

East Devon Local Plan 2020 to 2040

Regulation 19 Publication draft

Representations on behalf of DABB Partnership

26 March 2025

Introduction

CarneySweeney acts for DABB Partnership in connection with various land parcels in Whimble which are being promoted for residential development. CarneySweeney submits the following representations to East Devon District Council's (EDDC) current consultation on the Local Plan Regulation 19 which closes at 9am on Monday 31st March 2025.

Our Client:

1. Supports the allocation of Whim_11 for 33 homes.
2. Supports the allocation for Whim_08a for 50 homes.
3. Considers that land off Broadyclst Road, Whimble should be allocated for residential development and included within the BUAB.
4. Considers that Policy CC06 (Embodied Carbon) should be deleted or if found sound should be amended to provide greater clarity.
5. Considers that Policy AR02 (Water Efficiency) should be deleted.
6. Considers that Policy HN04 (Accessible and Adaptable Housing) should be amended to include a reduced percentage requirement for M4 (2) dwellings.
7. Considers that Policy HN05 (Self-Build and Custom Build Housing) should be deleted.
8. Considers that Policy PB05 (Biodiversity Net Gain) should be deleted.

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:

National Planning Policy Framework (December 2024)

- Paragraph 32 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 36 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.

Site Allocations

As drafted, Strategic Policy SD29 (Development allocations at Whimble) allocates land at Station Road (ref. Whim_11) for 33 new homes and land to the west of Bramely Gardens (ref. Whim_08a) for 50 homes and a community orchard. Both allocations are shaded brown on the draft policy map below.

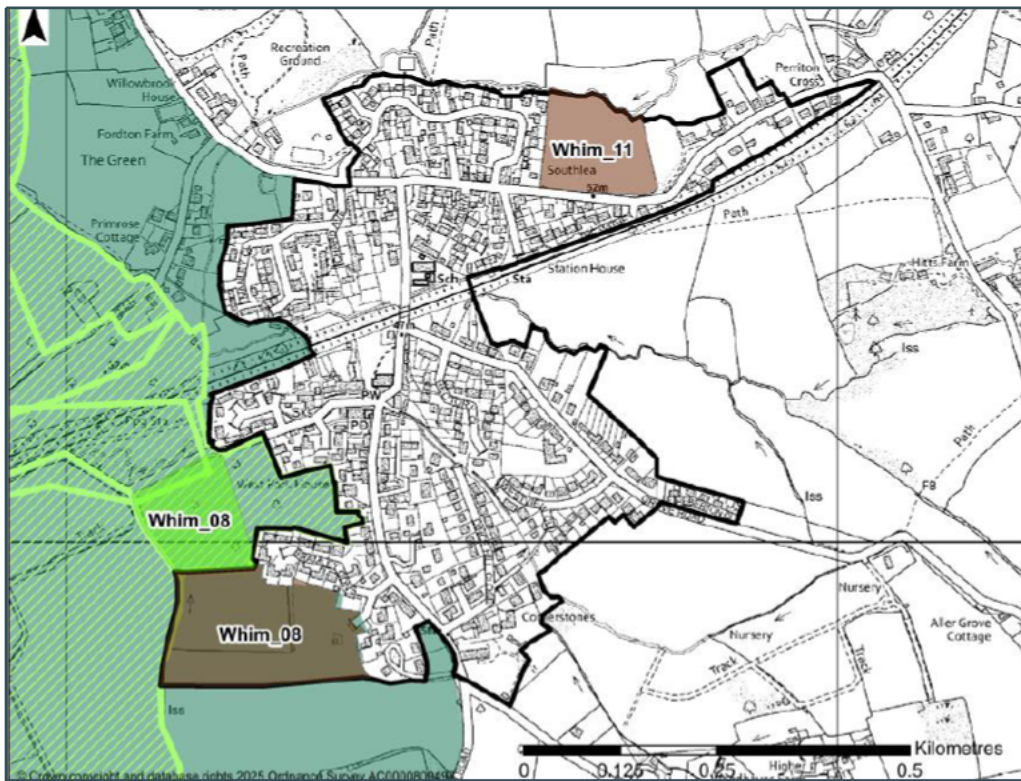


Figure 1 – Draft Policy Map for Whimble

Land off Station Road (Ref: Whim_11)

Our client fully endorses the allocation of land at Station Road for residential development.

Representations were also made to the Local Plan Reg 18 Further Consultation in June 2024, which also advised of our client's full support to the residential allocation. These have been attached at APPENDIX 1.

Our client is willing to work closely with EDDC to achieve the objectives of the policy in relation to this site.

Land to the west of Bramely Gardens, Whimble (Ref: Whim_08a)

The above site had been identified on the Reg 18 Emerging Local Plan Policy Maps as a 'second choice site' referenced as LP_Whim_08. Representations were made to the Local Plan Reg 18 Further Consultation in June 2024, which strongly encouraged the second-choice allocation ref: Whim_08 to be upgraded to a Preferred Allocation for residential development for Whimble. As above, the previous representations have been attached at Appendix 1.

