

Report to: Cabinet



Date of Meeting 02 April 2025

Document classification: Part A Public Document

Exemption applied: None

Review date for release N/A

Response to the Clyst St Mary and Sowton (Bishops Clyst) Neighbourhood Plan Modification Proposal

Report summary:

The purpose of the report is to formally agree the response by this Council to the submission of the proposed first revision (modification) of the Bishops Clyst (Clyst St Mary and Sowton) Neighbourhood Plan. Bishops Clyst Parish Council has formally submitted their modified Neighbourhood Plan to the District Council. The Neighbourhood Planning (General) Regulations 2012 (Regulation 16) require the District Council to formally consult on the Plan for a minimum of 6 weeks. At this stage the District Council has the opportunity to comment on the Neighbourhood Plan and must also prepare a Modification Statement to be submitted to the Examiner.

Officer observations on the proposals and a draft Modification Statement are set out at the end of this report and members are asked to endorse these as the formal response of this Council to the proposal. These together with all other comments received during the consultation will be submitted to an independent Examiner who will inspect the Plan against a series of conditions that must be met in order for it to proceed.

Because this is a modification of an existing 'made' (adopted) neighbourhood plan, the Examiner will first consider our Modification Statement alongside that submitted by the Parish Council to decide whether the modifications proposed are material and 'change the nature of the plan'. If this is the case, the Plan will be subject to both examination and a referendum before coming back to this Council for to be 'made' (adopted).

Is the proposed decision in accordance with:

Budget Yes No

Policy Framework Yes No

Recommendation:

(1) That Cabinet note the formal submission of this first revision to the Bishops Clyst (Clyst St Mary and Sowton) Neighbourhood Plan and congratulate the producers of the plan on their dedicated hard work and commitment throughout the process.

(2) That Cabinet agree that the proposed representation set out at paragraph 1.21 and Annex 2 and 3 in this report is made in response to the consultation and agree to the Modification Statement in Annex 1.

Reason for recommendation:

To ensure that the view of the District Council is formally recorded and informs the consideration of the Neighbourhood Plan by the independent Examiner.

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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

Neighbourhood Planning is designed to be inclusive and extensive consultation is a fundamental requirement. The proposed revision to the Clyst St Mary and Sowton (Bishops Clyst) 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, should the changes to the existing 'made' plan (which has been endorsed in a local referendum) be considered to be changing the nature of the Plan, all persons registered to vote in the area will again be invited to vote on it in a 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 \(2024\)](#); [Neighbourhood Planning Regulations](#); [Neighbourhood Planning Roadmap Guide](#); [East Devon Neighbourhood Planning webpages](#); [Clyst St Mary and Sowton \(Bishops Clyst\) Parish Neighbourhood Plan webpage](#); [Bishops Clyst Neighbourhood Plan \(Made, 2017\)](#); [Proposed Modified Clyst St Mary and Sowton \(Bishops Clyst\) Neighbourhood Plan](#); [Consultation Statement](#); [Basic Conditions Statement](#); [Parish Council Modification Statement](#)

Link to [Council Plan](#)

Priorities (check which apply)

- A supported and engaged community
- Carbon neutrality and ecological recovery
- Resilient economy that supports local business
- Financially secure and improving quality of services

Report in full

1.0 Background to the Clyst St Mary and Sowton (Bishops Clyst) Neighbourhood Plan Proposal

- 1.1 Bishops Clyst Parish Council commenced work on their revised Neighbourhood Plan in 2022, following a review of their existing plan. The existing Neighbourhood Plan was 'made' (adopted) in March 2017. The Neighbourhood Area comprises the combined area of the whole of the civil parishes of Clyst St Mary and Sowton, known collectively as Bishops Clyst and equating to the administrative area of the Parish Council. The Neighbourhood Area was originally designated in 2014 and remains the same for the revised plan. The review of the plan and the proposed modifications to it have sought to

respond to the emergence of proposals under our draft new Local Plan and also some dissatisfaction with the implementation/influence of the existing neighbourhood plan policies on development decisions.

