

Agenda for Strategic Planning Committee Friday, 9th June, 2023, 10.00 am

Members of Strategic Planning Committee

Councillors: B Bailey, J Bailey, K Blakey, B Collins, O Davey (Chair), P Fernley, C Fitzgerald, M Hartnell, P Hayward, M Howe (Vice-Chair), B Ingham, D Ledger, Y Levine, T Olive and H Parr

Venue: Council Chamber, Blackdown House, Honiton

Contact: Wendy Harris;

01395 517542; email wharris@eastdevon.gov.uk

(or group number 01395 517546)

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East Devon District Council
Blackdown House
Border Road
Heathpark Industrial Estate
Honiton
EX14 1EJ

DX 48808 HONITON

Tel: 01404 515616

www.eastdevon.gov.uk

1 Public speaking

Information on [public speaking](#) is available online

2 Minutes of the previous meeting (Pages 3 - 7)

3 Apologies

4 Declarations of interest

Guidance is available online to Councillors and co-opted members on making [declarations of interest](#)

5 Matters of urgency

Information on [matters of urgency](#) is available online

6 Confidential/exempt item(s)

To agree any items to be dealt with after the public (including the Press) have been excluded. There are no items which officers recommend should be dealt with in this way.

7 East Devon local plan update report (Pages 8 - 17)

This report seeks to give a gentle reminder to the past, ongoing and future work on producing the new local plan.

8 Proposed response to the Government Consultation on short-term lets (Pages 18 - 47)

This report advises that the Government has consulted on two sets of proposals about short-term let guest accommodation.

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[Decision making and equalities](#)

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EAST DEVON DISTRICT COUNCIL**Minutes of the meeting of Strategic Planning Committee held at Council Chamber, Blackdown House, Honiton on 7 March 2023****Attendance list at end of document**

The meeting started at 10.03 am and ended at 10.58 am

70 Public speaking

Peter Brooke asked the following question on item 9 (minute75) Initial feedback on consultation on the draft East Devon Local Plan – consultation undertaken from 7 November 2022 to 15 January 2023.

‘EDDC are aware that the Commonplace.IS feedback system website used in the “consultation process” has been reported to the Information Commissioners Office (ICO) for breach of The Privacy and Electronic Communications (EC Directive) Regulations 2003 (PECR) concerning cookie consent. Has EDDC established with Commonplace if a breach had indeed occurred and if so, did they report it to the ICO within 72 hours as required by law?’

The Assistant Director Planning Strategy and Development Management confirmed it had been discussed with Commononplace who had contacted the ICO and were advised there was no need to inform them in this case. In response to Mr Brookes request for a copy of the correspondence he was advised that as the conversation had taken place by telephone it was believed there was no written record. Mr Brookes was advised that a more detailed response could be provided at a later date when a detailed report reflecting on the consultation and lessons to be learned would be brought to a future Strategic Planning Committee.

71 Minutes of the previous meeting

The minutes of the Strategic Planning Committee held on 14 February 2023 were confirmed as a true record.

72 Declarations of interest

Minute 77. Designated Neighbourhood Area Housing Requirements.
Councillor Eleanor Rylance, Affects Non-registerable Interest, ward, home and business in Broadclyst is in one of the neighbourhood plan areas.

Minute 77. Designated Neighbourhood Area Housing Requirements.
Councillor Mike Howe, Affects Non-registerable Interest, ward, home and business is in one of the neighbourhood plan areas.

73 Matters of urgency

There were no matters of urgency.

74 Confidential/exempt item(s)

There were no confidential/exempt items.

75 **Initial feedback report on consultation on the draft East Devon Local Plan - consultation undertaken from 7 November 2022 to 15 January 2023**

The Committee considered the report outlining some initial feedback on the consultation that had been undertaken. Members noted that although it was too early to provide an exact total number of responses there had been around 2,500 responses through the Commonplace software and around 1,000 in an email or letter format.

From the statistics detailed in Section 4 it had been identified that the Commonplace software had enabled engagement with a much wider age group seeing over 22% from the age group 35-44 or younger and around 94% of respondents living in the district.

The Assistant Director Planning Strategy and Development Management drew Members attention to some key issues including the 300 responses received to the three options for a new settlement of which 23.3% supported option 1, 11.11% for option 2 and 8.7% for option 3 proving that early conclusions indicated there was a low level of satisfaction for a new community.

Members' attention was also drawn to paragraph 8.4 detailing specific questions about scales of growth for Feniton and Whimble and noted that a lot of the responses were yet to be analysed including letters and a petition but early indications suggested that only low levels of growth were welcomed in those locations.

Finally the Assistant Director Planning Strategy and Development Management drew Members' attention to paragraph 9 detailing more general matters raised in responses to the consultation and paragraph 10 about what happens next advising that a full consultation feedback report would be presented to Strategic Planning Committee later this year in the early Summer.

Questions raised by Committee Members included:

- Clarification was sought about why the 500 responses received from Feniton residents in a petition had not been included in the consultation as promised by the Chief Executive. The Assistant Director Planning Strategy and Development Management confirmed that officers had not yet had a chance to review all the comments and advised that a full consultation feedback report detailing comments from all the petitions received would be brought back to the Strategic Planning Committee later this year;
- Clarification was sought on the number of houses proposed for Whimble as the public consultation that took place in Whimble Village Hall held by officers was misleading as it only suggested 35 additional houses but the draft Local Plan is suggesting much higher numbers. In response the Assistant Director Planning Strategy and Development Management emphasised the consultation was a 'draft' Local Plan and that further work was needed including levels of growth at Whimble. He advised that the consultation had contained specific questions relating to specific levels of growth for Feniton and Whimble which respondents had answered;
- Clarification was sought on whether the statistics could show additional information such as where respondents live, work or which particular area they were commenting about. The Assistant Director Planning Strategy and Development Management advised that although respondents did not have to

give full details he referred to paragraph 4.4 which detailed the total number of respondents giving their address details.

RESOLVED:

The contents of this initial feedback report be noted.

76 **Proposed response to the Teignbridge Local Plan Regulation 19 Consultation**

The Committee considered the Assistant Director Planning Strategy and Development Management report that addressed some cross boundary issues relating to the Teignbridge Local Plan Regulation 19 Consultation which included the European designated wildlife sites of the East Devon Pebblebed Heaths and land designated for windfall sites.

Members' attention was also drawn to the following concerns:

- that their Local Plan does not set out a minimum housing requirement figure for the whole plan period.
- there was a lack of clarity about the potential risk of unmet housing need in the Teignbridge Plan area
- no allowance has been made for small windfall sites;
- housing supply within the Teignbridge part of Dartmoor has not been taken into account;
- the need to plan for more buffers which has not been addressed in the Plan;
- the level of housing requirement to accommodate any unmet housing from the adjoining authority Torbay Council has not been addressed;

The Assistant Director Planning Strategy and Development Management advised that in response to these concerns he had had a useful and productive meeting with Teignbridge District Council who had accepted that minor modifications were needed to address these concerns and further information needed to be made available and as such asked Members to consider the proposed response as detailed in the report.

Questions and concerns raised by Members included:

- Clarification was sought on the response from Exeter City Council. The Assistant Director Planning Strategy and Development Management advised that although he had not read it he understood they have objected quite strongly;
- Concerns raised about EDDC being made a scapegoat for Teignbridge's housing allocation;
- A comment was made that perhaps our response was too polite and whether there was a need for stronger recommendations. In response it was advised EDDC would have a 'seat at the table' and its position would be protected by raising representations to the Inspector at the examination stage if the issues highlighted in the report were not resolved in the meantime;
- Clarification was sought on EDDC's position with the duty to co-operate. The Assistant Director Planning Strategy and Development Management highlighted to members that Teignbridge District Council had circulated a draft duty to co-operate statement in advance of their consultation that this council did not sign as it was deemed inappropriate considering our concerns;
- Clarification was sought about who would have a 'seat at the table'. It was advised it would be done through a public forum with a Planning Inspector to

Chair the meeting and other parties would be able to attend including an officer from this council to make representations;

- Clarification was sought on whether EDDC had commented on their Regulation 18 Consultation and whether these issues were raised by us or anyone else at that stage. It was advised a response was sent to their Regulation 18 Consultation and that none of these issues had existed at that time.

RESOLVED:

1. That the proposed representations to the Teignbridge Local Plan consultation that are set out in this report be endorsed and for them to be submitted to Teignbridge District Council be agreed.
2. That officers continue to work with officers at Teignbridge District Council to secure further evidence and potential modifications to the Teignbridge Local Plan in the hope that the concerns can be withdrawn at a future date be agreed.

77 **Designated Neighbourhood Area Housing Requirements**

The Committee considered the Assistant Director Planning Strategy and Development Management's report that summarised a new requirement introduced by the National Planning Policy Framework (NPPF) that required local authorities to establish a housing requirement figure for all designated neighbourhood areas. Members noted there had been 40 designated neighbourhood areas identified in East Devon.

Members were asked, at this stage, to agree to start an initial consultation exercise with the 40 neighbouring planning groups identified in the report to understand their thoughts on the housing requirement options and the impact on their intentions and aspirations for their neighbourhood plans. A report would then be brought back to Strategic Planning Committee on its findings and to provide more details on a proposed wider consultation.

Members were in support of the need to deliver small scale growth in villages and hoped that villages would take up the opportunity.

RESOLVED:

1. The work needed for the emerging Local Plan regarding designated neighbourhood area housing requirements, the complexities to be addressed and the need for further specific consultation on a methodology for calculating these figures be noted;
2. That in preparation for the consultation officers can commence dialogue with communities that have a designated neighbourhood area to inform the development of this work package, including on both a one to one basis and via officer-lead group discussion be agreed, and
1. That a more detailed technical report on the potential options and their implications and on the proposed consultation be brought back to Committee, prior to a full formal consultation being launched be noted.

Attendance List

Councillors present:

D Ledger (Chair)

O Davey (Vice-Chair)

P Arnott

K Blakey

M Howe
R Lawrence
A Moulding
G Pratt
E Rylance

Councillors also present (for some or all the meeting)

P Faithfull

Officers in attendance:

Ed Freeman, Assistant Director Planning Strategy and Development Management
Damian Hunter, Planning Solicitor
Wendy Harris, Democratic Services Officer
Wendy Ormsby, Development Manager

Councillor apologies:

M Allen
S Chamberlain
P Hayward

Chairman

Date:

Report to: **Strategic Planning Committee**

Date of Meeting: Tuesday 9 June 2023

Document classification: Part A Public Document

Exemption applied: None

Review date for release N/A



East Devon local plan update report

Report summary:

This report seeks to give a gentle introduction to the past, ongoing and future work on producing the new local plan. No recommendations on specific decisions are sought through or from this report though we trust it will ‘warm committee up’ for future work. The report is intended to highlight some of the key work undertaken to date and some of the process steps and challenges the Council need to go through in progressing the local plan.

Is the proposed decision in accordance with:

Budget Yes No

Policy Framework Yes No

Recommendation:

1. Strategic Planning Committee note the ongoing and future work on preparation of the East Devon Local Plan.
2. Strategic Planning Committee note that the housing need figure in East Devon, generated from the Government standard methodology, now stands at 910 new homes a years and that this figure is lower than the 946 homes per year that was reported on in 2022.

Reason for recommendation:

To highlight to members the work on local plan preparation and some of stages and steps ahead.