The Draft Strategic Policy SD29 now includes this site as a residential allocation for Whimble. Our client's fully support the allocation of land to the west of Bramley Gardens for residential development and are prepared to work with stakeholders to achieve the objectives of Policy SD29.

Land off Broadclyst Road (Ref: Whim_07)

The above site had been identified on the Emerging Local Plan Policy Maps during the Reg 18 Consultation of the Local Plan as a 'second choice site' as referenced LP_Whim-07 and coloured orange on Figure 2 below.

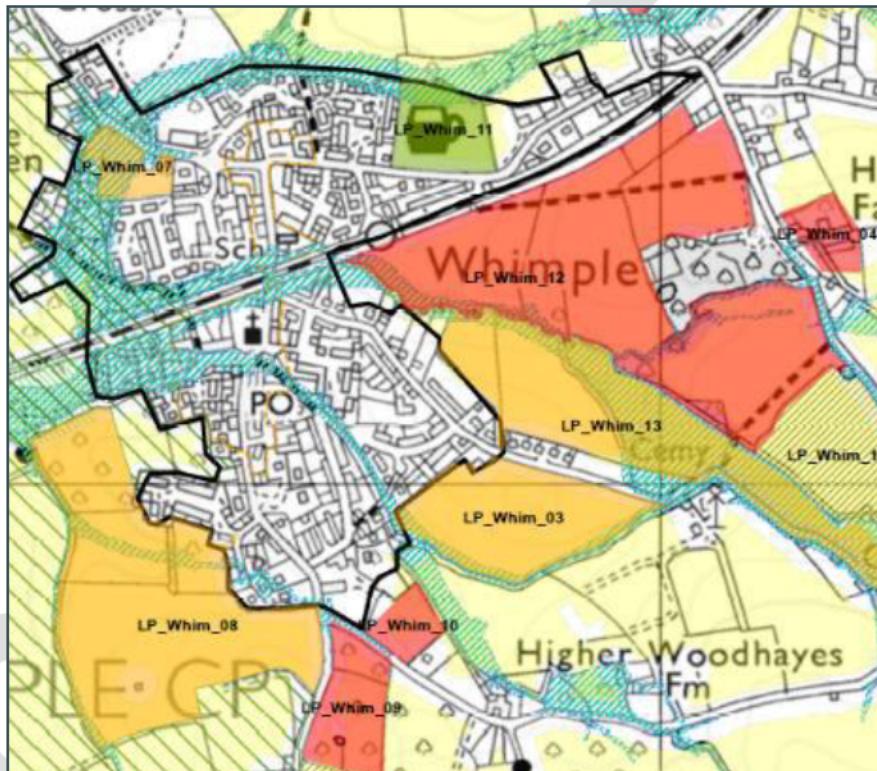


Figure 2 - Draft Reg 18 Policy Map for Whimble

On the 1st November 2024, EDDC's Strategic Planning Committee (SPC) met to consider a range of further allocations for sites within the District of East Devon.

With regard to site ref: Whim_07, tSPC was advised that further work looking at the critical drainage matters for Whimble which had not been completed due to the high cost of the technical work. It was proposed by SPC not to include this site as a further allocation for development due to the flood risk covering half of the site. SPC did however consider that the inclusion of half of the site, situated outside of the floodplain could be included within the BUAB to allow windfall development to come forward in the future.

On the 22nd November 2024 SPC considered a report on amended settlement boundaries and draft allocation plans for the emerging Local Plan. For Whimble, the built-up area boundary (BUAB) had been amended to include further land, as shown in Figure 3 below. The revised BUAB included within it, land off Broadclyst Road, highlighted for completeness, by the red circle.

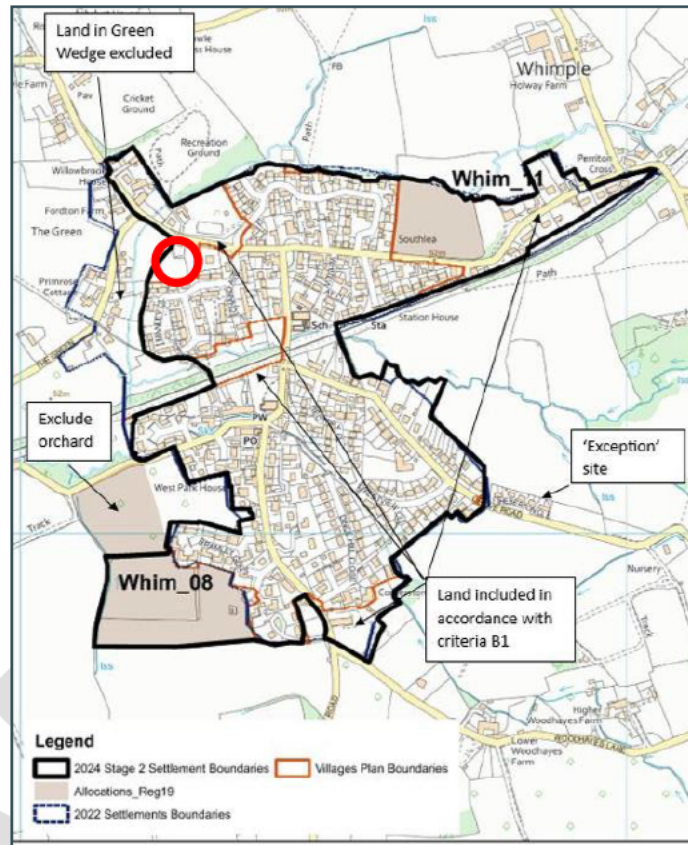


Figure 3 – Map of Proposed and Existing Settlement Boundary Together with Proposed 2022 Boundary

