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East Devon Local Plan 2020 to 2040

Regulation 19 Publication draft

Representations on behalf of CR Down Farming Ltd and Stuart Partners Ltd

March 2025

Introduction

CarneySweeney acts for CR Down Farming Ltd and 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 clients for a strategic sustainable residential-led mixed use development.

CarneySweeney hereby submits representations on behalf of our clients on the draft East Devon Local Plan 2020-2042 (draft EDLP), which comprise:

1. A covering letter, which addresses the strategy for the West End and Strategic Policies SP01: Spatial Strategy and WS01: Development of a second new community east of Exeter.
2. A Vision Statement for the strategic development being promoted by our clients.
3. These detailed representations on a range of draft LP policies in tabular format entitled EDLP Reg 19 Policy Reps.

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

- Strategic Policy SP06: Development beyond Settlement Boundaries
- 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 AR02: Water efficiency
- Strategic Policy HN01: Housing to address needs
- Strategic Policy HN02: Affordable housing
- Policy HN03: Housing to meet the needs of older people
- Policy HN04: Accessible and Adaptable Dwellings
- 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 TR04: Parking standards
- Policy OL04: Areas of strategic visual importance
- Policy OL10: development on high quality agricultural land
- Policy PB03: Protection of irreplaceable habitats and important features
- Strategic Policy PB04: Habitats Regulations Assessment
- Strategic Policy PB05: Biodiversity Net Gain
- Strategic Policy PB07: Ecological enhancement and biodiversity in the built environment
- Policy PB08: Tree, hedges and woodland on development sites
- Policy PB09: Monitoring requirements for new planting schemes
- 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 and Policy HE03: Conservation Areas
- Policy HE04: Archaeology and Scheduled Monuments
- Policy CF02: Loss of Community Facilities

Policy Comments

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

Our client fully endorses good design and the need to assess and mitigate the impacts of development.

However, any proposed local policies must be justified, any potential impact on viability and deliverability must be assessed, policies should not seek to unnecessarily replicate the NPPF or Building Regs (or other regulatory regimes) and finally 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.

Viability

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



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

CHAPTER	CHAPTER 3 – THE SPATIAL STRATEGY
Policy	Strategic Policy SP08: Infrastructure and Services
Comment	The intention of the policy is acknowledged. However, the provisions of Policy SP08 relating to S38 approvals and the design of services and utilities duplicate other legislation and standards and should be deleted.
Requested Amendments	Remove reference to other consenting regimes.

CHAPTER	CHAPTER 4 – DEVELOPMENT AT THE WEST END
Policy	Strategic Policy WS09: Clyst Valley Regional Park
Comment	<p>We support the intention of Policy WS09, including the extension of the park onto land controlled by our clients. Our clients are prepared to work with stakeholders to achieve the objectives of Policy WS09 as part of the delivery of strategic scale development on land to the south.</p> <p>We make the following comments on detailed drafting:</p> <ul style="list-style-type: none"> • It is unsound to refer to objectives in the “CVRP Management Plan”. This is too vague, and the Management Plan is not submitted for public scrutiny as part of this examination. Similar points apply in respect of references to other documents in Policy WS09. • Part D. SANG – duplicates Strategic Policy PB04 • No. 2. “30% tree canopy cover” is not defined. • Final paragraph: “close” is not defined. <p>The Policy states that it applies across the whole local plan area. It is considered that the requirement for development anywhere in the local plan area to make financial contributions to the CVRP in Policy WS09 would not be CIL Reg 122 compliant.</p>
Requested Amendments	Clarify scope and the above points.



