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## **Objection to Draft Local Plan, Regulation 19 Consultation**

### **Statement of objection**

This paper sets out the objection to the change of Exmouth Settlement Boundary (ESB) in the area identified in the Exmouth Neighbourhood Plan (ENP) as Bystock Village. This change is only shown in the Local Plan Policies Map and mentioned in the Settlement Boundaries Evidence Paper. It is not explicitly described in any of the Local Plan Chapters published online for Regulation 19 consultation.

The Planning Advisory Service: Evidence for Plan Making says of “Evidence”:

*2.21 It will not contain repetition, unjustified assumptions, unstructured presentation, inconsistent conclusions and unsupported assertion.*

It is also presumed that the Evidence should be factually accurate, have complied with due process to arrive at its findings and that the Evidence should not make misleading statements.

In November 2024, Officers submitted the Settlement Boundaries Evidence Paper (The Evidence) to the Strategic Planning Committee, detailing proposed changes to settlement boundaries. The Evidence sets out the reasoning for the Settlement Boundaries changes published in February 2025 as part of the Regulation 19 Consultation.

Paragraph 13.4 of the Evidence deals specifically with changes to the ESB at Bystock Village.

The Evidence presented in para 13.4:

1. Is based on an incorrect and inconsistent application of the agreed Settlement Boundary criteria
2. Makes false statements about the congruent relationship of the new ESB with nearby Allocations, instead creating an irregular and discordant settlement boundary that penetrates the surrounding countryside.
3. Makes misleading statements about what is excluded from the ESB at Bystock Village
4. Fails to follow NPPF guidance on the relationship between Local and made Neighbourhood Plans.
5. Introduces a wholly avoidable and unnecessary Policy conflict between Local Plan (LP) and Exmouth Neighbourhood Plan (ENP). The proposed change adds no value to the new LP and fails to present a coherent rationale as to why the change should create such specific conflict with explicit Heritage protection policies within the made Neighbourhood Plan.

Each of these objections is explained in the numbered sections below.

The mistakes within the Evidence are sufficiently grave as to conclude that the Strategic Steering Committee and Public have been given information that is factually incorrect and misleading. The proposed ESB change is based on a fundamental flaw in the asserted basis for the change.

Therefore, the Evidence provided for the settlement boundary change at Bystock Village is unsound, contrary to NPPF requirements.

The proposed changes to the ESB at Bystock Village should be removed from the emerging Local Plan and the existing Settlement Boundary as defined in East Devon Local Plan 2013-2031, left unchanged.

## 1. Incorrect application of Settlement Boundary Criteria

In April 2022, the Strategic Planning Committee agreed a “Methodology for defining settlement boundaries” (Reg 19 ref Settlement Boundaries Topic Paper (KSD-010)). The methodology provided a process for deciding whether sites should be incorporated into Settlement Boundaries or if other considerations, such as made Neighbourhood Plans policies and provisions, mitigated against inclusion, despite meeting the criteria.

Paragraph 13.4 of the Evidence deals specifically with the proposed changes to the Exmouth Settlement Boundary in the area identified in the Exmouth Neighbourhood Plan as Bystock Village.

Paragraph 13.4 states:

*“Although the area is on the periphery of Exmouth, it is considered to be physically and functionally related to it and therefore comply with criteria B2.”*

Within the approved Methodology, Criteria B2 is specifically applicable to *“Built and extant planning permissions for community facilities, such as religious buildings, schools and community halls which are considered to be physically and functionally related to the settlement.”*

The part of Bystock Village proposed to be included in the new ESB has no community facilities, religious buildings, schools or community halls. Neither extant nor with planning permission.

Bystock Court lies next to, but outside the new settlement boundary. The main building of Bystock Court is the principal private residence of the owner of Bystock Court. The old servant/guest wing of Bystock Court is now a commercial private sheltered accommodation for adults with learning difficulties. There is also a privately run day-care centre, open only to private commercial clients. Both buildings are contained exclusively within the curtilage of Grade 2 listed Bystock Court. While these buildings serve a useful social function they cannot be construed as “community facilities” as they do not have any free access to the general public, nor do they serve any public function beyond their sole purpose.

