

# Briefing Note

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Subject: East Devon Local Plan (Second Regulation 19 Consultation) - Potential implications for Torbay Council and Spatial Development Strategy.

## 1. Summary and Recommended Approach

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This note recommends a draft response to East Devon District Council's (EDDC) Local Plan, which is at Regulation 18 Stage. Torbay and EDDC officers will need to agree a Statement of Common Ground on each other's Plans.

On the basis of the assessment below, it is recommended that:

- Torbay Council maintains its position with EDDC that it is unable to meet its LHN, due to the high level of environmental constraints and lack of developable land that Torbay faces.
- That Torbay Council acknowledges that East Devon and Torbay officers have engaged in ongoing discussions and that "Duty to Cooperate" legal tests have been addressed.
- Nevertheless, meeting unmet needs remains a Test of Soundness and Presumption in favour of Sustainable Development issue that Plan makers and Inspectors must consider; and Torbay has identified this in its duly made Reg 19 representations.
- Torbay and EDDC should prepare a Statement of Common Ground that meeting the sum of Local Housing Needs is a strategic matter that should be addressed in the forthcoming Spatial Development Strategy or the next review of their Local Plans. This should reference the approach taken by the Teignbridge Inspectors.
- However, if Inspectors are not minded to support this approach, Torbay must maintain its position that environmental constraints (and a lack of developable land) prevent it from meeting the LHN figure and a requirement remains under Paragraphs 11 and 36 of the (2024) NPPF for neighbours to accommodate it.

## 2. Background

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Torbay has indicated to neighbour authorities that it cannot meet government housing targets. This has been the case since 2018 when the Standard Method Local Housing Need (LHN) was

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introduced. It is brought into sharper relief by an increased LHN figure introduced as a mandatory minimum (“binding housing target”) in the December 2024 NPPF.

The matter affects the Duty to Cooperate and the Tests of Soundness and Plan Making Presumption and therefore goes to the heart of Local Plans currently being prepared by Torbay and neighbouring councils. Councils must prepare Statements of Common Ground to demonstrate how cross-boundary matters are being met in plan making.

Torbay has previously argued that its population and household growth arises from subregional domestic migration and not local household formation, and therefore the issue should be addressed on a sub-regional basis.

The Planning and Infrastructure Act 2025 introduced Spatial Development Strategies with the prospect of local housing need being assessed at a strategic level (i.e. the sum of each area’s LHN will have to be assessed and redistributed on the basis of factors such as environmental constraints, economic need and infrastructure capacity).

It is recommended that Torbay makes the case that issues of unmet need should be resolved through the SDS, and/or early review of local plans. This would allow the current round of Local Plans to proceed to adoption without a clear agreement about how Torbay’s unmet need can be met. This is the broad approach taken by the Teignbridge Local Plan Inspectors, and in the Statement of Common Ground agreed with Exeter City Council for its upcoming Examination.

However, East Devon District Council has raised objections to the draft Torbay Local Plan (see below). EDDC’s own Local Plan is at Regulation 19 (Publication Plan stage). Torbay previously made an officer level representation that East Devon should consider its ability to meet some of Torbay’s unmet need. EDDC has not accepted the need for it to do so (see below). It is recommended that Torbay Council should maintain its objection to East Devon’s Second Regulation 19 Local Plan Consultation which runs until 26<sup>th</sup> January 2026.

However, discussions have taken place between Torbay and EDDC officers and the “Duty to Cooperate” is not a “duty to agree”. It is recommended that Officers work to agree a joint statement of common ground with EDDC that unmet needs should be resolved through SDSs and early reviews of Local Plans.

This gives both Torbay and East Devon the best chance of progressing Local Plans under the “legacy” system which will provide a level of certainty and protection from speculative development. Spatial Development Strategies, Local Government Reorganisation and the rewritten NPPF may reshape the planning and political landscape in the medium term. Adopting Local Plans in the interim will provide a level of security pending these transformational changes.

