
East Devon Local Plan 2020-2042: Regulation 19 Publication Draft

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on behalf of 3West Group

1. Introduction

This Representation is made in response to the Regulation 19 Publication Draft of the East Devon Local Plan Review 2020-2042. The representation is submitted by Savills on behalf of 3West Group who have an interest in Land north and east of Exton Farm (Wood_28), in the Draft Plan.

The Land north and east of Exton Farm (Wood_28) ('the site') has been promoted at the various stages of the emerging Local Plan and information submitted through previous Strategic Housing Land Availability Assessments.

These representations fully support the inclusion of the site as a draft allocation within the draft plan, but also raise concerns over a number of strategic policies in the plan.

Our comments on the consultation and supporting evidence base are set out below and are made in accordance with paragraph 36 of the NPPF, to assist in ensuring that the Local Plan is found sound when examined in the future.

2. Response to Draft Policies

The following section sets out our responses to the draft policies within the Draft Plan.

Strategic Policy SP01: Spatial Strategy

In general we are supportive of the proposed spatial strategy, and agree that there is a need to focus the spatial strategy on development at the most sustainable towns in the district. However, it is clear that the most sustainable villages are capable of playing significant role within the spatial strategy.

To help with this we welcome the Council's decision to include allocations at a range of settlements, not only the larger towns in the District.

We do continue to maintain that reference within the Draft Plan to an allowance for only 'limited development to meet local needs at the Service Villages' should be carefully considered to ensure that the growth directed to those villages is proportionate. From reviewing the Regulation 19 plan it is clear that for a number of villages more than simply 'limited' development is directed to those settlements. This is a matter we support and we therefore consider that it is the wording 'limited' which should be reviewed in order to ensure that the important role the villages can play is strengthened within the draft plan.

Strategic Policy SP02: Levels of Future Housing Development

Draft Policy SP02 sets out the proposed housing requirement for the plan period. It states that at least 20,909 dwellings will be delivered between 1 April 2020 and 31 March 2042. However, this is proposed to be split into two phases with 850 dwellings per annum in the first phase from 2020/21 to 2031/32 and 1,070 dwellings per annum in the second phase from 2032/33 to 2041/42.

We have concerns over the approach taken in draft Policy SP02 for the following reasons:

- Uncertainty over whether the Local Plan can proceed under the transitional arrangements
- The proposed stepped trajectory

We address each of the two matters in turn below.

Uncertainty over whether the Local Plan can proceed under the transitional arrangements

From our reading of the Forward to the Plan and the Justification for Policy SP02, it is clear that the Council has commenced consultation on the Plan before it is ready, with the intention to try and take advantage of the transitional arrangements contained in Annex 1 of the NPPF, and proceed with a housing requirement that falls below the Government's revised Standard Method output.

This intention is very clear when reading how the proposed housing requirement has been described in paragraph 3.11 of the Plan. This justification for the policy in this paragraph explains that the requirement has been set at a level which just, by less than one dwelling per annum, exceeds the 80% threshold in paragraph 234(a) of the NPPF.

In our view this approach is not in accordance with the purpose of the transitional arrangements. These provisions are intended to enable Local Plans to progress where an emerging local plan has advanced but not yet reached the Regulation 19 stage, not to set a minimum threshold for Local Plans for plans which are at Regulation 18 stage. This is unfortunately how the Regulation 19 plan reads.

However, more fundamentally, we are concerned over whether the Local Plan consultation is even able to proceed on the basis of the transitional arrangements. The relevant extract from Paragraph 234(a) of the Framework is copied below:

“234. 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:

a. the plan has reached Regulation 19 82 (pre-submission stage) on or before 12 March 2025, and its draft housing requirement meets at least 80% of local housing need 83.”

This is supported by two related footnotes. The first of these – Footnote 82 – is as follows:

“Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012. In this context “reached Regulation 19” refers to when Regulation 19 has been complied with (i.e. when the planning authority has made a copy of each of the proposed submission documents and a statement of the representations procedure available, and the statements required in Regulation 19(b) have been sent to consultation bodies).” (emphasis added)

The reference to *“each of the proposed submission documents”* is very important. In order to be considered to have reached Regulation 19, the whole of the Plan, i.e. each component part of a Regulation 19 local plan, must have been made available. This is a very deliberate piece of drafting by Government intended to preclude circumstances where a local planning authority could progress under the transitional arrangement contrary to their spirit and purpose.

