

East Devon Local Plan 2020 to 2042
Second Regulation 19 Publication draft
Representations on behalf of Cavanna Homes
26 January 2026

Introduction

CarneySweeney acts for Cavanna Homes (Cavanna) in connection with the following representations on behalf of our clients.

These to be read in conjunction with previous representation submitted to the Regulation 19 Publication draft in March 2025 (Reg 19 Rep) which is appended in full.

Scope of the Previous Regulation 19 Representation

The Reg 19 Rep commented on the following matters and policies within the draft East Devon Local Plan 2020 to 2042 (draft EDLP):

Policy Context for Plan Making

General Policy Comments

- Local Plan Vision Statement
- Housing Targets / Delivery
- Viability

Specific Policy Comments

- Strategic Policy CC02: Net zero carbon development
- Strategic Policy CC06: Embodied Carbon
- Strategic Policy AR02: Water efficiency
- Strategic Policy HN01: Housing to address needs
- Policy HN03: Housing to meet the needs of older people
- Policy HN04: Accessible and Adaptable Dwellings
- Policy HN05: Self-build and custom build housing
- Policy DS02: Housing density and efficient use of the land
- Policy TR04: Parking standards
- Strategic Policy PB05: Biodiversity Net Gain
- Strategic Policy PB07: Ecological enhancement and biodiversity in the built environment
- Policy PB08: Tree, hedges and woodland on development sites

- Policy PB09: Monitoring requirements for new planting schemes
- Policy OS02: Sport, recreation, open space provision in association with development

Scope of the Second Regulation 19 Representation

Where the above policies have not been amended in line with our previous comments and requested changes the previous Reg 19 reps are reiterated and should be given full weight in the Examination Process. The commentary on these policies remains valid and the suggested changes justified.

Where policies have been amended, we set out further comments including comments on Strategic Policies PB01 and PB04 which were not previously addressed.

Policy Comments

Cavanna reiterates their support for the aspirations of the plan to raise standards and deliver high quality development and good design and the need to assess and mitigate the impacts of development, subject to the following caveats:

- All proposed local policies must meet the NPPF tests of soundness by being Positively Prepared, Justified, Effective, and Consistent with National Policy.
- Potential impacts on viability and deliverability must be properly understood.
- Policies should not seek to unnecessarily replicate the NPPF or Building Regs (or other regulatory regimes).
- Policies should not be drafted in such a way that they hinder or discourage development.
- Where any standards or thresholds are set out there needs to be flexibility built into the policy to take account of site specific, technical feasibility and viability considerations.

Consultation Draft NPPF (December 2025)

It is acknowledged that the 2nd Reg 19 draft LP will be examined against the provisions of the NPPF December 2023. However, the direction of travel is material insofar as the national DM policies contained in the consultation draft NPPF will prevail if there is a conflict with Local Plan policies. There seems little point in finding local plan policies sound that we already know will ultimately attract only limited weight in the planning balance if/when the new NPPF is published – which is likely to be before the examination of this plan. A prime example of this is the proposed blanket 20% BNG requirement on all sites, as set out in Strategic Policy PB05: Biodiversity Net Gain (BNG).

General Policy Comments

Local Plan Vision Statement

All previous comments regarding the lack of references in the Vision Statement to meeting development need, and in particular housing need, remain valid

Housing Targets / Delivery

The proposed housing targets and stepped trajectory have not been amended and so our previous comments regarding the validity of this approach remain valid.

While associated paragraph 3.8 has been amended to identify that the plan will be reviewed/updated if housing delivery falls short or future housing needs change, this is not considered sufficiently robust or clear as to how and when this would take place.

Paragraph 3.9 refers to addressing housing needs by establishing a clear housing requirement based on the New Standard Method. To clarify, the 2nd Reg 19 draft LP only has to meet 80% of the New Standard Method housing need as a minimum.

The identified 'headroom surplus' for housing supply has increased to 12.18% but this is due to the accounting period being adjusted to 2025 rather than additional allocations being identified. The previous comments and concerns about the identified number and stepped trajectory remain and it is considered a 20% buffer would be more robust and in line with national policy.

The previous comments about the apparent conflict between Strategic Policy HN02 (Affordable Housing), and Policy SP06 regarding the certainty of windfall development also remain valid.

Viability

It is noted that financial implications of the Building Safety Level are now addressed in Viability Addendum.

Specific Policy Comments

All previous comments on the following policies requesting either amendments or deletions and which have not been implemented remain valid:

- Strategic Policy CC02: Net zero carbon development
- Strategic Policy CC06: Embodied Carbon
- Strategic Policy HN01: Housing to address needs
- Policy HN03: Housing to meet the needs of older people
- Policy HN05: Self-build and custom build housing



- Policy DS02: Housing density and efficient use of the land
- Strategic Policy PB07: Ecological enhancement and biodiversity in the built environment
- Policy PB08: Tree, hedges and woodland on development sites
- Policy PB09: Monitoring requirements for new planting schemes
- Policy OS02: Sport, recreation, open space provision in association with development

The following policies have been amended and further comments are provided:

CHAPTER	CHAPTER 7. ADAPTING TO CLIMATE CHANGE
Policy	Strategic Policy AR02: Water efficiency
Comment	<p>This policy has been significantly expanded to include 4 additional requirements in relation to water efficiency. Our comments on these additional points are set out below:</p> <p><i>A – Sets out circumstances when Planning Permission will not be granted due to adverse impacts on the water environment but does refer to the use of Grampian conditions</i></p> <p><u>Comment</u> –In respect of the reference to planning permission being refused for development that would overload the foul sewer network (A.3) this is not a land use planning matter for consideration on an application-by-application basis and should not therefore be a requirement set out in local plan policy.</p> <p>Water companies are subject to statutory duties under Section 94 of the Water Industry Act 1991 (WIA 1991), which imposes a fundamental duty to provide, improve and extent public sewer systems to ensure their area is “effectively drained”. 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.</p> <p>Specifically, in relation to wastewater, the Supreme Court considered this matter in 2009 – see Barratt 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:</p> <p><i>“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)</i></p>



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.”

