

Report to: Cabinet



Date of Meeting 29 November 2023

Document classification: Part A Public Document

Exemption applied: None

Review date for release N/A

Application to designate West Hill Neighbourhood Area

Report summary:

West Hill Parish Council have applied to the District Council for the designation of their whole Parish as a Neighbourhood Area for neighbourhood planning purposes. If approved, they can then produce a Neighbourhood Plan for their area setting out how the local community would like to see the Parish develop in the future. West Hill Parish currently falls within the already designated Ottery St Mary and West Hill Neighbourhood Area and is covered by the joint Ottery St Mary and West Hill Neighbourhood Plan, 'made' in July 2018. When this area was designated, West Hill Parish Council was not in existence and the area covered was served by Ottery St Mary Town Council only. West Hill Parish Council was formed when preparation of the neighbourhood plan was well advanced, and it was agreed at that time to continue progressing the plan jointly.

Following a review of the current arrangement, West Hill Parish Council resolved to apply for the creation of a new Neighbourhood Area for the West Hill parish only, with the intent to prepare a new neighbourhood plan for this area. The application has been advertised for 6 weeks. No objections have been raised and no suggestions have been received that the parish of West Hill would not be an appropriate Neighbourhood Area. A 'whole parish' is the default geographical area for a Neighbourhood Area in statute. Applications on this basis cannot normally be refused. However, in this case, a decision is required because of the special circumstances that apply.

As no two neighbourhood areas can overlap, the approval of a new West Hill Neighbourhood Area will also simultaneously require a decision to modify the existing Neighbourhood Area to remove the parish of West Hill from within its boundary. The effect of this will be to split the existing Neighbourhood Area into two separate Neighbourhood Areas along the parish boundary.

Ottery St Mary Town Council have not raised any objection and whilst Officers see some merit in the joint arrangement, there are not considered to be any overriding planning reasons not to approve the application and support West Hill with their neighbourhood planning intentions.

Is the proposed decision in accordance with:

Budget Yes No

Policy Framework Yes No

Recommendation:

- (1) That Cabinet approve the designation of the whole of the parish of West Hill as its own Neighbourhood Area for neighbourhood planning purposes, and;
- (2) That Cabinet agree to amend the existing joint Ottery St Mary and West Hill Neighbourhood Area to remove the whole of the parish of West Hill and rename it accordingly as the Ottery St Mary Neighbourhood Area;
- (3) That Cabinet note the effect of (1) and (2) to be the subdivision of the existing joint Ottery St Mary and West Hill Neighbourhood Area into two separate Neighbourhood Areas ('West Hill' and 'Ottery St Mary'), each covering the whole of their individual administrative parish area.

Reason for recommendation:

To enable West Hill Parish Council (and Ottery St Mary Town Council should they wish to do so) to prepare a new neighbourhood plan for their parish under the auspices of the Localism Act 2011 and the Neighbourhood Planning Regulations 2012 (as amended).

Also, to comply with these Regulations and the Town and Country Planning Act (1990) (as amended) which do not permit designated Neighbourhood Areas to overlap and provide for a pre-existing Neighbourhood Area to be amended as part of a decision to designate a new one, including by separation into two or more Neighbourhood Areas.

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Portfolio(s) (check which apply):

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

Equalities impact Low Impact

The designation of the West Hill parish as a neighbourhood area, along with the necessary revision of the pre-existing Neighbourhood Area to cover the whole of the parish of Ottery St Mary only, will ensure that residents and those with an interest in these two parishes remain able to participate in the neighbourhood planning process. Residents and other interested parties have been given the opportunity to comment on the change to the Neighbourhood Area boundary which was advertised in a variety of formats. Neighbourhood planning itself is designed to be inclusive, and extensive consultation is a fundamental requirement. The existing joint Ottery St Mary and West Hill Neighbourhood Plan, which was supported by majority vote in 2018 will remain in place across both parishes, unless and until it is replaced by new plans. New Neighbourhood Plans will go through wide consultation with the community and will be subject to referendum for electors in their neighbourhood area.

