below) are locally valued and will be protected for community use. Their loss will not normally be supported:

i) Primary School

ii) Village Hall,

iii) Churches, two

iv) Pubs, two

v) Recreation Field, including cricket oval, tennis court, children's play park with equipment and multi-use pavilion.

Foot note [Appendix 2 Amenities list together with details of the groups and activities they support]

2. Proposals which result in the loss (redevelopment or change of use) of these facilities and amenities will only be supported where:

i) there is no reasonable prospect of viable continued use of the existing building or facility which will benefit the local community and they demonstrate a need for their proposed change; and,

ii) they do not have an adverse impact on the special character of the area's natural and built environments.

## COMMENT

**EDDC have suggested that the policy should refer to all the Community Facilities, Amenities and Assets by name, I agree with this suggestion.**

**Policy HD8: Maintaining and Enhancing Community Facilities, Amenities and Assets**

1. Development proposals for new, replacement, extended and/or improved community facilities and amenities will be supported where:

i) the proposal would not have significant adverse impact on the amenity of nearby residents;

ii) the proposal would not have significant adverse impacts on the surrounding local environment (with regard to biodiversity, wildlife habitat and landscape character);

iii) the proposal would not have unacceptable impacts on the local road network (with regard to additional traffic volume / congestion, demand for parking, and pollution levels);

iv) the proposed use will be dedicated to community use in perpetuity, and,

v) they are easily accessible by residents and users, including, where possible, by sustainable modes of transport.

**COMMENT**

**I have no comment on this policy.**

**Policy HD9: Education and Learning Facilities**

Development proposals for new or improved facilities which support education and learning will be supported where:

i) they do not increase fluvial or surface water flood risk;

ii) they will have no adverse effect on residential amenity (such as noise, operating hours, light pollution, anti-social behaviour and so on) in nearby areas; and,



iii) there will be no adverse impact on the natural environment (landscape, biodiversity and habitats) or that negative impacts will be satisfactorily mitigated and where possible, enhancement secured.

## **COMMENT**

**I have no comment on this policy.**

### **Policy TT1: Impact on the Local Highway, Cycleway and Footpath Network**

1. Proposals must provide sufficient off-road parking to serve the development commensurate to the size and nature of the use and ensure no adverse impact on highway safety.
2. Proposals which would significantly increase traffic flow on the local road network, particularly through The Hill, The Street and George Lane will not be supported.
3. Proposals that improve pedestrian and cycle access to facilities will be supported.
4. Proposals for new residential dwellings, employment development or community/recreation facilities must include secure storage facilities for cycles.
5. Proposals for new residential dwellings or employment development should include charging points for electric vehicles.

## **COMMENT**

**I have no comment on this policy.**

### **Policy TT2: Protecting Devon Banks, Hedgerows and Trees from New and Widened Access Points**

Proposals for development including new and widened access points which negatively affect traditional Devon banks, established hedgerows and trees should demonstrate that:

- i) Alternative options are impractical, and the proposal is the least damaging option (to

the hedgerow / bank / tree(s), setting in the landscape, biodiversity and habitats), and,

ii) They have taken into account the most up-to-date Highways Authority standards and guidance relating to changes to hedgerows.

## COMMENT

**I have no comment on this policy.**

### **Policy TT3: Traffic arising from Major Development**

Proposals for all new housing developments, major employment or retail proposals and expansion of existing employment and retail premises which are likely to generate significant additional vehicle movements into and out of the site should demonstrate, as part of a Transport Assessment, how vehicular access into and out of the site and circulation within the site will mitigate impacts of additional traffic onto the A35 and (where relevant) through Kilmington village (including with regards to safety, journey time, congestion, air quality and noise).

## COMMENT

**I have no comment on this policy.**

### **Policy TT4: Protecting the Footpath, Bridleway and Cycleway Network**

1. Development proposals which result in the loss of public footpaths, bridleways and cycle paths will not normally be supported unless an appropriate replacement route can be provided.