## 2. Further Information

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The Government is seeking to achieve nationwide Local Plan coverage as quickly as possible. East Devon, Exeter, Teignbridge and Torbay are all seeking to submit Local Plans under the “legacy system” of the Planning and Compulsory Purchase Act 2004/ Local Planning Regulations 2012. Teignbridge District Council is at Main Modifications Stage (following Examination). Exeter City Council has an Examination commencing in Spring 2026. East Devon is carrying out a

second regulation 19 consultation (until 26<sup>th</sup> January 2026) and intends to submit its Local Plan in Spring/Early Summer 2026. Torbay Council is at Regulation 18 (Issues and Options) stage and needs to agree a Regulation 19 Publication Plan for consultation by July at the latest, in order to be able to meet the Government's deadline for submission of December 2026.

East Devon is not contiguous to Torbay (being separated by Teignbridge and Exeter District Councils), and therefore there are unlikely to be direct infrastructure impacts. However, East Devon is part of the adjoining Greater Exeter Housing Market Area (along with Exeter, Teignbridge and Mid Devon) which does adjoin Torbay. The main cross-boundary issue between Torbay and East Devon is that Torbay is unable to meet its Local Housing Need as calculated by the Government's binding Standard Method.

The East Devon Local Plan proposes an average of 950 dwellings a year (with a stepped trajectory of 850dpa between 202/1-and 2031/2 building up to 1070 dpa thereafter). This is 80% of EDDC's Standard Method LHN at December 2024, so is the minimum level of housing required to meet the NPPF's requirements.

Torbay has identified with neighbours that it cannot meet its housing need and made representations to this effect on the previous (Regulation 18 and 19) versions of East Devon Local Plan. This is a Test of Soundness issue for both the East Devon and Torbay Local Plans.

EDDC has prepared a draft Duty to Cooperate Statement [csd-010b-socg-on-housing-employment-and-site-allocations.pdf](#) which addresses whether there is scope for East Devon to meet neighbour areas' need and records Torbay's request as well as previous requests in 2022

*5.12 East Devon has no shared border with Torbay and is separated from it (on land) by Exeter City Council and Teignbridge District Council. The submission Teignbridge Local Plan<sup>7</sup>, which borders Torbay, included a policy (H1) on meeting possible unmet housing needs from neighbouring authorities. However, the Inspectors advice<sup>8</sup> was that it would be better to include explanatory text to explain that, in the event of housing not being delivered in accordance with the plan, or if the identified needs for new homes were to change, the requirements of legislation and national policy/guidance in respect of the need for a review/update of the plan would be followed. This approach was incorporated into the main modifications of the plan. Similar text has been added to the second East Devon Regulation 19 plan as set out in paragraph 5.5 (Dorset) of this paper. However, given the physical separation between Torbay and East Devon, it may be difficult for Torbay to justify how the provision of additional housing within East Devon could meet the Torbay housing requirement. Furthermore, the environmental and other constraints of building additional housing in East Devon, rather than in or closer to Torbay, to meet a Torbay requirement would need to be properly investigated, considered and justified.*

EDDC has previously objected that Torbay has not made a sufficient case to justify that it is unable to meet its Local Housing Need, and is maintaining this position at the current Torbay Local Plan (third Regulation 18 stage). [Agenda for Strategic Planning Committee on Tuesday, 6th January, 2026, 10.00 am - East Devon.](#)