Officer: Ed Freeman – Assistant Director, Planning Strategy and Development Management, e-mail – efreeman@eastdevon.gov.uk, Tel 01395 517519

Portfolio(s) (check which apply):

- Climate Action and Emergency Response
- Coast, Country and Environment
- Council and Corporate Co-ordination
- Democracy, Transparency and Communications
- Economy and Assets
- Finance
- Strategic Planning
- Sustainable Homes and Communities

Tourism, Sports, Leisure and Culture

Equalities impact Low Impact

Climate change Low Impact

Risk: Low Risk; .

Links to background information

The consultation draft local plan from November 2022 and other local plan papers can be viewed at:

[Draft Local Plan Consultation - East Devon](#)

Links to other background documents are contained in the body of this report.

Link to Council Plan

Priorities (check which apply)

- Better homes and communities for all
 - A greener East Devon
 - A resilient economy
-

1. Introductions

- 1.1 Strategic Planning Committee will (we trust) be aware that one of the key jobs of the Council is to produce a local plan and it is this committee that is charged with decision making before full Council approval at key work stages.
- 1.2 We have an existing local plan that was formerly adopted in 2016 and it sets out (amongst other matters) planning policy that will guide and inform where development will be encouraged and permitted and the form and nature that the development should take.
- 1.3 The existing local plan is now, however, becoming dated and replacement is needed. In 2020 the Council started work on production of a new local plan and in November 2022 consultation started on a draft plan, the consultation concluded on 15 January 2023. This draft plan that we consulted on had the shape, form and much of the content that could feature in a final local plan, stressing however that:
 - It was a consultation draft so all or anything might change in response to comments received; and
 - It was acknowledged in the plan that there was further work to be undertaken and some clear gaps in the draft plan that would need filling.
- 1.4 Members of committee will be aware that there were (will be) member training sessions for Strategic Planning Committee on the 1 June and the 6 June 2023 and this committee paper is designed to work alongside these sessions.

- 1.5 Members of this committee will also be aware that there is a considerable body of work that has led up to this point in time. At Strategic Planning Committee, item 58 on 1 November 2022 [Local Plan Reminder - key stages of the Local Plan.pdf \(eastdevon.gov.uk\)](#) a paper was tabled called “East Devon Local Plan – Where are we and how did we get here?”. This paper provides links to and a succinct summary of past papers to committee.

2. The local plan. the Development Plan and some other key references

- 2.1 It is important for committee to understand the definitions of local plan and the Development Plan. In planning legislation the term Development Plan is clearly defined and the Development Plan is made up of any plan that has the status of a Development Plan Document (frequently this is abbreviated to DPD).
- 2.2 There will typically be a number of plans that have the status of being a DPD, and they collectively make up the Development Plan. ‘Local plan’ is a term that is frequently used (and for example is used in Government guidance) to refer to a DPD, typically one that covers a broad range of policy subject matters that apply over a wide geographic area (such as a District Council area) and which will allocate or identify land (specific sites) for development. There is no obligation or requirement for a council to call any of their DPDs a ‘local plan’, and indeed some planning authorities do not. But we use the term ‘local plan’, as in the East Devon Local Plan, as it is widely used and understood.
- 2.3 It is the Development Plan that is, first and foremost, turned to in respect of policy for determining planning applications (though national planning policy and also other factors are applied in consideration). For a complete record the current Development Plan for East Devon comprises of:
- The East Devon Local Plan – 2013 to 2031;
 - The Cranbrook Plan – 2013 to 2031;
 - The Villages Plan – 2013 to 2031;
 - The Devon Minerals Plan – 2011 to 2033;
 - The Devon Waste Plan – 2011 to 2033; and
 - Any Made Neighbourhood Plan
- 2.4 The Cranbrook Plan has a suite of policy measures that are applicable to the new town and its immediate surrounding countryside and the Villages Plan is specifically concerned with a select number of villages in East Devon. With respect to planning matters relating to Minerals and Waste it is Devon County Council that are the planning authority with responsibility that covers East Devon and all of the rest of Devon (excluding Plymouth and Torbay). Devon County Council produce the minerals plan and the waste plan to the same procedures that we follow for our DPDs.
- 2.5 The intent is that on adoption the new local plan will supersede all of the existing local plan as well as all of the Villages Plan. But our current approach is that the Cranbrook Plan will remain in place as a DPD though there is the potential option for some new

local plan policies to also address some development matters at Cranbrook and as such they would work and be applied alongside the Cranbrook Plan.

- 2.6 It is also highlighted that Made Neighbourhood Plans form part of the Development Plan. These local area plans are typically produced at a 'grass-root's' local community level and have proven to be very popular with local communities. If we exclude the large unitary councils (such as Cornwall, Shropshire and Herefordshire) East Devon has close to the highest number of Made Neighbourhood Plans of any planning authority in England and the District Council has a proud record of supporting and encouraging their production.
- 2.7 It is important to remember however that the requirements of the legislation are that Neighbourhood Plans are in general conformity with the Local Plan (not the other way round). It is therefore entirely possible (if not likely) that any new East Devon Local Plan will contradict, to some extent, some of the made Neighbourhood Plans within the district. Under the legislation this is allowed but it highlights the need for Neighbourhood Plans to be reviewed and updated regularly or the weight that can be attributed to them will decrease. However even where they are out of date with the strategy, policies or allocations within the Local Plan they will still provide an important source of guidance and policy on local level issues and the views of the community.
- 2.8 Over the months ahead Committee will be advised of various pieces of legislation and associated regulations that we are required to comply with when producing the local plan (or specifically any DPD). But as a starter we highlight [The Town and Country Planning \(Local Planning\) \(England\) Regulations 2012 \(legislation.gov.uk\)](https://www.legislation.gov.uk/uk/2012/2612)
- 2.9 These regulations are fundamental to the work that we need to do in producing a new local plan and they set out stages that we need to follow. At present we are at Regulation 18 stage of plan making, and although it sounds quite technical to use this term it does ensure precision around where we are at and what we are doing
- 2.10 **Regulation 18 – Preparation of a local plan** – is primarily concerned with engagement and consultation on proposals and policies that then become more formalised as plan making progresses. There is no set format or rules on what we must produce and consult on at the Regulation 18 stage of plan making. So there is flexibility for any council to produce as many or as few documents, or other items of consultation material, as they choose, and to do so at whatever points in time they deem desirable or appropriate. The key legal tests are about ensuring that we do highlight all policy matters, options or choices that could potentially end up in the final plan and provide opportunity for anyone to comment on these.
- 2.11 The draft local plan we produced neatly falls within and makes up part of the Regulation 18 stage of plan making but we would envisage more engagement before we move onto more formalised stages of plan making work. The more formal future stages (Regulation 19 and beyond) involve preparing a final plan, making it available for comment and sending the plan, the comments and supporting evidence to the Planning Inspectorate for plan examination. After examination, dependent upon the planning inspector's conclusions, the plan can be legally adopted.

3. The National Planning Policy Framework and housing numbers

- 3.1 The National Planning Policy Framework (abbreviated to NPPF) is the key Government policy document that guides local plan making and the work of the Council more generally in its planning activity. We have to have regard to the content of the NPPF in our work but it does not set out slavish precise rules that we must follow, as such it is not part of the legislation. However, members should be aware that it can be difficult to justify deviating from the NPPF and if we wish to do so the more we may want to deviate the stronger and more robust our case would need to be. Ideally the more we may want to move away from the NPPF the more we would need to show the uniqueness or unusualness of our circumstances.
- 3.2 Sitting alongside the NPPF and providing more detail is national Planning Practice Guidance (PPG). The PPG is subject based and both informs and provides more detail on national policy and provides details of a number of technical tasks and work streams that should inform local plan making.
- 3.3 **Future housing numbers for East Devon** - The current draft of the NPPF references a national (England wide) approach for determining the number of new homes that should be planned for at a local planning authority level. Numbers are generated from a standard methodology (an algorithm) that has been defined by Government and which takes into account projected changes in population levels and also the relative affordability of housing. Though in the 20 largest cities and urban areas in England there is also an additional (20%) uplift component applied.
- 3.4 At present the standard methodology housing number for East Devon is the building of 910 homes per year. This figure is actually a slightly lower figure than that for 2022, which was 946 and which featured in the consultation draft local plan. However to provide flexibility, noting that not all houses planned for may be built, we do need to provide a flexibility uplift into numbers (as we did in the consultation draft plan).
- 3.5 The reason for the change in housing numbers from 2022 to 2023 is that the Office for National Statistics (ONS) have revised and refined the comparative relationship between median house prices and median gross annual workplace-based earnings. In effect what has happened is that the ONS have revisited previous data on the strength of new and more precise information becoming available. This is not unusual as data is frequently released on a provisional (or best as known at the moment) basis subject to potential for future refinement. In the last year, in practice and on remodelling, earnings in East Devon rose proportionately more than house prices and as a consequence the affordability ratio (an additional multiplying factor that feeds into the standard methodology for housing) generated a lower end output figure (the housing number) than had previously been generated. But caution needs to be applied as new releases and more precise ONS outputs could impact on levels in the future as could any annual reviews or future year's data. A new housing monitoring report is currently being prepared and will be reported to this committee later this year. This will consider the implications for 5 year housing land supply but it is not anticipated that

what is a reasonably modest change to requirements, in its own right, will have statistically significant impacts on overall outputs.

- 3.6 The numbers generated for East Devon, and indeed for much of England, have proven to be contentious. Many respondents to our draft local plan expressed the view that they regard them as being too high and a consequence of applying them being that inappropriate sites have to be identified and allocated for development. Most sites that were proposed as allocations for development in the plan came in for objection in public feedback, though site owners and prospective developers (and their agents) in many cases expressed qualified support.
- 3.7 It is relevant to note that in their work on defining the standard methodology the Government will have taken into account a long standing national policy objective of seeking to see/secure an annual average of 300,000 new homes being built across England each year. It is many decades, however, since the country has seen such high house building levels with this scale of house building only being achieved in the past in years when newly built Council Housing formed a major source of housing supply.
- 3.8 It should be noted that under current national planning guidance it is possible to seek to plan for less housing but to justify a case is very challenging, the two options open are:
- To present a case that there is a technical flaw or error in the data that feeds into the standard methodology; and/or
 - To present a case that there are such fundamental constraints in a local planning authority area that the required numbers cannot be acceptably accommodated.
- 3.9 The first bullet point item is very much a technical one and we had consultants (ORS) investigate this matter as part of wider housing work for the council and they concluded there is no evidence to show there could be any errors. For the second bullet point the tests to meet are extremely challenging and should we want to try to plan for less housing any case we tried to pursue would be examined very closely at a local plan examination by a planning inspector. There would be a very clear expectation that every opportunity to accommodate the housing levels had been thoroughly examined and found unreasonable to sustain this position
- 3.10 Where a planning authority do not believe that they can acceptably accommodate their numbers they should also enter into discussions with other (neighbouring) authorities seeking agreement from these others to take some of their housing. This is done through a process called the Duty to Cooperate and Torbay Council have indicated that they do not believe that it will be acceptable for them to accommodate their numbers in their area. Torbay have approached other Devon authorities, including East Devon District Council, seeking agreement over accommodating some of their Torbay needs in our areas. Though this Council has, to date, advised that they see insufficient robust evidence from Torbay Council to justify their conclusions over ability to accommodate their levels.