Consequently, it is inappropriate and unsound to include a policy requirement in the local plan that would prevent development from progressing in relation to a matter that is not the developer’s responsibility to resolve nor that they are legally responsible for. 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.

B – Appropriate Assessment where likely significant effect on a European Wildlife Site

Comment – The requirement for an Appropriate Assessment is governed by the Habitat Regulations and so does not need to be repeated in the policy.

C – Water efficiency measures and Optional Technical Housing Standard of 110 litres per day per person

Comment - Concerns were raised previously that the specified standard of 110 litres per day per person of water usage was not evidence or justified as the Water Cycle Study (WCS) which the supporting text identified as the evidence for this higher standard, had not been published at the time.

The WCS has now been published and is referenced at Section 7.4 of the draft EDLP referencing water quality and supply with improved water efficiency measures playing a key role in reducing demand on water resources.

In terms of the WCS Section 3.2.1 confirms that East Devon is a ‘Not Serious’ water stress area by the EA with water bodies in East Devon being classified as having ‘low ‘or ‘medium’ stress and so being comparable to areas outside of East Devon. However, at Section 4.1.4 the WCS does refer to predicted water supply deficits for water abstraction and that reducing per person consumption is one of the ways this can be addressed and is set as a target by 2050 in SWW’s draft Water Management Plan and the West Country’s Water Resources Group (WCWRG’s) 2050 draft regional resources plan. As such a policy requiring the higher technical standard is recommended by the WCS at 7.2.

However there remains a concern that the mandatory wording of the policy could cause issues with viability and delivery and so a more flexible wording should be applied,



	<p>D - All development proposals to demonstrate and incorporate measures that can reasonably be taken to enhance the water environment,</p> <p><u>Comment</u> – This is a very vague requirement so could risk uncertainty and confusion over what is required, and the level of assessment and mitigation.</p> <p>E - Developers shall undertake thorough risk assessments of the impact of proposals on surface and groundwater systems considering avoidance and mitigation.</p> <p><u>Comment</u> – This is also very vague and is a matter covered by other legislation. While noted that it may not apply to the draft LP if it remains under the transitional arrangement the direction of travel in the current NPPF consultation re-iterates the position that LP policies should not duplicate other regs.</p>
<p>Requested Amendments</p>	<p>The following amendments are required for the policy to be considered sound:</p> <p>A – delete</p> <p>B – delete</p> <p>C-amend as follows:</p> <p>All development should, Developers are encouraged to, wherever possible, seek opportunities to implement water efficiency, water storage and water recycling measures. All new dwellings should achieve at least the Optional Technical Housing Standard of 110 litres per day per person for water efficiency as described by Building Regulation subject to considerations of viability.</p> <p>D – delete</p> <p>E - delete</p>

CHAPTER	CHAPTER 8. MEETING HOUSING NEEDS
Policy	Policy HN04: Accessible and adaptive housing
Comment	<p><u>50% M4(2)</u></p> <p>While we welcome the reduced requirement for M4(2) standards down to 50% there would still be concerns with meeting this on some sites. Additionally, the added reference to “or higher standards” creates uncertainty and undermines the clarity of the policy.</p> <p>As set out previously many sites do not have suitable topography to fully meet the M4(2) standards, M4 (2) external parking standard has a potentially significant cumulative effect on developable areas affecting site yield and/or street scene quality and for flat blocks this will require lifts which for occupiers and in particular RP’s would cause additional maintenance costs burdens.</p>



	<p>Noting the direction of travel of the draft NNPF (which currently proposes 40% M4 (2) or (3)) the new LP policies should be consistent. While the NPPF % may change, and our view is that a lower % of circa 30% is more reasonable and achievable, the proposed 50% is still considered too high.</p> <p>It is also maintained that mandating M4(2) standards on self and custom build plots (discussed further below) would go against the essence of allowing people to design and build their own bespoke home.</p> <p><u>15% affordable rent M4 (3) (a) or affordable homeownership M4 (3) (a) or (b)</u></p> <p>Reference to the provision of either M4 (3) (a) or (b) welcomed but need should be evidenced. For all the reasons set out previously the provision of M4(3) units raise issues of viability and site coverage, and such a high percentage is not considered justified.</p>
Requested Amendments	<p>The following amendments are required for the policy to be considered sound:</p> <p>Point A:</p> <p>A further reduced percentage requirement (e.g. 30%) for M4 (2) dwellings would be more acceptable and reasonable for the reasons set out in previous representations.</p> <p>Delete “or higher standards than this” at point A</p> <p>Flats, 1 bed units, and self and custom build plots should be excluded entirely.</p> <p>Point D:</p> <p>M4 (3) a or b only where up to date evidence of need and subject to appropriate testing of viability through the Local Plan process including what assumptions have been made in relation to the requirement for M4(3)(2)(a) (wheelchair adaptable) vs M4(3)(2)(b) (wheelchair accessible), the latter of which is considerably more expensive</p>

CHAPTER	CHAPTER 11. SUSTAINABLE TRANSPORT AND COMMUNICATIONS
Policy	Policy TR04: Parking standards and electric vehicle charging provision
Comment	<p>The previous comments about the parking standards have not been addressed so remain valid.</p> <p>Additional requirements relating to electric vehicle charging have been added cross referenced to the additional assessment work carried out in respect of the impact of vehicle emissions on the Pebblebed Heaths SAC/SPA.</p> <p>As EV charging is covered by the Building Regulations robust evidence is required to justify a higher standard. The technical assessments and preliminary mitigation strategy that have been produced by the Council have not been subject to full public consultation and there are serious concerns about such a</p>



