

# **Lynton and Lynmouth Neighbourhood Plan**

**Report by Examiner**

**Graham Self**

August 2013

## Introduction

1. I was appointed in July 2013 as the independent examiner for the Lynton and Lynmouth Neighbourhood Plan. This plan is also called "The Lyn Plan 2013-2028 Examination Version" and is dated March 2013. The plan has been prepared by the Lynton and Lynmouth Town Council, with support from several bodies including the local planning authority, the Exmoor National Park Authority.
2. The examiner's role is to provide an independent review of the plan and to make recommendations in accordance with the 2011 Localism Act and related regulations. In particular, the examiner has to consider whether the plan meets certain basic conditions, satisfies legal requirements, and identifies an appropriate area for a referendum.
3. The basic conditions, which are set out in the legislation, are intended to ensure that neighbourhood plans fit with their wider context. The plan must:
  - have regard to national planning policies and guidance;
  - contribute to achieving sustainable development;
  - be in general conformity with the strategic policies of the development plan;
  - be compatible with European Union law and human rights obligations.
4. National policy guidance is provided by the National Planning Policy Framework (NPPF), published in 2012. In carrying out the examination I have had particular regard to the statement in the NPPF that: "plans should provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency". The NPPF also advises that local plans should give "a clear indication of how a decision maker should react to a development proposal".<sup>1</sup> It seems logical to apply this latter advice to neighbourhood plans, since they are each intended to stand alongside a local plan as part of the statutory development plan for an area.
5. The development plan applicable in this instance is the Exmoor National Park Local Plan 2001-2011. This was adopted in 2005 and policies in it were "saved" in 2008.
6. The main documents which I have read or referred to, all of which were sent to me by the National Park Authority, are as follows.
  - Regulation 16 Consultation Responses (July 2013 plus later update).
  - Basic Conditions Statement March 2013.
  - Evidence Base March 2013.
  - Consultation Statement March 2013.
  - Sustainability Appraisal Final Scoping Report (by Claire Reid Consultancy, November 2012).
  - Final Sustainability Appraisal Report (by Clare Reid Consultancy, November 2012).
  - Habitats Regulations Assessment October 2012 (Prepared by Somerset County Council).

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<sup>1</sup> The quotations are from paragraphs 17 and 154 of the NPPF.

## Neighbourhood Plan Health-Check Review (Report by Locality, undated).

7. Other documents I have referred to include the Consultation Draft version of the Lyn Plan (dated November 2012), and the Local Plan as published online.
8. The closing date for objections or other representations to be made following the most recent public consultation on the "examination draft" of the plan was 12 July 2013, although the planning authority granted an extension for Natural England. Representations were received from the following six individuals or organisations:
  - Peter Thorn (Canoe England).
  - Richard Briden (Lyn Economic Tourism Alliance).
  - The Coal Authority (Rachael Bust, Chief Planner/Principal Manager, Planning and Local Authority Liaison).
  - The Marine Management Organisation (Angela Atkinson, Stakeholder and Networks Officer).
  - English Heritage (David Stuart, Historic Places Adviser)
  - Natural England (Laura Horner, Lead Adviser, Forward Planning Network).
9. I judged that the consultation responses could be assessed on the basis of the written representations, so it was not necessary to hold any hearing. However, for reasons which should become apparent later in this report, I felt it necessary to clarify aspects of the plan which affected many of the proposed policies. I decided that the best way of doing this was to hold a meeting with representatives of the Town Council and National Park Authority. I held this "clarification meeting" on 15 August 2013.<sup>2</sup>
10. Before and after the meeting I saw various parts of the settlements of Lynton, Lynmouth and Barbrook, and some of the surrounding area. The meeting and inspection visit were very helpful in enabling me to check the intended scope of the plan's policies, to see how the area's unusual geography affects the pattern of development, and to understand current planning issues.
11. The main topics on which I raised questions and invited comments at the clarification meeting were:
  - The format of the criteria-based policies - in particular, whether for each policy the criteria were intended to be "inclusive" or "exclusive".<sup>3</sup>
  - Affordable housing and local occupancy restrictions - whether and how the restrictions would be enforced in various different circumstances and whether conflict with human rights legislation could arise.
  - Policies on the proposed Lynton & Barnstaple railway and on community assets - how such policies were intended to work in practice, whether property ownership could reasonably be subject to planning control, and whether the potential profitability of development could validly be a factor in deciding planning applications.
12. Other matters covered during the meeting included the proposed policy on storage space, and possible ways of making the maps in the plan clearer.

<sup>2</sup> The meeting was attended by representatives of the Town Council, National Park Authority and Department of Communities and Local Government who had been involved in preparing the plan.

<sup>3</sup> My use of these terms is explained further in paragraphs 35-37.