CHAPTER	CHAPTER 5. MITIGATING CLIMATE CHANGE
Policy	Strategic Policy CC02: Net zero carbon development
Comment	<p>Part A requires compliance with the Future Homes Standard 2025 or successors or if not implemented, the Future Homes and Buildings Standards 2023.</p> <p>The Written Ministerial Statement dated 13 December 2023 in respect of energy efficiency standards states that:</p> <p><i>The improvement in standards already in force, alongside the ones which are due in 2025, demonstrates the Government’s commitment to ensuring new properties have a much lower impact on the environment in the future. In this context, the Government does not expect plan-makers to set local energy efficiency standards for buildings that go beyond current or planned buildings regulations. The proliferation of multiple, local standards by local authority area can add further costs to building new homes by adding complexity and undermining economies of scale. Any planning policies that propose local energy efficiency standards for buildings that go beyond current or planned buildings regulation should be rejected at examination if they do not have a well-reasoned and robustly costed rationale that ensures:</i></p> <ul style="list-style-type: none"> <i>That development remains viable, and the impact on housing supply and affordability is considered in accordance with the National Planning Policy Framework.</i> <i>The additional requirement is expressed as a percentage uplift of a dwelling’s Target Emissions Rate (TER) calculated using a specified version of the Standard Assessment Procedure (SAP).</i> <p>The policy is also not expressed in such a way that complies with the second bullet.</p> <p>Even if the policy is found sound, it must be applied flexibly where the applicant can demonstrate that meeting the higher standard is not technically feasible in relation to the availability of appropriate local infrastructure, in accordance with the WMS.</p> <p>Part C: New homes to be designed to avoid temperature discomfort. Temperature discomfort is not defined.</p>
Requested Amendments	Policy should be deleted.



Policy	Strategic Policy CC05: Heat networks
Comment	While heat networks are recognised as a key element of the Council’s sustainability approach the feasibility / viability of providing such connections needs to be properly recognised with not too high a bar set for such connections not being provided.
Requested Amendments	Replace <i>significantly undermines commercial viability of development</i> with <i>unviable</i> .
Policy	Strategic Policy CC06: Embodied Carbon
Comment	<p>The requirement for all major developments to undertake an embodied carbon assessment appears excessive and unjustified. This should only be required where the particular circumstances of the proposal raise significant embodied carbon issues.</p> <p>The financial implications of this additional requirement on development costs are 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	Policy to be deleted or amended to refer to justified circumstances and confirm which Whole Life Cycle Carbon Assessment should be completed.

CHAPTER	CHAPTER 7. ADAPTING TO CLIMATE CHANGE
Policy	Strategic Policy AR01: Flooding
Comment	<p>The following requirements are not justified and set a requirement over and above the approach in the Framework.</p> <ul style="list-style-type: none"> • Assessment of land within 5 metres horizontal distance of Flood Zone 2. • Identifying wider community flood risk benefit. <p>The delivery of over-sized SuDS and partnership financial contributions should have been considered in the site allocation process. They have not been viability tested and could impact on scheme viability.</p>
Requested Amendments	Delete the above requirements.



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*. • 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>
Requested Amendments	The policy should be deleted.



CHAPTER	CHAPTER 8. MEETING HOUSING NEEDS
Policy	Strategic Policy HN01: Housing to address needs
Comment	<p>While the general aims and objectives of Strategic Policy HN01 are supported, the approach to self and custom build housing raises concerns.</p> <p>General aims:</p> <p>E – This section refers to meeting identified local demand for self and custom build (SCB) but Policy HN05 (discussed further below) mandates a blanket requirement of 5% of plots on schemes of 20 or more to be provided as SCB plots. Any requirement for SCB plots should be based on up to date needs evidence and a blanket approach does not align with this.</p> <p>Housing mix:</p> <p>D. It is not considered that serviced SCB plots on larger housing developments is the most effective way to meet any identified SCB need (discussed further below).</p>
Requested Amendments	<p>Required change:</p> <p>General aim criteria E – No specific changes requested</p> <p>Housing Mix criteria D – Amend to refer to suitable sites rather than serviced plots of land.</p>
Policy	Strategic Policy HN02: Affordable housing
Comment	<p>The identified affordable percentages are supported.</p> <p>Regarding the identified tenure split, social rent as opposed to affordable rent does have significant viability implications. While explicit reference is made to the tenure split for Axminster being flexible through the consideration of viability, this flexibility needs to apply to all sites.</p> <p>Viability supporting a lower percentage or different tenure mix is referred to further down in the policy but this explicit reference to Axminster in the main part of the policy risks causing confusion.</p> <p>There is also an inconsistency regarding the policy and C2 housing. In the introductory paragraph it states the policy specifically applies to C2 uses but lower down it states that C2 uses are exempt – this needs to be clarified.</p>
Requested Amendments	<p>Text to be clarified regarding C2</p> <p>Affordable table – tenure mix column – final paragraph (amended text underlined):</p>



