



East Devon Local Plan 2020 to
2040 – Preferred Options
Consultation

**Land at Bishops Court Lane, Clyst St
Mary (SOWT_09)**

**On behalf of 3West Developments Ltd
January 2023**

1. Introduction

- 1.1. This brief representation is made on behalf of 3West Developments Ltd (hereafter 3West). It covers key general policy matters, such as the spatial strategy, housing requirements and the distribution strategy, along with detailed policy requirements, such as BNG, employment provision. It also relates to land a where 3West has an interest at Bishops Court Lane, Clyst St Mary, which is currently identified for growth in the emerging Local Plan.

2. The National Planning Policy Framework (NPPF)

- 2.1. The current NPPF dates from July 2021 and is the current extant and relevant statement of national planning policy. Proposed amended wording for the NPPF was published for consultation in December 2022. Both documents are referred to throughout. The 2021 NPPF is currently the most relevant, but there has to be an acknowledgement that policy wording is likely to change; this may or may not reflect the text as set out in the December 2022 iteration.
- 2.2. Para. 1 is proposed to be amended to refer to providing for '*sufficient housing*' (as opposed to the current wording relating to just 'housing'). This national policy desire to deliver sufficient housing is again emphasised in proposed amended text at para. 7 and para. 15 of the 2022 iteration. With regard to the latter reference, it is telling that the amended text refers to 'meeting' housing need rather than the current reference to 'addressing' housing need. Chapter 5 is entitled 'Delivering a sufficient supply of homes', with amended text at para. 60 stating that '*the overall aim should be to meet as much housing needs as possible...to meet the needs of the community*'.
- 2.3. Para. 61 refers to housing needs derived from a needs assessment using the 'standard method'. This text goes on to reference '*exceptional circumstances*' which might '*justify an alternative approach*'. This echoes current advice found in the PPG as set out in full below.

'Is the use of the standard method for strategic policy making purposes mandatory?

No, if it is felt that circumstances warrant an alternative approach but authorities can expect this to be scrutinised more closely at examination. There is an expectation that the standard method will be used and that any other method will be used only in exceptional circumstances.

Paragraph: 003 Reference ID: 2a-003-20190220

Revision date: 20 02 2019'

- 2.4. Para. 61 goes on to state that any alternative approach should also *'reflect current and future demographic trends and market signals'*.
- 2.5. There has been considerable rhetoric and opinion around pronouncements from central Government and possible/potential consequences for housing delivery. However, in terms of housing requirements, there is very little change; local planning authorities have to plan to meet housing needs and the identified housing requirements set out in policy have to have some relationship with that need. Where they deviate, this has to be justified, but only in exceptional circumstances. Interpretation of key words in amended guidance, in whatever final form it takes, will no doubt become clearer over time, but our considered view is that East Devon District Council should focus on aiming to meet needs as it currently doing rather than being distracted by possible changes to the NPPF.

3. Strategic Policy Matters

- 3.1. Chapter 2 – Vision and objectives – We **support** the vision under the three identified priorities, particularly reference to *'better homes and communities for all'*. We consider that this reflects national policy and guidance.
- 3.2. Strategic Policy – Spatial strategy – In broad terms, we **support** the spatial strategy which recognises the strategic function of Exeter and the ability of the Local Plan to respond to this in the growth strategy.

Whilst we consider that growth should occur throughout the District in as many places that can be deemed as sustainable (or capable of being more sustainable) as possible, growth in tiers 3 and 4 of the settlement hierarchy benefit from that focus on the western side of the District that links to Exeter. It is clear that this applies to land at Clyst St Mary subject to this representation.

- 3.3. We **support** the change to the settlement hierarchy and the amended distribution strategy. The amended settlement hierarchy includes Local Centres (Tier 3), which encompasses Woodbury, Lymptone, Broadclyst, Colyton and Budleigh Salterton. Tier 4 includes, amongst others, Clyst St Mary. The proposed amendments are informed by the evidence base, most notably the document entitled 'The Role and Function of Settlements'.
- 3.4. The role and function document assesses settlements within the plan area against three main criteria, these being;
 - 3.4.1. Population;
 - 3.4.2. Employment; and
 - 3.4.3. Facilities and services.
- 3.5. Clyst St Mary has all of the defined local facilities and services, other than a library and a GP and is identified as playing a '*local role for both the settlement and immediate surrounding area in meeting the basic needs for residents on a day-to-day basis*'.
- 3.6. The conclusion of the role and function document offers the conclusion, which informs the settlement hierarchy as set out in the Local Plan.
- 3.7. We **support** the Local Plan's proposed focus on some limited growth in Tier 4 settlements, including Clyst St Mary. We consider that this reflects NPPF(11a) which requires that '*all plans should promote a sustainable pattern of development*' and NPPF(79) which states that '*to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services*'.