13. While reading the version of the Neighbourhood Plan sent to me for examination, I noticed a number of textual flaws (about 40 in total), including typographical errors. The Town Council and National Park Authority indicated that they would find it helpful to be advised about the flaws, and I have sent a list to both bodies with suggested corrections. The list also contained suggestions about some other points such as map size, titles and numbering.
14. I have set out this report in the following sequence. The next section deals with some general matters relating to plan preparation. I then comment on the representations which were submitted in response to the consultation on the examination draft version of the plan. This is followed by the central part of my report where I set out recommended changes to policies. The final two sections deal with other matters and the next stage of the process of making the Neighbourhood Plan.
15. My recommendations focus on the policies (rather than the supporting text) because the basic conditions primarily relate to the plan's policies. Some of the textual flaws mentioned in paragraph 13 above affect the wording of policies and I have incorporated suitable corrections in the recommended amendments to policies. The suggestions I have made outside this report for correcting other (non-policy) parts of the plan are for the Town Council and National Park Authority to consider as they may think fit. The planning authority has powers to make corrections if they are considered appropriate before the plan is finalised.

### **Plan Preparation Procedures**

16. The Exmoor National Park Authority formally designated the whole of the Lynton and Lynmouth Town Council area as a Neighbourhood Plan area in October 2012, in accordance with the relevant legislation.<sup>4</sup> The Town Council was designated as a qualifying body entitled to prepare a neighbourhood plan for the area. The plan has been prepared by a steering group and project team supported by neighbourhood representatives, with input from consultants and from bodies such as Somerset County Council as well as the National Park Authority. A draft plan was prepared and was subject to public consultation between November 2012 and January 2013. Responses to the consultation were considered before production of the examination draft version.
17. The plan has evidently been suitably publicised, by methods including leaflets, posters, a public meeting and drop-in events, although according to the Consultation Statement the number of people who came to these events was disappointingly low. Earlier in the preparation stages various surveys of residents and businesses were carried out and analysed, as recorded in the Evidence Base document. A Habitat Regulations Assessment and a Sustainability Appraisal have also been carried out (the latter evidently resulted in some changes being made to the draft plan). A point of considerable weight is that the local planning authority has supported the plan and does not have any objections to it.
18. The law requires that a neighbourhood plan must specify the period for which it is to have effect. This plan makes clear on its outside front cover (as an addition to the previous draft version) that it is intended to apply for the 15-year period from 2013 to 2028.

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<sup>4</sup> The Town and Country Planning Act 1990 (as amended by the Localism Act), and the Town and Country Planning (England) Neighbourhood Planning (General) Regulations 2012.

19. In summary, the written material available to me indicates that appropriate steps have been taken to prepare the plan in accordance with current legislation.

### Comments on Representations

20. The representation from **Peter Thorn** of Canoe England draws attention to the popularity of the East Lyn River for white water canoeists, but does not make any objection to the Neighbourhood Plan, or suggest any way in which the plan should be amended. There is no reason to alter the plan in response to this representation.
21. **Richard Briden** submitted petitions signed on behalf of Lynmouth businesses. The petitions were against the loss of car parking spaces in Lynmouth and in favour of extending the number of days that the Manor Grounds foreshore is available for car parking and other events.
22. This representation and the petitions appear to be aimed at a recent decision by the Town Council about the way three particular parking spaces in Lynmouth are allocated. This site-specific issue is not a matter of Neighbourhood Plan policy. If anything, the representation appears to support policies E 10 and E 11 of the plan, which seek to protect existing parking and help improve parking opportunities within the settlements to cope with peak summer demand. There is no reason to amend the plan in response to this representation.
23. The letters from the **Coal Authority** and the **Marine Management Organisation** mostly describe the roles of these bodies but do not say anything significant about the Neighbourhood Plan. These representations do not provide any reason to alter the plan.
24. **English Heritage** recommend that further thought be given to three aspects: a greater demonstration of conformity with the NPPF and Local Plan; more specific and detailed coverage of the local historic environment; and the need to protect and enhance the historic environment as a policy criterion, in the absence of a more robust provision in its environment section (ENV 1).
25. The Neighbourhood Plan makes clear (in paragraphs 1.2.9 and 3.1.1-3.1.3) that protecting the natural, cultural, historic and built environment is an aspect of planning policy which applies both nationally and for the National Park as a whole. It is sensible for the Neighbourhood Plan to avoid repeating national or Local Plan policies. For example, there is no point in having policies in the Neighbourhood Plan repeating standard guidance on the factors which have to be taken into account when considering planning applications affecting conservation areas or listed buildings. I consider that the reference to "the local environment" in policy ENV 1 is sufficient recognition of the importance of such factors, although I think a small change of wording to indicate that development should "preserve or enhance" the local environment, together with the omission of the weakening words "where possible" would make the policy more in line with national guidance.<sup>5</sup>
26. Other than that change, I do not see a need for the plan to provide more specific and detailed coverage of the local historic environment. On this subject the plan

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<sup>5</sup> I observe in passing that the phrase "protect *and* enhance" (my italics) used by English Heritage according to the Consultation Statement differs from the "preserve *or* enhance" test, which applies as a matter of law and national policy guidance to planning applications in conservation areas (in the phrase "preserve or enhance the character or appearance of the area").

