

# **LYMPSTONE NEIGHBOURHOOD PLAN A PLAN FOR THE PARISH TO 2026**

A Report to East Devon District Council  
of the Examination into the Lympstone Neighbourhood Plan

by Independent Examiner, Nigel McGurk BSc(Hons) MCD MBA MRTPI

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## 1. Introduction

### The Neighbourhood Plan

This Report provides the findings of the examination into the Lymptstone Neighbourhood Plan (referred to as the Neighbourhood Plan).

Neighbourhood planning provides communities with the ability to establish their own policies to shape future development in and around where they live and work.

*“Neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and deliver the sustainable development they need.”*  
(Paragraph 183, National Planning Policy Framework)

Lymptstone Parish Council is the *qualifying body*<sup>1</sup> responsible for the production of this Neighbourhood Plan. This is in line with the aims and purposes of neighbourhood planning, as set out in the Localism Act (2011), the National Planning Policy Framework (2012) and Planning Practice Guidance (2014).

Lymptstone Parish Council established a Neighbourhood Plan “Working Party” to lead on production of the Neighbourhood Plan. The Neighbourhood Plan is one of the earliest neighbourhood plans to come forward in Devon.

This Examiner’s Report provides a recommendation as to whether or not the Neighbourhood Plan should go forward to a Referendum. Were it to go to Referendum and achieve more than 50% of votes in favour, then the Plan would be *made* by East Devon District Council. The Neighbourhood Plan would then be used to determine planning applications and guide planning decisions in the Lymptstone Neighbourhood Area.

### Role of the Independent Examiner

I was appointed by East Devon District Council, with the consent of Lymptstone Parish Council, to conduct an examination and provide this Report as an Independent Examiner. I am independent of the qualifying body and the local authority. I do not have any interest in any land that may be affected by the Neighbourhood Plan and I possess appropriate qualifications and experience. I am a chartered town planner and an experienced Independent Examiner of Neighbourhood Plans. I have extensive land, planning and development experience, gained across the public, private, partnership and community sectors.

As the Independent Examiner, I must make one of the following recommendations:

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<sup>1</sup>The qualifying body is responsible for the production of the Plan.

- a) that the Neighbourhood Plan should proceed to Referendum, on the basis that it meets all legal requirements;
- b) that the Neighbourhood Plan, as modified, should proceed to Referendum;
- c) that the Neighbourhood Plan does not proceed to Referendum, on the basis that it does not meet the relevant legal requirements.

If recommending that the Neighbourhood Plan should go forward to Referendum, I must then consider whether or not the Referendum Area should extend beyond the Lympstone Neighbourhood Area to which the Plan relates.

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

- the policies relate to the development and use of land for a designated Neighbourhood Area in line with the requirements of Section 38A of the Planning and Compulsory Purchase Act (PCPA) 2004;
- the Neighbourhood Plan meets the requirements of Section 38B of the 2004 PCPA (the Plan must specify the period to which it has effect, must not include provision about development that is excluded development, and must not relate to more than one Neighbourhood Area);
- the Neighbourhood Plan has been prepared for an area that has been designated under Section 61G of the Localism Act and has been developed and submitted for examination by a qualifying body.

Subject to the contents of this Report, I am satisfied that all of the above points have been met.

#### Neighbourhood Plan Period

A neighbourhood plan must specify the period during which it is to have effect. The Neighbourhood Plan is entitled “A plan for the Parish to 2026.” I consider that it would add further clarity and ensure that the Neighbourhood Plan satisfies the requirement to specify the plan-period, if the a new sentence was added to Paragraph 1.2 in the Introduction, to read:

***“The Lympstone Neighbourhood Plan covers the period from 2014 up to 2026.”***

Taking the above into account, I confirm that the Neighbourhood Plan satisfies the relevant requirement in this regard.

## Public Hearing

According to the legislation, *when the Examiner considers it necessary* to ensure adequate examination of an issue, or to ensure that a person has a fair chance to put a case, then a public hearing must be held.

However, the legislation establishes that it is a general rule that neighbourhood plan examinations should be held without a public hearing – by written representations only.

Further to consideration of the written representations submitted, I confirmed to East Devon District Council that I was satisfied that the Lympstone Neighbourhood Plan could be examined without the need for a Public Hearing.

From consideration of the evidence before me, I am satisfied that people have had a fair chance to put a case, whether in support of the Neighbourhood Plan, in objection to it, or whether simply providing general comments about it.

