



# **East Devon District Council**

## **Luppitt Neighbourhood Plan Decision Statement**

### **1. Summary**

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

### **2. Background**

On 30 October 2013, East Devon District Council designated the area comprising the parish of Luppitt as a Neighbourhood Area for the purpose of preparing a Neighbourhood Plan in accordance with Part Two of the Town and Country Planning (England), Neighbourhood Planning (General) Regulations 2012.

Following the submission of the Luppitt Neighbourhood Plan to the Council, the plan was publicised and representations were invited. The publicity period ended on 6 May 2022.

East Devon District Council appointed an independent examiner, Mary O'Rourke, to review whether the Plan should proceed to referendum.

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

## 3. Decision and Reasons

### 3.1 Modifications

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

### 3.2 Referendum

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

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

The referendum will take place on 24<sup>th</sup> November 2022. The details will be available on the [EDDC website](#)).

### 3.3 Referendum Version of the Plan

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

Hard copies will also be available to view at:

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

b) Honiton library, 48-50 New Street, Honiton, EX14 1BS, Tel. 01404 42818

c) Luppitt Village Hall, Luppitt, EX14 4RT

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

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

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

## 4. Modifications Made

The following modifications were agreed to be made to the Submission Version of the Luppitt Neighbourhood Plan by East Devon District Council, further to the [findings of the independent examination](#) and consideration of the plan and examiners report at [EDDC Cabinet on 5 October 2022](#):

### 1. Page 11 – Emerging New Local Plan

More detail included on the work being undertaken as part of the preparation of the new Local Plan and its anticipated timeline. Updated text, shown in bold, reads as follows:

'Planning control in England is essentially a tiered system. Top tier planning guidance is contained in the Government's national planning policy umbrella documents - the National Planning Policy Framework (NPPF) which sets out the Government's planning principles for England (last revised 2021), and the National Planning Practice Guidance (NPPG) which is a library of 'live' guidance notes that clarify the planning principles in the NPPF. **The mid-tier is currently the East Devon Local Plan (2013-2031) adopted in 2016, which contains detailed planning policies for the East Devon area, including Luppitt. It is with reference to this Plan that the**

**Neighbourhood Plan has been prepared and examined. However, it should be noted that the Local Plan is in the process of being replaced. The first working draft was presented to EDDC's Strategic Planning Committee in December 2021. Consultations on the new Plan are being carried out in 2022/23, with Plan adoption currently scheduled for 2024. The lower tier is provided by Neighbourhood Plans, which contain policies relevant only to a particular parish, village, or town. Luppitt Parish Council will work with East Devon District Council to consider the relationship between this plan and the new Local Plan as it emerges.'**

## **2. PM2 – Introduction to policies**

Where applicable in policies throughout the Plan, deleted the words 'Development and change of use proposals' and 'Development and change of land use proposals' and replaced with 'Proposals' for simplicity.

## **3. Policy BC1 Protecting Parish Facilities**

- i. In part 1, line 2 added 'the recreation ground and children's playground' to the list in parenthesis.
- ii. In line 5 changed 'or' to 'and'.
- iii. In part 2, deleted 'accessible playground', changed 'Certain' to 'Limited' and added after 'supported', 'where community support can be demonstrated'.
- iv. Included a map in the Plan to show the facilities to be listed in policy BC1.
- v. Added by way of footnote, a reference to the EDDC guidance on the Marketing Strategy Statement.

## **4. Policy NE1 Protecting and Enhancing the Rural Landscape**

In part 1, line 3 after 'distant views' added, 'as described in the Luppitt Landscape Character Assessment'.

## **5. Policy NE2 Protecting and Enhancing Natural Habitats**

- i. In part, in 1 line 2 after 'acceptable measures', replaced the remaining text in the sentence with, 'are incorporated into proposals to fully mitigate such adverse impacts, and where proposals deliver a biodiversity net gain of at least 10% using the government approved metric.'
- ii. Delete part 2 of the policy and replaced with, "The loss of any part of the traditional Devon Banks will be resisted. Only where such loss is unavoidable, provision will be required to be made for their replacement or suitable

alternative mitigation, including complying with biodiversity net gain requirements.'