- 3.11 Consultation on changes to the NPPF** – However, much of the above may change because in early 2023 there was consultation on potential changes to the NPPF and before Christmas (part way through our draft local plan consultation) there was a Government minister statement setting out that housing targets will no longer be mandatory and that the numbers should be a starting point in work on determining levels of new housing to plan for.
- 3.12 East Devon District Council provided lengthy and detailed feedback commentary on the Government consultation (noting that it covered far more than just housing numbers). The Government had advised that a revised NPPF would be issued in Spring 2023. However, more recently, at a select committee, it was advised that there is no fixed date for a new NPPF to be published and that consultation responses were still being worked through.
- 3.13 We are, therefore, in something of a limbo position; that is assuming the council wishes to explore options and potential for planning for less than the standard methodology housing levels, whilst we await NPPF changes. Though it should be noted that the Government has not advised that it is intent to abolish the standard methodology for calculating housing numbers but it has, through consultation, indicated that there will be more flexibility to establish exceptional circumstances for why they should not apply in specific locations (i.e. for specific planning authorities or their local plans). A reasonable reading of a test of exceptional circumstances could be that the norm would be that they should typically apply.
- 3.14 The approach of waiting for the new NPPF has impacts on plan making timetables and work that can be done. Of course, if the council were to determine that the standard methodology generated appropriate, desirable and needed levels of housing for East Devon (and we do have the option to exceed standard method levels) then we could use these levels and proceed without the delays on plan making.
- 3.15 However, at Strategic Planning Committee on 14 February 2023 committee resolved under item 65 - [Agenda item - Proposed response to Government consultation - Levelling-up and Regeneration Bill: reforms to national planning policy - East Devon:](#)
- “2. That Officers continue with the background technical work with regard to the Local Plan including discussions with consultees and other stakeholders and infrastructure providers in particular concerning water, sewerage and other environmental matters to enable those discussions with infrastructure providers and stakeholders to continue but that no further discussions or decisions will be made with regard to the sites or their allocation until the Government has delivered the finalised NPPF.”*
- 3.16 **The Levelling-up and Regeneration Bill** – The Spring (or later) changes to the NPPF will need to be seen, and are being produced, in the context of the [Levelling-up and Regeneration Bill - Parliamentary Bills - UK Parliament](#). This new legislation, currently in Parliament stages (at the time of drafting this report at the Committee stage in the House of Lords), proposes what could be quite substantial changes to the planning system in England. The Government have indicated that later this year, following on from this new legislation, there will also be an additional revision of the NPPF (i.e.

additional to the Spring 2023 changes). So looking forward there could be two new NPPFs in the coming months to take into account in local plan making and wider planning work as well as legislative changes with potential for significant impacts.

- 3.17 Amongst other matters the new legislation could have potential impacts in respect of the local plan making timetable, these are commented on in further detail later in this committee report. There are also potential changes that could result in slimmer local plans on account of proposals for a set of standardised national development management policies that would apply across the whole of England. These national policies could negate the need for individual local planning authorities to produce many of their own policies in their own plans.

4. Draft local plan consultation feedback

- 4.1 Strategic Planning Committee received an initial feedback report on local plan consultation on 7 March 2023 - [Agenda item - Initial feedback report on consultation on the draft East Devon Local Plan - consultation undertaken from 7 November 2022 to 15 January 2023 - East Devon](#)
- 4.2 The intention is that a full detailed feedback report will come to this Strategic Planning Committee at the 11 July 2023 meeting and this feedback report is currently in production. It is not intended that this report will provide feedback on every comment received. It will provide a summary only of key matters, though non-the-less it will still be a lengthy report. All written comments on the local plan will be available to view on-line prior to this meeting.

5. Future evidence gathering and studies

- 5.1 As part of ongoing work on production of the local plan there is and will be the need for further evidence gathering and some of the policies in the draft local plan, we acknowledged, were not fully or appropriately supported by complete and robust evidence.
- 5.2 At a future committee meeting we intend to table a report setting out details on further evidence gathering that we would envisage is needed to support plan preparation. Allied to this will be the potential need for extra consultation which we will also highlight.

6. Local plan making timetables

- 6.1 At this stage we have not sought to propose an amended timetable for production of the local plan. This will, however, be required and it will be set out in a document called a Local Development Scheme (LDS). The current LDS was adopted in April 2022 and it sets out the following timetable for work:
- Issues Consultation – completed in January 2021.
 - Draft plan – consultation starting Autumn 2022.
 - Publication – consultation starts Autumn 2023.
 - Submission – early 2024.

- Inspector's Hearings – 2024.
- Adoption – early 2025.

- 6.2 The LDS will need reviewing but it is highlighted that the existing timetable is not now reasonable and realistic and a new timetable will need to be defined. The new timetable will be necessary because of:
- Uncertainty around publication of a new NPPF and contents within (especially in respect of housing numbers);
 - Impacts that may arise from the Levelling-up and Regeneration Bill;
 - Matters arising from committee decision on 14 February 2023 to stop work on specific sites and allocations; and
 - The need for further evidence gathering and consultation.
- 6.3 A factor to highlight is that the NPPF advises that local plans should have a lifespan that runs for at least 15 years from the point of adoption. Under the existing timetable the local plan had a proposed end date of 2040 (strictly speaking the 31 March 2040) and as such the projected adoption would be just at (just before) a point where there would be a 15 year forward looking timespan.
- 6.4 Under a revised timetable there will be the relevance to look at a possible new end date for the local plan, potentially 31 March 2041 or 31 March 2042.
- 6.5 In consultation around the levelling-up bill (see a committee report at [1. Response to Govt planning Consultation.pdf \(eastdevon.gov.uk\)](#)) the Government set out that Council's will have until 30 June 2025 to submit their local plans for examination for them to be considered under the current plan making system. If the plan making timetable were to slip by one year it would see local plan submission in early 2025 and therefore the local plan would be examined under the current plan making regime.
- 6.6 However, if plan making was delayed by over a year it could result in a submission date that would be after the 20 June 2025 and as such it would mean (subject to final levelling-up bill legislation) that we move into a different plan making regime. Should we be in this position the form, content and nature of the local plan may need to change, perhaps by a significant extent.

7. Conclusions

- 7.1 This report highlights a series of challenges looking forward in respect of production of the next East Devon Local Plan. Whilst we have a very solid body of past work to draw on, and a draft plan that was subject to consultation, it is important to advise that there was public challenge in feedback to consultation. Many respondents considered that we are planning for too much housing and most of the sites shown as allocation for development in the plan came in for objection.
- 7.2 We face timetabling challenges in that through new legislation there are proposed changes to the planning system and regime that will require relatively speedy movement if we are to produce a plan under the current system and we will also need

to consider whether we will need to extend the overall life, the end date, of the local plan.

- 7.3 We are also planning in respect of some uncertainty for the coming weeks or months given that we are waiting on a new draft of the NPPF which may introduce changes, specifically in respect of the number of houses we should be planning for.

Financial implications:

The requirements of the production of the local plan is considered at each budget preparation stage and any underspends are reserved for expenditure in future years

Legal implications:

There are no legal implications other than as set out within this report.”

Report to: **Strategic Planning Committee**

Date of Meeting: Tuesday 9 June 2023

Document classification: Part A Public Document

Exemption applied: None

Review date for release N/A



Proposed response to the Government consultations on short-term lets

Report summary:

This report advises that the Government has consulted on two sets of proposals about short-term let guest accommodation. The first proposes changes to the Use Class Order, the General Permitted Development Order and to planning fees. The second relates to options for a registration scheme for short-term lets. The proposals are relevant to East Devon. In this report we look at their potential implications for development management and plan-making, focused on housing, tourism and the economy. Officers advise that a timely response to the consultations has been submitted, after consultation with Portfolio Holders. Those responses are mindful of community concerns about the impacts of short-term lets on housing supply, Members' concerns about housing affordability, and the Council's objectives for a resilient economy. They carefully balance the benefits of short-term lets with their wider impacts on local communities and the guest accommodation sector.

Is the proposed decision in accordance with:

Budget Yes No

Policy Framework Yes No

Recommendation:

1. Strategic Planning Committee note the assessment and the detailed responses to the Government consultations on short-term lets that are set out in this report.

Reason for recommendation:

To ensure members are aware of concerns highlighted by officers and to note the detailed technical response submitted on behalf of this council to Government.

Officer: Ann Cooper, Senior Planning Policy Officer, e-mail – acooper@eastdevon.gov.uk,
Tel 01395 517599

Portfolio(s) (check which apply):

- Climate Action and Emergency Response
- Coast, Country and Environment
- Council and Corporate Co-ordination
- Democracy, Transparency and Communications
- Economy and Assets
- Finance
- Strategic Planning

- Sustainable Homes and Communities
- Tourism, Sports, Leisure and Culture

Equalities impact Low Impact

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Climate change Low Impact

Risk: Low Risk; .

Links to background information

The consultation document 'Introduction of a use class for short-term lets and associated permitted development rights' published by the Department for Levelling Up, Housing and Communities (DLUHC) can be seen at : [Introduction of a use class for short-term lets and associated permitted development rights - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/introduction-of-a-use-class-for-short-term-lets-and-associated-permitted-development-rights)

The consultation document 'Consultation on a registration scheme for short-term lets in England' published by the Department for Culture, Media and Sport (DCMS) can be seen at [Consultation on a registration scheme for short-term lets in England - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/consultation-on-a-registration-scheme-for-short-term-lets-in-england)

The Tourism Recovery Plan July 2021 Department for Digital, Culture, Media and Sport

[The Tourism Recovery Plan \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1000000/the-tourism-recovery-plan)

Link to Council Plan

Priorities (check which apply)

- Better homes and communities for all
- A greener East Devon
- A resilient economy

1. Current Government consultations

- 1.1 On 12 April 2023, the Government launched two separate consultations related to short-term lets which are a type of guest accommodation. The Government has invited views and responses to a range of questions. The closing date for both consultations is 7 June 2023.
- 1.2 Due to the need to meet the consultation deadlines, detailed responses were submitted to the Government before this Committee meets, but they were prepared in consultation with the Portfolio Holders for: Strategic Planning; Homes and Communities; Economy and Assets; and Tourism, Sport, Leisure and Culture.
- 1.3 The Government's consultations cover the following:
 - a) The Department for Levelling Up, Housing and Communities are consulting on 'Introduction of a use class for short-term lets and associated permitted development rights'. The scope of the consultation is to address concerns in certain areas about the increase in the numbers of short-term lets and the impact this can have on the sustainability of communities and the availability and affordability of homes for local people. The consultation seeks views on proposals for:
 - The introduction of a new use class for short-term lets (C5)

- The potential introduction of a new permitted development (PD) right for the change of use from a dwellinghouse to a short-term let
- The potential introduction of a new permitted development right for the change of use from a short-term let to a dwellinghouse
- How a flexibility for homeowners to let out their home for a number of nights in a calendar year could be provided through either changes to the dwellinghouse use class or an additional permitted development right
- The introduction of a planning application fee for the development of new build short-term lets.

b) The Department for Culture, Media and Sport has published a 'Consultation on a registration scheme for short-term lets in England'. It is consulting on 3 high level possible approaches to a registration scheme. As well as helping to regulate this part of the guest accommodation sector (more on this in Section 10 of this report), the scheme aims to build a picture of how many short-term lets there are and where they are located, to help understand the impact of short-term lets on communities. The options are :

1. An opt-in scheme for local authorities, with the framework set nationally; or
2. An opt-in scheme for local authorities with the framework set nationally, and a review point to determine whether to expand the scheme to mandatory; or
3. A mandatory national scheme, administered by one of: the English Tourist Board, local authorities, or another competent authority.