Climate change Low Impact

Risk: Low Risk; The Council must provide sound reasons for refusing the application or approving an alternative Neighbourhood Area to that in the application. There is a risk that the decision will be subject to legal challenge and that West Hill Parish Council will feel disenfranchised and that their right to produce a Neighbourhood Plan under the Localism Act, on the geography they consider most appropriate, has been prevented, especially as there is no formal response from Ottery Town Council to suggest whether they wish to continue to promote a joint neighbourhood plan in the future.

Links to background information [West Hill Neighbourhood Area Application](#); [West Hill Neighbourhood Area Map](#); [Publicity Notice](#); [Link to Consultation Details and Representations Received](#); [Ottery St Mary and West Hill Made Neighbourhood Plan \(2018\)](#); [Ottery St Mary and West Hill Neighbourhood Plan Information \(including original Neighbourhood Area designation\)](#);

[Localism Act 2011](#); [Neighbourhood Planning Regulations 2012 \(as amended\)](#); [Town and Country Planning Act 1990 Section 61\(G\) \(as amended\)](#); [Neighbourhood Planning 'Roadmap' Guide](#); [adopted East Devon Local Plan \(2013-2031\)](#); [emerging new Local Plan \(Regulation 18 draft\)](#)

Link to [Council Plan](#)

Priorities (check which apply)

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

Report in full

Introduction

1. The District Council has received an application from West Hill Parish Council for the designation of the whole Parish as a Neighbourhood Area, separating it from the existing joint [Ottery St Mary and West Hill Neighbourhood Area](#). The Parish Council have stated an intent to work on a Neighbourhood Plan for the whole Parish, tailored to the particular local circumstances of West Hill and in the light of the emerging new Local Plan. This could set new/revised local planning policies and identify sites for development in the designated area. Designating an appropriate neighbourhood area is the first stage in the neighbourhood planning process.

Legal Requirements

2. The application was submitted to the District Council on 8th September 2023.
3. The requirements for an application for designation of a Neighbourhood Area are set out in Regulation 5 of the Neighbourhood Planning Regulations and in section 61G of the 1990 Town and Country Planning Act (which was amended to incorporate parts of the Localism Act 2011 and by the Neighbourhood Planning Act 2017).
4. Regulation 5 states that an application to the Council for designation of a Neighbourhood Area must include:
 - a. A map which identifies the area to which the application relates;
 - b. A statement explaining why this area is considered appropriate to be designated as a neighbourhood area; and
 - c. A statement that the organisation is the relevant body for the purposes of section 61G of the 1990 Act.
5. The application has been assessed by officers to meet these requirements, having been proposed by a 'qualifying body' for neighbourhood planning (the Parish Council) and including the required statement of reasons and map of the proposed neighbourhood area boundary. The [application form](#) and accompanying [map](#) are available to view with this report.
6. Under Regulation 5A, the Local Authority does not normally need to consult on, or have the ability to refuse, an application for designation of a Neighbourhood Area that covers a whole parish. However, in this instance exceptional circumstances apply, namely that the area applied for has already been designated as a neighbourhood area 'which extends

outside the parish council's area' (i.e., across the whole of the adjoining parish of Ottery St Mary). As such, a formal consultation and decision on whether to approve the area as applied for, or approve it on an alternative geography, or refuse it, is necessary.

