

## Our predicament

### Background

Government legislation requires all local planning authorities to maintain at least a five-year housing land supply (5YLS) in their area. East Devon District Council (EDDC) produces an Annual Monitoring Report which monitors the supply of housing land and that they can deliver a flexible supply of land for housing.

The “current” Local Plan for East Devon, which sets out the housing requirement for the District, expired in 2011 – the New Local Plan 2006-26 is currently in production and has now closed for consultation. Prior to it being adopted it has to go through a Public Enquiry led by a Planning Inspector. It is unlikely to be adopted until 2014.

As you can see there is a “Time Gap” between the end of the old plan and the adoption of the new plan.

To complicate matters further the Government has produced “The National Planning Policy Framework” which sets out the Government’s planning policies and how these are expected to be applied. There is a presumption in favour of sustainable development provided schemes do not conflict with other policies in the NPPF, particularly where there is a shortfall in the five year supply of housing land and no up-to-date Local Plan.

The Localism Act seeks to devolve greater powers to local communities. It is from this legislation that we as a community get our right to determine our own future through a Neighbourhood Plan.

### Recent cases

So where does this leave Lymptone (or indeed any other Town or Parish in East Devon). In truth the answer must be “we just don’t know”!! There have been three significant events which all conflict with each other;

1. In January 2013 the planning application for Glebelends was approved by EDDC against the wishes of the local residents and the community (as expressed in the Neighbourhood Plan consultations). It was justified on the grounds that it met EDDC’s policy of allowing mixed schemes for affordable and market housing outside the built up area of a village provided that a local housing need had been established and two thirds of the housing would be geared to meeting this need. The community wishes as to where housing should go (part of the Neighbourhood Plan) were not yet validated nor proven and could not therefore be given sufficient weight to justify a refusal.
2. In 2012 there were 5 large appeals (Courtlands Cross being the first). Of most significance was the appeal in November 2012 in Ottery St Mary. The appeal inquiry was heard from November 27<sup>th</sup> – 29<sup>th</sup> and inspector Neil Pope (who presided over the Courtlands enquiry) has since ruled in favour of the developer, saying there is a “*compelling*” case to approve the outline planning application. He acknowledged that there was significant local opposition to the proposal, but said in the ruling: “*There is much local opposition to the appeal scheme and I have noted a government objective of empowering local people to shape their surroundings. Whilst I do not set these concerns aside lightly, local opposition is not in itself sufficient to withhold permission.*” In short, EDDC refused the application because it was felt the proposal was contrary to adopted development strategy and would lead to the loss of agricultural land, but the developer claimed that EDDC used “*aged development plan policies*” which were in conflict with the more recent National Planning Policy Framework. The inspector sided with the developer and said: “*I conclude that there is a shortfall in the five-year supply of housing land within the district and the proposal would not have any harmful implications for the adopted and emerging spatial vision for East Devon. I conclude that the proposal would not result in a significant and unacceptable loss of best and most versatile agricultural land. When all of the matters are weighed, there is a compelling case for releasing this site for housing and there are no adverse impacts that would significantly and demonstrably outweigh the benefits of the scheme. Whilst my findings will disappoint many residents, the evidence leads me to conclude that permission should not be withheld. The appeal should therefore*

succeed.” An EDDC spokesperson said: “The importance of the so-called ‘Five-year Land Supply’ has always been an important consideration, but it now carries more weight since the Government published its National Planning Policy Framework (NPPF) earlier this year.”

3. EDDC’s 5YLS figures have now been updated (along with a 20% penalty increase for not having a 5YLS in place in September 2012). The methodology used by EDDC has been based on the uniqueness of Cranbrook and they have therefore looked at the 5YLS in two sections the “West End” (Cranbrook) and the remainder of East Devon – the former not having a 5-year supply whilst the latter had a more than adequate supply. EDDC Planning Officers say that this is because Cranbrook, which previously had been stalled, has now speeded up and the rate of planning permissions has increased, resulting in a more secure position for the rest of East Devon. However despite this EDDC’s 5YLS is still short of target when measured against the criteria used by the Ottery St Mary Planning Inspector. The published figures by EDDC are:-<sup>1</sup>
  - i. A District wide 5YLS = 4.07 years
  - ii. A West End 5YLS = 3.1 years
  - iii. A Rest of East Devon 5YLS = 7.3 years

But these figures do not include the 20% penalty

In terms of numbers of houses:-

The above figures represent a 5 year build of	4,471 new houses
To achieve a 5YLS	5,487 new houses
To achieve a 5YLS +20%	6,585 new houses
Incremental allocations required	2,114 new allocations

The Officers go on to state in paragraph 7.1 – “In the light of the above considerations it is not regarded as appropriate to apply a ‘free-for-all’ or anything goes approach to granting planning permission. But the likelihood must remain (based on the reasoning used by the Inspector at the Ottery St Mary Appeal) that we will, for some time at least, fall below having a five year land supply. Arguments of over-supply or even just having an acceptable supply of land will not therefore be a reasonable factor to use in refusing planning permission.”

**This is completely unacceptable** since this gives developers carte blanche to put forward planning applications for land just outside the Built-up Area Boundary (BuAB) on the justification of a lack of a 5YLS. These without any heed of the need or effect on the local community – I can count in excess of potentially 500 new homes around Lymphstone, and currently our defences are very weak.

#### Action

1. That is one reason why we must continue with the Neighbourhood Plan. It may not carry “significant weight” until it has been subject to an examination and referendum – but it will reflect and represent the community view and it might be all we have in our defence in the absence of an up-to date Local Plan.
2. Pressure must be brought to bear upon EDDC to come up with an alternative to a “accept the inevitable” as a working policy. Members must insist that an interim policy is put in place until the New Local Plan is adopted in 2014 and will be defended by them at appeals.
3. The seriousness of this situation must be brought to public attention through exposure to the media.

Rob Longhurst  
27<sup>th</sup> January 2013

Link to Development Management Committee Agenda 5<sup>th</sup> February  
[http://www.eastdevon.gov.uk/combined\\_dmc\\_agenda\\_050213.pdf](http://www.eastdevon.gov.uk/combined_dmc_agenda_050213.pdf)

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<sup>1</sup> Development Management Meeting Agenda 5<sup>th</sup> February 2013