2. Proposals for new rights of way and other public non-vehicular routes and development affecting existing rights of way and other public non-vehicular routes should, where relevant:

i) help to increase opportunities for recreational access to and within the countryside;

ii) better link existing areas of green infrastructure and Local Green Space used for recreational purposes;

iii) help to retain and enhance safe and easy pedestrian and cycle access to local amenities including the school, community facilities and services;

iv) not adversely impact upon local amenity;

v) have no adverse impact on landscape or built character or such impacts are satisfactorily mitigated;

vi) meet the most up-to-date standards of design and use surface materials that do not exacerbate flooding.

3. New and improved walking and cycle routes in the following locations, to improve accessibility within and around Kilmington village, will be supported:

i) connecting George Lane and Whitford Road; and,

ii) connecting Meadowbank and the proposed development HD3

iii) connecting The Hill and Newtons Orchard/George Lane

## **COMMENT**

**I have no comment on this policy.**

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

Development proposals which provide additional opportunities for agricultural and forestry employment will be supported where they:

i) do not increase flood risk;

ii) have no adverse impact on locally valued landscapes and views or built character or such impacts are satisfactorily mitigated;

iii) have no adverse impact on biodiversity or impacts can be satisfactorily mitigated. Net gains in biodiversity will be sought wherever possible;

iv) do not adversely impact upon local amenity; and,

v) do not adversely affect traffic within the village.

## **COMMENT**

**For consistency with other modifications to policies I have made and to meet the Basic Conditions, the policy should be modified as follows:**

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

**Development proposals which provide additional opportunities for agricultural and forestry employment will be supported where they:**

**i) do not increase flood risk;**

**ii) have no adverse impact on locally valued landscapes and views, as identified in Policy CGS1 or built character or such impacts are satisfactorily mitigated;**

**iii) have no adverse impact on biodiversity or impacts can be satisfactorily mitigated.**

**iv) the proposals demonstrate how a biodiversity net gain equal to or exceeding national policy requirements will be delivered;**

**v) do not adversely impact upon local amenity; and,**

**vi) do not adversely affect traffic within the village.**

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

1. Development proposals for tourism facilities and attractions which provide additional opportunities to support the local economy will normally be supported where they:

i) are of a small scale appropriate to their landscape setting;

ii) serve a local rather than strategic tourism need and /or demand;

iii) have no adverse impact on highway safety or traffic flow on the local road network;

- iv) do not increase fluvial or surface water flood risk;
- v) have no adverse impact on locally valued landscapes and views, or built character or such impacts are satisfactorily mitigated;
- vi) have no adverse impact on biodiversity or impacts can be satisfactorily mitigated to ensure net gains in biodiversity; and,
- vii) do not adversely impact upon local amenity.

2. The development of new permanent dwellings of any type to support such developments will not be supported. The conversion of existing buildings to provide support to the facility will be considered on an individual basis.

## **COMMENT**

**The wording of this policy does not reflect the wording of the policy justification, and EDDC have suggested that this would make it more difficult to implement the policy effectively. For clarity the policy should be modified as follows:**

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

**1. Development proposals for holiday accommodation and tourist attractions which provide additional opportunities to support the local economy will normally be supported where they:**

- i) are of a small scale appropriate to their setting;**
- ii) are in a sustainable location with safe and good access to local facilities and amenities**
- iii) serve a local rather than strategic tourism need and /or demand;**
- iv) have no adverse impact on highway safety or traffic flow on the local road network;**
- v) do not increase fluvial or surface water flood risk;**

**vi) have no adverse impact on locally valued landscapes and views identified in policy CGS1, or built character or such impacts are satisfactorily mitigated;**

**vii) have no adverse impact on biodiversity or impacts can be satisfactorily mitigated to ensure net gains in biodiversity; and,**

**viii) do not adversely impact upon local amenity.**

**2. The development of new permanent dwellings of any type to support such developments will not be supported. The conversion of existing buildings to provide support to the facility will be considered on an individual basis.**

