

# Agenda for Strategic Planning Committee

## Wednesday 29 March 2017, 2pm



### [Members of the Strategic Planning Committee](#)

**Venue:** Council Chamber, Knowle, Sidmouth, EX10 8HL

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- 1 [Public speaking](#)
- 2 [Minutes of the Strategic Planning Committee meeting held on 20 February 2017](#)  
(pages 3 - 7)
- 3 Apologies
- 4 [Declarations of interest](#)
- 5 [Matters of urgency](#) – none identified
- 6 To agree any items to be dealt with after the public (including press) have been excluded. There are no items that officers recommend should be dealt with in this way.

### **Matters for Debate**

- 7 **Planning and conversion of rural buildings** (pages 8 - 16)  
The briefing note seeks to provide Members with a more detailed understanding of current planning policy in relation to the conversion of rural buildings to permanent residential use and explain how planning and related applications are considered.
- 8 **Community Infrastructure Levy (CIL) – Governance** (pages 17 - 29)  
The report makes recommendations to formalise arrangements for the governance of CIL income and expenditure.
- 9 **Housing monitoring and Five Year Land Supply Calculations** (pages 30 - 79)  
The report updates the Committee on the latest housing completion figures and projections, and the latest Five Year Land Supply position.
- 10 **Planning Obligations Supplementary Planning Document (SPD)** (pages 80 - 153 )  
The report seeks agreement for further consultation on a revised SPD in light of the feedback and recommends that if no substantive comments are received that the SPD be approved by Cabinet.

11 **East Devon Self-build and Custom Build Register (pages 754 - 175)**

The report makes recommendations in light of changes to regulations governing the self-build and custom build register, which all local planning authorities have had a duty to compile since 1 April 2016.

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[Decision making and equalities](#)

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## **EAST DEVON DISTRICT COUNCIL**

### **Minutes of a meeting of the Strategic Planning Committee held at Knowle, Sidmouth on 20 February 2017**

#### **Attendance list at end of document**

The meeting started at 2.00 pm and ended at 3.35 pm.

#### **\*32 Public speaking**

Members of the public who had indicated their wish to speak were invited to address the Committee.

Allister Bibey a resident of West Hill spoke on minute 35 - Publication East Devon Villages Plan. Mr Bibey questioned whether the date that the new Built-up Area Boundaries (BUAB) defined in the Villages Plan become a policy consideration should be from 23 February 2017. He said the recommendation to change the BUAB had not been published in any consultation documents and households in West Hill were unaware of this proposal. Existing building rights should not be removed without notifying property owners who would be affected.

Robert George a resident of West Hill spoke on minute 35 - Publication East Devon Villages Plan. Mr George stated he originally supported the revisions to the BUAB for West Hill so long as he could mitigate any damage to his property value incurred by developers; if the BUAB was removed he cannot. He said the BUAB protects people now and in the future and wished it to remain as it was until the consultation had finished.

#### **\*33 Minutes**

The minutes of the Strategic Planning Committee meeting held on 17 January 2017 were confirmed and signed as a true record.

#### **\*34 Declarations of interest**

Cllr Philip Skinner; Minute 35

Interest - Personal

Reason: Knows the owner of Greendale Business Park

#### **35 Publication East Devon Villages Plan**

The Service Lead – Planning Strategy and Development Management presented the Villages Plan which had reached an advanced stage of preparation and was considered ready for 'Publication'. The report sought recommendation from the Committee to Council for pre-submission consultation on the Plan. The detail of the proposed Publication Plan was set out in the report together with a summary of work carried out to date and consultation undertaken. The proposed Publication Villages Plan was included with the agenda for consideration.

Discussions included the following:

- The Villages Development Plan Document should be the primary policy for BUAB's for Development Management purposes as it is at an advanced stage of preparation and ready for submission for examination.
- Developments on sites affected by the boundary review should be considered on a case by case basis having regard to the emerging DPD with appropriate weight being apportioned depending on the extent of objection to the relevant boundary.
- People maintain the sustainability of villages

- In East Budleigh the BUAB does not show 2 new exception sites
- The Villages Development Plan Document is part of the development plan alongside the policies of the Local Plan. They should be read together and decisions should be taken in accordance with both.
- Members noted the boundaries to Greendale and Hillbarton Business Parks which are for information to show the extent of authorised business uses at the sites but do not form BUAB's. It was proposed that a similar boundary for information be drawn around the business units at Hogsbrook Farm as well.

Members requested that additional text be added for Colyton; (in *italic*)

- 5.1 Colyton has a good range of services and facilities that serve a wide rural area. *It benefits from employment opportunities both in the town centre and the wider town.* It is an historic settlement with a large conservation area and numerous listed buildings (around 60 Listed Buildings in the Conservation Area).
- 5.2 Colyton has a small but diverse town centre which meets many of the day to day needs of local residents and the wider rural population. Such provision within the town is an incentive for local residents to support their local economy, build a thriving community and reduces the need to travel to other shopping centres by car. A healthy and vibrant local shopping centre helps to contribute towards the objectives of sustainable development.
- 5.3 The majority of the business premises are located around the Market Place although there are a small number elsewhere in the town centre. The main risk to the vitality of the area is the loss of business premises to residential uses and any erosion of shops and services would undermine the viability of the town centre and its functional importance as a meeting place and draw for tourism. Policy Colyton 01 – Town Centre Vitality will help to protect the diversity and vitality of the village centre.
- 5.4 *The BUAB encompasses a variety of uses, including valued employment sites such as the former Ceramtec buildings. The Local Plan includes policies that are relevant to the redevelopment of such areas, particularly Strategy 32 – Resisting Loss of Employment, Retail and Community Sites and Buildings (Appendix 3).*