The Bystock Court buildings can only be accessed via Bystock Court curtilage as neither have a public right-of-way through the proposed ESB. The Bystock Court buildings lay outside both the current and proposed ESB

It is also noteworthy that the B2 criteria also state:

*“However, where the buildings are set in very extensive grounds that are clearly beyond the built form of a settlement they may be excluded.”*

So regardless of the presence of Bystock Court, there is no basis in criteria B2 for including the proposed area of Bystock Village into the new settlement boundary.

The assertion in the Evidence that any of the included site complies with Criteria B2 is a factual error and means that the inclusion is not in accordance with the approved process. It also means that the Strategic Planning Committee and Public have been factually misinformed, rendering the Evidence unsound.

## 1.1 Inconsistent application of settlement boundary criteria within Exmouth

The Settlement Boundary criteria agreed by the Strategic Planning Committee explicitly allows for individual sites to be considered for exclusion. This is also reflected in Spatial Strategy paragraphs 3.33 and 3.37.

The Evidence records this “management by exception” elsewhere in Exmouth.

Para 13.5 of the Evidence describes excluding Higher Marley Road from the new boundary because:

*“Despite its size (Exmouth), the urban fabric is quite compact with a well-defined relationship with the surrounding countryside. The exception to this is in the north of the town along Higher Marley Road, where lower density, detached housing is interspersed with open fields.”*

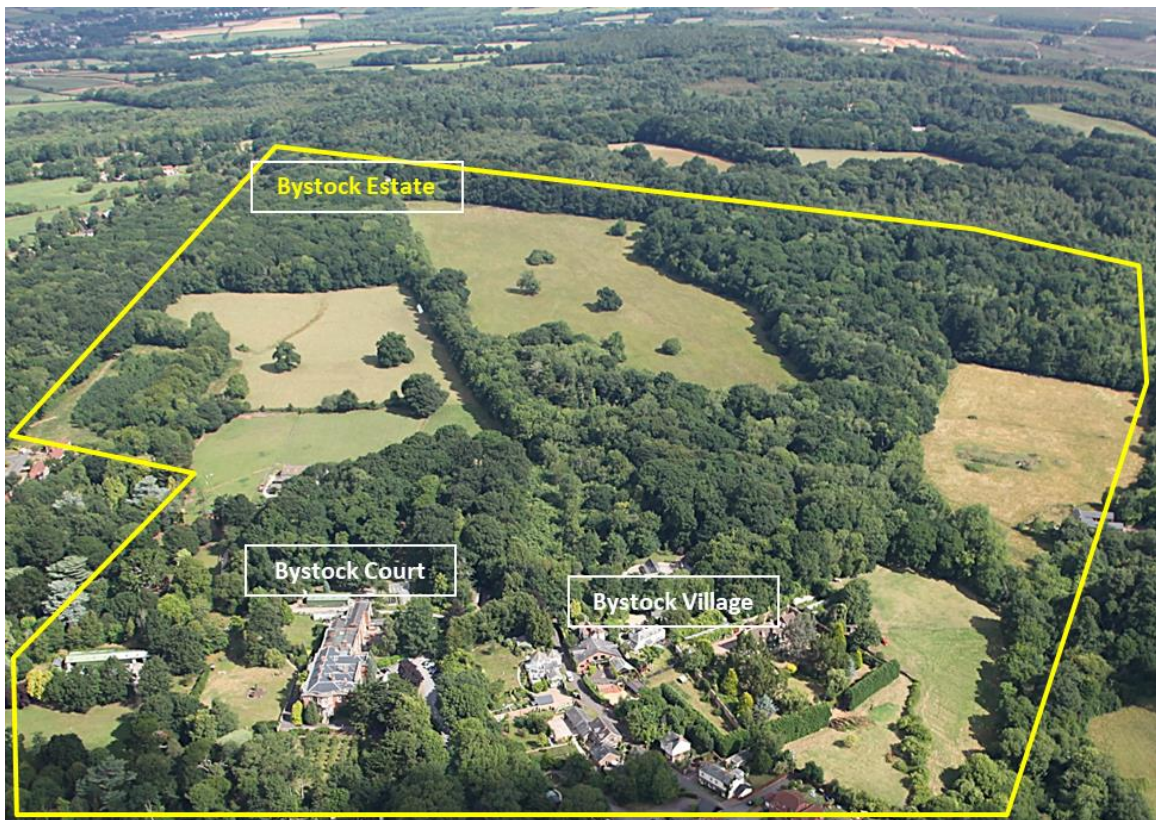
In earlier planning decisions, EDDC Planners have described Bystock Village as:

