

Report to: **Strategic Planning Committee**



Date of Meeting: 5 September 2023

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Exemption applied: None

Review date for release N/A

Housing numbers in the East Devon Local Plan

Report summary:

This report presents information around potential for not basing housing numbers in the East Devon Local Plan on the outcomes of application of the Government standard method for assessing housing need. It is highlighted that there is an option to plan for less housing, however there is little evidence to suggest that a robust case could be made and taking such an approach places the local plan at substantial risk of not being found sound at Examination.

We would though caveat matters by stressing that this conclusion is based on national planning policy as it exists at the time of writing this report. Should the current Government (or a future Government) amend national policy then matters may change.

Is the proposed decision in accordance with:

Budget Yes No

Policy Framework Yes No

Recommendation:

1. That Members reconvene active local plan preparation and work on the basis, for the time being, of providing sufficient housing to meet the Government standard method.
2. That should Government policy change and provide sufficient flexibility for a differing housing level then matters should be reviewed to determine whether an alternative approach is applicable, appropriate and desirable and can be successfully achieved in the East Devon local plan.

Reason for recommendation:

To enable local plan making to progress in a timely manner, albeit with flexibility built in to review policy and housing provision should this be relevant.

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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 draft local plan from November 2022 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. Introduction

1.1 There is a standard method established for calculating housing needs to be accommodated in local plans. The standard method calculates a minimum number of homes that should be planned for taking into account factors such as household growth. It has always been possible to seek to deviate from this need figure, however to plan for less has always been very challenging.

1.2 Strategic Planning Committee on the 9 June 2023 [Printed minutes 09th-Jun-2023 10.00 Strategic Planning Committee.pdf \(eastdevon.gov.uk\)](#) resolved:

3. Following consultation with the Chair and Vice Chair of Strategic Planning Committee a further detailed report outlining the risks associated with trying to present a case that there are fundamental constraints in a local planning authority areas that the required numbers cannot be acceptably accommodated be brought to a future Strategic Planning Committee meeting and the options that the Strategic Planning Committee may take on board when considering appropriate housing need be brought to committee as soon as possible be agreed.

1.3 This report addresses the matters raised in this resolution, specifically considering housing need matters and constraints in East Devon to accommodating housing

growth. This report also comments on the risks associated with not planning to accommodate standard method housing numbers.

- 1.4 Further on in this report it is made explicitly clear that 'need' and 'constraints' are two very different considerations that should not be merged or mixed together when establishing housing numbers in the local plan, to do so would be inconsistent with the NPPF.

2. Background behind the standard method

- 2.1 The standard method for calculating housing numbers was first adopted by Government in 2018 and there have been subsequent changes. The standard method applies to all planning authorities in England with qualifications/exceptions in respect of National Park Authorities and Mayoral Development Corporations. It exists and functions within the context of the Government's objective for 300,000 new homes to be built per year in England by the mid-2020s. Over recent years build levels have been lower than this figure, for example in 2021/22 the figure was 232,816. Taken across England, as a whole, the standard method generates a collective need output that is about 300,000. Or to put it another way, if each authority saw development occurring each year to align with their standard method figure then there would be around 300,000 new homes built each year, i.e. the Government target would be met.
- 2.2 Advocates of the standard method consider that it recognises the need for housing and provides a positive mechanism for development amid an environment where many are saying we are facing a housing crisis. Amongst other positive benefits highlighted by supporters is that its application saves time, resources and debate at local plan examination shifting the focus away from questions of numbers (which are suggested as being a national rather than local concern) towards questions of how and where to build new homes (which are cited as being local concerns).
- 2.3 It is certainly the case, particularly prior to the standard method, that many local plan examinations spent many hours of time testing local plan housing numbers not just in terms of the evidenced need, but also how that need is to be met through supply and in justifying the policy on housing requirement. This is often at great expense through lengthy employment of specialist consultants, as well as extensive calls on Office resources.
- 2.4 Critics of the standard method, however, argue that it is a blunt unfocussed tool that owes more to mathematical convenience than to coherent planning. Many challenge the actual need for as many as 300,000 to be built each year across England (though some say more than this should be built). At more local levels there are concerns raised over whether the houses that need to be planned for under the standard method are really needed in any given locality and whether the characteristics of specific locations and areas make them suitable and appropriate to accommodate resulting levels of development.
- 2.5 There is also a broader criticism that the standard method skews housing provision to more southerly and often more affluent areas of England (especially to the south east

and London) and as such it sets an agenda that runs counter to objectives of encouraging investment and regeneration in poorer areas including (but very definitely not exclusively) many midland and northern parts of urban England.

- 2.6 These criticisms of the standard method may have some merit, however these arguments would need to be made through political routes to try and instigate changes to the standard method or its withdrawal. It is not appropriate to seek to challenge government policy through a local plan examination. Although technically appointed by the government; the planning inspector would be tasked with examining the soundness of the plan against government policy. It is not the role of the inspector to consider whether government policy itself is sound.

3. Housing needs and housing requirement

- 3.1 In any debate on housing numbers in a local plan it helps to use some basic terms. In this context we classify two distinct (albeit inter-related) reference terms, these terms are used throughout this report:

- a) **Local housing need** – this is the number of homes which comply with Government policy and guidance for assessing the annual need of the district. This figure is unconstrained by any debate around whether it is seen as reasonable or possible to accommodate this number (for example debate around whether credible development sites actually exist). The number is an output from the Government's standard method. The Government expects us to use the standard method, although a justified (i.e. evidenced) alternative method can be used but only in exceptional circumstances.
- b) **Housing requirement** – this is the figure set out in strategic policy in the local plan for net total housing growth for the plan period for East Devon. This takes into account the number of homes that can actually be supplied and delivered through the plan and also factors in unmet need coming into East Devon and any unmet need going out to adjoining areas in the event that arrangements were agreed for this to occur under the duty to cooperate.

- 3.2 The above considerations (especially the first one – housing need) were explored in some detail in a paper to Strategic Planning Committee on 22 June 2021 [5. Housing Policy Matters - v2.pdf \(eastdevon.gov.uk\)](#) and the many detailed matters raised in this paper are not repeated here, though key summary points are highlighted again. At this June 2021 committee meeting it was resolved:

“3. That the questions raised in paragraph 6.3 of the report were considered and commented on and the consideration to not challenge government standard methodology at this time to help to inform officers' work in developing a housing strategy for the new local plan was agreed.”