	<p><u>At all sites</u> there will be flexibility, through consideration of viability assessments and where schemes are non-viable, to vary tenure percentages.</p>
Policy	Policy HN03: Housing to meet the needs of older people
Comment	<p>Extra care housing is stated to be a C3 use but whether such a use falls into C2 or C3 depends on the accommodation and facilities provided, the level of care and services offered as part of the accommodation, and the specific care needs of the occupants. Whether a property is C2 or C3 has implications for Section 106 obligations so this needs to be assessed on a case-by-case basis.</p> <p>While the aim of increasing the amount of specialist accommodation is admirable the blanket requirement for all general housing schemes of 50 to 199 homes to provide 10% of dwellings as ‘specialist older person dwellings (C3)’ and for schemes of 200+ to provide 10% dwellings as ‘specialist older person dwellings (C3) and/or C2 equivalents’ is not supported.</p> <p>Firstly, it is not clear what is meant by ‘specialist older persons dwellings’ (and how this relates to the requirements of Policy HN04 discussed further below) or how the two threshold requirements differ. It is noted the Three Dragons Viability Assessment refers to 10% bungalows, but this is not what is set out in the policy.</p> <p>Secondly it is not reasonable to impose a blanket percentage requirement as the provision and composition of such accommodation should be based on evidenced need. Further for the C2 accommodation this would need interest from a care operator/provider which may not be available.</p> <p>While the reference to commercial viability is welcomed (noting the apparent conflict between the Viability Assessment and the policy as to what is meant by the policy) , mandating the provision of a percentage of older person housing where the earlier criteria listed at A – F in the policy may not be achievable (for example H - having flat topography) and/or place additional burdens on developers (for example F - the need for a Care Needs Assessment) is not reasonable.</p> <p>Further in regard to viability the Viability Assessment confirms that older persons housing is not viable in Axminster as tested so a blanket requirement is not justified.</p>
Requested Amendments	<p>Use Class C3 (dwellings) - Market accommodation for older people in the form of age restricted general market housing, retirement living or sheltered housing and extra care housing or housing with care are <u>will generally be considered as falling within Use Class C3 (dwellings) subject to information being provided regarding the level of care and facilities provided and the needs of the residents.</u></p> <p>The blanket requirement for a percentage of older persons housing should be deleted.</p>



Policy	Policy HN04: Accessible and adaptive housing
Comment	<p>The aim of increasing accessible and adaptable housing is supported and the reference to site suitability and site viability is welcomed but the mandated standards set out in the policy raise serious concerns.</p> <p>As a starting point any higher standards needs to be evidence, the implications in terms of scheme deliverability and viability need to be properly tested and understood, and there needs to be flexibility.</p> <p><u>100% delivery of M4 (2)</u></p> <p>This proposal is of significant concern in terms of the implications for site yield, viability, and site suitability:</p> <ul style="list-style-type: none"> • Many sites in the district do not have suitable topography to fully meet the M4(2) standards. • M4 (2) external parking standards, due to the additional space requirements (up to 3.3m wide), has a potentially significant cumulative effect on developable areas affecting site yield and/or street scene quality by increasing hard surfacing and reducing space for street trees/landscaping The additional circulation space required for M4(2) units will, together with the internal room requirements of NDSS (discussed under Strategic Policy DS01), significantly increase the built footprint of each unit thereby reducing development numbers and density. • 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><u>Viability</u></p> <p>Regarding the Three Dragons Viability Assessment do the additional costings allowed for M4(2) and M4(3) just address internal costs or do these costs take account of additional levelling/retaining wall works that would be involved in providing level access on uneven sites.</p>
Requested Amendments	<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>
Policy	Policy HN05: Self-build and custom build housing
Comment	<p>A set out in respect of Strategic Policy HN01: Housing to address need, imposing a mandatory percentage requirement for self and custom build (SCB) plots on larger residential schemes is not considered the right approach:</p> <ul style="list-style-type: none"> • Provision of SCB plots should be based on up to date evidenced need both in terms of numbers and location, rather than imposing a blanket requirement on all sites. The latest Self Build Demand and Supply Monitoring Report from 31/10/23 to 30/10/24 (reported to SPC on 4 February) at para 3.4 identifies that even with a noted decrease in the number of consented plots “the supply meets both the ‘residual’ demand from the 31/10/21-30/10/2022 (3 plots) and covers all the demand from the 31/10/2022-30/10/2023 base period (9 plots), with a surplus of 3 plots.” As the identified need is being met currently without a bespoke SCB policy this does not justify the policy approach now proposed. • If there is local demand the required plot sizes may not be in keeping with rest of the development accounting for local characteristics and density requirements. • If there is local demand the required plot sizes may not be in keeping with rest of the development accounting for local characteristics and density requirements. • Delayed build out of SCB plots by private individuals / separate companies creates considerable logistic and 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.