*“The area has a lower density and irregular layout and is rather more semi-rural in character in contrast to the nearby planned layout along Dinan Way.”* (EDDC Delegated Officer Report, Planning refusal 13/2364/FUL)

Also:

*“The overall character is still relatively rural with pleasant open countryside feel. In addition, there are historical associations with the original Bystock Court Estate, which contribute to the unique character of the area.”* (EDDC Delegated Officer Report, Planning Refusal 19/0097/OUT).

As can be seen below, Bystock Village bears no similarity to the dense urban fabric of Brixington Ward nor the remainder of urban Exmouth.



Paragraph 13.5 of the Evidence also uses a lack of public infrastructure to justify the exclusion of Higher Marley Road from the new boundary:

*“Parts of this road lack footways and are unsuitable for pedestrian use. It is therefore recommended that some land is excluded from the settlement boundary”.*

The only access to the proposed new ESB is via the upper part of Old Bystock Drive, which shares zero infrastructure with Exmouth. It is a private road with no public right-of-way, no pavements nor safe haven for pedestrians or cyclists; it has old Victorian private drainage; it has no street lighting and is not served by any public street services such as drain cleaning, road nor verge maintenance.



At its narrowest point Old Bystock Drive is less than 4m wide, barely wide enough to allow a small HGV to pass unimpeded.

Enabling infill housing is both dangerous and impractical.

The new Local Plan is required to reach consistent conclusions. Given that Higher Marley Road and Bystock Village share almost identical characteristics, there is a strong argument for also excluding Bystock Village from the new ESB. This would be wholly consistent with both the Settlement boundaries criteria and the LP Spatial Strategy.

## **2. There is no relationship to other allocations**

Over the course of the Plan development many sites were considered as Allocations. The area of Bystock Village proposed for inclusion the ESB was never considered as an Allocation and is not included in the allocations defined in Chapter 5 of the Local Plan.

Paragraph 13.4 of the Evidence says of the relationship between the included area and the settlement boundary:

*“This link will be further strengthened by proposed allocations.”*

There are no Allocations anywhere near Bystock Village, as can be seen in Chapter 5 of the Local Plan. The Evidence statement is therefore factually incorrect and misleading.

Contrary to the Evidence assertion that the proposed change will create better relationships with allocations, the actual result is to change a smooth settlement boundary with a soft edge, into a crude irregular penetration into the surrounding countryside that will result in the Grade 2 listed Bystock Court becoming an island surrounded on 3 sides by modern infill building.