- 3.8. Strategic policy – Housing distribution – Insofar as this strategic policy affects the land at Clyst St Mary, we **support** the general thrust of this policy as it plans for growth in both this location. We reserve judgment on the reliance on over 60% of the housing growth being located in the western side of the district as we have not had sight of the proposed housing trajectory. The following policy states that this information will be available in due course and appended to the Local Plan. Para. 4.3 of the Local Plan states that detailed assessments of the sites in the western side of the plan area have not taken place.
- 3.9. We **object** to the lack of both the detailed site assessment work and the housing trajectory to justify such heavy reliance on delivery from this source of housing supply. This information is of fundamental importance to strategy setting, but the spatial strategy has been set without it.
- 3.10. Strategic policy – Levels of future housing development – We **support** the overall level of housing growth proposed in this policy and agree with the Council that unless there is evidence in the Interim Topic Paper to justify using an alternative method, the Local Housing Need for East Devon is 946 dwellings per year (paragraph 2.37). Moreover, in order for the Council to progress its plan-making process and maintain a planned system this housing needs figure must be “fixed” as the starting point for the Local Plan (paragraph 2.41). . Regardless of what iteration of the NPPF is referred to, there is a policy imperative to deliver sufficient housing. We **support** the policy’s reference to setting the housing requirements for the specified designated Neighbourhood Areas.
- 3.11. Para. 3.18 refers to the level of need for affordable housing numbers. It is imperative that efforts are made to deliver as much of this as possible in the plan period. The most effective means of achieving this is to plan for adequate housing growth in general where affordable housing forms a certain percentage (whatever it ends up in adopted policy) and is secured as part of the various planning obligations under a general housing proposal. To seek to reduce the overall housing numbers will impact negatively on the number of affordable houses that will be secured in the plan period.

3.12. Economic Strategy – We **support** the reference in 3.37(d) to the provision of the right land and premises in the right location as a key aspiration of the draft Plan. Having said this we **object** to mismatch between this policy aspiration, the statement in 3.37(c) about *‘planning to meet the identified employment needs in the plan period’*, the statement in 3.37(h) about *‘meeting the needs of business’* when compared with the fact that the Economic Strategy is not informed by an appropriate evidence base. The relevant strategic policy states that *‘the level of need will be informed by the ongoing Economic Development Needs Assessment’*. It is inappropriate to set out a strategy without this key part of the evidence base. The Strategy is being set, but the evidence on which it should be based is yet to be completed. Whilst we acknowledge that the tests of soundness are proposed to be amended to delete a requirement to justify the appropriate strategy based on proportionate evidence, we **object** to this gap in the evidence base. Insofar as it affects the two sites subject to this representation, the strategy is stating that some employment will be required on mixed use allocations. There is no evidence that this is appropriate, that it is needed or that it is desired. If the relevant assessment is yet to be completed how can this Local Plan conclude that delivery 0.14ha of land at Clyst St Mary meets the *‘identified employment needs in the plan period’* or whether such delivery meets *‘the needs of business’*.

3.13. In a similar vein to the above comments, para. 3.46 states that *‘the plan will reference the new District employment forecasts (jobs-based) that underpin the local plan’s employment provision policy, when they are available’*. We **object** to the Local Plan’s approach to setting its economic strategy as it is based on assumption and not on evidence. The Local Plan specifies that key pieces of the requisite evidence base are not yet in existence such that they can inform the strategy.

3.14. Strategic policy – Employment provision and distribution strategy – For completeness, we **object** to the lack of a suitable evidence base informing the strategy, particularly the requirement to deliver employment land on mixed use allocations. There is no evidence to show that this meets the needs of business. The yet to be published Economic Development Needs Assessment (EDNA) might show this to

be a requirement, but also might show that it is not. The Local Plan's approach is inappropriate in this regard. NPPF(83) states that '*planning policies and decisions should recognise and address the specific locational requirements of different sectors*'. There is no evidence that the proposal to require every housing allocation above certain arbitrary threshold is in any way market facing or has any relationship to identified needs.

