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26/01/26

Dear Planning Policy Team,

SECOND CONSULTATION ON EAST DEVON LOCAL PLAN 2020 to 2024: REGULATION 19 PUBLICATION DRAFT FEB 2025

1. Thank you for consulting with Home Builders Federation (HBF) on the Second Version of the East Devon Local Plan Publication (Regulation 19).
2. 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 provided detailed comments in response to the March 2025 First Regulation 19 consultation raising concerns about the process the Council was intending to follow. These concerns remain. We remain very concerned that East Devon is attempting to manipulate the transitional arrangements to try and adopt a Plan which plans for only 80% of the housing needs of East Devon, rather than planning for the full needs as would be required by a Plan that had reached publication stage in Jan 2026 as is actually the case for this Plan. The Council's own reports in support of the Plan clearly set out this choice. We are disappointed that the Council is so blatantly and explicitly seeking to manipulate the transitional arrangements for this purpose instead of seeking to proactively plan to meet the housing needs of their area in full. Such an approach is even more surprisingly when the Council is also actively seeking to deliver a significant uptick in housing numbers through the new community of Marcombe.
4. The publication of the new 2025 NPPF for consultation just before Christmas sets out the clear direction of travel of Government policy and practice for planning. This further underlines our concerns about the process. We have therefore provided further comments about our concerns about the process which build on the issues we have raised previously. In order to effectively engage with the consultation process we have needed to refer to 2023, 2024 and 2025 versions of the NPPF. For clarity we have therefore specified which NPPF version we are referring to in each case. We have clearly stated which version of the NPPF when we are referring to the NPPF. This is in recognition of the fact that the Plan is being considered against the 2023 version but is mindful of the 2024 version provides context and direction of travel from the Government. However, the new Dec 2025 NPPF provides a further update on context and direction of travel from the Government. In our view the Dec 2025 NPPF adds further weight to our concerns about the soundness of this Plan.
5. In relation to the policies in the second Reg 19 consultation, we are unclear if the comments we made in relation to the policies in the first Reg 19 consultation will be rolled forward. We note that the consultation is characterised as relating to the new community at Marcombe, but in fact other significant changes have been proposed to other policies, including for example the Water Quality

and Efficiency policy AR02. We have therefore reviewed and updated our comments on all the previous policies we had commented, and we have provided new comments where required. We have still not commented on every policy, only those of relevance to our members.

Overarching comments- Concerns about Legal Compliance

Impacts of removal of the legal requirement of Duty to Cooperate

6. As you will be aware the Government is not saving the Duty to Cooperate (DTC) requirement as a legal test for new Local Plans. However, there is clearly still an expectation that Councils will work together on effective plan-making and there remains a clear expectation that the housing needs of an area will still be met in full. Although compliance with DTC is no longer a legal compliance it is still part of the tests of soundness for the Plan.

The Duty to Cooperate Section of the Plan and the text at 1.14 is not considered to be sound as it is not consistent with national policy

7. This section of the Plan will need updating to reflect the changing nature of the requirement for LPAs to work together and its change from a legal, to a soundness and good planning consideration.

Impact of the current Dec 2025- March 2026 NPPF consultation

8. We note that the Council is intending for this Plan to be prepared and examined under the Dec 2003 NPPF, and say the document says the Plan is mindful of the new national guidance and the direction of travel of Government policy in the Dec 2024 version of the NPPF. However, there is now of course have another version of the NPPF sets out a new approach which seeks to separate out national plan-making and decision-making guidance.
9. The Dec 2025 NPPF clearly sets out the Government's intention to move towards a new more rules-based approach for decision-making with consistency across standard common matters being provided at the national level. The consultation sets out that Local Plans should not include policies on matters already addressed through Building Regulations and other regulatory regimes except when it comes to parking standards and the percentage of homes locally required to meet the accessibility standards M4(3)a and M4(3)b. The proposals clearly set out that the Government view is that any Local Policies which conflict with the new NPPF should not be able to be taken into account in decision-making. HBF therefore observe that some of suite of Development Management policies being proposed (and objected to) in this draft Plan are likely to be replaced and/or made redundant by those in the new NPPF. HBF would therefore strongly encourage the Council to fully consider the implications of this for the delivery and implementation of this Plan. We also however continue to maintain our objection to the soundness of many of these policies under the Dec 2023 system.

Impact of the Dec 2024 revisions to the NPPF

10. The Dec 2024 new standard method for calculating housing need was published alongside the NPPF on 12th Dec 2024. Transitional arrangements for Plans currently being prepared are set out in this document¹. It states that *'for the purpose of preparing local plans, the policies in this version of the Framework will apply from 12 March 2025 other than where one or more of the following apply: the plan has reached Regulation 19 (pre-submission stage) on or before 12 March 2025 and its draft*

¹ NPPF 2024 paragraph 234

housing requirement meets at least 80% of local housing need; [or] the plan has been submitted for examination under Regulation 22 on or before 12 March 2025; [or] the plan includes policies to deliver the level of housing and other development set out in a preceding local plan adopted since 12 March 2020 . . .’.

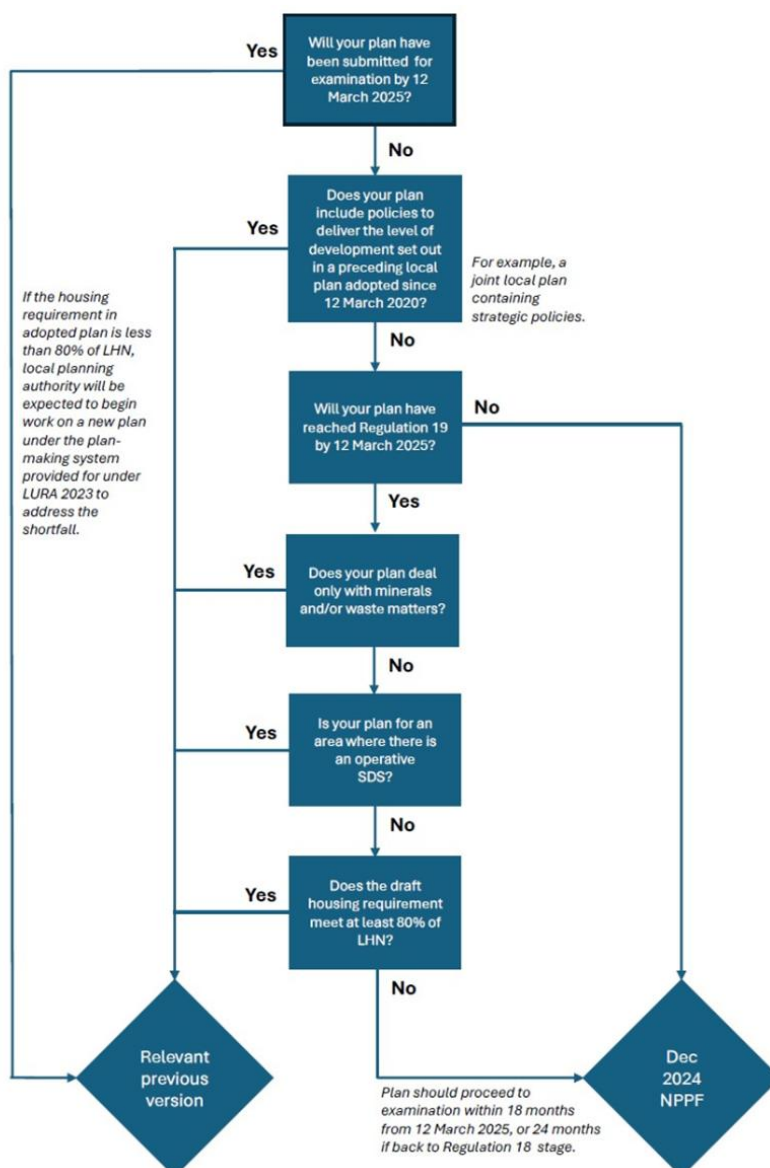
11. The Government’s is clear that its overarching housing policy seeks to deliver 1.5 million new homes over the course of the Parliament and the introduction of the new stock-based standard method is intended to result in a significant uptick in the delivery of new homes. For new housing to be delivered within the Parliament, work to support this increase must start immediately.
12. It is the HBF’s understanding that the intention of the 80% allowance in the standard method was for it to be a test to be applied to Plans that were an advanced stage of preparation and were progressing and had already set a housing number. If, for these Plans, the housing figures were less than 80% of the new standard method the Council needed to revisit the housing figures but if was 80% or more, then the benefits of continuing with a plan and getting a plan in place, albeit with lower numbers, outweighed the disbenefits of not having a Plan.
13. However, this is not how East Devon Council is attempting to use the regulations. In this Plan the transitional arrangements are being used to try and justify this new Plan only having to plan for 80% of the standard method. The housing requirement has been derived on this basis; the 80% is how the Council have come up with their housing figure, it is not being used as test being applied to an existing housing figure in a well-advanced Local Plan. HBF do not believe that the way East Devon intends to proceed was the intention of the Government’s transitional arrangements. Furthermore, it was clear in the March 2025 consultation that a further Regulation 19 consultation would be needed to address issues about the new community. This suggests that the Plan was put out for consultation before it was ready, simply to benefit from an assumed ability to Plan for only 80% of the housing need of East Devon. This means that the Plan has not been positively prepared, and as such is unsound.
14. The Government Response to the proposed reforms to the NPPF and other changes to the Planning system consultation² provides a helpful flow diagram of the transitional arrangements, which is copied below (see Figure 1 below).
15. This clearly sets out that Plans at Reg 19 stage should be meeting **at least 80%** of the standard method, not be planning for 80% of the standard method. Other national policy in the NPPF, PPG and elsewhere is clear that the Government seeks to increase house building, and Plans that are only aiming to deliver 80% of their part of the national requirement cannot be consistent with the wider Government housing policy objectives.
16. It is noted that the flow diagram also clearly set out a timeframe for the progression of a Plan under the transitional arrangements. HBF particularly note that the Plan should proceed to Examination within 18 months of 12 March 2025. As the Council acknowledged back in March 2025 this further consultation on the policies relating to the new community in the West End would be needed. The March 2025 Reg 19 consultation was therefore not the final version of the Plan as it is intended to be published. HBF note that if the March 2025 consultation had been presented as a consultation un-