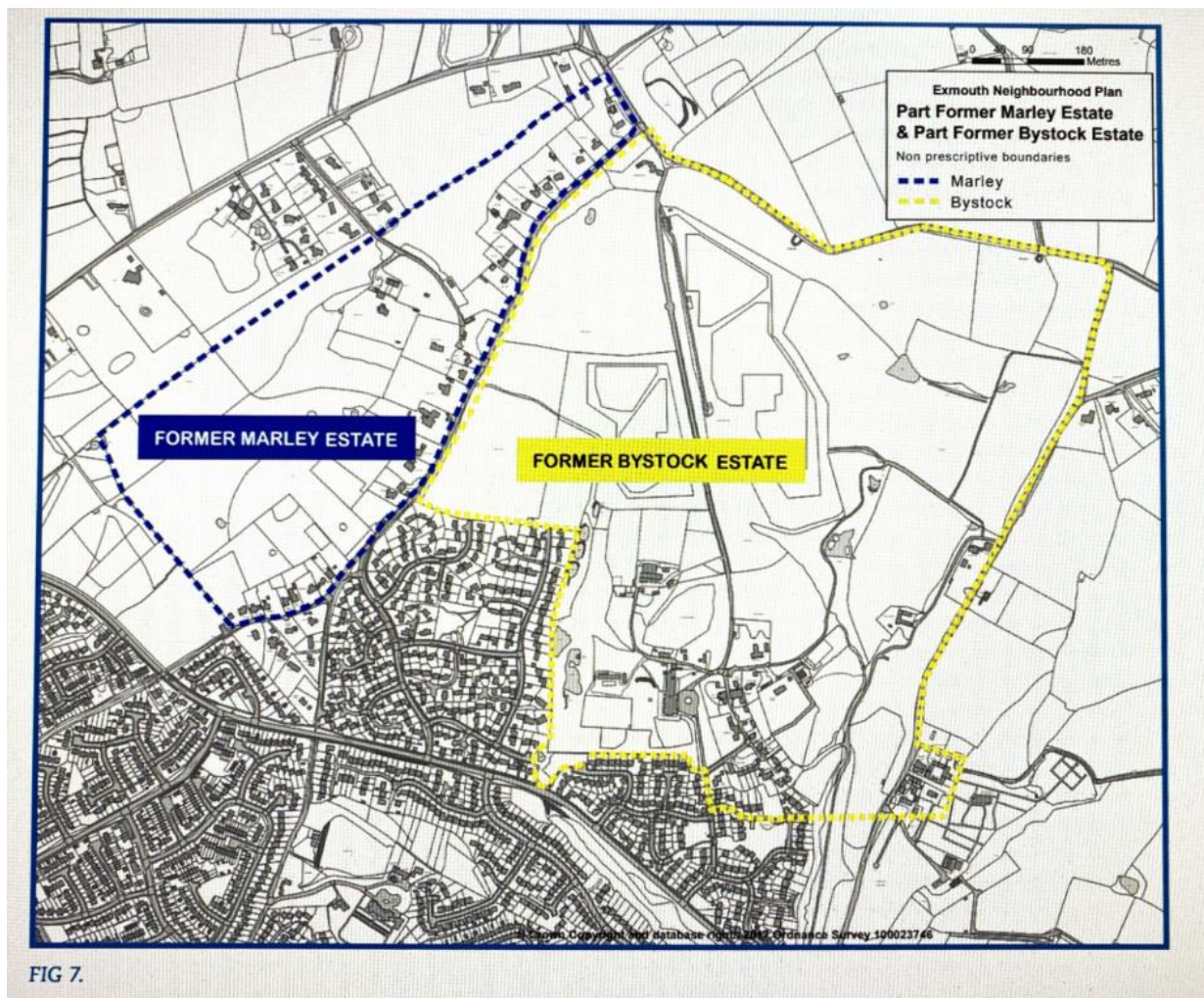
This Evidence statement is false, and the Evidence is unsound.

### 3. The Evidence is misleading on exclusions from the new Settlement Boundary

The Evidence presents Figure 7, taken from the made Exmouth Neighbourhood Plan (ENP), which illustrates the historic extent of the Bystock and Marley Estates. Paragraph 13.4 of the Evidence states

*“However, areas defined on Fig.7 of the neighbourhood plan that lie outside of proposed allocations are largely excluded from the settlement boundary.”*

There are no allocations in the Bystock Estate and the clear meaning of the Evidence wording is therefore that all of Bystock Village continues to lie outside the settlement boundary, as it does today. This is not true.



The southern boundary of the former Bystock Estate (in yellow) follows the current Exmouth Settlement Boundary. The former Bystock Estate currently lies entirely outside the existing Settlement Boundary and given there are no allocations the clear implication of the Evidence wording is that all of the old estate, including the whole of Bystock Village, remains outside the settlement boundary.

The Evidence mentions Bystock Village but wholly fails to define it. In the made Exmouth Neighbourhood Plan (ENP), Bystock Village is a precisely defined collection of buildings and structures set within specific geographic features. Bystock Village is clearly shown in Fig 14 of the ENP (below). The southern boundary Bystock Village defined in the ENP is the same as the current Exmouth settlement boundary.