## 2. Basic Conditions and Development Plan Status

### Basic Conditions

It is the role of the Independent Examiner to consider whether a neighbourhood plan meets the “basic conditions.” These were *set out in law*<sup>2</sup> following the Localism Act 2011. In order to meet the basic conditions, the Plan must:

- have regard to national policies and advice contained in guidance issued by the Secretary of State;
- contribute to the achievement of sustainable development;
- be in general conformity with the strategic policies of the development plan for the area;
- be compatible with European Union (EU) and European Convention on Human Rights (ECHR) obligations.

I have examined the Neighbourhood Plan against all of the basic conditions above.

### EU and ECHR Obligations

The Basic Conditions Statement submitted with the Neighbourhood Plan states that it does not breach, and is compatible with, all European obligations.

I am satisfied that the Neighbourhood Plan has regard to fundamental rights and freedoms guaranteed under the ECHR and complies with the Human Rights Act 1998 and there is no substantive evidence to the contrary.

According to European legislation, a Habitats Regulations Assessment (HRA) is required when it is considered that likely negative, significant effects could occur on protected European sites as a result of the implementation of a plan or project. Further to consultation with Natural England, a HRA screening exercise has been undertaken by East Devon District Council, entitled “Statement on the need for Habitat Regulation Assessment of the Lypstone Neighbourhood Plan.”

The screening exercise recognises that the Exe Estuary Special Protection Area (SPA) and Ramsar site, and the East Devon Pebblebed Heaths Special Protection Area (SPA) and Special Area of Conservation (SAC) are the nearest relevant sites protected by European legislation, forming sensitive natural assets that *may* be affected by proposals in the Neighbourhood Plan.

The screening exercise concludes that there would be no likely significant effects on the Exe Estuary or East Devon Pebblebed Heaths resulting from the Lypstone Neighbourhood Plan; and that the Neighbourhood Plan does not require a HRA.

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<sup>2</sup> Paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990.

In reaching its conclusion, the screening exercise notes that the level of development proposed in the Neighbourhood Plan is broadly in line with the East Devon Local Plan and that all of the allocated sites are within Lympstone's development boundary, with the exception of an allocation for six houses adjacent to the boundary. It states that this site would be subject to a development brief and would provide new open space.

Importantly, East Devon District Council draws attention to the fact that it has, together with partners, Exeter City Council and Teignbridge District Council, both of which have up to date development plans, and also with Natural England, agreed a mitigation strategy "to address adverse impacts that could otherwise arrive at the designated sites." The mitigation strategy came into force on 1 August 2014.

The mitigation strategy includes the appointment (with East Devon District Council as employing authority) of a full time Habitat Regulations Delivery Officer. Also, as part of the measures, East Devon District Council has formally endorsed a schedule of charges that will be applied to any new dwellings that fall within defined zones (including Lympstone). The charges will fund mitigation.

Taking all of the above into account, I am satisfied that East Devon District Council's conclusion that the Lympstone Neighbourhood Plan is unlikely to have an adverse effect on a European site; and that effective mitigation measures have been established, is robust and appropriate.

The Neighbourhood Plan allocates land for development. The allocation of development land comprises one of the circumstances, referred to by the Planning Practice Guidance, whereby a strategic environmental assessment (SEA) *may* be required.

With regards SEA, Planning Practice Guidance establishes that *the local planning authority must decide whether the draft neighbourhood plan is compatible with EU regulations*.

East Devon District Council commissioned the screening of the emerging Neighbourhood Plan in July 2013 and this concluded that an SEA was required, due to it seeking to allocate sites close to sensitive European sites. An SEA has been undertaken and submitted alongside the Neighbourhood Plan.

The SEA presents the results of a rigorous assessment. It followed a scoping exercise that included consultation with Natural England, the Environment Agency and English Heritage. The SEA tests the Neighbourhood Plan, options and alternatives against a sustainability framework. The approach undertaken is in line with the advice now set out in Planning Practice Guidance.

Evidence has been provided to demonstrate that the SEA formed an important part of the plan-making process. The processes for gathering and testing evidence informed the choices being made in the Neighbourhood Plan.

Planning Practice Guidance states that the SEA should only focus on what is needed to assess the likely significant effects of the Neighbourhood Plan. In doing so, it should focus on the environmental impacts that are likely to be significant. In this regard, Planning Practice Guidance is explicit in stating that

*“It does not need to be done in any more detail, or using more resources, than is considered to be appropriate for the content and level of detail in the neighbourhood plan.”* (para 030)

The Neighbourhood Plan SEA presents a comprehensive assessment that meets the relevant requirements. Taking this and all of the above into account, I am satisfied that the Neighbourhood Plan is compatible with EU obligations and that it does not breach, nor is in any way incompatible with the ECHR.



