

## **CABINET**

**6<sup>TH</sup> SEPTEMBER 2022**

### **TIVERTON NEIGHBOURHOOD PLAN – DECISION ON EXAMINER’S REPORT**

**Cabinet Member(s):** Councillor Richard Chesterton, Cabinet Member for Planning and Economic Regeneration

**Responsible Officer:** Richard Marsh, Director of Place

**Reason for Report:** To seek approval for the recommended modifications made in the Examiner’s Report and seek approval for the Tiverton Neighbourhood Plan to proceed to a local referendum

### **RECOMMENDATION:**

**To Cabinet that:**

- (i) the Examiner’s modifications (Table 4) and correction of errors (Table 2) be agreed, and that subject to these modifications the Tiverton Neighbourhood Plan is determined to meet the Basic Conditions (as defined in Town and Country Planning Act 1990 Sch 4B) and other legislative requirements;**
- (ii) the Decision Statement attached at Appendix 2 be approved; and**
- (iii) the Tiverton Neighbourhood Plan (at Appendix 3) subject to the Examiner’s modifications and correction of errors, proceeds to a local Referendum based on the boundary of the Tiverton Neighbourhood Area.**

**Financial Implications:** The process leading to the adoption of a Neighbourhood Plan has financial implications. The costs of support in terms of advice and technical support, examination and referendum must be met by Mid Devon District Council. The Council has received new burdens payments from the Government to help meet these costs to the sum of £5,000 for the area designation process and will apply for £20,000 to cover costs associated with the Examination and Referendum. Since the Council has resolved (at its meeting on 6<sup>th</sup> January 2021, Minute 270) not to progress a Community Infrastructure Levy for Mid Devon there will be no neighbourhood proportion of a Community Infrastructure Levy to be passed to Tiverton Town Council.

**Legal Implications:** The referendum is a statutory requirement, and will be subject to The Neighbourhood Planning (Referendums) Regulations 2012. Section 38(3A) of the Planning and Compulsory Purchase Act 2004 mean a neighbourhood plan attains the same legal status as a local plan (and other documents that form part of the statutory development plan) once it has been approved at a referendum, rather than when it is made (adopted) by the relevant authority. At this point it comes into force as part of the statutory development plan. Applications for planning permission

must be determined in accordance with the development plan, unless material considerations indicate otherwise. Policies of the Tiverton Neighbourhood Plan will be used alongside policies in the adopted Mid Devon Local Plan, the Devon Minerals and Waste Plans, to help guide planning applications submitted to the Council for determination within the parish of Tiverton, and the decisions made on these.

**Risk Assessment:** None identified.

**Budget and Policy Framework:** Once the Neighbourhood Plan has been ‘made’ by the Council following its approval at a referendum it will form part of the Council’s policy framework as part of the statutory development plan for the district.

**Equality Impact Assessment:** The Decision Statement for the Tiverton Neighbourhood Plan (see **Appendix 2**) concludes that ‘the Plan, as modified, meets the basic conditions as set out in paragraph 8(2) of Schedule 4B to the Town and Country Planning Act 1990 and that the Plan complies with provisions made by or under sections 38A and 38B of the Planning and Compulsory Purchase Act 2004’. Therefore, the Council has concluded that the ‘making of the order (or neighbourhood plan) is in general conformity with the strategic policies contained in the development plan for the area, which were subject to a full Equalities Impact Assessment. On this basis, the Tiverton Neighbourhood Plan will not in itself lead to any impacts on the equality strands protected under the Equality Act 2010 (the “protected characteristics”) over and above those considered and addressed through the Local Plan Equalities Impact Assessment.

**Relationship to Corporate Plan:** If the Tiverton Neighbourhood Plan is approved by referendum, it will form part of the statutory development plan for Mid Devon and the strategy for guiding new development in the district, allocate sites for housing and economic development, the provision of infrastructure, as well as policies for the protection of the environment and managing development. The plan will help meet the Corporate Plan priorities: ‘Homes’, ‘Environment’, ‘Community’ and ‘Economy’.

**Impact on Climate Change:** The preparation of development plans is a key method for climate change mitigation and environmental protection, through appropriate policies and development strategy.

## **1.0 INTRODUCTION / BACKGROUND**

### *About neighbourhood plans*

- 1.1 The Localism Act 2011 and Neighbourhood Planning (General) Regulations 2012 (as amended) introduced powers to allowing qualifying bodies (parish councils, or neighbourhood forums in areas without parish councils) to produce neighbourhood plans and Neighbourhood Development Orders. Neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and shape the development and growth of their local area. They are able to choose where they want new homes, shops and offices to be built, have their say on what those new buildings should look like and what infrastructure should be provided. The Neighbourhood Plan can be used to inform planning applications in the neighbourhood area submitted to the local planning authority for determination and the decisions made on these. Neighbourhood planning provides a powerful set of tools for local

people to plan for the types of development to meet their community's needs and where the ambition of the neighbourhood is aligned with the strategic needs and priorities of the wider local area.

#### *Tiverton Neighbourhood Plan*

- 1.2 The Tiverton Neighbourhood Plan has been prepared by the Neighbourhood Plan Steering Group for Tiverton Town Council. It includes:

- A vision statement for Tiverton
- 7 sections:

Spatial Strategy; Housing; Design and Heritage; Natural Environment; Community Facilities; Transport and Movement; Tiverton Town Centre and the Wider Local Economy.

