

24/6/24

Dear Planning Policy Team,

East Devon Further Draft Local Plan Consultation, June 2024

1. Thank you for consulting with the Home Builders Federation (HBF) on the East Devon Further Draft Local Plan Consultation, June 2024.
2. The HBF is the principal representative body of the house-building industry in England and Wales. Our representations reflect the views of our membership, which includes multi-national PLC's, regional developers and small, local builders. In any one year, our members account for over 80% of all new "for sale" market housing built in England and Wales as well as a large proportion of newly built affordable housing.
3. HBF welcomes the Council's efforts to ensure that they have an up to Local Plan. Plan-making is a fundamental part of a Local Authority's role and is essential to support the delivery new homes and jobs.
4. HBF is concerned about the piecemeal nature of the current consultation which has the potential for confusion as different elements of the Plan are being consulted on at different times. This create the potential for policies not to be considered in a holistic manner, which to the detriment of good plan-making.
5. We note the Council is currently only seeking views on the following specific topics:

New Housing and Mixed Use Site Allocations
New Employment Site Allocations
Designated Neighbourhood Area Housing Requirements
Clyst Valley Regional Park
Town Centre Retail Areas
Coastal Preservation Area
Green Wedges
Sustainability Appraisal

We have provided comments on those issues of relevance to our members.

New Housing and Mixed Use Site Allocations

6. HBF do not comment on individual site allocations. We would however expect the Local Plan to set out a logical settlement hierarchy which meets all the housing needs and addresses all areas of the housing market, with a range of sites proposed for allocation.



7. HBF would, however note that Mandatory BNG for large sites came in on 12th Feb 2024, and for small sites on 4th April. The final version of the DEFRA Guidance was published on 12th Feb, but it was not until the 14th Feb 2024 that the new BNG PPG was published. All of this occurred after the close of the first Regulation 18 consultation for this Plan. HBF is therefore disappointed and surprised that Biodiversity Net Gain is not a topic that is subject to this current consultation.
8. It will be important for the Council to understand the costs of BNG, in terms of both finance and land take, in order to ensure that individual site allocations are viable, and that the policies in the Plan when taken as a whole are not so burdensome on development that they make delivery unachievable. It will be important to consider how BNG impacts on viability, and how this works with other policy requirements such as affordable housing, and other s106 contributions.
9. HBF would also encourage the Council to ensure the Local Plan fully considers and evidences, how BNG has formed part of the site selection process. This should include understanding the BNG requirement, including undertaking an assessment of the baseline to support the allocation.

Designated Neighbourhood Area Housing Requirements

10. HBF agree with the caution that the Council is applying when seeking to set the Designated Neighbourhood Area Housing Requirements for Neighbourhood Plans. HBF recognise the long and extensive history of Neighbourhood Planning in East Devon and this underlined the importance of the Plan in providing clarity for Neighbourhood Plans as they emerge or are reviewed.
11. HBF agree that it is not appropriate to include a windfall allowance within the neighbourhood area calculations as there can be no guarantee of housing delivery through windfalls as they are, by their very nature, unknown and unplanned for sites.
12. HBF note that the consultation says East Devon District Council “are not proposing to rely on any housing numbers being delivered through new and emerging neighbourhood plans in either of the options. The new Local Plan would therefore not place any expectation on neighbourhood plans to allocate sites for housing in order to meet the minimum District housing requirement. However, this would not prevent communities choosing to make additional provision for housing through neighbourhood plans. This is similar to the policy approach taken in the adopted Local Plan.” HBF supports this approach.
13. It is also noted that the consultation is explicit that the housing requirement for Neighbourhood Plans is only a minimum. This is an important consideration.
14. HBF do however remain concerned about the amount of the East Devon Housing Requirements that will be delivered through Neighbourhood Plans in light of the voluntary nature of the Neighbourhood Plans. It is important that the Council robustly

monitors the delivery of housing from all sources and takes prompt action to address any under-delivery of housing identified in monitoring.

