

Report to: Cabinet



Date of Meeting 07 October 2020

Document classification: Part A Public Document

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## **Newton Poppleford & Harpford Neighbourhood Plan Examiner's Report**

### **Report summary:**

The purpose of the report is to provide feedback and set out proposed changes following the examination of the Newton Poppleford & Harpford Neighbourhood Plan. The independent examination of the Plan has now concluded and the final Examiner's report received. In accordance with the relevant legislation, the District Council must now consider its response to the Examiner's recommendations and also satisfy itself that the Plan meets the necessary 'basic conditions'. If the recommendation to accept the Examiner's recommendations in full is accepted, a decision notice will be published accordingly. This will confirm that the Plan can go forward for public vote in a local referendum as the penultimate stage in the plan-making process. An updated (Referendum Version) of the Neighbourhood Plan will also be published. Due to the Covid-19 pandemic, the referendum will be delayed until after May next year. However, the publishing of the decision notice itself will give the Plan 'significant weight' in the determination of planning applications in the Newton Poppleford & Harpford parish area.

### **Recommendation:**

- 1. That Members endorse the Examiner's recommendations on the Newton Poppleford & Harpford Neighbourhood Plan (the Plan).**
- 2. That Members agree that a 'referendum version' of the Plan (incorporating the Examiner's modifications) should proceed to referendum and a decision notice to this effect be published.**
- 3. That Members congratulate the Neighbourhood Plan Steering Group on their hard work.**

### **Reason for recommendation:**

The legislation requires a decision notice to be produced at this stage in the process. The Plan is the product of extensive local consultation and has been recommended to proceed to referendum by the Examiner subject to modifications which are accepted by the Parish Council.

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Portfolio(s) (check which apply):

- Climate Action
- Corporate Services and COVID-19 Response and Recovery
- Democracy and Transparency
- Economy and Assets
- Coast, Country and Environment
- Finance
- Strategic Planning
- Sustainable Homes and Communities

### **Financial implications:**

There are no material financial issues impacting upon the Council's finances within the report.

### **Legal implications:**

As the report identifies, it is a formal requirement for the Council to consider the Examiner's recommendations and satisfy itself that the proposed plan, as modified, meets the prescribed 'Basic Conditions'. The purpose of the report is to satisfy this formal requirement. Assuming Members agree the proposed recommendations then the Council is obliged to publish a notice to this effect, pursuant to the applicable Regulations, and Recommendation 2 covers this aspect. The report also identifies that the District Council is responsible for organising the referendum and requires a resolution to progress this, at such time as the Council is permitted to arrange such referendums under Government Covid 19 guidance. At this stage there are no other legal observations arising.

### **Equalities impact** Low Impact

Neighbourhood Planning is designed to be inclusive and extensive consultation is a fundamental requirement. The Neighbourhood Plan has gone through wide consultation with the community and has been advertised in a variety of formats to increase accessibility. All electors are invited to vote in the referendum.

### **Climate change** Low Impact

**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 to which all plans must comply.

**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](#).

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

Priorities (check which apply)

- Outstanding Place and Environment
- Outstanding Homes and Communities
- Outstanding Economic Growth, Productivity, and Prosperity
- Outstanding Council and Council Services

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## **Report in full**

### **The Examination**

- 1.1 The Newton Poppleford & Harpford Neighbourhood Plan has now been examined and, subject to modifications, it has been recommended that it proceed to referendum. The

Examiner, Jill Kingaby, was selected by East Devon District Council in consultation with Newton Poppleford & Harpford Parish Council.

- 1.2 The examination was undertaken on the basis of considering the written material which forms the Plan, its appendices and accompanying statements as well as any representations received in response to the formal consultations. The Examiner did not consider it necessary to hold a public meeting. The [Plan \(as submitted for examination\)](#) and the [Examiner's report](#) are available to on our website.
- 1.3 The legislation, reflected in the Council's [Neighbourhood Planning Protocol](#), requires the Policy Team to notify Members of the findings and recommendations of the Examiner and how the Council proposes to respond to the recommendations. The agreed response will then be published as a decision notice.
- 1.4 The Examiner has recommended twenty-two textual modifications to the Plan. These are shown in Annex 1 in full as an extract from the Examiner's report. The reasons for each of the amendments is also explained in full in the Examiner's report. The examiner concluded that, "subject to the policy modifications set out in this report, the Plan meets the Basic Conditions" and recommends that, "the Plan, once modified, proceeds to referendum on the basis that it has met all the relevant legal requirements".