Each section has identified a series of aims and community actions which support the delivery of the vision and objectives, but which do not constitute planning policies. The neighbourhood plan includes 18 policies covering a range of planning matters. The neighbourhood plan recognises that the area is a subject to significant housing growth. It also points out that there is a shortage of adequately sized affordable housing, particularly for couples and young families.

#### *Strategic Environmental Assessment and Habitat Regulations Assessment*

- 1.3 The Tiverton Neighbourhood Plan has been subject to a Strategic Environmental Assessment and Habitat Regulation Assessment screening undertaken by the Council (2019).

#### *Stages in production of a neighbourhood plan*

- 1.4 There are a number of key stages in the production of a neighbourhood plan and these can be summarised as follows in relation to the preparation of the Tiverton Neighbourhood Plan:

**Table 1 - key stages in the production of a neighbourhood plan**

<b>Key stage</b>	<b>Action</b>	<b>Date</b>
1. Neighbourhood Area designation	Tiverton Neighbourhood Plan Area designation requested by Tiverton Town Council and approved by Mid Devon District Council. This sets the area the Neighbourhood Plan will apply to.	12 <sup>th</sup> November 2018
2. Pre-Submission Consultation	Regulation 14 consultation (minimum 6 weeks) organised by Tiverton Town Council	13 <sup>th</sup> April 2021 – 11 <sup>th</sup> June 2021

<b>Key stage</b>	<b>Action</b>	<b>Date</b>
3. Submission	Tiverton Parish Council submitted the Tiverton Neighbourhood Plan to Mid Devon District Council	Plan submitted 2 <sup>nd</sup> December 2022 Formal confirmation by MDDC 7 <sup>th</sup> January 2022
4. Publication	Regulation 16 consultation (minimum 6 weeks) organised by Mid Devon District Council	7 <sup>th</sup> January 2022 – 18 <sup>th</sup> February 2022
5. Examination	Independent Examiner reviews the Plan against the statutory Basic Conditions. The Examiner either recommends that a Neighbourhood plan does not proceed to Referendum, or can proceed Referendum, with or without modifications, and recommends the extent of the area the Referendum applies to	Final version received 27 <sup>th</sup> July 2022
6. Plan Proposal Decision	Mid Devon District Council considers the Examiner's Report, including the recommended modifications and if satisfied with the Plan proposal agrees for it to proceed to Referendum	6 <sup>th</sup> September 2022
7. Referendum	Organised and funded by Mid Devon District Council. Where if more than 50% of those voting are in favour of the Neighbourhood Plan, it comes into force as part of the statutory development plan, and must be 'made' by the Council.	Date to be confirmed in 2022

### *The examination*

- 1.5 Following the Regulation 16 consultation, an Independent Examiner was appointed by Mid Devon District Council, with the consent of the Parish Council, to carry out the examination of the Neighbourhood Plan. The Examiner, Deborah McCann examined the Plan by written representations, and undertook an unaccompanied site visit of the Neighbourhood Plan area.
- 1.6 The role of the Examiner is to check (as required under Paragraph 8(1) of Schedule 4B of the Town and Country Planning Act 1990) whether the Neighbourhood Plan meets certain legal requirements:

- the policies relate to the development and use of land for a designated neighbourhood plan area; and
- the policies in the plan meet the requirements of Section 38 of the Planning and Compulsory Purchase Act (that is, it specifies the period to which it has effect, does not include provision about excluded development and does not relate to more than one neighbourhood area), and
- the plan has been prepared for an area that has been designated under Section 61G of the Localism Act and has been developed and submitted for examination by a qualifying body, in this case by Tiverton Town Council.

1.7 The Examiner must consider a variety of matters, including whether the submitted plan meets the 'Basic Conditions' set out in paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990. A plan meets the basic conditions if:

- having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the neighbourhood plan;
- the making of the neighbourhood plan contributes to the achievement of sustainable development;
- the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area;
- the making of the neighbourhood plan does not breach, and is otherwise compatible with retained European Union (EU) obligations; and
- such other prescribed conditions which include those set out in the following regulations.

1.8 Regulations 32 and 33 of the Neighbourhood Planning (General) Regulations 2012 (as amended) set out two additional basic conditions. These are:

- the making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017 , and
- having regard to all material considerations, it is appropriate that the neighbourhood development order is made where the development described in an order proposal is Environmental Impact Assessment development (this does not apply to this examination as it is not about a neighbourhood development order).

*Examiner's report*

- 1.9 The Examiner has now examined the Tiverton Neighbourhood Plan and has issued her report (see **Appendix 1**). The Examiner has concluded that subject to the modifications set out in her report the Tiverton Neighbourhood Plan meets the basic conditions and other statutory requirements, and has recommended that subject to the modifications set out in her report the Tiverton Neighbourhood Plan should proceed to referendum.
- 1.10 The Examiner is also required to consider whether the referendum should be extended beyond the Tiverton parish area. The Examiner is satisfied that the Referendum Area should be the same as the Plan Area. The Plan should proceed to referendum based on the neighbourhood area approved by Mid Devon District Council on 12<sup>th</sup> November 2018.