## **RECOMMENDED**

1. that Council approves the East Devon Villages Plan (and documentation that underpins the Plan) being 'published' for a period of six weeks to allow formal comments to be made subject to the above amendments to the Colyton section and the addition of a boundary to show for information the extent of authorised business uses at Hogsbrook Farm,
2. that following the six week period the East Devon Villages Plan be submitted for examination together with any comments received during that period,
3. that the Built-up Area Boundaries defined in the Publication Villages Plan, from 23 February 2017, be used as primary policy for development management purposes instead of the boundaries on the inset plans included in the previously adopted Local Plan.

**36 Honiton Sports Pitch Strategy**

The Service Lead - Planning Strategy and Development Management presented the report which updated the Committee on responses to the latest consultation on the Honiton Sports Pitch Strategy. Members noted that adoption of the Strategy would identify the Council's preferences for how the pitch issues highlighted by the Playing Pitch Strategy and the new pitches required should be delivered. Adoption would help achieve greater access to funding opportunities and implementation of plans. The Council's role would be as facilitator, working with clubs towards realising their projects.

**RESOLVED:**

1. that the comments received in response to the latest consultation on the Revised Draft Honiton Sports Pitch Strategy and the officer responses to the comments as detailed in the Consultation Statement be noted;
2. that Members note the resourcing requirements necessary to deliver the strategy.

**RECOMMENDED:**

that the Honiton Sports Pitch Strategy be adopted for use corporately across the Council to help inform service delivery, investment priorities and as guidance/evidence in determining planning applications.

**\*37 Neighbourhood Plan update**

The Service Lead - Planning Strategy and Development Management briefed Members on the recent ministerial statement on Neighbourhood Planning and its practical implications relating to Neighbourhood Planning and the five-year housing land supply. The statement was to be taken into account as a material consideration in considering the housing supply position across the district and the weight that can be attributed to housing restraint policies within neighbourhood plans were the Council unable to demonstrate a 5 year housing land supply. It strengthened consideration of adopted Neighbourhood Plans in the decision making process in the event of a housing supply position of less than 5 years but greater than 3 years supply of housing land. Members also noted the on-going hard work of the 40 neighbourhood planning groups currently preparing plans for their communities.

Discussions included the following:

- Villages should be made viable
- LGA regard Neighbourhood Plans as the building blocks of Planning
- Neighbourhood Plan committees where a plan is made or at an advanced stage would not want to start the plan process again if they now decide to include allocation of sites

Councillor Mark Williamson proposed that the Chairman thank Claire Rodway, Senior Planning Policy Officer and Tim Spurway, Neighbourhood Planning Officer for their hard work.

**RESOLVED:** that the following be noted:

1. the potential implications of the recent ministerial statement on Neighbourhood Planning.
2. the progress of Neighbourhood Plans across the district, and the overall current provision in Neighbourhood Plans for approximately 110 houses on allocated sites beyond Local Plan provision.

**38 Pre-application charter and other planning related fees**

The report sought agreement of a revised pre-application Charging Schedule and Customer Charter and to the introduction of further planning related fees to cover the costs of the services provided. Details of proposed charges and comparison with neighbouring authorities' fees were included in the report.

**RECOMMENDED:**

1. that Council be recommended to agree the changes to the Pre-application Charging Schedule and Customer Charter - attached as Appendix 2 to the report;
2. that Council be recommended to introduce the further planning related fees as per the charging schedule - attached as Appendix 3 to the report.

**\*39 Housing viability issues: Vacant Building Credit, Overage provisions and Rent to Buy housing products**

The report outlined three key issues affecting housing viability negotiations – namely, Vacant Building Credit, overage and Rent to Buy housing delivery models. Each of these issues had the potential to impact on viability negotiations and so a clear steer was sought from members on the approach that the Council should be adopting.

**RESOLVED:**

1. that the approach that Vacant Building Credit (VBC) will be considered on a case by case basis be endorsed but that, other than in exceptional circumstances, the following criteria shall be applied:
  - VBC will only be granted where it would help to secure the redevelopment of vacant brown-field land or buildings
  - VBC will not be granted where land has been purchased for redevelopment and a 'vacant' period of time is a normal part of the development process
  - VBC will not be applied when the 'vacant' period is a policy requirement for demonstrating the land is no longer required for its current use
2. that the approach that overage (also known as 'claw-back') clauses will be applied to all planning permissions where viability information has resulted in a less than policy compliant amount of affordable housing being accepted, be endorsed. Overage will be applied to all applications, including single-phase developments, and will be applied without any periods of deferral or other restrictions;
3. that the re-worded principles to drafting overage clauses as detailed in the report be endorsed;
4. that the emergence of Rent to Buy housing delivery models be noted and endorsed as one of the options that can be considered as part of viability discussions as affordable housing, but only where more traditional forms of affordable housing are not viable or in other exceptional circumstances and where it will meet a local need.

