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12/01/2023

Dear Planning Policy Team,

## **EAST DEVON LOCAL PLAN 2020 TO 2040: PREFERRED OPTIONS CONSULTATION**

1. Thank you for consulting with the Home Builders Federation (HBF) on the East Devon Local Plan 2020 to 2040 Preferred Options (Reg. 18) Consultation Draft Plan.
2. The HBF is the principal representative body of the house-building industry in England and Wales. Our representations reflect the views of our membership, which includes multi-national PLC's, regional developers and small, local builders. In any one year, our members account for over 80% of all new "for sale" market housing built in England and Wales as well as a large proportion of newly built affordable housing.

### **2. Strategic Policy – Housing distribution**

3. This policy sets out how new housing will be distributed across East Devon; it sets out gross housing numbers for the period 2020 to 2040. In summary, it sets the following distribution: Western side – 9,891 dwellings; Principle and Main Centres – 5,477 dwellings; Local Centres – 976 dwellings; Service Villages – 1,389 dwellings; and Countryside 434 dwellings, with an overall total of 18,167 dwellings. The policy also notes that this overall total does not include projected windfall developments and that, that could add around an extra 2,335 dwellings.
4. The HBF is keen that the Council produces a plan which can deliver against its housing requirement. The HBF would expect the spatial distribution of sites to follow a logical hierarchy, provide an appropriate development pattern and support sustainable development within all market areas.

### **3. Strategic Policy - Levels of future housing development**

5. This policy states that housing provision will be made for at least 18,920 dwellings (net) to be delivered in the plan area in the period 1<sup>st</sup> April 2020 to 31<sup>st</sup> March 2040. It goes on to state that at least 4,070 net new homes should be affordable and at least 14,850 should be market homes. The policy also highlights that the annualised housing requirement for the 5-year housing land supply and housing trajectory will be 946 dwellings.



6. The Local Housing Needs Assessment (LHNA) 2022 sets out that the local housing need (LHN) based on the standard method is 918 dwellings per annum (dpa). The HBF generally supports the Council in utilising a housing figure over the LHN, as the standard method identifies a minimum annual housing need figure and represents the starting point for determining the number of new homes in the area. There may be circumstances, as set out in the PPG<sup>1</sup>, when it is appropriate to plan for a higher housing need figure than the standard method identifies. These circumstances include where there are growth strategies, strategic infrastructure improvements, an unmet need from neighbouring authorities or where previous levels of housing delivery in the area or previous assessments of need are significantly greater than the outcome of the standard method. The HBF recommends that these circumstances, and any others relevant to the area and fully explored by the Council.

## **8. Strategic Policy – Development of a second new town east of Exeter**

7. This policy states that the Council will work with their partners to promote development starting in this plan period and over the longer term to deliver up around 2,500 new homes up to 2040 and around 5,500 new homes beyond 2040. It also states that new homes will need to be of the highest standards in terms of energy and resource efficiency, quality of design and access to services and facilities. And that developments shall be developed in a phased and co-ordinated manner alongside the required infrastructure. The Council is encouraged to engage with the industry to ensure that the concepts proposed are realistic, achievable and viable. The HBF and our members can often provide valuable information and experience with regards to the collection of evidence and information.

## **27. Strategic Policy – Climate Emergency**

8. This policy states that the East Devon target is to become carbon neutral by 2040, and that this will be done through delivering net zero development, maximising opportunities for delivery of renewable energy, district heat networks, zero carbon and energy storage facilities and calculating the impact of embodied carbon.
9. The HBF generally supports the Council in seeking to become carbon neutral, delivering net zero development and maximising opportunities for renewable energy. However, the HBF does not consider that the Council setting its own standards is the appropriate method to achieve these outcomes. Whilst the ambitious and aspirational aim to achieve net zero and carbon neutrality is lauded, the HBF is concerned that the Council is adding to the complexity of policy, regulations and standards that housebuilders are already expected to comply with. The key to success is standardisation and avoidance of individual Councils specifying their own policy approach, which undermines economies of scale for product manufacturers, suppliers and developers.
10. The HBF acknowledges that Section 19 (1A) of the Planning and Compulsory Purchase Act 2004 outlines that development plan documents must (taken as a whole) include policies designed to secure that the development and use of land in the local planning authority's area contribute to the mitigation of, and adaptation to, climate change. The