² <https://www.gov.uk/government/consultations/proposed-reforms-to-the-national-planning-policy-framework-and-other-changes-to-the-planning-system/outcome/government-response-to-the-proposed-reforms-to-the-national-planning-policy-framework-and-other-changes-to-the-planning-system-consultation#the-future-of-planning-policy-and-plan-making>

der Reg 18 (which is arguably was) the Council would not be able to benefit from the transitional arrangements and could not even attempt to make an argument that the Plan could provide for only 80% of the new standard method. In our view this adds further weight to our concerns about the failure of the plan to comply with the transitional arrangements in national policy.

- The Dec 2024 NPPF therefore provides an important context on the wider Government’s objectives around housing, which add further weight to the concerns we have raised about the failure of the East Devon Local Plan fully grasp the challenges of meeting the housing needs and proactively plan to do so. Back in March 2025, we suggested that the new requirements and the transitional arrangements underscored the need for changes to this Plan in relation to housing requirements and its monitoring. The Dec 2025 only adds to our concerns and underlines the direction of travel the Government is pursuing in order to deliver the target of 1.5 million new homes within this Parliament. In our view such changes are still needed in order for the plan to be found sound.

Figure One: Transitional Arrangements Flow Diagram



18. Back in March 2025, we asked the Council to fully consider the implications of the Dec 2024 NPPF and the intention of the transitional arrangements, and new standard method on this Plan. The Council appear to have not addressed the points we made. In HBF's view, the content of the Dec 2024 NPPF further underlines the importance of the Council taking efforts now to positively plan for the level of housing and infrastructure needed in East Devon, now, and not delay these decisions to sometime in the future. Indeed, the Dec 2025 NPPF further underlines this need. It is very clear from both the Dec 2024 NPPF and the Dec 2025 consultation that the Government intends for the housing needs of the nation to be met in full, and this was reflected in the transitional arrangements.

The known unmet need in Exeter and Torbay

19. The Dec 2024 NPPF is clear that Local Plans should be proactively planning for their area, which includes helping to address the housing crisis. However, East Devon Plan is not contributing as much as it could, or should, be to helping to meet this key national housing policy goal and indeed is attempting to manipulate the transitional arrangements so it does not have to do so. As such the Plan is not doing what it should be to make its contribution to achieving this national policy objective, as such it is currently unsound. If the Plan is to proceed on its current basis at the very least it needs to include a policy for the immediate review of this Plan, especially as there is a known and long-standing challenge of delivery the housing needs of Exeter and Torbay within their boundaries. Although para 3,8 of the second Reg 19 Plan references the potential need for a review/update of the Plan, there is no policy that requires it. One should be added to the Monitoring and Implementation Chapter.
20. HBF note that the Exeter Local Plan has now been submitted for Examination, this has highlights some potential challenges of meeting the full standard method housing need within the Council's boundary. Similarly, Torbay Council is currently consulting on a Reg 18 version of their next Local Plan and this too highlights potential challenges facing the Council is delivering their standard method within their boundary. This highlights both the need for ongoing engagement with neighboring authorities to ensure that the housing needs of the wider sub-region are met in full. The failure to do so would impact negatively on both East Devon and the wider region and impact negatively on the growth ambitions and addressing the housing crisis. In our view this underlines the importance of East Devon planning to meet their full standard method housing in full as a minimum. Indeed, it is likely the figure for East Devon may need to be increased further in light of unmet from the wider region.

Observations about the Local Development Scheme and SCI

21. The Council's Local Development Scheme³ was published in Feb 2025. It clearly shows two Reg 19 consultation being planned, one that would start before the March 12 deadline which would be able to utilise the transitional arrangements and one that will occur after and as such could not. HBF would continue to question that if the Council complies with its own LDS, which is a requirement of the planning regulations, can it also seek to proceed under the transitional arrangements.
22. In particular HBF note that page 4 of the March 2025 consultation document explained that "The plan in current draft form covers all local plan matters with the exception of full policy details on the

³ <https://democracy.eastdevon.gov.uk/documents/s26329/5aAppendix1newLDS.pdf>

new community proposals. Evidence work, as at early 2025, is ongoing in respect of the new community (see specifically Strategic Policy WS01 in this plan) as well as on other interrelated local plan matters. Once this evidence work is completed, and policy gaps in the plan can be filled in, and further policy refinement undertaken, the second phase of consultation will take place.” This suggests that the full East Devon Local Plan and all the necessary supporting documentation was simply not ready to go for publication consultation in March 25, and as such we would question if the Plan should be able to proceed under the transitional arrangements.

23. We would also question if it is correct to characterise this consultation as only being about the Marcombe new community, as additional text and policy wording has been added to other parts of the Plan, including for example Policy AR02 which is now about both Water Quality and Water Efficiency.

Concerns about the Plan Period

24. HBF note that this Plan is still intending to only cover the period from 1 April 2020 to 31 March 2042. The NPPF states strategic policies should look ahead over a minimum 15-year period from adoption and that where larger scale developments such as new settlements or significant extensions to existing villages and towns 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 into account the likely timescale for delivery.
25. HBF continues to consider it is unlikely that that this Plan would be adopted in 2026, especially as this further Reg 19 consultation is being undertaken in Jan 2026, and submission has been pushed back from 2025 to 2026. In recognition of the time that it can take to progress a new Local Plan through all its required stages, we therefore continue to suggest that the Council should consider extending the Plan period to ensure that a 15-year period is provided post adoption of the Plan. We again highlight the importance of the evidence base to be consistent with the Plan Period.
26. Our concerns about the Plan period therefore remain outstanding, and as such the plan is unsound.

New Information on BNG and LNRs

27. As you will know the Government (via DEFRA) recently undertook a consultation on potential revisions to the national BNG requirement and is now intending that sites under 0.2 Ha are exempt from BNG. Further work on other possible improvements to the working of the policy in practice are ongoing and it will be important that the Plan’s policy on this issue is kept under review.
28. The current NPPF (Dec 2025) consultation indicates that the only time where it may be appropriate to seek more than 10% BNG through local policy relates to allocations, and even then only where this is clearly evidenced and justified. BNG implementation is an area of work being led by DEFRA and is required under the Environment Act. As such changes to how BNG is operationalised should be fully considered and reflected in any Local Plan, whichever version of the NPPF (2023, 20204, or 2025) it is being progressed under.
29. You will also be aware that in Feb 2025 the Government has published additional Guidance on how Local Nature Recovery Strategies should be integrated with/feed into Local Plan Making⁴. This guidance adds further weight to the comments we are making in relation to BNG policies in this

⁴ <https://www.gov.uk/guidance/plan-making> and <https://www.gov.uk/guidance/natural-environment#local-nature-recovery-strategies>

Plan. We would encourage the Council to review the new guidance and fully consider its implications for this Plan.

Chapter 2: The Vision and Objectives

The Vision and Objectives are not positively prepared and as such the Plan is unsound

30. Objective 3: Meeting future housing needs- seeks to provide high quality new homes to meet people's needs. In order to be positively prepared HBF continue to believe the Plan should set out its objective to meet the Housing Needs of East Devon in full.