- 1.2 The Parish Council and volunteers from the local community, with the aid of a consultant and technical support from Locality, have spent considerable time and effort consulting with residents of the parish and other stakeholders to produce a plan which endeavours to both reflect the wishes of the community, and respond to the changing context.
- 1.3 The draft revised Clyst St Mary and Sowton (Bishops Clyst) Neighbourhood Plan includes policies designed to address locally identified needs and to protect and enhance local assets and facilities, whilst responding to/taking account of the strategy and policies of the emerging new Local Plan. In particular, that which identifies Clyst St Mary village as a location for some growth relative to its identification in Tier 4 of the proposed new 'settlement hierarchy' as a 'Service Village'. The revised neighbourhood plan policies relate to: the natural environment and countryside; built environment; housing development; community facilities; business and jobs; travel & transport, and; sport & recreation. This time the Plan proposes land for a housing allocation for at least 72 homes on land between the Sidmouth Road and Bishops Court Lane, and the addition of a Design Code, as well as some changes to areas designated as Local Green Space and a variety of merged, modified and some new policies.
- 1.4 Prior to submitting the Plan to East Devon District Council, Bishops Clyst Parish Council have held their own public consultation on a draft version of the revised plan; a step which is also required by the Neighbourhood Planning (General) Regulations 2012 (Regulation 14). This ran for an extended period of 8 weeks from 1 July 2024 to 26 August 2024. The comments made during this consultation, including informal comments by District Council officers, have been considered and the plan updated prior to formal submission to East Devon District Council. Significantly, in the light of the Regulation 14 version of the Plan, Strategic Planning Committee agreed to support the community to pursue allocations for housing at Clyst St Mary village through the neighbourhood plan and accordingly, removed proposed allocations from the emerging Local Plan. Instead, the emerging Local Plan (currently at Regulation 19 consultation) includes policy seeking that the neighbourhood plan make provision for a minimum of 72 homes. This requirement aligns to the proposals in the current Submission Version of the neighbourhood plan.

Submission of the Clyst St Mary and Sowton (Bishops Clyst) Neighbourhood Plan Modification

- 1.5 The District Council accepted formal submission of the Neighbourhood Plan Modification Proposal from Bishops Clyst Parish Council as legally compliant in January 2025. The Plan and its supporting documents are available to view on the [planning pages](#) of the District Council website.
- 1.6 This is the first adopted ('made') neighbourhood plan in East Devon to be the subject of a modification proposal in the district. It is brought under the provision for modifications of neighbourhood plans introduced through the Neighbourhood Planning Act 2017, as inserted into the Planning and Compensation Act 2004 and Neighbourhood Planning Regulations 2012 (as amended). The Parish Council has received in-kind Officer support from the District Council and financial and additional funded technical support from the Ministry for Housing, Communities and Local Government neighbourhood planning support programme to prepare the Modification Proposal.