7. Section 61G of the Town and Country Planning Act 1990 (as amended) sets out that in determining a Neighbourhood Area application, the Local Authority must have regard to:
 - a) the desirability of designating the whole of the area of a parish council as a neighbourhood area, and
 - b) the desirability of maintaining the existing boundaries of areas already designated as neighbourhood areas.
8. And, that in determining the application we can modify an existing designation. In this case, this could be to:
 - a) change the boundary of the existing neighbourhood area, or;
 - b) replace the existing neighbourhood area with two or more separate neighbourhood areas (This would include creating the new neighbourhood area by splitting it from the existing area).
9. Whatever we decide, the Act specifies that "areas designated as neighbourhood areas must not overlap".
10. The published decision will need to include a map setting out the areas that are being designated, or, if refusing the application, to set out the reasons for refusal.
11. The formal consultation ran on the application for 6 weeks, as required by the Regulations, from 18th September to 30th October 2023. The consultation was publicised in both the parish of West Hill and Ottery St Mary. It was advertised on the District and Town/Parish Council websites, on our social media, in the local paper and on Parish noticeboards. Hard copies of the application documentation were also made available in the local library. Notices were also sent to:
 - Devon County Council,
 - Environment Agency,
 - Historic England,
 - National Highways,
 - Natural England,
 - Sport England,
 - Ottery St Mary Town Council
 - All Parish Councils with boundaries adjoining West Hill and/or Ottery St Mary parish,
 - Members for affected and adjoining wards
 - Others not included above who had made representations on the Ottery St Mary and West Hill Neighbourhood Plan when it was submitted to East Devon District Council at its Regulation 16 stage consultation.
12. In this way it is considered to have been appropriately advertised and brought to the attention of those 'living, working and carrying out business in the area', as required by the Regulations. The [publicity notice](#) is available to view with this report. The legislation now requires determination of the application by 19th December (13 weeks from the day after the application was first advertised).

Reasons for Application

13. A Neighbourhood Area (with a made Neighbourhood Plan) currently exists jointly across the whole of West Hill parish and the adjoining parish of Ottery St Mary. The application seeks to create a new neighbourhood area for the parish area of West Hill only, removing this

from the joint neighbourhood area. At the time the original Neighbourhood Area was designated in 2013, West Hill Parish Council was not in existence. The original Neighbourhood Area covered that served solely by Ottery St Mary Town Council. The formation of West Hill Parish Council, in 2017, occurred during the advanced stages of neighbourhood plan preparation, and it was agreed at that time to continue progressing the plan jointly. The joint Plan was 'made' in July 2018.

14. With both the Plan and West Hill Parish Council having been operational for over 5 years, and in the context of an emerging new Local Plan, discussions have taken place between the Town and Parish Council about reviewing the neighbourhood plan. These included the relative merits of continuing with a joint plan arrangement or splitting the neighbourhood areas and each parish preparing its own plan.
15. West Hill Parish Council advise in their application that the discussions identified that each parish/council has its own interests, needs and priorities which in some cases have diverged. They cite the separate and distinct characteristics and identities of the settlements of West Hill and Ottery St Mary which they consider could be better served by individual neighbourhood plans. At the same time, they acknowledge a need for, and advise of a current agreement between, the two councils to liaise on matters of mutual interest where it would be advantageous to have some joint working and discussion, e.g., potential green wedge between Ottery & West Hill.
16. West Hill consider that whilst some policies in the current Plan are working well, others could benefit from being strengthened and made more specific for West Hill, and that some new policies are needed.
17. For these reasons, West Hill Parish Council resolved to apply for the creation of a new Neighbourhood Area for the West Hill parish only, with the intent to prepare a new neighbourhood plan.

Representations Received

18. In response to the proposed Neighbourhood Area application, a total of 10 representations have been received, from residents, an agent and statutory bodies. The statutory bodies comprised Environment Agency; Historic England; Natural England, National Highways, and Sport England.
19. No objections or concerns have been raised to the proposals in any of the representations. Five representations explicitly expressed support for the creation of a West Hill only Neighbourhood Area. The others, all from statutory agencies, responded to the consultation primarily to offer support, advice and guidance for future plan preparation. All [responses](#) are available to view on our website.
20. No alternatives to the geography of the applied for Neighbourhood Area have been suggested by any respondents as being more appropriate. Ottery St Mary Town Council have not responded to the consultation directly. However, the application was discussed at a full Town Council meeting on 2nd October 2023. The minutes record that the matter was considered and that the Town Council, "wish West Hill Parish Council well in their endeavours". Previously, on 13th March 2023, the Town Council had themselves resolved to "apply to EDDC to register a new Neighbourhood Area of Ottery St Mary Parish."
21. West Hill Parish Council also advise in their application that the proposal to proceed with a neighbourhood plan review was discussed with residents during the consultation event they organised related to the emerging new Local Plan, and that residents were supportive of the proposal to proceed with a separate new neighbourhood plan for West Hill. The EDDC

Ward Member, Councillor Jess Bailey, is also supportive of the application on the grounds of it being consistent with West Hill having its own Parish Council, whilst also meaning that West Hill and Ottery St Mary parishes can co-operate where they wish to do so.