- has regard to the NPPF and generally conforms with the strategic policies of the development plan. If there were any significant problem about conformity with the Exmoor National Park Local Plan I would have expected the planning authority (the National Park Authority) to have raised it.
27. The letter of 23 July 2013 from **Natural England** supports parts of the plan and expresses concerns about other parts, specifically the possible effects on nature conservation interests of policies E7, E8, E9 and H4.
  28. There is some inconsistency in the views put forward on behalf of Natural England. According to the Consultation Statement, at the pre-submission stage of the plan Natural England were satisfied that the draft plan "does not appear likely to result in significant adverse effects on designated landscapes or on national or European protected sites". The plan did not materially change between then and July 2013. But in their letter of 23 July 2013, Natural England raised a number of fresh criticisms and disagreement with some conclusions of the Habitats Regulations Assessment. For example, the July letter mentioned: the "potential for likely significant effects" of policies E7, E8 and H4 on otter holts and on bryophytes within watercourses; and the potential for likely significant effects of policy E9 on internationally designated nature conservation sites.
  29. When considering the possible effects of development on sites of recognised ecological importance, a precautionary approach is appropriate. Therefore Natural England's concerns about policies which could lead to development outside Lynton, Lynmouth and Barbrook are understandable. Policy E9, for example, supports the re-use of rural buildings for business purposes, and policy H4 supports proposals to accommodate tourism or seasonal staff, possibly on rural sites. I also agree with Natural England's view (as expressed in their later representation) that the words "where possible" in policy ENV 1 should be removed, to avoid imprecision and apparent weakness (as already discussed in relation to the representation by English Heritage).
  30. However, it seems to me from reading the Habitat Regulations Assessment that this assessment was carried out properly and thoroughly. The overall conclusion was that the Neighbourhood Plan was unlikely to have a significant effect on the conservation objectives of the Natura 2000 sites assessed<sup>6</sup>. The assessment found, among other things, that the policies in the plan were unlikely to cause significant effects on important heathland or woodland habitats, including features such as otter holts, bryophytes and lichens. The possibility of increased human access into the countryside was considered. The assessment noted that "policy from the higher tier of plan making and national legislation is likely to account for any potential development which might arise" – in other words, nature conservation interests would be sufficiently safeguarded by the Local Plan, by the NPPF, and by legal requirements.
  31. Natural England maintain that policy H4 of the Neighbourhood Plan (referring to accommodation for staff and seasonal workers) is not in conformity with policy H7 of the Local Plan. This latter policy provides that in the open countryside, the change of use of non-residential buildings to dwellings will be permitted, together with any consequent building alterations, where the intended occupants would meet local needs criteria. Thus both policies allow limited residential development outside the settlements, subject to restrictions.

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<sup>6</sup> "Natura 2000" sites are defined under European legislation and for Habitat Regulation Assessment purposes to cover areas where there should be special protection of flora and fauna.

32. Natural England also say that Neighbourhood Plan policy E9 conflicts with "existing policy CRB1". I think this must be a mistaken reference to Local Plan policy CBS1,<sup>7</sup> which refers to the change of use of buildings which are suitable "without the need for extension". However, in my view the potential for real conflict is minor. Policy E9 has provisos against the re-use of buildings which would require "substantial rebuilding or extension" and against proposals which would significantly harm the rural landscape. Policies E7 and E8, under which some development might be permitted adjoining the settlements, also have safeguarding provisos which are reinforced by the Local Plan (for example, its policy LNC7).
33. I conclude that the policies of the Neighbourhood Plan are in general conformity with the strategic policies of the Local Plan, and that the concerns expressed by Natural England do not justify making any changes to Neighbourhood Plan policies, other than the change to policy ENV 1 mentioned above.

## The Plan and its Policies - General

### Criteria-Based Policies

34. I deal with this topic first as it affects most of the plan's policies; and it was the main topic on which I raised questions at the clarification meeting.
35. Nearly all the policies contain criteria against which proposals for development are to be assessed. There is nothing in principle wrong with that – indeed, it is how numerous planning policies are framed. But most of the policies as drafted are imprecise because they typically have a list of criteria (arranged as bullet points) without making clear whether, in order to be acceptable under the plan, a development proposal would have to meet all of the criteria or only one, or perhaps some but not all. Thus the policies would not provide clear guidance for developers seeking planning permission or planning officers considering a planning application. The imprecision would also be likely to cause unproductive argument between parties involved in planning appeals.
36. In brief, these policies do not accord with the national guidance which I have quoted in paragraph 4. Nor could I tell how the criteria tests were intended to be applied without asking those involved in preparing the plan.
37. For many of the policies, where there are several criteria, sufficient clarity can be achieved by inserting punctuation and either the word "and" or the word "or" to show whether the criteria are meant to be applied all together (inclusively) or as alternatives (exclusively).<sup>8</sup> A greater amount of re-drafting is needed for a few policies.