15. HBF therefore welcome the Council's recognition in the consultation document that "The justification to the policy would be expected to confirm that there is no expectation for neighbourhood plans to make housing provision to meet the District minimum housing requirement. Also, that if some housing supply identified within the figures should not materialise (e.g. because planning permissions expire) there would be no expectation on neighbourhood plans to address the shortfall. Instead, the local plan intends to manage this risk through the amount of housing it makes provision for in local plan allocations."
16. However, this means it will be important for the Eats Devon Local Plan Monitoring Chapter and Monitoring Framework to set out how this will be done and what actions would be undertaken and when in the event of under-delivery of housing from any source, and in particular if Neighbourhood Plans failed to allocate sites, or the sites they have allocated failed to come forward.

Green Wedges

17. HBF would question the justification and value for the Council considering its Green Wedge policy in isolation. Surely a key purpose of the Local Plan is to allocate sites for housing and other uses. This requires the Plan to consider the benefit of housing delivery and growth, which may then need to be considered and weighed against other impacts. Seeking comments on the boundaries of the Green Wedge in isolation undermines this process.
18. HBF would question value of the Green Wedge policy, and what support there is for this approach in national guidance. HBF would suggest that applications outside the BUA should be considered against Countryside and other policies on their own merits.
19. However, as the Council is seeking views on Green Wedge boundaries we would offer the following observations about the proposed policy. HBF do not comment on individual site allocations and would therefore not wish to comment on the individual boundaries of Green Wedges. However, HBF would highlight that the proposed wording of the Green Wedge policy may have an unintended consequence of hampering off-site BNG or SANGS delivery within Green Wedges, which may be suitable for such uses.
20. If the policy were to be retained, HBF would suggest the current proposed wording is not comprehensive enough and needs expanding to say more on what development is acceptable in Green Wedges. For example, the development of footpaths or public access gates may require planning permission. Similarly, the development of ponds, or other land working to deliver biodiversity improvements may also require permission.
21. HBF note that the current draft policy wording says:

“Green Wedges are defined on the Policies Map and are identified as areas between settlements where constraints on development are essential to prevent physical or visual coalescence and/or maintaining the character and identity of those settlements or a sense of intrinsic separation.

Development will not be permitted in defined areas if that development would create in its own right or add to existing sporadic or isolated development or damage the individual identity of a settlement or could lead to, encourage or start to lead to actual or potential for settlement coalescence.”

22. HBF suggest that it would assist landowners, developers and communities to know that development within Green Wedges to support Biodiversity, improve public access, deliver SANGS and mitigate phosphate and nitrate issues, would be acceptable in principle. By way of example, HBF would draw the Council's attention to an adopted Green Wedge Policy in Harborough District Council's Local Plan:

[Harborough Local Plan 2011-2031 | Harborough District Council](#)

GD7 Green Wedges

1. The Leicester/Scraptoft/ Bushby Green Wedge and Thurnby/Leicester/Oadby Green Wedge are defined on the Policies Map with the aims of:

- a. preventing the merging of settlements;
- b. guiding development form;
- c. providing access from urban areas into green spaces/open countryside; and
- d. providing recreational opportunities.

2. Development within Green Wedges will be permitted where:

- a. it relates to agriculture, horticulture, forestry, nature reserves, allotments, burial grounds, outdoor leisure, sporting or recreation facilities including school playing fields, cycleways, footpaths or bridleways;
- b. it retains the open and undeveloped character of the Green Wedge;
- c. it retains or creates additional green networks between the countryside and open spaces within the urban areas and benefits biodiversity;
- d. it retains or enhances public access to the Green Wedge, especially for recreation; and
- e. any built development is small scale and necessary to the operational requirements of the activity.