Assessment

22. Having considered the reasons for application, the representations received and the Ward Member observations, as set out above, there are no obvious reasons to suggest the application should not be supported as submitted. However, in reaching a judgement about the extent of the Neighbourhood Area, the Council as Local Planning Authority needs to consider:
- Is the proposed area consistent, coherent and appropriate for neighbourhood planning?
 - Is the neighbourhood area an appropriate area to 'plan' for in planning terms?
 - Does the proposed neighbourhood area reflect recent/ current development proposals in the area?
23. To assist with the assessment, [National Planning Guidance](#) on neighbourhood planning (paragraph 033) sets out considerations that may be relevant, other than administrative boundaries, in determining the extent of a neighbourhood area. Most relevant in this case are considered to be:
- village or settlement boundaries (including areas of planned expansion);
 - the catchment area for walking to local shops and services;
 - the area where formal or informal networks of community-based groups operate;
 - the natural setting or features in an area.
24. Clearly there is considerable interaction between the two settlements/parishes of West Hill and Ottery St Mary, as indeed there is between Ottery and other smaller, surrounding villages and hamlets in its hinterland. West Hill residents use the facilities such as schools, shops and surgeries in the town, and there are shared opportunities to enjoy the surrounding and intervening areas of accessible countryside and other green and recreational spaces.
25. Nevertheless, there is a clear identifiable and distinct difference in the nature and character of the adjoining parishes of West Hill and Ottery St Mary. The focal point of each is the settlement of the same name, which each lie entirely within the boundaries of their own parish. As one of 7 main towns in the district, the market town of Ottery St Mary has seen significant expansion under the adopted Local Plan and is proposed for further planned growth under the emerging Local Plan, (currently 288 new homes and 1.25 hectares of employment land across 6 sites). The growth that has occurred under the adopted Local Plan and is envisaged under the new Local Plan does not straddle the boundary into the parish of West Hill.
26. The large distinct post-war village of West Hill is characterised by sizeable, detached houses in spacious plots, interspersed with numerous trees and woodland, and has its own primary school, village shop, and hall. There has been limited development at West Hill under the adopted Local Plan, by virtue of it being a named settlement with a defined 'Built Up Area Boundary' but with no allocations made. This is set to change to some extent under the emerging Local Plan which includes West Hill as one of 23 'Service Villages', where limited development to meet local needs would be allowed. This time, as well as a proposed revised (looser) settlement boundary, the Plan (as at Regulation 18 draft) proposes 3 sites for allocation at West Hill for around a total of 57 new dwellings and 0.2 hectares of employment land. Again, these are closely related to existing development at

West Hill village and not proposed to straddle the boundary into the parish of Ottery St Mary (notwithstanding that West Hill village does lie close or adjacent to part of this boundary at its eastern extremity).