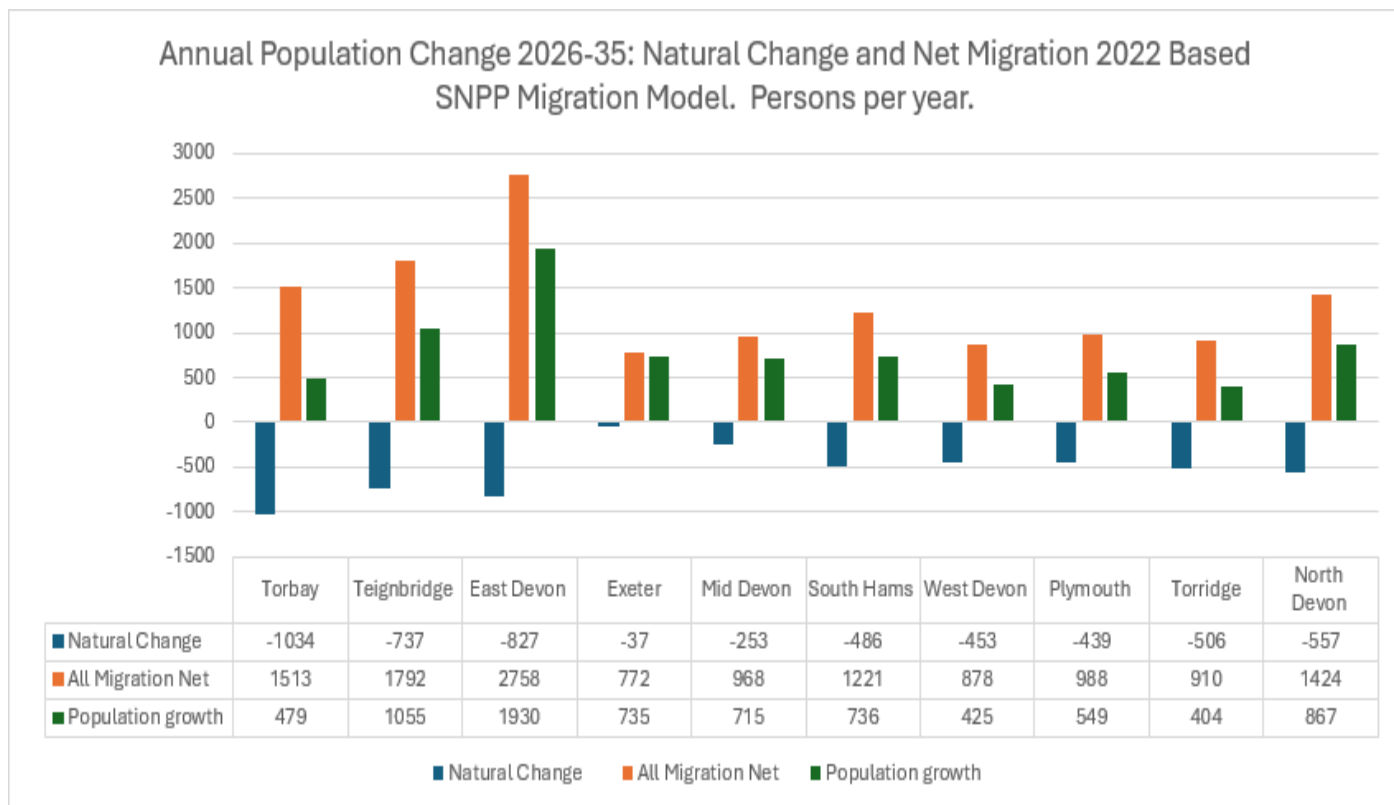
It considers that (1) Torbay has not been sufficiently proactive in seeking to boost housing numbers. (2) Torbay has not raised a challenge about the statistical robustness of the Standard Method. (3) Torbay has not set out a justification that need arising from Torbay could be met in East Devon given their non-contiguous locations; and (4) East Devon also has significant environmental constraints including National Landscape (AONB), Habitats Regulations and transport issues.

In response to these, it is accepted that Torbay is at Regulation 18 (i.e. the earlier stage of consultation than East Devon) and will produce a topic paper in support of its Submission Local Plan. However, the draft Torbay Local Plan has taken a no-stone left unturned approach to identifying housing land and is currently receiving objections from several landowners of allocated sites. Torbay Council is being very proactive at seeking to regenerate town centres and areas with good transport links. There will be an opportunity to reconsider housing options as part of the preparation of the Regulation 19 Local Plan, and particularly to consider the implications of the draft NPPF (and its “Presumption in Favour of Development in Sustainable Locations”).

Torbay agrees with the suggestion in EDDC’s response that the Standard Method is statistically flawed. However, as its officers will know, there is no scope in the 2024 NPPF to challenge the Standard Method as the binding assessment of minimum need. The draft 2025 NPPF reiterates its binding nature.