### Affordable Housing and Local Occupancy Restrictions

38. This was another topic discussed at the clarification meeting. One of the key underlying themes of the plan is the aim to provide affordable housing to meet local need whilst at the same time resisting the development of "second homes" and limiting the number of new "open market" properties.

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<sup>7</sup> Despite searching through a number of planning documents I have not been able to find any relevant policy CRB1.

<sup>8</sup> In this report I use the terms "inclusive" and "exclusive" in the following way. Where a policy statement is subject to a series of criteria, all of which have to be met to comply with the policy, the criteria should be linked with the word "and" to indicate that they are *inclusive*. Where a policy statement is subject to criteria which are alternatives, so that only one has to be met, the criteria should be linked with "or" to indicate that they are *exclusive*. Although the resulting points of punctuation and wording may seem minor, they can be crucial to the interpretation and effectiveness of planning policies.

39. I had two main reasons for asking questions on this matter: first, I considered that although the plan goes into considerable detail about viability assessment, there was no comparable detail about how in practice the policies on affordable housing and local occupancy restrictions would be achieved – which is part of what the plan refers to as “deliverability”; secondly, it appeared possible that if the proposed occupancy restrictions were enforced in line with the plan’s policies, situations could arise where there would be at least the potential for conflict with human rights legislation (particularly the right to peaceful enjoyment of a home).
40. The affordable housing and local occupancy controls would evidently be achieved by means already employed elsewhere in the National Park, using Section 106 agreements or undertakings,<sup>9</sup> and/or planning conditions where appropriate. Both section 106 agreements and planning conditions normally apply in perpetuity to property irrespective of changes in ownership (unless otherwise agreed by the planning authority).
41. Although it would not be appropriate to go into detail here, I can envisage circumstances where problems could arise in enforcing occupancy restrictions, and therefore in delivering a key aspect of the plan’s housing policies. However, it is apparent from the responses to my questions that such problems have been rare elsewhere in the National Park, and have been dealt with on a case by case basis without undermining policy. The “cascade” system of identifying local need set out in the plan is not quite the same as the Exmoor National Park Local Plan, but it follows similar lines and has the same general aim. The need to provide affordable housing for local people was one of the points most frequently mentioned by respondents to the consultation on the plan, and without this policy an important element of the Neighbourhood Plan would be lost.
42. Having regard to the above points, I conclude that although some practical difficulties may arise, the housing policies of the Neighbourhood Plan are in general conformity with the strategic policies of the development plan, are capable of being implemented in conformity with human rights obligations, and meet all the other basic conditions.

#### **Other Matters**

43. Several other points relating to the wording of policies emerged from the discussion following my questions at the clarification meeting. There was general agreement that policy statements to the effect that some types of development were “not supported” by the plan would be unsuitably weak or neutral, and that clearer statements should be made using words such as “resisted”, or “not acceptable” or “will not be permitted”. This last phrase is frequently used in the local plan and I think is the clearest.<sup>10</sup> (Statements expressing support are reasonably clear; it is “non-support” which appears neutral.) It was also generally agreed that some of the policies did not read sensibly with parts of the text arranged as bullet-point sub-paragraphs.
44. I have allowed for these points in making recommendations to modify policies. The recommendations aimed at making the policy criteria inclusive or exclusive are in line with what I was told during the clarification meeting about the aims of each policy. Additional comments are also made below where I think they may help to explain the reasons for changes. The recommended changes for each policy, and the resulting policies, are set out below in plan order.

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<sup>9</sup> This refers to Section 106 of the Town and Country Planning Act 1990 as amended.

<sup>10</sup> I have considered suggesting “will not normally be permitted”, but have decided against, as even without the word “normally”, it is possible to allow exceptions to policies.

## **Policy P 1 - Overall Objectives for New Development**

### Recommended Changes

45. Delete "one or more" (since all the objectives are intended to apply as aspirations, not just any one or more). Delete "known", since developers cannot be expected to meet unknown needs. Omit the redundant "which" and repetition of "new development" in the first paragraph. Insert suitable punctuation, plus the word "and" to make the objectives inclusive.

