

Report to: Cabinet
Date of Meeting: 6 February 2019
Public Document: Yes
Exemption: None



Review date for release None

Agenda item: 22

Subject: Response to Sid Valley Neighbourhood Plan Submission

Purpose of report: To agree the response by this Council to the current Regulation 16 submission consultation for the Sid Valley Neighbourhood Plan.

Recommendation:

- 1. That Members note the formal submission of the Sid Valley Neighbourhood Plan (the Plan) and congratulate the producers of the Plan on the dedicated hard work and commitment in producing the document.**
- 2. That this council make the proposed representation set out at paragraph 5.2 in this report in response to the consultation.**

Reason for recommendation: To ensure that the view of the District Council is recorded and informs the consideration of the Plan by the independent examiner.

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Financial implications: No specific financial implications at this stage.

Legal implications: The legal position is well covered in the report. It is important for EDDC to comment on the content of the Neighbourhood Plan (given that it will form part of the Development Plan once made and therefore help guide decision making on planning applications) to ensure it sits with the strategic requirements of the Council's local Plan. Otherwise there are no legal implications arising from the report.

Equalities impact: Low Impact
The Plan has gone through wide consultation with the community and has been advertised in a variety of formats to increase accessibility.

Neighbourhood planning is designed to be inclusive and extensive consultation is a fundamental requirement. All electors are invited to vote in the referendum.

Risk:

Low Risk

There is a risk that the Plan could fail the examination if it is considered to conflict with the Basic Conditions.

Links to background information:

- [The Localism Act](#)
- [Plain English Guide to the Localism Act.](#)
- [National Planning Policy Framework: \(2012 applied for the examination of this plan based on submission date\).](#)
- [Neighbourhood Planning Regulations.](#)
- [East Devon Neighbourhood Planning.](#)

Link to Council Plan: Neighbourhood planning helps to deliver the priorities identified in the council plan by:

Encouraging communities to be outstanding

Developing an outstanding local economy

Delivering and promoting our outstanding environment

1.0 Report Summary

- 1.1 Sidmouth Town Council submitted the Sid Valley Neighbourhood Plan to the District Council and publication of the submission commenced on the 21 December 2018. The District Council is required to formally consult on the Plan for 6 weeks before appointing an independent examiner to inspect the plan against a series of conditions that the plan must meet in order for it to proceed to a referendum.
- 1.2 During this consultation the District Council has the opportunity to comment on the Plan and this report is brought before members with a request that they endorse the officers' observations as the formal representation on the plan, which is set out at the end of this report.
- 1.3 Members should note 'Policy 14 – Principal Residency' that specifies ***'Any new open market housing, excluding replacement dwellings, will only be supported when it is restricted to being used as a Principal Residence and not as a 'second home', in that the occupier uses it as their main residence, regardless of who owns the Freehold.'*** This would be the first principal residency policy in any East Devon neighbourhood plan. Comment 20, included in the table at the end of this report, relates to policy 14.

2.0 Background to the Sidmouth Neighbourhood Plan

- 2.1 Sidmouth Town Council commenced work on their Plan following their Neighbourhood Area being designated on the 31st March 2016. The Neighbourhood Area covers the same area as Sidmouth Parish.
- 2.2 Since then, the Town Council and volunteers from the local community have spent considerable time and effort consulting with residents of the parish and producing a plan which reflects the aspirations of the community with regards to the use of land until 2031.
- 2.3 The Plan contains 26 policies (split over 6 topics) designed to protect and enhance the special qualities of the parish of Sidmouth. The Plan aims to secure a sustainable future for the area in environmental, economic, and social terms.
- 2.4 Prior to submitting the Plan to East Devon District Council, Sidmouth Town Council have held their own 6 week public consultation on a draft version of the plan; a step which is also required by the neighbourhood planning regulations (Regulation 14). The group took into account comments made during this stage and made various amendments to the version that has now been submitted to East Devon District Council.

3.0 Submission of the Sid Valley Neighbourhood Plan

- 3.1 The District Council has received the Sid Valley Neighbourhood Plan from Sidmouth Town Council. [The Plan and its supporting documents are available to view.](#)
- 3.2 This is the seventeenth neighbourhood plan to reach submission stage in the district. The Town Council has received regular support from the District Council and additional financial support from MHCLG.
- 3.3 The statutory regulations require that the District Council organise and undertake a consultation on a plan when it reaches this stage. This is commonly referred to as the submission or 'formal' 6 week consultation. The consultation period commenced on 21 December and is due to finish on 15 February 2019 (extended eight week period due to Christmas). The Plan proposal has been publicised through notices on the EDDC and Town Council websites and an email sent to all the bodies mentioned in the consultation statement, including adjoining authorities and the statutory consultees of Devon County Council, Natural England, Historic England and the Environment Agency.
- 3.4 One of the statutory roles of the District Council is to consider whether the Plan meets, in production process terms, the legislative requirements. Cabinet has previously endorsed a protocol for District Council involvement into neighbourhood plans and in accordance with this protocol an officer review has been completed. Officer assessment is that legislative requirements are met.
- 3.5 Anyone may comment on a neighbourhood plan. It is particularly important that the District Council comments, given that the Plan (if adopted) will form part of the Development Plan, and should conform to the strategic policies of the Local Plan. This report provides the recommended representations on the Plan, made by officers of this authority, to be submitted to the examiner undertaking the Plan examination.