**Attendance list**

**Committee Members:**

Councillors

Andrew Moulding - Chairman

Peter Bowden – Vice Chairman

Susie Bond

Peter Burrows

Jill Elson

Graham Godbeer  
Mike Howe  
Geoff Jung  
David Key  
Philip Skinner  
Brenda Taylor  
Mark Williamson

**Also present (present for all or part of the meeting):**

Councillors:

*Paul Diviani*  
*Geoff Pook*  
*Colin Brown*  
*Jenny Brown*  
*Brian Bailey*  
*Tom Wright*  
*Peter Faithfull*  
*John Dyson*  
*Helen Parr*  
*Alan Dent*  
*Roger Giles*

**Officers present (present for all or part of the meeting):**

Mark Williams, Chief Executive

Ed Freeman, Service Lead – Strategic Planning and Development Management  
Henry Gordon Lennox, Strategic Lead – Governance and Licensing  
Matt Dickins, Planning Policy Manager  
Linda Renshaw, Senior Planning Policy Officer  
Graeme Thompson, Planning Policy Officer  
Rachel Danemann, Development Enabling and Monitoring Officer  
Jamie Quinton, Planning Officer  
Amanda Coombes, Democratic Services Officer

**Apologies**

**Committee Members:**

Rob Longhurst

Chairman ..... Date.....

**Report:** **Strategic Planning Committee**

**Date:** 29 March 2017

**Public Document:** Yes

**Exemption:** None

**Review date for release** None



**Agenda Item:** 7

**Subject:** **Planning and Conversion of Rural Buildings to dwellings**

**Purpose of briefing note:** This Briefing Note seeks to provide Members with a more detailed understanding of current planning policy in relation to the conversion of rural buildings to permanent residential use and explain how planning and related applications are considered.

**Recommendation** **1. That Members consider the briefing note outlining the current policy position relating to the conversion of rural buildings to permanent**

**Officer:** Chris Rose – Development Manager – Planning Tel; 01395 517419 email [chris.rose@eastdevon.gov.uk](mailto:chris.rose@eastdevon.gov.uk)

## **1. Introduction**

- 1.1 This Briefing Note seeks to provide Members with a more detailed understanding of current national and local planning policy in relation to the conversion of rural buildings to residential use and explain how planning and related applications are considered in East Devon.
- 1.2 The briefing will start by detailing the main relevant national and local planning policy before explaining how this policy context is put into practice. It will also explain the difference in approach between the ways a planning application is considered compared to other applications for prior approval under permitted development rights.



- 1.3 The Briefing Note relates to the provision of permanent residential dwellings and does not cover Rural Workers dwellings or holiday accommodation that are covered by other Local Plan policies.

## **2. National Planning Policy**

- 2.1 Section 3, paragraph 28, of the National Planning Policy Framework (NPPF) is entitled 'Supporting a prosperous rural economy' and states:

'Planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. To promote a strong rural economy, local and neighbourhood plans should:

- Support the sustainable growth and expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings and well design new buildings;
- Promote the development and diversification of agricultural; and other land-based rural businesses;
- Support sustainable rural tourism and leisure developments that benefit businesses in rural areas, communities and visitors, and which respect the character of the countryside. This should include supporting the provision and expansion of tourist and visitor facilities in appropriate locations where identified needs are not met by existing facilities in rural service centres; and
- Promote the retention and development of local services and community facilities in villages, such as local shops, meeting places, sports venues, cultural buildings, public houses and places of worship.'

- 2.2 Also of particular, and probably of more direct, relevance in the NPPF is paragraph 55 in section 6 'Delivering a wide choice of high quality homes'. This relates to the provision of new homes in the countryside and states:

'To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. For example, where there are groups of smaller settlements, development in one village may support services in a village nearby. Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as:

- The essential need for a rural worker to live permanently at or near their place of work in the countryside; or
- Where such development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets; or

- Where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting; or
- The exceptional quality or innovative nature of the design of the dwelling. Such a design should:
  - be truly outstanding or innovative, helping to raise standards of design more generally in rural areas;
  - reflect the highest standards in architecture;
  - significantly enhance its immediate setting; and
  - be sensitive to the defining characteristics of the local area.’

2.3 Other paragraphs with the NPPF have relevance and the NPPF needs to be read as a whole but generally the above two paragraphs are most relevant to this briefing note.

### **3. East Devon Local Plan**

3.1 The main relevant Local Plan Strategies and Policies are Strategy 7 – Development in the Countryside and Policy D8 – Re-use of Rural buildings Outside of Settlements. These stem from the above paragraphs in the NPPF.

3.2 Strategy 7 defines the countryside stating that all areas outside of the Built-up Area Boundaries are countryside. The Strategy goes on to state that development in the Countryside will only be permitted where it is in accordance with a specific Local Plan policy or Neighbourhood Plan and where it would not harm the landscape, amenity and environmental qualities within which it is located.

3.3 Policy D8 - Re-use of Rural Buildings Outside of Settlements is a specific policy in the adopted local plan to help guide development for the re-use of rural buildings. The policy starts by providing general criteria that planning applications for the conversion of rural buildings must comply with, before providing additional criteria for residential proposals.