*The role of the Mid Devon District Council as the local planning authority*

- 1.11 The Council, as the Local Planning Authority must take decisions at key stages in the neighbourhood planning process and within specified time limits, and has a duty to provide advice or assistance to a parish council as it considers appropriate for the purpose of, or in connection with, facilitating the making of proposals in relation to the neighbourhood plan. This includes providing comments on 'general conformity' of the neighbourhood plan policies with the strategic policies of the Local Plan, advising on neighbourhood plan requirements (including Strategic Environmental Assessment 'SEA' and Habitat Regulations Assessment 'HRA'), undertaking post-submission consultation on the neighbourhood plan (Regulation 16 consultation), the appointment of an independent examiner, making a decision on the Examiner's report, making arrangements for the referendum, and bringing the neighbourhood plan into force.
- 1.12 Once the Council has received the Examiner's report it must decide what action to take. Regulation 18 of the Neighbourhood Plan (General) Regulations 2012 (as amended) provides that once the Local Planning Authority (LPA) has made one of the following decisions, it must publish the decision with the reasons for such, include details for inspection of the decision statement and in the case of (c) below, the Examiner's report:
- (a) to decline to consider a plan proposal;
  - (b) to refuse a plan proposal;
  - (c) what action to take in response to the recommendations of an examiner made in a report;
  - (d) what modifications, if any, they are to make to the draft plan;
  - (e) whether to extend the area to which the referendum (or referendums are) to take place; or
  - (f) that they are not satisfied with the plan proposal.
- 1.13 There are no grounds to decline to consider the Neighbourhood Plan under part (a), since this is not a repeat proposal (i.e. where the same or similar

proposal has been refused by the Council within the previous 2 years or where a referendum relating to a proposal that is the same as or similar has been held and 50% or less than 50% of those voting voted in favour, and the Council considers no significant change in national policy and advice in Secretary of State guidance of relevance to the proposal, or the strategic policies of the development plan for the area of the authority have occurred since the refusal or referendum).

- 1.14 There are no grounds to refuse to consider the Plan under part (b), since the legislative requirements have been met. This is in terms of the parish council being authorised to act, the neighbourhood plan's submission, the neighbourhood plan's scope and definition, and the correct procedures in relation to the pre-submission consultation and publicity being followed.
- 1.15 In relation to part (c), the Examiner has made a series of recommendations. The Council needs to consider what action to take in relation to these. This is discussed in section 2 of this report. The Council must also consider, under part (d) whether there are any other modifications which are required to ensure the basic conditions are met; to ensure the Neighbourhood Plan is compatible with the Convention rights, to ensure the requirements of legislation are met, and to correct errors. If the Council proposes to make a decision which differs from that recommended by the Examiner, and the reason for the difference is (wholly or partly) as a result of new evidence or a new fact or a different view taken by the Council as to a particular fact, then a six week period must be given for people to make representations. If the Council considers it appropriate, then the issue can be referred to further examination.<sup>1</sup>
- 1.16 Officers consider that the plan meets the requirements under part (d) but recommend that a number of further modifications are needed in addition to those recommended by the Examiner. These modifications are for the purpose of correcting errors and are permitted through Sch 4B 12 (6) (e) of the Town and Country Planning Act 1990. The modifications are recommended following a request from the Tiverton Neighbourhood Plan group for typographical corrections to be made to the Neighbourhood Plan following its regulation 16 stage submission for examination. This request was brought to the attention of the Examiner for the purpose of the examination of the Neighbourhood Plan, but the Examiner has advised that typographical corrections to the plan is a matter for the Neighbourhood Plan group and the Council.
- 1.17 The following two tables set out officers' recommendations which typographical corrections requested by the Tiverton Neighbourhood Plan group are agreed for the purpose of correcting errors in the plan (**Table 2**), and which typographical corrections are not agreed (**Table 3**), together with the reasons why. Those correction of errors that are agreed will need to be included in the Decision Statement, together with the Examiner's recommended modifications.

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<sup>1</sup> Regulations 12 and 13 of Schedule 4B of the Town and Country Planning Act 1990

- 1.18 The correction of errors set out in **Table 2** are minor and would not impact on the plan, and have been made in accordance with the relevant provision of the Act (Schedule 4B, paragraph 12(6)(e) modifications for the purpose of correcting errors. There is no requirement to consult on these corrections since they are typographical, grammatical or factual.

**Table 2 – Recommendations to agree typographical corrections to the plan requested by the Tiverton Neighbourhood Plan group, for the purpose of correcting errors**

<b>Regulation 16 examination draft Neighbourhood Plan – section / page / paragraph</b>	<b>Typographical corrections requested by the Tiverton Neighbourhood Plan group</b>	<b>Recommendation and reason</b>
Section 1 Introduction, Page 9, Paragraph 1.14	Replace the words “has been” with the word “was” and replace the word “this” between the words” alongside” and “Submission Version” with the word “the”	Agreed.  This is a factual correction to reflect that the Consultation Statement was submitted alongside the previous (submission) version of the neighbourhood plan.
Section 1 Introduction, Page 11, Paragraph 1.19	Remove the words “Pre-Submission Regulation 14”.	Agreed.  This is a factual correction since the Sustainability Report for the Regulation 14 version of the Neighbourhood Plan was updated following comments received from Natural England and was provided to the Examiner.
Section 2 Local Context, Page 13, Paragraph 2.5	Remove refurbishment comment as it was not carried out.	Agreed.  This is a factual correction.  Insert full stop after the word “Trust” and delete the words “and recently refurbished on the 150th anniversary of the publication of Lorna Doone by R D Blackmore, who was a pupil there.”