	<p>significant piece of work being introduced almost by stealth as part of the draft EDLP evidence base. There are contradictory statements regarding the scope of impact between the technical assessment, mitigation strategy, and Strategic Policy PB04 and these need to be fully tested before being applied as policy. This is discussed further below in respect of Strategic Policies PB01: Protection of internationally and nationally important wildlife sites and PB04: Habitat Regulations Assessment (HRA) and Mitigation Strategies.</p> <p>Requirements for developers to encourage electric vehicle use are also not considered reasonable or necessary given that developers already provide EV charging in accordance with the Building Regulations and travel planning measures.</p>
Requested Amendments	<p>Any standard needs to be properly justified.</p> <p>Flexibility should be included in relation to inclusion of garages as parking spaces with reference to a minimum garage size as referred to.</p> <p>Delete reference to electric vehicle charging.</p>

CHAPTER	CHAPTER 13. OUR OUTSTANDING BIODIVERSITY AND GEODIVERSITY
Policy	Strategic Policy PB01: Protection of internationally and nationally important wildlife sites and Strategic Policy PB04: Habitat Regulations Assessment (HRA) and Mitigation Strategies
Comment	<p>These policies have been significantly amended.</p> <p>Strategic Policy PB01 is not considered necessary as it simply restates the existing requirements of the Habitat Regulations.</p> <p>Strategic Policy PB04 has been significantly amended with the expanded reference to mitigating vehicle emissions on protected areas and in particular the Pebblebed Heaths (as referenced above in respect of Policy TR04).</p> <p>The additional text effectively sets out:</p> <ul style="list-style-type: none"> • That development in large parts of the district could impact the Pebblebed Heaths. • Application of a policy break clause which could see development refused. • Requirements for assessment and monitoring. • Requirement for financial contributions to off site mitigation measures. <p>The policy does not identify any catchment or impact zone for these impacts which introduces significant uncertainty for new developments as to whether or not they will be affected and there is inconsistency across the relevant documents.</p>



The Technical Assessment which underpins this new requirement concludes that:

“In summary, for the EDLP in isolation and in-combination, any LSE from airborne NOx can be discounted for all qualifying features across the site. For the remaining pollutants, LSE can be completely discounted for some features and some areas of the site, however the potential for adverse impacts remains in some areas of the site, for European dry heaths, the European nightjar and the Dartford warbler.

A mitigation strategy (“ED21793_East Devon Pebblebed Heaths_Mitigation Strategy_i1”) has been developed in parallel with and drawing on the outputs from the HRA Stage 1 screening undertaken in this technical report, focussing on the following features:

- *European dry heaths*
- *European nightjar *Caprimulgus europaeus**
- *Dartford warbler *Sylvia undata**

In the following area of the site:

- *North/South along the B3180, < 400 m from the road (SSSI units 1, 6, 7, 9, 10, 11, 14);*
- *East/West along the A3052 Exeter Road, < 600 m from the road (SSSI units 7,8);* •
- *Bystock Nature Reserve & Withycombe Raleigh Common adjacent to B3179, < 300 m from the road (SSSI units 15, 16); and*
- *Dalditch Common, < 150 m from the road (SSSI unit 13)”*

However, the preliminary Mitigation Strategy (the detailed mitigation strategy is noted as still being in production) refers to proposed allocations in Sidmouth and Seaton, as well as service centres in East Budleigh, Woodbury and Otterton, Tipton St John as being likely to be the allocations the most traffic to roads passing through the SAC and SPA.

The Viability Addendum also notes that the mitigation will not be required across of all East Devon.

As such the policy wording, technical evidence, and viability report are inconsistent and contradictory in terms of the scope and application of this new policy requirement.

Given this uncertainty the reference to the break clause, which could effectively impose an embargo on development in the district, is alarming. How this would be applied and the impact this could have on housing supply and delivery in the district needs to be fully assessed.



	<p>Reference is made in the Mitigation Strategy to consultation with Stakeholders, but this did not include any representatives from the development industry or members of the public. As such this has not been properly scrutinised or independently assessed.</p> <p>A “long list” of potential mitigation measures are identified at Section 13.20 of the draft EDLP supporting text but the majority of these measures will be reliant on third party delivery. It is not clear who will be responsible for monitoring impacts and how the mitigation measures will be implemented in the absence of the detailed mitigation strategy.</p> <p>The Viability Assessment Addendum does address the additional costs of this mitigation using a ‘reasonable allowance’ agreed with the Council of £112 per dwelling however, as noted above, this has not had any inputs from the development industry. The listed measures are very broad in their scope and so could have significantly varied costs which need to be properly tested.</p> <p>There are serious concerns about such a significant piece of work with potentially serious implications on development viability and delivery being introduced almost by stealth at such a late stage in the LP process.</p> <p>This does not amount to “limited new material” as stated at the start of the consultation draft.</p>
Requested Amendments	The additional reference to the The Pebblebed Heaths Air Quality Mitigation Strategy should be deleted.
Policy	Strategic Policy PB05: Biodiversity Net Gain
Comment	The additional supporting text which refers to the “significant nature conservation assets” and “environmental designations” within East Devon are not considered sufficient justification for the higher BNG % being proposed as these assets and designations are protected through other mechanisms and policies in the draft EDLP.
Requested Amendments	Policy should be deleted.
Policy	Policy PB09: Monitoring requirements for new planting schemes
Comment	Deletion of the requirement for a financial bond supported but the requirements set out at A and B are still considered unnecessary for both the applicant and the Council. No evidence has been presented to demonstrate that the new requirements are necessary. This is a role for the Council as enforcement authority following the introduction of a standard landscape planning condition.
Requested Amendments	This policy should be deleted.

