

**Report to:** Cabinet  
**Date of Meeting:** 5 February 2020  
**Public Document:** Yes  
**Exemption:** None



**Review date for release** None

**Subject:** **Response to the Otterton Neighbourhood Plan Submission**

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

**Recommendation:**

- 1. That Members note the formal submission of the Otterton Neighbourhood 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 Neighbourhood Plan by the independent Examiner.

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**Financial implications:** No specific financial implications

**Legal implications:** The legal implications are fully set out within the report. It is important that EDDC comment on the content of the submitted Otterton Neighbourhood Plan (given that it will form part of the Development Plan and therefore help guide decision making on planning applications) to ensure it sits within the strategic requirements of the East Devon District Council's Local Plan.

**Equalities impact:** Low Impact

The Neighbourhood 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 Neighbourhood 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: \(2012 version applies for the examination of this plan based on submission date\).](#)
- [Neighbourhood Planning Regulations.](#)
- [East Devon Neighbourhood Planning.](#)

**Link to Council Plan:**

Outstanding Place and Environment

Outstanding Homes and Communities

Outstanding Economic Growth, Productivity, and Prosperity

## **1.0 Report Summary**

1.1 Otterton Parish Council submitted their Neighbourhood Plan to the District Council and the Regulation 16 submission consultation commenced on 3<sup>rd</sup> December 2019. The District Council is required to formally consult on the Plan for a minimum of 6 weeks before appointing an independent Examiner to inspect the Plan against a series of conditions that must be met in order for it to proceed to a referendum.

1.2 During this consultation the District Council has the opportunity to comment on the Neighbourhood Plan. Due to the timing, this report will not be considered by Members until the consultation period has ended, however the report will be sent to the Examiner for information. This report is brought before Members with a request that they endorse the Officers' observations, which are set out at the end of this report, as the formal representation on the plan.

## **2.0 Background to the Otterton Neighbourhood Plan**

2.1 Otterton Parish Council commenced work on their Neighbourhood Plan following their Neighbourhood Area being designated on 3 September 2014.

2.2 Since then, the Parish 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 Otterton Neighbourhood Plan contains 9 policies designed to protect and enhance the special qualities of the Parish of Otterton. 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, Otterton Parish 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 (General) Regulations 2012 (Regulation 14). The group took comments made during this stage into account and updated the plan for submission to East Devon District Council.

### **3.0 Submission of the Otterton Neighbourhood Plan**

- 3.1 The District Council has received a Neighbourhood Plan from Otterton Parish Council. [The Plan and its supporting documents are available to view.](#)
- 3.2 This is the nineteenth neighbourhood plan to reach submission stage in the District. The Parish 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 3<sup>rd</sup> December 2019 and is due to finish on 22<sup>nd</sup> January 2020 (an additional week was given due to Christmas and New Year). The Plan proposal has been publicised through notices on the District Council website 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 Otterton Neighbourhood 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 Otterton Parish Council. All responses from the 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 for referendum following a successful examination.

- 4.2 The Parish Council have indicated that they would like to use Jill Kingaby as their examiner, as she has experience of examining Neighbourhood Plans in East Devon (Exmouth being the most recent).
- 4.3 The Neighbourhood Plan examination is different to a 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 used in future planning decisions, it is in the interests of the District, Town and Parish Councils to produce high quality neighbourhood development plans.
- 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 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 Otterton Neighbourhood Plan Response**

- 5.1 During the submission consultation the District Council can comment on the Plan. In terms of meeting the Basic Conditions, the Parish Council has produced a statement setting out how the Plan complies with the conditions which the Examiner will assess.
- 5.2 **After reviewing the Neighbourhood Plan contents, it is recommended that the following representation of East Devon District Council be submitted to the Neighbourhood 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:

- Do Otterton Neighbourhood Plan policies comply with strategic policies in our adopted Local Plan and have appropriate regard to National Planning Policy?
- Do we have concerns about policy given the 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	Reference / Policy No.	Comment
1.	Policy ONP5	Replace references to 'semi natural' with 'wildlife'
2.	Policy ONP6	'Local people' is not defined. This could mean Parish residents, those within a certain distance of the parish or a different vicinity. The Policy is clearer without 'providing jobs for local people'.
3.	Policy ONP7	<p>Coastal Protection should be Coastal Preservation Area.</p> <p>Amend the introductory paragraph to read:</p> <p>“Development will only be permitted within the area outlined in red on the map below if it is for the replacement of an existing structure or pitch, is designed to be sustainable and does not harm the landscape or setting of the East Devon AONB, Jurassic Coast World Heritage Site and Coastal Protection Preservation Area. No new development of any kind will be permitted anywhere outside the existing site boundary defined on the map below. Support will be given for any proposal meeting the above criteria that.”</p> <p>The Policy is onerous in that it allows no new development of any kind anywhere outside the defined boundary. The (non-strategic) adopted Local Plan Policy E19 is less restrictive than this policy, whilst recognising the need to protect the importance of the designated landscapes, as it allows for limited new development subject to a number of criteria and provided there are no new permanent structures or are replacement structures designed to blend into their surroundings.</p>