27. The made Neighbourhood Plan seeks to ensure the special characteristics of each settlement in the Plan Area are retained. The Plan is also particularly concerned with containing the settlements of West Hill and Ottery as separate entities. To this end it includes a policy (NP4) to resist developments that would compromise this through the setting of a 'Settlement Containment Area' that straddles the parish boundary (falling predominantly in the parish of Ottery St Mary). It also identifies 'valued views', some of which extend into the adjoining parish (Policy NP6) and seeks to facilitate safe pedestrian and cycle links between the two settlements.
28. There is evidence that the northern part of the identified 'Settlement Containment Area' is under some potential development pressure, with substantial parts of it put forward for consideration for development through the HELAA/Call for Sites process. From the assessment of sites undertaken to date for the new Local Plan, the majority of these are not proposed for allocation and are assessed as 'rejected sites', although this process is ongoing and subject to change. There is however one 'preferred site' proposed for allocation in the draft new Local Plan. This is at Barrack Farm and is proposed for allocation for 70 homes and 1.25 ha employment land. The site lies wholly within the 'Settlement Containment Area'. It is however also wholly within the Ottery St Mary parish, adjacent to the current 'Built Up Area Boundary' of the town.
29. The 'Settlement Containment Area' is currently being assessed as a potential 'Green Wedge' for designation in the emerging Local Plan to protect against settlement coalescence. The outcome of this assessment will not be known for some time and is due to be consulted upon next Spring. Separate neighbourhood plans for each parish in due course, replacing the made joint neighbourhood plan, would not individually cover the full extent of the current Settlement Containment Area and would need to rely on any protection given to it in the new Local Plan and / or any new neighbourhood plan policy applicable within their own area. The matter could however potentially be addressed in a complementary/co-ordinated fashion between the 2 neighbouring plans if it remains a priority to both parishes. Although this is likely to be more challenging to achieve than if this area (or any future iteration of it) fell within a single Neighbourhood Area, this is not considered to represent grounds for objecting to the application.
30. In terms of any current/recent development proposals in the area, since the release of the draft new Local Plan for consultation last year, and the current lack of a 5-year housing land supply in the district, a number of speculative applications have already been submitted at various sites in West Hill. There are 3 live proposals currently on sites assessed for allocation in the new Local Plan:
 - Application 23/1143/MFUL for 36 dwellings (50% affordable): Preferred Site West_04 in emerging Local Plan - *Awaiting decision*
 - Application 23/0727/MOUT – Outline application for up to 30 dwellings – Preferred Site West 06 in emerging Local Plan – *Resolution to approve (subject to s106 Agreement)*
 - Application 22/2533/MOUT - Outline application for 23 dwellings - Rejected Site West 05 - *At appeal for non-determination (awaiting decision)*
31. These are all at/adjacent to the village of West Hill and fall entirely within West Hill Parish. There are no other current or recent proposals considered to be relevant to highlight in the consideration of this application.

32. There would, as standard, be substantial consultation as part of any neighbourhood plan preparation process. It is also considered that a single approach or set of planning policies for the parish of West Hill (and/or the parish of Ottery St Mary) could be coherently and appropriately made, whilst also taking account of and responding to the relationship with the adjoining area.
33. The timing of any new or modified neighbourhood plan for West Hill parish (and/or Ottery St Mary parish) and any joint working between the two, will need to be the subject of careful consideration and discussion between the parish and town council and with East Devon District Council. It is also worth being aware that the new Local Plan (when adopted) will supersede the made Neighbourhood Plan, in so far as there are conflicts between the two. Also, that any new or modified neighbourhood plan will need to be developed in general conformity with the strategic policies of the Local Plan, with the role of neighbourhood plans being to focus on adding local specificity/requirements.
34. It is not considered that the proposed change in neighbourhood area would undermine or conflict with the strategic planning for the area, but it will be important to manage local expectations in both Ottery and West Hill parishes. Neighbourhood plans cannot propose less development than is promoted in strategic planning policy, and a new neighbourhood Plan for West Hill (or Ottery St Mary) would have limited opportunity to influence emerging strategic planning policy and could not affect any existing planning permissions. However, it could produce local policies addressing issues such as design and layout and help to ensure that local needs and priorities are addressed through the development management process. It could also allocate sites for development if so desired and appropriately justified.
35. Finally, in respect of housing, it should be noted that the new Local Plan must set a housing requirement figure for all designated Neighbourhood Areas. The purpose of setting them, according to Government, is to increase certainty for neighbourhood plan preparation and to set out the scale of development that can be expected in an area. If the application under consideration is approved, a separate figure will therefore need to be calculated and set for both West Hill Neighbourhood Area and Ottery St Mary Neighbourhood Area, rather than a single figure applicable across both parishes jointly. Through Strategic Planning Committee, the Council intend to consult on the methodology for how these figures are calculated in the Spring. Ahead of the method selection and the calculation of the housing requirement figures, it is not possible to comment on what the implications might be for individual neighbourhood plans. Given the location of a main town in the larger parish of Ottery St Mary, two separate Neighbourhood Areas, each with their own housing requirement to reflect local circumstances, might be more appropriate. In any case, it should be noted that neighbourhood plans do not have to make allocations and it is possible that their requirement could be fully met through other sources (e.g. through development already consented or through allocated sites in the new Local Plan). This is therefore something to note as an implication of creating a new Designated Neighbourhood Area, rather than a key consideration in determining the application itself.
36. For reference, the map in Annex 1 shows the parishes boundaries of West Hill and Ottery St Mary parishes/proposed Neighbourhood Areas; the Settlement Containment Area in the made Neighbourhood Plan; and the current status of sites put forward for development in the area being assessed through the emerging Local Plan process (some of which are the subject of live planning applications/appeals as set out in paragraph 30 above).

