



22 January 2026

By Email

Dear Sir/Madam

**East Devon Local Plan 2020 to 2042 Second Regulation 19 Publication Draft November 2025
Representations on behalf of Stuart Partners Ltd**

Introduction

CarneySweeney acts for Stuart Partners Ltd in connection with land south of A3052 and east of A376, Clyst St Mary, East Devon.

This land is being promoted by our client for a sustainable residential-led mixed use development. CarneySweeney hereby submits representations on behalf of our client on the East Devon Local Plan 2020-2042 Second Regulation 19 Publication Draft (2nd Reg 19 draft LP). These representations comprise:

1. This letter, which addresses legal compliance matters, matters associated with Marlcombe (Strategic Policy WS01) and a range of technical matters relating to amendments introduced by the 2nd Reg 19 draft LP.
2. A letter dated 28.03.25 and a Statement dated March 2025 (both attached for completeness), comprising our clients' representations on the East Devon Local Plan 2020 – 2042 Regulation 19 Publication Draft February 2025 (1st Reg 19 draft LP).

Legal Compliance

Transitional Arrangements

It is considered that the Council is unable to rely on the transitional arrangements set out in the NPPF 2024 by virtue of the approach it has taken to the publication of two Regulation 19 Local Plans and the significant changes that have been made to the 1st Reg 19 draft LP and its evidence base. The PPG contains the relevant guidance on this matter, which is set out below in full:

How do the implementation aspects of the NPPF apply to plans where more than one round of Regulation 19 consultation has been undertaken?

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.

Paragraph: 86 Reference ID:61-086-20250616

Revision date: 26 06 2025

Changes to the Local Plan

The above amendment to the PPG was introduced after the 1st Reg 19 draft LP was published for consultation and constitutes a material change in the policy context regarding the application of the transitional arrangements.

The PPG cites one example of the limited circumstances that include [our emphasis] a scenario whereby a plan has reached Regulation 19 only on the date that a subsequent draft plan has been published which has changed significantly from the initial Regulation 19 plan. It is considered that this scenario applies in this case because significant changes have been introduced into the 2nd Reg 19 draft LP. These changes can be seen plainly in the tracked change version of the 2nd Reg 19 draft LP available on the Council's on-line Examination page and include:

1. Amendments that seek to address legal compliance shortcomings and respond to consultation comments on the 1st Reg 19 draft LP:
 - Duty to Co-operate: New section and footnote at 1.14 seeking to justify the (in our view inadequate) approach taken to the Duty to Co-operate.

- Amendments to numerous policies including:
 - Significant changes to Strategic Policy WS01 Marlcombe
 - Numerous site allocation policies (see below).
 - Strategic Policy AR02: Water Efficiency. Amended to also relate to water quality, with a suite of new requirements placed on applicants. See also “Changes to the Evidence Base” below.
 - Strategic Policy PB01: Protection of internationally and nationally important wildlife sites (policy and text), with the introduction of “very demanding tests”.
 - Strategic Policy PB04: Habitat Regulations Assessment (HRA) and mitigation strategies (policy and text).
 - Seeking to justify 20% BNG in Strategic Policy PB05: Biodiversity Net Gain (BNG)
 - Policy PB09: Monitoring requirements for new planting schemes.

It is considered that a number of these policies risk prejudicing housing delivery on allocated, windfall and other sites by imposing unjustified and unreasonable demands on applicants and restrictions on the scale of new development.

2. New provisions that arise from new evidence and work undertaken by the Council since the 1st Reg 19 draft LP:

It is evident that when the Council set its two stage Regulation 19 strategy, it was envisaged that only matters of policy detail in respect of Strategic Policy WS01 would be added and be informed by ongoing evidence work. This is made clear on Page 5 of the tracked changes to the 2nd Reg 19 draft LP. What is clear with the publication of the 2nd Regulation 19 draft LP is that the exercise to complete the necessary evidence work and fill in the policy gaps was in fact extensive and significant.