### **Response to the Examiner's Recommendations**

- 1.5 Under paragraph 12 of the Town and Country Planning Act it is for the Local Planning Authority (EDDC) to consider the recommendations made in the Examiner's report and the reasons for them and decide what action to take in response to each recommendation.
- 1.6 The District Council must also be satisfied that the Neighbourhood Plan:
  - i. meets the necessary 'Basic Conditions' by;
    - having regard to national policies and advice contained in guidance issued by the Secretary of State;
    - contributing to the achievement of sustainable development;
    - being in general conformity with the strategic policies of the Development Plan for the area;
    - not breaching, and being compatible with European Union obligations
  - ii. is compatible with the European Convention of Human Rights, and;
  - iii. complies with the provisions under section 38A and 38B of the Planning And Compulsory Purchase Act,

(or that the draft Neighbourhood Plan would do so if modifications were made to it, whether or not recommended by the Examiner, before a referendum is held.)

- 1.7 The Neighbourhood Plan regulations go on to state that if
  - a) the Local Planning Authority propose to make a decision which differs from that recommended by the Examiner, and
  - b) the reason for the difference is (wholly or partly) as a result of new evidence or a new fact or a different view taken by the authority as to a particular fact, then,the authority must notify prescribed persons of their proposed decision (and reason for it) and invite representations.

- 1.8 The legislation, which is reflected in our protocol, requires the Council to consider and respond to the Examiner's report. Officer assessment is that with the incorporation of the amendments suggested by the Examiner, the Council can be satisfied that the Plan meets the legal requirements. There are not considered to be any grounds to reject the findings of the report.
- 1.9 Members are therefore asked to agree to accept the recommendations of the Examiner's report and agree that a notice to this effect be published.

## **Next Steps**

- 1.10 A revised version of the Plan (known as the 'Referendum Version'), incorporating the recommended changes, will be made available to view on the [Newton Poppleford & Harpford page](#) of the East Devon District Council website, together with the Decision Notice.
- 1.11 The District Council will be responsible for arranging a referendum where all electors within the Parish of Newton Poppleford & Harpford will be invited to vote on whether the Neighbourhood Plan should be used to make planning decisions in the Parish. If more than 50% of those who vote say 'yes', the Neighbourhood Plan will be made and will form part of the Development Plan for East Devon, where it will carry full weight in the planning decision making process.
- 1.12 It should be noted that due to the Coronavirus Act 2020 and the Local Government and Police and Crime Commissioner (Coronavirus) (Postponement of Elections and Referendums) (England and Wales) Regulations 2020 made in response to the coronavirus crisis, the referendum will not currently be able to take place until after 6 May 2021. However, in recognition of the hard work undertaken in communities like Newton Poppleford & Harpford to progress plans to such an advanced stage, updated [Government guidance](#) has clarified that where the local planning authority has issued a decision statement detailing its intention to send a neighbourhood plan to referendum, that plan can be given significant weight as a material consideration in decision-making on planning applications. If accepted, this will be the effect therefore of the recommendation of this report.

