

Report to: Cabinet



Date of Meeting 4 January 2023

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

### Report summary:

The Luppitt 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 Luppitt 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 Luppitt).
- (3) That Members congratulate Luppitt Parish Council and their Neighbourhood Plan Steering Group on all their hard work in developing the Plan.

### 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 Luppitt 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 Luppitt Parish 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 \(2021\)](#); [Neighbourhood Planning Regulations](#); [Neighbourhood Planning Roadmap Guide](#); [East Devon Neighbourhood Planning webpages](#); [Luppitt Parish Neighbourhood Plan webpage](#); [Luppitt Parish 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 Luppitt Neighbourhood Plan Referendum**

1.1 On 24 November 2022, a referendum was held on Luppitt Neighbourhood Plan at Luppitt 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 Luppitt 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 Luppitt Parish Neighbourhood Plan to help it decide planning applications in Luppitt Parish. 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). A new Local Plan for East Devon is currently being prepared but this work is at an early stage. For this reason, it is the adopted Local Plan that the Neighbourhood Plan has been examined against, and found to be in general conformity with, in meeting the 'Basic Conditions' for a neighbourhood plan to be made.

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

- Yes: 102
- No: 13
- Voter turnout: 29%
- In favour: 89%

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 Luppitt Parish will be judged against the Neighbourhood Plan, as well as policies of East Devon District Council and also the National Planning Policy Framework. Effective application of the policies of the Plan will ensure that the hard work that has gone into its production will translate into the incorporation of local community expectations and aspirations within 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. This has been considered during the examination process, where the Examiner expressed that they were satisfied that the Plan meets these obligations. Officer assessment is that the Council can be satisfied that the Plan meets the legal requirements. There are therefore not considered to be any grounds not to make the Plan.

## **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 it may 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 relevant 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. A Habitats Regulations Assessment (HRA) was not required. The Independent Examiner accepted the outcome of the screening assessment. The legal position is that the Council must now 'make' the Neighbourhood Plan as modified. As noted, once it had been made, the Luppitt Neighbourhood Plan will become part of the Development Plan for decision making on planning applications.