## **6. Page 34 – Biodiversity Net Gain**

Included an explanation of Biodiversity Net Gain in the policy justification to Policy NE2 at paragraph 5.11 as follows

'Paragraph 174 [of the *National Planning Policy Framework*] also advises that planning policy should minimise impacts on and provide net gains for biodiversity. Biodiversity Net Gain (BNG) is an approach to development, and/or land management, that aims to leave the natural environment in a measurably better state than it was beforehand. Biodiversity net gain delivers measurable improvements for biodiversity by creating or enhancing habitats in association with development. Biodiversity net gain can be achieved on-site, off-site or through a combination of on-site and off-site measures. Under the Environment Act 2021, all planning permissions granted in England (with a few exemptions) will be required to deliver at least 10% Biodiversity Net Gain from November 2023, measured using DEFRA's biodiversity Metric50. Habitats will need to be secured for at least 30 years.'

## **7. Page 74 – Appendix 1 Glossary**

In Appendix 1, included the pre-agreed definition of a Devon Bank, as follows:

'A Devon Bank or Devon Hedge is a linear earth bank, faced either with stone or turf, often with native trees (some quite mature), shrubs and other plants growing on it and frequently with flower-rich margins. Its form and species composition shows considerable regional variation and new Devon Banks or Hedges should reflect local character.

(Source: Based on a definition by the Devon Hedge Group)

## **8. Policy BHE1 Protecting the Built and Historic Environment**

Deleted this policy in order to avoid potential conflict with, and unnecessary duplication of, existing national and strategic policy.

## **9. Policy ND1 Location Parameters for New Development**

- i. Deleted the first sentence in the first part of policy ND1.

- ii. In the second sentence after 'previously developed', deleted the words 'brownfield land' and replace with the words 'land and existing farm buildings'.
- iii. Deleted the second part of policy ND1 relating to development in the floodplain in order to avoid Deleted this policy in order to avoid conflict with, and unnecessary duplication of, current national and strategic policy.

## **10. Policy ND2 Materials Design and Siting**

- i. Deleted the opening sentence and replaced with, 'Regard will be had to the following criteria in considering proposals for development.'
- ii. In criterion 2, deleted the last sentence and replaced with, 'Housing should be designed in accordance with the AONB Design Guide for Houses.'
- iii. In criterion 6, after 'dark skies', added the words 'and contributes to biodiversity', and after 'light pollution', added the words 'in accordance with the Institution of Lighting Professionals Guidance Note 08/18 on Bats and Artificial Lighting'.
- iv. Replaced the wording at criterion 9 with the following:
  - 'Carbon Reduction - Seek to ensure that new development be designed to operate on a net zero carbon basis, meeting and exceeding the Government Standards in relation to energy efficiency. Applications should be supported by a statement to demonstrate how measures have been taken to try and minimise the carbon footprint of the construction phase.'

## **11. Policy ND3 Housing**

- i. For clarity and brevity, redrafted Policy ND3 as follows:
  - 'Proposals for rural exception schemes will be supported subject to:
    - a) There being a proven local need for affordable housing demonstrated through an up-to-date robust housing needs survey;
    - b) The site being located within Luppitt village as defined in Appendix 1;
    - c) Comprising a mix of housing sizes and types to meet the demonstrated need and any open market housing should have no more than 3 bedrooms;
    - d) Affordable housing accounting for at least 66% of the total number of units; and
    - e) Being subject to the occupancy restrictions set out in current EDDC policy.'

- ii. Added a footnote to e) setting out current EDDC policy on occupancy restrictions contained in Local Plan Strategy 35 and in the Affordable Housing Supplementary Planning Document, as follows:

‘Under Strategy 35 of the East Devon Local Plan (adopted 2016) and the East Devon Affordable Housing Supplementary Planning Document (adopted November 2020), occupancy of affordable housing is restricted to those who (a) do not have access to general market housing and are in housing need, and, (b) are a resident of the parish, or have a local connection with same because of family ties or a need to be near their workplace. This then cascades out to the parish group and finally East Devon should no one be found from the parish. Strategy 35 sets out the means by which 'local connection' will be assessed and prioritised, with further detail set out in the SPD. Occupancy conditions will be secured through a Section 106 agreement.’