- 3.3 It is stressed at this point, and before further commentary, that the above matters reflect Government policy at the time of writing this report. Should the NPPF change then the above considerations, as explored in more detail below, may also change.

a) Local housing need

- 3.4 In respect of local housing need anyone can discuss and set out a position for what they consider to be an appropriate level of housing that they think is needed in any given area. But for local plan making purposes, and in order to comply with government policy and guidance, the housing need figure that we use (to get a sound plan but noting the qualifier below) must be based on the standard method - this forms the starting point for the housing requirement in the plan.
- 3.5 Only in exceptional circumstances could we use an alternative to the standard method. If the alternative approach results in a lower housing need figure than the standard method, we need to demonstrate that the figure is based on realistic assumptions of demographic growth and market signals and that there are exceptional local circumstances. These circumstances, to justify deviating from the standard method, must be about demographics and population and household modelling. Government Planning Practice Guidance (PPG) clearly signals that any deviation will be tested at the local plan examination. Bearing the above in mind it might be read that the Government are dictating a number to the council - in a sense they are and they have the legislative basis to do so (they write the 'rule book'!).
- 3.6 PPG makes it very clear that local housing need assessment is 'unconstrained'. That is, the assessed need does not take into account constraints on supply or the ability of an area to support the level of need (i.e. the Government standard housing method number). Constraints should only be considered once a housing need has been identified. We can expect the Inspector at the local plan examination to check very carefully that the evidence needs figure which the local plan housing requirement policy relies on is unconstrained.
- 3.7 The determining factor is **not** whether alternative measures of what is needed are felt to be objective, rigorous or analytical' or what level of local support they may appear to have through consultation. What is the determining factor, and therefore the test that should be applied (and a planning inspector can be expected to rely on), is whether the alternative method uses "*robust evidence*" and whether the resultant local housing need figure is "*based on realistic assumptions of demographic growth and that there are exceptional local circumstances*".
- 3.8 Noting the above; the need factor (the outputs from the standard method) can be challenged, but challenges would need to rest on the robustness and accuracy of figures that have been fed into the standard method formula, not arguments about the relevance or how sensible or applicable the formula is felt to be for East Devon (or anywhere else).
- 3.9 In a housing study for the Council (and partners) [East Devon, Exeter, Mid Devon and Teignbridge Local Housing Needs Assessment 2022](#) (LHNA 2022) consultants ORS looked into potential for possible data errors, and therefore the scope to raise challenge, see Appendix A in their report, which advises at paragraph 32 that:

“... The evidence set out in this appendix indicates that there is no evidence exceptional circumstances apply in East Devon due to erroneous data, so there are no grounds for seeking a lower housing needs figure. ...”

- 3.10 At their 7 October 2022 meeting Strategic Planning Committee endorsed the use of the evidence in the 2022 Local Housing Needs Assessment for plan making and development management. [Printed minutes 07th-Oct-2022 09.30 Strategic Planning Committee.pdf \(eastdevon.gov.uk\)](#)
- 3.11 The LHNA 2022 evidence report was however published before the publication and availability of 2021 census data. With the publication of the new census results there might be new data that can be interrogated and/or applied, in or through assessment. New data might, however, see numbers going up, rather than down, or perhaps see little or no changes. If we wanted to look into this matter it would require employment of specialist consultants to investigate and in doing so it could result in time delays in plan making and would cost money. We would then also have to reconsider the implications of housing requirement based on ‘need’ for delivery of affordable housing and the ability to house the workforce.
- 3.12 The assessment of local housing need is the starting point for determining the housing requirement policy figure. Housing need must be established and confirmed through the evidence base and planned for. The 946 dwellings per year figure for local housing need (LHNA 2022 footnote 37) therefore informed the housing requirement figure in Policy 3 in the Regulation 18 Draft Local Plan which the Council published for consultation starting on 7 November 2022
- 3.13 As set out in PPG, we should keep the local housing need number under review. The Office for National Statistics published updated housing affordability information on 22 March 2023. This is used by the standard method. At their meeting on 9 June 2023, Strategic Planning Committee noted that the local housing need figure for East Devon, as calculated by the standard method, is now 910 dwellings per year. Members are advised that the data used by the standard method is updated annually by ONS, and the local housing figure can therefore change each year. So we can expect to see the next revised figure, if it changes and notwithstanding possible NPPF changes, in March 2024.
- 3.14 The affordability uplift figure is based on comparative assessment of wage levels and the cost of housing in any local authority area. In the case of East Devon this affordability uplift adds significantly in number terms to overall housing numbers generated by the standard method. Committee should, however, be aware that a great many local authorities in England see a substantial uplift in numbers from this as well.
- 3.15 The consultants Lichfields provide useful comparative data on affordability ratios and wider housing numbers across England [Standard method for local housing needs - April 2022 \(lichfields.uk\)](#). From the Lichfields assessment Committee will note that a great many local authorities in England see a substantial uplift in numbers and taking southern England as a whole the affordability ratio figure in East Devon is not

especially high or in any other respects a stark outlier, it's more or less comparable with most southern England local authority levels and lower than every London authority level, bar Barking and Dagenham.

- 3.16 It should also be noted that in the 20 most populous cities/urban areas in England a further 35% uplift is added to housing numbers; many city/urban authorities arguably, therefore, face a much bigger challenge in accommodating housing than the non-city/urban authorities. This additional uplift does not apply to East Devon.

b) Housing Requirement

- 3.17 The housing requirement is the figure that we actually put in the local plan and set out in strategic policy. It takes account of constraints and supply issues as well factors such as whether or not there has been any agreement to assist in meeting the housing needs of other authorities under the duty to co-operate or whether others have agreed to help address any of East Devon's housing need. For the purposes of this report and keeping things simple, it is assumed that this will not be the case. As a result the main factor here is the ability of East Devon to accommodate the identified local housing need.
- 3.18 Under current Government policy there is scope to present a case that housing need numbers cannot be acceptably accommodated. So we could take the position that we recognise the total need (as discussed above) but we are of the view that we cannot acceptably accommodate it. Such a case would need to rest on matters around there being insufficient potential development sites or the sites that exist are so unsuitable that they should not be developed or it might be that there are unresolvable delivery challenges or otherwise there are non-resolvable infrastructure capacity considerations. These matters are explored further in this report, though to satisfy an inspector at Examination that a policy requirement figure lower than the evidenced need figure is appropriate there would need to be an extremely clear and compelling case to demonstrate that all possible options to accommodate growth have been fully explored and robustly discounted.
- 3.19 Put quite simply presenting conclusions (without compelling evidence behind them) such as:
- we felt some of the proposed development sites were not great; or
 - consultees did not like the levels of growth proposed; or
 - the health service can't cope; or
 - waste water systems cannot accommodate additional flows;
 - the growth would change the character of East Devon in negative ways; or
 - development would have adverse impacts on wildlife or the landscape
- Or any combination of the above, would be highly unlikely to satisfy a planning inspector that it is appropriate to plan for lower than the evidenced housing need numbers.
- 3.20 In any consideration of whether we can meet (Government defined) need levels Committee are reminded that we produced a consultation draft local plan that did just that.