### Recommended Amended Policy

**New development will be expected to make positive contributions to the following overall objectives:**

- **delivering sustainable development and growth to enhance the self reliance of the local community and economy;**
- **meeting economic and social needs;**
- **creating opportunities for the local community and economy to be stronger and to prosper;**
- **underpinning and adding to the assets of the community; and**
- **making the most of and protecting the special environment in which we live for residents, visitors, and local businesses.**

## **Policy ENV 1 - Location of Development & Enhancement of the Local Environment**

### Recommended Changes

46. Insert punctuation. Insert "and" to make the criteria inclusive. Change "is not supported by the Plan" to "will not be permitted" to make the policy intention clearer. Change "should enhance...where possible" to "should preserve or enhance" to make the policy clearer and more precise (also in response to comments by English Heritage and Natural England).

### Recommended Amended Policy

**Previously developed sites within the existing extent of the settlements of Lynton, Lynmouth and Barbrook are the preferred locations for development.**

**The development of greenfield, infill sites within the settlements will also be supported subject to the following criteria:**

- **the proposals would not result in the loss of open space used by and of value to the community; and**
- **the proposals would not result in the loss of open space that is important to the character and quality of the local environment.**

**The extension of the settlements onto adjoining greenfield sites will not be permitted whilst brownfield and greenfield, infill sites within the settlements remain available, unless the proposals are covered by policies E7 and E8 (business and storage space), E9 (rural buildings and land in commercial use outside the settlements) and H4 (staff & seasonal workers).**

**New development should preserve or enhance the local environment, both through the development's own attributes, and how it integrates with its surroundings.**

## **Policy E 1 – Local Economy**

### Recommended Changes

47. Insert punctuation. Insert "and" to make the criteria inclusive.

Recommended Amended Policy

**Proposals for economic development and premises for business will be supported, subject to the following criteria:**

- **proposals should not have significant harmful impacts on the local community or prevent them meeting their needs;**
- **proposals should not have significant harmful impacts on visitors and visitor attractions and facilities; and**
- **proposals should not have significant harmful impacts on the natural and historic environment of the area or the built environment of the villages.**

**Policy E 2 - Change of Use of Hotels & Guest Houses**Recommended Changes

Insert "proposed" in the reference to "alternative use", to be consistent with other tourism policies E3 and E5. Change "will" to "would" for consistency with other policies (and as it is more appropriate to use the future conditional tense when referring to future development proposals). Add punctuation. Add "or" to make the criteria exclusive. Re-cast the policy to remove two of the bullet points so that it reads more clearly.

Recommended Amended Policy

**The change of use of hotels and guest houses (C1)<sup>11</sup> to other uses will be supported subject to the following criteria:**

- **the proposed alternative use would also support local tourism, including self catering accommodation;**
- **the proposed alternative use would otherwise support the local economy by providing employment; or**
- **the proposed alternative use would contribute to the needs of the community – including providing affordable and principal residence housing – either on-site or through contributions to development on other sites, and the proposals are justified by an open book assessment of viability as defined by this Plan.**

**Where the hotel/guest house use provides employment in addition to the proprietors then it will be necessary for an independent assessment to demonstrate that the premises are non-viable in their current business use, or for the premises to be marketed for 12 months at reasonable value.**

**Policy E 3 – Loss of High Street Uses**Recommended Changes

48. Insert punctuation. Insert "or" to make the criteria exclusive. Re-draft the phrase "equal or greater benefits ....than" so that it reads properly. Change "will not be supported" to "will not be permitted" to clarify the policy intention.

Recommended Amended Policy

**The loss of business premises used for A1, A2, A3, A4 and A5 uses to other uses will not be permitted unless:**

- **it can be demonstrated that the use of the premises for these purposes is no longer viable; or**

<sup>11</sup> This is a reference to the Town and Country Planning (Use Classes) Order. One of the suggestions I have made outside this report (see paragraph 12) is that it would be helpful for some readers to include a footnote explaining this point, especially as other UCO classes are mentioned in policies E 3 and E 4.

- **the proposed alternative use would provide benefits for the local economy and community equal to or greater than the current use.**

#### **Policy E 4 – Change of Use of Shops**

##### Recommended Changes

49. Simplify the policy by omitting the bullet point and adjusting wording accordingly.

##### Recommended Amended Policy

**The change of use of premises used for A1 purposes to A2, A3, A4 and A5 uses will be supported provided that the change of use would not result in significant harmful impacts on the amenities of neighbouring residents.**

#### **Policy E 5 – Loss of Tourist Facilities**

##### Recommended Changes

50. Add punctuation. Insert “or” to make the criteria exclusive. Re-draft the phrase “equal or greater benefits ....than” so that it reads properly. Change “will not be supported” to “will not be permitted” to clarify the policy intention.