23. If there is to be a green wedge policy, then the Council must be careful to ensure that only land included in the Green Wedge must effectively contribute towards serving the purposes of the green wedge policy. This can only be assured through detailed consideration of the form and function of each Green Wedge. A more “blanket” approach that is not informed by a full and robust assessment will come under pressure, will not be effective and will reduce the scope for development options unnecessarily. That is not a sound approach to planning.
24. HBF note that in East Devon, Green Wedges are intended to serve of policy function of preventing coalescence. If the policy is to be retained, it is therefore essential that this function is clearly set out in policy. This will enable the functionality of the Green Wedge to be weighed into the planning balance against other factors, for example in the case of a windfall site being proposed as a response to severe under-delivery of housing. As such HBF are of the view that Green Wedge boundaries should be drawn to exclude

housing allocations. The inclusion of housing and/or employment allocations within a Green Wedge would be confusing, ineffective and unjustified.

Sustainability Appraisal

25. HBF is unclear why the first part of the Sustainability Appraisal (pages 16- 22) does not appear to assess the sustainability of different policy and spatial option within the new Local Plan but instead seems to consider the sustainability impacts of having a up-to-date Local Plan versus not having a new Local Plan. As the requirement to have an up-to-date Local Plan is required by national policy, not having a plan is not a reasonable alternative to having Plan. This section therefore does not reflect the purpose of the Sustainability Appraisal and is confusing.
26. HBF are also concerned that the Sustainability Appraisal does not properly reflect the impact on mandatory Biodiversity Net Gain (BNG). BNG requires development to leave biodiversity 10% better than its pre-development value in line with national mandatory BNG policies that came in on 12th Feb 2024 for large sites, and 2nd April 2024 for small sites. This means development should be viewed as having a positive impact on biodiversity. Although this is a factor will apply as a potential benefit to all sites, the methodology should still explicitly recognise this positive impact on new development on BNG.
27. HBF do not comment on individual site allocations or assessments.

Other Matters- Plan Period

28. HBF note that the current consultation still refers to the new Plan for East Devon covering the period 2020-2024. The NPPF states strategic policies should look ahead over a minimum 15-year period from adoption and that where larger scale developments form part of the strategy for the area, policies should be set within a vision that looks further ahead (at least 30 years), to take in account the likely timescale for delivery. In recognition of the time it can take to progress a new Local Plan through all its required stages, HBF suggests that the Council should considers extending the Plan period to ensure that a 15-year period is provided post adoption of the Plan. It will also be important for the evidence base to be consistent with the Plan Period.

Other Matters – Biodiversity Net Gain

29. As mentioned earlier, HBF are somewhat surprised that this Local Plan consultation has not sought views on the impactions of the introduction of mandatory on the new East Devon Local Plan. HBF has been involved in a significant amount of work, being led by the Future Homes Hub, on BNG preparedness for some time and note the final version of DEFRA BNG Guidance was published on 12th Feb 2024 and the final version of the PPG published on Feb 14th 2024. HBF understand that both may be further refined once mandatory BNG is working in practice, to reflect any early lessons learnt.