- 1.7 Akin to the prescribed process for a new neighbourhood plan, the statutory regulations require that the District Council organise and undertake a minimum 6-week consultation on a modified plan when a compliant Submission is received. This is commonly referred to as the submission or 'formal' consultation. The public consultation period is running for just over 6 weeks from 29 January 2025 to 17 March 2025. Due to Committee cycles, comments from EDDC have been provided to the Examiner as informal Officer views, subject to the outcome of Cabinet, following which a final formal response will be supplied.
- 1.8 The Plan proposal has been publicised widely through a press release; EDDC e-news bulletins; notice on the District Council website; emails sent to all Members, adjoining authorities and statutory consultees, including Devon County Council, Natural England, Historic England and the Environment Agency. In liaison with the Parish Council, it has also been promoted in the local area to those who responded at the previous stage and generally to raise awareness of this further and final opportunity to comment. Hard copies of the Plan have also been available on request and to view at EDDC Honiton office, Exeter library, and the Parish Council office at Clyst St Mary village hall.
- 1.9 One of the statutory roles of the District Council is to consider whether the Plan meets the legislative requirements, in production process terms. 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, and a Legal Compliance statement published. Legal advice was sought in making this assessment in view of this being the first modification proposal to be received in east Devon. The neighbourhood planning protocol is being revised and refreshed and will be brought back to a Cabinet meeting for approval in the near future.
- 1.10 Anyone may comment on a neighbourhood plan. It is particularly important that the District Council comments. This is because the plan will eventually (if adopted) form part of the statutory Development Plan for East Devon, replacing the existing adopted version of the neighbourhood plan, and must generally conform to the strategic policies of the Local Plan. It will also have increased weight as a material consideration in planning decisions, the more advanced it is through the stages of plan preparation. This report provides the recommended representation on the Plan for formal submission to the Examiner, together with a statement, as required by the legislation, setting out our assessment of the impact and significance of modifications to the existing plan.

Neighbourhood Plan Modification Process Post-Submission

- 1.11 The next step following acceptance of a legally compliant submission and consulting on it, is independent examination of the proposal. In preparation for this, the District Council has now selected Deborah McCann as the 'appropriately qualified and independent examiner'. This appointment has been made in consultation with Bishops Clyst Parish Council.
- 1.12 All responses from the consultation (including any made by this Council) are forwarded to the Examiner who will consider them, by either written representations or at an oral hearing (if the Examiner decides one is necessary). The District Council is responsible for paying the costs of the examination but can recoup these expenses by claiming funding from

Central Government. In respect of Modification Proposals, after a successful examination, £10,000 can be claimed when revised plans come into force without the need for referendum, rising to £20,000 if requiring a local referendum before being 'made'.

- 1.13 In the case of the examination of a Modification Proposal, the Examiner must first determine, under Schedule A2 to the Planning and Compulsory Purchase Act 2004 (as amended), whether the modifications contained in the draft Plan "are so significant or substantial as to change the nature of the neighbourhood development plan which the draft plan would replace". In making his / her judgement, the examiner will consider a Modification Statement submitted with the Plan by the Qualifying Body (the lead town/parish council) setting out a summary of the proposals, the reasons why the Plan should be modified, and whether they consider that the modifications are: minor (non-material); material but not such that it would change the nature of the plan, or; material and are so significant or substantial as to change the nature of the neighbourhood development plan which the modification proposal would modify', giving reasons for why they are of this opinion. The Examiner will also consider the Modification Statement made by the Local Planning Authority on its reasoned assessment of the nature of the modifications.
- 1.14 The examiner must first notify the Qualifying Body and the LPA, with reasons, of their decision on how the modifications should be considered. If the Examiner considers the modifications do not change the nature of the Plan, Modifications Proposal would proceed to be examined under Schedule A2 and would not require a referendum before being made. However, should the examiner take the view that the modifications would change the nature of the made Plan, the examination will proceed under Schedule 4B to the Town and Country Planning Act 1990 (as amended) ('Schedule 4B'), which will in turn require a referendum prior to the revised Plan being made. In this instance, the Examiner will ask for decision of the Qualifying Body as to whether it wishes to proceed with the proposal on this basis or withdraw it.
- 1.15 Once the basis for the examination is agreed, the examination will proceed to specifically test whether the plan meets prescribed 'Basic Conditions' for a neighbourhood plan and other relevant legal requirements. Unlike a Local Plan examination, 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 (in this case, this remains the adopted East Devon Local Plan 2013-2031);
 - is compatible with human rights requirements;
 - is compatible with any retained EU obligations.
- 1.16 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, and the examination process helps to ensure this is achieved.