Changes to the Evidence Base

The PPG does not define other *limited circumstances*, but it does imply quite clearly that significant changes to the plan itself are not the only circumstances in which a plan would not benefit from the transitional arrangements. It is considered that another limited circumstance could include the introduction of new and significantly different evidence prepared in connection with the emerging plan. This is considered to apply in this case and relates to the following extensive suite of evidence that was uploaded in November 2025, being new evidence that was not presented in connection with the 1st Reg 19 draft LP.

- Second Regulation 19 Publication Draft Local Plan Sustainability Appraisal report November 2025 (CSD-003 rev)
- East Devon Local Plan Viability Assessment Addendum (CSD-004a)



- Habitats Regulations Assessment of the East Devon Local Plan 2020 – 2040 (Second Regulation 19 Publication Draft Plan – Autumn 2025) (CSD-006 rev b)
- Equalities Impact Assessment (2nd Reg 19) November 2025 (CSD_008(rev))
- Statement of Representations Procedure November 2025 (CSD_009(rev))
- Duty to Cooperate – Statements of Common Ground December 2025 (CSD_010 a-d)
- Statement of Community Involvement (SCI) November 2025 (CSD-011)
- Duty to Co-operate 10/12/25 (KSD-002)
- Infrastructure Delivery Plan November 2025 - Version 02 (KSD_001 (rev))
- Settlement Boundaries Topic Paper November 2025 (KSD-010(rev))
- Technical Assessment of Housing Delivery November 2025 (HOU-001)
- East Devon Local Housing Needs Assessment (Oct 2025) (HOU-002(rev))*
- Method options for calculating housing requirements for designated neighbourhood Areas in East Devon November 2025 (HOU-013)
- Custom and Self-Build Topic Paper November 2025 (HOU—015)
- South East Devon Wildlife – Joint Habitats Sites Mitigation Strategy November 2025 (ENV_009(rev))
- Mitigation of Air Quality Impacts – East Devon Pebblebed Heaths – Technical Report October 2025 (ENV-033)
- Mitigation Strategy for Air Quality Impacts – East Devon Pebblebed Heaths November 2025 (ENV-034)
- Coastal Change Topic Paper (Oct 2025) (CCF-005 (rev))
- The East Devon Water Cycle Study Revised, November 2025 (13 November 2025) (CCF-001)
- Adaption and Resilience to Climate Change: Flood Risk Second regulation 19 consultation September 2025 (CCF-004(rev))
- Adaption and Resilience to Climate Change: Coastal Change Second reg 19 consultation version 02 November 2025 (CCF-005(rev))
- Evidence for Increased Water Efficiency November 2025 (CCF-026)**
- Catchment data Explorer – East Devon Management Catchment November 2025 (CCF_028)***
- Catchment Data Explorer – South West Trac Management Catchment November 2025 (CCF-029)***
- Catchment Data Explorer – Lyme Bay East water Body November 2025 (CCF-030)***
- Transport – Various Site Assessments – (TRI_023b), (TRI-027)
- Transport evidence – Empirical Data Report March 2025, uploaded November 2025 (TRI-026)
- Greater Exeter Transport Study Mitigation Modelling (September 2025) uploaded November 2025 (TRI-029)

- Greater Exeter Transport Study Technical Note 1 (August 2025) uploaded November 2025 (TRI-030 and 030a)
- Greater Exeter Local Plan Growth – Vissim Modelling November 2025 (TRI-033)
- Heritage Study 2024 – 2042 uploaded November 2025 (HRD-004)
- Various site selection reports uploaded in November 2025
- A Vision for Marcombe September 2025
- Strategic Outline Business Case for Marcombe - Phase 1 (Executive Summary) (September 2025) (NWS-005)

*With paragraph 8.4 noting that more detailed guidance will be issued and specific guidance may be needed for Marcombe.

**Dated July 2024, but not uploaded until November 2025

***EA data updated 17.03.25, but not uploaded until November 2025

The assessment at Appendix 1 sets out the key differences in the Sustainability Appraisal prepared in connection with the 1st Reg 19 draft LP and the November 2025 version.