- 3.21 To further refine our evidence base on housing delivery work is underway on forecasting housing delivery from completions on large site commitments from planning permissions and adopted plan allocations. This will inform the 2023 Housing Monitoring Update. There will be further work to forecast completions on emerging local plan site allocations. We will add these to completions to date since 2020, small sites commitments and forecast windfall completions. The combined supply delivery 'trajectories' produces the district's year on year forecast of supply to 2040. This will show how much housing is 'deliverable' or 'developable'. It will also show the degree of supply flexibility across the plan period. We will need audit trails to evidence site selection and duty to cooperate actions and outcomes.
- 3.22 One possible tempting but likely to be flawed option would be to recognise the housing need number in the local plan but to not plan explicitly for its delivery, for example by not allocating sufficient sites, but instead giving a general steer on where they may be built. In this context the NPPF states that the local plan's policies "*should identify:*
- *Specific, deliverable sites for years one to five of the plan period. and*
 - *Specific, developable sites or broad locations for growth, for years 6-10 and, where possible, for years 11-15 of the plan*".
- 3.23 PPG says that the local plan may be able to satisfy the tests of soundness where it has not been able to identify specific sites or broad locations for growth in years 11-15 (and logically years 16+). But to do so carries risks which are best avoided by identifying sufficient sites. Otherwise, we can expect a local plan Inspector to look very critically at the justification and effectiveness (i.e. deliverability) of the housing requirement policy and in particular our evidence about the following:
- Why can we not identify sufficient supply
 - How much do we rely on longer term sites – are there reasonable prospects that they are likely to come forward in the timescale envisaged
 - How do we justify individual sites' delivery forecasts
 - How will we manage the risk of non-delivery of supply over the long term
 - How can we demonstrate plan flexibility
 - What are the implications if we do not have a healthy supply forecast for delivery up to 5 years after plan adoption or had persistent under-delivery
 - How big is the supply shortfall
 - And, in particular, what does this mean for unmet need
- 3.24 It is suggested, therefore, that we should not work on the basis of not allocating sites for delivery in years 11 to 15 of the plan. Where this approach has been applied elsewhere it has been reliant on commitment to early plan review as a way to resolve undersupply for the plan period. However, it is not a panacea for addressing the difficult issues. Whilst PPG does encourage commitment to plan review we cannot use this to resolve matters critical to the current plan's strategy or legal compliance. In the past, a few Local Plans were found sound conditional upon a review, in whole or part, within five years of the date of adoption. This was, however, only used as a way to address some uncertainty towards the end of the plan-period if the plan's shortcomings were not critical to its soundness or legal compliance as a whole.

Reviews are now required every 5 years and so realistically an early review is never going to be much earlier than one would be required in any event.

- 3.25 The expected result of insufficient supply is that an inspector would instruct the Council to go away and come back with a plan that does accommodate the housing need (we simplify and arguably make cruder the wording that an inspector might use). Or else an Inspector could just say the plan is not sound and therefore it cannot proceed to adoption. The associated risks of not identifying sufficient supply in a local plan include:
- Pressure on resources at Examination e.g. responding to Inspectors questions;
 - Extending the examination and increasing its costs to the Council;
 - Extra resources to identify and consult on additional sites during examination in order to make the plan sound;
 - Delay in the plan being found sound, if it can be made sound;
 - Speculative applications for development in less appropriate locations; and
 - Not having an adopted local plan if it is found not sound.
- 3.26 The only alternative approach to an East Devon under-supply at this time is for the Council to conclude that the evidenced need cannot be met and so we should be asking others to accommodate some of our need.

4. What creates the need for extra housing and quantifying numbers

- 4.1 Notwithstanding the issue of the national method and numbers it generates and constraint matters, it is felt relevant to highlight some considerations around the need for planning for housing development. This is specifically noting that many respondents to the local plan consultation raised matters relating to levels of housing development – many advocated lower levels of development though some (less) advocated higher levels.
- 4.2 The need for extra new housing is primarily generated by the fact that population levels change over time as do the rates and patterns at which households form in the population. Population changes in any area occurs through:
- Births and deaths – whilst fluctuations occur over time demographers largely agree on likely future patterns of population change;
 - In and out migration – numbers are more hotly debated around this subject area; and
 - People are living longer.
- 4.3 Based on projected population changes it is possible, looking at rates at which households form and taking into account such factors as the element of the existing population that is inadequately housed, to make projections of future housing that may be needed or seen as appropriate. This demographic approach to quantifying future housing requirements is long established and widely applied (it forms part of the Government standard method although this specifically requires the use of ONS 2014-based household projections).

- 4.4 It is pointed out, however, that in East Devon there has been higher levels of housing built in recent years than in preceding decades and higher levels of inward population migration. High levels of in-migration in recent years feed through into future demographic modelling outputs. We might expect these to be used in the future to establish higher levels of need into the future. Or to put it more bluntly if lots of houses have been built in recent years then, subject to changes to the method to assess need, modelling generates outputs that indicate higher levels needed for the future. In contrast if little or nothing has been built in recent years then future needs will be much lower, hypothetically at least they could actually be negative. Barrow in Furness is a local authority where mathematical modelling outputs have shown a negative population growth and so the housing requirement for the housing delivery test was therefore set at zero.
- 4.5 East Devon District Council, along with partner authorities, employed consultants ORS to look into housing need matters in 2022 [East Devon, Exeter, Mid Devon and Teignbridge Local Housing Needs Assessment 2022](#) This wide ranging report addressed matters around the nature and types of housing that would be appropriate for future provision in East Devon..
- 4.6 The ORS report assesses and quantifies matters to include:
- a) Affordable housing needs - including current unmet need and need going forward;
 - b) Differing types of affordable housing needed;
 - c) Needs of households aspiring to home ownership;
 - d) Overall housing levels generated from demographic modelling and how this compares to standard method outputs (and some possible implications – especially for population in-migration);
 - e) Size needs of new houses – by bedroom numbers, including for affordable housing;
 - f) Housing for older people; and
 - g) Housing for people with disabilities.
- 4.7 In assessing the different types of needs, the report does take into account the latest available sub-national household and population projections (2018 based). The ORS work has formed a fundamental part of the evidence base used to inform policies in the draft local plan. It is relevant to highlight that data in the ORS work relates to East Devon as a whole. Data for smaller scale geographies becomes increasingly less robust as population sizes decrease. So, for example, it would be highly statistically questionable to attribute need numbers to individual towns or settlements in East Devon in a robust manner – perhaps with the possible exception of Exmouth and maybe (questionably) some of the larger towns. It is also highlighted that the ORS modelling indicates that if the number of houses generated by the standard method are actually built the expectation would be that this would enable increased rates of net in-migration into East Devon, above that of the 2014 based projections.
- 4.8 In considering issues of housing in East Devon, and the population of the District and their wants and aspirations, it is important to recognise a number of important considerations around the provision of new housing development. In part drawing on

work commissioned by the Council and dated August 2020 undertaken by the consultants ORS

[201020bpitem9adrafthousingneedsineastdevonappendix1orsaug2020.pdf](#) we would highlight that:

- a) People need to live in homes and houses. Having a decent home to live in is critical to health and wellbeing.
- b) There will continue to be people moving into the District from elsewhere. Some will be from nearby (lots of residents of Cranbrook, for example, previously lived in Exeter). East Devon will however (very probably) remain a popular place for people to move into from other parts of the country. We need to recognise that there is an ongoing reality of in-migration into East Devon from the rest of the UK that is outside of the control of planning (international in-migration rates into East Devon are low).
- c) Related to the issue of in-migration is the fact that most dwellings that are moved into each year are not new homes, they are already existing, 2nd hand or pre-owned. Except in limited cases, where planning conditions or legal agreements constrain occupancy (such as for affordable properties), these properties are sold or rented in the open market and the planning system has no constraints over who may buy or occupy them.
- d) In practical terms it is very difficult to restrict occupancy of new houses that are built if they do not fall into the affordable category. Some Neighbourhood Plans in England have policy in place that require new homes to be occupied for 'full time principal residence' but these do not have local connection requirements. We are not aware of any local plans (with the exception of some in National Park authorities) that have successfully adopted policy applying some kind of 'local's restrictive policy test'. There is no evidence of Government policy actively supporting such an approach (absence of reference suggests the contrary – officer expectation would be for clear resistance) and it is debatable whether (perhaps other than in exceptional cases) it would be desirable or what it may actually achieve in reality or what 'knock-on' impacts may arise.
- e) Supplying affordable housing is a critically important concern in East Devon and most affordable housing comes through the planning system via developments that are built by private sector developers building open market houses; the affordable element constitutes a developer contribution. If overall housing numbers were lower then it could reasonably be expected that affordable housing delivery would fall. This also reduces the local plan's policy figure for the affordable housing requirement which evidence could justify as deliverable.
- f) The work of the Council's Housing Task Force focuses on facilitating a step change in the delivery of new affordable and social housing units across the district. This is to include direct development on purchased land and on EDDC or HRA (Housing) land, estate regeneration, and the acquisition of pre-built homes via the open market or in bulk from volume builders. Evidence of future

delivery of affordable housing by these routes would supplement the forecast of affordable housing delivery achieved through contributions from market housing development. Nevertheless, planning obligation contributions are still expected to be the main supply of affordable housing for the emerging plan.