- 1.17 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 does so. Depending on whether the examiner agrees that a referendum is also required for the plan to proceed to be 'made', the Examiner has essentially 3 options for recommendation:
- A. That the Plan meets the Basic Conditions and proceeds **as submitted** to be either 'made' by the LPA or on to referendum
 - B. The Plan is **modified** by the District Council to meet the Basic Conditions and then the modified version proceeds to either 'made' by the LPA or on to referendum
 - C. That the Plan does not meet the Basic Conditions and therefore cannot proceed.
- 1.18 If the Examiner chooses A or B above and a referendum is required, 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 to decide what action to take in response to the recommendations of the Examiner.
- 1.19 Once the Modified Plan has been finalised, it will either be made directly by decision of East Devon District Council and be brought into legal force, or it will first be subject to a referendum where everyone on the electoral roll (for the defined neighbourhood 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. The modified plan will form part of the statutory development plan and will update and replace the current 2017 version.

Response to the Clyst St Mary and Sowton (Bishops Clyst) Neighbourhood Plan Modification Proposal

- 1.20 Officers have reviewed the Neighbourhood Plan contents and the proposed changes to the 'made' version and recommend that the following Modification Statement and representation of East Devon District Council be formally submitted to the examiner. It should be noted that in terms of comments on the modified plan itself, the representation at this stage in the plan making process is primarily concerned with planning policy matters rather than other content of the Plan, including supporting text or community actions, and is made on the basis of addressing the following questions:
- Do Clyst St Mary and Sowton (Bishops Clyst) 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?
- 1.21 East Devon District Council comments on the Regulation 16 Submission Version of the Plan are proposed as:

General Observations

Overall, EDDC welcome the clear and concise documentation submitted and acknowledge the efforts of the neighbourhood plan group to engage with Officers of this Council and other key stakeholders during the development of the proposal. It is notable that Officer comments made on draft policies at the previous Regulation 14 consultation in particular, have been given detailed consideration by the Parish Council and numerous amendments made to the Plan as a result, as well as revision to the SEA that make this more robust.

We would observe that whilst the majority of the policies are already in the Made Plan in some form and are non-controversial, in many instances EDDC would still question if the NP is adding anything to national/strategic policy. As stressed at Regulation 14, whilst including a policy on any given topic helps to articulate a community priority, there is no need to duplicate or repeat policy contained elsewhere in the development plan or NPPF and there may be risks in seeking to do so and merits in a more focused approach.

Conversely, we note there are some objectives that are not translated into specific policy or policy clauses e.g. to promote self-build initiatives – and unless added, this will limit the ability of the plan to influence in those areas. Similarly, there are instances of requirements stated in supporting text that are not in the policy, and it would be preferable to include these in policy if it is intended that they be insisted upon. Specific comments are made in the attached Annex 2.

Relationship with the Emerging New Local Plan

Whilst the legal test will be concerned with general conformity with our adopted Local Plan, now that the emerging new Local Plan is at Regulation 19 stage and this neighbourhood plan proposal seeks to align to its housing policies and plan period, comment on the relationship with this plan is also relevant. In this regard, we would suggest that:

- the Plan period be aligned to that of the emerging new Local Plan as it stands at Regulation 19 i.e. to 2042 (rather than 2040 as the submitted neighbourhood plan states). This will better align the neighbourhood plan to the incoming Local Plan and avoid any confusion.
- Chapter 2 of the submitted Strategic Environmental Assessment (SEA) be updated as it refers to the Regulation 18 draft Local Plan allocations. This is now out-of-date as the published Reg. 19 Local Plan no longer includes allocations at Clyst St Mary and this could give rise to confusion.
- We would also flag that since subsequent submission of this Plan in December 2024 with its own Habitat Regulations Assessment (HRA), EDDC has now published a Habitat Regulations Assessment for the new Local Plan, and preparation is advancing on a draft new South East Devon Mitigation Strategy. Whilst Officers do not consider these changes the conclusions of our HRA Screening Opinion, the Neighbourhood Plan HRA could be updated to reflect the existence and findings of the new Local Plan HRA.
- making reference to the policy stance in both the adopted and emerging Local Plans where relevant, and ensure it is clear in all references to 'Local Plan' which document is being referred to.