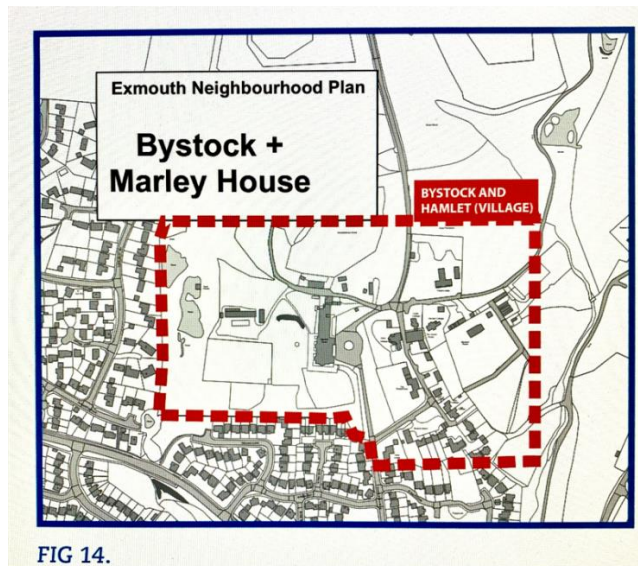
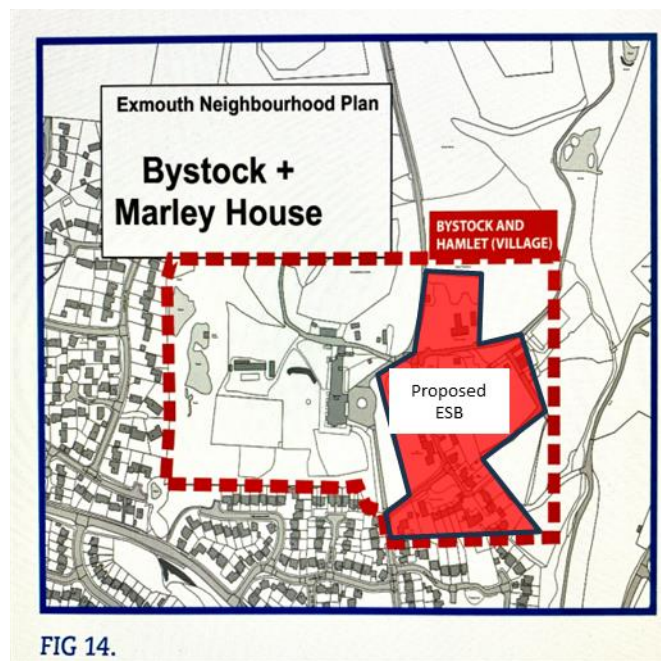


Figure 14 Exmouth Neighbourhood Plan

The new settlement boundary (shown in solid red below) incorporates the core of Bystock Village. Nowhere in the Evidence is this made clear.



Given that the changed ESB at Bystock Village is not shown in the Evidence and is not an allocation, the Evidence statement “areas defined on Fig.7 of the neighbourhood plan that lie outside of proposed allocations are largely excluded from the settlement boundary” is factually incorrect and utterly misleading.

Contrary to the Evidence assertion that the proposed change will create better relationships with allocations, the actual result is to change a smooth settlement boundary with a soft edge, into a crude irregular penetration into the surrounding countryside that will result in the Grade 2 listed Bystock Court becoming an island surrounded on 3 sides by modern infill building, instead of the current clear retention of its historic Estate Layout.



If the Strategic Planning Committee and Public relied on a reasonable interpretation of the Evidence statement about what lies outside the Boundary, they have been misled and the Evidence is unsound.

#### 4. Failure to comply with Plan Making Guidance

The NPPF does not assume that new Local Plans should unilaterally override an existing made Neighbourhood Plan.

The proposed boundary change converts Bystock Village from an area where development is precluded, to one where development is assumed to be acceptable. In proposing the Boundary change at Bystock Village, the Evidence pays too little regard to Government Advice on the relationship between the Local and Neighbourhood Plans.