As shown in Figure 1, The projected population growth for all of Devon arises from domestic inwards migration. With no migration, Torbay’s population is projected to decline by over a thousand people per year over the next decade, and EDDC’s by over 450.

**Figure 1 Drivers Of Devons’ Projected Population Growth (2022 Based Sub National Population Projections (2025, migration model).**



It is noted that EDDC's population and household growth is projected to be the highest in Devon and has environmental constraints especially in the east of the district. (see Appendix 1 where more population and constraints information is included for information). Nevertheless, Torbay is not asking EDDC to accommodate Torbay households, but rather a wider need arising from a wider inter-regional pattern of population movement.

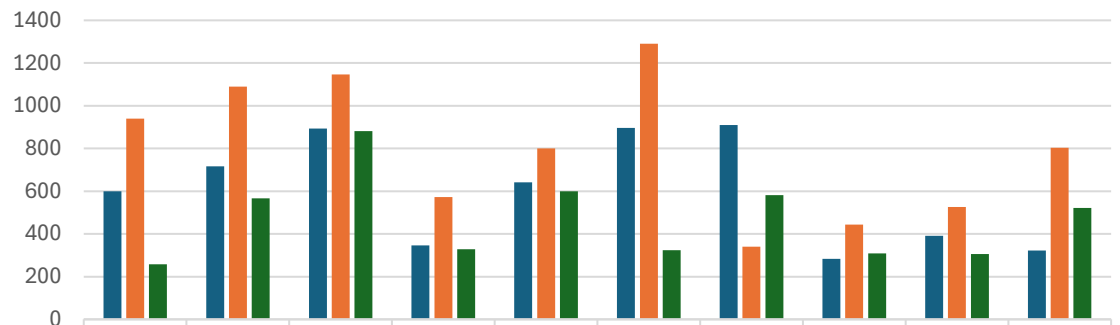
Disagreement between Torbay and EDDC about where unmet need should be located is an issue for both Local Plans, but really raises issues of wider sub-regional significance. The Government, through MHCLG announced in the Planning & Infrastructure Bill the emergence of new Spatial Development Strategies across the country. The introduction of a system of strategic planning is particularly welcome and is realistically the only way in which the distribution of unmet housing need across the area can be met. SDSs will distribute broad housing numbers across authorities and will set broad development locations (but not specific sites). This will be a challenging issue for local authorities but at least allows matters of sub-regional growth to be considered at an appropriate strategic level.

**Teignbridge Local Plan** Teignbridge Local Plan is currently at Main Modification stage following Examination. Torbay and TDC officers had agreed a mechanism whereby Teignbridge would allocate additional housing sites to meet Torbay's unmet need, once the scale of this was identified. [dte-003-addressing-torbay-s-unmet-need.pdf](#) However, the Teignbridge Local Plan Inspectors have removed this mechanism (Main Modification 102) on the basis that it should be dealt with at first review of the Teignbridge Local Plan. See paragraph 6-7 of the Inspectors' Initial Advice Letter [id-22-teignbridge-post-hearing-letter.pdf](#)

By way of context the old and new Standard Method LHN, and recent delivery (as they stood at December 2024) are set out below. This shows that all of Devon is struggling to meet the new LHN figure, and most have undershot the previous LHN figure. This also raises wider issues that can realistically only be addressed through the SDS.

**Figure 2 Previous and Revised Local Housing Need and Recent Housing Delivery at December 2024.**

## Pre 2024 and December 2024 Standard Method Local Housing Need Figures for Devon Authorities and average delivery 2020-23



	Torbay	Teignbridge	East Devon	Mid Devon	Exeter	Plymouth	South Hams	West Devon	Torridge	North Devon
■ Pre 2024 LHN	599	717	893	346	642	897	910	283	391	323
■ December 2024 LHN	940	1090	1146	572	800	1290	340	443	526	803
■ Average delivery over last 3 years	258	567	881	329	599	324	582	309	306	522

■ Pre 2024 LHN    
 ■ December 2024 LHN    
 ■ Average delivery over last 3 years

### 3. Appendices

The most recent population and household projections were published by ONS in 2025 and take 2022 as a base year but consider the most recent migration data. Although the Standard Method now uses housing stock as the starting point for calculation housing need, population and household projections remain relevant for plan making.