Planning Officer Advice on the PPG

The extracts below are from the Council's Strategic Planning Committee on 02.09.25. Officers considered that examples of other limited circumstances under the PPG could be:

2.4 Although not stated as examples it may be that other circumstances could include:

- if or when there is a substantial time delay between any stages,
- if national policy, guidance or legislation has changed and this materially impacts in a significant way on a plan, or
- if circumstances or issues/matters in a local planning authority area change (perhaps substantially) and this impacts in a substantial way on matters that are or need to be covered in local plan policy.

Officers clearly grappled with the issues raised in the PPG. They advised that one of more substantial changes could make the Council vulnerable, as could a larger number of smaller changes or a mixture of the two.

- 2.10 A difficulty we face is that we would not wish to leave ourselves open or vulnerable to challenge. But it is far from clear cut what the degrees of vulnerability are. We would though suggest that of most importance would be the issue around the scale and nature of changes that are made between the first and second Regulation 19 plans. One or more substantial changes could place us in a more vulnerable position, as could a higher number of smaller changes with a big cumulative impact (as could a mixture of big and small changes).
- 2.11 Officer advice is that Committee should be cautious and think carefully about potential plan changes to minimise the potential of placing the Council into a vulnerable position to challenge. In making any changes Committee should also carefully consider whether any changes are justified on the basis of robust objective evidence. Noting these points officers have sought to make limited recommendations on plan changes, in this report. Where changes are recommended, they are not seen to be substantive in scale and as such seek to minimise rather than increase the risk of challenge.
- 2.12 It is highlighted that there are cases where, at Examination, inspectors have concluded that the only way that a plan could be made to be sound would be for substantive changes to be made. But such changes have (in inspectors conclusions) been deemed to amount to making the plan significantly different from the plan that was submitted for examination and as such rules around the Regulation 19 stage of plan making would not be complied with. The result being that such plans fail at examination and could not be adopted.

It is considered that the 2nd Reg 19 draft LP makes a number of substantial changes together with scores of smaller changes (or varying degree of scale) that amount to significant cumulative change, contrary to the PPG. In producing the 2nd Reg 19 draft LP, this advice was clearly not heeded by the very officers who drafted it.

Duty to Cooperate

We refer to an entirely new subsection in the 2nd Reg 19 draft LP entitled “Duty to co-operate and joint working with neighbouring authorities” and associated paragraph 1.14.

Paragraph 1.14 refers to joint working that ran through the production of the Local Plan. We request evidence of this including meeting minutes and other documents demonstrating engagement with neighbouring authorities sufficient to meet the statutory requirement.

Paragraph 1.14 also refers to Our Shared Coordinates (KSD-002) and seeks to demonstrate – albeit belatedly - that the Duty has been met in large part by the production of this document, saying that it informed the Local Plan policy and was a “key element” in ensuring the Duty was met.

We note also that Duty to Cooperate (CSD-010) is dated 10/12/25, meaning it had not been prepared for the 1st Reg 19 draft LP consultation. This is a significant omission and suggests that at most only limited engagement with neighbouring authorities took place. The evidence requested above will confirm the veracity of this claim either way. The Duty to Cooperate refers to the Greater Exeter Strategic Plan (GESP). It also identifies the

bodies with whom engagement is required and the key issues but fails to demonstrate that appropriate cooperation has taken place sufficient to meet the Duty's requirements.

The history of this Council's work with neighbouring authorities includes withdrawing from the GESP as a result of political concerns over the scale of new development it proposed – development that was considered necessary at the time to meet housing and other needs. This paints a picture of a Council that is unwilling to engage with other authorities if that means accommodating additional development needs within its administrative area.

Finally, at Section 5, the Duty to Cooperate document sets a timetable for engagement with relevant bodies and explains that this will be done before the examination. This is putting the cart before the horse: the whole point of the Duty is that this engagement takes place during and throughout plan making - not afterwards - so that matters such as the spatial strategy, housing numbers and site allocations reflect the outcome of engagement.