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<sup>1</sup> ID: 2a-010-20201216

NPPF<sup>2</sup> looks for all plans to take a proactive approach to mitigating and adapting to climate change. However, PPG<sup>3</sup> refers to the Planning and Energy Act 2008, the Deregulation Act 2015, and the Written Ministerial Statement (March 2015) and states that policies in relation to energy performance standards should not be used to set conditions on planning permissions with requirements above the equivalent of the energy requirement of Level 4 of the Code for Sustainable Homes (approximately 20% above the then Building Regulations across the build mix). Part L of Building Regulations was updated in 2021 to achieve a 31% reduction in carbon emissions for new dwellings. Current Building Regulations, which took effect on 15 June 2022, therefore exceed Level 4 of the Code for Sustainable Homes. This therefore means the policy would directly conflict with both the PPG and the 2015 Ministerial Statement.

11. It is noted that Inspectors examining the Salt Cross DPD in West Oxfordshire<sup>4</sup> have raised concerns over a requirement for development to demonstrate net zero operational carbon on-site through ultra-low energy fabric specification, low carbon technologies and on-site renewable energy generation. The Inspectors have proposed instead that development will be required to demonstrate an ambitious approach to the use of renewable energy, sustainable design and construction methods, with a high level of energy efficiency in new buildings. Whilst the justification for this amendment is awaited, the difference between national and local requirements has clearly been held to be unsound.

## **28. Strategic Policy – Net-Zero Carbon Development**

12. This policy requires all new residential development to deliver net zero carbon emissions, with developers required to submit a carbon statement to demonstrate how this will be achieved. Additionally, homes will be required to be future proofed to avoid temperature discomfort as a result of rising temperatures, and major developments will be required to calculate the whole life cycle carbon emissions (WLC), through a nationally recognised assessment.
13. As set out previously, the HBF is concerned that the Council setting their own standards over and above those set nationally may lead to issues for home builders as this adds to the cost and complexity of development. The impact of this requirement along with others in this Plan may have considerable viability implications and may lead to the non-delivery of homes.
14. The HBF considers that if the Council is to introduce a policy in relation to WLC it will have to closely consider how it will be monitored and what the implications are for the preparation of any assessment, particularly in relation to how easily accessible any data is, and that it will have to take into consideration that much of the responsibility for emissions will lie in areas outside of the control of the homebuilding industry, including material extraction and transportation, occupation and maintenance, demolition and disposal. The Council will also have to consider how the policy will interact with other

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<sup>2</sup> NPPF 2021 paragraph 11(a), 20(d), 152-154

<sup>3</sup> ID: 6-012-20190315

<sup>4</sup> <https://www.westoxon.gov.uk/planning-and-building/planning-policy/salt-cross-garden-village/salt-cross-area-action-plan-examination/>

policies for example in relation to energy efficiency or resilience to heat, as well as the viability and delivery of development.

15. The HBF also considers that the requirements of this policy should not apply to all developments and should recognise the scale of development in relation to the significant requirements of this policy.

### **33. Strategic Policy – Heat Networks**

16. This policy requires all major developments within 1km of an existing heat network to connect to it in order to secure planning permission, it also requires proposals for 1,200 homes or more to create a heat network if they are not within 1km of an existing one.
17. Heat networks are one aspect of the path towards decarbonising heat, however currently the predominant technology for district-sized communal heating networks is gas combined heat and power (CHP) plants. Over 90% of district networks are gas fired. As 2050 approaches, meeting the Government's climate target of reducing greenhouse gas emissions to net zero will require a transition from gas-fired networks to renewable or low carbon alternatives such as large heat pumps, hydrogen or waste-heat recovery but at the moment one of the major reasons why heat network projects do not install such technologies is because of the up-front capital cost. The Council should be aware that for the foreseeable future it will remain uneconomic for most heat networks to install low-carbon technologies. This may mean that it is more sustainable and more appropriate for developments to utilise other forms of energy provision, and this may need to be considered.
18. Government consultation on Heat Network Zoning<sup>5</sup> also identifies exemptions to proposals for requirements for connections to a heat network these include where a connection may lead to sub-optimal outcomes, or distance from the network connection points and impacts on consumers bills and affordability.