SUMMARY

The above representations are submitted by CarneySweeney on behalf of Cavanna Homes.

There are a number of policies that impose technical and other standards that while entirely laudable, have not been properly evidenced or justified and as such are, in themselves, unsound. Cumulative these policies could hinder housing delivery by placing undue burdens on developers and landowners and affecting site yield and scheme viability.

We ask to be kept informed of next stages of consultation and also that we have an opportunity to participate in any public examination of this document.

In the meantime, should you have any queries please do not hesitate to contact us.

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East Devon Local Plan 2020 to 2042

Regulation 19 Publication draft

Representations on behalf of Cavanna Homes

28 March 2025

Introduction

CarneySweeney acts for Cavanna Homes (Cavanna) in connection with the following representations on behalf of our clients.

Summary of our Representations

These representations focus on the following policies within the draft East Devon Local Plan 2020 to 2042 (draft EDLP):

- Strategic Policy CC02: Net zero carbon development
- Strategic Policy AR02: Water efficiency
- Strategic Policy HN01: Housing to address needs
- Policy HN04: Accessible and Adaptable Dwellings
- Policy HN05: Self-build and custom build housing
- Policy DS02: Housing density and efficient use of the land
- Policy TR04: Parking standards
- Strategic Policy PB05: Biodiversity Net Gain
- Policy PB08: Tree, hedges and woodland on development sites
- Policy PB09: Monitoring requirements for new planting schemes

Policy Context for Plan-Making

Provisions for plan-making are set out within the NPPF and NPPG. Plan makers are required to take account of the following points when preparing their Local Plan.

Under the transitional arrangements of the December 2024 NPPF, the new Local Plan will be considered under the provisions of the December 2023 NPPF.

National Planning Policy Framework (December 2023)

- Paragraph 31 states that “The preparation and review of all policies should be underpinned by relevant and up-to-date evidence. This should be ...focussed tightly on supporting and justifying the policies concerned and take account of relevant market signals.”



- Paragraph 35 identifies the tests of soundness as being:
 - a) Positively prepared: As a minimum, seeking to meet the area’s objectively assessed needs and informed by agreements with other authorities so that unmet need from neighbouring areas is accommodated where it is practical to do so and is consistent with sustainable development.
 - b) Justified: An appropriate strategy based on taking account of reasonable alternatives and proportionate evidence.
 - c) Effective: Deliverable, based on effective joint working on cross-boundary strategic matters, evidenced in a Statement of Common Ground.
 - d) Consistent with national policy.

Policy Comments

The following section contains general and specific policy comments and follows the order of the draft plan.

Cavanna fully endorses the new Local Plan seeking to raise standards and promote good design and the need to assess and mitigate the impacts of development.

However, any proposed local policies must be fully justified and the potential impact on viability and deliverability must be assessed. Policies should also not seek to unnecessarily replicate the NPPF or Building Regs (or other regulatory regimes). Finally, the proposed policies, whether alone or in combination, should not be drafted in such a way that they hinder development. Where any standards or thresholds are set out there needs to be flexibility built into the policy to take account of site specific, technical feasibility and viability considerations.

General Policy Comments

Local Plan Vision Statement

It is notable that the Vision does not refer to the allocation and delivery of sufficient land to meet housing needs, reflecting section 5 of the Framework and the Written Ministerial Statements of 30 July 2024 (Angela Rayner MP) and 12 December 2024 (Matthew Pennycook MP), which are material considerations.

This indicates that the draft LP places higher priority on environmental considerations than on addressing the national housing crisis. Indeed, many of the policies and provisions reflect this imbalance.



It is considered that the Vision should be re-balanced to acknowledge the need to address the housing crisis by providing a choice of decent housing for all, and this new balance should then be reflected in the policies and provisions of the plan, in accordance with our representations.

Housing Targets / Delivery

Up to 2031/32, the Council indicate a trajectory to deliver 850 dwellings per year on average, with the remaining plan period from 2032/33 onwards to deliver an annual average of 1,070 dwellings per year. Whilst this averages out to provide for the required housing need, it means that for the first part of the plan-period, the LPA will be under-delivering against their identified housing need and more than likely unable to demonstrate a five-year housing land supply within the early parts of the plan-period, as evidenced by Appendix 1 of the Draft Local Plan. This approach appears to be at odds with the Framework, in particular, the requirement to “meet the area’s objectively assessed needs”.

It is, effectively, a workaround, where the LPA will only be delivering 70% of the housing requirement, which would be averaged out by delivery later in the plan period, for the Plan to continue to be assessed against the previous version of the Framework and therefore requiring 80% of the housing requirement to be planned for.

Elsewhere in the Draft Local Plan, notably in Strategic Policy HN02 (Affordable Housing), it is referenced that 35% affordable housing would be a target for windfall development outside settlement boundaries. This appears at odds with Policy SP06 which restricts development outside settlement boundaries, presenting concerns about the level of contribution that windfall sites will provide to meeting housing need. Paragraph 75 of the Framework is clear that there should be “compelling evidence” that windfall sites will provide a reliable source of supply. The current wording of Policy SP06 does not provide confidence that development on windfall sites will be a reliable source of supply.