3.15. Paras. 3.53 to 3.59 refer to the needs assessment. Para. 3.57 states that '*the task of the EDNA is to understand current and potential future requirements*'. The obvious question following up from this is to enquire why one needs to understand this. The clear answer is that one needs to understand this to make sure that the strategy and the Local Plan responds to identified needs. The lack of this part of the evidence base is a clear deficiency of the Local Plan and we **object** to the Plan setting the strategy without it. It is premature to start setting out a strategy without the evidence. The evidence should not be used as a post hoc justification of an already set strategy approach.

3.16. Para. 3.67 justifies that provision of employment land that might or might not be desirable to the market will aid self-containment and proposes a one size fits all approach¹. This approach is applied in the same way within each tier to a settlement, for example that is well related to a major strategic centre with good public transport links, such as Clyst St Mary, as it is to somewhere like Musbury, for instance. We **object** to this standardised approach on the basis that it is based on assumption and not evidence and does not accord with the NPPF. The issue of self-containment is less of an issue in a well-connected settlement than it is in a less well-connected settlement.

3.17. Strategic policy – Mixed use developments incorporating housing, employment and community facilities – We **object** to the standardised approach to requiring the incorporation of employment land without any evidential basis to set this strategy. The proposed allocated site has been assessed for housing but not for employment provision. We also **object** to the level of detail that has been set out in policy referencing the justification for off site provision for example. None of

¹ As set out in Strategic Policy 5

this detailed policy is based on evidence, i.e. its starting point is that the strategy requiring on site provision, which is not justified by reference to any evidence relating to business needs/requirements.

3.18. The proposed policy approach will result in isolated pockets of employment land with limited market interest and demand due to the limitations of the site size and/or location. Moreover, in certain settlements where several small sites are proposed for residential development, individually below the policy threshold, this policy would fail to deliver any employment despite the cumulative residential development exceeding the threshold. We **object** to this inconsistent approach.

3.19. As drafted, the policy is likely to result in vacant, undeveloped land within residential schemes where employment land has been made available under the terms of the planning permission but has not been taken up by the market. The provision of employment land will rely on speculative developers to develop sites; businesses are unlikely to purchase land for their own development and use, particularly at the scale likely to come forward in tier 3 and 4 settlements.

3.20. Strategic Policy 26 provides clarity on the scale of employment and housing development planned for each service village (albeit we object to the inconsistency of approach shown). Strategic Policy 5 as drafted is at odds with that policy. We recommend that Strategic Policy 5 is amended to remove the requirement for Tier 3 and 4 settlements to provide mixed use sites and the Local Plan relies on the provisions of Strategic Policy 26 to identify the most appropriate locations for employment development in these settlements, but only if based on sound and robust evidence relating to business requirements, need and viability.

4. Site specific matters

4.1. Chapter 5 – Future growth and development on the western side of East Devon – We **object** to this section forming part of an overall Local Plan strategy where the most basic assessment of the various sites has not informed it. We support the ‘spirit’ of this approach, but it must be based on evidence.

4.2. Strategic policy – Development at Service Villages - We **support** the identification of this tier of settlement, specifically relating to Clyst St Mary. There is a clear evidence base underpinning this policy approach. These locations are relatively sustainable and focussing growth will offer many sustainability benefits to the identified settlements. We **support** the identification of the site at for around 35 dwellings, but **object** to the unjustified and poorly evidenced requirement for 0.14ha of employment land. The site is in one ownership and can be delivered quickly, certainly within the next five years. This will aid plan wide delivery and the land supply position whilst larger sites may take longer.

4.3. The assessment of the Clyst St Mary site concluded that the *'site is well related to existing built-up area with good access. Site is considered appropriate for development, subject to final detailed scheme and proportionate mitigation'*.

4.4. With regard to access, the proposals include the formation of a new access for pedestrians, cycles and vehicles via the exiting property 'Denver' on Frog Lane, with the intention that the exiting bungalow will be demolished to accommodate the new access into the site. The proposals will form a connection to the exiting footway on Frog Lane immediately to the south of the property.

5. Detailed policy matters

5.1. Policy 40 – Affordable housing - We **object** to the strict housing tenure mix applied through Policy 40. The policy states that the number, size, type and tenure of affordable housing will meet local need in accordance with Table 1, the Council's most up to date evidence of need and supply, the provisions of this policy and the provisions of other development plan documents where the latter have not been superseded by the local plan. As drafted this policy statement is impractical to apply; it provides no opportunity to reconcile for any differences between the policy provisions and evidence of housing need. The provisions set out in Table 1 should represent the starting point for consideration of a suitable tenure mix for a development site,

taking into account the latest available housing needs evidence, the site size, capacity and suitability for house types and tenures and the practicality of long-term management by a Registered Social Landlord and overall viability, as applicable.