**Annex 1: Examiner's Proposed Modifications (recommended to be accepted in full)**

Proposed modification number (PM)	Page no./ other reference	Modification (Bold, italics = new text to be added to the wording) (Strikethrough = text to be deleted)
PM1	Pages 6, 7 and 14	<p>1.2 Local and neighbourhood planning policy</p> <p>Second sentence: <del>This is the</del> <b>The adopted East Devon Local Plan</b> .....East Devon District Council (EDDC) <del>and</del> which sets out policies .... independent Planning Inspector. <b><i>In addition, the East Devon Villages Plan was prepared by EDDC and, following examination, found sound and adopted on 26 July 2018.</i></b> The Neighbourhood Plan adds more local .....district-wide local plan <b><i>and villages' plan.</i></b></p> <p>.....</p> <p>2 The Neighbourhood Plan Area</p> <p>The Neighbourhood Plan area ....</p> <p>The Built-up Area Boundary ....26 July 2018 <b><i>when the East Devon villages Local Plan was adopted.</i></b> The difficulties ....</p> <p><b><u>East Devon Local Plan</u></b> add a new sentence at the end: <b><i>The Villages Plan was adopted in July 2018 and the BUAB for Newton Poppleford is shown on Map 1a in Appendix 6 to this Plan.</i></b></p>
PM2	Page 8 and Appendix 6	<p>New sentence at the end of 3.1:</p> <p><b><i>Map 10 in Appendix 6 shows the location of the principal community facilities and services.</i></b></p> <p>New Map 10 – Newton Poppleford &amp; Harpford NP – Principal Facilities and Services.</p> <p>New map should be added to Appendix 6.</p>
PM3	Page 9, page 22 and Appendix	<p>3.3 Overview of the Parish</p> <p>4<sup>th</sup> paragraph: The East Devon Way crosses the parish, <b><i>as shown on Map 4 in Appendix 6,</i></b> and is a popular draw ...</p> <p>3<sup>rd</sup> paragraph: This Parish lies in a valley ....from the East Devon Way. <b><i>Map 4 in Appendix 6 shows the extent of the East Devon Way.</i></b></p> <p>New map with revised Legend should be added to Appendix 6.</p>

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PM4	Pages 10 and 27	<p>3.4 Facts and Figures</p> <p>In the 2011 census ....recorded as 2095 in <del>930</del> <b>928</b> households.....</p> <p>7.3 <u>Housing, Heritage and Design – Policy Overview</u></p> <p>At the time of the 2011 census ....was 2095 in <del>978</del> <b>928</b> households. ...</p>
PM5	Page 16	<p><b>Policy T1 – Adequate Parking</b></p> <p>Developments must provide adequate off-road parking. eg- <b><i>This means that:</i></b> ...</p>
PM6	Pages 17 - 19	<p><b>Policy T2 – Traffic Calming</b></p> <p>Proposals for new development ...</p> <p>a) <del>be designed with road safety as</del> <b><i>will be</i></b> a priority <b><i>in design terms,</i></b> in particular ...</p> <p>c) <del>not lead to an increase in existing</del> <b><i>generate new</i></b> HGV movements ...</p> <p>Developments of 10+ houses .... infrastructure will be mitigated, and <del>parish council sign it off,</del> including a Travel Plan .....</p> <p><u>T2 – Policy Overview</u></p> <p>Add a final sentence as follows:</p> <p><b><i>When a Transport Statement or Assessment is submitted and/or a Travel Plan put forward with a development proposal, the Parish Council would wish to be consulted on its content and delivery.</i></b></p>
PM7	Pages 19 and 20	<p><b>Policy T3 – Rights of Way</b></p> <p>Development proposals....</p> <p>The improvement and enhancement of existing public rights of way (<del>Public Footpaths, Pavements, Bridleways and Cycleways</del> <b><i>footpaths and bridleways,</i></b> <b><i>the National Cycleway and pavements</i></b> will be supported.....</p> <p><b><i>To enable safe walking and cycling,</i></b> <del>Roads on new developments must be sufficiently wide to allow two vehicles to pass</del> <b><i>well-designed to allow convenient vehicle access, movement and parking,</i></b> without mounting the pavements. <b><i>In addition, developments of 10+ houses and employment sites must have roads sufficiently wide to allow two vehicles to pass.</i></b></p>