<b>Regulation 16 examination draft Neighbourhood Plan – section / page / paragraph</b>	<b>Typographical corrections requested by the Tiverton Neighbourhood Plan group</b>	<b>Recommendation and reason</b>
Section 2 Local Context, Page 13 Paragraph 2.6	Second picture - move apostrophe to after the “s” on “workers”.	Agreed.  This is a grammatical correction.  Move apostrophe to after the “s” on “workers” to read “workers’ cottages”.
Section 2 Local Context, Page 14, Paragraph 2.9	Line 7 misspelling of “Exe”.	Agreed.  This is a typographical correction.  Delete the space between the letters “x” and “e” in the word “Exe”.
Section 2 Local Context, Page 16, Paragraph 2.18	Line 10 needs a full stop after Covid 19.	Agreed.  This is a grammatical correction.  Insert a full stop after the word “Covid 19”.
Section 2 Local Context, Page 19, Paragraph 2.39	Last line needs a full stop after “accommodation”.	Agreed.  This is a grammatical correction.  Insert a full stop after the word “accommodation”.
Section 2 Local Context, Page 19, Paragraph 2.40	Line 2 there should be no “s” on the end of “meet”.	Agreed.  This is a typographical correction.  Delete the letter “s” form the word “meets”.
Section 2 Local Context, Page 19, Paragraph 2.40	Line 3 “has” should be “have”.	Agreed.  This is a typographical correction  Replace the word “has” with the word “have”.

<b>Regulation 16 examination draft Neighbourhood Plan – section / page / paragraph</b>	<b>Typographical corrections requested by the Tiverton Neighbourhood Plan group</b>	<b>Recommendation and reason</b>
Section 2 Local Context, Page 19, Paragraph 2.45	First bullet point - last line needs a full stop.	Agreed.  This is a grammatical correction.  Insert a full stop after the word “itself”.
Section 5 Housing, Page 32, Paragraph 5.3	Line 1 should be “of” rather than “for”.	Agreed.  This is a grammatical correction, and the substitution of the word does not alter the meaning of the sentence.  Replace the word “for” with the word “of”.
Section 5 Housing, Page 37 Text box after paragraph 5.21	Not in Italics.	Agreed.  While this is not a grammatical or a typographical correction, the removal of italics does not alter the content or meaning of the plan.
Section 6 Design and Heritage, Page 38, Paragraph 6.2	Line 1 “features” is plural so should be “define”.	Agreed.  This is a grammatical correction.  Replace the word “defines” with the word “define”.

<b>Regulation 16 examination draft Neighbourhood Plan – section / page / paragraph</b>	<b>Typographical corrections requested by the Tiverton Neighbourhood Plan group</b>	<b>Recommendation and reason</b>
Section 6 Design and Heritage, Page 38, Paragraph 6.3	Line 1 “series” is singular, so should be “is”.	Agreed.  This is a grammatical correction.  Replace the word “are” with the word “is”, between the words “There” and “ a series” .
Section 6 Design and Heritage, Page 38, Paragraph 6.4	Line 1 “conservation areas are not human and it should be “each with its own”.	Agreed.  This is a grammatical correction.  Replace the word “their” with the word “its” between the words “each with” and “own appraisal”
Section 6 Design and Heritage, Page 39, Paragraph 6.4	Part i. last line St Andrews Street should have no “s”.	Agreed.  This is a typographical correction.  Remove the letter “s” from the word “Andrews”.
Section 6 Design and Heritage, Page 40, Paragraph 6.9	Line 3 “Highways” should be singular.	Agreed.  This is a typographical correction.  Remove the letter “s” from the word “Highways”.
Section 7 Natural Environment, Page 64, Paragraph 7.8	In the fifth sentence replace the words “proposed spaces for designation” with the words “sites designated”.	Agreed.  This is factual correction to reflect that the Examiner’s report has agreed the sites that were proposed as Local Green Spaces.

<b>Regulation 16 examination draft Neighbourhood Plan – section / page / paragraph</b>	<b>Typographical corrections requested by the Tiverton Neighbourhood Plan group</b>	<b>Recommendation and reason</b>
Section 7 Natural Environment, Page 65, Paragraph 7.13	Line 1 add “trees” after “veteran”.	Agreed.  There is a missing word in the sentence, and a typographical correction is necessary so that the sentence makes sense.  Add the word “trees” after the word “veteran”.
Section 9 Transport and Movement, Page 101, Text box after paragraph 9.12	Not in Italics.	Agreed.  While this is not a grammatical or a typographical correction, the removal of italics does not alter the content or meaning of the plan.
Section 10 Tiverton town centre and the wider local economy, Page 106, Text box after paragraph 10.11	Line 7 potential visitor policy delete “with”.	Agreed.  This is a typographical correction.  Delete the word “with” between the words “other accommodation” and “to suit”.
Section 10 Tiverton town centre and the wider local economy, Page 108 Policy T17	Policy T17 should be T18.	Agreed.  This is a typographical correction.  Amend the number of Policy “T17” to Policy “T18”.