### **34. Strategic Policy – Embodied carbon**

19. This policy states that all developments shall demonstrate the actions taken to reduce embodied carbon and should retain existing buildings.
20. The HBF considers that this policy does not serve a clear purpose and it is not evident how a decision maker should react to development proposals, particularly in relation to how a reduction in embodied carbon is considered.

### **39. Strategic Policy - Housing to address needs**

21. This policy states that proposals for housing development will be supported where they reflect and respond to the existing and future needs of the district as identified in the Local Housing Needs Assessment or successor documents and in up-to-date local housing need evidence. It goes on to that housing development will provide a mix of house types, tenures and sizes appropriate to the area, including a mix of affordable

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<sup>5</sup> Heat Networking Zoning consultation (2021)

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1024216/heat-network-zoning-consultation.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1024216/heat-network-zoning-consultation.pdf)

tenures, a range of housing suitable for households with specialist needs, market housing for rent and home ownership, serviced plots and gypsy and travellers and travelling showpeople accommodation.

22. The HBF understands the need for a mix of house types, sizes and tenures and is generally supportive of providing a range and choice of homes to meet the needs of the local area. The HBF recommends a flexible approach is taken regarding housing mix which recognises that needs and demand will vary from area to area and site to site; ensures that the scheme is viable; and provides an appropriate mix for the location and market. The HBF also considers that it would be appropriate for the Council to refer to other evidence not just the LHNA and supports the inclusion of consideration of elements such as the current demand.

#### **40. Policy - Affordable Housing**

23. This policy sets the affordable housing requirements it states affordable housing will be required on residential schemes of 10 or more dwellings (gross) including specialist housing for older people where the site is delivering 10 or more self-contained units. It also sets the affordable housing proportions, it states that in the second new town at least 15% affordable housing with a tenure split of 50% social rent, 10% affordable rent, 30% First Homes (at 30% discount) and 10% other affordable homeownership products. For the rest of East Devon it looks for at least 35% affordable housing with a tenure split of 64% social rent, 0% Affordable rent, 36% First Homes (30% discount) and 0% other affordable homeownership products. It also states that the affordable housing must provide a mix of property sites responding to up-to-date evidence and provides proportions from the Local Housing Need Assessment.
24. The HBF supports the need to address the affordable housing requirements of the borough. The NPPF<sup>6</sup> is, however, clear that the derivation of affordable housing policies must not only take account of need but also viability and deliverability. The Council should be mindful that it is unrealistic to negotiate every site on a one-by-one basis because the base-line aspiration of a policy or combination of policies is set too high as this will jeopardise future housing delivery.
25. The NPPF<sup>7</sup> is also clear that where major development involving the provision of housing is proposed, planning policies and decisions should expect at least 10% of the total number of homes to be available for affordable home ownership. The HBF is concerned that the proposed policy will not deliver this requirement, if this is to be the case the HBF recommends that the Council provide the appropriate evidence.

#### **41. Policy - Housing to meet the needs of older people**

26. This policy states that where there is up to date evidence of specialist accommodation need in East Devon and subject to viability development will be required to deliver specialist accommodation. On site allocation developments proposals for 20 to 199 dwellings they will include at least 20% of dwellings as specialist older person dwellings (use class C3), on sites allocations development proposals for 200 or more dwellings will

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<sup>6</sup> Paragraph 34

<sup>7</sup> Paragraph 65

include at least 20% of dwellings as specialist older person dwellings (Use Class C3 or C2 equivalent).

27. The HBF is generally supportive of providing homes that are suitable to meet the needs of older people and disabled people. However, this policy will need to include flexibility and will need to take into consideration that not every site will be appropriate for older persons housing.