## 12. Supporting Text for Rural Exception Sites (pages 49-51)

Rewritten the three ‘tests’ in a form that sets out clearly national and Local Plan policy for rural exception sites and explains and justifies the inclusion of such a rural exception schemes policy in the Neighbourhood Plan. The amended wording reads as follows:

‘Whilst Luppitt is not a 'sustainable' parish as it is not capable of meeting the everyday needs of residents, the Government recognises the housing needs of such rural communities and points the way to increasing housing stock providing certain criteria are met. To assist rural communities, national planning policy (**NPPF paragraph 78-79**) requires local authorities to be responsive to local circumstances and allow housing that reflects local need. **To promote sustainable development in rural areas, housing should be located ‘where it will enhance or maintain the vitality of rural communities’.** For example, where there are smaller groups of settlements, development in one may support services in another.

Luppitt parish is not defined by a 'built-up area boundary' (BUAB) nor does the Local Plan allocate any housing to the parish. In planning terms, the parish is considered to be 'countryside' in which there is a general presumption against development (**Strategy 7 of the Local Plan**). However, in compliance with national planning policy (NPPF Rural housing, Paragraph 78, the Local Plan recognises that occasionally the local community will need additional houses and has defined 'rural exception sites' for that purpose:

### Rural Exception Sites

Small sites used for affordable housing in perpetuity where sites would not normally be used for housing. Rural exception sites seek

to address the needs of the local community by accommodating households who are either current residents or have an existing family or employment connection. Small numbers of open market homes may be allowed at the local authority's discretion, for example where essential to enable the delivery of affordable units without grant funding.

**Provision is made for rural exception schemes to be brought forward through Strategy 35 of the Local Plan. This allows for schemes of up to or around 15 dwellings, where there is a proven local need demonstrated through an up to date robust housing needs survey. Affordable housing must account for at least 66% of the houses built. For villages without a Built-up Area Boundary, such as Luppitt, the Local Plan prescribes that schemes should be physically very well related to the built form of the village. In addition, it expects schemes to be located close to local community facilities and services. This is reflected in the restrictive locational criteria of our policy and supported by Policy BC1 which seeks to retain and enhance our community facilities.**

**Whilst Luppitt does not currently have 4 of the facilities listed in Strategy 35, this has been discussed with the Local Planning Authority in preparing the neighbourhood plan, and it was considered not to rule out a Rural Exception Scheme development here, if supported by the community, a genuine need established, and development restricted to an area within easy reach of the existing facilities within Luppitt village (as defined by the Parish Council on the map on page 9 of the plan and explained in Appendix 1)**

**In terms of proving** that 'need' exists for additional housing in **this** parish, whilst a majority of the community felt that some affordable housing would be beneficial to the community, there is at present no statistical data to prove that demand for such housing exists. To determine whether demand actually exists, the Parish Council will commission an independent 'housing needs survey' for Luppitt parish.

**The National Planning Policy Framework defines that** to be considered deliverable, 'sites should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years and in particular that development of the site is viable'.

For sites to be considered eligible in Luppitt parish, they should **provide the minimum development necessary to meet the communities needs as** identified in the 'Housing Needs Survey' and satisfy the following criteria:

1. 'Brownfield land' will be preferred over farmland, woodland or amenity land.
2. Sites should be located in 'Luppitt village' as defined in Appendix 1. (Due to their smaller size and lack of facilities, the hamlets of Beacon, Wick, and Shaugh are considered unsuitable for this purpose.)



3. Development of sites should not result in a significant adverse impact upon
4. existing properties, their setting or the wider landscape.
5. Sites must have adequate access from the highway and sufficient room to park all cars on-site.
6. Sites must comply with Local Plan planning policies and the policies in this Plan including the protection of the landscape and historic buildings and fully observe policies for siting, density, design, materials, screening, flooding and consideration for neighbouring properties.
7. Sites must be available for development immediately.
8. The scheme must be economically viable.

In the event that affordable housing is permitted as part of a small development that includes open market housing on a rural exception site, the Local Plan requires that at least 66% of the total number of units is made available as affordable housing. The occupancy of any affordable housing would be determined by Devon Home Choice applying an established 'local connection criteria'.

