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

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Prepared by Savills  
on behalf of 3West Group

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# 1. Introduction

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This Representation is made in response to the Second 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.

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## 2. Response to Draft Policies

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

### Strategic Policy SP01: Spatial Strategy

We note that the proposed spatial strategy is predominantly unchanged from that set out in the first Regulation 19 consultation draft, with the exception of the inclusion of the specific name for the proposed new community of Marlcombe.

We therefore continue to be supportive of the proposed spatial strategy in broad terms, and agree that there is a need to focus the spatial strategy on development at the most sustainable towns in the district.

However, as set out in our comments to draft policy SP02, we continue to consider that the most sustainable villages are capable of playing a significant role within the spatial strategy, and indeed may need to play a more significant role given the likely need for the authority to revisit the proposed housing requirement and with it the need for an increase in the number of allocations.

Linked to this, we 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. No changes have been made in this respect since our representations to the first Regulation 19 consultation draft. It remains the case that for a number of villages more than simply 'limited' development is already proposed to be directed to those settlements. This is a matter we support. Development at the sustainable towns and villages is important to ensure the delivery of affordable housing for those locally who really need it, as well as supporting local shops and services

We continue to maintain therefore that the authority review the proposed use of the word 'limited' for the service villages, 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

It is noted that no changes are proposed to draft Strategic Policy SP02 from that published in the first Regulation 19 consultation draft.

Therefore, whilst we do not intentionally wish to repeat previous comments made, given the importance of what we consider to be significant issues with this draft policy which remain, we have outlined again our principal concerns below.

Firstly, in terms of the proposed plan period, this remains as 2020 – 2042. Ordinarily the plan period start date would be brought forward closer to the likely plan adoption date but we note the Council has sought to make reference to supporting evidence dating back to the 2020 start date. However, of greater concern is that the draft plan is unlikely now to be adopted until 2027 at the earliest and that will only be if the Council can, in our view, make changes to ensure the plan is found sound. Even if that is done, we consider that the plan period should be extended to ensure that a 15-year plan period is provided post adoption of the plan. The evidence base will also need to be updated to ensure that it is consistent with the plan period.

Secondly, given the absence of any changes to the proposed housing requirement for the plan period, we continue to have two principal concerns over the approach taken. These are:

- Whether the Local Plan can proceed under the transitional arrangements
- The proposed stepped trajectory

We address each of the two matters in turn below.

#### *Whether the Local Plan can proceed under the transitional arrangements*

Draft Policy SP02 remains unchanged and therefore continues to propose at least 20,909 dwellings will be delivered between 1 April 2020 and 31 March 2042, with delivery being 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 maintain that it was clear at the beginning of 2025 and continues to be the case given the lack of any additional evidence provided by the Council that the Council commenced consultation on the Plan in early 2025 before the full Regulation 19 draft was ready. We continue to consider that the intention was 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 was very clear when reading how the proposed housing requirement had been described in paragraph 3.11 of the first Regulation 19 draft in early 2025 and the text in the second Regulation 19 draft remains unchanged. The consultation text seeks to justify 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.

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, given the absence of any further justification provided by the Council to support this consultation, we maintain that the draft Local Plan cannot 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)*

We highlight again reference to “*each of the proposed submission documents*” which 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.

This government intention is unchanged in the latest consultation launched in December 2025 on potential changes to the NPPF. Within that consultation, the published draft NPPF at Annex 1 (paragraph 8) very clearly re-states that “*any other plans being prepared should be produced in accordance with the version of this Framework published in December 2024, unless any of the transitional arrangements in Annex 1 to that Framework apply (in which case those transitional arrangements continue to apply)*”.

This suggests that the direction given in the current NPPF will remain unchanged.