- g) In the open market houses are priced according to matters of supply and demand and this applies to new houses as well as second hand houses. Whilst some people can't afford open market housing (hence the need for affordable housing) it is clear that many can and choose to do so. Building new houses is therefore part of the supply picture that meets many people's needs and aspirations. Furthermore under basic economic theory prices are determined by matters of supply and demand – this points towards supplying/building more if the aspiration sought is to see lower house prices (albeit some suggest more fundamental economic considerations are really the driver of high house prices in the UK, in comparison to some other western countries). Current market conditions may trigger some short-term price falls but constraining supply as the economy recovers and demand strengthens will inevitably drive up house prices in the long term. This reduces local affordability and is therefore likely to be counter-productive (assuming we wish to see prices fall).
- h) Our evidence shows that most new homes moved into have three bedrooms or less (they are not mansions). The ORS survey report work advises, in respect of the property size respondents moved into that - 4% were one bed roomed, 24% two bed roomed, 41% three bed roomed. Less than a third (31%) had four bedrooms or more.
- i) The ORS work indicates that houses built on bigger development sites (in comparison with smaller development sites) have accommodated a greater percentage of people that moved in from a previous address that was in East Devon, Exeter or neighbouring authorities, as opposed to from further afield. This is with the exception of single dwelling developments; though often single dwelling developments will be very expensive to build/purchase.
- j) Building new homes can be very positive for both the wider and local economy. Many people are employed in building trades and building supply sectors.

4.9 Debates around house building are, therefore, clearly broader than just the possible negative impacts a development scheme may have or that it may be perceived will result.

5. Constraints to development in East Devon

5.1 In this section of this report we specifically look at constraints in East Devon. These matters are not, therefore relevant to any debate around housing need, but they do apply specifically to questions of can need numbers generated be acceptably accommodated and therefore could the housing requirement be adjusted accordingly.

5.2 NPPF stresses the importance of bringing forward a sufficient amount and variety of land where needed for sustainable development. A key question for the local plan is therefore whether the physical and environmental constraints in East Devon alone or in combination with development capacity (including viability and deliverability) are such that the evidenced housing need cannot be met. If so, the housing requirement number in local plan policy would then be less than the need figure. The housing requirement would then be a constrained and capacity-based target. We would need very robust evidence to show how all options to reduce the unmet need figure have been exhausted. Officers consider that this could potentially be a strategic matter where the Council should consider Duty to Cooperate implications.

5.3 Government expects its planning policy on housing to be implemented at the local planning authority level across England. NPPF states that strategic policies in the local plan “*should provide a clear strategy for bringing sufficient land forward, and at a sufficient rate, to address objectively assessed needs over the plan period, in line with the presumption in favour of sustainable development.*” That presumption is set out in NPPF and it applies to plan making for meeting housing needs unless:

- application of policies that protect areas or assets of particular importance (as identified in NPPF**) provides a strong reason for restricting the overall scale, type or distribution of development in the plan area; or
- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in NPPF taken as a whole.

** The policies referred to are those in NPPF (rather than those in development plans) relating to: habitats sites (and those sites listed in NPPF paragraph 181) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, a National Park (or within the Broads Authority) or defined as Heritage Coast; irreplaceable habitats; designated heritage assets (and other heritage assets of archaeological interest referred to in NPPF footnote 68); and areas at risk of flooding or coastal change

5.4 Government planning policy is written with the expectation of housing delivery in accordance with the presumption in favour of sustainable development. At this time, officers conclude that planning authorities with capacity constraints that are so significant that their area’s housing need cannot be accommodated are likely to be the exception, not the norm. Indeed, few local planning authorities are so constrained.

5.5 In looking at constraints in East Devon, factors that might be seen as planning relevant and limiting potential for accommodating growth, are highlighted below.

Landscape designations and landscape sensitivity

5.6 Measured by physical land area the landscape designations of East Devon may be seen to be a big or the biggest constraint to development. In the table below we set out AONB coverage in the District.

AONBs in East Devon	Area in Hectares	Percentage of East Devon covered
Dorset AONB	15	0.02%
Blackdowns AONB	19,982	24.26%
East Devon AONB	26,910	32.67%
Total extent of AONB's	46,907	56.94%
Total extent of East Devon	82,376	

- 5.7 The table shows that AONBs cover just under 57% of the District - though noting that the District boundary runs down to the mean low water mark. If we were to measure East Devon to the high tide mark (or at little higher) the percentage AONB coverage would increase, but not substantially – it would be around a single percentage point noting, for example, the extent of inter-tidal areas in the Exe Estuary.
- 5.8 It is recognised that 57% AONB coverage amounts to a lot of land, around 46,907 hectares (around 190 square miles), but the 43% that is not AONB is also very large, around 35,469 hectares (144 square miles). Even if we deducted all developed land in the District from this total it would still leave a very large amount of undeveloped land.
- 5.9 With respect to AONBs the designation does not prohibit development and is not intended to do so. Clearly landscape impacts, and avoiding or minimising adverse impacts, form a very important consideration when examining scope for potential for development in AONBs. However, well-designed schemes that are built with the right materials and, if appropriate, well screened can result in nil or limited negative impacts. It is appreciated that this might be more challenging for larger scale developments but this is countered by the fact that parts of our AONBs where the draft local plan does make AONB allocations includes land with a distinct urban/built-up edge abutting them and such areas do not have a sparse rural character. This can be a significant consideration when looking at ability to accommodate development. We are though mindful of NPPF paragraph 177 that references considerations applicable to major developments in AONBs and tests of acceptability of development around circumstances being exceptional and development being in the public interest.
- 5.10 Development site assessment that supported the local plan placed considerable weight on landscape assessment considerations and the draft plan does not actually allocate that much land for development in AONBs. With respect to smaller scale sites proposed in AONBs it would be envisaged that development would support local needs and in this context can be looked upon in the context of, for example, the East Devon [AONB-Partnership-plan_lowres_final.pdf \(eastdevonaonb.org.uk\)](#) that advises: *“A vision for planning and development - The special qualities of the AONB landscape are protected, enhanced and conserved by planning policies which are robust enough to ensure that development is both appropriate and compatible with the national importance of the landscape.”*
- 5.11 In consideration of whether the AONB designations are a uniquely (or even exceptional highly) constraining factor in East Devon it is relevant to note that 57%

coverage (as found in East Devon) is not the highest level of AONB coverage of local authority areas in England, we understand there are greater percentage levels elsewhere.