- 5.2. The proposed strategy for a new town to the west of the district, with significant infrastructure costs resulting in a substantially reduced obligation to deliver affordable housing (15%), places a substantial burden of responsibility upon the east of the District to meet the District-wide affordable housing needs. It is noted that the East Devon Local Housing Needs Assessment (September 2022) is not a viability study and the viability of delivering the proposed tenure and housing mix is yet to be assessed as part of a whole Local Plan viability exercise. In the absence of the viability assessment, we would question the viability of delivering 35% affordable housing and the proposed mix of tenures in Table 1 on sites within the rest of the District.
- 5.3. We also question whether the proposed tenure mix complies with the Government's policy requirement to deliver a 25% provision of First Homes and a 10% provision of affordable home ownership and local housing needs identified through the East Devon Housing Needs Assessment (2022) (HNA).
- 5.4. The HNA identifies a total of 8,011 households in housing need over the 20-year plan period, of which 2,760 households are unable to afford market rent and 5,251 can afford private rent but wish to buy their own home and are unable to afford to do so. 3,530 households are in affordable housing need because they are unable to rent or own market housing or aspire to own their own home and could achieve affordable homeownership products. Within this context, there is a demonstrable need for affordable rents, First Homes and other affordable homeownership products.
- 5.5. Table 1 requires only 10% of new homes within the second new town to be other affordable homeownership products and 0% within the rest of the District. Based on delivery of 2,500 homes at the second new town by 2040, 10% provision of affordable homeownership products would equate to 250 homes, only 1.3% of the district-wide housing

requirement. In the absence of any requirement for affordable homeownership products in the rest of the District, this would represent a significant under-provision, contrary to Government policy requirements.

- 5.6. To achieve the Government policy requirement for affordable homeownership products, a requirement of at least 10% should apply to all new housing sites across the District, as a component of the affordable housing requirement. Similarly, provision should be made for affordable rent within the rest of the District, with a proportionate reduction in the level of social rent.
- 5.7. It is noted that section 2c) of the policy does require 10% of the affordable housing on new sites to be affordable homeownership products. However, this fails to achieve the Government policy requirement of deliver 10% of the total number of dwellings as affordable homeownership products. This policy provision should be amended accordingly to align with Government policy.
- 5.8. Section 4 of the policy stipulates a mix of house sizes for the affordable housing element of proposed schemes. This should represent the starting point for consideration of proposals, taking into account the site's location, size, scheme design and characteristics. It should not be regarded as an absolute requirement to be applied rigidly to all developments.
- 5.9. In summary, the tenure split proposed for the second new town represents a more reasonable, well-balanced housing mix, reflecting the results of the HNA. We recommend that this tenure split should also apply to the rest of the District as the starting point for consideration of affordable housing provision on new development sites, subject to further Local Plan viability appraisal work and any future evidence of local housing needs which may supersede these requirements.
- 5.10. Turning to other element of the policy wording 2b) acknowledges that an off-site contribution is acceptable in certain circumstances and that this should be 'broadly equivalent to that which would have been

required on-site'. We have experience of the means of calculation on what this level of commuted sum should be as resulting in wildly differing results between different local planning authorities. We **object** to this reference without a clear reasoning setting out what the relevant calculation might be. If current guidance in East Devon is going to be taken forward, this needs to be made clear.

5.11. Clause 2d) refers to 'small clusters'. We **object** to the lack of definition of what this phrase means. Without a definition, interpretation will vary which will aid no one. This gap in guidance requires filling.

5.12. Policy 41 – Housing to Meet the Needs of Older People - We acknowledge the need for housing to meet the needs of older people. However, the extent of the housing required for older persons identified through the Housing Needs Assessment ranges from between 1,630 to 6,224 dwelling over the plan period. The upper figure is the modelled figure of need based on idealised outcomes and the HNA recognises that this is unlikely to be achievable as it represents around one third of total housing needs. The lower figure represents 9% of housing need.

5.13. The policy requirement for local plan allocations of between 20 to 199 dwellings to include at least 20% specialist older person dwellings (Use Class C3) far exceeds the lower end of the identified housing needs. In combination with a 35% requirement for affordable housing, this policy requirement would result in delivery of less than 45% standard market housing (including self-build/custom build plots) putting into question the overall viability of schemes. For a traditional housebuilder to deliver its market product it must deliver 60% of the plots to affordable housing, older persons housing and self/custom build, based on the current proposals with only 40% for its product. This seems a perverse outcome and there has been no thought given to how these overly onerous requirements affect viability and deliverability.