Policy-specific Comments:

Policy by policy comments are set out in Annex 1.

The most significant change from the 'Made' Plan is the addition of the housing allocation policy. We are pleased to support the NP in making an allocation for housing in line with discussions that have taken place with the NP Group and with Members over the last few years as the relationship between the emerging new Local Plan and the revised neighbourhood plan have been considered. It is however of note that a response has been received from the Highways Authority which expresses significant concern regarding the integral proposal for the delivery of a new road link from the A3052 to Bishops Court Lane. The Qualifying Body have been provided with this response for consideration in advance of the examination.

Non-policy comments

In addition to policy specific comments, we would make the following observations on plan content that we would wish to see addressed in the final document for accuracy and clarity:

- a) **Objectives** - suggest (i) encouraging smaller homes and (ii) ensuring the retention of existing facilities and services and supporting new / additional community facilities/services (in general or specific terms) appears to be missing from Plan objectives. Rephrase objective to "require developers to set out sustainability measures of development" for clarity in meaning.
- b) **Maps** – suggest (i) addition of a new map to show the pedestrian / cycle connectivity within and to/from the allocation site under Policy BisC12; (ii) new map showing the location of all community and sporting facilities to support the interpretation of Policy BisC13 and Policy BisC21; (iii) revised map 6 to show listed buildings within the Conservation Area; (iv) revised Map 1 to add place names for orientation and; (v) expand key to Map 3 to indicate what 0.1% and 1% mean. All maps should ideally be at least half a page in size for legibility. EDDC can offer to provide any new and updated maps.
- c) **Section 2** – we disagree with the premise that there is no justification for any extensions of current business areas in the Parish on the basis there is a clear evidence of a district need for further employment land, some of which could be and indeed will be met in the parish through the new Local Plan, with a 1ha modest extension proposed to Langdon's Business Park. It would be prudent to acknowledge this and say that this is sufficient to meet local needs rather than dismissing any employment need.
- d) **Section 4** on Plan context should be refreshed and in particular amendments made to:
 - i. Paragraph 4.5 – Suggest delete the last sentence referring to the Reg 19 local plan as the final version was not published when the NP was submitted.
 - ii. Paragraph 4.8 – whilst we appreciate that the quote, "that the 'Designated Neighbourhood Area Housing Requirement figure' be amended by an additional 72 homes" is the resolution in our Committee minutes, it would be a fuller and clearer explanation to replace this to say "Following discussions with the neighbourhood planning group, the district council agreed to allow this neighbourhood plan to determine which sites should be allocated for housing in the parish but set a requirement figure equivalent to the number of homes proposed for allocation in the reg 18 Local Plan to ensure that the parish took its fair share of the district housing need. As agreed by EDDC at Strategic Planning Committee on 1st October 2024 this figure was set on this basis at a minimum of 72 homes."