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

Proposals for conversion of agricultural buildings will be supported where:

i) they support the diversification of farm businesses, and it can be shown that it will make a difference to the viability of the main business as a working farm;

ii) they have no adverse impact on highway safety, on road parking or traffic flow on the local road network;

iii) they will have no adverse effect on residential amenity (such as resulting from noise, hours of operation, light pollution, anti-social behaviour and so on) in nearby areas;

iv) there will be no adverse impact on the natural environment (landscape, biodiversity and habitats) or that any adverse impacts will be satisfactorily mitigated. Net gains in biodiversity will be sought wherever possible;

v) they do not result in disproportionate extension of the existing structure or building.

### **COMMENT**

**Not all conversions of agricultural buildings require planning permission and the NPPF (2021) now requires proposals to demonstrate a biodiversity net gain.**

**For clarity and to meet the Basic Conditions the policy should be modified as follows:**

**Policy EB3: Change of Use of Agricultural Buildings Development**

**Where planning permission is required, proposals for conversion of agricultural buildings will be supported where:**

- i) they support the diversification of farm businesses, and it can be shown that it will make a difference to the viability of the main business as a working farm;**
- ii) they have no adverse impact on highway safety, on road parking or traffic flow on the local road network;**
- iii) they will have no adverse effect on residential amenity (such as resulting from noise, hours of operation, light pollution, anti-social behaviour and so on) in nearby areas;**
- iv) there will be no adverse impact on the natural environment (landscape, biodiversity and habitats) or that any adverse impacts will be satisfactorily mitigated.**
- v) the proposals demonstrate how a biodiversity net gain equal to or exceeding national policy requirements will be delivered;**
- v) they do not result in disproportionate extension of the existing structure or building.**

**Policy EB4: Change of Use from Agricultural to Woodland / Forestry Use**

Development proposals associated with a change from agricultural use to woodland/ forestry for commercial purposes which require planning permission will be supported where:

- i) they help to increase opportunities for public access to and education within the countryside;

ii) they have no detrimental impact on the neighbouring developments or landscape designations, or such impacts can be satisfactorily mitigated;

iii) access to and from the site for trimming, felling and distribution does not exacerbate existing transport problems experienced in Kilmington village;

iv) they demonstrate that there is no adverse impact on the landscape from buildings required for operational uses of the site or such impacts can be satisfactorily mitigated;

v) they utilise species natural to the region across the site to enhance habitats and achieve a net gain in biodiversity and avoiding monoculture; and,

vi) they demonstrate that there is a plan in place for the management of the woodland, especially where it is being used as a crop.

## COMMENT

**I have no comment on this policy.**

### **Policy EB5: Telecommunications**

1. The development of infrastructure to support improvements in telecommunications which serve the Parish will be supported where sympathetically incorporated and sensitively sited within the landscape.

2. Masts will only be supported where they are located outside of the Locally Valued Landscape Areas and Views as shown in Figure 19 and it can be proven that:

i) there is a need for a mast at that specific location;

ii) there are no opportunities to share an existing mast.

3. Wherever practical, all new residential, educational and business premises will be required to make provision for the latest high-speed internet and mobile connectivity.

## COMMENT



**I have no comment on this policy.**

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

1. All new development should be of high-quality design, complementing the local vernacular, enhancing visual amenity, minimising any adverse impacts on the built environment, neighbouring amenity and landscape.