- 5.12 As a parallel comparator we can also look at Green Belt designation coverage noting that Green Belts, although performing a very different role and function from AONBs, do place constraints on scope for development, in fact more so than AONB designation. Government policy was written within the context of knowing how much of local authority areas the Green Belts cover (tabled in this report is a list of the 10 LPAs with the highest percentage) and in so doing the Government were clearly expecting housing targets to be met. It can be reasonably surmised that the same consideration can be applied to planning authorities containing AONBs – i.e. having AONB designation (even if 57% coverage) does not mean that numbers should not be met,
- 5.13 Beyond the AONBs (and actually within them and in visually connected areas beyond) we use techniques such as Landscape Sensitivity Assessment to inform choices about development options and to explore landscape value and its susceptibility to adverse impacts from development. We used landscape assessment to consider the suitability of proposed allocations in the draft plan, and for assessing alternative options, and selected sites on the basis of the chosen options being less susceptible to seeing adverse impacts arising (other factors dependent – see below).

Biodiversity designations and sensitives

- 5.14 Whilst East Devon has a rich biodiversity resource, including large sites of international importance, the designated site cover only a relatively small extent (measured in percentage terms) of the whole of East Devon.
- 5.15 As part of our overall policy approach we are required, under the Habitat Regulations, to take potential impacts on the most important sites specifically into account and this has required specific programmes of mitigation in respect of potential adverse impacts on the Exe Estuary, the Pebblebed Heaths and the River Axe.
- 5.16 In selecting sites as proposed allocations for development we have sifted out possible options that fall on or immediately adjacent to designated sites. It is acknowledged that the draft Local Plan proposed large scale development within 10km of the Exe Estuary and East Devon Pebblebed Heaths where evidence shows that the recreational impacts of new housing in these locations has a detrimental impact on these habitats. We have however been delivering a mitigation strategy to address these impacts for a number of years and through emerging work on a revised mitigation strategy to accompany the new Local Plan all indications are that these impacts can continue to be mitigated. This will however need to be fully assessed through completion of the strategy and a full assessment of the completed plan under the habitats regulations.
- 5.17 In assessing sites we have also taken into account available information of presence of protected species and wildlife value more generally. Furthermore, with policies of Biodiversity Net Gain coming into effect (and avoidance of development at or on

sensitive sites) the net impacts of development on wildlife should be limited or nil or actually positive if net gain works

- 5.18 Given the extent of East Devon that is not wildlife site designated we would not see it possible to sustain a case that wildlife interests are so significant to justify not meeting need numbers.

Historic environment

- 5.19 Designated heritage assets can provide a strong reason for restricting the overall scale, type or distribution of development. These assets comprise World Heritage Sites, Scheduled Monuments, Listed Buildings, Protected Wreck Sites, Registered Parks and Gardens, Registered Battlefields or Conservation Areas.
- 5.20 East Devon has a rich historic legacy including over 3,000 listed buildings (54 of which are Grade I), over 100 Scheduled Monuments, 34 Conservation Areas and the Jurassic Coast World Heritage Site. Despite this, evidence prepared to inform the Draft Local Plan (specifically the Sustainability Appraisal and initial site assessment work) showed that the housing requirement could be met without causing significant adverse effects on the historic environment. Noting that further, more detailed work on site assessments is ongoing, including in response to consultation responses on the Draft Local Plan.
- 5.21 However, whilst we have many assets we do have lots of land that is not affected by such assets or where sensitive development should not lead to adverse impacts and in some cases enhancement of assets and setting may be possible through development. We would not see, based on current assessed evidence, that historic environmental constraints are such to not plan to meet housing need figures,

Infrastructure constraints

- 5.22 The delivery of infrastructure alongside housing development is vital in creating sustainable communities. Transport, utilities connections, and habitat mitigation are often critical in allowing development, whilst people should be able to access facilities such as education, health care, open space and play facilities on a day-to-day basis.
- 5.23 Several statutory organisations raised issues in consultation on the Draft Local Plan that need to be considered, such as National Highways on the capacity of the road network to accommodate proposed housing development, the NHS on hospital and GP capacity, and Devon County Council on education infrastructure requirements.
- 5.24 Concerns have been raised about the impacts of further development on waste water systems and the consequences of not being able to adequately accommodate additional flows including storm discharges of sewage in streets and into watercourses as well as off the coast of the district. Clearly these impacts are not acceptable. Work is underway in understanding the impacts of further growth on these issues but there will be an engineering solution to these issues and so they are unlikely to stand up to scrutiny if we seek to present them as an absolute barrier to growth.

- 5.25 As Local Plan making progresses, we will need to undertake detailed assessment of infrastructure needs and how we plan for their provision. However, infrastructure issues can generally be resolved as long as the need, cost and timing are clear, and developers/ landowners are aware of the contribution that development must make. Also infrastructure providers plan in new provision into their future plans based on projected development and population growth. Furthermore issues of lack of services and facilities are not a uniquely East Devon concern, anecdotal evidence, at least, points for example to the NHS being stretched across the whole of England, so it is very difficult to see ground to oppose development on many infrastructure capacity constraint considerations in East Devon when really they are national challenges and limitations.
- 5.26 In summary infrastructure capacity and opportunity matters can and should inform the spatial distribution of development and particular site choices for allocation but we do not see, based on current evidence, a case for infrastructure capacity issues preventing housing need levels being accommodated.

Will development be commercially viable and be built?

- 5.27 Another key piece of future evidence work for the Local Plan is a viability assessment. This proportionate assessment will compare the costs of development (including land, build costs, policy requirements such as affordable housing, and infrastructure costs) with the returns from selling new homes. Assessing the viability of plans does not require individual testing of every site or assurance that individual sites are viable. We use site types to determine plan viability at the plan making stage. We can also undertake site specific viability assessment for sites that are critical to delivering the strategic priorities of the plan such as large sites, or sites that provide a significant proportion of planned supply
- 5.28 The purpose of these viability assessments is to ensure that the plan's policies are realistic.) The assessments will be part of the suite of evidence we use to show that there are reasonable prospects that the forecast housing supply is deliverable in the plan period and therefore that the housing requirement policy is 'effective' (i.e. it can be delivered).
- 5.29 What we do know, in East Devon, is that sites are developed and there is commercial value in the development process. House building levels in recent years are in line with those that are generated by the standard method and whilst there are no guarantees that every single allocated site, or any specific site, will be developed we have no reason to believe that development in the District will be commercially unviable and fail to replicate build levels of recent years.

Will developers want to build at the levels or rates of building envisaged?

- 5.30 Some respondents to the Local Plan consultation were concerned that developers land bank (holding on to the land waiting for it to rise in value), have intentional delays and have slow build rates in order to control and constrain supply in order to achieve higher

house prices and profits. Developer responses state that they respond to market conditions. The Letwyn report looked at the issue of build rates. The draft analysis report in June 2018 could not find evidence of major house-builders as the kind of financial investor speculating over future land values. The main findings in the final report in October 2018 were that:

- On large sites in areas of high demand the slow build rates are driven by the homogeneity of the types and tenures of homes on offer, and the limits on the rate at which the market will absorb such similar products.
- 'Build out rate' on small sites is intrinsically likely to be quicker than on large sites.