In combination, the restrictive nature of Policy SP06, and the reliance of larger sites to deliver the required housing need later in the plan-period cemented by Policy SP02, presents the prospect of a deteriorating housing supply position from the point of adoption within the first half of the plan period. The Framework is clear that planning policies “should identify opportunities for villages to grow and thrive, especially where this will support local services”. The restrictive nature of Policies SP02 and SP06 is at odds with the clear intention of what the Framework is aspiring to achieve. Furthermore, the Framework is clear that strategic policies should provide for objectively assessed needs “as a minimum”.



Viability

The Three Dragons Viability Assessment does not appear to have taken account of the pending Building Safety Levy due to come into effect from Autumn 2026. The rate per sqm in East Devon is currently indicated to be £34.06/sqm so would be £3406 for each 100sqm open market dwelling.

This so would represent a significant additional cost that needs to be taken into account in assessing the viability of the local plan.

Specific Policy Comments

CHAPTER	CHAPTER 5. MITIGATING CLIMATE CHANGE
Policy	Strategic Policy CC02: Net zero carbon development
Comment	<p>Part A requires compliance with the Future Homes Standard 2025 or successors or if not implemented, the Future Homes and Buildings Standards 2023.</p> <p>The Written Ministerial Statement dated 13 December 2023 in respect of energy efficiency standards states that:</p> <p><i>The improvement in standards already in force, alongside the ones which are due in 2025, demonstrates the Government’s commitment to ensuring new properties have a much lower impact on the environment in the future. In this context, 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. Any planning policies that propose local energy efficiency standards for buildings that go beyond current or planned buildings regulation should be rejected at examination if they do not have a well-reasoned and robustly costed rationale that ensures:</i></p> <ul style="list-style-type: none"> • <i>That development remains viable, and the impact on housing supply and affordability is considered in accordance with the National Planning Policy Framework.</i> • <i>The additional requirement is expressed as a percentage uplift of a dwelling’s Target Emissions Rate (TER) calculated using a specified version of the Standard Assessment Procedure (SAP).</i> <p>Based on current experience the values put in the Three Dragons Viability Assessment for the additional costs associated with achieving Future Homes standards feel too low. However more fundamentally as the government are still consulting on the various options for how Future Homes could be achieved it is</p>



	<p>impossible to properly cost achieving this at this time. As such the viability impacts of the policy cannot be tested as is required by the above WMS and so the policy should not be retained.</p> <p>The Council should not seek to pre-empt national standards.</p> <p>The policy is also not expressed in such a way that complies with the second bullet.</p> <p>Even if the policy is found sound, it must be applied flexibly where the applicant can demonstrate that meeting the higher standard is not technically feasible in relation to the availability of appropriate local infrastructure, in accordance with the WMS.</p> <p>Part C: New homes to be designed to avoid temperature discomfort. Temperature discomfort is not defined.</p>
Requested Amendments	Policy should be deleted.
Policy	Strategic Policy CC06: Embodied Carbon
Comment	<p>While Cavanna supports consideration of embodied carbon the requirement for all major developments to undertake an embodied carbon assessment appears excessive and unjustified. This should only be required where the particular circumstances of the proposal raise significant embodied carbon issues.</p> <p>The financial implications of this additional requirement on development costs is also not assessed in the Three Dragons Viability Assessment.</p> <p>If this requirement is found sound it would also provide greater clarity and effectiveness if the Policy identified which nationally recognised Whole Life Cycle Carbon Assessment procedure the Council would expect to be completed. If a target/measure is not specified, then the policy would be meaningless. Conversely if there is a target set this would have viability implications.</p>
Requested Amendments	Policy to be deleted or amended to refer to justified circumstances and confirm which Whole Life Cycle Carbon Assessment should be completed.

CHAPTER	CHAPTER 7. ADAPTING TO CLIMATE CHANGE
Policy	Strategic Policy AR02: Water efficiency
Comment	Policy AR02 imposes the standard of 110 litres per day per person of water usage. While Cavanna applies this standard as a matter of course it is challenging to achieve on larger units so risks setting an unachievable requirement. Planning policies should not seek to replicate Building Regulations.



	<p>The supporting text also refers to the Water Cycle Study, but this has yet to be published. Accordingly, the policy is not based on available evidence.</p> <p>The Written Ministerial Statement of 25 March 2015 states that “The optional new national technical standards should only be required through any new Local Plan policies if they address a clearly evidenced need, and where their impact on viability has been considered, in accordance with the National Planning Policy Framework and Planning Guidance.”</p> <p>The PPG states that local planning authorities will need to gather evidence to determine whether there is a need for additional standards in their area and justify setting appropriate policies in their Local Plans (Paragraph: 002 Reference ID: 56-002-20160519).</p> <p>Local planning authorities should consider the impact of using these standards as part of their Local Plan viability assessment (Paragraph: 003 Reference ID: 56-003-20150327).</p> <p>The PPG requires there to be a clear local need (Paragraph: 014 Reference ID: 56-014-20150327). The PPG places the burden of proof on the local planning authority (Paragraph: 015 Reference ID: 56-015-20150327) and identifies the following evidence:</p> <ul style="list-style-type: none"> • existing sources of evidence*. • consultations with the local water and sewerage company, the Environment Agency and catchment partnerships. • consideration of the impact on viability and housing supply of such a requirement. <p>*EA’s Water stressed Areas 2021 classification, water resource management plans produced by water companies and river basin management plans (Paragraph: 016 Reference ID: 56-016-20150327)</p> <p>There is no hard technical evidence to support the stricter standard nor is there any evidence to demonstrate that the Council has considered the impact of this stricter standard on housing supply and scheme viability (noting that the Three Dragons Viability Assessment states this has a de minimis cost).</p>
<p>Requested Amendments</p>	<p>The policy should be deleted.</p>
<p>CHAPTER</p>	<p>CHAPTER 8. MEETING HOUSING NEEDS</p>
<p>Policy</p>	<p>Strategic Policy HN01: Housing to address needs</p>
<p>Comment</p>	<p>While the general aims and objectives of Strategic Policy HN01 are supported, the approach to self and custom build housing) raises concerns.</p>