4.0 Neighbourhood Plan Examination and Referendum

- 4.1 Following the consultation the District Council must appoint an 'appropriately qualified and independent examiner' agreed with Sidmouth Town Council. All responses from the six week consultation (including any made by this council) will be forwarded to the examiner who will consider them, either by written representations or at an oral hearing (if s/he decides one is necessary). The District Council is responsible for paying the costs of the examination although the District Council can recoup these expenses by claiming funding from Central Government of £20,000 once a date has been set up for referendum following a successful examination.
- 4.2 We have requested proposals for the examination, including examiner profiles, and will hold discussions with the Town Council once quotes are available.
- 4.3 Neighbourhood plan examination is different to Local Plan examination. The examiner is only testing whether the plan meets the Basic Conditions and other relevant legal requirements – they are not testing the soundness of the plan or looking at other material considerations. The examiner will be considering whether the plan:
- has appropriate regard to national policy 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 in the development plan for the local area.
 - is compatible with human rights requirements.
 - is compatible with EU obligations.
- 4.4 As part of the Development Plan, made neighbourhood plans are used in future planning decisions. It is in the interests of the District, Town and Parish Councils to produce a high quality neighbourhood development plan.
- 4.5 Following the examination, the examiner's Final Report will set out the extent to which the draft plan proposal meets the Basic Conditions and what modifications (if any) are needed to ensure it meets the Basic Conditions. The examiner has 3 options for recommendation:
- A. That the Plan proceeds to referendum as submitted.
 - B. The Plan is modified by the District Council to meet Basic Conditions and then the modified version proceeds to referendum.
 - C. That the Plan/ does not proceed to referendum.

If the examiner chooses A or B above they must also consider whether the referendum area should be extended beyond the boundaries of the Plan area (this could be applicable if plan proposals could impact on a larger area). The report must give reasons for each recommendation and contain a summary of its findings. It is the responsibility of the District Council to decide what action to take in response to the recommendations of the examiner.

4.6 Once the Plan has been modified it will be subject to a referendum where everyone on the electoral roll (for the defined area) will have a right to vote for or against it. If at least half of votes cast support the Plan then it can be brought into legal force.

5.0 The Sid Valley Neighbourhood Plan Response

5.1 During the current 6 weeks consultation the District Council can comment on the Plan. In terms of meeting the Basic Conditions, the Town Council has produced a statement setting out how the Plan complies with the conditions which the examiner will assess.

5.2 **After reviewing the Plan contents, it is recommended that the following representation of East Devon District Council be submitted to the Plan consultation. It should be noted that comments we make at this stage are primarily restricted to land use planning policy matters rather than background text/reasoned justification or the community policies and are made on the basis of:**

- **Does Sid Valley Neighbourhood Plan policy comply with strategic policies in our adopted Local Plan and have appropriate regard to National Planning Policy?**
- **Do we have concerns about policy given wider objectives of the council?**
- **Are the policies workable and enforceable - could they be reasonably applied through the Development Management process? and**
- **Are they otherwise appropriate or desirable?**

EDDC Cmmt No	Issue / Policy In Plan	Comment
1.	Page 2	Contents page needs correcting – for example Policy 5 is on page 20, not 19; policy 6 is on page 27, not 22; etc....
2.	Page 4 and others	Map 1 (and subsequent maps) – All need updating to include copyright information (legal requirement for use of OS maps).
3.	Page 5	<i>'The SVNPP expects any housing development to achieve 12 Greens in Building for Life 12'</i> – Although this represents an ideal it seems excessive to require all housing development to guarantee 12 greens. Developments may be acceptable that have addressed BFL criteria and achieved a number of greens and ambers, BFL no longer has accredited assessors so who will manage the requirement?
4.	Page 11	Policy 1 – Suggest 'Built-up Area' references are updated to 'Built-up Area Boundary' (BUAB), or clearly stated as defined by those areas within the BUAB, to improve clarity and clear link to BUAB map on page 12.
5.	Policy 2	<i>'building heights should not normally be higher than neighbouring properties'</i> – Difficult in Sidmouth where developments are often on sloping sites. Suggest revision to 'building heights should be in keeping with the context of neighbouring properties'.
6.	Page 14	Suggest that map 9 is presented in the same style as map 8 for clarity.
7.	Page 15	Image 10 typo – extra comma '10.,'