If sufficient demand can be established, the Parish Council will pursue the delivery of affordable housing through a community-led approach. Affordable housing is usually provided by private sector developers required under planning conditions to transfer affordable dwellings to a housing association which would oversee the sale, letting and ongoing management of the houses. In other circumstances, housing associations may develop affordable housing direct, or the community may consider granting permission itself through a Neighbourhood Development Order or a Community Right to Build Order. With less Government grant and subsidy available, a Community Land Trust (CLT) provides another method of delivering affordable housing.

**Further guidance is available in 'Viability Guidance Note 5: 'Viability and Exception Sites' published on EDDC's website.**

(The concept of 'Entry Level Exception Sites' was introduced in the NPPF 2018 but is not permitted in an AONB and is therefore not applicable to Luppitt.)'

### **13. Policy ND4 Subdivisions, Extensions, Annexes and Replacement Dwellings**

- i. Redrafted part 1, as follows:

'Subdivision of Houses - Proposals for the subdivision of existing residential buildings into smaller units of accommodation will be supported, subject to there being no significant adverse effect on the amenity of neighbouring properties and that each new unit of accommodation has appropriate internal space and external amenity space and off-street parking.'

- ii. Deleted the text in part 2 after 'parish' and replaced with, 'and the replacement dwelling should be of a scale and design that is compatible with the character and appearance of the surrounding area.'
- iii. In part 3, deleted the words 'To assist extended families, the elderly and dependent relatives', and, in line 2, replaced 'houses' with 'residential buildings'.
- iv. At the end of the policy, added the following:

'This policy also applies to annexes detached from the main residential building, which should share an access and key facilities/services with the main residential building to ensure that it is genuinely ancillary and linked to the main accommodation.'

#### **14. Policy ND5 Traditional Farm Buildings**

Deleted this policy due to unnecessary duplication with existing national and strategic policy.

#### **15. Policy ND6 New-Build Business Premises**

Deleted this policy due to unnecessary duplication with existing national and strategic policy and insufficient evidence for the support of artisan workshops, as an exception.

#### **16. Policy ND7 Holiday Cottages**

- i. Changed the title of the policy to 'Holiday Accommodation'.
- ii. Redrafted the policy to read as follows:

'Proposals for the provision of small-scale tourist development (including lodges, tree houses, shepherds' huts, yurts, glamping and camping sites) and for guest house or bed and breakfast accommodation, and which require planning permission, will be supported provided that the following criteria are met:

- a) The scale, level and intensity of development on the site does not adversely impact on the visual amenity of the area and the character of the landscape of the AONB;
- b) The proposal does not adversely impact on the amenity of neighbouring properties, by reason of unacceptable noise or light pollution, and satisfactory measures are put in place to minimise and control noise, air, water and light pollution; and

- c) On site access, servicing and parking facilities are provided appropriate for the level and intensity of the proposed use.

Proposals will not be supported for the construction of new permanent buildings, for use as tourist accommodation, or the change of use of existing dwellings to self-contained holiday accommodation where planning permission is required.'

## 17. Supporting Text Justifying Policy ND7 (pages 52 -53)

Made necessary changes to the supporting text to reflect to redrafted policy. The revised supporting text now reads as follows (new/revised text highlighted in bold):

### **'Holiday Accommodation**

In addition to the trend to use houses in the countryside as weekend or second homes - a factor that reduces the availability of parish dwellings for the resident community - the use of dwellings as holiday letting cottages has the dual impact of assisting local tourism, but also reducing the available supply of housing for the community. In the extreme, both have the potential to negatively impact upon community vitality. Smaller dwellings are often the type that could be occupied by village dependents to start an independent life. A balance therefore needs to be struck and whilst it is recognised that little can be done to control second homes, the planning system can, where planning permission is required, **have some influence on** how many dwellings in Luppitt parish become holiday letting cottages in the future.

There are approximately 30 holiday cottages and second homes in Luppitt (15% of the total stock) of which some are multi-unit holiday businesses. It is recognised that tourism is a key business sector in East Devon and that visitor expenditure is one of the key drivers of the local economy and sustains many in employment. Short breaks have grown substantially over recent years and this has led to successful holiday cottage/**accommodation** businesses in Luppitt which themselves support some local employment. However, the community's response to the 2018 Luppitt Parish Questionnaire made clear that there is no support for new-build holiday cottages in the parish. On the other hand, the conversion of redundant traditional farm buildings to provide self-catering holiday cottages, guest houses and properties that provide bed and breakfast was supported by a large majority of the community.