5.31 We are in the process of collecting and analysing information about the future timing, scale and rate of development specific to East Devon. The Council will be expanding its evidence on housing delivery forecasts to include the site allocations in the emerging plan as well as existing commitments and windfalls. This process includes engaging with builders, developers, and landowners before Council makes decisions about the Regulation 19 Publication plan stage, to understand their aspirations for site delivery and for the Council to forecast delivery of sites. We will use the evidence to justify the housing requirement policy and show that it is deliverable.

5.32 As part of the audit trail of evidence, we can use Statements of Common Ground between the Council and individual site developers/landowners. Their purpose is to provide evidence for the examination about the 'reasonable prospects' of delivery of housing development in the plan period. This is not about guaranteeing development. It is about having an understanding of the site delivery trajectories (lead in times and build rates) and site capacity sufficient to show how many housing completions might be expected and when, at an appropriate level of certainty. There will be some sites where the Council's view of delivery forecasts differs from the views of developers/landowners. We use our evidence to explain why.

5.33 We have to justify our forecasts of individual sites and the combination of sites. In accordance with NPPF the plan should be aspirational but deliverable. Both the individual site trajectories and the combined trajectory for the district are vital to demonstrating that allocations and strategic policy on housing requirement are deliverable and meet the tests of soundness. So we apply a degree of caution about forecast lead-in times and build rates, and have evidence audit trails consistent with PPG. At the same time, given that long term economic cycles encompass boom and recession, our local plan housing trajectory to 2040 should not be dictated by the current housing and economic crises or short term trends.

How might we consider cumulative impacts across differing constraints?

5.34 We use evidence to assess cumulative impacts in order to assess the balance of harm and benefits from housing growth under the NPPF presumption in favour of sustainable development as applied to plan-making. The principal evidence which we would need to rely on to assess cumulative impacts would include:

- Sustainability Appraisal/Strategic Environmental Assessment

- Site Selection methodology
- Heritage Impact Assessments
- Biodiversity Assessments
- Climate Change Assessments
- Health Impact Assessments
- Transport Assessments
- Viability Assessments

5.35 Evidence about the assessment of cumulative impacts will need to be brought to members for their consideration in a separate report. The updated housing topic paper will also need to reach conclusions about the balance between harm and benefits when justifying the amount of housing requirement to be set out in strategic policy in the local plan.

5.36 Our work to date, however, does not present evidence of a case that cumulative impacts are so severe that need levels cannot be reasonably accommodated. Indeed we do not see a case, in general, of significant cumulative adverse impacts occurring and also, as commented in this report, possible negative impacts of development need to be seen alongside possible positive impacts.

6. What have others tried and levels of success

6.1 We have looked at four types of places which are particularly constrained to identify what lessons can be learned, and whether such circumstances apply to East Devon.

6.2 The first type are the National Parks where the National Parks and Access to the Countryside Act 1949 applies. National Parks are plan-making local planning authorities and so they are 100% covered by this designation. That Act effectively takes priority over NPPF. Also, the standard method for assessing local housing need does not apply to National Parks. The upshot is that this typically results in far lower housing need having to be met in these local planning authority areas. And by default their 'unmet need' is effectively absorbed by other LPA(s) in the relevant housing market area. At this time, nowhere in East Devon is within a National Park.

6.3 The second type are in the larger cities, in particular those in London and in the West Midlands

- London is unique in England in retaining regional plan-making powers. The London Plan is a Regional Spatial Strategy and was adopted by the Greater London Authority in 2021. It determines the level of housing requirement in each London Borough. The annual housing requirement in the plan is 52,000 based on evidence that realistic supply of land is limited in the capital, which is much lower than the 86,000 that would result from the Standard Method (March 2022 data). Actual delivery has been even lower with a high point of 41,000 in 2019/20. Many boroughs are highly constrained by administrative boundaries and their neighbours, and by Green Belt. How to address London's unmet need has been an issue for many decades, and has previously driven the post-war New Towns programme and London overspill schemes.

- West Midlands - LPAs in the Greater Birmingham and Black Country Housing Market Area (GBBCGMA) have been grappling with how they might assist Birmingham in addressing its 37,000 dwellings shortfall (unmet housing need). No consistent or coordinated approach has been used to define and test the appropriate level of unmet housing need which should be addressed. For example
 - Solihull has taken a capacity-led approach to determine its contribution to Birmingham's unmet needs (mindful that Solihull met its own LPA area needs).
 - By contrast, North Warwickshire Local Plan considered the proximity, connectivity and strength of functional inter-relationships with Birmingham to suggest that it was not appropriate to meet a Birmingham need in North Warwickshire; an approach which the Inspector supported.
 - A similar approach to North Warwickshire was endorsed by the Inspector for the Stratford-on-Avon Core Strategy 2016 in distributing Coventry's unmet needs across the Coventry & Warwickshire HMA. The Stratford-on-Avon Inspector stated that *"To take an extreme example there is no point trying to meet the unmet needs of Birmingham in Glasgow because the socio-economic links would be lost."* This implies it would be illogical to meet an HMA's needs markedly beyond that HMA, if there is no or little functional relationship. The inspector concluded that *"a co-ordinated approach under the DtC needs to agree the precise parameters for any relationship but, as the PAS guidance infers, this needs to take account of policy and practical constraints. For example some Greater Birmingham authorities might not be able to fulfil their share of the unmet need arising from an approach that simply considered the functional relationship, whether because they are substantially built-up, and hence have the same capacity constraint as Birmingham, or for policy reasons, such as Green Belt"*.

6.4 Recent Government consultations suggest that Government is considering how to boost supply, particularly within the major urban areas, through higher densities and intensification. This could potentially reduce or at least avoid increasing the level of unmet need from those areas that would need to be accommodated elsewhere. But this does not automatically mean that East Devon's needs would decrease, as we are outside their housing market areas.

6.5 The third type are smaller, tightly constrained cities. Cambridge, Worcester, and Oxford are relevant examples. Each has a tight administrative city boundary plus tight, inner Green Belt boundaries (only in the north at Worcester), plus extensive historic cores and/or significant areas of flood zone 3. Their Local Plan inspectors have previously accepted that these LPAs are unable to accommodate all their housing need within their administrative boundaries. But there are consequences. Unmet need in the first two cities was met through effective collaborative, joint planning which met the Duty to Cooperate. Meeting Oxford's unmet needs appears to be somewhat tricky, with the South Oxfordshire Local Plan for example progressed to adoption in 2020 under a Direction from the Secretary of State.