Chapter 3: The Spatial Strategy

Strategic Policy SP01: Spatial strategy

The policy is not considered to be sound as it is not positively prepared, effective, justified or consistent with national policy

31. HBF does not comment on individual sites, other than to say the Plan should provide for a wide range of deliverable and developable sites across the area in order to provide competition and choice to ensure that housing needs are met in full. The soundness of strategic and non-strategic site allocations, whether brownfield or greenfield, will be tested in due course at the Local Plan Examination.
32. The spatial strategy seeks to concentrate development in the West End and this new Reg 19 consultation is focused on the proposals around the proposed new settlement. HBF would suggest that the inclusion of a new settlement within a Plan is a key part of the spatial strategy and informs the spatial distribution of the whole Plan. The inclusion or exclusion any new settlement has implications for the rest of the Plan, the Sustainability Appraisal assessment work and the evidence base of the plan. It is a key part of the Plan's approach to its spatial strategy. As such, in our view, this Plan had not reached this second Reg 19 before 12 March 2025 and as such can not benefit from the provisions in the transitional arrangements that allow the Plan to progress if it is delivering at least 80% of the standard method. It should be at the very least planning for 100%. Indeed, for reasons detailed more fully elsewhere in our representations HBF would argue that East Devon's housing requirement should be higher,
33. As set out earlier, in our concerns about legal compliance section, in the HBF's view the housing requirement is too low and such additional development will be needed. This will require the allocation of additional sites across East Devon in order for the Plan to be sound.
34. The spatial strategy of the Plan should also recognise that there may be clusters of villages that provide a range of services for that area within reasonable travelling distance of each other, so villages may need to be grouped together. These areas might be able to sustainably support a substantial level of development but may not have all the services within one particular village.
35. Similarly, the Plan should recognise that settlements that currently do not have services could expand to include those services if new development is allocated in those areas. The current range of village services should not be used as a basis for only locating development close to existing ser-

VICES, it could in fact also identify where services could be improved through new development. Allocating housing sites in rural areas can also provide opportunities for small sites which are particularly helpful for SME builders.

36. HBF do not comment on individual sites. We would however expect the spatial strategy to follow a logical hierarchy that provides an appropriate development pattern and supports sustainable development within all market areas. HBF would request that the Plan's approach to the distribution of housing should ensure the availability of a sufficient supply of deliverable and developable land to deliver the housing requirement in full.
37. HBF also notes that new settlements and large urban extensions can have long lead times. Reliance on one (or more) new settlement(s) and/or urban extension(s) for housing delivery may mean delivery from these sources will occur later on in the Plan period. This increases the importance of the need for a range of other sites to be provided to ensure a Five-Year Land Supply and early delivery of much needed housing. It will be important for policies and allocation in the Plan to provide for a range of housing sites, and as such the site selection methodology needs to reflect this.
38. Therefore, although HBF do not comment on specific site allocations, we continue to find this policy is unsound because additional housing allocations are required. We are of the view, for the reasons details elsewhere in our representation, and so not repeated here, there need to be more housing allocations. This will necessarily impact on the spatial strategy of the Plan.
39. HBF would also request that the wording of this policy should clearly set out the different components that make up the housing supply, where it is to be located, and when it will be delivered, in much the same way this issue has been addressed in the policy for Employment Land delivery in Strategic Policy SP04: Employment provision and distribution strategy. This would go some way to addressing our concerns about the lack of clarity of the housing delivery pipeline, sources of supply, and how this links into the Monitoring Framework, which we have raised in relation to other policies in the Plan and the overall approach to housing that the Council is pursuing.
40. The Plan needs to properly recognise the role of the new community both within the Plan period for this Plan, and beyond it. The housing trajectory should clearly set this out and specifically identify how much housing per year will be delivered via the new settlement. It will be important that the assumptions that support these conclusions are clearly set out and the figures are developed in conjunction with the development to ensure they are realistic and deliverable.

Strategic Policy SP02: Levels of future housing development

The policy is not considered to be sound as it is not positively prepared, effective, justified or consistent with national policy

41. HBF continue to have significant concerns about the way the Council has arrived at its housing requirement. These are set out more fully in our response to the legal compliance section. In HBF's view the housing requirement is too low and such additional development will be needed. This will require the allocation of additional sites across East Devon in order for the Plan to be sound. HBF also continue to have concerns about the windfall allowance, the stepped trajectory, the 'headroom' allowance, the national requirement for small sites, the role of the new settlement, and how this Plan links to the Cranbrook Plan.

The Housing Requirement and the Standard Method Calculation

42. Para 3.11 of this East Devon this second Local Plan Reg 19 consultation still says:

“The Local Plan housing provision follows transitional arrangements set out under the December 2024 redraft of the NPPF. The new standard method generates an annual average housing number (at February 2025) of 1,188 dwellings. Providing for 80% of this (para 234 of the December 2024 NPPF) generates the annual average housing level of 950.4 new homes, a 22-year plan requirement of 20,909.”

43. In HBF’s view, this is simply not correct. The introduction of the new standard method in the Dec 2024 NPPF requires the new standard method figure to be the starting point for setting the housing requirement in a Plan. HBF acknowledge that Plans that have reached the Reg 19 consultation stage before 12 March are able to proceed under the transitional arrangements, however as mentioned earlier, HBF would question if this Plan should be able to benefit from these provisions, and indeed even if it can, we remain of the view that only planning for 80% of the housing requirement was not the intention of the transitional arrangements.

44. The Council acknowledges the requirement for further consultation on the key spatial elements of meeting the housing needs in East Devon, the new settlement, HBF would therefore have expected an Issues and Options type Reg 18 consultation to be followed by a Preferred Options Reg 18, and then a Reg 19 consultation on the final version of the Plan, as it is intended to be submitted for Examination. The fact this is not the intention behind this version of the Plan could be seen as a failure to follow the correct processes and/or an attempt to manipulate the transitional arrangements to get an adopted Plan that does not have to plan for the full housing requirements. HBF strongly suggest that the need for an additional Reg 19 consultation on this Plan, means it has to be considered under the Dec 2024 NPPF in full, not the transitional arrangements, and as such the Plan must plan for the full housing requirement calculated using the new standard method.

45. Indeed, the standard method housing requirement has always been the minimum starting point for setting the housing requirement, and HBF support more housing than the standard method housing requirement in order to support economic growth, deliver more affordable housing, provide a range and type of sites and to support small and medium house builders. HBF would therefore argue that the standard method should be the minimum starting point for establishing the housing requirement for East Devon, and the Council should be considering each of these factors in turn to establish whether or not they justify a higher housing requirement.

46. In para 3.11 the Council acknowledges it has an affordable housing need of 4,477 over the Plan period, which the plan says is “justified by the latest evidence of affordable housing” when set against the housing requirement of 20,909 dwellings (a figure HBF questions), this suggests a need for affordable housing that could justify a higher housing requirement. No mention is made of the need to provide for a range and choice of sites, the need to support economic growth, or the need to support diversification of housebuilding through the allocation of small and medium size sites to support SME builders. Each of these reasons, on their own or in combination, could support the need for a higher housing requirement.

47. HBF would continue to argue that the housing requirement in East Devon should be increased for a variety of reasons including supporting growth, providing for a range and choice of sites, to help deliver affordable housing and to better support SME house-builders. The new Dec 2025 clearly shows that all of the elements continue to underpin the Government’s policy approach to housebuilding and the policy to deliver 1.5 million new homes within the Parliament.

Concern and Lack of clarity about a “Surplus”

48. As HBF do not agree that the housing requirements is sound, we also do not believe there is any ‘surplus’ housing being planned for in this Plan. Adding to our concerns about the figures, the explanation for the numbers given in the wording of para 3.11 remain confusing. At the first Reg 19 consultation we were unclear as to how the headroom/surplus of 9.8% has been calculated. This has now been increased to 12.8%, but the explanation for how this figure has been arrived at has not been further explained. We remain of the view that it would be more usual for these figures to be clearly explained and set out within the policy wording in a Table, rather than lost in a word salad of the supporting text. This policy needs to include specific reference to the annual monitoring requirement, this is essential for the Plan to be effective, and therefore sound.
49. The wording of para 3.1 has been updated to reflect the new 2025 calculations and monitoring. It now says that “the new standard method generates an annual average housing number (at Feb 2025, to 1,188 dwellings”, and that “providing for 80% of this (para 234 of the December 2024 NPPF) generates the annual average housing level of 950.4 new homes, a 22-year plan requirement of 20,909.” We strongly dispute this is the standard method baseline that should be the starting point for setting the housing the requirement, it should be 100%.
50. We remind of the view that other factors continue to justify the housing requirement should in be higher than the standard method in East Devon. However, even from an 80% of standard method starting point the Council are still then seemingly doing everything they can to minimise the calculations of the amount of housing that need to be provided for in this Plan, despite the Government’s clear injective to increase housing delivery.
51. HBF believes that in order to be sound and to comply with the requirement for the Plan to include flexibility a surplus of more than 12.18% is needed. A figure which we remain unclear of the rationale for and calculation of.

Concerns about Windfall

52. HBF remain concerned about the level of the windfall allowance being made in the Plan. HBF are of the view that any allowance for windfall should not be included until the fourth year of a housing trajectory, given the likelihood that dwellings being completed within the next three years will already be known about, as they are likely to need to have already received planning permission to be completed within that timeframe. We also would be supportive of windfall sites being additional to the housing requirements, providing further choice and flexibility in the market. There is simply no substitute for the certainty of an allocation, particularly for SME builders, a key part of the homebuilding sector that the Government is very keen to support.

Stepped trajectory

53. HBF are also concerned that the stepped trajectory does not reflect the Government’s clear national drive for an immediate uptick in housing delivery. Whilst we appreciate and agree with the challenges of delivering a large-scale new community (see our comments later on) and to assume delivery of completed housing units will not occur until later in the plan period, relying on this approach will not deliver the housing East Devon needs in the short and medium term. Further allocations are needed to deliver housing in the short and medium term are needed.

