

EAST DEVON DISTRICT COUNCIL

LYMPSTONE NEIGHBOURHOOD PLAN DECISION STATEMENT

1. Summary

- 1.1 Following an independent Examination, East Devon District Council now confirms that the Lypstone Neighbourhood Plan will proceed to a Neighbourhood Planning Referendum.

2. Background

- 2.1 On 16 October 2012, East Devon District Council designated the area comprising the parish of Lypstone 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.
- 2.2 Following the submission of the Lypstone Neighbourhood Plan to the Council, the plan was publicised and representations were invited. The publicity period ended on 10 March 2014.
- 2.3 The Plan was revised in light of representations received and was resubmitted to the Council, the revised plan was publicised and representations were invited. The publicity period ended on 8 September 2014.
- 2.4 East Devon District Council appointed an independent examiner, Mr Nigel McGurk, to review whether the Plan should proceed to referendum.
- 2.5 The examiner's report concludes that subject to making the minor modifications recommended by the examiner, the Plan meets the basic conditions set out in the legislation and should proceed to a Neighbourhood Planning referendum.
- 2.6 Having considered each of the recommendations made by the examiner's report, and the reasons for them, the District Council has decided to make the modifications to the draft plan referred to in paragraph 3.1 below, to secure that the draft plan meets the basic conditions set out in legislation.

3. Decision and Reasons

- 3.1 The District Council has made the following modifications, proposed by the examiner, to secure that the draft plan meets the basic conditions, for the reasons given:

<u>Recommended change</u>	<u>Reason for Change</u>
<i>"The Lypstone Neighbourhood Plan covers the period from 2014 up to 2026."</i>	A neighbourhood plan must specify the period during which it is to have effect. The Neighbourhood Plan is entitled
<i>Change title of Map on P8 to "Lypstone Neighbourhood Area"</i>	To clarify what the map shows
<i>Insert new paragraph, "1.4 Further to an application made by the Parish Council, East Devon District Council approved the designation of Lypstone as a Neighbourhood Area on 16 October 2012. The Neighbourhood Area</i>	As the Neighbourhood Plan refers to "the Parish" throughout, it would be helpful to set out the following in a new paragraph 1.4 Existing paragraph 1.4 seeks to paraphrase

<p><i>coincides with the Lypstone Parish boundary.”</i></p> <ul style="list-style-type: none"> • Delete paragraphs 1.4 and 1.4a • Delete paragraph 1.5 	<p>national policy and in so doing, is not strictly correct. Furthermore, to some degree it repeats information already provided in the preceding paragraphs. Paragraphs 1.4 and 1.4a then go on to set out a somewhat confused message that appears to have little bearing to the appropriate planning legislation. There is no evidence to demonstrate, as set out in paragraph 1.4a, that a delay in the adoption of the emerging East Devon Local Plan “threatens the viability and deliverability of the Neighbourhood Plan.” Furthermore, there is no substantive evidence to demonstrate that the qualifying body can review and update a made Neighbourhood Plan “within six months of the Local Plan being published,” as suggested.</p> <p>Paragraph 1.5 refers to an emerging policy and provides an incorrect reference to the Localism Act.</p>
<ul style="list-style-type: none"> • Delete paragraph 1.8 • Delete paragraph 1.9. Replace with a simple sentence <i>“The policies of the Neighbourhood Plan will combine with those of the East Devon Local Plan to control development within the Neighbourhood Area.”</i> • Delete para 1.10 • Change Community Action Policies (CAPs) to <i>Community Actions (CAs)</i> 	<p>It is my view that paragraph 1.8 detracts from the Neighbourhood Plan as it sets out a selective list of things that other neighbourhood plans, elsewhere, have introduced. Whilst fairly interesting from a general point of view, the list has little, if any bearing on, or direct relevance to, the Lypstone Neighbourhood Plan.</p> <p>Paragraph 1.9 seeks to set out the relationship between the East Devon Local Plan and the Neighbourhood Plan. However, the information provided is incorrect – for example, the role of neighbourhood plan policies is not simply to “add detail” to District-wide planning policies. The point that is trying to be made can be worded much more clearly. The paragraph goes on to set out some very general aims of the Neighbourhood Plan. I find that these are matters better – and already – dealt with later on in the Neighbourhood Plan.</p> <p>Paragraph 1.10 refers to non-specific policies that will “improve the quality of life” in the Neighbourhood Area. As established below, a number of the “policies” in the Neighbourhood Plan are not actually policies. Given this, I recommend that this paragraph is deleted.</p> <p>Paragraph 1.11 states that Neighbourhood Plan</p>