It is considered that Our Shared Coordinates and Duty to Cooperate (KSD-002) fall way short of achieving any of the claims at paragraph 1.14 and as far as we can see, there is no evidence to demonstrate the statutory Duty has been met.

Marlcombe

The provisions for Marlcombe represent the single largest topic changes in the 2nd Reg 19 draft LP.

There remains considerable uncertainty as to Marlcombe's deliverability and phasing, as can be seen in the evidence base prepared in connection with the 2nd Reg 19 draft LP.

Infrastructure Delivery

Strategic Policy WS01 and the related evidence base emphasise the importance of the early delivery of services and facilities. The Vision Document states at Section 6 that the following will be delivered early:

- Primary access road and key junction improvements (c. £100m)
- Education Campus (c. £85m to serve 8,000 homes)
- Town centre (c. £75m)
- SANG (c. £5m for phase 1)
- Utilities (c. £270m)

This is a laudable objective, although the Vision Document acknowledges that significant public sector intervention will be required to achieve it.

The Infrastructure Delivery Plan (KSD-001) (IDP) identifies that the costs are still “TBC” for the following key elements of Marlcombe, with potential funding sources identified as being largely from developer contributions and CIL:

- Blue light facility
- Community centres
- Place of worship and parsonage
- Cemetery
- Youth, children’s and library facility
- Public art
- Community builder
- SANG
- GI
- Outdoor play including MUGA
- Grass sports pitches, pavilion and car park
- Tennis courts, greens, tracks and trails
- Leisure centre
- Mobility hubs
- Health hub
- Extra care
- Residential care

Phasing

The Technical Assessment of Housing Delivery November 2025 (HOU-001) suggests that Marlcombe will start delivering in 2029/30 (144 homes), 144 homes in 2030/31, 216 homes in each of the years 2031/32 to 2034/35 and so on.

At the present time and given the process identified in the Strategic Outline Business Case for Marlcombe – Phase 1 (Executive Summary) September 2025 (NWC-005) alongside the consenting process – all of which remain to be started, let alone completed, it is considered that this trajectory is highly optimistic, both in terms of the starting point and the ambition to deliver 3,096 homes by 2042.

In summary, it is questionable whether even the 2nd Reg 19 draft LP is ready for submission with the uncertainty remaining around the funding, deliverability and phasing of Marlcombe.

Housing Numbers

The 2nd Reg 19 draft LP allocates land which it claims can deliver 8,000 new homes at densities of between 20 dph and 75 dph. This claim has not been tested but in our opinion, this objective is likely to be a major challenge. The policy objective that “within and around the town centre, densities of up to 75 dwellings per hectare (net) will be required” is entirely new.

It is notable that land for a further 2,000 homes still needs to be allocated in order for Marlcombe to achieve New Town status and the strategy is to do this in a future Local Plan. New Town status requires at least 10,000 homes for a scheme to qualify.

Specific Policies and Provisions

Representations are also made in respect of the following provisions of the 2nd Reg 19 draft LP.

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 set by Strategic Policy SP02: Levels of future housing development 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 at paragraph 3.11 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.

National Landscape, Ecology, Flood Risk and Heritage Considerations in Site Allocation Policies

A number of site allocation policies contain material amendments, some of which are likely to affect site yield, in response to the allocation of sites within areas of National Landscape and with ecology, flood risk, heritage and other considerations.

The amendments to an allocation for 700 homes on Land at St John's (Exmo_20) under Strategic Policy SD01: Exmouth and its development allocations are particularly significant in themselves and it is noted that there is an unresolved objection to the allocation of this site from Devon County Council as the Minerals and Waste Planning Authority because part of the site is within a Minerals Safeguarding Zone.