2. For proposals to be considered high quality, they should meet the requirements of the Kilmington Village Character Assessment (Appendix 4) and have particular regard to the following considerations, wherever applicable and practical:

i) application of the most up-to-date accessibility standards which are applicable to the type and location of development (and exceed those standards where possible);

ii) be well-related to scale, form and character of the existing village built-up area and of its setting, sitting and fitting well with neighbouring properties including residential dwellings providing private rear amenity space (gardens) appropriate to dwelling type and size;

iii) demonstrate how they respond positively to the Kilmington Village Character Assessment and Kilmington Village Design Statement (Appendix 3);

iv) retain and enhance boundary features of a site or have boundary treatment well-related to those of nearby dwellings and other buildings and the character of its setting. Where this requires planting of hedgerows or banks, species should be native to the local area;

v) have no adverse impact on the amenity of neighbouring residents;

vi) have minimal adverse visual impact on the village gateways (approaches) identified on Figure 11;

vii) exceed adopted off road parking standards;

viii) ensure good and safe accessibility for refuse, emergency and delivery vehicles;

- ix) provide safe and easy access for pedestrians and cyclists onto the existing pedestrian and cycle network and enable good connectivity to local facilities and amenities;
- x) provide a street design which is safe for pedestrian, cycle and vehicular access but does not adversely impact upon the character of the historic network of roads and lanes, for example, through inappropriate lighting or pavement areas which adversely impact on the character and setting of public spaces;
- xi) route utility and other service infrastructure underground;
- xii) exceed requirements set out in Building Regulations standards in relation to energy efficiency of materials;
- xiii) have a layout which optimises passive solar gain;
- xiv) new residential dwellings, employment development or community/recreation facilities must include secure storage facilities for cycles;
- xv) new residential dwellings or employment development should include charging points for electric vehicles;
- xvi) pass the tests and exceed standards relating to Building for a Healthy Life for dwellings and BREEAM “Very Good” for commercial / employment uses, or equivalent other up-to-date standards at the time of application; and,
- xvii) respond positively to National Design Guidance, and to principles such as those set out for “walkable communities” in Sport England and Public Health England’s “Active Design” guidance.

## **COMMENT**

**I have received representation that elements of this policy should be modified as they are either overly onerous or extend outside the planning policy regime. I have looked at the original wording of the policy very carefully I am satisfied that the inclusion of the phrase "and have particular regard to the following**

considerations, wherever applicable and practical" changes the nature of the criteria that follow from absolute policy requirements to policy targets. I therefore conclude that the policy does not need general modification other than Paragraph xii). Paragraph xii) refers to Building Regulations standards, which fall outside the planning policy regime. For clarity and to meet the Basic Conditions paragraph xii) of the policy should be modified as follows:

**xii) 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;**

### **Policy DE2: Flood Risk**

1. Where appropriate, development proposals should demonstrate that they do not increase local flood risk, with regard both to locations of known surface water flooding and fluvial flood risk (identified on up-to-date flood risk maps).
2. Development proposals creating new drainage requirements must incorporate Sustainable Urban Drainage Systems (SuDS), following the SuDS hierarchy. New drainage systems must demonstrate they will be effective in allowing for above surface water management on site and improvement of water quality.
3. A management plan must be put in place for future maintenance of the drainage system. SuDS systems maintained by Southwest Water would be preferred.

### **COMMENT**

**I have no comment on this policy.**

### **Policy CGS1: Locally Valued Landscapes and Views**

1. Areas of particularly locally valued landscapes and views will be protected. The landscape views identified in Figure 19 and set out in the Kilmington Village Character Assessment are:

- a. from Roman Road across Cory Brook;

- b. from Nower Lane at Nower farm down the Cory valley;
- c. from Stockland Road at the junction with Nower Lane across the Cory valley;
- d. from Gore Head over the village, particularly St Giles' church tower;
- e. from Hampton Road looking east across the Axe Valley; and,
- f. from the A35 along the River Axe looking south;

2. These views will be protected for the quality of their amenity value and their contribution to the character and setting of the village and wider parish. Their loss or despoilment will not normally be supported.

3. Proposals which result in unavoidable adverse visual impact on these views (in whole or in part) will only be supported where:

- i) there are no other suitable sites for the proposed development; and,
- ii) the visual impact of the development can be satisfactorily mitigated in a manner which retains or enhances landscape character.