6.6 The fourth type are local planning authorities outside and adjoining the edge of London that are almost completely covered by Green Belt (which we do not have). The table below show the 10 authorities with the most Green Belt. (Source House of Commons Research Briefing Report February 2023 - Number 00934)
<https://researchbriefings.files.parliament.uk/documents/SN00934/SN00934.pdf>

Local authorities with the most Green Belt		
By percentage of total area, as at 31 March 2022		
	Green Belt (km ²)	% of total area
1 Tandridge	233.1	94%
2 Epping Forest	316.8	93%
3 Sevenoaks	344.0	93%
4 West Lancashire	310.3	90%
5 Bromsgrove	193.1	89%
6 Brentwood	133.0	87%
7 Guildford	226.4	84%
8 York	224.1	82%
9 Windsor and Maidenhead	162.7	82%
10 St Albans	131.5	82%

Source: DLUHC, [Local authority green belt statistics for England: 2021-22](#), Accompanying tables

6.7 The top 3 on that list really show just how important it is to evidence housing supply, to show how any unmet need is to be addressed, and to consider the consequences of not doing so (they also show what really big constraints can look like):

- Epping Forest Local Plan was adopted under transitional arrangements, but this was achieved because part of its objectively assessed need is being met elsewhere in the relevant housing market area
- Tandridge Local Plan is at Examination (at the time of writing this report), under transitional arrangements. The submitted Local Plan does not seek to meet the objectively assessed needs for housing in full and there are significant outstanding matters of soundness on supply, greenbelt and spatial strategy. The inspector has stated *“I do not see how the examination can realistically progress to a positive outcome. I am of the view that I should now complete my report and issue it to the Council. This will close the examination. The report will conclude that the Local Plan is unsound and will recommend that it is not adopted”*. A procedural meeting was held at the end of July 2023 because the inspector could not see a route to soundness for the Local Plan and there remain significant challenges. The outcome is awaited.
- Sevenoaks District Council withdrew their Local Plan in November 2022 following the Inspector’s report March 2020. This found:
 - There was a failure to comply with the legal Duty to Cooperate which necessitated a halt to the Examination proceedings.
 - The Duty to Cooperate Statements of Common Ground do not demonstrate that effective and joint working has been undertaken,

particularly in respect of unmet housing need, nor do they document the progress made in co-operating to address this.

- The Council did not engage with its neighbouring authorities on this matter at the appropriate time.

- 6.8 Unlike Oxford, Cambridge, and Worcester. East Devon is not a constrained city. Nor do we have Green Belt. We are far less constrained. Whilst we do have extensive areas/assets of particular importance there are also extensive areas in East Devon not covered by such constraints (see section above on landscape designations and landscape sensitivity). As a result the second NPPF test is applicable. This means that for our plan-making we have to consider the overall balance of the adverse impacts and benefits of accommodating housing growth, in the context of NPPF policy.
- 6.9 Except for National Park Authorities and Mayoral Development Corporations, nearly all Local Plans recently adopted or in progress have relied on the Standard Method to assess their Local Housing Need. There are a few Authorities that have successfully departed from the Standard Method to increase their Local Housing Need figure (this includes Oxford, although they cannot accommodate all of their needs). **At this time Officers are unaware of any plan making authorities in England who have successfully used an alternative method which reduced their housing need figure.** We are aware of plans currently at Regulation 18 stage that are considering using alternative methods which would lead to below Standard Method need (e.g. Birmingham). This would still raise Duty to Cooperate issues.
- 6.10 In the past, cross-boundary questions to distribute unmet housing need were addressed by County Councils or Regional Planning Bodies through Structure Plans and by Regional Spatial Strategies. The current approach of 'localism' now relies on individual LPAs doing the heavy lifting for this task under the Duty to Cooperate. In particular, neighbouring authorities have to consider who should accommodate unmet housing need. There is no single, definitive, approach either to compel an adjoining authority to take on board that need, nor to determine the proportion of unmet need that they should seek to accommodate.
- 6.11 If there is objective evidence of unmet housing need from East Devon or other LPAs we would need to consider the following:
- a) How we work with other authorities in addressing this strategic cross boundary matter; and
 - b) How to take account of the strength of the functional relationship between potential 'recipient' LPAs and the 'deficit areas', to justify an apportionment of unmet need between the authorities;
- 6.12 This would require collaborative arrangements including joint evidence methodology and analysis. These would need to be considered by this Committee because of their strategic implications, and therefore one or more reports would need be brought to this Committee to develop and approve the collaborative working mechanisms.

7. Summary of options and risks associated with NOT planning to accommodation local housing need figures (standard method or alternative)

7.1 In this report we have commented on a number of issues around and options associated with not proceeding with the standard method need figure in the East Devon Local Plan. We summarise key options below (based on the NPPF/Government policy as it exists of the time of writing this report) that relate to not planning for provision:

- a) **Need** - If we sought to raise challenge on the issue of using the standard method to calculate the local housing need (subject to the possibility of new census data changing matters) officer expectation is that an inspector would reject the council's position. It would be contrary to our own evidence. We have (through specialist consultants) tested the standard method need assessment and have identified no flaws in the demographic and market signals data/outputs.
- b) **Capacity of East Devon overall** – Taking East Devon as a whole officer expectation is that, subject to forthcoming evidence, the District does have the capacity to accommodate the scale of development to meet the level of need generated by the standard method. We would not see it as being a likely proposition that an Inspector would be convinced that any single capacity constraint, or the collective constraints in the District, are such as to make it impossible to not reasonably (in the context of Government policy requirements) to deliver the housing requirement subject to forthcoming trajectory evidence about housing delivery and viability. Nor that the evidence would be likely to show that the harm from accommodating that level of housing development significantly outweigh the benefits, when assessed against the NPPF as a whole.
- c) **Site suitability capacity constraints** – For the draft local plan we set out allocations that have capacity to address the standard method housing numbers. These sites have been rigorously assessed and whilst few could be classified as ideal land to develop, and some have some clear constraints or weaknesses, officers would regard the sites as acceptable options to allocate for development (acceptable within the context of explicit and quantified Government expectations for growth). If some proposed allocations 'drop-out' of the supply side on further assessment officers would be of the view that there are others that could be acceptably allocated instead.
- d) **Potential to seek agreement for others to take East Devon housing** – Whilst we have not asked directly we have no reason to believe that any neighbouring planning authority would wish to choose to accommodate East Devon housing need figures. Furthermore to credibly ask them to do so (that is credibly within the eyes of a planning inspector at Examination) we would have to demonstrate that we cannot accommodate the development.

Risks associated with not planning for standard method housing numbers

- 7.2 If the Council considers that it has a watertight case that housing needs cannot be acceptably met in East Devon, having exhausted all options and informed by robust evidence, then it would be credible to take the Council position into a submission plan to be tested by an Inspector at Examination. Officers' interpretation of matters is, however, that the Government have produced national policy on the basis of considering it would only be in rare and very unusual circumstances that such a position could be demonstrated, we cannot see that East Devon, despite its qualities and sensitivities, is just such an unusual case. Or to put it more bluntly if such a case exists in East Devon then the expectation is that a great many other local authorities would be in the same bracket and it would be widespread for housing numbers to **not** be met. Quite clearly Government did not write national policy with this expectation and planning inspectors would not be examining plans with this expectation.
- 7.3 Members are reminded that the Council should only submit a plan for examination if the Council considers that the plan meets legal tests and the tests of soundness.
- 7.4 Given issues around seeking to demonstrate a case for not accommodating standard method housing need numbers there are a series of risks and wider concerns that we would highlight:
- a) **Being told by an inspector to go away and do more work** – at the plan examination, in the absence of not meeting need figures, there is the very real likelihood that an Inspector would advise that the Council should go away and do more work identifying sites to allocate to meet needs and to then come-back when there are enough sites identified with reasonable prospects of delivery in in the plan period to meet that need.
 - b) **Having a non-sound plan** – plans can and do fail at Examination on tests of soundness. If we do not plan to meet housing needs (including if we fail after further searches for land) then an Inspector could be expected to recommend that the plan should be withdrawn or more directly write a report advising that the Plan is not sound and it should not be adopted.
 - c) **Having a plan that fails to pass a legal test which cannot be rectified at Examination** - plans can and do fail at Examination on legal tests. In particular, plans have not met the Duty to Cooperate on cross boundary strategic housing matters. In such cases the Inspector has no option but to recommend the plan should be withdrawn, so it cannot be adopted.
 - d) **Delays in having an adopted plan** – if a plan does not proceed to and through examination to adoption, even if delayed, for example pending further site identification work, we will face increasing time delays in having an up to date plan and as such increasing likelihood of speculative planning applications coming in. If we do not grant permission we could expect increasing levels of planning by appeal. This same consideration can occur if a plan for other reasons spends a protracted amount of time at Examination.