Alternative Options

37. There are considered to be two alternative options to approving the application as submitted:
- a) **Refuse the application and retain the existing joint Ottery St Mary and West Hill Neighbourhood Area:** The legislation and regulations are such that, in most circumstances, approval of an application for a Neighbourhood Area based on a single whole parish area is accepted / standard practice. Whilst Officers saw some merit in early discussions about this matter with both West Hill Parish Council and Ottery St Mary Town Council for retention of the joint area to facilitate consideration of cross-boundary issues, there are not considered to be any overriding reasons to recommend refusal. Without a designated Neighbourhood Area in place West Hill Parish Council would not be able to proceed with its intention to prepare a Neighbourhood Plan for its own area, and no objections have been received to the application. Approval of the application would not prevent Ottery St Mary Town Council from preparing a new Plan for their area in the future, should they wish to do so. The existing joint 'made' neighbourhood plan will remain in force in both parishes until such time as it is replaced by a new plan in that area.
 - b) **Approve the application but designate the new Neighbourhood Area to cover a different (larger or smaller) area, not fully contiguous with the West Hill parish boundary:** This has not been suggested by any respondents to the consultation and consideration was given to this prior to the application in informal discussion with Officers. As above, whilst Officers considered there to be some merit in the joint area covering both Ottery St Mary and West Hill parishes to facilitate consideration of cross-boundary issues, there are not considered to be any overriding reasons to recommend the joint area is retained or any other alternative area is designated. The intention of both parties to work together on issues of mutual interest is noted. Separation of the existing joint area into its two constituent parishes enabling each to develop their own Neighbourhood Plan, in consultation with the other, is considered to be appropriate. There are no areas of existing or proposed strategic development within West Hill parish that it would be appropriate to exclude. As above, the legislation and regulations are such that, in most circumstances, approval of an application for a Neighbourhood Area based on a single whole parish area is standard practice and this is the norm in East Devon.

Conclusions and Next Steps

38. Officers recommend that a new Neighbourhood Area should be designated to cover the entire parish of West Hill only. As a result, it is required that Members also agree to amend the boundary of the original Ottery St Mary and West Hill Neighbourhood Area to cover the entire parish of Ottery St Mary only. It is recommended that this be renamed accordingly as the Ottery St Mary Neighbourhood Area. This decision would effectively separate the existing neighbourhood area into two areas, along the shared parish boundary, as shown in the map in Annex 1.
39. If Members decide not to accept the recommendation and refuse to designate the Neighbourhood Area as proposed in the application, the Council must publish a statement setting out the decision and the statement of reasons for making that decision (the 'decision document').
40. The Council will need to publish the decision relating to the neighbourhood area on the website, including a map to show the areas being designated/modified, and bring this to the attention of people who live, work or carry out business in the neighbourhood area.

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:

Once a Neighbourhood Area is designated the District Council are legally required to provide advice and assistance to the subsequent production of the Neighbourhood Plan (including the costs of organising the independent examination – although a Government grant towards the costs can be sought). Once the Neighbourhood Plan is adopted then it carries weight as part of the Development Plan and moreover entitles the Neighbourhood to 25% of CIL receipts from development within its area to be used towards the provision of local infrastructure. In this instance it is the responsibility of Cabinet to determine the Neighbourhood Area to designate. If refusing the application or designating an alternative Area, it is critical (to avoid the risk of legal challenge) that full and justifiable reasons are given when making the decision.

Annex 1: Proposed West Hill and Ottery St Mary Neighbourhood Areas in Context