- iii. Paragraphs 4.8, 8.4 and 8.5 - if making reference to a lack of local need then the text needs to acknowledge the wider district needs that exist and the role that the village plays in meeting these, but in the absence of a local Housing Needs Survey, we would suggest the plan refrains from saying that there is no local need as it just begs the question - where is the evidence? Furthermore, it undermines the allocation of housing in the plan.
- e) Section 9 – as a key section in the Plan, including the allocation, we would suggest the following amendments:
 - i. Paragraph 9.10 - Add “by 2042 to align to the strategy of the emerging Local Plan” to the end of the penultimate sentence
 - ii. Paragraph 9.11 - Remove use of the word ‘target’ as these housing requirement figures are minimums and replace with ‘number’
 - iii. Paragraph 9.12 - Add reference the Site Assessment report by Aecom which was a key part of the underpinning evidence
 - iv. Paragraph 9.15 - Add “for an acceptable scheme” at the end of the first sentence
- f) Clyst Valley Regional Park references:
 - i. Paragraph 7.30 - The CVRP has its own value as a landscape buffer between Exeter and the new communities/existing villages, and as vital Green Infrastructure providing multi-functional landscape connections, but it is incorrect to state that it is designating land ‘on the basis of its landscape quality and value’. Suggest the second part of this paragraph by rewording according to say, “...remained rural in character. This forms part of the Clyst Valley Regional Park which envisages the Clyst Valley as a tranquil haven for people and wildlife, and includes the objective to restore landscape character and promote local distinctiveness.’
 - ii. Paragraph 9.18 - The objectives of the Clyst Valley Regional Park in terms of the achievement of the Clyst Valley Trail (which is also covered in the LCWIP) should be referred to. Suggest revision in the wording to read, ‘The allocated land is within Clyst Valley Regional Park. Development should comply with the Regional Park’s Objectives and Delivery Plan, including the establishment of high-quality landscape that will mitigate the landscape and visual impact of the development on the Clyst Valley and provision of the Clyst Valley Trail pedestrian and cycle route.
- g) NPPF - Ensure all references throughout relate to the same version of the NPPF as the Basic Conditions Statement uses the December 2024 NPPF and this is referred to in the introductory section 4 of the Plan itself, but references elsewhere within the Plan have been noted that refer to the previous version.
- h) CIL – It would be advisable if there is a (preferably prioritised) list of potential projects for CIL spend that this be appended or linked to in the Plan to aid guiding the spending of funds.
- i) Minor wording amendments for clarity and accuracy as set out in Annex 2 that we would request the Examiner support be made with agreement between the Qualifying Body and the Local Planning Authority in the creation of the final plan document.
- j) Any typographical and grammatical errors are corrected, and any instances where quotations are used, the source of the reference is cited.

Modification Statement

EDDC notes that in their Modification Statement, Bishops Clyst Parish Council conclude that, “taken as a whole, the modifications proposed are not minor. Moreover, they are of a nature which do change the nature of the Plan” and in their view, “will require both examination and a referendum”. As Local Planning Authority, we must also consider the

same and supply our own statement to the Examiner for their consideration and final determination.

Whilst there are some areas where we would take a different view as to whether changes in policy can be classified as minor or material, or material 'changing the nature of the plan' (as set out in Annex 2), overall EDDC agrees with the Parish Council's assessment that in combination the changes proposed to the made plan are material to the extent that they do change the nature of the plan and that in our view will require both examination and referendum. A Modification Statement setting this out in more detail and to fulfil our legal requirement in this regard can be found in Annex 1.

2.0 Next Steps and Conclusion

2.1 In conclusion, Members are asked to approve the comments and Modification Statement for submission to the examination, which will form the next formal step in the consideration of this neighbourhood plan proposal.

Financial implications:

There are no direct financial implications identified in this report.

Legal implications:

The legal implications are fully set out within the report. It is important that EDDC formally agrees a response to the submission of the proposed first revision (modification) of the Bishops Clyst (Clyst St Mary and Sowton) Neighbourhood Plan (given that it will form part of the Development Plan and therefore help guide decision making on planning applications) so that it may be submitted to an independent Examiner within the prescribed timeframes (002545/5 March 2025/DH).

Annex 1 – Regulation 17 Modification Statement – Bishops Clyst Neighbourhood Plan (1st Revision)

This Modification Statement is made under Regulation 17(e)(ii) of the Neighbourhood Planning (General) Regulations 2012 (as amended) in respect of the Clyst St Mary and Sowton (Bishops Clyst) Neighbourhood Plan Modification Proposal submitted 16 December 2024.

Background

The Bishops Clyst Neighbourhood Development Plan passed its referendum with a 90% vote in favour on a turnout of 25% on 26 January 2017. The plan was officially made on 8 March 2017.