### 3. Background Documents and Lypstone Neighbourhood Area

#### Background Documents

In undertaking this examination, I have considered each of the following documents in addition to the examination Version of the Lypstone Neighbourhood Plan:

- National Planning Policy Framework (The Framework) (2012)
- Planning Practice Guidance (2014)
- Town and Country Planning Act 1990 (as amended)
- The Localism Act (2011)
- The Neighbourhood Planning Regulations (2012)
- East Devon Local Plan (Adopted 2004)
- Basic Conditions Statement
- Consultation Statement
- Strategic Environmental Assessment Report
- East Devon District Council Statement on the need for Habitat Regulation Assessment of the Lypstone Neighbourhood Plan (July 2014)
- Appendices to the Lypstone Neighbourhood Plan

Also:

- Representations received during the publicity period<sup>3</sup>

In addition, I spent an unaccompanied day visiting the Lypstone Neighbourhood Area.

#### Lypstone Neighbourhood Area

The Lypstone Neighbourhood Area coincides with the area within the Parish boundary. There is a map of the Neighbourhood Area, in the form of an aerial photograph, on page 8 of the Neighbourhood Plan. However, the labelling is confusing, so for clarity, I recommend that the title of this map is changed as follows:

- **Change title of Map to “Lypstone Neighbourhood Area”**

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<sup>3</sup> I have also considered representations received during a previous consultation period. A previous version of the Neighbourhood Plan, dated October 2013, was submitted for Pre-Submission consultation during the period 27 January to 10 March 2014. Following this consultation period, rather than progress to examination, it was decided that minor changes should be made to the Neighbourhood Plan. This was done, with the consequent requirement to undergo (another) Pre-Submission Consultation. I note that a revised Basic Conditions Statement and a Habitat Regulation Assessment Statement (referred to in the list above and described by East Devon District Council as a Habitat Regulations screening) were produced following the “first” Pre-Submission consultation.

Further to an application made by the Parish Council, East Devon District Council approved the designation of Lympstone as a Neighbourhood Area on 16 October 2012.

This satisfied a requirement in line with the purposes of preparing a Neighbourhood Development Plan under section 61G (1) of the Town and Country Planning Act 1990 (as amended).

## 4. Public Consultation

### Introduction

As land use plans, the policies of neighbourhood plans will become the basis for planning and development control decisions. Legislation requires the production of neighbourhood plans to be supported by public consultation.

Successful public consultation enables a neighbourhood plan to reflect the needs, views and priorities of the local community. It can create a sense of public ownership, help achieve consensus and provide the foundations for a successful 'Yes' vote at Referendum.

### Lympstone Neighbourhood Plan Consultation

Lympstone Parish Council submitted a Consultation Statement to East Devon District Council. This sets out who was consulted and how, together with the outcome of the consultation. As such, the Consultation Statement meets the requirements of the neighbourhood planning *regulations*<sup>4</sup>.

I note that the Consultation Statement was submitted prior to the January-March 2014 consultation. It was not revised prior to the submission of the Neighbourhood Plan, which underwent consultation between July-September 2014. Consequently, it does not take into account the January-March 2014 consultation period. I note above that I have considered representations made during the January-March 2014 consultation period in undertaking this examination.

The Consultation Statement states that the Neighbourhood Plan Working Party was established in February 2012. A launch meeting, attended by around 70 people, was held in Lympstone Village Hall in April 2012 and volunteers were asked to join a series of Focus Groups. Four Focus Groups were set up and run between June-September 2012. They covered Environment, Infrastructure, Housing and Community matters.

In November 2012, a two day exhibition attracted 122 people and 94 completed feedback forms. This exhibition incorporated consideration of Lympstone's building boundary line and sites for new housing. The responses to the exhibition, together with the work of the Focus Groups, informed a Draft Plan. This underwent a six week public consultation period during June-July 2013.

The qualifying body printed and distributed 250 copies of the Draft Plan for the consultation period and contacted 104 different bodies, asking for comments on the

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<sup>4</sup>Neighbourhood Planning (General) Regulations 2012.

proposals. An exhibition was held over two days in July 2014 and 72 people attended.