4. Proposals, and the assessment of proposals, is expected to take account of and apply the latest available local guidance:

- i) Kilmington Village Character Assessment and Countryside and Green Spaces Assessment and Audit (including the Local Views / Visual Landscape and Local Green Space Assessment); and,
- ii) East Devon and Blackdown Hills AONB and East Devon District Landscape Character Assessment and Management Guidelines Blackdown Hills AONB "What makes a view?" (Where relevant).

## **COMMENT**

**I have no comment on this policy.**

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

1. Our particularly locally valued areas of biodiversity, geodiversity and habitat are:

i) deciduous woodlands, particularly those within the village (south of Shute Road, either side of Roman Road, between Springhead and Shute Road and Coryton Lane, along the 'Quarry Road') (deciduous woodland is scarce in the parish and is a 'Priority Habitat');

ii) areas of purple moor grasslands in the north of the parish, (Purple moor grassland is a 'Priority Habitat');

iii) The Common (contains lowland heath and deciduous woodland, both 'Priority Habitats', used by many parishioners for recreation, site for re-establishment of the Heath Lobelia); and,

iv) the stream corridor running from the west end of Springhead Lane through the village to Whitford Road (a valued watercourse for running freshwater with margin vegetation, see Figure 23 section 7.5).

These areas will be protected as areas critical in supporting wildlife habitats, biodiversity and geodiversity and their role within the wider network of green infrastructure. Their loss will not normally be supported.

2. Proposals which result in unavoidable adverse impact on these areas will only be supported where:

i) there are no other suitable sites for the proposed development;

ii) the areas (quality, land area and habitat, biodiversity and geodiversity value) can be satisfactorily replaced in close proximity to their original location with net gains in biodiversity

iii) a funded management and maintenance plan, of 3 or 5 years depending on habitat type, is agreed to ensure that net gains in biodiversity are realised; and,

iv) the proposal would not have significant adverse impacts on the site's wider setting (regarding biodiversity, geodiversity and habitat) or such impacts can be satisfactorily mitigated.

3. Trees and hedgerows are valued for their habitat for wildlife, biodiversity, air purification and amenity value and should not be removed, unless there is a sound ecological or community benefit for doing so.

4. Development should aim to:

i) maintain the visual and biodiversity value of verges, hedgerows, and Devon banks which provide connectivity as green corridors for wildlife.

ii) limit external light sources ensuring that lighting is appropriately sited, specified and controlled to minimise light spill and adverse impact on dark skies and bat commuting and foraging patterns.

5. Opportunities to incorporate provision for nesting birds and roosting bats must be considered, and included wherever possible/practical in new developments, to protect and enhance biodiversity. A minimum of one integral bird box designed for swifts shall be incorporated into each new build residential unit, and/or where existing buildings are being altered/extended, an ecologist should be instructed to check for existing nests/ roosts of birds or bats. These should be retained where possible or replaced with an integral box, or if not practical, an external box. Wherever possible and practicable, this minimum requirement should be exceeded through other appropriate measures including, but not limited to, external nest cups for house martins and swallows, and internal oxygen "tubes" for bats, at all times in accordance with current legislation for specially protected species.

## **COMMENT**

**The policy should be modified to include a reference to Figure 20 which illustrates the areas referred to in the policy.**

### **Policy CGS3: Local Green Space**

1. Our locally valued green spaces are identified on Figure 21 and are designated as Local Green Space:

i) St Giles Churchyard;

ii) St Giles Cemetery;

iii) Village Recreation Field;

iv) Village Green;

v) Jubilee Green;

vi) The Common;

vii) The allotments; and,

viii) New Inn Garden.

2. These areas will be protected for their local environmental, heritage and/or recreational value and development will not normally be supported unless it is to enhance their function.

3. Where development is to be supported it must:

i) maintain or enhance the existing use and amenity and / or recreational value of the site

ii) have no adverse impact on the recreational use, heritage or environmental value of the site;

iii) not change the purpose for which the space is valued and the reason for designation.

4. Proposers of development are encouraged to engage with the local community and Parish Council at the earliest opportunity to help ensure that any proposals that will impact local greenspaces incorporate both this plan's aims and objectives and the

views of the local community.