Bishops Clyst Parish Council, as the qualifying body, has undertaken a review, starting in 2022, which has been proactive in engaging residents. The proposed modifications are intended to help improve the plan's effectiveness and to respond to the emerging proposals of the new Local Plan.

National Planning Guidance on Neighbourhood Planning (Para 106) sets out that there are three types of modification options which can be made to a neighbourhood plan and affect the process by which the modifications are determined, summarised as:

1. **Minor (non-material) modifications** - which would not materially affect the policies in the plan. These include correcting errors and references and would not require examination or a referendum.
2. **Material modifications** - which do not change the nature of the plan. These would require examination but not a referendum, and include, for instance, the addition of a design code that builds on a pre-existing design policy, or the addition of a site or sites which are not so significant or substantial as to change the nature of the plan.
3. **Material modifications** - which are so significant or substantial as to change the nature of the plan. These may include the allocation of significant new sites for development, for instance, and would require both examination and a referendum.

The Modification Statement prepared and submitted by Bishops Clyst Parish Council sets out the modifications proposed, why they are proposed and which type of modification they are considered to constitute. Overall and in combination, the Parish Council Statement concludes that the modifications comprise type 3 above, requiring both examination and referendum.

Nature of the Modifications - Council Assessment

Regulation 17(e)(ii) of the Neighbourhood Planning (General) Regulations 2012 (as amended) requires the relevant local planning authority to submit to the examiner 'a statement setting out whether or not the authority consider that the modifications contained in the modification proposal are so significant or substantial as to change the nature of the neighbourhood development plan which the modification proposal would modify, giving reasons for why the authority is of this opinion.' This statement fulfils that purpose.

The Council has considered the Parish Council statement and notes that there is only limited guidance available on the criteria for determining the answer to this question and that ultimately, the matter is a decision for the Independent Examiner.

The changes to the plan are set out on pages 2-7 of the submitted [modifications statement](#).

In summary the modifications comprise:

- The addition of a significant allocation for 72 or more homes, linked to the delivery of a range of infrastructure improvements
- The addition of new policy coverage related to the protection of the Green Wedge; protection of heritage assets; infrastructure provision; enhancement of primary school provision; updated settlement boundary for Clyst St Mary; and support for alternative vehicular access to Sowton Village.
- Changes to all other policies through amendment/extension to take account of new legislation, best practice, new standard and/or our new emerging Local Plan policies and/or to rationalise and amalgamate policies. These adjustments relating to policies on habitats, trees/woodlands, business development, farm diversification, flood risk, sport and recreation, footpaths & cycle routes, parking, various aspects of sustainable development, local character/design, community facilities, Local Green Spaces. These range from minor revision to the more substantive addition of a Design Code and reduction in the number of areas designated as LGS and instead protected in policy for the current sporting use).
- Changes to a number of the objectives, change to the plan title and to the plan period.
- Consequential changes and updates throughout the document to supporting text.

With reference to the addition of the major housing allocation alone (Policy BisC12), East Devon District Council concurs with the conclusion of the Parish Council that this is a significant and substantial modification having the effect of changing the nature of the Plan. EDDC would make the same assessment based on our interpretation of the new policy on infrastructure (BisC10) and in combination, the two policies relating to new business development (BisC16 and BisC17) that replace Made Policy BiC13, as the approach taken is considered to differ to the extent the nature of the plan is changed. Many of the other policy changes are also considered to be material but not changing the nature of the plan, including for the addition of any entirely new policy which by definition were not previously the subject of examination under the Made neighbourhood plan. Few changes in policy are considered to be minor modifications, with reference to the limited guidance which suggests these changes are reserved primarily for factual updates and corrections.

Conclusion

In conclusion, East Devon District Council consider that the overall modifications proposed fall into the category of material modifications that change the nature of the plan, requiring both examination and referendum.