##### Recommended Amended Policy

**The loss of tourist facilities to other uses will not be permitted unless:**

- **it can be demonstrated that the tourist facility is no longer viable; or**
- **the proposed alternative use would provide equal or greater benefits for the local economy and community.**

#### **Policy E 6 - Temporary Uses**

##### Recommended Changes

51. Add punctuation. Simplify the policy by eliminating bullet points and repeated text.

##### Recommended Amended Policy

**The temporary use of buildings and open spaces for organised events will be supported provided that the temporary use would not have significant harmful impacts on the wider visitor experience or on the amenities of neighbouring residents.**

#### **Policy E 7 - Business Space**

##### Recommended Changes

52. Add punctuation. Change “criterion” to criteria”. Insert “and” between the first two criteria to make them inclusive. Insert “or” between the second two criteria to make them exclusive. Change “will not be supported” to “will not be permitted” to clarify the policy intention.

##### Recommended Amended Policy

**The provision of new business space within and adjoining the settlements will be supported subject to the following criteria:**

- **the proposals would not have significant harmful impacts on the amenities of surrounding residents and other activities; and**
- **the proposals would not have significant harmful impacts on the surrounding rural landscape and landscape setting of the settlement.**

**The loss of business space will not be permitted unless:**

- **it is to be replaced with business space of an equal or higher quality on the same site or another site within the parish; or**
- **the proposed alternative use would overall provide equal or greater benefits to the local economy and community.**

### **Policy E 8 – Storage**

#### Recommended Changes

53. Add punctuation. Change “criterion” to “criteria”. Delete repeated text. Change “will not be supported” to “will not be permitted” to clarify the policy intention. Insert “and” between the first two bullet points to make them inclusive. Insert “or” between the last two bullet points to make them exclusive.

#### Recommended Amended Policy

**The provision of new storage space within and adjoining the settlements will be supported subject to the following criteria:**

- **the proposals would not have significant harmful impacts on the amenities of surrounding residents and other activities; and**
- **the proposals would not have a significant harmful impact on the impact on the surrounding rural landscape and landscape setting of the settlement.**

**The loss of storage space will not be permitted unless:**

- **it is to be replaced with storage space of an equal or higher quality on the same site or another site within the parish; or**
- **the proposed alternative use would overall provide equal or greater benefits to the local economy and community.**

### **Policy E 9 - Rural Buildings and Land in Commercial Use Outside the Settlements**

#### Recommended Changes

54. Add punctuation. Insert “and” to make the criteria inclusive.

#### Recommended Amended Policy

**The reuse of farm and rural buildings outside the settlements for business purposes will be supported subject to the following criteria:**

- **the proposed reuse would not have significant harmful impacts on the surrounding rural landscape;**
- **the proposed reuse would not have unacceptable impacts on the local road network;**
- **the proposed reuse would not cause unacceptable conflicts with agriculture and other land-based activities;**
- **the proposals would not have significant harmful impacts on the amenities of neighbouring residents and other uses; and**
- **the buildings concerned would not require substantial rebuilding or extension.**

**New business development on land already in commercial use outside the settlements will be supported subject to the following criteria:**

- **the scale and nature of the proposals would enhance the overall environment of the site and reduce the overall impact of the site on the surrounding rural landscape;**

- **the proposal would not have unacceptable impacts on the local road network;**
- **the proposal would not cause unacceptable conflicts with agriculture and other land-based activities; and**
- **the proposal would not have significant harmful impacts on the amenities of neighbouring residents and other uses.**

### **Policy E 10 - Parking**

#### *Recommended Changes*

55. Add punctuation. Re-cast the policy to alter the layout of the last two bullet points so that they are not subsidiary paragraphs, so that the policy reads more clearly. Change "will not be supported" to "will not be permitted" to make the policy less neutral and clearer. Insert the reference to areas of informal parking (which in the examination draft appears immediately after the policy in italic text) into the policy itself so that this is more overtly part of the policy.

#### *Recommended Amended Policy*

**Development proposals resulting in a loss of parking capacity of all types, except for areas of informal parking, will be resisted unless:**

- **for on-street and public car parks, equivalent or better capacity is provided elsewhere in the settlement;**
- **for private car parks, equivalent or better capacity is provided elsewhere or the need for the private parking capacity can be shown to be reduced as a result of the development proposals.**

**Proposals for new development will be expected to demonstrate how any additional parking requirements generated would be accommodated.**

**New parking should not significantly increase the risk of flooding.**

### **Policy E 11 – Temporary Parking**

#### *Recommended Changes*

56. Add punctuation. Insert "and" to make the criteria inclusive. Change "should not" to "would not" to make the policy clearer.

#### *Recommended Amended Policy*

**Proposals for the temporary provision of additional parking capacity will be supported subject to the following criteria:**

- **the proposal would not have significant harmful impacts on the wider visitor experience;**
- **the proposal would not have significant harmful impacts on the amenities of neighbouring residents and other uses;**
- **the proposal is for a specified temporary period; and**
- **the proposal would not significantly increase the risk of flooding.**

### **Policy E 12 - Lynton & Barnstaple Railway**

#### *Recommended Changes*

57. Add punctuation. Delete "and financially viable". Correct textual errors. Insert "and" to make the criteria inclusive.