	<p>There are also concerns with the following policy requirements:</p> <p>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.</p> <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 a reasonable requirement as time limits for development commencing are set in the relevant permission and once implemented there is no requirement to complete a scheme. Further the policy does not set out what would happen if it not completed within 3 years from the plot being purchased.</p>
Requested Amendments	<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>

CHAPTER	CHAPTER 10. HIGH QUALITY DESIGN
Policy	Strategic Policy DS01: Design and local distinctiveness
Comment	<p>In the 1st paragraph, the requirement to be in accordance with “...any other local guidance.” is too vague.</p> <p>The policy contains a long list of prescriptive requirements in the 2nd paragraph and under part E, which duplicate the National Design Guide and other policies in the draft LP, for example those in the Meeting Climate Change and Meeting Housing Needs chapters.</p> <p>The Devon Waste Plan contains relevant policies for inert waste and the principles do not need to be duplicated in the draft LP.</p>



Requested Amendments	Policy should be simplified.
Policy	Policy DS02: Housing density and efficient use of the land
Comment	<p>The 1st paragraph of Policy DS02 is supported.</p> <p>However the 2nd paragraph is unrelated to housing density or making efficient use of land. In any event, “...environmentally or heritage sensitive locations...” is not defined and too vague.</p> <p>Furthermore, design codes should only be used on large strategic sites where delivery will be phased and the site is in multiple ownership, with development being undertaken by more than one developer.</p>
Requested Amendments	It is considered that the 2 nd paragraph should be deleted.
Policy	Policy DS04: Green and blue infrastructure
Comment	G: Upon the submission of an outline planning application, it is premature to define the management and maintenance of GI.
Requested Amendments	It is considered that part A can be retained. The requirement to submit a green and blue infrastructure plan can be addressed through validation requirements. The remainder of the policy duplicates the Natural England guidance and is unnecessary such that it should be deleted.

CHAPTER	CHAPTER 11. SUSTAINABLE TRANSPORT AND COMMUNICATIONS
Policy	Strategic Policy TR01: Prioritising walking, wheeling, cycling, public transport
Comment	<p>The aims of Policy TR01 are supported.</p> <p>Alignment with the Devon County Council (DCC) Bus Plan is arguably realistic in larger settlements with existing or planned high-frequency routes. However, in rural areas, additional funding and strategic interventions over and above those capable of being supported by development allocations (e.g. flexible demand responsive services) might be required to fully integrate the bus network. Policy TR01 should acknowledge the following:</p> <ul style="list-style-type: none"> • The feasibility of integration – ensuring alignment where practical, particularly in urban areas and key development locations • Challenges in rural areas – recognising that full alignment may not always be possible due to service constraints • Commitment to improvements – supporting enhancements to public infrastructure in collaboration with DCC.