<b>Regulation 16 examination draft Neighbourhood Plan – section / page / paragraph</b>	<b>Typographical corrections requested by the Tiverton Neighbourhood Plan group</b>	<b>Recommendation and reason</b>
Section 11 Non Policy Community Actions, Page 110, Reference 9	Ref 9 add 'a' to 'community energy scheme'.	Agreed.  There is a missing word in the sentence, and a typographical correction is necessary.  Insert the word "a" before the words "community energy scheme".
Section 11 Non Policy Community Actions, Page 111, Reference 15	First sentence delete 'so that public transport'.	Agreed.  This is a typographical correction to remove superfluous words at the end of a sentence.  Insert a full stop after the word "services" and delete the words ", so that public transport".
Section 12 Monitoring and Implementation, Page 113 Paragraph 12.3	First bullet "Pursing" should be "Pursuing".	Agreed.  This is typographical correction.  Replace the first word of the first bullet "Pursing" with the word "Pursuing".
Appendix D Local Green Spaces, Page 128 Table, second row, second column	Second sentence – delete 'It is accessible to'.	Agreed.  This is a typographical correction to remove superfluous words at the end of a sentence.  Delete the words "It is accessible to" after the first sentence.

<b>Regulation 16 examination draft Neighbourhood Plan – section / page / paragraph</b>	<b>Typographical corrections requested by the Tiverton Neighbourhood Plan group</b>	<b>Recommendation and reason</b>
Appendix D Local Green Spaces, Page 129, Table, first row, second column	Should be 'site' not 'sites'.	Agreed.  This is a typographical correction.  Delete the letter "s" from the word "sites".
Appendix D Local Green Spaces, Page 130, Table, first row, second column	First sentence 'near opposite' should be 'nearly opposite'.	Agreed.  This is a typographical correction.  Amend the word "near" to "nearly" between the words "Gold Street" and "opposite the Clock Tower".
Appendix D Local Green Spaces, Page 130, Table, third row, second column	Needs a comma between ducks and coots.	Agreed.  This is a grammatical correction.  Insert a comma between the words "ducks" and "coots".
Appendix D Local Green Spaces, Page 133, Table, first row, second column	Third para comma before 'as well as'.	Agreed.  This is a grammatical correction.  Insert a comma between the words "park" and "as".

<b>Regulation 16 examination draft Neighbourhood Plan – section / page / paragraph</b>	<b>Typographical corrections requested by the Tiverton Neighbourhood Plan group</b>	<b>Recommendation and reason</b>
Appendix D Local Green Spaces, Page 157, Table, third row, second column	Omit 'provides'.	Agreed.  This is a typographical correction to remove a superfluous word in a sentence.  Delete the word “provides” between the words “associated walk” and “is used for”.
Appendix D Local Green Spaces, Page 158, Appendix D, Table, first row, second column	Description should read ‘These allotments are owned by Knightshayes Estates’ (ie not TCC)	Agreed.  This is a factual correction.  Replace the words “Tiverton Town Council” with “Knightshayes Estates”.
Appendix E, Locally significant views, Page 164 Table, first row second column	Head Wei’ should be ‘Head Weir’.	Agreed.  This is a typographical correction.  Amend “Head Wei” to read “Head Weir”.

**Table 3 – Recommendations to not agree typographical corrections to the plan requested by the Tiverton Neighbourhood Plan group**

<b>Regulation 16 examination draft Neighbourhood Plan – section / page / paragraph</b>	<b>Typographical corrections requested by the Tiverton Neighbourhood Plan group</b>	<b>Recommendation and reason</b>
Section 2 Local Context, Page 15, Paragraph 2.12	Last sentence include “Two Moors Way” after Exe Valley Way.	Not agreed.  The insertion of these words is not a typographical correction and would introduce new text into the plan that has not been consulted on or independently examined.
Section 2 Local Context, Page 19, Paragraph 2.41	Line 2 low “pay” rather than “productivity”.	Not agreed.  This is not grammatical or typographic correction, and would introduce new text into the plan that has not been consulted on or independently examined.
Section 4 Spatial Strategy, Page 30, Policy T1	Policy T1Biii ‘significant’ should be ‘significance’.	Not agreed.  This is not grammatical or a typographic correction.  The policy has been subject to an independent examination and the Examiner has not recommended a modification to Policy T1 to replace the word ‘significant’.



<b>Regulation 16 examination draft Neighbourhood Plan – section / page / paragraph</b>	<b>Typographical corrections requested by the Tiverton Neighbourhood Plan group</b>	<b>Recommendation and reason</b>
Section 4 Spatial Strategy, Page 30, Policy T1	Policy T1Bv 'it' should be 'they'.	Not agreed.  This is not grammatical or a typographical correction.  The policy has been subject to an independent examination and the Examiner has not recommended a modification to Policy T1 to replace the word 'it'.
Section 6 Design and Heritage, Page 49, Policy T6	Policy T6 C line 3 should be "integrity" rather than "interests".	Not agreed.  This is not grammatical or a typographic correction.  The policy has been subject to an independent examination and the Examiner has not recommended a modification to Policy T6 to replace the word "interests".
Section 10 Tiverton town centre and the wider local economy, Page 103, Paragraph 10.1	Include Taunton in the list of towns, after Barnstaple.	Not agreed.  This is not grammatical or typographic correction, and would introduce new text into the plan that has not been consulted on or independently examined.
Section 10 Tiverton town centre and the wider local economy, Page 107 Paragraph 10.12	Fourth bullet point to include "museum" in heritage assets.	Not agreed.  This is not grammatical or typographic correction, and would introduce new text into the plan that has not been consulted on or independently examined.