More than 120 individual responses were received as a result of the consultation period. These were published on the Parish Council website and the Consultation Statement provides information setting out the resultant changes to the Neighbourhood Plan. A public exhibition was then held over two days in September 2014, enabling attendees to see the changes made as a result of the consultation. More than 60 people attended.

The Consultation Statement provides evidence to demonstrate that, throughout the plan-making period, there was sustained communication, whereby people were continually updated on the progress of the plan and all relevant stages, meetings, events and exhibitions were well publicised.

Parish Council meetings were held twice a month (except in August) and included a "Public Session" where any member of the community could raise a question. The Neighbourhood Plan featured prominently in these meetings. Information was also published in the Lympstone Herald, distributed free to every home in the Parish and relevant information was posted on each of the five Parish Notice Boards. Neighbourhood Plan Information was also provided on the Parish Council website.

With regards to all of the above, it is clear to me that public consultation formed an essential part of the Lympstone Neighbourhood Plan. The audit trail provided demonstrates that consultation was ongoing, transparent and widely publicised. There were plentiful opportunities for comment and comments were duly considered and reported.

The consultation undertaken is reflective of the significant efforts made by all involved in the production of the Neighbourhood Plan. I am satisfied that the consultation process was significant and robust.

## 5. The Neighbourhood Plan – Introductory Section

**Where modifications are recommended, they are presented as bullet points and highlighted in bold print, with any proposed new wording in italics.**

The policies of the Neighbourhood Plan are considered against the basic conditions in Chapter 6 of this Examiner’s Report. In this Chapter, I consider the Introductory Section of the Neighbourhood Plan. I make recommendations aimed at making it a clear and user-friendly document.

### Introduction

The opening three paragraphs of this section are clear. They set out an appropriate introduction to the Neighbourhood Plan and are written in plain English.

As the Neighbourhood Plan refers to “the Parish” throughout, it would be helpful to set out the following in a new paragraph 1.4:

- **Insert new paragraph, “1.4 Further to an application made by the Parish Council, East Devon District Council approved the designation of Lympstone as a Neighbourhood Area on 16 October 2012. The Neighbourhood Area coincides with the Lympstone Parish boundary.”**

Paragraph 1.4 seeks to paraphrase 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.

I recommend the following:

- **Delete paragraphs 1.4 and 1.4a**

Paragraph 1.5 refers to an emerging policy and provides an incorrect reference to the Localism Act.

- **Delete paragraph 1.5**

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 Lymstone Neighbourhood Plan.

- **Delete paragraph 1.8**

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.

- **Delete paragraph 1.9. Replace with a simple sentence *“The policies of the Neighbourhood Plan will combine with those of the East Devon Local Plan to control development within the Neighbourhood Area.”***

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.

- **Delete para 1.10**

Paragraph 1.11 states that Neighbourhood Plan 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.

- **Change Community Action Policies (CAPs) to *Community Actions (CAs)***
- **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”***

## The Content and Methodology

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.

- **Replace Map 1 with a map of the Parish**

Paragraph 2.2 repeats previous information and is, in parts, incorrect – for example, the Neighbourhood Plan does not “dovetail” with the Environment Agency.

- **Delete paragraph 2.2**

The remaining paragraphs of this section provide helpful background information.

## About Lympstone and Our Vision for Lympstone

These sections provide useful, relevant background information and set out a clear vision for Lympstone.

## Introduction to Policies

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.

- **Delete paragraphs 5.1 to 5.8**

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. The following modification would provide for clarity:

- **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”**

It is not the role of a neighbourhood plan to “place responsibilities” on others.

- **Delete paragraph 5.9, with the exception of the final two paragraphs.**

## 6. The Neighbourhood Plan – Neighbourhood Plan Policies

Subject to the above modifications, the policy section of the Neighbourhood Plan provides a clear distinction between the Neighbourhood Plan’s land use planning Policies, supporting text and Community Actions. Each chapter has a useful introduction and generally, the supporting text is concise.

### Housing

This section opens with detailed information setting out the background to the Neighbourhood Plan’s approach to housing. This is helpful and informative.

### Policy 1

Policy 1 allocates land for 40 houses. Development in the Neighbourhood Area is not capped and there is no maximum housing number. Indeed, the Neighbourhood Plan also allows for a strategic development at Goodmore’s Farm. In this way, the Neighbourhood Plan provides for sustainable growth and as such, it has regard to national policy.

The allocations have emerged through an assessment against sustainability criteria and have been demonstrated to be deliverable. The Neighbourhood Plan contributes to the achievement of sustainable development.