1.4 A commitment to introduce a registration scheme in England was introduced through an amendment to the Levelling Up and Regeneration Bill in December 2022. The scheme is expected to be operational in 2024. The proposed registration scheme focuses on short-term lets so would not apply to hotels, hostels or B&Bs.

1.5 Subject to the outcome of the consultations, the planning changes would be introduced through secondary legislation later in 2023 and would apply in England only. However, the consultation document is somewhat confusing about which types of short-term let fall within the scope of the change. For example, whether B&Bs will be Use Class C5 (ie not C1 - Hotels) and whether it covers the self-contained holiday let of part of a dwelling where the residue can still be used as a sole or main residence.

2. Relevance to East Devon and the District Council

2.1 The changes proposed in these consultations are relevant to the district and to East Devon District Council, and are of interest to this Committee for the following reasons:

- Strategic and local planning – potential for new policies on short-term lets in local and neighbourhood plans, possible use of an Article 4 direction to restrict changes of use of properties to short-term lets, new evidence (eg data from the register; and impacts), and need for monitoring. Future reports to this Committee will consider whether including a policy on short-term lets in the local plan is warranted

- Development management – potential changes to the Use Class Order and to permitted development as mechanisms for planning to manage short-term lets; changes to planning application fees
- Housing – impacts of proposals on access to and affordability of housing, on the rental housing market, and supply of housing for emergency accommodation
- Economic development – impacts of proposals for example on tourism accommodation, the visitor economy and on housing the local labour force
- Corporate – implications for delivering corporate plan objectives on housing, economy and communities; and the implications of the Council managing a short-term lets register if the Government pursues this option.

2.2 The DLUHC consultation document makes clear the LPAs and neighbourhood planning groups would be able to set out relevant policies in their local or neighbourhood plan the circumstances where they would support, or not, new short-term lets as defined by the new class that would achieve the appropriate balance for their area. Any future planning applications for new build short-term lets or for the change of use to a short-term let where the permitted development rights have been removed, would be determined in accordance with the development plan and other material considerations.

2.3 The proposals will have implications for our wider visitor economy. An initial understanding is that the proposed new C5 Use Class and PD changes are perceived as much more complex and potentially contentious than the proposed register.

2.4 This report therefore draws Members' attention to the key proposals and their implications. It focuses on how they may help or hinder achieving the Councils' objectives set out in the Corporate Plan and the emerging Local Plan. Based on this, the report identifies why the Council should respond to the consultations. Recommended detailed responses are set out in Appendix A to this report.

3. Background

Market changes

3.1 Short-term lets are a type of guest accommodation. They don't just apply to entire single properties available for rent, but also live-in "hosts" that want to generate some income out of their spare room but not as a 'long term let'.

3.2 Short-term lets are an integral part of the infrastructure of the UK's visitor economy. In East Devon, holiday cottages, home stays and self-catering apartments have been a mainstay for holiday makers for years. Short-term lets also cater for the needs of those travelling for work or people in need of overnight accommodation, largely in urban areas to date but available in other places.

3.3 The short-term let sector has evolved in the last 10-15 years. The emergence of the 'sharing' economy and the growth of digital platforms are at the heart of this change. Online platforms include Airbnb, Vrbo UK, HouseTrip, Under the Doormat, and One

Fine Stay. They provide marketplaces connecting people who want to rent out their properties or spare rooms with people seeking short-term accommodation. They operate as 'digital service providers' and 'peer-to-peer' accommodation services, not as real estate management. There has been a major expansion in the number and range of accommodation suppliers operating. Short-term lets are an increasingly popular solution for visitor accommodation. The shape of the market altered as demand grew, with 'hotspots' intensifying in some areas, as the market evolved.

- 3.4 Part of the rise in short-term let listings occurred before 2020. But the pandemic and the rise of the 'staycation', has been a driver of change. Combined with concerns about the cost of living, it is strengthening the market for domestic holidays focused on rural and coastal areas.
- 3.5 New technology is another driver. It means that now not only can anyone book, but anyone can turn their extra space into a hosting business. Accommodation hosts include 'individual hosts' as well as 'professional hosts'. Some homeowners are attracted to using their property for short-term lets. They are keen to rent out their dwellings or rooms to earn income. As well as being unregulated with lower costs and red-tape, short-term lets have been seen as a lucrative alternative to long term rentals. The short-term rental model also attracts some investors due to higher returns, and changes to the tax system for landlords further encourages investors.
- 3.6 However, future housing market corrections may occur, in terms of future changes to housing supply and demand. First, as the market adjusts to changing interest rates and house price inflation caused by increased competition of accommodation. Second, because there is a degree of 'illiquidity' with related lags in the local housing market. Housing is an illiquid consumer asset because it is not easily sub-divided to release cash. But the return to holidaying abroad and the more recent shock of the cost of living crisis, may lead to some short let holiday accommodation coming back on to the market in the future. This is then available for short-term emergency housing accommodation or for long term private rent or sale.
- 3.7 Other changes may impact on the long term rental sector. For example higher standards for energy efficiency for long term lets being introduced next year may result in some owners moving into short-term lets if standards are not raised in that sector. In response to concerns about creating a 'level playing field', the DCMS consultation on the registration scheme includes questions about which regulations should be satisfied in order for a property to be registered.

Benefits

- 3.8 Changes in this sector can bring benefits such as increased consumer choice, increased income for individual home-owners, and visitor spend benefitting the local economy. Unsurprisingly, the digital platforms, trade associations and stakeholders/ 'hosts' have highlighted a range of benefits Airbnb¹ for example recently asserted that 'the vast majority of UK Hosts share one home', and 'almost four in 10 say the earnings help them afford the rising cost of living'. However, a research briefing report

to the House of Commons in 2022² noted that 58% of listings on Airbnb in the UK are for an entire room or shared room within a home. The online 'peer-to-peer' platforms make it easier for homeowners to make a room or two available. This is a positive contribution to the holiday accommodation stock, as well as a benefit to the owner through the income potential that could be achieved.

- 3.9 The tourism sector was particularly hard hit by Covid-19. The Government's consultations relating to short-term lets are set within the UK Government's wider, post-pandemic, Tourism Recovery Plan, as opportunities to boost the economy. The Council's corporate plan acknowledges the economic and social value of tourism to the local economy and the wealth that is generated in this sector. It recognises the importance of collaborative working to drive recovery for the East Devon economy.
- 3.10 Consumers can benefit, through more choice of lettings, and potentially through some properties being lower cost. It can make staying away from home less costly so that more people can afford holidays and the benefits these provide eg for activity, enjoyment, health, well-being and social contact.

Concerns

- 3.11 The Corporate Plan emphasises that we are facing a housing crisis across the country. Prospective investors are competing against local people, and some are out competing them to purchase property in East Devon. Prices are forced up partly because of the demand for popular holiday destinations for second homes, as well as by in-migrants attracted to this area. Changes in the housing rental market, due in part to regulatory changes, have an impact, as do investors seeking returns, and the attraction of short-term lets. Home ownership and rising prices in the private rental sector are out of reach for many households in East Devon.
- 3.12 Responses to the Regulation 18 draft East Devon Local Plan consultation include comments on the adverse impacts of short-term let accommodation. Respondents are concerned that short-term lets reduce the availability and affordability of housing in East Devon for local people, and make the housing crisis worse. Some are concerned about the combined impact of second homes and short-term lets. The Local Plan and evidence base is already addressing issues about affordable housing and second homes, but we will need to consider extending our evidence, analysis and policy responses to encompass short-term lets. Responses to comments submitted on the draft plan will be the subject of a future report to this Committee.
- 3.13 Commentary and wider analysis of the UK by Lichfields in 2022³ concludes that as more stock is bought for short-term lets, the net supply of housing for local people falls. In areas where the demand for short-term lets has been particularly acute this has deepened the housing crisis.

² The Growth in short-term lettings (England) Jan 2022 [The growth in short-term lettings \(England\) - House of Commons Library \(parliament.uk\)](https://commons.parliament.uk/libraries/commons/2022/01/20220120-growth-in-short-term-lettings-England/)

³ Planning Matters – blog -30 August 2022 [Planning policy playing catch up: Call for evidence on short term lets in England \(lichfields.uk\)](https://www.lichfields.co.uk/planning-policy-playing-catch-up-call-for-evidence-on-short-term-lets-in-england/)

3.14 The House of Commons Library Research Briefing paper 2022 on 'The growth in short-term lettings (England)' identified the following key concerns:

- Commercial operators using residential properties as letting businesses in breach of planning rules.
- The challenges local authorities face in taking planning enforcement action and the effect on local housing markets
- Negative effects on neighbours and local communities, for example from noise disturbance and anti-social behaviour.
- Taxation compliance and compliance with health and safety regulations.
- The implications for traditional short-term accommodation businesses such as hotels and bed and breakfast accommodation

3.15 The Government's 2023 consultations are the result of concerns raised about the potential impact of short-term lets, notably the impacts on:

- **The private rental housing market**, including local housing being converted to short-term lets, evictions and the termination of rental contracts, the rise in rents as demand from competing uses increases, and the loss of emergency accommodation as a solution to housing homeless households;
- **The general housing market**, due to competition for dwellings, and the temporary or permanent 'flipping' between second homes, short-term lets and principal residences. Some perceive this as driving up house prices, reducing housing availability and affordability, and in some locations as having wider impacts such as the 'hollowing out' of communities by undermining community cohesion, facilities and services, and loss of environmental qualities; and
- **The hospitality and tourism accommodation sector**, due to the lack of parity between sectors. Currently, short-term lets are not subject to the same level of regulation or taxation as hotels, guest houses, and B&Bs. Some see the lower prices of short lets as unfair, leading to a loss of business for regulated tourist accommodation, with related risks to the guests due to lower standards. Visitor spend may not increase, but simply transfer. Visitor experience may diminish if accommodation standards are lower than those in regulated accommodation.

Furthermore, loss of affordable dwellinghouses to short-term let accommodation or for other reasons is an issue in terms of providing housing for the employees of our visitor economy, including hospitality, retail and leisure, which is struggling to recruit locally. Controlling short-term let numbers is one way that we could better protect our local labour markets.

3.16 The impact of one short-term let on the wider community would probably not amount to much. But if this is repeated and concentrated in particular areas, far from helping to create a sustainable community, the cohesion of the local community could be eroded. This in turn could make the area a less pleasant place in which to live and work. It would be at odds with the National Planning Policy Framework's social objective to support strong, vibrant and healthy communities. Nor would it be consistent with the promotion of social interaction advocated in NPPF.

- 3.17 Members of this Committee regularly raise the issue of second homes and their impact on the available and affordability of housing supply to meet local need in East Devon. The Interim Housing Topic Paper already highlights this issue and the analysis is part of the emerging Local Plan's evidence base. It helps to underpin the draft plan's policies on the affordable housing requirement. A second topic paper on meeting affordable housing need will be produced before the Regulation 19 Local Plan is published. Officers also anticipate producing a topic paper on the economy.
- 3.18 Loss of amenity to neighbouring properties is another potential concern, covering the impact from: a transient pattern of occupancy, a pattern of related arrivals and departures, late nights/early morning movements, and 'intrusive revelry behaviour'. This can be evidence of the character of the use of the dwelling such that it is significantly different from that normally associated with a dwelling house.
- 3.19 The topic papers will need to consider the implications of short-term let guest accommodation on housing supply, availability and affordability. They will need to consider whether the proposals help us to reap the benefits of short-term and holiday lets sustainably, while also protecting the long-term interests of local communities and the visitor economy in East Devon.