Small sites

54. HBF note the national policy requirement around the need for Small Sites. The NPPF requires Local Plans to identify land to accommodate at least 10% of the housing requirement on sites no larger than one hectare, unless there are strong reasons why this cannot be achieved. HBF has undertaken extensive consultation with its small developer members. One of the chief obstacles for small developers is that funding is extremely difficult to secure without a full, detailed, and implementable planning permission. Securing an implementable planning permission is extremely difficult if small sites are not allocated. Without implementable consents lenders are uneasy about making finance available or the repayment fees and interest rates they set will be very high. Small developers, consequently, need to invest a lot of money and time up-front in the risky business of trying to secure an allocation and a planning permission, and this is money that many small developers do not have.
55. Therefore, the Council should set out in the Plan's policies and evidence base to set out how the plan will deliver 10% of homes on sites of less than one hectare, as required by paragraph 73 of the 2024 NPPF. Indeed, the HBF would advocate that a higher percentage of small sites are allocated if possible. Such sites are important for encouraging the growth in SME housebuilders who will tend to develop these sites but rarely see the benefits that arise from the allocation of sites in a local plan. Up until the 1980s, small developers once accounted for the construction of half of all homes built in this country resulting in greater variety of product, more competition, and faster build-out rates. Since then, the number of small companies has fallen by 80%.
56. HBF have been unable to find within the evidence base any analysis of how the small site requirement will be delivered within this Plan. This information needs to be provided and HBF may wish to comment on it once it has been. HBF also note that support for small and medium builders need not be limited to only small sites of less than 1Ha. SMEs also deliver on other types of non-strategic sites (for example up to 100 units). The inclusion of additional non-strategic allocations would expand the range of choice in the market, and (possibly most importantly), be of a scale that can come forward and making a contribution to housing numbers earlier in the plan period.

The role of Cranbrook

57. HBF, and the consultation document, recognise that Cranbrook new community benefits from its own Cranbrook Plan. Para 1.4 of this consultation document still explains that "The adopted Cranbrook Plan remains part of the Development Plan and is the primary plan for determining planning applications at Cranbrook. However, many policies in this new local plan will also apply within the Cranbrook Plan area and should be applied alongside Cranbrook Plan policies which will remain in place as part of the Development Plan".
58. Despite this recognition the Plan, and this policy in particular, remains unclear about how the housing delivery at Cranbrook, which already has permission(s) will contribute to the delivery of the delivery of the housing requirement in East Devon. We would request that the housing trajectory specifically identifies Cranbrook development as a particular source of supply. This will be important for monitoring as indicates under-delivery of housing in Cranbrook this would necessitate a different response under the plan, monitor, manage approach, that say for example an under-delivery of housing in the villages, or a particular town.
59. HBF would also note that in relation to employment needs within the Plan it is important to recognise the interrelationship between homes and jobs, both whilst under construction and once occupied as people's homes.

The Importance of the role of the New Settlement within this Plan

60. The NPPF encourages plans to look 30 years into the future when setting a long-term vision for their area. Strategic policies should look ahead over a minimum 15-year period from adoption, to anticipate and respond to long-term requirements and opportunities, such as those arising from major improvements in infrastructure. The NPPF also confirms that the supply of large numbers of new homes can often be best achieved through planning for larger scale development, such as new settlements. Where larger-scale developments such as new settlements or significant extensions to existing villages and towns 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 into account the likely timescale for delivery
61. We note the Council's intention to develop a new settlement as one of the keys ways it will meet its housing need has progressed to discussions about a new community at Marlcombe. HBF has no objections in principle to bring forward a second new community in East Devon, which is supported by the NPPF. However, it is important to recognise the potential for there to be a significant lead in time for first homes to come forward on new developments of this scale and the Council's housing trajectory will need to carefully consider appropriate lead in times and delivery rates for the new community. It can take many years if not decades for a new settlement to be delivered, and the suggestion that houses would be completed and able to make any early contribution to the housing land supply of this plan is ambitious.
62. The Plan should more clearly acknowledge that the new community will take time for it to be worked up and developed. Securing outline and detailed planning permission takes time, and the development still needs to be built out. East Devon has direct experience of the time scales involved and resources needed to deliver new communities, gained from its experience of facilitating the delivery of Cranbrook. Relying on a stepped trajectory will not help address the immediate housing crisis. As such additional sites should be allocated to provide a range and choice of sites and supporting SMEs developers.

Ongoing Concerns about the Housing Trajectory in Appendix One

63. HBF welcomed the inclusion of a housing trajectory within the Plan in our first Reg 19 responses, as this is essential for the effective monitoring of the Plan. However, the Appendix One housing trajectory is remains insufficient. In order to enable effective monitoring and to demonstrate the 5 Year Land supply on adoption of the Plan the Housing Trajectory should be expanded to show a minimum the site-by-site, year-by-year breakdown of housing delivery over the plan period. This must also then link into the Monitoring Framework for this Plan.
64. As mentioned earlier, in order to enable effective there is a need to split out delivery from Cranbrook, the new Community, and delivery of the rest of the housing requirement. This will be important for monitoring as the actions that may need to be taken if the new Marlcombe community, or Cranbrook are not delivering will be different from the action that may be needed in the case of non-delivery of other types of sites.
65. The trajectory also clearly illustrates and underlines our concerns about the phasing of the housing requirement over the plan period with the majority of the housing being delivered later in the Plan period. This conflicts with the overarching national policy approach of seeking to increase house building in the short and medium term.

66. The housing trajectory should also be clear how much of the housing requirement is to be delivered through Neighbourhood Plans. As neighbourhood planning is an entirely voluntary activity and as such is outside of the control of the Council, HBF do not believe housing delivered through Neighbourhood Plans is a reliable enough source of supply to contribute to the Housing Land Supply Position, and they should be viewed as providing additional capacity.
67. Overall, therefore HBF do not believe the housing requirement or the housing land supply is sound, for all the reasons listed above, and the Council need to fundamentally revisit their approach. If, as we suggest, the Plan should be considered under the Dec 2024 NPPF, and not the transitional arrangements, this would fundamentally increase the starting point for the housing requirement considerations which HBF would then argue need to be higher for the reasons set out above. In our view this means the Plan needs to be wholly revisited to include a higher housing requirement and additional housing allocations. We cannot see how our concerns, which are so fundamental, could be addressed through the EIP process by suggested Main Modifications, particularly as we recognise the allocation of new sites will require additional SA work and public consultation.

Strategic Policy SP03: Housing requirement by Designated Neighbourhood Area

The policy is not considered to be sound as it is not positively prepared, effective, justified or consistent with national policy

68. As neighbourhood planning is an entirely voluntary activity and as such is outside of the control of the Council, HBF do not believe housing delivered through Neighbourhood Plans is a reliable enough source of supply to contribute to the Housing Land Supply Position, and they should be viewed as providing additional capacity.

Strategic Policy SP07: Delivery of infrastructure

The policy is not considered to be sound as it is not positively prepared, effective, justified or consistent with national policy

69. It must also be noted that Section 106 contributions can only be sought to ensure a development mitigates its own impact. They cannot be required to address existing shortfalls. It will therefore be essential for the Council to have robust and up-to-date evidence around any s106 contributions being sought for infrastructure, play space provision, open space provision and playing pitches and such like and calculate any developer contributions arising at the time a planning application is made.
70. The policy wording should therefore be amended to include wording that explicitly states an assessment of provision will be undertaken at the time of an application to ensure any requests for s106 contributions remain evidenced and justified. Any reference to the adopted SPD must be removed from the policy.

Strategic Policy SP08: Phased Delivery of Infrastructure and Services

The policy is not considered to be sound as it is not positively prepared, effective, justified or consistent with national policy

71. It is unclear from the policy wording how a developer would show compliance with the policy, particularly for sites are being developed by different developers. The policy is therefore ineffective and unsound.