8.	Policy 3	<p><i>'There will be a presumption against any built development within the 'Green Wedges' shown in the Map 10' – This goes beyond Strategy 8 of the East Devon Local Plan where development is limited that would 'add to existing sporadic or isolated development or damage the individual identity of a settlement or could lead to or encourage settlement coalescence'.</i></p> <p>The policy as written would seem to exclude development of a footpath/cycleway in this area, which is identified in Community Action AC03</p> <p>This policy should be associated with the proposed 'Sidford Sidbury Coalescence area' (map 10) and the policy could be specific to that proposed area, possibly based on the logic of strategy 8, rather than confused with existing green wedges identified by the Local Plan.</p>
9.	Policy 4	<p>Policy needs to be revised as current format appears to be an oversight. Currently bullet points 2, 3 and 4 follow on from the top line 'other than...'. We suggest the opening line is framed positively rather than negatively. Bullet point 1 should then form part of the opening line. Bullet point 2 should be a new non-bulleted line followed by current bullet points 3 and 4.</p> <p>The areas also include existing housing – will this policy apply to smaller developments such as extensions?</p>
10.	Policy 5	<p>Policy is overly restrictive. We suggest supporting development that is linked to the core purpose of the Local Green Space such as club houses, storage etc.</p>
11.	Policy 8	<p><i>'Development proposals will be expected to have regard to [the] character of...'</i> <i>'The' is currently missing.</i></p> <p><i>'Building heights should not normally be higher than neighbouring properties.'</i> See comment 3 above</p>
12.	Policy 9	<p>Suggest settlement areas are defined. Also need to understand what represents an overwhelming operational requirement – Is this a legal concern related to safety or simply a business function need for lighting?</p>
13.	Page 34	<p>'Rati' at top of page needs deleting</p>
14.	P35	<p><i>'However, the neighbourhood plan is proposing to extend the principles of "exception sites" to Sidmouth. The existing provisions under Strategy 35 do not apply as the policy limits their use to settlement with a population under 3,000.'</i></p> <p>This approach is recognised in the copy as not being in conformity with strategy 35. The justification for going beyond strategy 35 is not made explicit.</p>
15.	Policy 10b	<p>This does not conform to Strategy 35 and lacks comprehensive justification for rural exception sites policy to be introduced adjacent to the Sidmouth BUAB. The suggested imposition of a local connection criteria for all development under policy 10b, including affordable and open market, would reduce the viability and likelihood of such sites coming forward. This is further exacerbated by Policy 14 principal residency criteria applying to exception sites, further reducing final development value. Policy 10b does not include any limitations on quantity of properties or area of exception site. We suggest deletion of the policy. Strategy 35 will still allow exception sites for relevant rural settlements in the parish area.</p>

EDDC Cmmt No	Issue / Policy In Plan	Comment
16.	Page 37	<i>'East Devon Local Plan Policies 2013 -31 Strategy 26: Development at Sidmouth'</i> Duplicated information needs deleting.
17.	Policy 11	This appears to be an abbreviated version of Strategy 34 rather than adding any local distinction. If policy 11 is considered to be applicable to the neighbourhood plan we suggest the following revision: <i>'On sites in the AONB schemes of between 6 and 10 units a financial contribution equivalent to a 50% site affordable housing provision will be expected'.</i> Suggest this is updated to '6 and 9' in accordance with the EDDC approach to seeking affordable housing contributions: http://eastdevon.gov.uk/planning/planning-services/planning-development-management/unilateral-undertakings-section-106-agreements-habitat-mitigation-and-affordable-housing-contributions/what-are-planning-obligations-and-how-much-will-it-cost/
18.	Policy 12	Suggest this is too prescriptive as it is written. Could avoid the use of 'must' and allow flexibility whilst requesting that proposals account for the identified housing mix. Policy 12 would give rise to schemes where there are more large market houses than affordable. The affordable housing mix should reflect the market housing mix unless specific evidence has arisen.
19.	Policy 13	<i>'Apart from sites promoted under SVNP Housing Policy 10 B, the eligibility for affordable housing will be administered by EDDC as the Housing Authority.'</i> We need clarification on this point. EDDC would administer the eligibility for affordable housing in all cases.
20.	Policy 14	Policy 14 is likely to reduce the viability and supply of new homes. Principal Residency Policy would also be difficult to manage and enforce. With only 8% of the homes in the plan area being second homes or holiday lets, we do not consider this approach to be justified or in conformity with the Local Plan.
21.	Policy 22	<i>'All new developments should conform to the 'Secured by Design' principles...'</i> This seems onerous for the developer, suggest editing to 'should illustrate how they have considered and, where possible, implemented 'Secured by Design' principles'.
22.	Policy 24	Missing policy detail in blue box – check formatting. <i>'Any development of Eastern Town will be expected to demonstrate via an access strategy how the scheme will improve the cycle pathway linkages with the town centre and the wider area'</i> – Seems onerous on a private developer of an already well connected space. <i>'Vehicular access to and from the Esplanade turning circle should be restricted to service vehicles, coaches and boat trailers.'</i> This seems to be a highway consideration and should be deleted.

23.	Policy 26	Policy seems over prescriptive in terms of final outcome from redevelopment. Eastern Town contains multiple buildings and spaces serving a variety of functions. Replacement of existing assets should be proportionate to the proposed development impact.
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