Extent of the challenge in East Devon

- 3.20 The challenge lies in how to balance the benefits of short-term lets with a range of concerns about the impact of this growing sector of guest accommodation. We want to continue to welcome visitors to our beautiful part of the country, but the issue of availability and affordability of homes for people who live and work in East Devon is acute. We want to have a robust economy and to meet long term community needs.
- 3.21 The Government considers that there are issues about short-term lets that need addressing. This is the reason for the consultations. It acknowledges the lack of robust information. Whilst this raises issues that have some public traction and concern it does not automatically mean that this is a significant issue in East Devon.
- 3.22 The number and location of short-term let guest accommodation in East Devon is unclear. The information on short-term lets that we have now is anecdotal and incomplete. Searching on-line platforms is problematic, not least because of 'anonymity' (ie not showing the actual locations until a booking is made) and duplication as some properties are advertised on two or more platforms. 'Local knowledge' information provided by local plan consultation responses is patchy.
- 3.23 The data we do have suggests that there may be concentrations in some areas such as some parts of the coast, but even there we don't have robust evidence of a high level. The balance of the positive and negative impacts of short-term lets in the district is unclear at this time. And at this time we have no way to know how many second homes are also short-term lets, nor whether short-term let numbers have increased significantly, mindful of the long history of holiday lets in this area. It is possible that new short-term lets have not significantly increased the losses of C3 dwellinghouses used as principal accommodation. The critical issue may still be second homes.

3.24 Whether short-term lets are the real driver of higher house prices in this area, or just a smaller part of the bigger picture, they still compete for the available dwelling stock. They have consequences for housing affordability and availability, plus related consequences for housing local labour, and the visitor economy in East Devon.

4. Tax changes – implications for Council revenue

4.1 When the Government introduced changes in the tax system for landlords, the reforms did not consider the short-term market. Landlords saw short-term lets as a lucrative alternative to long term rentals. The rise of the staycation, combined with Covid business support grant schemes, made short-term letting profitable for home owners.

4.2 Furthermore, some owners of ‘second home’ residential properties may have avoided paying council tax. Up to 31 March 2023, if they made the property available for short-term holiday lets for a total of 140 nights or more per year, they could ask to have the property rated as a self-catering property and valued for business rates. The Valuation Office Agency works out the rateable value of the property based on its type, size, location, quality and how much income it’s likely to make from being let. But, if they earned below the rateable value of the property they could then claim small business rates relief (SBRR - 100% for a rateable value of less than £12,000, and a sliding scale discount for £12,001 to £15,000). They did not have to prove that the property was actually used for holiday lets in that year.

4.3 So it is possible that some second homes in East Devon were successfully claiming SBRR but not actually used for holiday lets and did not contribute toward paying a fair share towards local services. The Council would have lost revenue, reducing its ability to provide local services and deliver its Corporate Plan objectives. It is impossible to quantify how much was lost because of the lack of information about such rentals.

4.4 The Government has recently sought to close this tax loophole. To qualify for business rates from April 2023 the home owner must now provide evidence to the Council that the holiday lets are rented out for at least 70 days in the last tax year and that the property will be available to be rented for 140 days in the next. Otherwise they must pay council tax. This will help the Council to check on rentals to ensure that revenue is not lost.

4.5 This is a step in the right direction. However, it adds to the burden on the Council to operate, monitor and enforce the process. To gain further local control it also needs to be complemented by proportionate changes to planning.

5. Current planning legislation

5.1 The DLUHC consultation proposes changes to planning. Short-term lets is a somewhat grey area of planning law. Currently short-term lets have no specified Use Class but could fall into a number of classes. They are mostly considered under the ‘C3 dwellinghouses’ Use Class. Use Class C3 makes no distinction between whether the dwellinghouse is used as a sole or main home, for personal or commercial use, or

its tenure (rental or home ownership). However, if it is not an ancillary use, then Bed and Breakfast falls within Use Class C1.

- 5.2 Planning Practice Guidance explains that a material change of use is a matter of fact and degree, and cases will be determined on their individual merits. Whether the use of a dwelling for commercial letting as guest accommodation amounts to a material change of use is therefore a question of 'fact and degree' in each case. The answer depends upon the particular characteristics of the use as guest accommodation.
- 5.3 For example, where an entire property previously used as a family home is to be used as short-term holiday let accommodation by family groups, who during their stay constitute a single household, then the property is likely to fall into Use Class C3 and not need planning permission. But if the property is larger, with a larger number of guests, not constituting a single household during their stay, then this may well constitute a material change of use to a sui generis use, and need planning permission.
- 5.4 Change of use from a dwellinghouse to B&B which is not ancillary use will require planning approval. If the short-term let involves only part of the dwelling then the focus is currently on a broad test of whether there has been a material change of use. This depends for example on the number of existing bedrooms and how many are to be used for B&B. If the B&B element is ancillary then planning permission is not required, unless there is an existing planning condition precluding commercial use.
- 5.5 The Council determines whether planning permission is required. There is no statutory definition for a material change of use but it is related to the significance of change and the consequent impact on the use of land and buildings. In planning terms, a change in the way that a building is used or its operation, can equate to a material change in the character and use of the property. Demonstrating that a 'material change' of use has or would occur can be tricky and demanding on Council resources.
- 5.6 In England, outside of London⁴, unless there is a material change of use, planning permission is not required to change from a permanent residential unit to a short-term let. Short-term lets may be very short, of less than a week, sometimes no more than a night or two, with a high level of 'churn'. Currently, the challenge for the Council is to find the resources to identify and gather robust evidence about the significance of any change and impact, and to take enforcement action if necessary, for example about the following:
- Turnover frequency

⁴ Under the 2017 Deregulation Act, regulations relating to London, require planning permission in specific circumstances. In the capital, it is not permitted to rent out a residential premises for temporary sleeping accommodation for more than a total sum of 90 nights in a calendar year, without obtaining licence through the council, via a planning application. This means that in London, renting out residential premises for less than 90 days is not a material change, so does not need planning permission (but provided that the person renting out the property is liable for paying the Council Tax on the property).

- The degree of comings and goings, from people arriving, and unloading their things, packing and leaving, together with visits by cleaning staff in between visits
- Levels of noise and disturbance for occupiers of adjoining properties.
- Vehicular movements

5.7 Members are reminded that in addition to planning enforcement, there is some legislation available where complaints are received to help control short-term lets and impacts on neighbours such as:

- Environmental Health
- Council tax /Business Rates
- HMO licensing
- Fire Brigade/Building Control
- Leasehold breach action by managing agents
- Mortgage breach condition by lenders

6. Proposed changes to planning legislation

6.1 The key planning proposals in the DLUHC consultation are:

- The introduction of a new Use Class (C5) for short-term let accommodation
- New Permitted Development (PD) rights for change use from C3 residential to short-term let (& vice versa)
- Providing flexibility for homeowners to let out their home for a number of nights per year (consultation on 30, 60 or 90 nights pa); through PD or Use Class for use in areas where short-term lets is not an issue (including in Listed Buildings & AONBs); with notifications to the Local Planning Authority
- Introduction of planning application fee for new build short-term lets.

6.2 Members should note that the C5 Use Class would not apply to hotels, boarding and guest houses (Bed & Breakfast, Inn, Motels). These are covered by Use Class C1 and are subject to regulatory control. Furthermore, letting out room(s) to lodgers in a sole or main dwellinghouse will be unaffected by the introduction of Use Class C5.

6.3 Use Class C5 would allow the LPA to consider planning applications for new development of short-term lets. This would include second homes that are additionally let out for part of the year. The LPA could grant permission conditioned to the new class. The application submission, would provide evidence about the proposed change and impacts, including assessing issues such as detriment to the amenity of neighbours, as material considerations. This option should give greater local control.

6.4 But the proposed change would add to the Council's workload. Applications for changes of use from Use Class C3 to C5 and from C5 to C3 would need to be determined through the development management process.

- 6.5 Ideally, introducing the new use class would see alignment between planning status (C3/C5) and rating status (liable for Council Tax or National Non-Domestic Rates and eligibility for SBBR), depending on the number of nights the property is let per year. But exceptionally it is possible there could be some anomalies, depending on the option chosen for PD flexibility on the number of nights let in a calendar year.
- 6.6 If and when the new use class comes into effect, existing properties would fall into Use Class C5 where they meet the definition or remain as C3 dwellinghouse. Any re-classification at that point is not considered development, so property owners should not need to apply for planning permission where they meet the definition of short-term let. If the use is unclear, the owners could apply for a lawful development certificate to confirm the lawfulness of the use for planning purposes.
- 6.7 Monitoring planning decisions approving the change of use from C3 to C5 would enable the Council to track losses of dwelling houses. We anticipate that we might need to report these losses in the Council's annual statistical return to Government on housing supply changes (Housing Flow Reconciliation Return). However, this would add to the Council's monitoring workload.

7. Flexibility- New national permitted development rights

- 7.1 The consultation is also the opportunity to provide the Council's views on how best to give the local communities a greater ability to control the number of short-term lets in their area, mindful of the need to retain existing dwellinghouses to buy or to rent, and to facilitate short-term lets returning to such use.
- 7.2 The Government is considering whether to introduce new national permitted development rights where short-term lets are not a local issue. Areas would only see a change where the rights have been removed by making an Article 4 direction. The consultation is an opportunity to comment on 2 options:

a) Change of use from C3 dwellinghouse to C5 short-term let.

- If there is no local issue about short-term lets, then this allows for flexibility to use a property as a home or short-term let
Officer comments: Government proposes that LPAs 'should be notified' whenever this right for a change of use to a short-term let is used, but fails to specify the mechanism. The reliability of notification is in doubt. It might mean the Council has to rely on notification by the homeowner to keep track of losses of dwelling houses through the planning process. But there is no information about penalties for failing to notify the Council. The alternative would be reliance on data from the new register about short-term lets and making a planning judgement on whether this results in the temporary or permanent loss of a dwelling. Unfortunately, the DCMS consultation implies that registration data would be aggregated, making it impossible for a planning judgement to be made on an individual dwelling basis. The DLUHC consultation document also fails to set out how we could reliably report dwelling losses to C5 uses in the Council's annual statistical return to Government on housing supply (Housing Flow Reconciliation Return).

- If there is a local issue, then the PD right can be removed by the LPA making an Article 4 direction

Officer comments: At this time, the Council does not have robust evidence about the location of short-term lets to identify where there are specific local issues within East Devon, the scale of the issues, or to ensure that any Article 4 direction is applied to the smallest geographical area possible, as set out in NPPF. Members should note that Article 4 directions take time to make, and there is the risk that the Council may incur compensation costs.

We won't have this information unless and until the short-term lets register for each accommodation unit is available to the LPA.

- b) **Change of use from C5 short-term let to C3 dwellinghouse.** When the use class changes come into effect, this would allow those premises that fall into Use Class C5 to return to use as a dwellinghouse for rent or to buy without the need for a planning application. This right could be retained even if the Council chose to remove the PD right for change of use from C3 to C5 use.