The Policy is in general conformity with East Devon Local Plan Policy S3, which considers Lympstone an appropriate location for a limited scale of future development. I also note that plan-makers have taken a variety of factors into account in providing for housing development in the Neighbourhood Area, including evidence related to the emerging East Devon Local Plan. I am also mindful that East Devon District Council considers that the proposed level of development broadly conforms with the East Devon Local Plan.

Taking the above into account, Policy 1 meets the basic conditions and no modifications are recommended.

### Policies 2-6

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.

- **Delete final sentence beginning “There will be...**



The Objective in this regard is negatively worded and would be more appropriately worded as:

- ***“To seek to ensure that the development of Goodmore’s Farm benefits the Neighbourhood Area.”***

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.

- **Delete Policy 2 and move information to 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.

- **Delete Policy 3 and move information to the supporting text**

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.

- **Delete Policy 4**

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.

- **Delete Policy 5 and move wording to supporting text**

Policy 6 reflects an aim of the Parish Council rather than a land use planning policy.

- **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**

### **Policy 7**

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 the following modification:

- **Re-word first sentence of Policy 7 “*...suitable rural buildings, the development of new isolated homes in the countryside will generally be resisted.*”**

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 the following modification:

- **Delete second sentence of Policy 7**
- **Map 3 – Amend Built-up Area Boundary to include the housing allocations**

Together, the above changes enable Policy 7 to provide clarity for decision makers and thus have regard to national policy. As modified, Policy 7 contributes to the achievement of sustainable development.

### **Policy 8**

Policy 8 seeks to prevent development within the Green Wedge and Coastal Preservation Area that would harm its character or purpose. It does so in a manner that allows for sustainable development and as such, has regard to the Framework and contributes to the achievement of sustainable development. Furthermore, the

approach is in general conformity with East Devon Local Plan Policy S6 – which prevents inappropriate development in Green Wedges.

With regards the Coastal Preservation Area, I have recommended deletion of the Policy Map on page 7 of the Neighbourhood Plan above. That Policy Map shows an extensive Coastal Preservation Area. I note that the Coastal Preservation Area to the north and east of Lympstone, as shown on the Policy Map recommended for deletion, does not form part of the East Devon Local Plan. However, I consider that Policy 8 has regard to the Coastal Preservation Area to the south of the settlement, as defined in the East Devon Local Plan.

Taking all of the above into account, Policy 8 meets the basic conditions and no modifications are recommended.

### **Policy 9**

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.

- **Delete first sentence of introductory paragraph commencing “The Draft Local Plan...”**
- **Delete “this” from the second sentence of the paragraph.**

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.

The following recommended modification takes the above into account and is intended to provide clearer policy wording and enable the Policy to meet the basic conditions:

- **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).**

### **Policies 10, 11 and 12**

Policy 10 sets out a clear preference for smaller scale developments that reflect the character of Lympstone. The Policy has regard to the Framework and is in general conformity with the East Devon Local Plan – together, the Framework and the East Devon Local Plan protect local character. The Policy’s flexible approach also has regard to national policy’s presumption in favour of sustainable development.

Policy 11 seeks to protect local distinctiveness and in so doing, like Policy 10, it meets the basic conditions.

Policy 12 sets out the key guidance from Lympstone’s Village Design Statement. The Policy is protective of local character and provides a clear indication as to how a decision maker should react to a development proposal. It has regard to the Framework and is in general conformity with East Devon Local Plan Policy D1. Protecting and enhancing the built environment is recognised by the Framework as an important element of sustainable development. Policy 12 would contribute to the achievement of sustainable development.

Taking all of the above into account, Policies 10-12 meet the basic conditions.

### **Policies 13 and 14**

Policy 13 requires new housing to meet a standard equivalent to Level 4 of the Code for Sustainable Homes, or to be in line with whatever the current national standards are. As such, the Policy contributes to the achievement of sustainable development. It meets the basic conditions.

Policy 14 refers to the Sustainability Objectives of East Devon District Council, but does not provide any clarity about what these are. Furthermore, no indication is given of what would comprise performing “badly” against these objectives. This Policy fails to have regard to the national policy requirement for policies to provide a clear indication of how a decision maker should react to a proposal. The Policy does not meet the basic conditions. I note that East Devon District Council’s Sustainability Objectives will be controlled by East Devon District Council.

- **Delete Policy 14 and delete the sentence underneath Policy 14.**

## Employment

### **Policy 15**

Policy 15 proposes that an allocation of small business units at Goodmore's Farm will be made available to Lympstone businesses. This is an aspiration rather than a land use planning matter that the Neighbourhood Plan can control.