On the basis of the above we consider there is significant risk that the Local Plan may not be able to proceed under the transitional arrangements and that none of the exceptions contained within paragraph 234 of the Framework apply.

In these circumstances, it is our view that the housing requirement must reflect paragraph 62 of the Framework:

“To determine the minimum number of homes needed, strategic policies should be informed by a local housing need assessment, conducted using the standard method in national planning practice guidance. In addition to the local housing need figure, any needs that cannot be met within neighbouring areas should also be taken into account in establishing the amount of housing to be planned for”.

The Standard Method output for East Devon from the revised methodology of the PPG is 1,188 dwellings per annum (dpa) as acknowledged in paragraph 3.11 of the draft Local Plan. For the reasons set out above, it is this figure which the Plan must put in place in order to satisfy the 'Positively Prepared' test of soundness in paragraph 36(a) of the NPPF. As it stands, our view is the draft Local Plan is unsound and may require significant Main Modifications to allocate a minimum of an additional 5,227 dwellings during the plan period to redress this shortcoming.

Stepped Housing Trajectory

In very simple terms, we consider that there is absolutely no justification for adopting a stepped trajectory in the draft plan for that reduces the housing requirement for the five years (approx.) post-adoption and pushes the resultant backlog that this creates to the later years of the plan period.

The Planning Practice Guidance helpfully attends directly to the question of 'When is a stepped housing requirement appropriate for plan-making?'. In so doing it provide the following guidance:

"A stepped housing requirement may be appropriate where there is to be a significant change in the level of housing requirement between emerging and previous policies and / or where strategic sites will have a phased delivery or are likely to be delivered later in the plan period. Strategic policy-makers will need to identify the stepped requirement in strategic housing policy, and to set out evidence to support this approach, and not seek to unnecessarily delay meeting identified development needs. Stepped requirements will need to ensure that planned housing requirements are met fully within the plan period. In reviewing and revising policies, strategic policy-makers should ensure there is not continued delay in meeting identified development needs."

The guidance also advises that evidence must be provided to support a stepped approach if one is proposed. There is no such evidence in the draft plan or the evidence base.

Overall, the Council needs to play its part in addressing the housing crisis. Rather than trying to do the bare minimum to scrape through under the transitional arrangements, the Council could and should have positively and proactively sought to update the policies and proposals of the Local Plan to reflect the local housing need as defined by the revised Standard Method.

As it stands, the transitional arrangements may not apply to EDDC as not all of the Local Plan has been published for consultation. In accordance with the paragraph 36 of the Framework, the housing requirement and related elements of the Local Plan should therefore be updated to reflect the revised Standard Method.

In our view, the housing requirement for the draft Local Plan should therefore be increased in order to reflect the updated Standard Method.

Strategic Policy SP03: Housing requirement by Designated Neighbourhood Area

We support reference within draft Policy SP03 to the inclusion of the Land north and east of Exton Farm within the housing requirement figures breakdown. It is clear from the Regulation 19 plan that the site forms part of the proposed local plan allocations figure of 311 dwellings.

We do however have some significant concerns with the overall housing requirement within which the designated neighbourhood area figures are derived, as set out in our response to draft Policy SP02.

Strategic Policy SD17: Development allocations at Exton

We support Strategic Policy SD17 and specifically the proposed allocation of the Land north and east of Exton Farm (Wood_28).

The proposed allocation states:

Land north and east of Exton Farm (Wood_28)

The site is allocated for around 39 dwellings. Development will need to provide safe and suitable pedestrian and cycle access along Mill Lane south to the existing pedestrian crossing at the A376/Station Road junction, to enable easy access to facilities in the settlement. This pedestrian crossing should be upgraded to accommodate cyclists, to enable access to the Exe Estuary Trail via Station Road. Development should provide pedestrian/cycle links to Wood_01 adjacent to north west. Development should include tree planting on the southern field to reflect their historic presence; and retain the hedgerow that dissects the site, as far as practically possible. Development should address the existing flooding issues along Mill Lane.