Officer comments: Whilst this option could provide flexibility so that a short-term let can quickly 'flip' back to a dwellinghouse, it is unclear whether this would facilitate the move from short-term lets to 'more sustainable housing in the community' as asserted in the consultation document. It may simply release housing to second home use, or be sold at a price that is not affordable for many local people.

Furthermore, the same issue about reliability and access to 'notification' data that applies to losses under Option a) also applies to dwelling gains under Option b).

- 7.3 Officers have concerns that the right to change from C5 to C3 is unconstrained. In the countryside, the Council imposes conditions restricting holiday let use so that it cannot be used for C3 residential purposes. It is unclear whether the PD rights would override the previous planning condition. Furthermore, the PD right could create additional C3 units, effectively through subdivision, without needing planning permission
- 7.4 Under Options a) and b), there are further questions about the robustness and availability of the register data, particularly if it is not maintained by the Council but by a national body.
- 7.5 We might also be challenged on the robustness of the housing supply data we submit annually to DLUHC, as well as our reliance on this data for plan making and development management purposes.
- 7.6 In the response to Q10 in Appendix A we suggest an alternative planning approach that would make the permitted change of use from C3 to C5 subject to a prior approval process. This could provide the LPA with a means of appropriate control of change from C3 to C5 and vice versa, and provide an evidence audit trail. It would also provide the property owner with evidence of the property's planning status, which is necessary for example if the property were to be sold.

8. Flexibility- to let out your own home

- 8.1 Government is also seeking views on whether there should be express provision for C3 dwellinghouses to be let out for a number of nights. It is consulting on whether the flexibility to do so could be provided either through changes to the C3 dwelling use class or an additional permitted development right.
- 8.2 A blanket approach to require planning permission for all changes from C3 housing to C5 short-term lets and vice versa is not appropriate. It would be unduly onerous and demanding on Council resources.
- 8.3 Of the three PD options proposed by Government, Officers consider that using a C3 dwellinghouse for short-term letting for a maximum of 60 nights total per year without needing planning permission provides the optimum balance between flexibility and control, and between reaping the benefits of short-term and holiday lets sustainably, and protecting the long-term interests of local communities and holidaymakers in East Devon. It enables the homeowner to have realistic prospects of income from short-term lets in the context of East Devon and its tourism offer.
- 8.4 Significantly more than 60 nights is likely to encourage the retention of or additional short-term lets operating on a commercial basis, with the loss of housing for permanent residential use. This is because the property can be rated as a self-catering property and valued for business rates if it has been rented out for at least 70 days in the last tax year, and available for letting for 140 nights in the next tax year.
- 8.5 30 nights would generate a much lower income than the other options. This may be sufficient for some owners, but not for all. It is reasonable to anticipate that it would be likely to trigger significantly more planning applications and/or enforcement or retrospective applications than the other two options. There is no evidence that this option would deter homeowners from using their property for short-term lets.
- 8.6 More detailed assessment of the 3 options (30, 60 and 90 nights) is set out in Appendix A to this report in the detailed response to Q12 in the DLUHC consultation.

9. Planning Fees

- 9.1 The DLUHC consultation proposes that where new build short-term lets are developed a planning application fee for each short-term let equivalent to that for new dwellinghouses would apply. This would be delivered through a future amendment to the fees regulations. Where the permitted development right has been removed by making an Article 4 direction, the standard fee for a planning application for the change of use would apply. This is necessary, and the fee will need to be paid at the time that the planning application is submitted.

10. The regulatory framework, the registration scheme and planning

- 10.1 The Government has identified concerns in the UK about inconsistencies in the current regulatory framework for the guest accommodation sector, and the need for a 'level playing field' across England. Unlike hotels and B&Bs, monitoring short-term lets' compliance with key health and safety regulations is difficult due to the lack of a regulatory framework and an authoritative data source.

- 10.2 The Council holds little evidence about short-term lets at this time. Letting agencies should undertake health and safety inspections, but at present when properties are let through on-line platforms there is no way of knowing whether a property meets minimum standards. Property anonymity and lack of oversight impact on other services, for example in knowing whether fire safety standards are complied with. It also means that there is no robust data on the location or number of short-term lets to inform development management or plan making.
- 10.3 DCMS set out its intentions in the Tourism Recovery Plan in June 2021 to consult on a Tourism Accommodation Registration Scheme in England. Following this, DCMS issued a call for evidence in 2022 to gather information on short-term lets. In light of the findings, Government committed to introduce a registration scheme in England by amending the Levelling Up and Regeneration Bill, as tabled in December 2022.
- “(1) The Secretary of State must by regulations make provision requiring or permitting the registration of specified short-term rental properties in England.”*
- 10.4 The DCMS has now consulted on options for a registration scheme for short-term lets. This will only apply to short-term lets and not to other types of guest accommodation. Members may wish to note that this is not a more interventionist approach such as a licencing scheme. The definition of short-term let for the register is in the Levelling Up and Regeneration Bill (see Section 12 of this report).
- 10.5 **DCMS are consulting on three possible approaches for a registration scheme**, as well as a range of more detailed questions on the design of the scheme, namely:
1. **An opt-in scheme for local authorities**, with the framework set nationally;;
 2. **An opt-in scheme for local authorities** with the framework set nationally, **and a review point to determine whether to expand the scheme to mandatory**;
 3. **A mandatory national scheme**, administered by one of: the English Tourist Board (VisitEngland), local authorities, or another competent authority.
- 10.6 Introducing a registration scheme raises issues wider than planning. Council Officers have been analysing the potential corporate implications of the scheme options. Any response to the DCMS consultation is separate from the responses to the DLUHC consultation set out in Appendix A of this report.
- 10.7 DCMS anticipate that the registration scheme would become operational in 2024. This is problematical for plan-making. It means that little or no evidence from a register could be available for some time to inform the preparation of a policy on short-term lets guest accommodation for the Regulation 19 ‘publication’ East Devon Local Plan.

11. **Data availability and reliability**

- 11.1 Officers are acutely aware of the need for more robust data about the short-term let sector in East Devon. We need this in order to assess the scale, distribution and nature of the impacts, and to use as evidence to justify future local plan policy or any Article 4 direction.

- 11.2 Concerns about data reliability on gains and losses of dwellings due to 'flipping' from C3 to C5 and vice versa are set out in sections 6 and 7 of this report to Committee. There are other concerns about properties where planning permissions granted for ancillary buildings (conditioned for use for the main dwelling only) are being let out for holiday accommodation. This is near impossible to police, due to the anonymity of short-let property on on-line platforms. It requires significant resource in planning enforcement to assess the extent and location of the accommodation units and any problems, let alone in taking action.
- 11.3 Whilst the Government could request that online platforms provide the requisite data to allow the extent of the sector to be accurately quantified, the ability to verify the information is highly problematical. There is nothing to stop an individual property or room being advertised on multiple rental platforms which can lead to over reporting. Alternatively, inaccurate data could lead to under-reporting and/or misclassifying accommodation units.
- 11.4 The DCMS consultation on a registration scheme provides one possibility of evidence on the extent and distribution of short-term let guest accommodation in East Devon. The ability of data gathered by a scheme to be useful to the Council would depend on a range of factors. For example, what information is gathered, who is responsible for gathering it and checking it, and how frequently it is updated. Various organisations could benefit from knowing how many short-term lets there are in a given area.
- 11.5 We agree that those registering short-term lets need to understand how the data they provide might ultimately be used. However, the DCMS consultation also indicates that this data could be provided in an aggregated form without providing personal details. Aggregating data to parish, ward and district level is helpful. But this precludes the LPA from having information at 'mission critical' levels for planning, notably at:
- Settlement level, for plan making purposes, and
 - Site specific and property-specific levels, for development management purposes and for housing development monitoring/national statistics submissions.
- 11.6 We are concerned that a registration scheme would not provide sufficiently timely and robust data such that the LPA can rely on it for plan making or development management if the data is not available to the Council at the individual accommodation unit level, or it is not updated annually and correctly, and cannot be used for planning purposes. We have shared these concerns with Officers for any separate response to the DCMS consultation.
- 11.7 We are also mindful that in some cases creating a short-term let under the proposed planning changes could still leave a dwelling of sufficient size which enables the principal residence use of the remaining part of the dwelling to continue on a long term basis. In other cases, it could involve the total loss of the principal residence use. Registration data would not identify loss or gains of dwellings. We would still need to make a planning judgement on whether a short-term let has led to an actual loss or

gain of a 'dwellinghouse'. It would be wholly unrealistic to expect or rely on 'hosts' registering their short-term lets to make such a planning judgement. Without the data and judgement, the Council could not make a robust assessment of the losses and gains of dwellinghouses to and from short-term let guest accommodation.

12. Definitions

12.1 The term "short-term let" can encompass a range of activity associated with a dwelling. Some short-term lets may be let out for a limited period while the owner is on holiday. Others may be properties that provide for a series of lets for holidays or very short-term overnight sleeping accommodation including renting an individual bedroom while the owners are in situ.

12.2 Business rates, council tax for second homes, HMRC and the proposed DCMS registration scheme differ in their definitions of this use of property. Estimates of the volume and growth of this sector vary, reflecting the variation in definition of a 'short-term let' and the lack of a single robust source of data.

12.3 The DCMS consultation defines a short-term let using the definition of 'short-term rental property' that is included in the government amendment to the Levelling Up and Regeneration Bill. It means:

"(a) a dwelling, or part of a dwelling, which is provided by a person ("the host") to another person ("the guest")— (i) for use by the guest as accommodation other than the guest's only or principal residence, (ii) in return for payment (whether or not by the guest), and (iii) in the course of a trade or business carried on by the host, and (b) any dwelling or premises, or part of a dwelling or premises, not falling within paragraph (a) which is specified for the purposes of this paragraph"

12.4 However, DLUHC is consulting on the description and definition of a short-term let for the purpose of a new class order (C5), to encompass the range of activities listed in paragraph 3.1 of this Committee report. That is:

"Use of a dwellinghouse that is not a sole or main residence for temporary sleeping accommodation for the purpose of holiday, leisure, recreation, business or other travel."

12.5 The definitions will therefore impact on the what property could be subject to the registration scheme, and what property could fall in to the new Use Class C5, subject to exemptions and any Article 4 direction or other means to manage development.

13. Response to the consultations

13.1 In light of the above analysis, Officers of East Devon District Council have concluded that there are sufficient concerns about the consultation proposals and their potential impact on East Devon, its communities, housing and economy to justify responding to the consultation on the planning changes.

13.2 Due to the need to meet the 7 June 2023 deadlines, Officers in consultation with Portfolio Holders have prepared responses to the DLUHC consultation and submitted them before the deadline. Members are therefore asked to note the submissions that are set out in Appendix A to this report.

Financial implications:

There are no financial implications at this stage.

Legal implications:

There are no legal implications other than as set out within the report.

East Devon District Council responses to the DLUHC consultation on 'Introduction of a use class for short-term lets and associated permitted development rights'

Q.1 Do you agree that the planning system could be used to help to manage the increase in short-term lets?

Yes/No/Don't know.

The Government's proposals are too late to prevent losses of dwelling houses for principal accommodation to short-term lets that have already happened, or may happen before new legislation comes into effect. But changing the planning system to control the future loss of principal residence dwellinghouses to short-term lets could at least prevent the situation from getting worse.