The Settlement Boundaries Evidence Paper¹ supported the report taken to SPC and set out how the boundaries have been drawn for individual settlements and why any changes have been made. The report states *“The strategy of the emerging local plan differs from the adopted plan in wanting to promote some opportunities for housing within the settlement boundaries so that they guide but do not stifle the outward growth of settlements in line with the plan strategy.”*

The report references the inclusion of land off Broadclyst Road and states *“Most of the areas to the northwest of the village that were included in the 2022 consultation plan have now been excluded*

¹ ED LP Settlement Boundaries Evidence Paper 222 Nov 2024 SPC Version 2

due to their retention in the Green Wedge. The exception is a house and part of a field north of Manley Close, as agreed at the Strategic Planning Committee meeting on 1st November 2024.”

The Local Plan Regulation 19 version, of which is being consulted on, shows the BUAB to have been pulled back to not include Whim_07.

Given the previous history of the site being included within the settlement boundary for Whimple, our clients wish to propose their land as suitable for development and deliverable within the plan period. It is considered that the land is centrally located with easy pedestrian/cycle access to Whimple’s services, facilities and railway station and that it can be brought forward at an early stage within the plan period to meet the objectives of Whimple to support development that meets local needs.

Our clients therefore consider that the site should be included within the BUAB for Whimple and allocated for residential development.

Policy Comments

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

Our client 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.

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| CHAPTER | CHAPTER 5. MITIGATING CLIMATE CHANGE |
| Policy | Strategic Policy CC06: Embodied Carbon |
| Comment | 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. |

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| | <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 if the Policy identified which nationally recognised Whole Life Cycle Carbon Assessment procedure the Council would expect to be completed.</p> |
| Requested Amendments | <p>Policy to be deleted or amended to refer to justified circumstances and confirm which Whole Life Cycle Carbon Assessment should be completed.</p> |

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| CHAPTER | CHAPTER 7. ADAPTING TO CLIMATE CHANGE |
| Policy | Strategic Policy AR02: Water efficiency |
| Comment | <p>Policy AR02 imposes the standard of 110 litres per day per person of water usage. The supporting text 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*. |

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| | <ul style="list-style-type: none"> • 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> |

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| <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>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 |

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| | <p>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.</p> <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.</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> |

- 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 safety issues for developers in terms of construction phasing, safety for plot occupants and established residents, and residential amenity impacts. 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.

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.

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| | <p>C – Specifically requires plot sizes to meet local demand but if there is no local demand this cannot be complied with.</p> <p>Regarding the provision of affordable SCB plots for schemes over 250 dwellings it is not clear how this would be delivered.</p> <p>The policy states that schemes over 100 dwellings should use a design code but this conflicts with Policy DS02 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.</p> <p>Finally, the policy states that all plots must be completed within 3 years of the plot purchase. This is not reasonable requirement as time limits for development commencing are set in the relevant permission and once implemented there is not 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.</p> |
| <p>Requested Amendments</p> | <p>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.</p> |

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| <p>CHAPTER</p> | <p>CHAPTER 13. OUR OUTSTANDING BIODIVERSITY AND GEODIVERSITY</p> |
| <p>Policy</p> | <p>Strategic Policy PB05: Biodiversity Net Gain</p> |
| <p>Comment</p> | <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 010% 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> |

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| | <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. 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> |
| <p>Requested Amendments</p> | <p>This policy should be deleted.</p> |

Summary

These representations are submitted to the Council by CarneySweeney on behalf of our clients to East Devon District Council's (EDDC) current consultation on the Local Plan Regulation 19.

Site Allocation

Our clients fully support Strategic Policy SD29 (Development allocations at Whimble) which allocates land at Station Road (ref. Whim_11) and land to the west of Bramley Gardens. Our clients are committed to positively engaging with the local community to help us develop and shape the detailed design.

Our client promotes a smaller sized site (Whim_07) Land off Broadclyst Road, which excludes the flood zone, as suitable, available and deliverable to help meet additional needs for Whimble. The site provides the opportunity to achieve a sustainable development of up to 5 homes, which is located within walking distance to a local shop, two pubs, train station, bus stops and a primary school. Our clients strongly encourage the inclusion of the site within the BUAB for Whimble.

Policies

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. Furthermore, it is the cumulative effect of these policies (listed below) on scheme viability and overall deliverability that is of significant concern:

- Policy CC06 (Embodied Carbon)
- Policy AR02 (Water Efficiency)
- Policy HN04 (Accessible and Adaptable Housing)
- Policy HN05 (Self-Build and Custom Build Housing)
- Policy PB05 (Biodiversity Net Gain)

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.

Our Ref – CSE2171

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Number – [REDACTED]