<ul style="list-style-type: none"> • Change paragraph 1.11 to read: “...deal with Neighbourhood Plan Policies. The Plan also sets out Community Actions (CAs) which seek to support the overall vision and improve the quality of life in the Parish.” • Para 1.13, fourth line should read “supporting” 	<p>policies are sub-divided into Development Management Policies (DMPs) and Community Action Policies (CAPs). Further to consideration, it is clear to me that the proposed CAPs are not land use planning policies. Consequently, they cannot comprise neighbourhood planning policies. The title “Policies” in this regard, is therefore misleading. I make the following recommendation to ensure that there is no ambiguity within the Neighbourhood Plan in terms of what is, and what is not, a Neighbourhood Plan Policy.</p>
<ul style="list-style-type: none"> • Replace Map 1 with a map of the Parish • Delete paragraph 2.2 	<p>Paragraph 2.1 provides interesting, relevant background information, distinctive to the Parish. However, it also refers to Map 1. This is an inappropriate map to include in the Neighbourhood Plan as it is taken from an emerging Local Plan and as such, it lacks relevant status and its content is subject to change.</p> <p>Paragraph 2.2 repeats previous information and is, in parts, incorrect – for example, the Neighbourhood Plan does not “dovetail” with the Environment Agency.</p> <p>The remaining paragraphs of this section provide helpful background information.</p>
<ul style="list-style-type: none"> • Delete paragraphs 5.1 to 5.8 • Throughout the policy section of the neighbourhood Plan, replace “DMP” with “Objective.” For example, “DMP1” would become “Objective 1” • Replace “P” with “Policy.” For example, “P1” would become “Policy 1” • Delete paragraph 5.9, with the exception of the final two paragraphs. 	<p>A neighbourhood plan’s policies should not be so complex that they require a section setting out how they need to be read. I consider paragraphs 5.1 to 5.8 to be overly complicated, confusing and superfluous. They detract significantly from the Neighbourhood Plan.</p> <p>Further to the above, the Neighbourhood Plan sets out objectives above each group of Policies, but describes the objective as a DMP. This is confusing, as it suggests that an objective is a Policy, which it is not. It is not the role of a neighbourhood plan to “place responsibilities” on others.</p>
<ul style="list-style-type: none"> • Delete final sentence beginning “<u>There will be...</u>” • “To seek to ensure that the development of Goodmore’s Farm 	<p><u>Policies</u> These Policies relate to land at Goodmore’s Farm. The final sentence of the introductory paragraph to this section is underlined and worded as though it is a Policy of the Neighbourhood Plan, which it is not.</p>