Chapter 6: Mitigating Climate Change

Strategic Policy CC01: Climate emergency

The policy is not considered to be sound as it is not positively prepared, effective, justified or consistent with national policy

72. The proposed wording suggests that the Council is seeking to move away from the carbon reduction methods set out in Part L of the Building Regulations. HBF supports the Council in seeking to minimise carbon emissions and reduce heat and power demand through energy efficient design. However, the HBF does not consider that the Council setting its own standards is the appropriate method to achieve these outcomes.
73. Whilst the ambitious and aspirational aim to achieve zero carbon is lauded, the HBF is concerned that the Council is adding to the complexity of policy, regulations and standards that housebuilders are already expected to comply with. The key to success is standardisation and avoidance of individual Councils specifying their own policy approach, which undermines economies of scale for product manufacturers, suppliers and developers. The impact of this requirement along with others in this Plan may have considerable viability implication and may lead to the non-delivery homes and needs to be fully considered within the Viability Assessment.
74. HBF would caution against policies that seek to go further and faster than national legislation and policy changes, which would lead to the creation of a patchwork of differing local policies which could inadvertently undermine the delivery of the wider environmental objectives the Council is seeking and create unnecessary delays to much needed new housing.
75. HBF would highlight 'Future Homes, One Plan Building a generation of high quality, affordable and sustainable homes and communities, together' https://irp.cdn-website.com/bdbb2d99/files/uploaded/Future%20Homes%20One%20Plan_Future%20Homes%20Hub%20Prospectus-%20FINAL%20WEB.pdf. This was published in Nov 2023 and highlights what actions are needed to support the delivery of sustainable homes.
76. In particular HBF, would highlight 'Issue 9. The Partnership Imperative' on page 15 which states in the Local Government section that "Local planning requirements must align with the overall plan for improving performance standards at national level. For example, avoiding divergence of local energy standards that make it harder to accelerate improvement in standards at national level, and avoiding conflict between local planning conditions and new requirements of building regulations."
77. The government has also provided further advice for local authorities through the Written Ministerial Statement which says "the Government does not expect plan-makers to set local energy efficiency standards for buildings that go beyond current or planned buildings regulations. The proliferation of multiple, local standards by local authority area can add further costs to building new homes by adding complexity and undermining economies of scale." See <https://questions-statements.parliament.uk/written-statements/detail/2023-12-13/HCWS123>

78. To be consistent with national policy, HBF request the Council rely on the Building Regulations process as the way to manage improving energy efficiency standards and as such no policy on this issue is needed in the Local Plan.

Strategic Policy CC02: Net-zero carbon development

The policy is not considered to be sound as it is not positively prepared, effective, justified or consistent with national policy

79. It would appear that the Council have sought to move away from the carbon reduction methods set out in Part L of the Building Regulations. Whilst HBF is working through the Future Homes Hub to help ensure the Future Homes Standard is deliverable, there is a need to consider both the standard and the timing of its introduction. The Government's timescale for its introduction has been subject to considerable thought and discussion amongst key stakeholders including industry partners- house builders and their supply chains. HBF cannot support policies that seek to go further and faster than the results of the carefully considered and researched plans.
80. Therefore, although HBF supports the Council in seeking to minimise carbon emissions and reduce heat and power demand through energy efficient design we do not consider that the Council setting its own standards, or timeframe for the introduction of these standards is the appropriate method to achieve these outcomes. Whilst the ambitious and aspirational aim to achieve zero carbon is lauded, the HBF is concerned that the Council is adding to the complexity of policy, regulations and standards that housebuilders are already expected to comply with. The key to success is standardisation and avoidance of individual Councils specifying their own policy approach, which undermines economies of scale for product manufacturers, suppliers and developers.
81. HBF acknowledges that Section 19 (1A) of the Planning and Compulsory Purchase Act 2004 outlines that development plan documents must (taken as a whole) include policies designed to secure that the development and use of land in the local planning authority's area contribute to the mitigation of, and adaptation to, climate change. The NPPF looks for all plans to take a proactive approach to mitigating and adapting to climate change. However, PPG refers to the Planning and Energy Act 2008, the Deregulation Act 2015, and the Written Ministerial Statement (March 2015) and states that policies in relation to energy performance standards should not be used to set conditions on planning permissions with requirements above the equivalent of the energy requirement of Level 4 of the Code for Sustainable Homes.
82. The impact of this requirement along with others in this Plan may have considerable viability implication and may lead to the non-delivery homes and needs to be fully considered within the Viability Assessment.
83. HBF does not consider that the Council has provided the justification for why East Devon requires a policy above the requirements and/or timescales set out nationally in the building regulations requirements.

Strategic Policy CC05: Heat networks

The policy is not considered to be sound as it is not positively prepared, effective, justified or consistent with national policy

84. Heat networks are one aspect of the path towards decarbonising heat, however currently the predominant technology for district-sized communal heating networks is gas combined heat and power (CHP) plants. Over 90% of district networks are gas fired. As 2050 approaches, meeting the Government's climate target of reducing greenhouse gas emissions to net zero will require a transition from gas-fired networks to renewable or low carbon alternatives such as large heat pumps, hydrogen or waste-heat recovery but at the moment one of the major reasons why heat network projects do not install such technologies is because of the up-front capital cost. The Council should be aware that for the foreseeable future it will remain uneconomic for most heat networks to install low-carbon technologies.
85. Furthermore, some heat network consumers do not have comparable levels of satisfaction as consumers on gas and electricity networks, and they pay a higher price. Currently, there are no sector specific protections for heat network consumers, unlike for people on other utilities such as gas, electricity or water. A consumer living in a building serviced by a heat network does not have the same opportunities to switch supplier as they would for most gas and electricity supplies. All heat network domestic consumers should have ready access to information about their heat network, a good quality of service, fair and transparently priced heating and a redress option should things go wrong. Research by the Competition and Markets Authority (CMA) found that a significant proportion of suppliers and managing agents do not provide pre-transaction documents, or what is provided contains limited information, particularly on the on-going costs of heat networks and poor transparency regarding heating bills, including their calculation, limits consumers' ability to challenge their heat suppliers reinforcing a perception that prices are unjustified. The monopolistic nature of heat networks means that future price regulation is required to protect domestic consumers.
86. The CMA have concluded that "a statutory framework should be set up that underpins the regulation of all heat networks." They recommended that "the regulatory framework should be designed to ensure that all heat network customers are adequately protected. At a minimum, they should be given a comparable level of protection to gas and electricity in the regulated energy sector." The Government's latest consultation on heating networks proposes a regulatory framework that would give Ofgem oversight and enforcement powers across quality of service, provision of information and pricing arrangements for all domestic heat network consumers. The policy requirement should therefore be deleted. Therefore, HBF do not believe this policy requirement is justified, and it would not be effective, it should therefore be deleted.
87. To be consistent with national policy, HBF request the Council rely on the Building Regulations process as the way to manage improving energy efficiency standards and as such no policy on this issue is needed in the Local Plan. HBF considers it would be appropriate to make reference to the Future Homes Standard and the Building Regulations as the appropriate standards for development. The Council will also be aware that the Future Homes and Buildings Standards: 2023 consultation covered Part L (conservation of fuel and power), Part F (ventilation) and Part O (overheating).

Strategic Policy CC06: Embodied carbon

The policy is not considered to be sound as it is not positively prepared, effective, justified or consistent with national policy

88. This policy required major development to undertake an Embodied Carbon Assessment, reaching a range of targets as set out in the policy. HBF considers that if the Council is to introduce a policy in

relation to embodied carbon it will have to closely consider how it will be monitored and what the implications are for the preparation of any assessment, particularly in relation to how easily accessible any data is, and that it will have to take into consideration that much of the responsibility for emissions will lie in areas outside of the control of the homebuilding industry, including material extraction and transportation, occupation and maintenance, demolition and disposal. The Council will also have to consider how the policy will interact with other policies for example in relation to energy efficiency or resilience to heat, as well as the viability and delivery of development.

89. HBF considers that if this policy were to be introduced then the Council should provide a transitional period to give the industry time to adjust to the requirements and for the supply chain to be updated or amended as required.

Chapter 7: Adapting to Climate Change

Strategic Policy AR01: Flooding

The policy is not considered to be sound as it is not positively prepared, effective, justified or consistent with national policy

90. To be effective it should be clearer how this policy links into BNG, particularly the potential development of off-site BNG units.

Strategic Policy AR02: Water efficiency

The policy is not considered to be sound as it is not positively prepared, effective, justified or consistent with national policy

91. We note that the issue of water quality has been added to this policy between the first and the second Reg 19 consultation. We would argue that this is significant new policy area that being brought into the scope of the East Devon Local Plan, and note that new requirement that applies to all applications across East Devon, and as such cannot reasonably be characterised as a simple update to the first Reg 19 to simply change the references about the new community to Marlcombe new community now it has a name. This represents an example of one of the more significant changes to wider policies being introduced into this second Reg 19 consultation.
92. HBF provided comments during the first Reg 19 consultation that we did not support the policy which seeks to require development to ensure an estimated water consumption of no more than 110 litres/person/day. HBF do not believe such a policy is needed in the Local Plan because current Part G Building Regulations require 125 litres per day, and house builders are frequently delivering 115-110 litres per day which means the house building industry is already improving upon the regulations. We continue to believe that there is no need for Local Plan policies to repeat Building Regulations and it is in fact unhelpful to do so as Building Regulations may change during the course of the plan period, and that as such the policy should be deleted.
93. The second Reg 19 consultation, however, had added further requirements to the policy. Seeking to require developers to show that there is adequate water and waste water infrastructure to serve development. The implication being that if capacity constraints are identified development must not commence until the delivery of sufficient new or upgraded infrastructure. HBF agrees that there must be sufficient water and waste water treatment capacity to serve new development however this is for

the Council and water company to determine as part of the preparation of this Local Plan and the through the Water Resource Management Plan. It cannot be left to the development management process to assess on a case-by-case basis. If there is insufficient water or waste water treatment capacity to address the needs of development in future, then the only assumption must be that the plan is not deliverable over the plan period and as such unsound.