The increase in short-term let guest accommodation to date has already occurred but it is less clear how much further the short-term let market will expand. The supply side of holiday let accommodation in East Devon is saturated with many owners having experienced significant vacancies even across high season over the last two years. Cost of living is most commonly cited alongside a slump in European visitors. This, alongside higher mortgage costs may constrain the transition from C3 dwellinghouses to short-term let guest accommodation in the short term.

Growth to date has largely occurred through the application of the use classes and permitted development legislation operating at the time. This constrained the degree of intervention in the short term-lets rental market. Much of the growth in East Devon has been and will be from change of use from dwellinghouses for example to self-contained accommodation or rooms/ bed and breakfast. Some occurred as short-term holiday lets in the high season with 6 months Assured Short hold Tenancy for the rest of the year. Most did not need planning permission for the short-term let because it was not a material change of use based on the test of 'fact and degree'. Related issues such as noise and disturbance, or safety in the existing lets have been managed to some extent through other means.

Whether there is a need for the proposed planning changes and how these would benefit East Devon is not wholly clear. The lack of robust information about the number, location and concentration of short-term lets undermines the ability to assess the potential effectiveness of the proposed planning changes in addressing our concerns. The proposed national registration scheme could help to identify short-term let premises and units. Business rates could support the collation of evidence on existing lets that have transitioned from council tax to NNDR.

We have concerns about housing availability and affordability, the hollowing out of communities, housing the local labour force and changes in the local visitor economy in East Devon. The lack of both affordable housing suited to younger, working age residents, and a lack of available employment land for employers to grow in East Devon has played a major role in our age demographic changing so significantly in recent years. House prices are an acute local issue with direct labour market

implications. The East Devon house price to earnings ratio stood at 10.88 in 2021 , (now 10.16 in 2022), compared to 5.21 in 1997, and remains higher than the ratios in neighbouring Exeter and South Somerset.

However, uncertainty over the scale and location of short-term lets due to the lack of robust evidence at this time makes assessment of the related impacts challenging. It is unclear whether short-term lets are a key driver in East Devon. The impacts of short-term lets may be localised, and limited in nature and character, but it is difficult to disentangle their impact from other drivers of change that also impact on the local housing market and house-price inflation, not least second homes. It is likely that some second homes in the district are also used for short-term lets, further complicating the issue.

Nevertheless, even if the impacts are localised and limited, short-term lets are competing with other demands that are putting pressure on the local housing stock. Together this has led to house price inflation, with consequential adverse impacts on housing availability and affordability for local residents, resulting in further problems for housing the local labour supply to support the East Devon economy.

The Council notes that the consultation document proposes that existing short-term lets will have the status of the new C5 Use Class at the date when the legislation introducing the C5 Use Class comes in to effect, without the need to apply for planning permission. This may well result in a further increase in the number of C3 dwellinghouses changing from permanent use to short-term lets ahead of that date to avoid any requirement to submit planning applications subsequently.

East Devon District Council considers it would only be appropriate for the planning system to manage short-term lets, if

- a) There are sufficient resources to administer, manage, monitor and enforce the additional planning work; and
- b) There is also a short-term lettings registration system, to regulate matters such as safety, and to record short-term lets regularly (eg annual basis); and
- c) The information gathered through planning and registration is reliable; and
- d) The registration process can also be effectively monitored for compliance and enforced (the LPA will need access to the register information at an accommodation unit level. Aggregated data would be insufficient.

It is unnecessary for the planning system to manage short-term lets that are simply used for infrequent, short-term 'swapping' or 'sharing'. Where a home owner rents out an entire property as a short-term let for a limited period (swapping) is not a concern. For example, residents renting out their home for short periods of absence such as a family holiday. Similarly, where a home owner or occupier rents out a spare bedroom – short or long term - while remaining in residence (sharing), is not of particular concern. In both cases, the long term principal residence use of the dwelling is maintained.

The Council is concerned about short-term lets where a property is offered for rent for significant periods of the year, meaning that it is no longer used as a principal place of residence, particularly if it is permanently lost as a dwellinghouse. Similarly,

the Council is concerned where an owner is not living in the property and does not adequately manage their impact on neighbouring properties and occupants, such as noise, disturbance and parking.

The Council would be concerned if there were further significant loss of homes available for principal residence. It would undermine the supply and affordability of housing in East Devon, particularly in locations that are already attractive to second home owners. Through engaging with the emerging local plan, local communities have already expressed their concerns about the 'hollowing out' of communities in some locations, notably in some coastal settlement and rural areas. They perceive this 'hollowing out' to be caused by a mix of short-term lets and second homes. They are particularly concerned that this undermines housing affordability and community cohesion through raising house prices beyond levels that local people can afford.

Q.2 Do you agree with the introduction of a new use class for short-term lets?

Yes/No/Don't know.

East Devon District Council considers that a new use class for short-term lets would enable the Local Planning Authority to have more control over short-term lets particularly when they would cause the loss of the permanent use of dwellinghouses, but that its use should be subject to flexibility and restrictions (see Council responses to Qs. 4, 6, 7, 8 and 12).

Q.3 Do you agree with the description and definition of a short-term let for the purpose of the new use class?

Yes/No/Don't know.

The proposed definition of short-term let use class in Paragraph 20 of the consultation document is "Use of a dwellinghouse that is not a sole or main residence for temporary sleeping accommodation for the purpose of holiday, leisure, recreation, business or other travel".

East Devon District Council considers that the definition is unclear and ambiguous for the following reasons:

1. The word "accommodation" is unclear and ambiguous because there is no reference to the number of short-term let "units".
A C3 dwellinghouse is a single unit of housing accommodation. But the C5 use class definition refers to "temporary sleeping **accommodation** for the purposes of holiday, leisure, recreation, business or other travel". It does not make clear whether the C5 use means only one unit of temporary sleeping accommodation, or one or more units

A property used for short-term let accommodation could contain more than one short-term let "unit". The issue of properties containing more than one unit of temporary sleeping accommodation is raised in the DCMS consultation on

short-term lets registration, about what is to be registered (landlords, or properties, or units).

2. Para 20 of the consultation documents states that “we want to ensure that the definition of a short-term let use class for planning purposes captures the range of activities above” . That is a reference to Para 19 which states “Some short-term lets may be let out for a limited period while the owner themselves go on holiday. Others may be properties that provide for a series of lets for holidays etc. or very short-term overnight sleeping accommodation including renting an individual bedroom while the owners are in situ.” This at least implies that the existing dwellinghouse could be let out in whole or part. East Devon District Council considers the phrase “*that is not a sole or main residence*” is ambiguous and capable of more than one interpretation . Does it mean
 - a) the property is currently either a second home or is an investment property currently used for long term rental; ie this use class does not apply if the existing use is a dwellinghouse for sole or main residence?; OR
 - b) the temporary sleeping accommodation occupies all of the dwelling house (and therefore there is no residue that could be used as a sole or main residence)? OR
 - c) the temporary sleeping accommodation could be in part of a dwelling house (and therefore that part is not in sole or main residence) but the remaining part of the dwellinghouse could remain in use as a dwellinghouse? Some dwellinghouses are of sufficient size for part to be used as one or more C5 units, and for the residue of the property still to be able to be used as a dwellinghouse.

The District Council's main concern is if the short-term letting results in the complete and long term/permanent loss of a dwellinghouse. If part of an existing dwelling can continue to be used as a principal residence in the long term, then the Council's concerns focus on the impact on neighbours, not the impact on the wider community.

The definition of short-term lets for planning purposes has to be clear otherwise the proposals for PD rights and in particular the GPDO change proposed in paragraph 31b) from C5 back to C3 proposed will have unforeseen consequences. See the Council's response to Q4.

Government needs to consider carefully how to amend the definition so that its meaning is clear.

Q.4 Do you have any comments about how the new C5 short-term let use class will operate?

Yes/No/Don't know.

East Devon District Council is concerned that there will be a lack of control as a result of the definition (see response to Q3), in conjunction with the proposed PD rights for changing from C5 to C3. (see response to Q7).

A single C3 dwellinghouse changed to a single C5 unit could change back to C3 without having to apply for planning permission. This would not be a problem, especially as it would bring a unit back into long term, permanent use as a dwellinghouse.

But if, for example, a single C3 dwellinghouse changes to two C5 units (through planning permission or PD rights), it could then change back to two C3 dwellinghouses under PD rights if the GPDO was changed as proposed in para 31b). In doing so it would create one additional dwelling 'by the backdoor' without having to apply for planning permission for the subdivision of a dwelling, or change of use to 2 dwellings. The Council considers that the loss of local control by this circumvention of the planning system is unacceptable.

The Government needs to consider carefully how it can clarify the C5 use class definition so that its meaning is clear and unambiguous, and how to clarify the PD right proposed in para 31b) to ensure that in combination the C5 use class and the PD right do not result in the unintended consequence of providing an uncontrolled backdoor route to creating additional C3 dwellinghouses without proper planning control.

Q.5 Do you consider there should be specific arrangements for certain accommodation as a result of the short-term let use class?

Yes/No/Don't know.

East Devon District Council - No comment

Q.6 Do you agree that there should be a new permitted development right for the change of use from a C3 dwellinghouse to a C5 short-term let (a)

Yes/No/Don't know.

Introducing a new permitted development right adds to the Council's workload

East Devon District Council wants to have sufficient control over development where the change of use to C5 short-term lets would result in the loss of the long term use of a permanent dwelling house.

The Council agrees that if the new C5 use class is introduced there would be a need for flexibility in areas where short-term lets are not an issue. Without the PD right, the Council would have to determine more planning applications and this would increase the Council's workload, putting further pressure on its already stretched planning resources. The Council wants to have the local control to choose whether to remove

PD rights in areas where short-term lets are an issue (see our response to Q13). The issue could also be addressed in Neighbourhood Plans.

If the new C5 Use Class and new PD rights are introduced, the Council would have to carefully assess the resource implications of the means available to target any control. The Council requests that Government carefully considers how best it can enable LPAs to achieve such control without putting undue, onerous pressures on the Council's already stretched resources.

Q.7 Do you agree that there should be a new permitted development right for the change of use from a C5 short-term let to a C3 dwellinghouse (b)

Yes /No/Don't know.

East Devon District Council agrees that there should be a new permitted development right for the change of use of a C5 short-term let to a C3 dwelling house, but only if the C5 unit had previously comprised a complete C3 dwelling. Changing back to C3 would return that unit to C3 use. It might make the dwelling available for permanent residential use, through either adding to the dwelling stock or at least negating the temporary loss to short-term let. (Please see our response to Q9 on the need for the Council to monitor net changes to dwelling stock and HFRR statistical submissions to Government). Without the PD right, the Council would have to determine more planning applications and this would increase the Council's workload, putting further pressure on its already stretched planning resources.

However, the Council is concerned that this option could be used to create additional C3 dwellinghouses without the appropriate control through the determination of planning applications. See the Council's comments on Q4. The PD right should not enable additional dwellinghouses to be created without the submission of a planning application to the LPA.

Furthermore we have concerns if the right to change from C5 to C3 is unconstrained. In the countryside, the Council imposes conditions restricting holiday let use so that it cannot be used for C3 dwellinghouse purposes. It is unclear whether the proposed PD rights would override the previous planning condition.

Q.8 Do you agree that the permitted development rights not be subject to any limitations or conditions?

Yes/**No**/Don't know.

East Devon District Council is concerned about the potential impact of additional short-term lets in the AONBs in our district. The proposed PD rights relating to short-term lets should be removed from areas within the designated AONBs, thereby ensuring that the Council has local control in those areas.