*“Where a neighbourhood plan has been brought into force, the local planning authority should take its policies and proposals into account when preparing the local plan. Local plan policies should not duplicate those in the neighbourhood plan, and do not need to supersede them unless changed circumstances justify this.”* (UK Gov advice – Plan Making para 006 Reference ID: 61-006-20190723)

With respect to the ENP Heritage protection provisions for Bystock Village, there is absolutely no evidence that circumstances have changed and the Evidence provides no credible argument to justify a change.

Government Advice also states:

*“The National Planning Policy Framework is clear that strategic policies should be prepared over a minimum 15 year period and a local planning authority should be planning for the [full plan period](#). Policies age at different rates according to local circumstances and a plan does not become out-of-date automatically after 5 years.”* (UK Gov advice Plan making para 064 Reference ID: 61-064-20190315)

While the ENP is now 5 years old there is no evidence that there have been any changes that would cause Exmouth Town to dilute its Heritage protection provisions at Bystock Village and these policies should have been considered determinative when deciding the settlement boundary, particularly since the existing provisions have been tested twice and on both occasions the Planning Inspectorate have found the heritage protection policies to be merit worthy and have relied on it in refusing Planning Appeals.

Para 13.4 of the Evidence refers to comments on the proposals. The Evidence neglects to say that all these earlier comments were objections to the inclusion of Bystock Village within the new settlement Boundary. These objections were from residents, the Town Council, Exmouth residents and several Exmouth Civic organisations.

This widespread objection clearly supports the explicit and strong protections given to Bystock Village in the Exmouth Neighbourhood Plan.

As detailed below, it is not evident that development of the Evidence has given any weight to the relative benefits of the boundary change versus Neighbourhood Plan heritage conservation. Nor does the Evidence give any weight to the representations made during earlier consultations. This is not a proportionate examination process as is required.

## 5. Creating avoidable and unnecessary policy conflict

The Planning Inspectorate are rightly critical of LP's that contain avoidable ambiguity or unnecessary policy conflict.

The proposed ESB change at Bystock Village does not enable delivery of any allocation, nor any strategic contribution to numbers of new dwellings, nor any other tangible benefit. It offers zero contribution to any strategic objective or Policy within the Local Plan. The change is not required for compliance with the NPPF. Its sole outcome is to enable garden grabbing and the destruction of the architectural integrity and "sense of place" of the Bystock Village, explicitly contrary to the community's expressly stated wishes.

The made ENP says of Bystock Village:

*"The Neighbourhood Plan has highlighted these areas in a policy, as evidenced in the community consultation process. There is proportionate, robust community evidence behind these choices. The community is clearly indicating that these areas are the last place they want to see development on." (ENP 2019)*

The ENP Evidence for conservation of Bystock Village includes over 400 pages of specific, published, detailed historic research into the Social and Architectural history of the Bystock and Marley Estates.

The ENP goes on to say:

*"The following sites (including Bystock Village) have been identified as locally important and distinctive areas outside the Built Up Area Boundary (BUAB) where only minor proposals, associated with existing residential or business premises, are likely to be supported" (ENP 2019)*

In a 2019 Planning Appeal refusal the Planning Inspectorate said:

*"The ENP also specifically identifies the Bystock House Estate as a locally important and distinctive area outside the BUAB where only minor proposals associated with existing residential or business premises, are likely to be supported. Whilst the term "minor proposals" is undefined, there is no suggestion that it should include the creation of new residential uses ...." (Inspector Ian Bowen, Planning Inspectorate Appeal refusal APP/U1105/W/19/3227752)*

It is a fact that the Neighbourhood Plan and the community want to preserve Bystock Village as an intact heritage asset. This conservation principle is clearly supported and given clarity by the Planning Inspectorate to mean no infill building of new dwellings within Bystock Village.



The whole purpose of providing protection to Bystock Village in the ENP is to preserve its unique sense of place. As shown above, except for minor outbuildings, Bystock Village retains the original layout that had developed between the beginning of the 19<sup>th</sup> century to the final development by the last owners of the original Private Estate. Allowing infill with new dwellings will utterly destroy the spatial and visual integrity of the existing architectural layout and wholly undermine the “unique sense of place”.