	<p>General aims:</p> <p>E – This section refers to meeting identified local demand for self and custom build (SCB) but Policy HN05 (discussed further below) mandates a blanket requirement of 5% of plots on schemes of 20 or more to be provided as SCB plots. Any requirement for SCB plots should be based on up-to-date needs evidence and a blanket approach does not align with this.</p> <p>Housing mix:</p> <p>D. It is not considered that serviced SCB plots on larger housing developments is the most effective way to meet any identified SCB need (discussed further below).</p>
<p>Requested Amendments</p>	<p>Required change:</p> <p>General aim criteria E – No specific changes requested</p> <p>Housing Mix criteria D – Amend to refer to suitable sites rather than serviced plots of land.</p>
<p>Policy</p>	<p>Policy HN03: Housing to meet the needs of older people</p>
<p>Comment</p>	<p>Extra care housing is stated to be a C3 use but whether such a use falls into C2 or C3 depends on the accommodation and facilities provided, the level of care and services offered as part of the accommodation, and the specific care needs of the occupants. Whether a property is C2 or C3 has implications for Section 106 obligations so this needs to be assessed on a case-by-case basis.</p> <p>While the aim of increasing the amount of specialist accommodation is admirable the blanket requirement for all general housing schemes of 50 to 199 homes to provide 10% of dwellings as ‘specialist older person dwellings (C3)’ and for schemes of 200+ to provide 10% dwellings as ‘specialist older person dwellings (C3) and/or C2 equivalents’ is not supported.</p> <p>Firstly, it is not clear what is meant by ‘specialist older persons dwellings’ (and how this relates to the requirements of Policy HN04 discussed further below) or how the two threshold requirements differ. It is noted the Three Dragons Viability Assessment refers to 10% bungalows, but this is not what is set out in the policy. If bungalows are envisaged this has land capacity implications on allocated sites needs to allow for the additional space requirements to provide this type of housing - bungalows take twice the land so additional land will need to be allocated to reach the housing numbers.</p> <p>Secondly it is not reasonable to impose a blanket percentage requirement as the provision and composition of such accommodation should be based on evidenced need. Further for the C2 accommodation this would need interest from a care operator/provider which may not be available.</p>



	<p>While the reference to commercial viability is welcomed (noting the apparent conflict between the Viability Assessment and the policy as to what is meant by the policy) , mandating the provision of a percentage of older person housing where the earlier criteria listed at A – F in the policy may not be achievable (for example H - having flat topography) and/or place additional burdens on developers (for example F - the need for a Care Needs Assessment) is not reasonable.</p> <p>Further in regard to viability the Viability Assessment confirms that older persons housing is not viable in Axminster as tested so a blanket requirement is not justified.</p>
<p>Requested Amendments</p>	<p>The policy should be amended as follows (new text underlined):</p> <p>Use Class C3 (dwellings) - Market accommodation for older people in the form of age restricted general market housing, retirement living or sheltered housing and extra care housing or housing with care are will <u>generally be considered as falling within</u> Use Class C3 (dwellings) <u>subject to information being provided regarding the level of care and facilities provided and the needs of the residents.</u></p> <p>The blanket requirement for a percentage of older persons housing should be deleted.</p>
<p>Policy</p>	<p>Policy HN04: Accessible and adaptive housing</p>
<p>Comment</p>	<p>The aim of increasing accessible and adaptable housing is supported and the reference to site suitability and site viability is welcomed but the mandated standards set out in the policy raise serious concerns.</p> <p>As a starting point any higher standards needs to be evidence, the implications in terms of scheme deliverability and viability need to be properly tested and understood, and there needs to be flexibility.</p> <p><u>100% delivery of M4 (2)</u></p> <p>This proposal is of significant concern in terms of the implications for site yield, viability, and site suitability:</p> <ul style="list-style-type: none"> • Many sites in the district do not have suitable topography to fully meet the M4(2) standards. • M4 (2) external parking standards, due to the additional space requirements (up to 3.3m wide), has a potentially significant cumulative effect on developable areas affecting site yield and/or street scene quality by increasing hard surfacing and reducing space for street trees/landscaping. • The additional circulation space required for M4(2) units will, together with the internal room requirements of NDSS (discussed under Strategic Policy DS01), significantly increase the built footprint of each unit thereby reducing development numbers and density. • M4 (2) also causes significant difficulties on 1 bed maisonettes where the principal entrance is on a different level from the main living accommodation.



