

Report to: Cabinet



Date of Meeting 30 March 2022

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## **The Dalwood Neighbourhood Plan ('the Plan') to be formally 'made'**

### **Report summary:**

The Dalwood Neighbourhood Plan has now successfully passed referendum and must be formally 'made' (adopted) by East Devon District Council in order to form part of the development plan.

### **Is the proposed decision in accordance with:**

Budget Yes ☒ No ☐

Policy Framework Yes ☒ No ☐

### **Recommendation:**

- (1) That Members recommend that the Dalwood Neighbourhood Plan be 'made'.
- (2) That Members note that once made the Plan will carry full weight in the planning decision making process as part of the statutory development plan for this Neighbourhood Plan Area (the parish of Dalwood).
- (3) That Members congratulate the Neighbourhood Plan Steering Group and all involved in developing the Plan on all their hard work.

### **Reason for recommendation:**

The Plan received a majority 'yes' vote in the neighbourhood area referendum, as required by the Regulations, and there is no substantive reason not to make the Plan. In addition, to recognise the significant work over a number of years by Dalwood Parish Council and dedicated volunteers to prepare the Plan.

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### **Portfolio(s) (check which apply):**

- ☒ Climate Action and Emergency Response
- ☒ Coast, Country and Environment
- ☐ Council and Corporate Co-ordination
- ☒ Democracy, Transparency and Communications
- ☒ Economy and Assets
- ☐ Finance
- ☒ Strategic Planning
- ☒ Sustainable Homes and Communities
- ☒ Tourism, Sports, Leisure and Culture

**Equalities impact** Low Impact

Neighbourhood Planning is designed to be inclusive and extensive consultation is a fundamental requirement. The Dalwood Neighbourhood Plan has been the subject of significant consultation and engagement with the community, set out in a detailed Consultation Statement. All persons living in the parish have had the opportunity to be engaged in the Plan's production and all persons registered to vote in the area could vote in the referendum.

### **Climate change** Low Impact

**Risk:** Low Risk; The only reason for the Plan not to be made now is if the Council consider that to do so would be incompatible with any retained EU obligation or any of the Convention rights within the meaning of the Human Rights Act 1998. There is a risk that should we take that decision it will be subject to legal challenge and that the Parish Council will feel disenfranchised that their right to produce a Neighbourhood Plan under the Localism Act has been prevented.

**Links to background information** [The Localism Act](#); [Plain English Guide to the Localism Act](#); [National Planning Policy Framework \(2019\)](#); [Neighbourhood Planning Regulations](#); [Neighbourhood Planning Roadmap Guide](#); [East Devon Neighbourhood Planning webpages](#); [Dalwood Neighbourhood Plan webpage](#); [Dalwood Neighbourhood Plan Referendum Version](#)

### **Link to [Council Plan](#)**

Priorities (check which apply)

- ☒ Better homes and communities for all
- ☒ A greener East Devon
- ☒ A resilient economy

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## **Report in full**

### **1.0 Dalwood Neighbourhood Plan Referendum**

1.1 On 24 February 2022, a referendum was held on the Dalwood Neighbourhood Plan at Dalwood Village Hall from 7am to 10pm.

1.2 Voters were asked the following question:

"Do you want East Devon District Council to use the Neighbourhood Plan for Dalwood to help it decide planning applications in the neighbourhood area?"

1.3 The regulations advise that if more people vote 'yes' than 'no' in the referendum, East Devon District Council should use Dalwood Neighbourhood Plan to help it decide planning applications in Dalwood. The Plan once made (adopted) will then become part of the statutory development plan for the area.

1.4 In East Devon, the development plan currently consists of the East Devon Local Plan (2013-2031); the East Devon Villages Plan (adopted 2018); any made Neighbourhood Plan; the Devon Waste Plan (2011-2031); and the Devon Minerals Plan (2011-2033).

1.5 The final results of the Dalwood Neighbourhood Plan referendum are shown below:

- Yes: 104

- No: 5
- Voter turnout: 21.4%
- In favour: 95.4%

- 1.6 The results show a clear majority in favour. The Cabinet must now consider whether it would be appropriate to make the Plan.
- 1.7 Once the Plan is formally made it will carry full weight in the planning decision making process. As part of the development plan, any planning applications in Dalwood will be judged against the neighbourhood plan, as well as policies of East Devon District Council and also the National Planning Policy Framework. Application of the policies of the neighbourhood plan will ensure that the hard work that has gone into its production will result in effective application of local community expectations and aspirations in the decision making process.
- 1.8 The only reason for the Plan not to be made now is if Cabinet consider that to do so would be incompatible with any retained EU obligation or any of the Convention rights within the meaning of the Human Rights Act 1998. During the examination process, the Examiner stated that they were satisfied that the Plan was compatible with these obligations.
- 1.9 Since the examination of the plan and subsequent referendum, the Council has received detailed guidance from Natural England with regard to the consideration of plans and projects within the catchment of the River Axe and their impact on nutrient levels within the River Axe SAC. This indicates that new dwellings and overnight accommodation within the area should be subject to assessment under the Habitat Regulations and should only be allowed where they have a neutral impact on phosphate levels. The Dalwood Plan does not allocate any specific sites for housing albeit it does give policy support to limited infill development. Any such infill residential developments will be tested under the habitat regulations through the planning application process and so this subsequent guidance from Natural England is not seen as a barrier to the neighbourhood plan being made.

## **2.0 Next Steps**

- 2.1 Following the decision whether or not to make the Plan, we will produce a decision notice for the Plan. This will detail the decision and reasons for it and where the Plan can be viewed.
- 2.2 The decision notice will be publicised by:-
- publishing it on the neighbourhood planning pages of our website
  - by sending a copy to the Plan producer and requesting that they notify those persons who 'live, work or carry on business in the neighbourhood area' to which the Plan relates
  - by notifying the 'consultation bodies' referred to in the consultation statement
  - by advising:-
    - those adjoining authorities
    - anyone who asked to be notified of a copy of the decision
    - all those who made representations on the Submission Version of the Plan

- 2.3 In conclusion, Members are now asked to approve the recommendation to enable the Plan to be formally 'made', in accordance with this report.
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### **Financial implications:**

Central Government funding is available for Neighbourhood plans. This income covers not only examination fees but also all other associated costs such as employment and all other supplies and services. Any residual funds are placed into an earmarked reserve and utilised to cover funding gaps in subsequent years.

### **Legal implications:**

Following a majority vote in favour of the plan at referendum the Council must proceed to adopt (or 'make') the plan within 8 weeks of the referendum, unless in doing so it would be incompatible with any retained EU obligation or any of the Convention rights within the meaning of the Human Rights Act 1998. The Council has adopted a Screening Opinion, accepted by relevant statutory consultees, which confirms that there is unlikely to be a significant effect on the environment. As such a Strategic Environment Assessment (SEA) was not required and a Habitats Regulations Assessment (HRA) was also not required. The Independent Examiner accepted the outcome of the screening assessment. In reference to the guidance from Natural England there are no legal comments other than as set out in the report. The legal position is that the Council must now 'make' the Neighbourhood Plan as modified. As noted, following being made, the Dalwood Neighbourhood Plan will become part of the Development Plan for decision making on planning applications.