#### **42. Policy - Accessible and Adaptable Housing**

28. This policy states that 100% of all new dwellings will meet building regulation M4(2) standards and that 100% of all new specialist accommodation for older people will meet regulation M4(3) standards and that 100% of new specialist accommodation for older people will meet M4(3(2b)) standards for those dwellings where the local authority is responsible for allocating or nominating a person to live in a dwelling. It also states that at least 15% of all new affordable housing for rent will meet M4(3(2a)) standards, and that at least 10% of all new affordable housing for homeownership will meet regulation M4(3(2a or b)) and that at least 10% of all new market housing will meet M4(3(2a or b)) standards.
29. The HBF is generally supportive of providing homes that are suitable to meet the needs of older people and disabled people. However, if the Council wishes to adopt the higher optional standards for accessible, adaptable and wheelchair homes the Council should only do so by applying the criteria set out in the PPG.
30. PPG<sup>8</sup> identifies the type of evidence required to introduce such a policy, including the likely future need; the size, location, type and quality of dwellings needed; the accessibility and adaptability of the existing stock; how the needs vary across different housing tenures; and the overall viability. It is incumbent on the Council to provide a local assessment evidencing the specific case for East Devon which justifies the inclusion of optional higher standards for accessible and adaptable homes in its Local Plan policy. If the Council can provide the appropriate evidence and this policy is to be included, then the HBF recommends that an appropriate transition period is included within the policy.
31. The PPG also identifies other requirements for the policy including the need to consider site specific factors such as vulnerability to flooding, site topography and other circumstances, this is not just in relation to the ability to provide step-free access.
32. The Council should also note that the Government response to the Raising accessibility standards for new homes<sup>9</sup> states that the Government proposes to mandate the current M4(2) requirement in Building Regulations as a minimum for all new homes, with M4(1) applying in exceptional circumstances. This will be subject to a further consultation on the technical details and will be implemented in due course through the Building

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<sup>8</sup> ID: 56-007-20150327

<sup>9</sup> <https://www.gov.uk/government/consultations/raising-accessibility-standards-for-new-homes/outcome/raising-accessibility-standards-for-new-homes-summary-of-consultation-responses-and-government-response#government-response>

Regulations. M4(3) would continue to apply as now where there is a local planning policy is in place and where a need has been identified and evidenced.

#### **43. Policy – Market housing mix**

33. This policy looks for developments to provide a mix of property sizes across the site, demonstrating how the site has responded to up-to-date evidence, and it includes table 52 from the LHNA 2022. It goes on to provide more detail as to what will happen where a development is not consistent with the evidenced needs and what may be taken into consideration.
34. The HBF understands the need for a mix of house types, sizes and tenures and is generally supportive of providing a range and choice of homes to meet the needs of the local area. The HBF recommends a flexible approach is taken regarding housing mix which recognises that needs and demand will vary from area to area and site to site; ensures that the scheme is viable; and provides an appropriate mix for the location and market.

#### **44. Policy – Self-Build and Custom Build Housing**

35. This policy requires 5% of dwellings on sites of 20 homes or more to be delivered as serviced custom and self-build plots.
36. The HBF would be keen to understand the evidence to support the need for custom and self-build housing in East Devon, and how it has informed the requirements of this Policy. PPG<sup>10</sup> sets out how custom and self-build housing needs can be assessed. The HBF does not consider that the Council has appropriate evidence to support the requirement for developers on sites of more than 20 dwellings to provide 5% service plots for custom or self-build housing. The HBF is concerned that as currently proposed this policy will not assist in boosting the supply of housing and may even limit the deliverability of some sites and homes. The HBF is also not clear whether there is even a demand from custom and self-builders to live on sites within a larger residential development scheme.
37. The PPG<sup>11</sup> sets out how local authorities can increase the number of planning permissions which are suitable for self and custom build housing. These include supporting neighbourhood planning groups to include sites in their plans, effective joint working, using Council owned land and working with Home England. The HBF considers that alternative policy mechanisms could be used to ensure a reliable and sufficient provision of self & custom build opportunities across the Borough including allocation of small and medium scale sites specifically for self & custom build housing and permitting self & custom build outside but adjacent to settlement boundaries on sustainable sites especially if the proposal would round off the developed form.