- e) **Plan failure on account of new plan making deadlines** – committee are reminded that the Government have advised that plans under the current plan making system need to be adopted by December 2026. Anything that delays plan making could take us beyond this deadline and so risks above and below may come into play.
- f) **Long term lack of a five year land supply** – having an adopted plan is a key means to show a five year land supply. Delays in plan making and lack of a plan and lack of five year land supply would exacerbate risks of speculative applications and planning by appeal.
- g) **Cost implications** – the plan examination and planning appeals can be costly and having either an aborted or long winded examination or planning appeals could have significant cost implications for the Council.
- h) **Losing control over development** – a local plan gives the Council a strong degree of control over locations, character and form of development and matters around coordination of and delivery of infrastructure. By not having a local plan in place we start to lose some (potentially a large part) of this control. In this context committee are reminded of the positive benefits that good quality development should deliver (applying local plan policy should be a key means to ensure good quality development occurs).
- i) **Reputational concerns** – not having a plan in place, with the negatives that can result, could result in significant negative reputational impacts. These particularly arise from the lack of a 5 year housing land supply and loss of control factors mentioned above.
- j) **Not providing appropriate housing in East Devon** – whilst the capacity of East Devon to accommodate housing and belief in the standard method might be real concerns it is beyond any reasonable doubt that there is a need for at least some new housing. This particularly includes affordable housing and housing designed for special needs. Not having a local plan could weaken control over providing particular forms of housing.
- k) **The Government may ‘impose’ a local plan on the Council** - whilst it’s probably unlikely (or at least may take some time to happen) the Government have powers to intervene and appoint a third party to produce a plan ‘on-behalf’ of a planning authority.

7.5 We would stress, therefore, that there are a range of direct and related risk concerns that can be seen to be associated with not producing a plan that meets standard method housing numbers.

8. Conclusions

- 8.1 Officer conclusion is that whilst there may be real concerns about the scale of housing development generated by the standard method, and real concerns around potential for adverse impacts, we do not see that we have a case to resist applying national policy.
- 8.2 Our current evidence does not demonstrate exceptional local circumstances to justify using an alternative approach to the standard method for calculating the Local Housing Need, which is the starting point for justifying the East Devon housing requirement policy figure for the plan period. 'Exceptional local circumstances' are a planning judgement but only demonstrated in terms of demographic trends or housing market signals. These may be 'exceptional' by being unique in type or scale in the country. It is unsurprising that 'exceptional local circumstances' apply to only a few LPA areas in England.
- 8.3 Whilst it is recognised that there are valid concerns around some possible negative impacts of development we should not lose sight of the fact that development can have real positive benefit, not least that having a decent home to live in is critical for health and wellbeing.
- 8.4 We do write, however, in the context of national policy as it exists at the time of producing this report. If national policy changes then it would be reasonable to review matters and it might be appropriate to consider an alternative local plan approach, should any future changes so allow.

9. Looking ahead

- 9.1 Committee will be aware that the Government, in early 2023, consulted on an initial round of potential changes to the NPPF. The Government are also taking the levelling-up and regeneration bill through Parliament. This new legislation (assuming it passes through Parliament), when (or perhaps even before), coming into force could then result in a further changes to the NPPF or other aspects of Government policy.
- 9.2 On the 14 February 2023 Strategic Planning Committee agreed a response to Government following consideration of paper to committee [Agenda for Strategic Planning Committee on Tuesday, 14th February, 2023, 10.00 am - East Devon](#) , on consultation on the proposed first tranche of changes to the NPPF.
- 9.3 Amongst other matters the consultation explicitly asked “Q.8: *Do you agree that policy and guidance should be clearer on what may constitute an exceptional circumstance for the use of an alternative approach for assessing local housing needs? Are there other issues we should consider alongside those set out above?*” The consultation was therefore presenting opportunity to challenge local housing need. That said there was lack of clarity in the consultation around whether the Government were really interested in (or expecting comments about) just housing need as generated from applying the standard method or to what degree it was inviting comments around

capacity matters. That said, in asking a question you open it up for anyone to respond in the way they see fit!

- 9.4 In the consultation that was undertaken there were two examples given that appeared to fall (mostly) into the need category – around local characteristics which may justify the use of an alternative to the standard method. One related to high student population numbers and the other was in respect of islands with a high proportion of elderly people. In both cases (students and elderly people) it is potentially possible that demographic considerations ‘skew’ modelling outputs. For the ‘islands’ reference we as officers have taken this in literal terms to comprise an area of land separated from others by water. Under this definition there are two local planning authorities out of 333 in England that are entirely island based - the Isle of Wight and the Isles of Scilly.
- 9.5 Further to the issue of whether it is “need” (as opposed to capacity) that the Government regard as being up for debate the consultation also advised *“We would welcome views on the sort of demographic and geographic factors which could be used to demonstrate these exceptional circumstances in practice”*.
- 9.6 Perhaps the ‘geographic’ reference does indicate a Government interest in more than modelled needs outputs and in this context the consultation does go on to advise of three very specific constraint considerations:
- Building at densities that would be significantly out-of-character with the existing area;
 - Green Belt considerations;
 - Issues of past over supply of housing against past plans for development.
- The above, however, would not apply in an East Devon context (and the third appears more ‘need’ than ‘constraint’). We do not have a Green Belt in East Devon and we have not over-supplied against past plan targets.
- 9.7 The density factor is considered to be relevant where a local authority comprises largely of already developed land with the few or the only green spaces being public parks, gardens, playing pitches or the like. Some London boroughs and some major cities/metropolitan areas fall into this category. Whilst it may (in some cases at least) not be felt to be desirable to build on green fields in East Devon we clearly do have lots of greenfield non-developed land. Building on such land, outside the built up areas of existing settlements, would not impact on density levels, In fact development that expanded the physical extent of a town outward could actually lower overall density levels for the town as a whole (when taking into account the newly developed land areas).
- 9.8 A major challenge we face is, in considering the above, is that we do not know when (or even if) changes to national planning policy may be made and what they may finally say. The Government had originally advised that a new NPPF would be issued in spring 2023. More recent comments now indicate an autumn 2023 publication may occur but it could be that any changes, if at all, could be later than this.

9.9 There clearly is an option of not making any further progress or undertaking further work on the local plan until new Government policy or even legislation is in place. Though such waiting is not recommended in this report and could have impacts on the ability for the Council to produce a plan under the current plan making system (noting there is Government consultation currently underway on a new plan making system).

Financial implications:

There are no direct financial implication resulting from the recommendations

Legal implications:

There are no legal implications requiring comment.