<p><i>benefits the Neighbourhood Area.</i></p> <ul style="list-style-type: none"> • Delete Policy 2 and move information to the supporting text • Delete Policy 3 and move information to the supporting text • Delete Policy 4 • Delete Policy 5 and move wording to supporting text • Delete Policy 6 and re---title as a "Community Action 1" • Begin Community Action text "The Parish Council will support Section 106/CIL funding being made available...The Common." • Revise subsequent numbering of Community Actions 	<p>The Objective in this regard is negatively worded and would be more appropriately worded as (right):</p> <p>Policy 2 seeks to re-iterate a fact, rather than set out a land use planning policy. Any monies resulting from a Section 106 Agreement, or through the Community Infrastructure Levy that are due to the Parish Council will be received by the Parish Council. This statement can better be made in the supporting text. Similarly the wording of Policy 3 does not provide the basis for a Neighbourhood Plan Policy but is better provided as supporting text.</p> <p>Policy 4 seeks to restrict the use of employment land to "the benefit and employment of the local community." This approach is significantly more restrictive than the Framework, which promotes economic growth, but which does not seek to limit employment allocations solely for the benefit and employment of the local community. Furthermore, it is not in general conformity with East Devon Local Plan Policies E1 and E2, which allocate employment land, but do not restrict its use to the benefit and employment of the local community. The Policy goes on to provide a highly selective list of what will not be permitted on the employment allocation. An employment allocation, by its very nature, is restrictive and there is no need to provide a selective list of some non-employment uses that will not be permitted. There are any number of other uses, not listed, that would not be permitted. The Framework is clear that only policies that provide a clear indication of how a decision maker should react to a development proposal should be included in a plan (para 154). Policy 4 does not have regard to this.</p> <p>Policy 5 simply sets out a wish, rather than a development policy. As above, the Framework requires policies to provide a clear indication of how a decision maker should react to a development proposal. Policy 5 fails to have regard to this requirement.</p>
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<ul style="list-style-type: none"> • Reword first sentence of Policy 7 “...suitable rural buildings, the development of new isolated homes in the countryside will generally be resisted.” • Delete second sentence of Policy 7 • Map 3 – Amend Built-up Area Boundary to include the housing allocations • Delete first sentence of introductory paragraph commencing “The Draft Local Plan...” • Delete “this” from the second sentence of the paragraph. Policy 9, re-word as “Subject to the other policies of this Plan, proposals that provide for a range of housing sizes, types and tenures, to ensure that all sectors of the community are catered for, will be supported. There is a particular...for the elderly.” (End Policy here). 	<p>Policy 6 reflects an aim of the Parish Council rather than a land use planning policy.</p> <p>Policy 7 states that new housing, other than suitable conversions, will not be permitted outside the Built-up Area Boundary of Lympstone or Exmouth. This is more restrictive than, and fails to have regard to, national policy. The Framework, has an assumption in favour of sustainable development and allows for housing in rural areas, including that which meets special circumstances, or where it will maintain or enhance the vitality of rural communities. However, I am mindful that the overall aims of Policy 7 are to prevent coalescence and to encourage a sustainable pattern of development. Taking the above into account, I recommend a modification. Policy 7, as worded, states that Built-up Area Boundaries “will be amended.” Rather than stating this and including Map 3 as provided, which shows the housing allocations outside Lympstone’s settlement boundary, I recommend a modification.</p> <p>The introductory paragraph to Policy 9 refers to the emerging East Devon Local Plan. The policies of this emerging plan may change between now and its adoption and should not form the basis of the policies of the Neighbourhood Plan. Policy 9 seeks to ensure that new housing is appropriate to local needs. This reflects the views of the local community. As worded, the Policy states a requirement but does not provide the necessary detail, setting out precisely what the requirement is. This approach fails to have regard to paragraph 154 of the Framework, described above. Furthermore, the final sentence of Policy 9 would require any development proposal to demonstrate how it meets local housing needs. This would not be relevant for non-housing development proposals. A requirement for all residential proposals to meet the needs set out would be significantly more onerous than the requirements of the Framework and may not be relevant for applications for, say, one house.</p>
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<p>with <i>“allowed”</i></p> <ul style="list-style-type: none"> • Delete Policy 21 • Delete Policy 22 • Re-word Policy 23: <i>“Where appropriate, development should take into account landform, layout, building orientation, massing and landscaping to minimise energy consumption.”</i> • Re-word Policy 24: <i>“Development comprising the use of renewable and low carbon energy sources will be supported where it does not harm the character and appearance of the Parish and the landscape.”</i> • Re-word Policy 25: <i>“Development should not increase flood risk. The use of sustainable urban drainage schemes and permeable surfaces for parking areas and other hard landscaping will be supported. Where appropriate, design and access statements should include a flood risk statement.”</i> • Delete Policy 26 	<p>number of remaining retail uses in Lymestone. This has regard to the Framework, which promotes the retention of local shops in villages. However, it is not clear what the word “considered” means.</p> <p>Policy 21 states that preference is for schemes that provide off-street parking in excess of East Devon District Council standards. The standards are not provided. It is unclear how this Policy would work together with Policy 20, which identifies specific parking guidelines. Consequently, I find that Policy 21 would be confusing, rather than provide clarity. It does not have regard to the Framework’s requirement for plans to provide clarity for decision makers. It does not meet the basic conditions.</p> <p>Policy 22 is vague. It affords undefined “Enabling Development” status to an allocation and suggests that this will “increase parking.” Policy 22 does not provide a clear indication of how decision makers should react to a proposal. It fails to have regard to national policy and does not meet the basic conditions.</p> <p>Together, these Policies seek to tackle climate change. As such, they are aimed at contributing to the achievement of sustainable development. However, the proposed wording is significantly more prescriptive than national policy, not least in that the Policies seek to apply stringent measures to all forms of development. It is unlikely to be appropriate, for example, for the replacement of windows in a Grade II Listed Building, to include the adoption of a sustainable urban drainage scheme. However, the proposed modifications can ensure that the Policies meet their aim of contributing to the achievement of sustainable development whilst meeting the basic conditions.</p> <p>Policy 26 states that the setting of the East Devon Way will be protected and improved by</p>
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<ul style="list-style-type: none"> • Delete Policy 27 	<p>traditional land management. No information is provided to define the setting of the East Devon Way. Also, “traditional management of the land” is undefined and consequently, it is not clear how the Policy could be controlled. Policy 26 does not provide a clear indication of how decision makers should react to a proposal. It does not meet the basic conditions.</p> <p>Policy 27 simply refers to other national and local policy designations. It is not the role of a neighbourhood plan to duplicate existing designations.</p> <p>All other text and Policies are considered to meet the basic conditions.</p>
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- 3.2 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.
- 3.3 The examiner has concluded that with the minor 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 Lympstone to help it decide planning applications in the neighbourhood area?’ will be held in Lympstone Parish.
- 3.4 The date on which the referendum will take place is agreed as 26 March 2015.

EAST DEVON DISTRICT COUNCIL CABINET
11 February 2015