Q.9 Do you agree that the local planning authority should be notified when either of the two permitted development rights for change of use to a short-term let (a) or from a short-term let (b) are used?

Yes/No/Don't know.

East Devon District Council is concerned that the proposal for a notification process relating to changes resulting from use of PD rights from C3 to C5 and vice-verse is unrealistic. If there is no effective mechanism to require notification or there are insufficient resources to enforce compliance then the Council will not have sufficient control. There is no planning fee, so the burden for checking compliance would fall on the Council. We consider that the scale of work needed to identify changes of use in the absence of notification would be substantial and likely to put a disproportionate pressure on our already stretched resources.

The Council considers that owners of the C3 and C5 units should notify the LPA in a reliable and timely way, that provides evidence about which properties or part-properties have 'flipped' between C3 and C5 (including a map and description of the change which makes clear the number of C5 units, not just the property). This will enable the LPA to monitor changes to the amount of residential dwellings and the short-term lets in the district. We need this evidence for our housing monitoring audit trail, to assess the net change in dwelling supply over the local plan period. We may need to apply planning judgement about whether the 'flip' does or does not lead to a loss or gain of a dwellinghouse.

As well as data used for monitoring the delivery of housing policy, the LPA also submits statistics annually to Government on gains and losses of dwellings. Government should consider the need to update the methodology/guidance for the Housing Flow Reconciliation Returns, and whether gains and losses from flips between C3 and C5 are included in the HFFR submissions, and on what basis gains/losses are to be recorded and counted as permanent or temporary.

Notification data about 'flips' between C3 and C5, for individual properties/ part properties is useful in providing information about changes to dwelling stock. But it does not provide information on the total number of dwellings or short-term lets at the housing monitoring point (31 March is the monitoring point each year for HFRR purposes. The tax year point of 5 April is used for SBRR purposes). The Council will therefore need a reliable starting point for the identification of individual C5 and C3 units in the District at the date when the legislation introducing C5 comes into effect, if this makes C5 uses 'lawful' for planning purposes at that point.

The Council is considering raising concerns in response to the DCMS consultation on the short-term lets registration scheme, emphasising the need for the Council to have access to and use of the data collected for registration for its planning, housing and tourism/economy functions. It is not sufficient for the Council only to have access to aggregated data (aggregated to District/Ward/Parish) as this would preclude our access to property specific data.

Q.10 Do you have any comments about other potential planning approaches?

Yes/No

The East Devon District Council's Tourism Strategy supports enabling quality developments by focussing on sustainability and accessibility. It strikes a good balance for an area facing some of the issues the current DLUHC consultation proposals are seeking to address. Linking this approach to planning policy is a way to maintain the supply of affordable housing which might otherwise be put forward for less strategy compliant short term let use.

An alternative approach would be to make the permitted change of use from C3 to C5 subject to a prior approval process for the number of days and number and type of units that could be let to be agreed. Transitional arrangements could then make it a requirement that in order to benefit from this permitted development existing short term lets have to apply by a certain date or the permitted development right does not apply and they default back to C3. Any future increase to the number of units or days to then be agreed via a subsequent application.

This could leave authorities with the option of saying prior approval is not required in areas where there is not considered to be an issue with short term lets and yet continue to monitor the situation with the required data to hand. Authorities could then respond saying prior approval is required where there is known to be an issue.

This approach would establish the acceptability of short term lets but ensure that the local planning authority maintain control over the extent of it in any given location with the ability to refuse prior approval where it would be harmful thus negating the need for an article 4 direction.

This approach would also ensure that the LPA understand what is permitted in each case and ensure appropriate enforcement can take place if the agreed number of days and number/type of units is exceeded. This approach would however create a substantial burden for local planning authorities and would require additional new burdens funding to start with a requisite application fee for the prior notification to cover the costs to the authority.

It would also ensure that the property owner has evidence about the property's planning status as C3 dwellinghouse or C5 short-term let accommodation. This would be essential for example if the property were being sold.

Q.11 Do you agree that we should expressly provide a flexibility for homeowners to let out their homes (C3 dwellinghouses)?

Yes/No/Don't know.

East Devon District Council considers that a blanket approach that requires planning permission for all changes from C3 housing to C5 short-term lets and vice versa is not appropriate. It would be unduly onerous and demanding on Council resources. Therefore the planning system needs to provide a degree of flexibility for homeowners to let out their homes. However, the need to clarify the definition of

short-term lets and the PD rights because of the risk that additional C3 dwellinghouses could be created without appropriate planning control is set out in our responses to Q4 and Q7.

Q.12 If so, should this flexibility be for:

- i. 30 nights in a calendar year; or**
- ii. 60 nights in a calendar year; or**
- iii. 90 nights in a calendar year**

- i. No
- ii. Yes
- iii. No

Of the three proposed PD flexibility options, the Council considers that a maximum of 60 nights total per year provides an appropriate balance between flexibility and control, and between reaping the benefits of short-term and holiday lets sustainably, and protecting the long-term interests of local communities and holidaymakers in East Devon. It also enables the homeowner to have realistic prospects of income from short-term lets in the context of East Devon and its tourism offer.

30 nights is just above the '28 day- rule' for the permitted development temporary use of land for any purpose without the need to make an application for planning permission. Net earnings from 30 nights per year may not be sufficiently attractive for some homeowners, particularly if the sector is regulated. Registration/administration and operational costs may deter them from making short-term lets available for only a few days a year. It is then likely that more planning applications for change of use to C5 would then be submitted, so that they can let the unit(s) out over a much longer period. A 30 nights' threshold would see a disproportionate increase in the LPA's development management workload compared to a 60 or 90 nights' threshold.

The Council considers that a 30 days threshold is more likely to trigger a significant number of planning applications and/or enforcement or retrospective applications, rather than deterring homeowners from using their property for short-term lets.

60 nights The Council considers that 60 nights provides sufficient flexibility. East Devon is a highly attractive area for tourism, culture and leisure. High season is linked to school holidays (about 13 weeks), ie late-July/August/early-September, Easter, Christmas and the half terms in February, May, October, as evidenced by the 'high season' tourist accommodation prices. The strongest demand for tourism accommodation, and therefore the ability to maximise income earned from short-term lets, is in the high season, but there are other opportunities to earn income. For example:

- 60 nights is 8.5 weeks, equating to about 65% of our high season. 100% occupancy is unlikely but 65% is realistic. It also enables the owner to enjoy some high season residency. If the resident homeowners are absent, and renting out for 65% of the high season, this could still provide them with a substantial income;

- Alternatively, where short-term lets target 'weekend breaks' then if the resident homeowners are absent every other weekend plus bank-holidays this would equate to 60 days in a year, and again provide a substantial income.

The Council is mindful that recent tax changes mean that second homeowners have to prove that their property is let out for at least 70 days a year in order to be able to apply to the Council to access small business (non domestic) rates relief. Otherwise they pay council tax, ie as a dwelling house that is used as a second home with PD short-term lets, not as a business for commercial letting. A 60 nights PD flexibility is still shorter than the timeframe for Small Business Rates Relief. Under the recent tax changes, the homeowner would already have to provide evidence to the Council that second home was rented out for holiday let for at least 70 days in calendar year in order to access SBRR. It would be helpful for data to be shared efficiently within the Council for monitoring purposes subject to data protection requirements.

90 nights is likely to encourage the retention of or development of additional short-term lets operating on a commercial basis, with the loss of housing for permanent residential use. The Council considers that more than 60 nights in total in a calendar year would extend the period of short-term let use to such an extent that it is akin to commercial letting. It reduces the time when the homeowner is living in the local community in the mid and low season, adding to the perception of 'hollowing out'. Consequently, the Council considers that more than 60 nights would mean that the property is no longer being used as a 'residential home'.

Q.13 Should this flexibility be provided through:

- i) **A permitted development right for use of a C3 dwellinghouse as temporary sleeping accommodation for up to a defined number of nights in a calendar year**
- ii) **An amendment to the C3 dwellinghouse use class to allow them to be let for up to a defined number of nights in a calendar year.**

East Devon District Council prefers option i) ie flexibility provided through the permitted development right. This allows the LPA to choose whether to control the use in locations where short-term lets are an issue. We do not want any uncertainty to be added to the existing operation of Use Class C3.

Q.14 Do you agree that a planning application fee equivalent to each new dwellinghouse should apply to applications for each new build short-term let?

Yes/No/Don't know.

East Devon District Council agrees that a planning application fee equivalent to each new dwelling house should apply to each and every new build short let unit. The fee needs to be realistic in covering the costs of administering and processing the

planning application, mindful of the impacts to be assessed, and the likely concerns about the development. We anticipate such applications may generate a significant number of responses from the local communities.

Again, there needs to be clarity about the term 'short-term let'. Does this refer to the property, which could contain more than one temporary sleeping accommodation unit, or does it mean each and every temporary sleeping accommodation unit.

Q.15 Do you agree with the proposed approach to the permitted development rights for dwellinghouses (Part 1) and minor operations (Part 2)?

Yes/No/Don't know.

There appears to be no reason why short term let properties should not benefit from these permitted development rights other than where the proposed extension or alteration would create additional self-contained letting units. If this is not controlled then new dwellings could be created "by the back door" if there is to be a permitted development to move from C5 back to C3.

Q.16 Do you have any further comments you wish to make on the proposed planning changes in this consultation document?

Yes/No

It is difficult to comment on these proposals in the absence of more information on the extent of short term lets in the district and some analysis of the impacts it is having. There may therefore be some benefit in introducing a registration scheme in the first instance so that this can be better understood and evidence gathered of the extent of the issue before considering changes to the planning system.

Local planning authorities would only ultimately gain control over short term lets if they make an Article 4 direction, however these are costly and time consuming to make and require substantial evidence that can only be obtained through the registration of short-term lets. In addition compensation could be due where permission is refused or greater restrictions imposed by condition than would otherwise have applied. The cost and resource implications for local planning authorities through this approach is therefore substantial and may prevent authorities from being able to act even where it can be demonstrated that short term lets are causing issues.

Q.17 Do you think that the proposed introduction of the planning changes in respect of a short-term let use class and permitted development rights could give rise to any impacts on people who share a protected characteristic? (Age; Disability; Gender Reassignment; Pregnancy and Maternity; Race; Religion or Belief; Sex; and Sexual Orientation).

Yes/No/Don't know.

Q.18 Do you think that the proposed introduction of the planning changes in respect of a short-term let use class and permitted development rights could impact on:

- a) businesses**
- b) local planning authorities**
- c) communities?**

Yes/No/Don't know.

a) **Businesses** Yes, the proposals will require homeowners, including second homeowners, wanting to use their property as a business ie for commercial short-term lettings to apply for planning permission for C5 use where the number of days exceeds the PD threshold. Limiting the PD rights to 60 days mitigates the impact, enabling the use to encompass much of the high season in our area. It's too soon to be able to provide a representative view from NNDR registered holiday accommodation providers and representative visitor economy organisations as they're still formulating their own responses. But the East Devon District Council responses set out in this submission is a balanced approach.

b) **Local planning authorities**, - Yes, there will be resource implications for the LPAs. Planning fees should cover the costs related to relevant planning applications, but otherwise there is no provision for other costs related to PD rights, making of an Article 4 direction, monitoring and compliance/enforcement.

c) **Communities**, Yes, communities should benefit from greater control of short-term lets, but their expectations will need to be managed regarding changes arising from PD rights.