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

- Strategic Policy SP08: Infrastructure and Services
- Strategic Policy WS09: Clyst Valley Regional Park
- Strategic Policy CC02: Net zero carbon development
- Strategic Policy CC05: Heat networks
- Strategic Policy CC06: Embodied Carbon
- Strategic Policy AR01: Flooding
- Strategic Policy HN01: Housing to address needs
- Strategic Policy HN02: Affordable housing
- Policy HN03: Housing to meet the needs of older people
- Policy HN05: Self-build and custom build housing
- Strategic Policy DS01: Design and local distinctiveness
- Policy DS02: Housing density and efficient use of the land
- Strategic Policy TR01: Prioritising walking, wheeling, cycling, public transport
- TR03: Travel plans, transport statements and transport assessments
- Policy OL04: Areas of strategic visual importance
- Policy OL10: development on high quality agricultural land
- Policy PB03: Protection of irreplaceable habitats and important features
- Policy PB08: Tree, hedges and woodland on development sites
- Strategic Policy OS01: Access to open space and recreation facilities
- Policy OS02: Sport, recreation, open space provision in association with development
- Policy HE01: Historic Environment
- Policy HE02: Listed Buildings
- Policy HE03: Conservation Areas



- Policy HE04: Archaeology and Scheduled Monuments
- Policy CF02: Loss of Community Facilities

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

CHAPTER	CHAPTER 7. ADAPTING TO CLIMATE CHANGE
Policy	Strategic Policy AR01: Flooding
Comment	<p>Our previous comments on this policy have not been addressed and additional requirements added which make the policy more stringent and prescriptive.</p> <p>Mandating flood mitigation measures beyond those necessary to address the impact of the development in accordance with relevant guidance could impact on scheme viability and delivery.</p> <p>Prohibiting car parks in areas at risk of flooding is not reasonable as such use can be water compatible.</p>
Requested Amendments	Delete all new additions and the requirements for assessment of land within 5 metres horizontal distance of Flood Zone 2 and identifying wider community flood risk benefit.
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>



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:

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

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



	<p>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.</p> <p>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> <p><i>D - All development proposals to demonstrate and incorporate measures that can reasonably be taken to enhance the water environment,</i></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><i>E - Developers shall undertake thorough risk assessments of the impact of proposals on surface and groundwater systems considering avoidance and mitigation.</i></p> <p><u>Comment</u> –</p> <p>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: A – delete</p> <p>B – delete</p> <p>C -amend as follows: 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>
<p>CHAPTER</p>	<p>CHAPTER 8. MEETING HOUSING NEEDS</p>
<p>Policy</p>	<p>Policy HN04: Accessible and adaptive housing</p>
<p>Comment</p>	<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>A more reasonable and achievable level would be 30%.</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 M(3) units raise issues of viability and site coverage, and such a high percentage is not considered justified.</p>
<p>Requested Amendments</p>	<p>The following amendments are required for the policy to be considered sound:</p> <p>Point A: 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. Delete “or higher standards than this” at point A Flats, 1 bed units, and self and custom build plots should be excluded entirely.</p> <p>Point D: 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>
<p>CHAPTER</p>	<p>CHAPTER 11. SUSTAINABLE TRANSPORT AND COMMUNICATIONS</p>
<p>Policy</p>	<p>Strategic Policy TR02: Protecting transport sites and routes</p>
<p>Comment</p>	<p>Our previous comments have not been addressed and on further review the reference to addressing transport impact of later development is not considered to be sound.</p>