Requested Amendments	<p>Suggested wording to address this point is:</p> <p><i>Development proposals should contribute to public transport enhancements, aligning with the Devon County Council Bus Plan where feasible, particularly in designated growth areas. Proposals should facilitate convenient access to public transport by incorporating well-positioned bus stops, mobility hubs, and transport interchange points where practicable. Recognising that full integration with the DCC Bus Plan may not be achievable in all locations, particularly in rural areas, developers are encouraged to explore alternative solutions, such as demand-responsive transport, community-led initiatives, or enhanced active travel infrastructure to improve connectivity.</i></p>
Policy	TR03: Travel plans, transport statements and transport assessments
Comment	<p>Policy TR03 mirrors the Framework, which already mandates that significant developments must provide transport assessments and travel plans and Policy TR03 essentially repeats this requirement without materially altering or expanding it.</p> <p>We have the following detailed comments:</p> <p>C. It is not clear to us why or how a TS/TA should take into account proximity to environmental designations.</p> <p>E. It is not clear to us what is being required.</p>
Requested Amendments	It is considered that Policy TR03 would be better addressed as a validation requirement.
Policy	Policy TR04: Parking standards
Comment	<p>The requirement for 1 secure and under cover cycle space per bedroom for all dwelling types has the potential to impact on plot layout, potentially requiring larger plots, with cumulative effects across a larger scheme in terms of the ability to achieve the required level of housing.</p> <p>The viability implications of this have not been specifically assessed in the Three Dragons Viability Assessment.</p>
Requested Amendments	Any standard needs to be properly justified.

CHAPTER	CHAPTER 12. OUR OUTSTANDING LANDSCAPE
Policy	Policy OL04: Areas of strategic visual importance
Comment	The areas of strategic visual importance should be identified on the proposals map. The types of area identified in parts A – E are too vague and cannot be classified as strategically important in visual terms.



Requested Amendments	It is considered that the first paragraph could be retained, but that the remainder of the Policy should be deleted.
Policy	Policy OL10: development on high quality agricultural land
Comment	<p>Policy OL10 is overly restrictive and does not balance the protection of best and most versatile land (BMV) with accommodating development. It will be used to prevent housing and other development from coming forward on sustainable sites that will support the Council in maintaining its housing land supply and meeting its Local Plan housing targets.</p> <p>It is also inconsistent with the Framework, which requires the economic and other benefits of BMV to be recognised (paragraph 180 b). Footnote 62 states that “Where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality. The availability of agricultural land used for food production should be considered, alongside the other policies in this Framework, when deciding what sites are most appropriate for development.” The tone of the Framework does achieve the balance claimed in the Justification and should be reflected in Policy OL10.</p>
Requested Amendments	The policy should be amended to better reflect the NPPF.

CHAPTER	CHAPTER 13. OUR OUTSTANDING BIODIVERSITY AND GEODIVERSITY
Policy	Policy PB03: Protection of irreplaceable habitats and important features
Comment	<p>Mature trees and hedgerows are not necessarily irreplaceable habitats and should be removed from the list of irreplaceable habitats.</p> <p>The phrase “evidenced in earnest” in the context of the mitigation hierarchy being applied to proposals resulting in the loss and/or degradation of hedgerows is too vague.</p>
Requested Amendments	<p>Remove mature trees and hedgerows from the list of irreplaceable habitats</p> <p>Replace “evidenced in earnest” with “robustly evidenced”</p>
Policy	Strategic Policy PB04: Habitats Regulations Assessment
Comment	Policy PB04 largely repeats the Regulations and these elements are unnecessary. The provisions of the Regulations could be summarised in the Justification, with the policy identifying the sites and their characteristics.
Requested Amendments	The provisions of the Regulations could be summarised in the Justification, with the policy identifying the sites and their characteristics.
Policy	Strategic Policy PB05: Biodiversity Net Gain
Comment	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 supporting text to recent evidence suggesting “that a 10% BNG target without species management provides negligible gains” but this evidence is not cited. Reference is also made to the Nature Recovery Deceleration for East Devon committing to exceeding 10% BNG target but this is not set out in this document. As such, it is unjustified and unsound.

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.

The land take implication of increasing the BNG requirement does also not appear to have been assessed. For larger residential sites there is a real push to achieve the BNG mitigation on-site, as per the guidance and hierarchy. More land set aside for BNG mitigation will reduce the number of homes achievable on the allocations. While the cost of delivering the BNG mitigation might decrease proportionally, the reduction in units is a crucial element. Has the Council run any assessments on their allocated sites having for example a 5% reduction in unit numbers to account for the additional BNG land?

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.

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.

A Habitat Management and Monitoring Plan should be secured by planning condition, rather than be required to be submitted with the planning application.

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.