Firstly, Exton is a sustainable location for future development. The village is very well connected to Exeter on the basis of both its proximity and public transport links. This includes the presence of a railway station in the village and regular bus services. The railway station in particular provides direct connections into Exeter with journey times of only 30 minutes. These public transport services provide residents with good connections to Exeter and the range of regional employment, retail and leisure facilities on offer as a result.

In addition, Exton hosts the following which provide day-to-day services and facilities:

- Shop / convenience store
- Pub
- Village hall
- Children's play area

As a result, Exton is an entirely appropriate location for future growth, and we support the Council's commitment to direct a proportion of the required growth to the village.

We specifically support the proposed allocation of Land north and east of Exton Farm (Wood_28) for the development of 39 residential dwellings.

The development of the site can provide much needed market and affordable housing to help meet local housing needs, as well as helping to sustain the vitality and viability of the existing services and facilities in the village.

We agree that the development of the site should explore appropriate pedestrian and cycle access and that this may require some highway improvements. We also agree that development should address the existing flooding issues along Mill Lane. Such work relating to highways and flood risk will be reviewed further as part of an emerging masterplan for the site.

The site is also capable of accommodating the necessary tree planting as requested by draft Policy Wood_28), and would in any case look to retain trees / hedgerows as far as possible to maximise biodiversity net gains.

Overall, the land north and east of Exton Farm remains a strong candidate for allocation in the emerging Local Plan Review. The site is available and very much capable of accommodating the 39 new homes proposed in draft Policy Wood_28, including a policy compliant level of affordable housing.

Strategic Policy CC01: Climate Emergency

Whilst we recognise that draft Policy CC01 is intended to set the overall context for the subsequent climate change related policies that follow within Chapter 6 of the Local Plan, it is generally vague in its language and it is not at all clear what development is required to achieve in order to accord with the wording of this policy.

In addition, since the detailed requirements for development follow in subsequent policies within this section draft Policy CC01 does not in our view add anything. On that basis we recommend that draft Policy CC01 is changed into introductory text for this chapter rather than policy wording.

Strategic Policy CC06: Embodied Carbon

Whilst we support the Council's ambitions for reducing carbon emissions, we do not consider that this draft Policy is justified or consistent with national policy.

There are currently significant gaps for collecting data and measuring whole life carbon consistently and comparatively. As a result, the Future Homes Hub have prepared a roadmap for the development of an industry-led approach for reducing embodied and whole life carbon in new homes which is expected to be aligned with emerging national Government policy. This will include a Future Homes Carbon Assessment Tool.

There are also issues with including assessment of carbon as part of the planning process, given the highly technical nature of the process, which much more naturally aligns with Building Regulations. Given the Government's position on setting standards at a national level, we do not believe this draft Policy aligns with national policy, nor is the need for it justified. As such, it should be removed in full to achieve soundness.

Strategic Policy AR01: Flooding

It is clear that Criterion A of draft Policy AR01 seeks to apply the sequential and exception tests to all development proposals in areas at risk of flooding from any source. Whilst that very strict policy approach was consistent with the previous version of the Framework, in December 2024 there was a change to paragraph 175 which updated the approach to the sequential test. This is copied below for convenience:

"The sequential test should be used in areas known to be at risk now or in the future from any form of flooding, except in situations where a site-specific flood risk assessment demonstrates that no built development within the site boundary, including access or escape routes, land raising or other potentially vulnerable elements, would be located on an area that would be at risk of flooding from any source, now and in the future (having regard to potential changes in flood risk)."

We understand that further changes to the related section of the Planning Practice Guidance on Flood Risk are also due to be published imminently. Once this has been published a full review of draft Policy AR01 should be undertaken to ensure that it is compatible with the most up to date national policy and guidance.

Strategic Policy HN02: Affordable housing

We are generally in support of the proposed 30% affordable housing requirement for *“all other local plan allocated sites”*.