- 1.17 The Local Authority must consider whether to extend the area to which the Referendum is held under part (e). This is discussed in section 3 of this report.
- 1.18 If the Local Authority is not satisfied that the plan meets the basic conditions, is not compatible with Convention rights or requirements of legislation are not met then they must refuse the Neighbourhood Plan under part (f). This is not the case with this Neighbourhood Plan.
- 1.19 The Neighbourhood Plan (General) Regulations 2012 state that a LPA must publish the actions which will be taken in response to the recommendations of the Examiner. This is known as a 'Decision Statement'.

## **2.0 CONSIDERATION OF THE EXAMINER'S REPORT AND PROPOSED MODIFICATIONS**

- 2.1 The Examiner has recommended modifications to ensure that the Plan meets the basic conditions and have the clarity required by national guidance and ensure that the policies do what they are intended to do. These are set out in her report (see **Appendix 1**) and are also set out below in **Table 4**, together with the Council's decisions that are recommended by Officers, and the reasons for these:

**Table 4 – Examiner's recommended modifications**

<b>Neighbourhood Plan Policy</b>	<b>Examiner's recommended modifications</b>	<b>Recommended Council decision and reason</b>
Policy T1: Location and scale of development	In clause B criterion i. delete "Mid Devon District Council Local Plan Review" and replace with "Mid Devon Local Plan (adopted 2020)".	Agreed.  This modification is a factual correction to refer to the current adopted Mid Devon Local Plan and will add clarity.
Policy T3: Providing lifetime affordable housing	In clause C in third line delete "Mid Devon Local Plan Review" and replace with "Mid Devon Local Plan (adopted 2020)".	Agreed.  This modification is a factual correction to refer to the current adopted Mid Devon Local Plan and add clarity.

<b>Neighbourhood Plan Policy</b>	<b>Examiner's recommended modifications</b>	<b>Recommended Council decision and reason</b>
Policy T4: Character of development	<p>In clause A in first line delete the word “preserve” and replace with the word “conserve”.</p> <p>In clause B criterion iii:</p> <ul style="list-style-type: none"> <li>delete the words “should enhance the significance and setting of the asset” and replace with the words “must comply with national policy requirements including the submission of an appropriately detailed Heritage Statement.”.</li> <li>In the second sentence delete the word “This” and replace this with the word “Proposals”.</li> </ul> <p>After clause B criterion iii. delete the sentence “Proposals are expected to be accompanied by a Heritage Statement.”</p>	<p>Agreed,</p> <p>These modifications are needed to reflect the wording of national planning policy and will add clarity to the policy T4.</p> <p>The modifications will add clarity and meet the Basic Conditions.</p>

<b>Neighbourhood Plan Policy</b>	<b>Examiner's recommended modifications</b>	<b>Recommended Council decision and reason</b>
Policy T6: Energy efficiency and design	<p>In clause A:</p> <ul style="list-style-type: none"> <li>In the second sentence, add the word "above" after the word "achieve", delete the word "minimum" and delete the words ", unless it can be demonstrated that doing so is not technically feasible or would make the scheme unviable:" Add a new sentence at the end of clause A "This includes wherever possible:"</li> </ul> <p>In clause A criterion i:</p> <ul style="list-style-type: none"> <li>Replace the first letter 'e' with a capital "E" in the word "energy"</li> <li>After the words "Energy efficiency" delete the words "19% carbon dioxide reduction improvement against Part L (2013)30 through the energy efficiency of the building" and replace with "measures to reduce carbon dioxide outputs both in construction and operation above policy requirements".</li> </ul> <p>In clause A criterion 1 add the word "achieving" after the word "Major:"</p>	<p>Agreed,</p> <p>These modifications are needed to reflect that the Building Regulations (2013) have been replaced by the Building Regulations (2021) which took effect from 15<sup>th</sup> June and which represent a 20-30% uplift on the previous regulations.</p> <p>The addition of the word "achieving" will add clarity to the plan.</p> <p>The modifications will add clarity and meet the Basic Conditions.</p>
Policy T8: Local buildings and structures of merit and local heritage assets at risk	<p>In clause A delete the words "Mid Devon Local Plan Review" and replace with the words "Mid Devon Local Plan (adopted July 2020)".</p> <p>In clause B criterion v. delete the words "Mid Devon Local Plan Review" and replace with the words "Mid Devon Local Plan (adopted July 2020)".</p>	<p>Agreed.</p> <p>This modification is a factual correction to refer to the current adopted Mid Devon Local Plan.</p>