	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.
Requested Amendments	This policy should be deleted.
Policy	Policy PB07: Ecological enhancement and biodiversity in the built environment
Comment	<p>The delivery of ecological mitigation for each development proposal should be based on evidence submitted in connection with the relevant planning application:</p> <p>C - A blanket requirement for the provision of an integrated bat loft with all major planning applications, without any reference to such a feature being required is not justified. The provision of such feature does give rise to design and management implications and may be hard to deliver on every scheme.</p> <p>E – A mandatory requirement to provide overhanging eaves suitable for nesting house martins in all major development is too prescriptive and would not allow different architectural design approaches, for example more contemporary design may not be suitable but could be fully appropriate for the context</p>
Requested Amendments	Delete requirements C and E
Policy	Policy PB08: Tree, hedges and woodland on development sites
Comment	<p>Policy PB08 is unduly prescriptive, onerous and unnecessarily repeats the provisions of British Standards. It will also add significant cost to the planning application process while the required details are prepared and submitted.</p> <p>Mandated tree replacement standards, not based on the specific site circumstances or the composition of trees lost, could be particularly onerous if a large number of trees were to be lost on a site for example if a site had significant amounts of ash dieback.</p> <p>Tree protection should be secured by a suitably worded condition, requiring the applicant to submit relevant details post-decision rather than with the planning application.</p> <p>Undertaking assessments of hydro-geology is a complex and challenging science because a site is not an isolated “state” – groundwater on a site is heavily influenced by the surrounding water table and geology.</p> <p>Tree planting and maintenance is a detailed matter and not appropriate to be controlled by a land use planning policy in a local plan.</p>
Requested Amendments	The policy should be significantly simplified.



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

CHAPTER	CHAPTER 14. OPEN SPACE AND SPORTS AND RECREATION
General Comment	<p>The open space and recreation policies are overly prescriptive and contain a bewildering array of requirements. The sensible approach would be to refer to Fields in Trust standards, but there is no justification for setting the Natural England standards. These standards have not been subject to public consultation, nor has the impact of them on housing delivery been tested. Moreover, they may be challenging to meet in many cases, especially for residential development in excess of 200 – 300 dwellings. It is considered that at most, planning policies should require schemes to have regard to the Natural England standards, taking into account existing local provision (to be identified by councils as part of their evidence base) and local context.</p>
Policy	Strategic Policy OS01: Access to open space and recreation facilities
Comment	<p>It is unclear from the policy which party – the Council or the applicant – will be required to undertake a quantitative and qualitative assessment of open space provision and its accessibility in terms of what exists now and what is planned.</p> <p>It is considered that it is incumbent upon the Council to maintain its own objective evidence base for such purposes. This will enable all applicants in a single area to apply the same evidence in a consistent way to</p>



	<p>their schemes, rather than each applicant having to undertake its own assessment for each application. This is especially key where many large sites are allocated for development in a settlement.</p>
Requested Amendments	<p>Amend policy to confirm that the Council will be responsible for providing the evidence base.</p>
Policy	<p>Policy OS02: Sport, recreation, open space provision in association with development</p>
Comment	<p>The open space typology requirements with reference to Fields in Trust is supported.</p> <p>The additional reference to Natural England’s Green Infrastructure and Accessible Greenspace Standards is not considered necessary.</p> <p>The requirement for applicants on schemes over 200 dwellings to undertake their own audit of existing open space and its capacity is unreasonable. As above, it is for the Council to maintain its evidence base, against which applicants can design their individual schemes.</p> <p>It will be challenging for all schemes of more than 300 homes to incorporate all the open space typologies listed in the table, especially formal playing pitches. No evidence has been presented by the Council to justify the effect of this blanket requirement on the delivery of new homes and other scheme elements and ultimately, the effect on viability and the ability to deliver a policy compliant level of affordable housing. Coupled with this is the requirement for playing pitches to be within 1,200m of all dwellings within a scheme. Again, this is where the Council’s quantitative and qualitative evidence should identify opportunities for improvements to existing facilities through commuted sum payments, where on-site formal sports provision is not appropriate.</p> <p><u>Additional requirements for residential developments over 200 dwellings</u></p> <p>These additional requirements for development over 200 (and 300) dwellings are unduly onerous and will be very challenging to achieve. Moreover, they have not been justified and tested against housing delivery and viability criteria, especially in lower value areas such as Axminster.</p> <p>The requirement for schemes of over 300 dwellings to provide 10 ha of Neighbourhood Accessible Greenspace within 1km of each home may well be a laudable objective but it is simply unrealistic and unachievable. The implication is that applicants will have to purchase an additional 10 ha of land adjoining or near to the site in order to meet the requirement. Policy OS02 has the clear potential on create a ransom in circumstances where an applicant is forced to acquire additional 3rd party land in order to satisfy open space requirements. Planning policies should act in the public and should not serve private interests. As above, no assessment has been undertaken of the effect of this requirement on scheme viability.</p>