94. Under the Wastewater Infrastructure section of CE8 the Council will require applicants for major development to be supported by a sewage capacity assessment. HBF do not consider this to be necessary as the capacity of the sewage network are not a land use planning matter for consideration on an application-by-application basis as Water companies are subject to statutory duties under S37 and 94 of the Water Industry Act 1991 (WIA 1991). Section 37 of the Act, set out below, imposes a statutory duty on all water companies to provide and maintain adequate infrastructure and potable water supplies.

“S37 General duty to maintain water supply system etc. (1) It shall be the duty of every water undertaker to develop and maintain an efficient and economical system of water supply within its area and to ensure that all such arrangements have been made— (a) for providing supplies of water to premises in that area and for making such supplies available to persons who demand them; and (b) for maintaining, improving, and extending the water undertaker’s water mains and other pipes, as are necessary for securing that the undertaker is and continues to be able to meet its obligations under this Part. (2) The duty of a water undertaker under this section shall be enforceable under section 18 above— (a) by the Secretary of State; or (b) with the consent of or in accordance with a general authorisation given by the Secretary of State, by the Director.”

95. Section 106 of the WIA 1991 confers a power to connect to a public sewer. Section 106(1) states that the owner of any premises or the owner of any private sewer which drains premises, shall be entitled to have its drains or sewer communicate with the public sewer of any sewerage undertaker and therefore discharge foul water and surface water from those premises or that private sewer.

96. Specifically, in relation to wastewater, the Supreme Court considered this matter in 2009 – see *Barrott versus Welsh Water* [2009] UKSC 13. Paragraph 23 of the decision is salient. Given its importance in the context of wastewater it is recited in full below:

“The right to connect to a public sewer afforded by section 106 of the 1991 Act and its predecessors has been described as an “absolute right”. The sewerage undertaker cannot refuse to permit the connection on the ground that the additional discharge into the system will overload it. The burden of dealing with the consequences of this additional discharge falls directly upon the undertaker and the consequent expense is shared by all who pay sewerage charges to the undertaker. Thus, in *Ainley v Kirkheaton Local Board* (1891) 60 LJ (Ch) 734 Stirling J held that the exercise of the right of an owner of property to discharge into a public sewer conferred by section 21 of the 1875 Act could not be prevented by the local authority on the ground that the discharge was creating a nuisance. It was for the local authority to ensure that what was discharged into their sewer was freed from all foul matter before it flowed out into any natural watercourse.”

97. Consequently, it is inappropriate to include a policy in the local plan requiring a housebuilder, or other applicants for development, to assess the capacity or otherwise of the water company to provide water supply and wastewater connections as they are an attempt to get applicants to do things for which they are not legally responsible. Rather it is the responsibility of water companies, working with local authorities and the Environment Agency, to plan for the future demand for water services

relating to the development requirements proposed in local plans, not applicants. If the water company is unable to supply those needs, this needs to be disclosed in the Water Resource Management Plan (WRMP). HBF recognises that this could represent a significant barrier to the delivery of the local plan, but it should not be addressed through capacity assessment by new development but through plan making and the new text proposed in the second Reg 19 consultation should be deleted.

98. Although we strongly believe that this policy is entirely inappropriate for inclusion in the East Devon Local Plan if it were to be retained the wording must be improved. Between the first and the second Reg 19 versions of this Plan the Council has the requirement to secure 110 per person per day has been changed to now say 'at least'. This does not provide the certainty developers need, and the cumulative impact of all the changes to the DM policies now being proposed needs to be subject to updated and robust viability testing
99. Similarly, it is unclear how a developer would should compliance with further new wording to the policy that has been added between Reg 19 version 1 and Reg 19 version 2 as rather than requirement to be minimised, the policy wording now requires the protection, management and improvements in all water bodies affected. It is unclear how this requirement links back directly to the impact of development, and the policy would need to be much more clearly defined in order for a developer to be able to show compliance with it. However we continue to object to the soundness of the inclusion of a policy on this matter in the Local Plan in the first place as this issue is already properly covered through Building Regulations.
100. The Dec 20205 NPPF clearly sets out the Government's intention to move towards a new more rules-based approach for decision-making with consistency across standard common matters being provided at the national level. The consultation sets out that Local Plans should not include policies on matters already addressed through Building Regulations and other regulatory regimes except when it comes to parking standards and the percentage of homes locally required to meet the accessibility standards M4(3)a and M4(3)b. The proposals clearly set out that the Government view is that any Local Policies which conflict with the new NPPF should not be able to be taken into account in decision-making. This adds further weight to our concerns about this policy, and we would also observe that it seems likely under the current Government Plans that this policy and other similar ones being proposed as part of the suite of Development Management policies are likely to be replaced and/or made redundant by those in the new NPPF. We continue to support the deletion of this policy.

Chapter 8: Meeting Housing Needs

Strategic Policy HN01: Housing to address needs

The policy is not considered to be sound as it is not positively prepared, effective, justified or consistent with national policy

101. HBF have been unable to find the whole plan viability assessment for this Plan. We also can find no reference made to it within the Plan. This document is important to help understand the effectiveness justification or deliverability of this Plan. It is therefore not possible for us to comment fully on the justification and effectiveness of this plan, and its ability to deliver the range of housing indicated

in this policy. For example, the viability of older persons housing, build to rent, student accommodation, first time buyer housing or family housing will be different. Similarly different forms of affordable housing have a different impact on viability.

102. The whole plan viability assessment is an essential part of the evidence base that tests whether the range of the policies in the plan as a whole make development unviable. To be most useful HBF suggest viability appraisals should be used in an iterative manner to test different policy combinations. HBF suggest that the whole plan viability assessment should be produced in tandem with the different stages of plan-making and not relegated to something prepared after the Reg 19 version of the plan has already been consulted on.

103. In relation to the effectiveness and soundness of this particular policy HBF would observe that some of our members are finding it difficult to find a housing association partner for their affordable housing. This is national problem, that the Government has attempted to address through the establishment of a 'clearing house' to help match affordable housing units with affordable housing providers. To date this is having a very minimal impact with only about 800 affordable homes listed nationally. It is therefore very important for the Plan to recognise the challenges facing the affordable housing sector and the impact this may have on delivering affordable housing of different types and tenures.

Strategic Policy HN02: Affordable housing

The policy is not considered to be sound as it is not positively prepared, effective, justified or consistent with national policy

104. As mentioned in response to Policy HN01: Housing to address needs, without the whole plan viability appraisal the Plan has not justified its policies or shown them to be effective, and the Plan is therefore unsound.

105. It will be important for the delivery of the Plan that where necessary the policies in the Plan to allow for flexibility on viability issues. HBF question would question the robustness of any Local Plan Viability Assessment which failed to fully consider the wide range of challenges and additional costs and increasing regulations facing developers at this time.

106. For example, HBF information suggests that complying with the current new part L is costing £3500 per plot. The Future Homes Standard Part L in 2025 is anticipated to cost up to £7500+ per plot. There will also be the addition of the Building Safety Levy that is coming in pay for cladding. This will be a per plot basis around the UK, and the figures have now been published- for East Devon they are £ 17.03 per square metre for brownfield land and £ 34.06 psm for greenfield.

107. Other factors that need to be taken into account include increasing costs of materials and labour due to inflation and the costs of mandatory BNG, which are still emerging as the off-site market is yet to be established. HBF members are reporting costs of £20-30k per off-site BNG unit. Although the initial price of statutory credits is now known this national fallback option has been deliberately highly priced to discourage their use. Whilst this intention is understandable, at present the lack of functioning local markets for off-site credits causes viability problems because HBF members experience to date suggests that any scheme that needed to rely on statutory credits would become unviable.

108. As the development of older persons housing is different for a number of reasons, including in particular the need for communal space, there to consider the viability of older person's housing differently. The Council's own viability appraisal should acknowledge this factor and model older persons (age restricted) housing separately from the consideration of market and affordable homes.
109. Whole Plan viability testing is an important part of the plan-making process. However, as noted in PPG (ID: 10-003-20180724) assessing the viability of plans does not require individual testing of every site or assurance that individual sites are viable, and therefore flexibility in the amount of affordable housing sought may be needed to deal with site specific issues.
110. At a very basic level viability can be improved by reducing costs or increasing values. Sometimes therefore changing the type of affordable housing provided can help to improve viability of a specific site, and the plan should recognise this. In this example a change of the percentages of different types of affordable housing provided, such as allowing more discounted sale affordable housing, but the headline figure of how much affordable housing is provided would remain the same. This is another reason why flexibility within the Affordable Housing policy is needed.
111. We would also question the ability of the Council to provide further Guidance via SPDs, in light of the new plan-making system and the shift away from SPDs as a option.

Strategic Policy HN03: Housing to meet the needs of older people

The policy is not considered to be sound as it is not positively prepared, effective, justified or consistent with national policy

112. HBF suggest this policy needs to be updated to reflect the range of innovations in this sector, and as mentioned above we have concerned about the lack of evidence of viability, and the additional costs and additional regulation which are impacting on the viability and deliverability of new housing, including that for older people.