Currently Bystock Village is protected in the Local Plan by being outside the settlement boundary (Existing LP Strategy Policy 7).

In a 2019 decision the Planning Inspectorate noted that the LP and ENP were aligned in precluding new housing at Bystock Village. It said:

*“In line with this approach, Strategy Policy 7 similarly defines all land beyond the boundaries as being countryside within which development is only permitted in accordance with a specific Local or Neighbourhood Plan Policy”. (Inspector Ian Bowen, Planning Inspectorate Appeal refusal APP/U1105/W/19/3227752)*

By incorporating the core of Bystock Village into the ESB, the LP are creating an explicit and diametrically opposed policy conflict between an LP presumption in favour of development (SP05) and an ENP policy in clear opposition to development.

Balanced against this unnecessary policy conflict is the fact that the proposed boundary change achieves nothing useful in terms of development management, nor supply of strategic housing, is not required by the NPPF and the existing settlement boundary policy arrangement has been found to be coherent by the Planning Inspectorate.

The new strategy SP05 acknowledges that new proposals should be measured against the Development Framework and other policies. The provision to limit development in SP05 is very weak and ambiguous with respect to its application to Bystock Village and the ENP conservation policies. In practice, the unjustified incorporation of Bystock Village into the settlement boundary simply opens the whole area up to extended efforts by garden grabbers to exploit the apparent policy conflict.

Given the absolute certainty about the ENP heritage policy protections for Bystock Village and given that these provisions are still current, with no evidence that they need to change, and that they have been validated by the Planning Inspectorate, it appears to be wholly pointless to create the proposed policy conflict for no benefit.

The Draft LP Spatial strategy para 3.33 states:

*“Some built-up areas may be excluded from these boundaries if deemed inappropriate for additional development.”*

Draft LP Spatial strategy Para 3.37 states:

*“Land outside settlement boundaries is treated as 'countryside' in planning terms, even if it includes built-up areas. Such areas are generally unsuitable for development unless explicitly permitted by separate policy in the plan”.*

Using these LP strategy provisions to exclude Bystock Village from the settlement boundary would create a coherently aligned LP and ENP as is the case under the current policies.

Failure to clearly highlight this policy conflict significantly diminished the ability of the Strategic Planning Committee from properly understanding the proposed change, its Policy implications and the wholly destructive impact of the change on a specifically identified Exmouth Heritage asset.

Exmouth Town Council are of the firm view that there has been no reasoned dialogue on this proposed change.

Compilation of the Evidence is required to be proportionate and the lack of sufficiently detailed discussion of this locally important policy conflict undermines the basis for decision making and makes the Plan unsound.

## **Conclusion**

The proposed settlement boundary change at Bystock Village, described in the Evidence, is based on an incorrect application of the agreed Settlement Boundary Criteria which makes the Plan unsound.

The statements in the Evidence are factually incorrect and opaque about the actual change to Bystock Village meaning that the Strategic Planning Committee and Public has likely been materially misled in considering the proposed changes and the Plan is therefore unsound.

The proposed change adds absolutely no value to the future Local Plan.

The proposal creates policy conflict between LP and ENP that is wholly avoidable and is not justified on the basis of any material value in the new LP nor change in circumstances in Bystock Village.

The Evidence utterly fails to provide any evidence to show that “circumstances have changed” and there is no case to argue that the ENP heritage protection policy provisions for Bystock Village should be weakened by LP policy changes.

The simplest solution is to remove the proposed settlement boundary change, returning the Exmouth Settlement Boundary at Bystock Village to its existing position (Local Plan 2013-2031). This modification would require no other changes to any element of the proposed Local Plan.

The outcome would be wholly consistent with the settlement boundary criteria and new LP Spatial Strategy; it would follow NPPF requirements; would be aligned with draft Strategic Policies 05 and 06; would be consistent with draft Heritage policies in the LP; would leave ENP heritage protection policies undiminished and leaves a wholly clear planning policy position that has already been validated by previous Planning Inspectorate decisions.

John Connolly