3.4 The general criteria are as follows:

- The new use is sympathetic to, and will enhance the rural setting and character of the building and surrounding area and is in a location which will not substantively add to the need to travel by car or lead to a dispersal of activity or uses on such a scale as to prejudice village vitality.
- The building is structurally sound and capable of conversion without the need for substantial extension, alteration or reconstruction and any alterations protect or enhance the character of the building and its setting;

- The form, bulk and general design of the building and its proposed conversion are in keeping with its surroundings, local building styles and materials;
- The proposed use would not harm the countryside by way of traffic, parking, storage, pollution or the erection of associated structures;
- The proposal would not undermine the viability of an existing agricultural enterprise or require replacement buildings to fulfil a similar function.

3.5 The additional criteria for residential proposals are that it must be established that:

- The building is no longer required for agricultural use or diversification purposes; and
- That its conversion will enhance its setting – e.g. through the removal of modern extension and materials, outside storage, landscaping etc.
- Development is located close to a range of accessible services and facilities to meet the everyday needs of residents.

3.6 Therefore, in order to permit the re-use or conversion of rural buildings to residential use that have been submitted via a planning application, all of the above criteria must be satisfied.

3.7 As with paragraph 55 of the NPPF, Policy D8 requires any conversion to enhance its setting. Whilst it can be argued in some cases that residential development of a vacant site or building in poor condition would enhance the area, this criteria needs to be considered alongside the other criteria to Policy D8 and not in isolation. Visual improvements to a site are in itself unlikely to be sufficient grounds to justify permission, particularly in an isolated location or where other criteria to Policy D8 are not met. Some Inspectors have taken the view that a change from a poor quality agricultural building to a residential dwelling with its associated garden, fences, shed and parking etc at best has a neutral rather than positive impact upon the immediate area. This is on the basis that the introduction of a dwelling and its curtilage into a rural environment is in itself out of character and therefore does not necessarily enhance the site.

3.8 It will also be necessary to take account of any relevant policies within emerging Neighbourhood Plans and to give full weight to any related policies within made Neighbourhood Plans.

#### **4. Permitted Development**

4.1 Alongside the above, The Town and Country Planning (General Permitted Development) (England) Order 2015 contains provision under Class Q for a

change of use of a building (and land within its curtilage) to a dwellinghouse. These are often referred to as Class Q applications, applications under Class Q or 'prior approval' applications for conversion of barns to dwellings.

4.2 This legislation sets out that the use of these permitted development rights (and therefore the right to submit a 'prior approval' application) cannot be used in the following circumstances:

- The site is within the AONB;
- The building is listed;
- The building was not used for an agricultural use as part of an established agricultural unit:
  - on the 20<sup>th</sup> March 2013, or
  - in the case of a building which was in use before that date but was not in use on that date, when it was last in use, or
  - in the case of a site which was brought into use after 20<sup>th</sup> march 2013, for a period of at least 10 years before the date development under Class Q begins;
- The cumulative floorspace exceeds 450 sqm;
- The number of dwellings developed under Class Q within an agricultural unit exceeds 3;
- The building is proposed to be extended beyond the existing external dimensions.

4.3 Where a proposal is eligible to apply under Class Q (i.e. the above bullet points do not apply), the local planning authority can only consider the following matters when determining those applications and decisions must be made within 56 days or the application is granted by default:

- Transport and highways impacts of the development,
- Noise impacts of the development,
- Contamination risks on the site,
- Flooding risks on the site,
- Whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to a dwelling,
- The design or external appearance of the building.

4.4 It will be noted that this list does not include an assessment of the location of the development in terms of its relationship to services and facilities. The criteria do not therefore allow a consideration of whether the site is in a sustainable location close to services and facilities or public transport and such as assessment is specifically excluded. The fifth criterion under paragraph 4.3 above relates to the

location being 'impractical or undesirable' but this is not a test of the sustainability of the location. It is a test of whether the proposal is taking place on a part of the farm when there is no road or other services or where it is next to intensive poultry farming buildings, silage storage or dangerous machines or chemicals on the farm that make it an unsuitable environment within which to live.

## **5. Consideration of applications**

- 5.1 This part of the report will explain the difference in approach with regard to sustainability for the two application types explained above, as well as detailing how officers approach proposals for heritage assets.

### Sustainability

- 5.2 There are therefore two different types of applications that Development Management receive in relation to the conversion of rural buildings to residential use: the usual planning applications that are considered against the NPPF and Local Plan Strategy 7 and Policy D8; and 'prior approval' applications where we can only consider highway impacts, noise impacts, contamination, flooding, design and whether it is located in an impractical or undesirable location.