Recommended Amended Policy

**The reinstatement of the Lynton & Barnstaple Railway, including the provision of a new Lynton station and the link from the station to the centre of Lynton will be supported, subject to the following criteria:**

- **the proposals should be demonstrated to be technically feasible;**
- **the proposals should include an effective means of accessing the centre of Lynton for passengers;**
- **the proposals would be in keeping with the heritage characteristics of the former railway;**
- **the proposals would not have significant harmful impacts on the wider visitor experience;**
- **the proposals would not have significant harmful impacts on the amenities of residents and other neighbouring uses; and**
- **the proposals would not have significant harmful impacts on the local landscape including other environmental features and assets.**

**Policy H1 – Affordable Housing**Recommended Changes

58. Add punctuation. Insert “and” to make the criteria inclusive. Change “will” to “would”. Change “will be less than 90 square metres” to “would not exceed 90 square metres”, as the 90 square metres figure is intended to be a maximum.

Recommended Amended Policy

**Proposals for affordable housing will be supported, subject to the following criteria:**

- **the proposals would contribute to meeting the affordable housing needs of the community in terms of types and sizes of dwelling, levels of affordability, and mix of tenures;**
- **the dwellings would be occupied by local persons in housing need in accordance with the definition in policy H2; and**
- **for owner occupied properties, the net internal floorspace would not exceed 90 square metres.**

**Policy H2 – Local Connection**Recommended Changes

59. Re-structure the policy layout so that it reads more clearly, as three of the bullet points in the examination draft should not be sub-paragraphs. Correct the punctuation. Make other minor adjustments to the wording for grammatical reasons.

Recommended Amended Policy

**Affordable houses in the Parish shall only be occupied by persons (and their dependants) whose housing needs are not met by the market and:**

- **who have a minimum period of 10 years permanent and continuous residence in the parish or an adjoining parish; or**
- **who are not now resident in the parish or an adjoining parish but have a local connection with the parish including a period of permanent and continuous residence of 10 years or more within the last 20; or**
- **who have an essential need to live close to another person who has a minimum of 10 years permanent and continuous residence in the parish or**

**an adjoining parish, the essential need arising from proven age or medical reasons; or**

- **who need to live close to their place of work in the parish or an adjoining parish.**

**Where such a person cannot be found, an affordable house may then be occupied by persons (and their dependants) whose housing needs are not met by the market and:**

- **who have a minimum period of five years permanent and continuous residence in the parish or an adjoining parish; or**
- **who are not now resident in the parish or an adjoining parish but have a local connection with the parish including a period of permanent and continuous residence of five years or more within the last 10; or**
- **who have an essential need to live close to another person who has a minimum of five years permanent and continuous residence in the parish or an adjoining parish, the essential need arising from proven age or medical reasons.**

**Where such a person cannot be found, affordable homes may then be occupied by persons (and their dependants) whose housing needs are not met by the market and:**

- **who have a minimum period of 10 years permanent and continuous residence in the additional adjoining parishes listed below; or**
- **who are not now resident in the parish or an adjoining parish but have a local connection with the additional adjoining parishes listed below including a period of permanent and continuous residence of 10 years or more within the last 20; or**
- **who have an essential need to live close to another person who has a minimum of 10 years permanent and continuous residence in the additional adjoining parishes listed below, the essential need arising from proven age or medical reasons; or**
- **who need to live close to their place of work in the additional adjoining parishes listed below.**

**The additional adjoining parishes are: Oare, Porlock, Exford, Withypool & Hawkrige, Molland, Twitchen, North Molton, Brayford, Kentisbury, and Trentishoe.**

### **Policy H3 – Principal Residence Housing**

#### *Recommended Changes*

60. Add punctuation. Insert "and" to make the criteria inclusive. Change "and creating" to "by creating" so that the text makes sense. Change "is not supported by this plan" to "will not be permitted" to make the policy intention less neutral and clearer. Alter the reference to the viability assessment "as defined by this plan" so that it refers to guidance published by the planning authority.<sup>12</sup>

#### *Recommended Amended Policy*

**Proposals for principal residence housing will be supported, subject to the following criteria:**

<sup>12</sup> This assumes that Appendix 1 of the examination draft plan is omitted in the final version. The wording of policy H3 (in the third bullet point) may need adjustment, perhaps to refer to supplementary planning guidance if that is how the information in Appendix 1 of the examination draft is published.