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		<p>Proposals to improve .....be supported.</p> <p><del>A future Parish “Footpath and Cycling Strategy” will be supported, subject to consultation and agreement...</del></p> <p><u>T3 – Policy Overview</u></p> <p>New opening sentences:</p> <p><b><i>Devon County Council defines a public right of way as follows: “A public right of way is a right by which the public can pass along linear routes over land at all times. Although the land may be owned by a private individual, the public have a legal right across that land on a specified route”. The Parish Council will seek to work positively with landowners to ensure that access for all users is encouraged where practically possible.</i></b></p> <p>Add at the bottom of Page 19:</p> <p><b><i>Maps 3b – Parking &amp; Problem Junctions and 3c – Lack of Pavements and Crossings on A3052, in Appendix 6 illustrate these difficulties.</i></b></p> <p><b><i>Some roads on recently built new housing developments have been too narrow to allow two vehicles to pass without mounting the pavement. This creates risk for pedestrian safety and must be avoided in the layout and design of future developments.</i></b></p> <p>Modify last paragraph on Page 20:</p> <p><b><u>Future Parish Walking and Cycling Strategy</u></b></p> <p>As a result of these deficiencies .....</p> <ul style="list-style-type: none"> <li>• new footpath in front of the Toll House.</li> </ul> <p><b><i>Improvements should allow for the maximum number of different users and, wherever possible, should be multi-use (walkers, cyclists and horse-riders), and take into account the needs of disabled users.</i></b></p> <p><b><i>Consultation with landowners and land managers will be carried out at an early stage of planning and discussion.</i></b></p>
PM8	Page 20	Modify the appeal reference in the first paragraph on this page:

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		<p>....appeal for new housing off <b>at</b> Down Close (appeal reference APP/U1105/W/15/3032502 <b>A/14/2229080</b> Appendix 8),</p> <p>....</p>
PM9	Pages 20 and 21	<p><b>Policy EP1 – Conservation and enhancement of the East Devon AONB and Natural Environment</b></p> <p>Criterion f): not protrude above, or appear dominant when viewed against, <del>existing lines or groups of trees</del> <b>skylines or significant lines or groups of large, mature trees.</b></p> <p>Penultimate sentence: <del>There is support for the RSPB to take over</del> <b>Proposals to facilitate the RSPB taking over</b> management of the Old Quarry in Venn Ottery will be supported, subject to compliance with other policies.</p> <p><del>The creation of a new National Park which covers this parish would be supported.</del></p>
PM10	Pages 21, page 22 and Appendix 6	<p><u>EP1 – Policy Overview</u></p> <p>Add a new paragraph: <b><i>The Landscapes Review by Julian Glover reported to Government in 2019 and identified two AONBS that were strong candidates to become new National Parks. One of these was the combined Dorset and East Devon AONB. At its special meeting on 25 February 2020 EDDC agreed that further investigation of the benefits and drawbacks of becoming a new National Park should be pursued, with all meetings open to the public. Residents have indicated how much they wish to preserve the AONB, and uniqueness of our area, and the aspiration of National Park status would be to put more emphasis on rural employment and local housing for families who wish to remain in the area. The creation of a new National Park which covers the parish would be supported. The photographs and Map 9 in Appendix 6 show “Cherished Public Views” and illustrate the beauty of the AONB within the Parish.</i></b></p> <p>Appendix 6, modify Map 9 by changing the title to <b><i>Cherished Public Views</i></b>; number the viewpoints on the map and the photographs so that the locations can be identified.</p>
PM11	Page 23	<p>Delete Policy EP2 and modify Policy EP4:</p> <p><b>Policy EP42 – Flood Risk Assessment</b></p>