Furthermore, when looking at the latest guidance in the PPG, under the heading “How do the implementation aspects of the NPPF apply to plans where more than one round of Regulation 19 consultation has been undertaken?”, this further highlights the issues with the Council’s approach to the draft plan. Paragraph 86 states:

*Some local planning authorities may undertake more than one round of Regulation 19 consultation on a plan. Where this is the case, for the purposes of implementing Annex 1 of the Framework, a plan is normally to be taken as having reached the Regulation 19 stage at the date on which the first round of Regulation 19 consultation commenced.*

*However, in some limited circumstances, a plan is to be taken as having reached Regulation 19 on the date that a subsequent round of consultation commenced. These limited circumstances could include instances such as when the content of an emerging plan has changed significantly from the one presented at the initial Regulation 19 stage. (underlining our emphasis)*

It is very clear that the plan has changed significantly between the first Regulation 19 consultation and this second consultation. This consultation clearly relates to a significantly different plan. There are, for example, a significant number of track changes in this second Regulation 19 document which highlight the stark differences between the two documents. The Council themselves acknowledge back in early 2025 that the first Regulation 19 consultation would not be the final version and further consultation on the policies relating to the new community would be required. There are now a significant number of changes presented in the latest consultation document relating to the new community which further highlights the changes to the plan as a whole.

On this basis we are concerned that the second Regulation 19 consultation draft has not sought to make changes or provide further justification. We therefore maintain on that basis that 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 the additional housing required between the total output from the standard method and that proposed in draft Policy SP02. This would be an additional 5,227 dwellings if assuming the standard method output would be 26,136 homes based on the same plan period, against the 20,909 homes proposed within draft Policy SP02.

### *Stepped Housing Trajectory*

We continue to consider that there is no justification for adopting a stepped trajectory in the draft plan that effectively 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.

Having raised these concerns over the first Regulation 19 consultation draft, the Council does not appear to have made any changes or reacted to this. Rather, it continues to appear that the authority is seeking to do the bare minimum to scrape through under the transitional arrangements, when there was an opportunity in 2025 to start the process of positively and proactively updating 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

Our comments to draft Policy SP03 are consistent with our comments made to the first Regulation 19 consultation draft. We welcome the fact that Land north and east of Exton Farm (Wood\_28) is accounted for 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 for the Woodbury area (including Exton).

However, we continue to have concerns over overall housing requirement within which the designated neighbourhood area figures are derived, as set out in our response to draft Policy SP02 above.

### Strategic Policy SD17: Development allocations at Exton

We continue to support Strategic Policy SD17 and specifically the proposed allocation of the Land north and east of Exton Farm (Wood\_28).

We outlined in our representations to the first Regulation 19 consultation why we consider Exton to be an entirely suitable location for future growth, and support for the Council's commitment to direct a proportion of the required growth to the village.

We continue to maintain that the proposed allocation of Wood\_28 for the development of 39 residential dwellings will 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.

In terms of the draft allocation wording itself, we note that the draft allocation text has been amended from that included within the first Regulation 19 consultation draft, and now reads:

#### *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 **the** 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.~~*

*The south-west corner of Wood 28 is within the Vulnerable Building Distance statutory safeguarding zone surrounding the Royal Marines Commando Training Centre, within which inhabited buildings must be deemed as 'non vulnerable' structures that are of a robust design and construction to the satisfaction of the Ministry of Defence.*

*Anyone preparing a planning application at or for this allocation site should consult with the Ministry of Defence with whom the local planning authority will also engage with in respect of determination of any planning application.*

*The design and layout of development should conserve and enhance the rural setting grade II\* listed Exton Farmhouse, including through the provision of public open space in the northern part of the site. Flood mitigation is required to ensure existing surface water flood risk along Mill Lane is not exacerbated by the development.*

We do not have any concerns about the request to engage with the MOD as part of a future planning application. We understand their interests given a small part of the site falls within the Vulnerable Building Distance statutory safeguarding zone surrounding the Royal Marines Commando Training Centre.

However, we do question the specific reference to the need for the provision of open space in the northern part of the site in order to “conserve and enhance the rural setting grade II\* listed Exton Farmhouse”. The farmhouse is situated to the west of the site and the most sensitive part of the site would be the north west corner where there may be visibility to and from the listed farmhouse. In our view it is only this north western part of the site which is likely to be more sensitive, so we do not agree with the inclusion of the broad requirement for the provision of open space in the ‘northern part of the site. For example, the north and north eastern parts of the draft allocation could easily be developed through sensitive design and layout work to ensure that any impacts on the nearby listed farmhouse are limited.

Therefore, to ensure the allocation accurately reflects the known constraints whilst not imposing restrictions which are over and above that necessary, we request that the last paragraph of the allocation text is changed as follows:

*The design and layout of development should conserve and enhance the rural setting grade II\* listed Exton Farmhouse, including through the provision of public open space in the north west ~~northern~~ part of the site. Flood mitigation is required to ensure existing surface water flood risk along Mill Lane is not exacerbated by the development.*

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

We note that no changes have been proposed to this draft policy since the first Regulation 19 consultation draft.