	Accounting for the effects of committed development is national policy, whereas it would not be appropriate for LP policy to require developers to provide infrastructure or capacity for developments which have no status in planning and are outside of the LP period / geographical area
Requested Amendments	Amend ‘potential that may arise though later developments in adjoining or nearby areas’ to ‘potential that may arise though committed developments in adjoining or nearby areas’.
Policy	TR03: Travel plans, transport statements and transport assessments
Comment	<p>This policy, which seeks to set the parameters for Transport Statements, Transport Assessments and Travel Plans, should be amended to reflect (or simply reference) national policy and guidance on the matter, including that which is set out in the NPPF and the NPPG:</p> <ul style="list-style-type: none"> • The policy appears to have a presumption that all development proposals will need to ‘secure new sustainable transport arrangements’ – whereas, in many areas, existing or future active travel networks may be appropriate in themselves, without the need for ‘new’ infrastructure. • C. should reference ‘other committed development’, in line with policy. New developments should not have to take account of the theoretical transport impacts of other sites which have no status in planning. <p>D. Consideration should be given to the overall traffic effects of development across the day, rather than simply at peak times, in line with recent caselaw including the Penwortham decision (attached). Those traffic effects must be weighed as part of the overall planning balance, rather than being treated as determinative. E.g.:</p> <p>307. Even if the residual cumulative impacts on the highways could be described as severe, this does not necessarily lead to a conclusion that the appeal proposal should be refused, particularly bearing in mind that the appeal site is an allocated site in the adopted local plan. I return to this point in the planning balance. [89]</p>
Requested Amendments	It is considered that Policy TR03 would be better addressed as a validation requirement.
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 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 considered to be unreasonable and unnecessary given that developers already provide EV charging in accordance with the Building Regulations and travel planning measures.</p>
<p>Requested Amendments</p>	<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>
<p>CHAPTER</p>	<p>CHAPTER 13. OUR OUTSTANDING BIODIVERSITY AND GEODIVERSITY</p>
<p>Policy</p>	<p>Strategic Policy PB01: Protection of internationally and nationally important wildlife sites and Strategic Policy PB04: Habitat Regulations Assessment (HRA) and Mitigation Strategies</p>
<p>Comment</p>	<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 beak clause which could see development refused. • Requirements for assessment and monitoring. • Requirement for financial contributions to off site mitigation measures.



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.

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 are likely to be the allocations that contribute 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 assessment are inconsistent and contradictory in terms of the scope and application of this new policy requirement.



	<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 is 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 and does not meet the NPPF test of soundness.</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.
CHAPTER	CHAPTER 16. COMMUNITY FACILITIES
Policy	Policy CF02: Loss of Community Facilities
Comment	The footnote reference to the Marketing Statement Guidance which sets out a minimum of 12 months marketing is noted. “Community value” is a subjective term and is not defined. An alternative wording could be “...and is at least a like for like replacement in terms of size and facilities.”
Requested Amendments	Policy should be amended to provide greater clarity.

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).

Matthew Pennycook MP’s letter to PINS dated 30 July 2024

Matthew Pennycook MP’s letter to the Chief Executive of The Planning Inspectorate dated 30 July 2024 states that:

“Section 20 of the Planning and Compulsory Purchase Act 2004 provides that a local planning authority must not submit a local plan unless they have complied with relevant legislative requirements, and they think the plan is ready for independent examination by a Planning Inspector. Accordingly, an authority should not be submitting for examination a deficient plan believing the Inspector will use significant time and resource during the examination to ‘fix it’”.

The very act of publishing the 2nd Reg 19 draft LP indicates that the Council decided that 1st Reg 19 draft LP was not ready for public examination. It is considered that the changes needed to the 1st Reg 19 draft LP and its associated evidence base have, out of necessity, been so significant as to prevent the Council from claiming it benefits from the transitional arrangements.

It is also arguable whether even the 2nd Reg 19 draft LP is ready for examination, given the legal and technical deficiencies in the plan and its evidence base as described above and in representations submitted in connection with the 1st Reg 19 draft LP.

Summary

The Introduction to the 2nd Reg 19 draft LP states that:

~~This second phase of consultation is envisaged to introduce~~introduces limited new material into the plan, ~~though does provide scope for refinement of new community policy and some minor more general amendments.~~

Based on the evidence presented above and at Appendix 1, we fundamentally disagree with this claim and consider that the content of the emerging plan and its evidence base have changed significantly.