30. In light of all the new guidance on BNG that has recently been published, HBF are strongly of the view that the Council should be ensuring its approach to BNG fully reflects all the new legislation, national policy and guidance. HBF note that there is a lot of new information for the Council to work through and consider the implications of, in order to ensure that any policy on Biodiversity Net Gain policy so that it complies with the latest policy and guidance now this has been finalised. It should also be noted that the PPG is clear that there is no need for individual Local Plans to repeat national BNG guidance.
31. It is HBF's opinion that the Council should not deviate from the Government's requirement for 10% biodiversity net gain as set out in the Environment Act. There are significant additional costs associated with biodiversity gain, which should be fully accounted for in the Council's viability assessment. It is important that BNG does not prevent, delay or reduce housing delivery. Although the national policies requiring 10% BNG cannot be subject to site specific viability discussion, any policy requirements over 10% can be. Any policy seeking more than 10% BNG needs to reflect this position.
32. Para 6 of the new BNG PPG clearly states:
- Plan-makers should not seek a higher percentage than the statutory objective of 10% biodiversity net gain, either on an area-wide basis or for specific allocations for development unless justified. To justify such policies they will need to be evidenced including as to local need for a higher percentage, local opportunities for a higher percentage and any impacts on viability for development. Consideration will also need to be given to how the policy will be implemented.
33. It is also important to note that large and complex sites where the development is phased, the guidance is clear that the 10% must be delivered at the end of the development, and this may not result in 10% BNG on each phase. Additional advice on phased development was included in the revised PPG.
34. HBF also suggest particular care is needed in terminology to ensure the BNG policy reflects the national policy and guidance. For example, on-site and off-site biodiversity is referred to as units, and the statutory national credit system of last resort is referred to as credit. Similarly, it will be important to differentiate between the mitigation hierarchy, which seeks to avoid harm and then mitigate it in relation to protected habitats and the BNG delivery parts of the hierarchy which prioritises on-site BNG delivery, then off-site units and finally allows for statutory credits. National BNG policy allows for all three of these options.
35. The potential conflict between the Lawton Principles for delivery biodiversity- bigger better and more joined up, as set out in the Making Space for Nature report: a review of England's wildlife sites, and the fragmented BNG that could end up being provided by on-site BNG delivery in small sites which may be disparate and disjointed, should also be recognised. This may necessitate moving down the BNG delivery hierarchy to off-site BNG where this can deliver better ecological outcomes.

36. The costs of BNG must also be considered as part of the whole plan viability assessment and should be specified as a single specific item, not combined into a generic s106 costs item. There are significant additional costs associated with biodiversity net gain, which should be fully accounted for in the Council's viability assessment, some of which are unknown at this time. It is important that BNG does not prevent, delay or reduce housing delivery. As this is an emerging policy area and the market for off-site provision is still emerging, the figure used for BNG costs will need to be kept under review as BNG implementation progresses and a greater understanding of actual costs become available. The Whole Plan Viability Assessment should clearly set out how it considered the implications of mandatory BNG and how it was arrived at using the most up to date BNG costs information available.
37. HBF suggest that there will also be a need for the BNG policy and supporting text will need to say something about Local Nature Recovery Strategies. Although these are new initiative, and one has yet to be prepared that covers East Devon, which will be prepared by Devon County Council, the LNRS will be an important part of setting a spatial strategy for Nature. As such, as the LNRS emerges it will be important for this Local Plan to be kept under review and further public consultation on the interaction between the two documents and/or changes to Local Plan policy to reflect the LNRS may be needed.
38. As we said earlier, HBF would also encourage the Council to ensure the Local Plan fully considers and evidence how BNG should inform the site selection process. This should include understanding the BNG requirement, including undertaking an assessment of the baseline to support site allocations.
39. Reference could also usefully be made within the Plan to the small sites metric. This is intended to be a less complex statutory metric that can be used to set out how 10% BNG will be secured on small sites. It can only be used for on-site BNG delivery. The national mandatory 10% BNG policy has applied to small sites since April 2024.
40. HBF believes BNG should be a significant factor in emerging Local Plans and may require additional research, evidence work, policy and guidance for it to be made to work in practice. Plan-making is the appropriate stage for many BNG issues to be considered and we therefore suggest that the East Devon Local Plan will need ensure that it is doing all it can to support the delivery of the national mandatory BNG policy through providing clear advice guidance and, wherever possible, certainty for developers and landowners and communities on what is expected. It is essential that BNG does not become a barrier to the delivery of much needed housing.

Future Engagement

41. I trust that the Council will find these comments useful as it continues to progress its Local Plan. I would be happy to discuss these issues in greater detail or assist in facilitating discussions with the wider house building industry.

42. HBF would like to be kept informed of all forthcoming consultations upon the Local Plan and associated documents. Please use the contact details provided below for future correspondence.

Yours sincerely,

A handwritten signature in blue ink that reads "R. H. Danemann". The signature is written in a cursive style with a large 'R' and 'D'.

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