We consider this proportion of affordable housing more reflective of both local housing needs as well as the need to ensure new developments are viable. In this respect, we consider the emerging policy position on affordable housing as more realistic than that of the adopted Local Plan.

We do however encourage the Council to ensure that the supporting evidence base is robust and supports the proposed affordable tenure splits.

Policy HN05: Self-build and custom build housing

Whilst we support the Council’s efforts to deliver a diversified range of housing as part of the plan, at present, we do not consider the draft Policy to be sound for the following reasons:

As an overarching point, there is no justification provided for the requirement of 5% on sites of 20 dwellings or more. Justification should consider absolute need moving forward, but also take into account consented supply as well as realistic levels of demand for self-build plot purchase within larger “host” development sites.

At a practical level, there remains a fundamental conflict between the characteristics that typically attract demand from custom / self-build purchasers and trying to accommodate such plots on a wider “host” development site:

- With the need for at least some design continuity between the “host” site and the self/custom build plots, this takes away the freedom within the self-build plots.
- That being the case, the developer would be able to achieve economies of scale and deliver the same product at a lower price than it would cost a self-builder to achieve a building of the same floorspace.
- Unless a self-build site can have its own separate access (which in most cases is unachievable and unviable), the contracting associated with multiple self-build units, on top of any contractors associated to the “host” site is a significant health and safety challenge.

Our position is that if there is demonstrable and viable demand for self and custom built plots, the delivery of these would be more appropriate on sites specifically allocated for self-build (i.e. not part of larger host developments), or on sites where an element of self/custom build is expressly supported by the land owner.

Given the extensive nature of the comments, we do not propose specific wording changes and urge the Council to consider substantive changes to this draft Policy prior to submission.

Strategic Policy DS02: Housing density and efficient use of land

Whilst we are generally supportive of draft Policy DS02, we are concerned about the proposal to require all major developments to be supported by a design code agreed with or produced by the council.

For many smaller development proposals, whilst classified as major development if over 10 dwellings, design principles can be agreed and captured through the development of site specific masterplans and Design and Access Statements. We therefore question the justification for seeking to impose specific design codes on 'all' major development proposals under this draft policy.

We recommend that the Council either seek to justify this requirement or amend the policy to remove the current blanket approach.

Strategic Policy OL10: Development on high quality agricultural land

We object to the inclusion of draft Policy OL10, and consider there to be a complete lack of justification for such a policy.

The policy as drafted is not consistent with the NPPF and in any case is not required and is instead in danger of duplicating matters covered by national policy and guidance.

The draft policy also seeks to stray beyond the requirements of national policy and guidance at a time when the Government have been clear about the need to significantly increase housing delivery.

In our view this policy should be removed in its entirety.

Strategic Policy PB05: Biodiversity Net Gain

We object to this policy as currently drafted.

Whilst we support the principle of supporting biodiversity, as currently drafted this draft Policy does not align with national policy, guidance and legislation on Biodiversity Net Gain. This is particularly important as the PPG is clear that there is no need for local planning policy to repeat national BNG requirements. Principally:

- This draft Policy must not deviate from the Environment Act's requirement for at least 10%.
- As is allowed for in the PPG, the draft Policy does not appropriately allow for BNG on large phased sites being considered as a whole, rather than 10% needing to be delivered in each phase.
- It is unclear whether the costs of BNG have been considered in full within the Council's viability evidence.

As a result of the above, we urge the Council to review this draft Policy prior to progressing. As such no specific edits are proposed here.

5. Summary and Conclusions

This Representation is made, on behalf of 3West Group, in response to the Regulation 19 Publication Draft of the East Devon Local Plan Review 2020-2042.

Overall, we fully support the inclusion of the Land north and east of Exton Farm, known as 'Wood_28', in the Regulation 19 plan.

The site remains a strong candidate for allocation in the emerging Local Plan Review. The site is available and very much capable of accommodating the 39 new homes proposed in draft Policy WOOD_28, including a policy compliant level of affordable housing.

These representations have however highlighted a number of concerns and some objections to draft policies in the plan and have set out within these representations where we consider changes are required in order to ensure the soundness of the plan.

We trust our comments should be fully taken on board and changes to the Draft Plan made as a result.