Neighbourhood Plan Policy	Examiner's recommended modifications	Recommended Council decision and reason
<p>Policy T9: Green and blue infrastructure and delivering biodiversity net gain</p>	<p>In clause A second sentence;</p> <ul style="list-style-type: none"> <li>delete the words “, the delivery of a minimum 10% biodiversity net gain for local people and wildlife required.” and replace these with the words “Proposals should include biodiversity net gain, which as a minimum meets national policy requirements.”</li> </ul> <p>In clause B:</p> <ul style="list-style-type: none"> <li>delete the word “Development”, and replace with the words “In accordance with national policy, proposals”.</li> <li>delete the word “not” between the words “not” and “be”</li> <li>delete the word “supported,” and add the words “refused unless there are wholly exceptional reasons, and a suitable compensation strategy exists.”</li> </ul> <p>In clause D:</p> <ul style="list-style-type: none"> <li>delete the words “to ensure that surface water run-off is prevented.” and add the words “to ensure that all drainage proposals demonstrate that they will have no adverse impact on the SSSI.”</li> </ul>	<p>Agreed.</p> <p>These modifications reflect that there is currently no legal requirement to provide a 10% biodiversity net gain. Although included in the Environment Act 2021 this provision will only become mandatory when the Town and Country Planning Act is amended and this is only likely to become law in 2023.</p> <p>The modification to clause D reflects advice provided by Natural England.</p> <p>The modifications will add clarity and meet the Basic Conditions.</p>

<b>Neighbourhood Plan Policy</b>	<b>Examiner's recommended modifications</b>	<b>Recommended Council decision and reason</b>
Policy T10 Local green spaces	<p>Delete the words "The 30 areas listed in paragraph 7.18 and shown in Figures 7.3 and on the Policies Map are designated as a Local Green Spaces. Development proposals within the designated local green space will only be supported in very special circumstances." and replace this text with the following words:</p> <p>"The following sites are designated as Local Green Spaces as shown in Figures 7.3 and on the Policies Map:</p> <ol style="list-style-type: none"> <li>1. Green space in The Avenue</li> <li>2. Westexe Recreation Ground off Wellbrook Street</li> <li>3. Lowman Green, at the bottom of Gold Street</li> <li>4. Leat Street open space</li> <li>5. Beech Road Allotments</li> <li>6. People's Park</li> <li>7. Amory Park, inc. BMX track, off Siddals Gardens</li> <li>8. 'Community' field on the confluence of the Exe and Lowman</li> <li>9. Tomswell allotments, near Rackenford Road</li> <li>10. Green space, off Rooks Way</li> <li>11. Pinnex allotments, off Park Road</li> <li>12. King Street Allotments</li> <li>13. Harrowby Allotments, Lewis Avenue</li> <li>14. Green Space to the opposite of 1-4 College View</li> <li>15. Green space at Atherton Way, Canal Hill</li> <li>16. Hay Park</li> <li>17. Cluster of green spaces within the Pinnex Moor Estate</li> <li>18. Cluster of green spaces within the Moorhayes Estate</li> </ol>	<p>Agreed.</p> <p>The modification will reflect the requirements of the NPPF 2021 and recent case law. It will add clarity and meet the Basic Conditions.</p>

Neighbourhood Plan Policy	Examiner's recommended modifications	Recommended Council decision and reason
	<p>19. Palmerston Park estate community space</p> <p>20. Green space with play area at Roundhill, Cotteylands</p> <p>21. Adventure playground, Cowleymoor Road</p> <p>22. Rugby fields</p> <p>23. Playing field at Blackmore Road Wilcombe</p> <p>24. Grounds of Sunningmead Community Centre</p> <p>25. Green space at the end of Glebelands Road</p> <p>26. Narrow Lane &amp; Howden Road green space</p> <p>27. Colley Stream green space</p> <p>28. John Street Allotments</p> <p>29. Elmore Allotments</p> <p>30. Ashley Rise Play Area</p> <p>Inappropriate development will not be supported except in very special circumstances."</p>	
Policy T11 Locally significant views	In clause A, third sentence delete the words "not" and "permitted" and replace with the words "not" and "supported".	<p>Agreed.</p> <p>This modification will add clarity and meet the Basic Conditions.</p>
Policy T14 Cultural and community venues	<p>In clause A in the first sentence:</p> <ul style="list-style-type: none"> <li>• add the words "for a change of use" between the word "Proposals" and the words "that would result in"</li> <li>• delete the words "(Use Class F)" between the words "community facilities" and "will only be supported"</li> <li>• after the word "provided" add the words "or where there is evidence to prove that the facility is no longer required or that is no longer viable."</li> </ul> <p>In criterion iii. after the word "is," add the words "where possible".</p>	<p>Agreed.</p> <p>The modifications will add clarity to the policy in relation to the use classes order, include the consideration of the viability of a facility, and remove the inflexible nature of the policy for when a replacement facility is made available.</p>

<b>Neighbourhood Plan Policy</b>	<b>Examiner's recommended modifications</b>	<b>Recommended Council decision and reason</b>
Policy T16 Encouraging safe and sustainable movement	<p>In clause D:</p> <ul style="list-style-type: none"> <li>• add the words “wherever possible” between the words “Proposals should provide” and the words “the following infrastructure”.</li> <li>• Delete the word “Review” after the words “Mid Devon Local Plan” and replace this with the words “(adopted 2020):”.</li> </ul>	<p>Agreed.</p> <p>These modifications will remove the inflexible nature around the provision of the infrastructure that is identified in the policy where the requirement may not be appropriate or achievable for all developments, and include a factual correction to refer to the current adopted Mid Devon Local Plan.</p>