- **Delete Policy 15 and replace as a Community Action**
- **Re-word the subsequent Community Action *"The Parish Council will seek to encourage an allocation of small business units at Goodmore's Farm to be made available to Lympstone businesses."***

### **Policy 16**

Policy 16 supports changes of use from residential to business in rural areas. This Policy has regard to the Framework, which supports rural diversification.

### **Policy 17**

Policy 17 states active support for any change of use from residential to business, so long as it is "in line" with the Neighbourhood Plan and Village Design Statement. It may be that a business use could meet the requirements of the Neighbourhood Plan and the Village Design Statement, but be inappropriate in a residential setting – for example, the conversion of a building that results in inappropriate levels of noise and disturbance. This would fail to have regard to the Framework or be in general conformity with East Devon Local Plan Policy D1 which, together, protect residential amenity.

- **Delete Policy 17**

### **Policy 18**

Policy 18 seeks to prevent changes of use from business to residential. This approach does not have regard to national policy, which is highly flexible with regards the conversion of business premises to residential use – and in many circumstances, even allows this to take place without planning permission (via Permitted Development). It does not meet the basic conditions.

- **Delete Policy 18**

## **Policy 19**

This Policy seeks to protect the very small number of remaining retail uses in Lympstone. 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. I recommend the following modification to ensure that the Policy provides clarity for decision makers:

- **Policy 19, replace “considered” with “*allowed*”**

## Getting Around

### **Policy 20**

Policy 20 requires the provision of off-road parking spaces for residential development. On-street parking can impact on highway safety and this Policy has regard to the Framework's requirement for development to provide for safety and minimise conflicts between vehicles and pedestrians or cyclists.

It meets the basic conditions.

### **Policies 21 and 22**

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.

- **Delete Policy 21**

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.

- **Delete Policy 22**

## Community, Leisure and Wellbeing

No Policies are contained in this section. No changes recommended.

## Environment, Sustainability and Design Quality

### **Policies 23, 24 and 25**

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 below can ensure that the Policies meet their aim of contributing to the achievement of sustainable development whilst meeting the basic conditions:

- **Re-word Policy 23: “Where appropriate, development should take into account landform, layout, building orientation, massing and landscaping to minimise energy consumption.”**
- **Re-word Policy 24: “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.”**
- **Re-word Policy 25: “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.”**

### **Policies 26 and 27**

Policy 26 states that the setting of the East Devon Way will be protected and improved by 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.



- **Delete Policy 26**

Policy 27 simply refers to other national and local policy designations. It is not the role of a neighbourhood plan to duplicate existing designations.

- **Delete Policy 27**

### **Policies 28, 29 and 30**

Policies 28 and 29 state that specific publicly-owned open spaces and the Heathfield Allotments “will be retained.” The Policies have regard to the Framework, which protects local character and devotes a chapter (Chapter 8) to promoting healthy communities through planning. They meet the basic conditions.

Policy 30 provides for the creation of a new village green as part of the development of the Nursery site. It has regard to the Framework, which, in paragraph 70, promotes positive planning for the provision of shared space and recognises that the provision of open space makes an important contribution to the health and well-being of communities. It meets the basic conditions.

## **8. Summary**

The Lympstone Neighbourhood Plan is the result of a significant community effort and demonstrates a passion for neighbourhood planning.

Further to consideration of its Policies against the basic conditions, I have recommended a number of modifications to the Neighbourhood Plan.

Subject to these modifications, the Lympstone 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;
- is in general conformity with the strategic policies of the development plan for the area;
- does not breach, and is compatible with European Union obligations and the European Convention of Human Rights.

Taking the above into account, I find that the Lympstone Neighbourhood Plan meets the basic conditions. I have already noted above that the Plan meets paragraph 8(1) requirements.

## **9. Referendum**

I recommend to East Devon District Council that, subject to the modifications proposed, **the Lympstone Neighbourhood Plan should proceed to a Referendum.**

### **Referendum Area**

Neighbourhood Plan Area - I am required to consider whether the Referendum Area should be extended beyond the Lympstone Neighbourhood Area. I consider the Neighbourhood Area to be appropriate and there is no substantive evidence to demonstrate that this is not the case.

I recommend that the Plan should proceed to a Referendum based on the Lympstone Neighbourhood Area as approved by East Devon District Council on 16 October 2012.

**Nigel McGurk, November 2014**  
**Erimax – Land, Planning and Communities**

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