- **the proposals are necessary to provide cross subsidy for affordable housing or other development directly benefiting the community, on the same site or another site within the parish;**
- **the proposals would either meet the housing needs of local people or bring greater balance and mixture to the local housing market by creating new opportunities for people to live and work here; and**
- **the proposals are justified by an open book assessment of viability as defined by in the relevant guidance published by the Exmoor National Park Authority.**

**Open market housing without a restriction to ensure its occupation as a principal residence will not be permitted.**

#### **Policy H4 - Staff and Seasonal Workers**

##### Recommended Changes

61. Add punctuation. Insert "and" to make the criteria inclusive. Change the layout so that the last bullet point is not a bullet-pointed sub-paragraph, and substitute different text as discussed at the clarification meeting. Delete the redundant words "that". Change "is" to "would be".

##### Recommended Amended Policy

**Proposals for accommodation for tourism staff and seasonal workers will be supported, subject to the following criteria:**

- **the need for such accommodation can be demonstrated, in terms of the business needs and the lack of existing suitable accommodation;**
- **the accommodation would be provided on the site of the business concerned - if this would not be feasible then the accommodation should be provided within or adjoining the settlements; and**
- **the accommodation would be tied to the tourism business concerned for the purposes of staff accommodation.**

**The restrictions above will normally be achieved by Section 106 agreements and/or planning conditions. The restrictions would not be removed unless alternative arrangements are made for the property to become affordable housing in accordance with policies H1 and H2.**

#### **Policy S1 - Loss of Services and Facilities**

##### Recommended Changes

62. Add punctuation. Change the layout to remove the bullet points so that the text makes sense. Make other minor changes including deleting the repeated word "the". Change "will not be supported" to "will not be permitted" to clarify the policy intention.

##### Recommended Amended Policy

**The loss of services and facilities of use to the community will not be permitted unless they are to be replaced with services and facilities of an equal or higher quality and value to the community on the same site or another site within the parish. Where the existing services and facilities can be shown to be no longer needed or viable, any proposed alternative use should provide equal or greater benefits to the local economy and community, including through contributions to development on other sites.**

## **Policy S2 – Improving Existing Services and Facilities and the Provision of New Services and Facilities**

### *Recommended Changes*

63. Simplify the layout so that it does not have a bullet-pointed sub-paragraph.

### *Recommended Amended Policy*

**Proposals for the improvement of existing services and facilities and the provision of new services and facilities of use to the community will be supported, provided that the proposals would not have significant harmful impacts on the amenities of residents or on other neighbouring uses.**

## **Policy S3 – Community Assets**

### *Recommended Changes*

64. Delete this policy, and the related text in paragraphs 5.3.5 and 5.3.6, since as was discussed at the clarification meeting, it is doubtful whether planning policies or conditions could validly control the ownership and financial matters referred to here; also the previous part of the plan deals sufficiently with services and community assets.

## **Other Matters**

65. During the clarification meeting there was some discussion about the role of the appendix on Viability Assessment (Appendix 1 of the plan). As I have commented in paragraph 39 above, I think this appendix provides a degree of detail on the topic of viability assessment which is not matched by any similar detail about other topics which could be considered equally important, such as the means of controlling the occupancy of affordable housing for local people. For example, the appendix includes a worked example using the Community Land Trust Fund appraisal tool; but there is no equivalent detail in the plan of, say, a typical Section 106 agreement or planning condition. (To find out how local housing policies were implemented in practice I obtained copies of two such agreements recently used elsewhere in the National Park.)
66. It also seems likely that the planning authority may wish to modify the procedures used for viability assessment more frequently than the plan is likely to be reviewed. I understand that if an updated process were to be adopted, it would be publicly available, probably on the planning authority's website.<sup>13</sup>
67. Whether this appendix should be included as part of the plan is essentially a matter for the Town Council and National Park Authority to decide, so I am not making a recommendation. I merely suggest that it would be preferable to omit this appendix from the plan. If that is done, paragraph 2.2.7 on page 5 of the plan would need to be amended so that it would refer to a separate document or to the planning authority's website.
68. The footnote on page 2 of the Neighbourhood Plan (footnote number 2) states that the development plan for the National Park includes the adopted Exmoor National Park Local Plan and the Joint Somerset & Exmoor National Park Structure Plan Review. Although this statement was no doubt correct when first written, I understand that the structure plan was abolished in May 2013 (along with the regional plan), so this footnote could usefully be updated.

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<sup>13</sup> See also my recommendation in paragraph 60 on policy H3, and the related footnote.

**Conclusion and the Next Stage - the Referendum and its Area**

69. Subject to the recommendations which I have made, I consider that the plan meets the basic conditions. There is no reason to alter or extend the Neighbourhood Plan area (as shown in the map on page 2 of the plan) for the purpose of holding a referendum. I conclude that the plan, as amended following consideration of my recommendations, should be submitted to a referendum.

**Graham Self MA MSc FRTPI**

28 August 2013.