Annex 2 – Summary Policy Schedule with EDDC Comments – see separate PDF.

Annex 3: Minor Wording Amends for Accuracy and Clarity (non-policy comments)

Submission Plan Paragraph/ Reference	East Devon District Council comment
Contents	Add policies to the Contents or including a separate (hyperlinked) Policy Index
3.5	Suggest replace 'Clyst St Mary and Sowton NP' with 'the revised NP'
4.18	For accuracy in respect of EDDC's role on preparing the Design Code replace 'in collaboration with' with 'inputted to by'
5.3	Replace 'over the next 10 years' with 'over the Plan period'
7.5 and 7.6	Rationalise/merge wording for clarity/brevity re. references to the Old Sandpit geological site.
7.16 and 7.18	Swap the order of these 2 paragraphs for flow and replace 'We are advised' in the current 7.18 with "However,"
7.19	Switch the order of the last 2 sentences to go from the general to the specific.
7.19 and 7.21	Address repetition of description of flooding in Clyst St Mary
8.5	Remove reference to "and nearby" as the defined Settlement Area is specifically Clyst St Mary village. Name the 'busy road' for clarity (i.e. the A376 to Exmouth).
8.7	Whilst there is no doubt that development at Winslade Park impacts on infrastructure, the use of the word "worsened" implies that it is causing problems and yet there is no evidence cited. The NPs' own allocation will equally impact these issues. Suggest the specific reference to Winslade Park is therefore replaced with "many of which are impacted by new development".
8.8	Replace 'blend in with' with respect and complement
8.9	Remove or update last sentence as this presumably relates to the position at the earlier Regulation 14 stage.
8.16	Suggest given the heritage interest at Sowton, this statement is made less Clyst St Mary centric, and simply reads that "Each settlement has its own" 'distinct character etc, etc.'
8.20	This should be area not areas as there is only one Conservation Area. Suggest this requirement may be better within the heritage policy itself.
9.2	Suggest avoiding using term settlement and instead use built up area (or community) in view of the use or implications of 'settlement' in strategic policy
9.3	"Neighbourhood Area" rather than 'area'
9.3 and 9.5	Suggest some of the Census data & house price data and the Devon Home Choice data could be presented more clearly in a table or bullet points.
9.8	(To be aware that based on latest evidence, the new Local Plan is proposing a lower affordable housing requirement of 30% which will apply upon plan adoption)
9.20	Replace 'local households' with persons/households with a local connection for accuracy

Submission Plan Paragraph/ Reference	East Devon District Council comment
9.21	Suggesting referring at first use here to Devon County Council as Highways Authority – rather than one reference to HA and one to DCC
10.1	Suggest 'served' rather than 'well served' would be more accurate
11.1	Whilst it may be true, can the statement “unemployment is not a local problem” be qualified/putting in context e.g. with reference to census data.
11.4	Suggest “nearer to/at home” to better reflect the point being made
12.1	Suggest the comparison to other areas is removed unless substantiated e.g. by comment from DCC
12.6	Suggest adding to this to encourage and give better options for more use of sustainable modes of travel.
12.11	Unless there is data that can be cited, suggest this should refer to 'perceptions' of speed and perhaps feelings of safety if that has come out of the community consultation
12.20	Clarify over what period the road was closed, and in view of this being a one-off incident, is there anything else that can be said e.g. flooding is mentioned elsewhere
13.3	Make it clear for the reader if the facilities named in the 2 nd and 3 rd sentence are one and the same
Design Code	Page 5 - Replace out of date references to NPPF 2021 reference on page 5 from 2021 to latest version; correct typos on page 25 ('hatched' roofs presumably 'thatched roofs'; and Page 28 Lychgate' not 'lynch gate'; and correct reference to 'Historic England' from 'English Heritage' and correct grammar/syntax in sentence on page 57 which reads, “Materials should be specified that are ensure longevity”