## **COMMENT**

During the course of my examination, I sought clarification regarding the consultation of the owners of the proposed Local Green Spaces and any representations received. It was confirmed that the owners of the following proposed LGSs had not been directly consulted (although they had been made indirectly aware of the neighbourhood plan through the robust consultation process carried out by the neighbourhood plan steering group):

i) St Giles Churchyard

ii) St Giles Cemetery

iii) Village Recreation Field

viii) New Inn Garden

As a result of my query the QB wrote to the owners. Whilst the owners of the Village Recreation Field raised no objection the owners of St Giles Churchyard and cemetery and the New Inn Garden raised objection to the proposed designation.

Whilst an objection by an owner is not automatically a barrier to the designation of a LGS it is my role to carefully consider whether or not the objection raises issues which are relevant in the decision making process.

Local Green Space designation is a “restrictive and significant policy designation” equivalent to Green Belt designation. It is essential that, when allocating Local Green Space, plan-makers can clearly demonstrate that the requirements for its allocation are met in full.

The NPPF 2021 states:

“101. The designation of land as Local Green Space through local and



neighbourhood plans allows communities to identify and protect green areas of particular importance to them. Designating land as Local Green Space should be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs, and other essential services. Local Green Spaces should only be designated when a plan is prepared or updated and be capable of enduring beyond the end of the plan period.

102. The Local Green Space designation should only be used where the green space is:

a) in reasonably close proximity to the community it serves;

b) demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and

c) local in character and is not an extensive tract of land.

103. Policies for managing development within a Local Green Space should be consistent with those for Green Belts.”

Given that the Framework is not ambiguous in stating that a Local Green Space designation is not (my emphasis) appropriate for most green areas or open space, it is entirely reasonable to expect compelling evidence to demonstrate that any such allocation meets national policy requirements.

In addition, Neighbourhood planning guidance states:

" Different types of designations are intended to achieve different purposes. If land is already protected by designation, then consideration should be given to whether any additional local benefit would be gained by designation as Local Green Space."

Importantly, sites which are already subject to a statutory designation such as

Historic Parks and Gardens or Scheduled Ancient Monuments are already subject to high levels of protection and would not benefit from an additional local designation. Likewise, sites which fall within the curtilage of a listed building or Conservation Area do not necessarily need additional protection under this policy as their importance and contribution to a settlement must already be considered if any application falls within or in the vicinity of these sites.

I have carefully considered the evidence put before me for the designations proposed and consider that whilst I find that most of the proposed LGSs do meet the requirements of the NPPF I find that the following proposed LGSs do not and should be removed from the policy and associated maps:

**i) St Giles Churchyard**

**Reason**

St Giles Churchyard falls within the curtilage of St Giles Church forming part of the setting of this Grade II\* Listed building. As a statutorily designated heritage asset it is subject to significant control and protection through national policy and guidance. Having carefully considered the proposed designation I have come to the conclusion that there would not be any additional local benefit from designation as an LGS.

**ii) St Giles Cemetery**

**Reason**

As above.

I have given very careful consideration to the proposed designation of the garden of the New Inn public house. As previously stated, the owners of the site have raised an objection to the designation. As with St Giles Churchyard and Cemetery the garden falls within the curtilage of a statutorily designated heritage asset and as such it is subject to significant control and protection through national policy and guidance. However, unlike the previously

mentioned sites I have been provided with evidence which sets out the importance of the garden to the community as a space for meeting and celebration. Having carefully considered the proposed designation I have come to the conclusion that there would be an additional local benefit from its designation as an LGS.

Paragraph 103 of the NPPF states that the policies for managing development within a Local Green Space should be consistent with those for Green Belts. Paragraphs 147-149 detail the policy framework for development affecting the Green Belt. Paragraph 147, in particular states;

“Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.”