Strategic Policy HN04: Accessible and adaptable Housing

The policy is not considered to be sound as it is not positively prepared, effective, justified or consistent with national policy

113. HBF do not support the need for any policies in Local Plan that repeat Building Regulations. The Building Regulation regime is separate from the planning process, and considerable changes to Building Reg are underway. This is the appropriate forum for Building Regs to be reviewed.
114. However, we do note that the requirements to meet Part M4(2) will be superseded by changes to residential Building Regulations. The Government response to 'Raising accessibility standards for new homes' states that the Government proposes to mandate the current M4(2) requirement in Building Regulations as a minimum for all new homes, with M4(1) applying in exceptional circumstances. This will be subject to a further consultation on the technical details and will be implemented in due course through the Building Regulations. There therefore no need for a Local Plan policy on this issue as this issue is already adequately addressed through Building Regulations.
115. There is also a need to consider the costs of delivering the policy requiring housing to M4(2) and the requirements for accessible and adaptable dwellings policy which references M4(3). Our previous Regulation 19 response requested a clearer distinction was made in the policy between M4(3)a

wheelchair adaptable housing and M4(3)b wheelchair accessible housing. Some changes have been made to address this which we welcome.

116. However, we also highlighted the need for the whole plan viability assessment to be explicit on what costs it has been applying when considering M4(3)a or M4(3)b as the latter can only be sought on affordable housing where the Council has nominations and is considerably more expensive than the former. Evidence from HBF members and supported at several EIPs by housing staff from different Councils suggest M4(3)b is ten times more expensive than M(4)3a.

Strategic Policy H N05: Self-build and custom build housing

The policy is not considered to be sound as it is not positively prepared, effective, justified or consistent with national policy

117. HBF does not consider that requiring major developments to provide for self-builders is appropriate. Instead, the HBF advocates for self and custom-build policies that encourage self and custom-build development by setting out where it will be supported in principle. HBF considers that Councils can play a key role in facilitating the provision of land as set in the PPG. This could be done, for example, by using the Councils' own land for such purposes and/or allocating sites specifically for self and custom-build home builders- although this would need to be done through discussion and negotiation with landowners.
118. It is considered unlikely that the provision of self and custom build plots on new housing developments can be coordinated with the development of the wider site. At any one time, there are often multiple contractors and large machinery operating on-site from both a practical and health and safety perspective, it is difficult to envisage the development of single plots by individuals operating alongside this construction activity.
119. However, if a self-build policy is to be pursued, HBF highlight that if demand for plots is not realised, it is important that plots should not be left empty to the detriment of neighbouring properties or the whole development. The Plan should set out the timescale for reversion of these plots to the original housebuilder, which should be as short as possible from the commencement of development because the consequential delay in developing those plots presents further practical difficulties in terms of co-ordinating their development with construction activity on the wider site. There are even greater logistical problems created if the original housebuilder has completed the development and is forced to return to site to build out plots which have not been sold to self and custom builders. HBF would therefore suggest that any unsold plots should revert to the original developer after a maximum six-month marketing period.

Chapter 10. High Quality Design

Strategic Policy DS01: Design and local distinctiveness

The policy is not considered to be sound as it is not positively prepared, effective, justified or consistent with national policy

120. In this policy wording the Council the Council is seeking to give Local Plan status to the existing SPD which is not appropriate. Planning policy must be made through the Local Plan process. This is subject to mandatory requirements for public consultation and independent scrutiny through the Examination process.

121. If the Council wish to provide additional advice on the interpretation of this policy, this should be done through a Supplementary Planning Document, which is prepared and consulted on after the Local Plan policy has been adopted. It cannot be done through trying to give Local Plan policies status to an existing SPD, especially as the existing SPD hangs from the adopted policies in the Local Plan, which will be replaced when this new Local Plan is adopted.
122. The reference to the SPD should therefore be removed from the policy. If the Council wish to prepare an SPD on this subject, this could be referenced in the supporting text.

Policy DS02: Housing density and efficient use of land

The policy is not considered to be sound as it is not positively prepared, effective, justified or consistent with national policy

123. It is not appropriate for the Local Plan to include a policy requiring compliance with an as yet unwritten policy or design Code that the Council may decide to produce at some point in the future. The Plan must provide certainty. As such any reference to Guidance should be in supporting text. As the supporting justification explains, the NPPF already includes national policies on design. We therefore question the appropriateness of this policy, which seems to add nothing and is not clear on how a developer would comply with it.

Policy DS04: Green and blue Infrastructure

The policy is not considered to be sound as it is not positively prepared, effective, justified or consistent with national policy

124. To be effective this policy needs to be clearer on how it relates to mandatory BNG, particularly in relation to stacking.

Chapter 12. Our Outstanding Landscape

Policy OL05: Green wedges

The policy is not considered to be sound as it is not positively prepared, effective, justified or consistent with national policy

125. For the Plan to be deliverable the policy should be clear that development of, and to support, biodiversity net gain units within Green Wedges is acceptable. As we said in our response to the East Devon Further Draft Local Plan Consultation back in June 2024 “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.” We are unclear if and how the comments made in response to the June 2024 consultation have been considered and responded to and how they have informed this version of the Plan

126. HBF continues to 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 digging of ponds and other earth works, the development of footpaths or public access gates may require planning permission.

Chapter 13: Our Outstanding Biodiversity and Geodiversity

Strategic Policy PB01: Protection of internationally and nationally important wildlife sites

The policy is not considered to be sound as it is not positively prepared, effective, justified or consistent with national policy

127. In order to be effective and justified, and comply with national policy, the natural environment policies in the East Devon Local Plan need to be clearer on how they all fit together. HBF provides detailed comments about the natural environment policy at the first Regulation 19 stage, most notably around BNG. It is important for plan-users to understand that the introduction of national mandatory BNG policy is about creation and improvement of new habitat. We note that additional wording has been added to PB01 which sets out the biodiversity hierarchy for protected species. It is important to recognize that this is different from the BNG hierarchy which sets out how the requirements for BNG can be met. HBF have found that the use of both 'biodiversity' and 'hierarchy' in these two separate concepts has been a source of confusion. It is essential that the policies in this chapter avoid any such confusion. Additional wording to the policy and/or text in the chapter could help to address this issue.

Strategic Policy PB02: Protection of regionally and locally important wildlife sites

The policy is not considered to be sound as it is not positively prepared, effective, justified or consistent with national policy

128. Again, in order to be effective and justified, and comply with national policy, the natural environment policies in the East Devon Local Plan need to be clearer on how they all fit together. The Plan needs to clearly explain the difference between the BNG hierarchy which sets out how the requirements for BNG can be met. We recognise that the use of both 'biodiversity' and 'hierarchy' in these two separate concepts has been a source of confusion. It is essential that the policies in this chapter avoid any such confusion. Additional wording to the policy and/or text in the chapter could help to address this issue.

Strategic Policy PB03: Protection of irreplaceable habitats and important features

The policy is not considered to be sound as it is not positively prepared, effective, justified or consistent with national policy

129. Again this policy need to be clearer on how it interacts with the delivery of nationally mandated 10% BNG. HBF are aware that the water requirements of BNG have been proving particularly challenging and expensive.

Strategic Policy PB03: PB04: HRA and Mitigation Strategies

The policy is not considered to be sound as it is not positively prepared, effective, justified or consistent with national policy

130. HBF have been actively working with Government to find solutions to the challenges presented by Nutrient Neutrality. A moratorium on new development is not the appropriate way to proceed. It will be important for the Plan to fully reflect the latest solutions to this issue.

Strategic Policy PB05: Biodiversity Net Gain

The policy is not considered to be sound as it is not positively prepared, effective, justified or consistent with national policy

131. In our response to the first Regulation 19 consultation HBF provided detailed comments on the Biodiversity Net Gain policy and highlighted the error in the Council's understanding of how the policy is intended to work in practice. As we said in our previous response there seems to be significant potential for confusion around environmental hierarchy, and suggest particular care is needed to avoid any confusion between the well-established mitigation hierarchy and the new BNG hierarchy.
132. We highlighted the need for the policy wording and/or supporting text to be clearer about the differentiation between the mitigation hierarchy (which seeks to avoid harm in the first place, then mitigate and only then compensate it in relation to protected species) and the BNG delivery hierarchy (which prioritises on-site BNG delivery, then off-site units and finally allows for statutory credits). There seems to be significant potential for confusion between the two difference hierarchies. HBF therefore suggested that the Council should take particular care to explain how the requirements of the two-part BNG hierarchy work in different ways and that they seek to achieve different aims.
133. It is disappointing that no changes have been made to address these concerns. As the Council know national BNG came in for large sites on Feb 12th 2024, and for small sites from 2nd April 2024. Any local BNG policy must therefore reflect all the BNG legislation and national policy as well as the DEFRA and MHCLG guidance.
134. It remains the 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. The Plan should provide certainty for developers and a clear BNG policy with a fixed 10% figure. It remains HBF's position that we need to get 10% BNG working properly before looking to go any further. The Dec 2025 NPPF consultation clearly sets out the Government wish to stop the plethora of Local Plan policies with different targets for BNG.
135. HBF was involved in a significant amount of work, being led by the Future Homes Hub, on BNG preparedness. This work continues through our role on the FHH BNG Implementation Board and Community of Practice. It should also be noted that the PPG is clear that there is no need for individual Local Plans to repeat national BNG guidance.
136. As mentioned earlier, the Government (via DEFRA) recently undertook a consultation on potential revisions to the national BNG requirement and is now intending that sites under 0.2 Ha are exempt from BNG. The current NPPF (Dec 2025) consultation indicates that the only time where it may be appropriate to seek more than 10% BNG through local policy relates to allocations, and even then only where this is clearly evidenced and justified. BNG implementation is an area of work being led by DEFRA and is required under the Environment Act. The Plan will need to be amended

to reflect the current BNG policy as set out by DEFRA and reflect any changes to how BNG has been operationalized.