Therefore, applications for the change of use of redundant farm buildings **for holiday accommodation and other small scale proposals for tourist accommodation**, where planning permission is required, **will generally be supported subject to careful consideration of impact on the character, landscape, amenity and infrastructure of the area.**

**Proposals** for the change of use of an existing dwelling to holiday letting cottage use **will not generally require planning permission but where it does they will not usually be supported. However, the Parish Council**

**will take into account the percentage of existing holiday cottages to the overall stock of houses in the parish in reaching a judgement.**

Applications for new-build holiday cottages **and other permanent new-build tourist accommodation** will not be supported under any circumstances.'

## **18. Policy ND8 Farm Workers' Dwellings**

Deleted this policy due to unnecessary duplication with existing national and strategic policy.

## **19. Policy ND9 Farm Buildings**

At the end of policy ND9, added the text previously at policy ND10 3. on glasshouses and polytunnels, which states, 'Proposals that include commercial glasshouses and polytunnels will be resisted unless it can be demonstrated that no environmental or landscape harm will occur. In particular, views into, out of, or across the AONB should not be impacted by glare and expanses of plastic or glass should not be visible.'

## **20. Policy ND10 Farm Diversification**

Redrafted policy ND10 to read as follows:

'Small scale farm diversification proposals should meet the following criteria;

- a) Support the continued primary operation of the land as a working farm;
- b) Require a rural location;
- c) Be of character, scale and location compatible with the landscape setting;
- d) Not cause nuisance or have adverse impact upon the amenity of neighbouring residential properties by way of noise, smell, vibration, water pollution or visual effect; and
- e) Comply with Local Plan policy E4.

Proposals for the permanent change of use of land and/or development for wedding venues, caravan sites or festival sites will not be supported.'

## **21. Policy CC1 Renewable Energy Retrofit**

Added, 'Where planning permission is required ..', at the beginning of the policy.

## 22. Policy CC1 Justification

Included reference in the policy justification to the definitions of scale in the Land Use Consultants' 2010 report 'Renewable Energy in the Blackdown Hills AONB', by inserting, 'The consultant's report 'Renewable Energy in the Blackdown Hills AONB' is a useful reference point especially in connection with the scale of renewable energy schemes in the parish.'

## 23. Policy CC2 Renewable Energy Scale

Renamed Policy CC2, 'Renewable Energy Schemes', and redrafted the policy to read as follows:

### '1. Renewable Energy Schemes

Renewable energy schemes will generally be supported if they are small – scale and for domestic/non-commercial use or for Community-Led Renewable Energy Schemes for collective parish community benefit. Larger commercial/non-domestic scale renewable energy schemes will generally be resisted as being out of character with the rural parish landscape and its status as an AONB.

### 2. Wind Turbines

Wind turbines (except small-scale pole or building mounted domestic/non-commercial turbines) and wind farms will be resisted as being out of character with the rural parish landscape and its status as an AONB.

### 3. Solar Photovoltaic Panels

(i). Solar photovoltaic panels installed on domestic or agricultural buildings will generally be supported providing they are non-reflective and do not adversely impact upon the landscape or neighbouring properties.

(ii). Field-based photovoltaic panels will generally be resisted unless they are of domestic/non-commercial scale, sited in close proximity to existing buildings, are permanently well-screened and non-reflective and do not adversely impact upon the landscape or neighbouring properties.

(iii). Field scale photovoltaic panels for commercial use will be resisted except for Community-Led Renewable Energy Schemes, as set out in '1. Renewable Energy Schemes' above.'

**Note:** In line with [National Planning Guidance on Neighbourhood Planning](#), a number of minor (non-material) amendments consequential to implementing the Examiner's recommended modifications, including to aims and objectives, and other

minor changes and corrections for accuracy including to numbering of policies, and for accessibility, have been made and agreed in writing with Luppitt Parish Council, to create the Referendum Version of the Plan.

**EAST DEVON DISTRICT COUNCIL**

**10 October 2022 (effective date of decision)**