	<ul style="list-style-type: none"> For flat blocks this will require lifts which for occupiers and in particular RP's would cause additional maintenance costs burdens. <p>Further mandating M4 (2) standards on self and custom build plots (discussed further below) would go against the essence of allowing people to design and build their own bespoke home.</p> <p><u>5% affordable rent M4 (3) (a) or homeownership M4 (3) (a) or (b)</u></p> <p>The provision of a smaller percentage to M4(3) is not as much of a concern, although it is considered any such accommodation should be evidenced.</p> <p>If such accommodation is to be provided there is strong preference for M4 (3) (a) wheelchair adaptable which can be suitable for all occupiers giving maximum flexibility whereas the specific internal requirements of M4 (3) (b) wheelchair dwellings (for example internal cabinet and worktop heights) is not really suitable for a non-wheelchair user. Provision of affordable M4 (3) (a) or (b) units should be informed by the needs evidence noting that for some wheelchair users often a more bespoke design can be needed.</p>
<p>Requested Amendments</p>	<p>A reduced percentage requirement for M4 (2) dwellings would be more acceptable and reasonable.</p> <p>Flats, 1 bed units, and self and custom build plots should be excluded entirely.</p> <p>M4 (3) only where up to date evidence of need/demand.</p>
<p>Policy</p>	<p>Policy HN05: Self-build and custom build housing</p>
<p>Comment</p>	<p>A set out in respect of Strategic Policy HN01: Housing to address need, imposing a mandatory percentage requirement for self and custom build (SCB) plots on larger residential schemes is not considered the right approach:</p> <ul style="list-style-type: none"> Provision of SCB plots should be based on up to date evidenced need both in terms of numbers and location, rather than imposing a blanket requirement on all sites. The latest Self Build Demand and Supply Monitoring Report from 31/10/23 to 30/10/24 (reported to SPC on 4 February) at para 3.4 identifies that even with a noted decrease in the number of consented plots “the supply meets both the ‘residual’ demand from the 31/10/21-30/10/2022 (3 plots) and covers all the demand from the 31/10/2022-30/10/2023 base period (9 plots), with a surplus of 3 plots.” As the identified need is being met currently without a bespoke SCB policy this does not justify the policy approach now proposed. If there is local demand the required plot sizes may not be in keeping with rest of the development accounting for local characteristics and density requirements. If there is local demand the required plot sizes may not be in keeping with rest of the development accounting for local characteristics and density requirements.



- Delayed build out of SCB plots by private individuals / separate companies creates considerable logistic and health and safety issues for developers in terms of construction phasing, safety for plot occupants and established residents, and residential amenity impacts where a finished part of the site is then subject to further construction works. Leaving plots unfinished for completion for potentially up to 2 years risks considerable disturbance to new residents and ongoing management for developers/management companies.
- Providing SCB plots in this way also means more creative solutions for SCB provision do not need to be pursued. It is envisaged that the majority of people wanting to build their own home will not want to be on a modern housing estate limited by plot passports or design codes (noting the requirement of this and Policy DS02). If the need is met by serviced plots on larger schemes this could stifle community led or individual schemes in other locations and stifle design and creativity which are specifically noted as benefits of SCB housing in the policy justification. This has been experienced in Teignbridge who have a similar policy, but most successful self builds in Teignbridge have been delivered in more rural locations rather than plots being taken up on larger scale housing estates.

There are also concerns with the following policy requirements:

B – This may lead SCB plots to need be delivered in early phases where road access is provided which in turn will be more visually prominent. As above visually prominent serviced plots left undeveloped for up to 2 years will have a detrimental visual impact on schemes and could adversely affect sales/delivery of adjacent plots.

C – Specifically requires plot sizes to meet local demand but if there is no local demand this cannot be complied with.

Regarding the provision of affordable SCB plots for schemes over 250 dwellings it is not clear how this would be delivered.

The policy states that schemes over 100 dwellings should use a design code but this conflicts with Policy DS02 (discussed further below) which requires design codes on all major schemes or those in environmentally or heritage sensitive locations. There needs to be consistency where Design Codes are required.

Finally, the policy states that all plots must be completed within 3 years of the plot purchase. This is not a reasonable requirement as time limits for development commencing are set in the relevant permission



	and once implemented there is no requirement to complete a scheme. Further the policy does not set out what would happen if it not completed within 3 years from the plot being purchased.
Requested Amendments	A better and more proactive approach would be for the Council to allocate sites specifically for SCB housing in locations where need and demand is evidenced with reasonable contributions from certain scale developments to be collected towards the delivery of these plots.

CHAPTER	CHAPTER 10. HIGH QUALITY DESIGN
Policy	Policy DS02: Housing density and efficient use of the land
Comment	<p>The 1st paragraph of Policy DS02 is supported.</p> <p>However the 2nd paragraph is unrelated to housing density or making efficient use of land. In any event, “...environmentally or heritage sensitive locations...” is not defined and too vague.</p> <p>Furthermore, design codes should only be used on large strategic sites where delivery will be phased and the site is in multiple ownership, with development being undertaken by more than one developer.</p>
Requested Amendments	It is considered that the 2 nd paragraph should be deleted.

CHAPTER	CHAPTER 11. SUSTAINABLE TRANSPORT AND COMMUNICATIONS
Policy	Policy TR04: Parking standards
Comment	<p>The requirement for 1 secure and under cover cycle space per bedroom for all dwelling types has the potential to impact on plot layout and site yield, potentially requiring larger plots or larger garages reducing garden space. The cumulative effects of this across a larger scheme could substantially reduce the ability to achieve the required level of housing.</p> <p>While Cavanna is not against adequate cycle storage on future developments, the implications of this policy requirement on site delivery need to be understood.</p> <p>Flexibility should be provided through the policy to take account of site constraints.</p> <p>The viability implications of this have not been specifically assessed in the Three Dragons Viability Assessment.</p>
Requested Amendments	Any standard needs to be properly justified.