<b>Neighbourhood Plan Policy</b>	<b>Examiner's recommended modifications</b>	<b>Recommended Council decision and reason</b>
Policy T17 Supporting a sustainable visitor economy	<p>In the first paragraph:</p> <ul style="list-style-type: none"> <li>• before the word "policies" delete the word "other" and insert the word "the",</li> <li>• insert the word "Development" before the word "Plan".</li> <li>• delete the words "the following criteria can be met".</li> </ul> <p>In criterion iii:</p> <ul style="list-style-type: none"> <li>• Delete the words "For proposals within the settlement Boundary, there should be no detrimental impact upon traffic movement through the town; and" and replace this with the words "A Transport Impact Assessment or Transport Statement demonstrates that the impact on traffic movement through the town can mitigated; and".</li> </ul> <p>In criterion iv:</p> <ul style="list-style-type: none"> <li>• delete the words "developments should be in accessible sites" and replace with the words "proposals are in an accessible location"</li> </ul> <p>In criterion v:</p> <ul style="list-style-type: none"> <li>• add the words "There is" before the words "Adequate provision" and replace the capital letter "A" with a lower case "a" in the word "Adequate"</li> <li>• delete the words "is included," after the words "- both car and bicycle –"</li> </ul>	<p>Agreed.</p> <p>The modifications will add clarity to the policy.</p>

The Examiner's recommended modifications and the Council's decisions and reasons (in **Table 4**) are set out in the Decision Statement attached at

**Appendix 2.** The Decision Statement also includes the correction of errors which it is recommended are agreed (see **Table 2**) of this report.

- 2.2 Having considered each of the recommendations made in the Examiner's Report and the reasons for them, Officers agree that the Examiner has undertaken a fair examination of the submitted Neighbourhood Plan, properly considering all duly made representations. Officers recommend that the Council agrees with all of the Examiner's modifications to the Neighbourhood Plan.
- 2.3 Tiverton Town Council has been provided with the Examiner's report and has not made any comments on the modifications recommended by the Examiner. Tiverton Town Council has amended the Neighbourhood Plan to include the Examiner's recommendations (set out in **Table 4**) and correction of errors identified in **Table 2**, and has provided a reformatted "referendum" version of the neighbourhood plan (**Appendix 3**) to meet the 2018 Accessibility Regulations.
- 2.4 Officers have considered whether any other modifications are required to ensure that the Neighbourhood Plan meets the required conditions. It is not considered that any additional modifications are required except the correction of errors included in Table 2 of this report.
- 2.5 Officers consider that, subject to the Examiner's modifications and correction of errors being made to the Plan, the Tiverton Neighbourhood Plan meets the basic conditions set out in paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990 (as amended), is compatible with the Convention Rights and meets the requirements of paragraph 8(1) of Schedule 4B to the Town and Country Planning Act (as amended).

### **3.0 Next steps and Referendum**

- 3.1 It is recommended that Cabinet agrees the Examiner's recommended modifications to the Neighbourhood Plan (set out in **Table 4**) and the correction of errors listed in **Table 2** of this report, and that the modified Neighbourhood Plan proceeds to a local Referendum. The Neighbourhood Plan incorporating the Examiner's modifications and the correction of errors is attached at **Appendix 3**.
- 3.2 It is recommended that Cabinet agrees the Decision Statement (see **Appendix 2**) and that this is published as soon as possible and publicised in a manner to meet publicity requirements in the Regulations.
- 3.3 In relation to the Referendum area, the Examiner is satisfied that the Referendum Area should be the same as the Plan Area. There is no reason to alter, or extend the Plan area, for the purpose of holding a Referendum. Officers agree with this recommendation and therefore recommend to Cabinet that the area for the Referendum should be the Tiverton Neighbourhood Plan Area as approved by Mid Devon District Council on 12<sup>th</sup> November 2018. (shown in **Appendix 2**). The Neighbourhood Area covers the entirety of Tiverton parish.

- 3.4 Once the Council has published the Decision Statement detailing its intention to send the Tiverton Neighbourhood Plan to Referendum, the Council's Development Management Team will be able to give significant weight to this plan when determining planning applications within the Tiverton Neighbourhood Plan Area.
- 3.5 Subject to the decision of Cabinet recommended in this report, arrangements will be made for the Referendum to be held in the Tiverton Neighbourhood Plan area (Tiverton Parish). To meet statutory requirements the Referendum will be held within 56 working days following the publication of the Decision Statement and the date for the Referendum will be published not fewer than 28 days before the date on which the Referendum will be held.
- 3.6 To meet the requirements of the Localism Act 2011 the Referendum will pose the following question:
- “Do you want Mid Devon District Council to use the Neighbourhood Plan for Tiverton to help it decide planning applications in the neighbourhood area?”**
- 3.7 Following the Referendum, if more than 50% of those voting, vote 'yes' then the Neighbourhood Plan comes into force and must be 'made' within eight weeks of the Referendum.

#### **4.0 Planning Policy Advisory Group**

- 4.1 The Planning Policy Advisory Group (PPAG) was consulted on the decision on the Examiner's report for the Tiverton Neighbourhood Plan at its meeting on 1<sup>st</sup> August 2022 and has noted the recommendation.

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#### **Circulation of the Report:**

Councillor Richard Chesterton – Cabinet Member for Planning and Economic Regeneration  
Leadership Team  
Legal Services  
Finance

#### **List of Background Papers and Links:**

#### **Appendix 1 - Examiner's Report**

**Appendix 2** - Decision Statement for the Tiverton Neighbourhood Plan

**Appendix 3** - Tiverton Neighbourhood Plan