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		<p>A sequential approach...</p> <p>Residential developments within ... (over 1 hectare in size), <del>and or</del> in areas identified <del>as wet spots due to</del> <b>affected by other sources of flooding (for example</b> surface water flooding), as identified <del>at risk of flooding</del> <b>by the most recent</b> <del>in the Strategic Flood Risk Assessment for the area, or other more recent information,</del> (from EDDC and the relevant bodies with statutory responsibility for such assessments), should be subject to a site-specific Flood Risk Assessment that demonstrates that <b>establishes whether</b> the development will be safe .....and where possible <del>will reduce flood risk overall</del> <b>whether it is possible for flood risk overall to be reduced.</b></p> <p>The findings of <del>t</del>The Flood Risk Assessment will determine <b>be required to fully demonstrate that the</b> Exception Test can be satisfied. The Exception Test also ....the community <b>that outweigh the flood risk.</b></p> <p><b>Policy EP3 – Minimiseing damage to existing properties</b></p> <p>The Environmental Protection policies should be renumbered accordingly as a result of the deletion of EP4 (and the further, subsequent deletion of EP8 – see PM13 below).</p>
PM12	Page 25	<p><b>Policy EP7 – Local Amenity</b></p> <p>Delete first sentence and substitute:</p> <p><b><i>Development proposals that adversely impact on residential amenity will not be supported.</i></b></p>
PM13	Pages 25 and 26	<p><b>Policy EP8 – Protect agricultural land</b></p> <p>This policy should be deleted. The text on Page 26 under EP8 – Policy Overview should be modified as set out below and placed as part of the Overview to Policy EP9.</p> <p><b><i>Planning permission will be refused for development on the best and most versatile agricultural land, meaning land in grades 1, 2 and 3a of the Agricultural Land Classification, unless it involves development for the purposes of agriculture and forestry. East Devon Local Plan Strategy 6 and Policy EN13 will be applied to safeguard the best and most versatile land.</i></b> The Parish of Newton Poppleford and Harpford is surrounded <del>by</del> <b>contains much</b> agricultural land which gives it much of its character .... make development permissible.</p>

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		Appendix 6, Map 7, shows the agricultural land classification <b>for the Parish. This map is based on the provisional agricultural land classification data held by Natural England. The NPPF Annex 2: Glossary defines Best and most versatile agricultural land.</b>
PM14	Pages 13 and 27	<p>Objective 3. Make sure future development delivers the demonstrable needs and requirements of <del>parishioners</del> <b>the Parish</b>, in particular smaller affordable homes ....</p> <p><u>Housing, Heritage and Design – Policy Overview</u></p> <p>At the time of the 2011 census ..... 2095 in <del>978</del> <b>928</b> households ....</p> <p>Modify the 4<sup>th</sup> paragraph to read: Any new housing will be required to meet the needs of the Parish. The Local Housing Need to allow <del>locals</del> <b>people with a local connection to live or</b> to continue living in the Parish ....</p> <p>During the Community Survey, ....local connection. <del>However, as 67 houses have been authorised since the 2013, residents requirements have already been exceeded.</del></p> <p>For all the above reasons, .....</p> <p>If further housing is <del>imposed on</del> <b>permitted within the Parish</b> then this should meet .....</p>
PM15	Pages 28 and 29	<p><b>Policy H1 – Meeting Demand for Smaller Dwellings</b></p> <p>Residential development will be supported ....defined as 93 <del>square metres</del> <b>square metres*</b> internal space (<b>Gross Internal Area</b>), and <del>have with</del> no more ....</p> <p><b>Policy H2 – Housing which caters for those with mobility issues</b></p> <p>Any development which ...</p> <p><del>Strategy 36 must be adhered to.</del> There is a need....</p> <p>Housing with level access and <del>complying with Local Plan Strategy 36</del> which facilitates wheelchair access....</p> <p>Modify reference to East Devon Local Plan – H2 at bottom of the policy by adding a reference to Strategy 36.</p> <p><b>Policy H3 – Housing Outside the Built-up area boundary</b></p> <p>Any residential development outside the BUAB:</p> <p>a); b); ...outside the AONBs; c);</p>

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		<p>d) must meet the needs of the Parish community taking figures from Devon Home Choice or other choice-based letting scheme <b>as demonstrated by a Housing Needs Survey.</b></p> <p>Subject to <b><i>the criteria above and</i></b> the other policies of this Plan, there is particular need in the Parish for <b><i>proposals that help meet the following particular needs will be more favourably considered: ...</i></b></p> <p>Guidance Note 1 – Affordable Housing</p> <p>Modify the existing note by substituting the following:</p> <p><b><i>The affordable housing element of a development, comprising housing for sale or rent, for those whose needs are not met by the market and which complies with one or more of the NPPF categories:</i></b></p> <p><b><i>a) Affordable housing for rent;</i></b></p> <p><b><i>b) Starter homes;</i></b></p> <p><b><i>c) Discounted market sales housing;</i></b></p> <p><b><i>d) Other affordable routes to home ownership.</i></b></p> <p><b><i>Affordable housing within this parish will additionally be restricted to a person(s) who is in housing need and is a resident of the parish of Newton Poppleford and Harpford or has a local connection with the parish because of family ties or a need to be near their workplace, according to Local Plan Strategy 35.</i></b></p>
PM16	Pages 30 and 31	<p><b>Policy TD1 – Infill and garden developments and extensions within the Built-up area boundary</b></p> <p><b><i>Development on p</i></b><del>Previously</del> developed land ....</p> <p><b>Policy TD2 – Affordable homes to meet Local Need through a Community Land Trust</b></p> <p>In suitable locations ....<del>permission may be granted for</del> Community Land Trusts <b><i>may be supported</i></b> to bring forward .. up to 5 <b><i>affordable and/or</i></b> self-build dwellings ....</p> <p>To <b><i>assist in ensureing</i></b> that these dwellings remain relatively affordable ....</p>
PM17	Pages 33	<p><b>Policy HQD1 – Maintain the built character of our parish through High Quality Design</b></p> <p>Development within ...</p>