- 5.3 For the planning applications we can consider whether the site is sustainably located close to a range of services and facilities and well served other than by the car. In doing this assessment we would consider whether the development would support local services and community facilities, however these would need to be close by and easily accessible. There is also the question of how they are accessed and the ability to access them by foot and cycle using safe and attractive routes is also an important consideration. Even if services and facilities are not that far away if in order to access them they have to walk along a road with fast moving traffic, no footpath and no lighting then they will simply get in their car. This has been demonstrated in a recent appeal decision at The Barn, Fernleigh, Offwell for 'Conversion of barn to dwelling' (15/2637/FUL) where the Inspector concluded the following:

'10. Paragraph 1 of Policy D8 also requires such residential conversions to not substantively add to the need to travel by car. The site is 240 metres from Offwell village but the only facilities there are a small primary school, a church and a recreation ground and building. The nearest shop is at Windmill Garage on the main A35, about a mile away. Occupiers of the new dwelling would be unlikely to walk this distance along narrow unlit country roads and so would be reliant on travel by car.

11. Other services that would be required by residents are either in more distant villages or in Honiton. Although buses travel along the A35 between Axminster and

Honiton they are not particularly frequent and the nearest bus stop is again at Windmill Garage. The local bus service does not therefore comprise a realistic alternative to the private car.

12. For these reasons I conclude that the site is in a location remote from services and facilities. It would fail to comply with LP Policy D8 and with Strategy 7, which only permits development in the countryside where it is accordance with a specific Local or Neighbourhood Plan policy; no such policy exists.'

- 5.4 This case among others demonstrates the weight that inspectors attach to residents being able to access services and facilities by sustainable means. If residents have to get in their car then this is likely to be considered unsustainable. This is partly because of car journeys being inherently environmentally unsustainable but also because once people are in their car distance becomes less important and the range of services and goods available can lead them to drive a further distance. As a result there is a danger that local shops and facilities are not then supported and residents will simply drive to the nearest supermarket. This can diminish the potential economic and social benefits of these developments.
- 5.5 For the prior approval applications we cannot consider such matters and it is due to this difference in approach and assessment that Members may find a different recommendation for a site submitted as a planning application compared to a similar proposal or site submitted under the prior approval route. The prior approval route can mean that permission is given for conversions in locations that we would otherwise consider unsustainable. A recent example of this is a conversion of an agricultural barn to a dwelling at Hogsbrook Farm, Woodbury Salterton (15/2311/PDQ) where the site is isolated from the nearest settlement along narrow unlit roads with no pavements. However, the reliance upon the use of the car and isolated location of the site were not matters for consideration and not therefore addressed by the Inspector and could not be used to justify refusal of permission despite it being further from facilities than the Offwell site mentioned above.
- 5.6 This does not mean that it is inappropriate for us to consider the sustainability issues in the way we do for those that are planning applications it is just part of how permitted development works. In essence by making something permitted development the government is saying that we should not need to have control over it but in reality some works are carried out as permitted development that are unacceptable in planning terms. Everyone has probably seen a large outbuilding in the garden of a house or a large fence that is unneighbourly but permitted development. The same applies with conversions. There will be times when a conversion is permitted by the legislation in a very remote location that we would

not usually support but it does not mean that we should grant planning permission for conversions in similarly remote locations. It is simply a quirk of how permitted development works.

- 5.7 Appeal decisions support the refusal of planning applications in isolated locations on the grounds of being in an unsustainable location and also support that the same decision cannot be made in relation to prior approval applications. We have also seen cases where a planning application for a conversion has been dismissed on appeal on sustainability grounds only for it to be amended so that it is permitted development. The two elements of the consenting regime for conversions do not marry up. Under the legislation they do not have to and nor do they in any other area where permitted development rights apply. In effect the permitted development rights dictate what we have control over and we apply our policies to that. It does not mean that those that are permitted development are automatically acceptable simply that we cannot control them.

#### Listed buildings and viable use

- 5.8 Paragraph 55 of the NPPF allows isolated dwellings in the countryside 'Where such development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets'.
- 5.9 The approach taken with heritage assets (e.g. listed buildings) is that if the conversion or use of the building is the optimal use for the heritage asset and the conversion can be carried out in a way that preserve or enhances the listed building, its features and setting, in such cases, in the interest of preserving the listed building and keeping it in viable use, such proposals will be supported. This may be the case even when the site is in an unsustainable location as discussed above. This is because the preservation and enhancement of the heritage asset will weigh heavily in favour of a proposed conversion in considering whether the development is sustainable. The environmental benefits of preserving or enhancing a heritage asset combined with the economic and social benefits of doing so are likely to outweigh concerns about the suitability of the location.
- 5.10 For these applications, as Policy D8 does not cover such circumstances but there is support in the NPPF, where recommended for approval these applications will be reported to the Development Management Committee as a departure from adopted Local Plan policy.

## **6. Conclusion**

- 6.1 There are two different types of applications that can be received for the conversion of rural buildings to dwellings; planning applications that are considered against the NPPF and Local Plan policies, and applications for 'prior approval' that are considered against the criteria within the legislation dealing with permitted development rights.
- 6.2 The main difference being that for planning applications the location of the site in terms of its sustainability and relationship to services and facilities can be considered whilst this cannot be considered for 'prior approval' applications.
- 6.3 Prior approval application must also be determined within 56 day otherwise they gain consent by default. This means that these applications have to be considered under officer delegated powers.