CHAPTER	CHAPTER 13. OUR OUTSTANDING BIODIVERSITY AND GEODIVERSITY
Policy	Strategic Policy PB05: Biodiversity Net Gain
Comment	<p>The requirement for at least 20% BNG is double the statutory requirement of 10%. It has not been justified in terms of any local evidence demonstrating a significant biodiversity deficit in East Devon or that the mandatory regime is not adequate. Reference is made in the support text to recent evidence suggesting “that a 10% BNG target without species management provides negligible gains” but this evidence is not cited. Reference is also made to the Nature Recovery Deceleration for East Devon committing to exceeding 10% BNG target but this is not set out in this document. As such, it is unjustified and unsound.</p> <p>Those proposals that cannot achieve 20% BNG will be required to submit viability appraisals. These will be costly and time consuming to produce and audit. They will place heavy resource and financial burdens on both applicants and developers and will at the very least delay housing delivery.</p> <p>The land take implication of increasing the BNG requirement does also not appear to have been assessed. For larger residential sites there is a real push to achieve the BNG mitigation on-site, as per the guidance and hierarchy. More land set aside for BNG mitigation will reduce the number of homes achievable on the allocations. While the cost of delivering the BNG mitigation might decrease proportionally, the reduction in units is a crucial element. Has the Council run any assessments on their allocated sites having for example a 5% reduction in unit numbers to account for the additional BNG land?</p> <p>The viability testing for the proposed 20% increase in the Three Dragons Viability Assessment, which estimates a per unit additional cost of £1,188 for greenfield sites and £321 for brownfield sites, is disputed. These figures are based on the MHCLG BNG Impact Assessment from 2019 but on reviewing this document it gives an estimated figure of £11,000 per offsetting unit which is significantly lower than current offsetting unit prices. (which vary depending on the type of habitat but on average are around £25,000 plus per unit). This in turn casts doubt on the robustness of this earlier assessment as a basis for current costings.</p> <p>Policy PB05 requires a Biodiversity Statement to be submitted with planning applications. However, the submission requirements can be established through the national and local validation checklist. In any event, the Environment Act 2021 requires the submission of a BNG Plan with planning applications. It is not clear whether this is the same or different to a Biodiversity Gain Statement. The reference to the BS standard is superfluous.</p> <p>A Habitat Management and Monitoring Plan should be secured by planning condition, rather than be required to be submitted with the planning application.</p>



	<p>It is not clear how “locality” is defined in terms of off-site habitat creation. In any event, off-site BNG does not have to be close to the impact – it can be achieved through the purchase of Government credits or credits from habitat banks, which may or may not be close to the development site.</p> <p>In the final paragraph, should “consummate” be replaced with “commensurate”? This is a moot point because for exempt schemes, the Framework requires <i>a gain</i> to be achieved.</p>
Requested Amendments	Strategic Policy PB05 should be deleted.
Policy	Policy PB07: Ecological enhancement and biodiversity in the built environment
Comment	<p>The delivery of ecological mitigation for each development proposal should be based on evidence submitted in connection with the relevant planning application:</p> <p>C - A blanket requirement for the provision of an integrated bat loft with all major planning applications, without any reference to such a feature being required is not justified. The provision of such feature does give rise to design and management implications and may be hard to deliver on every scheme.</p> <p>E – A mandatory requirement to provide overhanging eaves suitable for nesting house martins in all major development is too prescriptive and would not allow different architectural design approaches, for example more contemporary design may not be suitable but could be fully appropriate for the context.</p>
Requested Amendments	Delete requirements C and E
Policy	Policy PB08: Tree, hedges and woodland on development sites
Comment	<p>Policy PB08 is unduly prescriptive, onerous and unnecessarily repeats the provisions of British Standards. It will also add significant cost to the planning application process while the required details are prepared and submitted.</p> <p>Tree protection should be secured by a suitably worded condition, requiring the applicant to submit relevant details post-decision rather than with the planning application.</p> <p>Undertaking assessments of hydro-geology is a complex and challenging science because a site is not an isolated “state” – groundwater on a site is heavily influenced by the surrounding water table and geology.</p> <p>Tree planting and maintenance is a detailed matter and not appropriate to be controlled by a land use planning policy in a local plan.</p>
Requested Amendments	The policy should be deleted.



Policy	Policy PB09: Monitoring requirements for new planting schemes
Comment	<p>The introduction of a requirement for a developer to place a bond equal to 25% of the calculated planting cost of the scheme is unreasonable, unevidenced and has not been tested in terms of scheme viability and the implications on housing delivery. It also imposes additional administrative burdens on the Council and the applicant at a time when local authorities are under increasing financial and resourcing pressures.</p> <p>The requirement for a 25% bond has not been explained or justified in terms of challenges with the existing system of a standard landscape condition and monitoring by the council as enforcement authority. The bond will be potentially significant for larger strategic schemes and its implications on cash flow and wider scheme viability has not been assessed. This process will also require additional administration from the applicant and the Council. The retention of the bond for what in effect will be 5 years after construction has been completed is unreasonable.</p> <p>A and B: These steps will introduce unnecessary steps for both the applicant and the Council. Again, no evidence has been presented to demonstrate that the new requirements are necessary. This is a role for the Council as enforcement authority following the introduction of a standard landscape planning condition.</p>
Requested Amendments	This policy should be deleted.

CHAPTER	CHAPTER 14. OPEN SPACE AND SPORTS AND RECREATION
Policy	Policy OS02: Sport, recreation, open space provision in association with development
Comment	<p>The open space typology requirements with reference to Fields in Trust is supported.</p> <p>The additional reference to Natural England’s Green Infrastructure and Accessible Greenspace Standards is not considered necessary.</p> <p>The requirement for applicants on schemes over 200 dwellings to undertake their own audit of existing open space and its capacity is unreasonable. As above, it is for the Council to maintain its evidence base, against which applicants can design their individual schemes.</p> <p>It will be challenging for all schemes of more than 300 homes to incorporate all the open space typologies listed in the table, especially formal playing pitches. No evidence has been presented by the Council to justify the effect of this blanket requirement on the delivery of new homes and other scheme elements and ultimately, the effect on viability and the ability to deliver a policy compliant level of affordable housing. Coupled with this is the requirement for playing pitches to be within 1,200m of all dwellings within a scheme. Again, this is where the Council’s quantitative and qualitative evidence should identify</p>



We ask to be kept informed of next stages of consultation and also that we have an opportunity to participate in any public examination of this document.

In the meantime, should you have any queries please do not hesitate to contact us.

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