137. If a Local Plan policy on this issue is to remain within the Plan, than reference should be made to the BNG hierarchy which prioritises on-site BNG delivery where possible, then the purchase of off-site units and finally the purchase of statutory credits (as mentioned earlier this is different to the biodiversity hierarchy for addressing impacts on protected species). Although the last sentence of the second paragraph references this point, the wording is confusing and muddled and does not set out the hierarchy.
138. HBF would also question the justification for making good practice guidance a mandatory part of the East Devon policy requirements and the requirement for all off-site BNG to contribute to the LNRS. This is not how the LNRS is intended to be used, and does not reflect the national approach to BNG and the Government's support for development of a market in off-site BNG units. Any reference to the biodiversity metric should refer to the both the statutory BNG metric and/or the Small Site Metric (SSM) as both can be used on small sites, and there is no requirement for an ecologist to use the SSM. It is not appropriate for the East Devon Local Plan to seek BNG on sites that are exempt from providing it. For example, the exemption for self-build has been established nationally. The Dec 2025 NPPF consultation clearly sets out that the Government agrees that this is simply not appropriate.
139. HBF continue to suggest that significantly more information, assessments and analysis around BNG, and Viability (for BNG and viability more generally) is needed to support the new East Devon Local Plan. There remain significant additional costs associated with biodiversity gain, which will need to 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 discussions, any policy requirements over 10% can be. Any BNG policy has to make this position clear.
140. It is also important to note that for 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 has been provided in the new BNG PPG.
141. The costs of BNG 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 still unknown at this time. It is important that BNG does not prevent, delay or reduce housing delivery. The costs relate both the financial costs and also land take- which will impact on densities achievable if BNG is provided on site.
142. As this is still a new policy area and the market for off-site provision, and statutory credits are not yet known, any 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 have 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.
143. HBF would also continue to request that the Local Plan allocation policies fully consider the issue of delivering against the new BNG requirements. This should include undertaking an assessment of the baseline to support the allocation to enable an understanding the BNG requirements for a site to

be allocated and the impact this may have on viability and other policy requirements and considerations. It will be important to understand the BNG costs of mandatory BNG as this is non-negotiable and as such may impact on the viability of the site and its ability to deliver against other policy requirements such as affordable housing or other s106 asks.

144. The current BNG Guidance is clear that going beyond the mandatory 10% requires evidence and there is a need to show that this will not impact viability. HBF are not aware of any evidence that has been provided that would support a higher figure in East Devon. The introduction of mandatory BNG is still a fairly new national policy requirement and it remains important for the viability implications of this new policy is considered in the whole plan viability assessment on the East Devon Local Plan. It remains very important to understand if this non-negotiable national policy requirement has any knock-on implications for other policy areas 'asks', notably the amount of affordable housing that can be delivered. Requested more than 10% creates more challenges for sites where the 10% national mandatory requirement may already be challenging.
145. In our first Reg 19 response we requested that the BNG Policy and supporting text was updated to reflect the timeframes for the development of the LNRS for Devon. We welcome the additions to para 13.29 which clarify this, but there will still be a need to ensure this information is kept up to date.
146. BNG also impacts on the density of housing schemes that can be provided, as land used for on-site BNG is not available for housing.
147. HBF request the policy and supporting text are updated to properly reflect how BNG is being implemented in practice, and the viability assessment will also need to include up-to-date BNG costs which reflect the true costs in terms of land take, financial costs and impact on time in bringing schemes forward. As currently written the Plan is in conflict with national policy and unsound.
148. We also note that Mandatory BNG could apply to some new applications in Cranbrook, as currently drafted the Plan is silent on how this issue will be addressed in that area, suggesting within the policy wording that BNG does not apply in Cranbrook- which is simply incorrect. As such this policy is also unsound for this reason.

Strategic Policy PB06: Local Nature Recovery Strategy (LNRS) and Nature Recovery Network (NRN)

The policy is not considered to be sound as it is not positively prepared, effective, justified or consistent with national policy

149. The wording of this policy conflicts with how BNG is intended to work in practice, see comments in response to policy PB4: Biodiversity Net Gain. It is possible under national BNG policy for off-sites units to be purchased outside of the District, or even County, and the metric already considers this issue in its calculations. The policy needs amending to remove this conflict. As currently written this policy is unsound.

150. PB07: Ecological enhancement and biodiversity in the built environment

The policy is not considered to be sound as it is not positively prepared, effective, justified or consistent with national policy

151. The policy needs to be clearer about how it links to mandatory BNG.

Policy PB08: Tree, hedges and woodland on development sites

The policy is not considered to be sound as it is not positively prepared, effective, justified or consistent with national policy

152. The policy needs to be clearer on how it links to mandatory BNG. Linear features such as Hedgerows, and individual trees on site, already form part of the BNG metric assessment process. It is unclear if the tree policy requirements are in addition to the BNG or can form part of it.

Chapter 17. Implementation and Monitoring

The Implementation and Chapter and the Monitoring Framework are not considered to be sound as it is not positively prepared, effective, justified or consistent with national policy

153. The Plan should include a more detailed Monitoring Framework which sets out the targets for housing (and other matters) that will be monitored and the triggers for action being taken, and what that action will be. Monitoring is essential to see if the Plan is delivery housing as expected. The monitoring framework is part of the way that the Plan delivers the flexibility is needed, so that the Council is able to respond to any changing circumstances.
154. If despite HBF views, this Plan is to proceed under the NPPF transitional arrangements and is only planning for 80% of the standard method, in order to comply with the NPPF and transitional arrangements it must include a clear commitment to Local Plan review. We would draw the Council's attention to the following examples of such a policy- Spelthorne policy (see MM12 (24) Policy ST£ <https://spelthorne.inconsult.uk/MMconsultation/consultationHome>) or the proposed policy in South Staffordshire see document SST/ED53 Council's position on an early review of the Local Plan, available here <https://www.sstaffs.gov.uk/local-plan-review-examination/examination-documents>
155. HBF do not support the inclusion of policies within a Local Plan that only trigger a review of the Local Plan if monitoring shows housing delivery is not occurring as expected. Such a policy does nothing to address the housing crisis or undersupply of homes. There are other more effective and immediate measures that could be introduced into policy as well that would enable the Council to address housing under delivery, much more quickly than would be possible through the production of another plan, or plan review. It will be important the Monitoring Framework to set out what actions will be taken in case of an under delivery of housing, above and beyond the preparation of a New Local Plan
156. It is important that houses are brought forward, and the matter addressed as soon as possible, if under delivery is observed. HBF would suggest, as a minimum, explicit reference should be made within the Plan's policy and monitoring framework to the potential to bring forward additional housing supply earlier. As the housing need and requirement figures for the Plan are minimum (not maximum) figures the Council could also specifically identify reserve sites and/or include policies that would allow for additional windfall housing sites that could/would be brought forward sooner to address any under delivery whatever the reason for that under performance. This could be a shortfall in market housing permissions granted and/or completions, affordable housing permissions granted and/or completions and any failure against the Housing Delivery Test or local plan monitoring.

157. The Plan needs to be amended to set out how and when monitoring will be undertaken, and more information is needed on what action(s) will be taken when if monitoring shows under delivery of housing. This should be in the form of a Local Plan Review Policy and supporting text. Not doing so means the plan will be ineffective and therefore unsound, and would mean it fails to comply with the transitional arrangements set out in the Dec 20204 NPPF.

Supporting Documentation

158. **Sustainability Appraisal-** HBF are unclear if an SA was produced to support the first Reg 19 consultation and what if any changes have been made to it to support the second Reg 19 consultation. We would have expected the SA to fully consider and test the implications of meeting the standard method housing figures in full, and the implications of opting for a higher housing figure to support growth, meet unmet need of neighbouring authorities and provide for a range and choice of sites.

159. **HRA-** HBF are unclear if and how the HRA has taken onboard the ongoing work of Government and others to find solutions to the nutrient neutrality issues, and how these discussions have fed into the Plan.

Future Engagement

160. 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 housebuilding industry.

161. HBF would wish to appear at the Examination to ensure that the views of the development industry fare fully represented and feed into the production of this Plan.

162. HBF would like to be kept informed of any further consultation on the Local Plan and associated documents. Please use the contact details provided below for future correspondence.

Yours sincerely,

R. H. Danemann

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