**Report to:** **Strategic Planning Committee**

**Date of Meeting:** 29 March 2016

**Public Document:** Yes

**Exemption:** None

**Review date for release** None

**Agenda item:** 8

**Subject:** **Community Infrastructure Levy - Governance**

**Purpose of report:** To recommend and formalise arrangements for the governance of CIL income and expenditure.

**Recommendation:** **Members recommend that Council agree:**

1. The governance structure set out in the diagram at paragraph 4.21 of this report;
2. That 5% of the Total CIL income per annum be retained for reimbursing administration costs subject to annual monitoring and review;
3. That 8.6% of the Total CIL income per annum will be ring-fenced in a separate account for Habitats infrastructure mitigation;
4. That net new dwellings will be required to pay HRA (Habitat Regulations Assessment) non-infrastructure mitigation through S106 Agreements/Unilateral Undertakings in addition to CIL. The amounts to be collected per dwelling will be as follows: £96.46 in the Exe only area, £146.85 in the Pebblebeds only area and £201.61 in the combined area. ;
5. That the validation checklist be amended to take account of the changes proposed in recommendation 4 and that following consultation the amended validation checklist be adopted;
6. That the “meaningful proportion” funds will be transferred to town and parish councils twice a year on 28<sup>th</sup> April and 28<sup>th</sup> October each year or where it relates to a parish meeting, the money will be held by EDDC;
7. That the remaining CIL income be retained as a single main CIL pot to allow more flexibility and more timely delivery of key infrastructure;
8. That CIL will generally be used to match fund other funding sources (internal and external) so that it can stretch over multiple priorities, however, this will not restrict CIL being used to entirely fund certain specific projects if required;
9. That the Council will work closely with town and parish councils, parish meetings and local communities to develop joint lists of priorities for CIL spend at a local level;
10. That the eligibility criteria set out in the table at paragraph 4.23 be used to filter out unsuitable or otherwise ineligible projects seeking CIL funding at an early stage;
11. That a funding bid application form be used to gather the information on eligible projects required for officers to make



recommendations on which projects to fund and agreement of this form be delegated to the Service Lead – Planning Strategy and Development Management.

12. That an officer/Member working group be set up to consider draft recommendations of officers ahead of recommendations being made to Strategic Planning Committee to ensure they have been informed by key priorities and knowledge of wider issues. The working group shall comprise 5 Members from Strategic Planning Committee and shall be appointed by the Council.
13. That the Chief Executive be authorised to write to the Government on behalf of the Council highlighting the problems associated with the delivery of infrastructure under the CIL regime and request that the pooling restrictions that are applied to Section 106 agreements be lifted to enable the required infrastructure to be secured.

**Members note that:**

1. CIL funds are not expected to cover the costs of delivering all required infrastructure alone;
2. Whilst Total CIL income is projected to be around £40.6m over the plan period, only around £30.8 may be available to spend on infrastructure and around £3.5m of that will need to be spent on HRA mitigation leaving approximately £27.3m for other infrastructure projects. Income projections are approximate estimates only based on a number of assumptions and caveats. A number of types of development are eligible for relief or exemption from paying CIL and whilst this has been factored in to an extent, the full impact of this is not yet known and could further reduce income.
3. CIL should form part of a wider Council funding package for infrastructure potentially also including New Homes Bonus, business rates retention and the Council's capital programme. The Council will therefore need to act in an entrepreneurial manner to secure income wherever possible to reduce the funding gap for the delivery of infrastructure identified in this report.

**Reason for recommendation:**

To ensure that there is a clear process for governing CIL income and expenditure.

**Officer:**

Graeme Thompson, Planning Policy Officer,  
[gthompson@eastdevon.gov.uk](mailto:gthompson@eastdevon.gov.uk), 01395 571736

**Financial implications:**

The report considers the Governance arrangements and makes recommendation on how CIL income once received is top sliced and prioritised to schemes. Although the report does not consider the CIL charging rates as these have previously been set members should be aware that the Habitat Mitigation Joint Committee are to consider a report in June 2017 on whether the element currently ring-fenced for habitat mitigation is sufficient and recommendations from this may alter the assumptions in this report.

There is a significant shortfall in infrastructure spending requirements compared with funds that will be available through CIL, members will have to consider priorities and affordability from CIL monies available

and align consideration of additional funding through other resources to the Council budget preparation and approval process.

**Legal implications:** The report identifies the main legal issues in relation to CIL income and spend, apportionment of income and the need to be prioritizing (or top slicing) income for habitat mitigation spend. Proactively managing the Regulation 123 and Infrastructure Delivery Plan, in conjunction with collaborative working with town and parish councils in respect of spend, will be key to ensuring that CIL receipts are used most effectively. The proposed governance arrangements, including the setting up of a Working Group, to facilitate this is legitimate and seem entirely appropriate. There are no other legal issues requiring comment.

**Equalities impact:** Low Impact

**Risk:** Medium Risk

The projected incomes are based on a series of assumptions and caveats and cannot be considered absolute. They will be subject to regular review.

The recommended percentage of Total CIL income to be ring-fenced for mitigation of HRA (Habitat Regulations Assessments) impacts is based on these same assumptions and caveats and as such will also be kept under review. There is a legal duty to ensure that development mitigates its impact upon the European Sites and so this element of CIL income must always take precedence.

Failure or delays to the delivery of infrastructure identified in the IDP 2016 (particularly that identified as Priority 1) will have a significant detrimental impact on the delivery of new housing. Considering the long timescales over which CIL income will be accumulated it is imperative that CIL is used to match fund other funding sources as much as possible rather than being used as the sole funding opportunity for infrastructure.