**Figure A1 Projected Population Change in Devon 2026-35 (2022 Based Sub National Population Projections- (latest) Migration Model. Published 2025.**

	Population at 2022	Population at 2026	Population at 2035	Change 2026-35	% Pop increase 2022-35
Torbay	139,409	141,541	145,735	4,194	3.0
Teignbridge	135,972	141,002	150,361	9,360	6.9
East Devon	154,374	163,464	180,338	16,874	10.9
Exeter	134,811	141,493	148,141	6,648	4.9
Mid Devon	83,812	87,357	93,717	6,360	7.6
Plymouth	267,063	273,157	277,908	4,751	1.8
West Devon	58,212	60,124	63,890	3,767	6.5
South Hams	89,808	93,590	100,086	6,496	7.2
Torridge	68,664	70,434	74,018	3,584	5.2
North Devon	100,455	104,791	112,392	7,601	7.6

**Figure A2 Household Change 2026-35 (2022 Based SNHPs Migration model).**

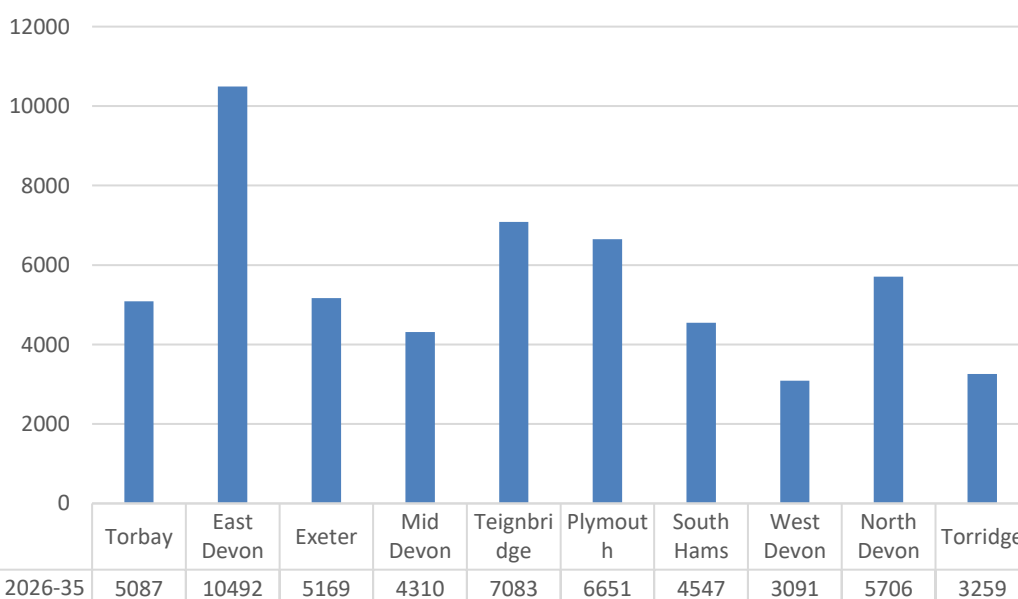
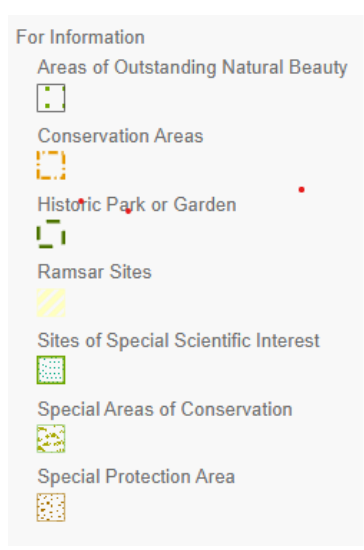
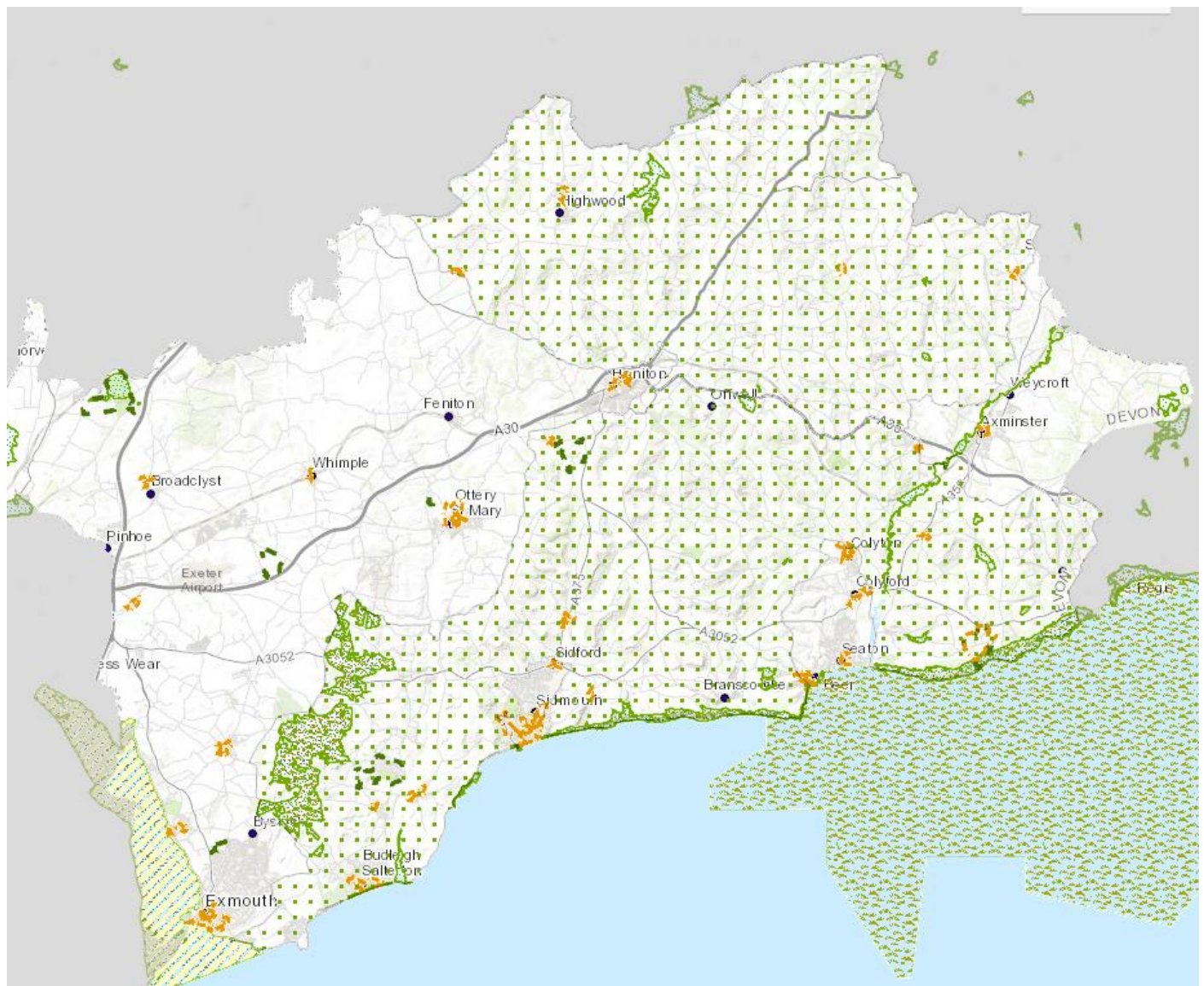


Figure A3 Maps East Devon's NPPF Footnote 7 constraints that may provide a "strong reason" why it is unable to accommodate development. Consideration of this is a matter for EDDC but it is noted that the most constrained area is the east of the District.