The scope and nature of our representations in tandem with the above analysis confirms that the 1st Reg 19 draft LP was not ready for publication. However, it was published regardless solely with the aim of meeting the transitional provisions in the December 2024 NPPF. As a result, the Council was able to postpone the challenge of having to meet the full housing need identified in the New Standard Method - an additional 5,227* dwellings over the Plan period - until some unknown point in the future and very probably, after local government reorganisation. This approach is consistent with the Council's withdrawal from GESP and its approach of allocating sites for development but then imposing significant policy obstacles to delivery.

*A report to the Council's Strategic Planning Committee on 02.09.25 confirmed that the New Standard Method housing need was 1,188 per annum, amounting to 26,136 homes over the Plan period. This compares to the minimum of 20,909 homes that the Council needs to provide under the transitional arrangements - some 5,227 homes less than the New Standard Method need.

Despite the subsequent publication of the above PPG paragraph, the Council had little choice but to press ahead and publish the 2nd Reg 19 draft LP in November 2025 and claim that only limited changes had been made, even though it quite clearly incorporated significant changes to both the 1st Reg 19 draft LP and its associated evidence base.

Based on the Council's own evidence, it is considered that it has failed comprehensively to meet the Duty to Cooperate.

Accordingly, it is considered that the 2nd Reg 19 draft LP should not be permitted to proceed in accordance with the transitional arrangements. This would mean that a new or amended plan should be produced that allocates sufficient sites to meet housing need in the New Standard Method in full.

The concept of Marlcombe as a New Town is supported. However, it is considered that there remain significant gaps in the evidence relating to deliverability and phasing because of the absence of a fully costed Infrastructure Delivery Plan and business case supporting the ambitious policy aspirations for the delivery of services and facilities (for example the education hub) in early phases.

Even if it is found that the 2nd Reg 19 draft LP does satisfy the transitional arrangements and the PPG, and putting to one side our concerns about the Duty to Co-operate (see previous representation and above), it is considered that it should be amended as follows:

1. To address the matters on specific policy-related matters identified in our representations on the 1st and 2nd Reg 19 draft LP's (above and attached).
2. To allocate our client's site for a new village of up to 2,000 homes to complement Marlcombe and deliver the remaining 2,000 homes (that are not allocated in the 2nd Reg 19 draft LP), being the very least that are needed for Marlcombe to achieve New Town status.

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 and the accompanying evidence base.

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

Yours faithfully



Simon Coles
Director
CarneySweeney

Appendix 1: Key differences between the HRA's and SA's for the 1st and 2nd Reg 19 Draft LP's.

1. The changes to the SA are considered to go beyond what could be described as minor. At paragraph 2.25 of the revised, it states that *"...most changes to the topic-based policies are relatively minor, so do not require changes to the SA. One of the exceptions is Strategic Policy AR02 which was amended to incorporate water quality, as well as efficiency, leading to more positive effects on biodiversity and water quality."*
2. There are significant additions to the SA on Marlcombe, particularly a completely new section appraising the different scenarios for the development of the masterplan.
3. Para 2.27 states that updates have also been made to key elements of the baseline information and relevant plans, policies and programmes.
4. The SA for Marlcombe is based on traffic modelling that was undertaken for 2,500 dwellings at each Option. It is notable that the plan period runs to 2042 and the 2nd Reg 19 draft LP anticipates that 3,312 homes will be delivered at Marlcombe by 2042.
5. The SA presents significant new material on the new settlement – which totals 8,000 and is a substantial part of the LP spatial strategy. The information amounts to a significant change from the 1st Reg 19 draft, including an assessment of multiple masterplan options.
6. The archaeological evidence for individual sites fundamentally changes the conclusions of the SA on some sites. Whilst Brcl_26 was preferred in the first draft, by the second draft it was rejected because of a major negative effect upon the historic environment due to the likely presence of regionally significant archaeology, and high flood risk on site including at the likely access point. This led to the deletion of Strategic Policy WS11 in the 2nd publication draft.
7. The HRA also introduces new evidence that has changed the assessment against the SA objectives for individual sites. This information was not included in the first draft, presumably because it wasn't available at that time. This led to site assessments that could not have been legally compliant.