Failure to agree a suitable CIL governance arrangement will likely result in ad-hoc use of CIL funds which could undermine the delivery of priority infrastructure and the delivery of the Local Plan housing requirements.

**Links to background information:**

- [Council Report April 2016](#)
- [Cabinet Report September 2013](#)
- <https://www.gov.uk/government/publications/community-infrastructure-levy-review-report-to-government>

**Link to Council Plan:**

Encouraging communities to be outstanding; Developing an outstanding local economy; Delivering and promoting our outstanding environment; Continuously improving to be an outstanding council

## Report in full

### 1. Introduction

- 1.1 The Community Infrastructure Levy (CIL) was brought in by the Planning Act 2008 and subsequently translated into regulations through the CIL Regulations (herein referred to as the Regulations) in 2010 which have been amended on multiple occasions. The purpose of CIL is to levy a charge on new development to help pay for identified and required infrastructure. CIL charges are set based on striking a balance between the need to fund this infrastructure and the viability of development to ensure that development of an area as a whole is not put at risk. Charges for CIL are set out in a Charging Schedule. The Council adopted the East Devon CIL Charging Schedule on 20 April 2016 and began charging CIL on 1 September 2016. The purpose of this report is not to consider the level at which CIL charges are set but to recommend a suitable structure for the governance of CIL income and expenditure.
- 1.2 A CIL Task and Finish Forum (TaFF) comprising Members and officers met on a number of occasions in 2012/13 to discuss potential governance arrangements and a report was produced recommending a broad approach which was considered and agreed by Cabinet in September 2013. This report does not attempt to re-invent that wheel, rather it builds on the agreed broad approach to governance and recommends a specific approach in more detail.
- 1.3 Key facts to bear in mind are that:
- Latest CIL forecasts predict that Total CIL income for the Local Plan period are likely to be around £40.6m<sup>1</sup>;
  - Net CIL income (having accounted for administration and meaningful proportion elements) available to spend on infrastructure projects is likely to be around £30.8m<sup>1</sup>;
  - Total infrastructure costs over this same period identified in the IDP 2015<sup>2</sup> are likely to be around £251.1m, of which £179.1m of projects are identified as potentially needing to be paid for in whole or in part by CIL, with an aggregate funding gap (i.e. taking account of other known funding sources excluding CIL) of £158.8m;

CIL is intended to be a piece of the infrastructure funding puzzle but is not meant to fund everything. Additional sources of income will need to be identified and levered in to supplement CIL in order to deliver infrastructure. In this vein, Members should consider CIL as part of a wider Council funding package potentially also including use of New Homes Bonus, business rates retention and the Council's capital programme which will need to be used as match funding to other funding sources including central government departmental

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<sup>1</sup> CIL income forecasts are heavily caveated and the product of applying a series of assumptions to the housing trajectory (base date 31 March 2016), assuming that CIL income is due at the point of commencement. They should not be taken as a definitive identification that such CIL monies will be forthcoming on these exact trajectories nor that these exact figures will be reached. For example, self-build and annex developments are eligible for exemption or relief from paying CIL. Sufficient evidence of what proportion of windfalls in East Devon are self-build or annexes has not yet been compiled so an average of 10% of projected future windfalls have been assumed to be self-build based on research underpinning a Parliamentary Briefing Paper in June 2015 (see <http://researchbriefings.files.parliament.uk/documents/SN06784/SN06784.pdf>). It may be that the percentage self-build in East Devon differs from this average but there is insufficient evidence/data to suggest otherwise. In particular, it may be that other, larger sites come forwards including self-build (including potentially the Cranbrook expansion areas) but this is an unknown at present. Future income projections will take account of the latest available evidence in this regard.

<sup>2</sup> Please note that the IDP is currently being reviewed and will be brought before members at the next meeting of Strategic Planning Committee.

grants, private investment and funding from other bodies such as the Local Enterprise Partnership.

- 1.4 Meeting the total cost of infrastructure provision will be difficult and will require the Council to act in an entrepreneurial way to secure new income streams and maximise existing income streams to enable the funding of infrastructure.
- 1.5 The government recently released a report on evidence to enable a review of CIL. The report identifies a number of problems with CIL and with the pooling restrictions that were placed on the use of S106 agreements to encourage the use of CIL. The government is not however proposing to make any changes to the system until at least the Autumn Statement and so it is recommended that the Council write to government to highlight concerns with the funding gap that CIL is going to create and how the pooling restrictions under S106 restrict our ability to provide the required infrastructure.

## **2. Broad breakdown of future CIL expenditure**

- 2.1 The projected Total CIL income of £40.6m will not all be available to use on required and identified infrastructure. Certain percentages of the Total CIL income will be used for offsetting costs of administration and transferred to town and parish councils.

### Administration

- 2.2 The CIL Regulations allow the Council to retain up to 5% of the CIL receipts in the first three years to fund set up and ongoing costs, and 5% annually for ongoing costs thereafter.
- 2.3 It is therefore recommended that 5% of the Total CIL income be retained for costs, subject to annual monitoring and reporting which will identify if costs are lower than 5% and redirect any surplus for strategic spend. This money will help pay for staffing and ICT systems used to administer the collection of CIL and also initial set-up and Charging Schedule review costs (including commissioning of viability consultants and examination costs).