**A3 East Devon District – NPPF Footnote 7 Constraints (not including local designations)**



**Figure A4 Torbay's Representation to EDDC's first Regulation 19 consultation:**

**From:** Pickhaver, David <[REDACTED]>

**Sent:** 28 March 2025 12:48

**To:** Local Plan <[LocalPlan@eastdevon.gov.uk](mailto:LocalPlan@eastdevon.gov.uk)>

**Cc:** Matthew Dickins <[REDACTED]> ; Edmondson, David

[REDACTED] ; Payne, Anthony <[REDACTED]>

Luscombe, Adam <[REDACTED]> Lewis, Chris (Cllr)

**Subject:** East Devon Local Plan

Dear Matt and East Devon colleagues

I refer to the East Devon Local Plan -Regulation 19 Consultation. On a personal level, reaching Reg 19 Pre Submission stage is a considerable achievement – so well done to the team for your hard work and perseverance to getting the Plan to this stage.

Clearly, the local planning system is in a state of change with the implications of the Levelling Up and Regeneration Act, the Planning and Infrastructure Bill and Local Government Reorganisation all likely to affect spatial planning across Devon. I also appreciate that cross-boundary issues are being discussed at Senior Officer and Member level. This email is not intended to cut across, or prejudice these issues.

Nevertheless, since East Devon has opted prepare its Local Plan under the transitional arrangements set out in Paragraph 234 of the (2024) NPPF, it is necessary for me to make an officer level representation of the Local Plan on behalf of Torbay Council. Please can this email be treated as a duly made representation under Regulation 19. Given that the issues are more properly addressed through our mutual Duty to Cooperate/ Statements of Common Ground, I considered that an email was a more useful tool than the Commonplace Form.

Torbay Council has repeatedly advised neighbour councils in the adjoining Housing Market Areas /Functional Economic Market Areas that Torbay will not be able to meet the local housing need target set by the Government's Standard Method. This is due to NPPF footnote 7 constraints that provide a strong reason for restricting the overall scale of development that Torbay can accommodate. This is likely to apply to LHN calculated by either the previous or most recent Standard Method; although the 2024 Standard Method has exacerbated the shortfall. The main driver of housing growth in Devon, and Torbay in particular, is domestic inwards migration into the sub-region and should be addressed at a larger than local level. The two most relevant areas are Greater Exeter and the Plymouth Joint Local Plan. Although Torbay and East Devon are not contiguous, East Devon is within the Greater Exeter HMA/FEMA.

In this context, it is disappointing that the Regulation 19 East Devon Local Plan makes no reference to unmet housing need from Torbay. Nor does the 2022 ORS housing need evidence appear to make reference to Torbay, even though the predecessor study was carried out across

both HMAs. The issue of unmet housing needs from adjoining areas is part of the Presumption in Favour of Sustainable Development at paragraph 11(b) and a Test of Soundness at paragraph 36 (formerly 35) of the Framework. It is further noted in paragraph 62. Whilst I realise that the transitional arrangements at paragraph 234 of the Framework allow the Plan to be considered under the “*relevant previous version of the framework*”, you will be aware that the Duty to Cooperate is a legal duty, and has been reiterated by recent Ministerial Statements by the Secretary of State. This is alongside the expanded text at paragraphs 24-28 of the Framework. The additions to paragraph 28 may be especially relevant.

East Devon’s effective housing target is set out in Policy SP02 for 20,909 net new dwellings from 2030-42, with a stepped delivery of 850 dwellings per annum between 2020/21-2031/32, increasing to 1070 dpa from 2032/33 to 2041/42. According to my calculations East Devon’s LHN at 2023 was 893 dwellings per year; rising to 1,188dpa under the 2024 Standard Method. This appears to be within the tolerances of the NPPF transitional arrangements, but makes no allowance for unmet need from neighbours.

Torbay looks forward to working with East Devon to address these issues under the Duty to Cooperate/Statement of Common Ground. However, as the East Devon Local Plan is at Regulation 19, I must raise a holding objection that no account has been made about the need to accommodate unmet needs from neighbouring areas, specifically Torbay.

I am happy to discuss, and understand that the matter is also being discussed at a more senior level.

Kind regards

David