#### **62. Policy – Design and Local Distinctiveness**

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<sup>10</sup> PPG ID: 67-003-20190722

<sup>11</sup> ID: 57-025-20210508

38. This policy states that proposals should clearly respond to local policy and guidance including village plans, design guides, design briefs and design codes whether adopted as supplementary planning documents or promoted through other means.
39. The HBF considers that this policy wording should not be interpreted by the Council's Development Management Officers as conveying the weight of a Development Plan Document onto these documents, which have not been subject to examination and do not form part of the Local plan. The Town and Country Planning (Local Planning) (England) Regulations 2012 are clear that development management policies, which are intended to guide the determination of applications for planning permission should be set out in policy in the Local Plan. To ensure a policy is effective, it should be clearly written and unambiguous so it is evident how a decision maker should react to development proposals. The Council's requirements should be set out in sufficient detail to determine a planning application without relying on, other criteria or guidelines set out in separate guidance.
40. This policy also states that proposals will only be permitted where they meet nationally described space standards (NDSS). The NDSS as introduced by Government, are intended to be optional and can only be introduced where there is clear evidence of need. The PPG<sup>12</sup> identifies the type of evidence required to introduce such a policy. It states that where a need for internal space standards is identified, local planning authorities should provide justification for requiring internal space policies. Local planning authorities should take account of the following areas: need; viability and timing. The Council will need robust justifiable evidence to introduce the NDSS, based on the criteria set out above. The HBF considers that if the Government had expected all properties to be built to NDSS that they would have made these standards mandatory not optional.

### **63. Policy – Housing Density and Efficient Use of Land**

41. This policy looks for development to optimise density on sites, whilst conserving and /or enhancing the character of the area and making efficient use of land.
42. The setting of residential density standards should be undertaken in accordance with the NPPF<sup>13</sup> where policies should be set to optimise the use of land. The HBF would recommend the Council ensure appropriate flexibility is provided by this policy to allow developers to take account of the evidence in relation to site specific conditions, market aspirations, deliverability, viability and accessibility.
43. The Council will also need to consider its approach to density in relation to other policies in the plan. Policies such as open space provision, biodiversity net gain, cycle and bin storage, housing mix, residential space standards, accessible and adaptable dwellings, energy efficiency and parking provision will all impact upon the density which can be delivered upon a site.

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<sup>12</sup> ID: 56-020-20150327

<sup>13</sup> Paragraph 125



### **65. Strategic Policy – Walking, cycling, and public transport**

44. This policy states that new development should incorporate the features of a 20-minute neighbourhood. The HBF considers that the concept can be a useful consideration when determining the appropriate location of development. However, it will also be appropriate to consider the range and variety of development provided, it may be that additional development could help a smaller settlement support more services and therefore contribute to the creation of a 20 minute or a more sustainable neighbourhood. The Council may also want to consider that larger developments may also be able to contribute to the creation of improved active travel infrastructure or open spaces. The HBF considers that there is not sufficient flexibility within the policy to allow for a site that would otherwise constitute sustainable development and deliver other benefits to be supported. The Council will also need to work on making active travel and public transport quick, easy to use, well maintained, safe and available to all, and therefore more appealing than using a car.

### **68. Policy – Parking standards**

45. This policy states that all new residential developments will be required to provide Electric Vehicle (EV) Charging Points. The HBF considers that the requirement to provide electric vehicle charging capability is unnecessary as Part S of the Building Regulations now provides the requirements for Electric Vehicle charging, including where exceptions may apply.

### **87. Policy – Biodiversity Net Gain**

46. This policy states that development proposals will need to result in a biodiversity net gain (BNG) of at least 20%. There is no justification for requiring a higher percentage of Biodiversity Net Gain which could add significantly to the cost of development particularly where this would need to be delivered through offsite credits. The Council will also need to ensure that this is properly considered in the viability study supporting the local plan. The cost of delivering BNG can vary significantly from site to site as it is dependent on base level of biodiversity on a site prior to development. As such the Council must undertake a sensitivity analysis with regard to these costs as part of that study and set other policies accordingly.

### **Implementation and monitoring of the local plan**

47. The HBF recommends that the Council include an appropriate monitoring framework which sets out the monitoring indicators along with the relevant policies, the data source and where they will be reported, this should also include the targets that the Plan is hoping to achieve and actions to be taken if the targets are not met. The HBF recommends that the Council provide more details as to how the plan will actually be monitored, and identifies when, why and how actions will be taken to address any issues identified.

### **Future Engagement**

48. I trust that the Council will find these comments useful as it continues to progress its Local Plan. I would be happy to discuss these issues in greater detail or assist in facilitating discussions with the wider house building industry.

49. The HBF would like to be kept informed of all forthcoming consultations upon the Local Plan and associated documents. Please use the contact details provided below for future correspondence.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'J. Harding', written in a cursive style.

**Joanne Harding**  
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