The draft policy therefore remains 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.

We therefore continue to recommend that draft Policy CC01 is changed into introductory text for this chapter rather than policy wording.

#### Strategic Policy CC06: Embodied Carbon

As with draft Policy CC01, we note that no changes have been proposed to this draft policy since the first Regulation 19 consultation draft.

We continue to consider that this draft Policy is neither justified nor consistent with national policy.

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

Whilst a few minor changes have been made to this draft policy since the first Regulation consultation draft, we are concerned that the draft policy remains inconsistent with the provisions of the latest NPPF, notably 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).”*

Given the recent changes to the NPPF and the more recent changes to the Planning Practice Guidance on Flood Risk, it is clear that draft Policy AR01 should be reviewed and amended to ensure consistency with the most up to date national policy and guidance.

## Strategic Policy HN02: Affordable housing

We note that this draft policy is broadly unchanged from that consulted on as part of the first regulation 19 consultation draft. We therefore remain in general 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 HN04: Accessible and adaptable Housing

We did not comment on draft Policy HN04 at the last consultation stage, however it is clear that the Council proposes to increase the percentage under criteria ‘D’ of this policy from 5% to 15% of all new affordable housing for rent or affordable home ownership will meet building regulation M4 (3) (2) (a) or (b) requirements (wheelchair adaptable).

We cannot see any substantial evidence for this in the Council’s supporting evidence base, and are therefore concerned with this proposed increase. We consider further justification should be provided for this proposed increase.

The general approach across other authorities appears to be more consistent with the 5% proposed as part of the first Regulation 19 consultation. We consider the requirement should be changed back to this.

## Policy HN05: Self-build and custom build housing

Whilst a few minor changes have been made to this draft policy since the first Regulation consultation draft, we continue to consider the draft Policy is not sound.

Whilst we still support the Council’s efforts to deliver a diversified range of housing as part of the plan, 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

We welcome the changes proposed to draft Policy DS02 in this further Regulation 19 consultation. In our previous response we highlighted our concerns over the blanket approach taken in requiring all major developments to be supported by a design code.

We can see that the draft policy has been amended so that only developments over 50 dwellings will need to be supported by a design code and this is generally supported in relation to the Land at Exton (Wood\_28).

#### Strategic Policy OL10: Development on high quality agricultural land

We note that no changes have been proposed to this draft policy since the first Regulation 19 consultation draft, and we therefore continue to object to the inclusion of this policy on the basis of a complete lack of justification.

We explained our reasons for the objection in our representations to the first Regulation 19 consultation draft and these points still stand. We maintain that the draft policy should be removed in its entirety.

#### Strategic Policy PB05: Biodiversity Net Gain

We note that no substantive changes have been proposed to this draft policy since the first Regulation 19 consultation draft, and we therefore continue to object to this policy as currently worded.

Most importantly, the draft policy continues to include the requirement for major development to deliver at least 20% BNG.

As set out in our previous representations, the PPG is very clear that there is no need for local planning policy to repeat national BNG requirements, and that local plans *“should not seek a higher percentage than the statutory*

*objective of ten per cent biodiversity net gain, either on an area-wide basis or for specific allocations for development unless justified”.*

*It adds: “to justify such policies they will need to be evidenced including as to local need for a higher percentage, local opportunities for a higher percentage and any impacts on viability for development. Consideration will also need to be given to how the policy will be implemented.”*

As a result of the above, the Council must revisit this draft Policy prior to the submission of the draft plan.

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## 5. Summary and Conclusions

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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.

However, we have requested a change to the policy text for draft Policy SD17 (Wood\_28) as set out in these representations. We have also reiterated our significant concerns with the approach in the draft plan to over the proposed housing requirement and whether the plan can even proceed under the transitional arrangements set out in the NPPF.

Our concerns relate to both the proposed stepped trajectory, which we consider is not supported by any evidence or justification, and the proposed housing requirement which in our view should be increased in order to reflect the updated Standard Method.

We hope that these comments will be helpful to inform the submission version of the Local Plan, but would be very happy to assist further with any queries relating to Wood\_28, particularly any discussions relating to the proposed allocation text and requirements.