	<p><u>Open space requirements for non-residential use</u></p> <p>The requirements are far too vague and incapable of objective assessment, leading to confusion for applicants.</p> <p>The elements of this policy that have not been justified are unsound and should be deleted.</p>
Requested Amendments	<p>Delete the following parts of the policy:</p> <ul style="list-style-type: none"> • Natural England’s Green Infrastructure and Accessible Greenspace Standards • The requirement for schemes over 200 to undertake an open space audit • Additional requirements for schemes over 200 • Open space requirements for non-residential use

CHAPTER	CHAPTER 15. OUR OUTSTANDING HISTORIC ENVIRONMENT
General Comment	The heritage policies not only contain widespread duplication with the relevant provisions of Chapter 16 of the Framework, but in many cases go above and beyond those Framework provisions and are overly prescriptive. In their sum total, they are confusing and as a result, challenging to interpret in an objective way.
Policy	Policy HE01: Historic Environment
Comment	It is not clear what Policy HE01 adds, that is not already contained in the Framework or policies HE02 and HE03
Requested Amendments	Policy should be deleted.
Policy	Policy HE02: Listed Buildings and Policy HE03: Conservation Areas
Comment	<p>Policy HE02 and Policy HE03 repeat many elements of Chapter 16 of the Framework and these make no material contribution to the policy requirements.</p> <p>Elsewhere, both policies set a series of higher-bar tests than those in the Framework. This includes the application of selected tests in chapter 16 the Framework, but in a blanket manner and in a way not intended by the Framework.</p> <p>For example:</p> <ul style="list-style-type: none"> • Policy HE02 introduces a test relating to wider social and economic effects. • Under the first part A of Policy HE02, <i>Conserve</i> is not a test at paragraph 212 of the Framework. Furthermore, it is not clear how development within the setting of a listed building can enhance or better reveal those elements which contribute to heritage significance.



	<p>Policy HE02 addresses substantial harm, but not less than substantial harm.</p> <p>Under Policy HE02, it is not clear how unknown features can be investigated and recorded (3rd part C). This may be a drafting point ie it may be referring to features that have not yet been discovered. This an example of a policy attempting to be overly prescriptive.</p> <p>Finally, under Policy HE02, there are two sets of parts A – C and a further part A – D, which will cause confusion.</p>
Requested Amendments	Policy should be deleted.
Policy	Policy HE04: Archaeology and Scheduled Monuments
Comment	<p>The requirement for development to <i>protect</i> the site and setting of Scheduled Monuments and archaeological remains is unduly onerous and not consistent with the Framework and in respect of archaeological remains, jars with the approach set out in the remainder of the policy.</p> <p>Large sections of the policy repeat the provisions of the Framework and as such do not contribute to the relevant tests.</p>
Requested Amendments	Policy should be deleted.

CHAPTER	CHAPTER 16. COMMUNITY FACILITIES
Policy	Policy CF02: Loss of Community Facilities
Comment	<p>The use of “...over a shorter and longer term...” in part A 1 and 2 is undefined. A specific time period for marketing should be identified.</p> <p>“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.”</p>
Requested Amendments	Policy should be amended to provide greater clarity.



SUMMARY

The above representations are submitted by CarneySweeney on behalf of CR Down Farming Ltd and Stuart Partners Ltd.

The following combined representation is submitted:

1. A covering letter, which addresses the strategy for the West End and Strategic Policies SP01: Spatial Strategy and WS01: Development of a second new community east of Exeter.
2. A Vision Statement for the strategic development being promoted by our clients.
3. These detailed representations on a range of draft LP policies in tabular format entitled EDDC Reg 19 Policy Reps.

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

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

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

Our Ref – CSE2153

Name – Simon Coles - Director

Email – [REDACTED]

Number – [REDACTED]