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		<p>a) they are of high quality design, in line with <b><i>the results of the Housing Styles</i></b> Consultation Survey <del>requirements... ..</del></p> <p>g) services, such as power and telephone land lines, <del>should</del><b>would</b> be underground;...</p> <p>l) they conserve or enhance heritage assets in the parish, <del>whether they are</del><b>having regard for their status as</b> designated or non-designated <b>assets</b> and their settings ...</p> <p>t) they provide adequate, well-designed off-road parking .... garages-;.....</p> <p>Remove second sentence in t) and create a new criterion y) as follows:</p> <p><b>y)</b> Modern design will be supported or enhanced provided the local character is respected or enhanced.....</p> <p>Modify last sentence in the policy:</p> <p>All major developments ...standard of design <del>as defined by</del><b>reflecting the principles set out in</b> BfL(12) (Building for Life 12).</p>
PM18	Page 42	<p><b>Policy GS1 – Protection of Local Green Spaces</b></p> <p>The following <del>Local Green Spaces</del> <b>include local</b> amenity spaces identified by EDDC and <del>have been</del><b>are</b> designated .....</p> <p>Modify the reference at the bottom of the policy to East Devon Local Plan – EN1 (<b><i>Land of Local Amenity Importance</i></b>), RC3 .....</p> <p>Modify Map 5a in Appendix 6 to show the location of LGS10. Shrubbery, Station Road, opposite Oak Tree Villas.</p>
PM19	Page 43	<p><b>Policy TH1 – Trees and Hedgerows</b></p> <p>Trees and hedgerows are valued ....</p> <p>2. The <del>natural</del> woodland in the field above Down Close .....</p> <p>3. b) where trees/hedgerows do not ....removal, <b>they</b> should be replaced by <b>an</b> equal or greater .....</p>
PM20	Page 47	<p><b>Policy EM1 – Conversion from residential use</b></p> <p>The change of use ..... to small <del>business</del><b>scale employment-generating</b> uses:<b>including E(g)(i)</b> B1a (offices); <del>and</del><b>E(g)(ii)</b> (Rresearch and Ddevelopment); <b>and E(g)(iii) (industrial process)</b> will be supported,</p>

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		<p>provided proposals ensure that they do not have a significant adverse impact on the character and appearance of the area and <b><i>are not detrimental to</i></b> the amenity of neighbouring residents.</p> <p>In addition, consideration should be given to additional parking requirements due to the change of use. Anticipated parking requirements and sufficient off-street parking space should be identified within any change of use application.</p> <p><i>(*This modification includes an update to reflect The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 (SI 2020 No.757), which came into effect on 1 September 2020.)</i></p>
PM21	Page 48	<p><b>Policy EM2 – Development of Small Business Enterprises</b></p> <p>Remove the last sentence of the policy and substitute:  <b><i>Opportunities to secure the provision of new employment locally will be supported, providing all other criteria can be met.</i></b></p>
PM22	Page 49	<p><b>Policy EM3 – Superfast Connectivity</b></p> <p>Modify second sentence to read:</p> <p>Suitable ducting to accommodate FTTP broadband <del>is a construction requirement of</del> <b><i>should be provided in</i></b> all new development.</p>