5.14. Policy 43 – Market Housing Mix – We broadly support the objective of Policy 43 to provide a mix of house types and sizes in locations consistent with the spatial strategy . However, we **object** to the percentages of market housing sought within the table in Policy 43,

derived from the Local Housing Needs Assessment. Paragraph 8.51 of the supporting text states that the Council regards this as robust evidence to inform this policy. However, the policy fails to recognise that the LHNA regards these figures as a “starting point” for establishing a housing requirement and are subject to viability and other concerns. Indeed, it acknowledges that the viability of delivering this housing mix will need to be tested as part of the overall Local Plan viability appraisal. Accordingly, we **object** to the policy in the absence of evidence that the housing mix is compatible with local plan viability or of its necessity. Consistently putting ever increasing levels of detail and ratcheting up requirements will not aid delivery of housing. We acknowledge the need to deliver good quality housing, but local planning authorities rely almost entirely on the private sector to deliver, and a proportionate approach needs to be taken rather than having to control absolutely every element of a scheme. There is a housing ‘market’; if the market sets out that the need is for the size of property set out in draft policy, then it would clearly be sensible for developers to respond to that demand. This level of control is unnecessary. The planning system is consistently trying to make it ever more difficult for those that deliver the housing to just get on with it and deliver and this proposed policy and the control it seeks is one more misguided and entirely unnecessary step in our view.

5.15. Policy 44 – We **object** to the generic requirement for self/custom build on housing sites of 20 or more dwellings. We question if those who may wish to build their own house want to do so on a larger housing scheme. We consider that it would be far more market facing to provide an exception site policy relating to this need, a need which we acknowledge incidentally.

5.16. Policy 63 – Housing density and efficient use of land – PPS3 had minimum density requirements. The current NPPF does not and neither does the consultation version of the amended NPPF. We **object** to the proposed setting of minimum densities as it does not comply with current national guidance, though does comply with outdated and discredited national policy. Not every single aspect of professional planning judgement needs to be set out in black and white.

5.17. Policy 87 – Biodiversity Net Gain - We strongly **object** to the policy proposal to increase the requirement for Biodiversity Net Gain from the Government mandate of 10% to at least 20% for all new development proposals.

5.18. The Local Plan refers to the DEFRA Viability Study of Biodiversity Net Gain. The DEFRA report acknowledges that the purpose of biodiversity net gain policy is to halt biodiversity loss and that any net gain above 0% achieves this goal. It recognises that some local authorities have sought a higher net gain and that this is achievable on some sites, however, other local planning authorities are achieving considerably lower net gains, e.g. 1-5%. Following consultation with stakeholders DEFRA concluded that a 10% gain provides a reasonable level of confidence that biodiversity loss associated with new development can be halted whilst establishing a policy approach which is deemed to be achievable and viable for most development schemes. Whilst a higher net gain might be achieved on some sites, the purpose of the Local Plan is to ensure that its policies support the viable delivery of new development².

5.19. For these reasons, we **object** to the policy as drafted and recommends that it is revised to align with the current 10% net gain requirement, or any subsequent amendment to Government legislation which is brought into effect during the life of the plan.

6. Concluding comment

6.1. There is a danger that the current mismatch between the almost complete reliance on the private sector to deliver on the aims and objectives set out in planning policy and the endless ratcheting up of policy requirements will kill the goose that lays the golden eggs. This will be to no one's benefit. For my client to build 40 of the dwellings he wishes to build, he has to, according to draft policy, find land for 100 dwellings with sufficient additional land to provide the aspirational 20% BNG and also some employment land, which may or may not relate to any market demand. Our view is that the Local Plan's approach, when

² Para. 8.3 states that '*planning for sufficient amount of housing growth in East Devon is essential*'

viewed as a whole, is in grave danger of impacting negatively on delivery of housing. The ability for the vision, homes and jobs to be delivered must be central to the setting of Local Plan policy and we do not consider this has been the case here.

- 6.2. Our other main objection to the Local Plan is that major parts of the strategy have been set without reference to an evidential justification. This is unacceptable.
- 6.3. We appreciate that setting out such a complex and multi-faceted document is a difficult task for the local planning authority. We look forward to working through our comments at the eventual examination.