For Clarity, the policy should be modified to reflect the requirements of the NPPF 2021 and recent caselaw (see Court of Appeal Judgement in the case of The Queen (On the Application of Lochailort Investments Limited) and Mendip District Council Norton St Philip Parish Council 2nd October 2020) which clearly states that Local Green Space polices in neighbourhood plans should not deviate from the policy requirements of the NPPF. A larger scale map should also be included which clearly shows the boundaries to each LGS. For clarity and to meet the Basic Conditions the policy should be modified as follows:

### **Policy CGS3: Local Green Space**

**1. Our locally valued green spaces are identified on Figure 21 and are designated as Local Green Space:**

**i) Village Recreation Field;**

**ii) Village Green;**

**iii) Jubilee Green;**

**iv) The Common;**

**v) The allotments;**

**vi) New Inn Garden**

**2. Inappropriate development will not be supported except in very special circumstances.**

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

1. The stream “corridor” is indicated on Figure 23 and will be protected from adverse impact from development which could erode its value to local biodiversity, and its contribution to the built character and heritage of Kilmington village.

2. With the exception of householder applications, proposals for development should demonstrate that they will not contribute to deterioration of the current ecological status of the stream (as part of the Axe, Yarty and Corry Catchment) Proposals should seek to contribute to achieving “Good Ecological Status” for the water course where feasible and viable.

#### **COMMENT**

**I have received representation that paragraph 2. of this policy should include more specific reference to controlling 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) area. For clarification the policy should be modified as follows:**

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

**1. The stream “corridor” is indicated on Figure 23 and will be protected from adverse impact from development which could erode its value to local biodiversity, and its contribution to the built character and heritage of Kilmington village.**

**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).**

### **Policy RLC1: Small Scale Renewable and Low Carbon Energy Generation**

1. In order to protect the quality of Kilmington’s and the East Devon and Blackdown Hills Areas of Outstanding Natural Beauty’s landscapes, biodiversity, tranquillity and wildlife habitats proposals for renewable or low carbon energy schemes should follow the policies from “Renewable Energy in the Blackdown Hills Report (2010)” See figure 25. Proposals will be supported where they meet the following criteria in full:

i) are small scale,

ii) they do not adversely impact upon local amenity, locally valued landscapes and views,

iii) are sensitively sited, and

iv) they are appropriately landscaped.

2. Large scale renewable and low carbon installations will not normally be supported.

3. Proposals for renewable or low carbon energy schemes must follow relevant guidance and advice, as applicable, given in:

i) East Devon and Blackdown Hills Landscape Character Assessment and Management Guidelines;

ii) the Blackdown Hills Area of Outstanding Natural Beauty Management Plan;

- iii) the East Devon Area of Outstanding Natural Beauty Management Plan; and,
- iv) the “Renewable Energy in the Blackdown Hills Report (2010)”.

## **COMMENT**

**I have no comment on this policy.**

## **SECTION 5**

### **Conclusion and Recommendations**

1. I find that the Kilmington Neighbourhood Development Plan has been prepared in accordance with the statutory requirements and processes set out in the Town and County Planning Act 1990 (as amended by the Localism Act 2011) and the subsequent Neighbourhood Planning (General) Regulations 2012. (as amended)
2. The Neighbourhood Plan does not deal with County matters (mineral extraction and waste development), nationally significant infrastructure such as highways and railways or other matters set out in Section 61K of the Town and Country Planning Act 1990.
3. The Kilmington Neighbourhood Development Plan does not relate to more than one Neighbourhood Area and there are no other Neighbourhood Development Plans in place within the Neighbourhood Area.
4. The Strategic Environmental Assessment and Habitats Regulations Assessment meet the EU Obligation.
5. The policies and plans in the Kilmington Neighbourhood Development Plan, subject to the recommended modifications would contribute to achieving sustainable development. They have regard to national policy and to guidance, and generally conform to the strategic policies of the East Devon Local Plan 2013 – 2031.
6. I therefore consider that the Kilmington Neighbourhood Development Plan subject to the recommended modifications can proceed to Referendum.

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15th June 2022