### Meaningful proportion

- 2.4 The Localism Act identified that a “meaningful proportion” of CIL funds would need to be transferred to town and parish councils for use on local priorities. The CIL Regulations were amended in 2013 to identify exactly how much that “meaningful proportion” must amount to. The exact percentage varies depending on whether a town or parish council has an adopted Neighbourhood Plan or not and whether an area is parished or not. There are 5 parishes in the district where parish meetings are held and in these areas any monies would be by EDDC. The diagram below (taken from the National Planning Practice Guidance) sets out how the meaningful proportion varies depending on these circumstances. Clearly, as East Devon is a parished area the bottom two options for non-parished areas are not relevant here.

Parish Council ✓ Neighbourhood Plan ✓ = 25% uncapped, paid to Parish	Parish Council ✓ Neighbourhood Plan ✗ = 15% capped at £100/dwelling, paid to Parish
Parish Council ✗ Neighbourhood Plan ✓ = 25% uncapped, local authority consults with community	Parish Council ✗ Neighbourhood Plan ✗ = 15% capped at £100/dwelling, local authority consults with community

- 2.5 It should be noted that town and parish councils will only be entitled to 25% where they have a Neighbourhood Plan that has successfully been through examination and referendum and subsequently been adopted and statutorily “made”. Clearly the majority of town and parish councils in East Devon have Neighbourhood Plans in production so it is likely that eventually most areas will be receiving 25%, however, only Lypstone and Stockland have “made” Neighbourhood Plans at present and therefore only Lypstone and Stockland could benefit from this currently<sup>3</sup>.
- 2.6 In the meantime, where a Neighbourhood Plan has not been “made” town and parish councils are entitled to up to 15% which is capped at a maximum of £100 per existing Council Tax banded dwellings in the parish per year.
- 2.7 The Council is obligated to transfer these percentages to town and parish councils and cannot choose to vary them. However, if a town or parish council does not want to receive some or all of their meaningful proportion then they must notify the Council in writing and the Council must then use that money towards infrastructure provision.

### Remaining Net CIL Income

- 2.8 Taking account of the above, across the district as a whole this leaves around 76% of the Total CIL Income available for the Council to use towards required and identified infrastructure. Currently this is forecast to be around £30.8m over the Local Plan period.

## **3. Meaningful proportion arrangements**

- 3.1 The Regulations set out standard dates for the transfer of the meaningful proportion to town and parish Councils but allow for alternative arrangements to be agreed if preferred. In the interests of accounting and standardisation of approach it is recommended to use the standard payment dates. This means that CIL income collected between 1st October and 31st March is transferred by 28th April each year, and income collected between 1st April and 30th September is transferred by 28th October each year.

<sup>3</sup> It should be noted that the Bishop’s Clyst Neighbourhood Plan is proposed to be “made” at Cabinet on 8th March at which point it too would benefit from receiving 25% going forwards.

- 3.2 Unlike the Net CIL income, the meaningful proportion that is transferred to town and parish councils is not required to be spent on infrastructure. Regulation 59C states that the meaningful proportion can be spent on:  
“(a) the provision, improvement, replacement, operation or maintenance of infrastructure;  
or  
(b) anything else that is concerned with addressing the demands that development places on an area”.
- 3.3 In some cases, town and parish councils may wish to contribute some or all of their meaningful proportion towards the delivery of infrastructure. Whilst the Council cannot require them to do so, this will be strongly encouraged. As set out in the introduction, there is clearly a significant funding gap and as such in order to deliver any projects, as much funding should be used towards infrastructure as possible.
- 3.4 Whilst some strategic level spend on infrastructure will benefit a wider area (e.g. Suitable Alternative Natural Green Spaces (SANGS) and strategic highways improvements), other strategic level spend will clearly benefit local communities (e.g. schools and open space). As some town and parish council will receive significant sums through their meaningful proportion (particularly where a Neighbourhood Plan has been “made”) it is entirely appropriate to encourage them to contribute some of these funds to help deliver infrastructure and meet the key pressures from new development.
- 3.5 Clearly, town and parish council and community priorities for the use of their meaningful proportion may not align with Council priorities. However, it is important to ensure that Members and town and parish councils recognise that under the former S106 regime financial contributions were collected from new developments towards a range of different infrastructure types and projects (e.g. education, open space and strategic highways improvements), and therefore CIL cannot be expected to fund all of these matters plus a wide and long list of other very local priorities with a scope extending well beyond infrastructure, however desirable. Whilst new developments will continue to be required to deliver elements of localised site specific mitigation and on-site open space through S106, other localised infrastructure projects and off-site open space will have to be funded through CIL and/or other funding streams. Such projects are typically priority 2 or 3 within the IDP and in some cases may not be considered as required to deliver the Local Plan at all. That being the case, it is potentially likely that they will struggle to attract large amounts of funding from the Council’s main CIL pot as other priority 1 infrastructure is likely to take precedence.
- 3.6 In order to maximise use of CIL funds and deliver as many different required infrastructure projects as possible it is therefore recommended that the Council work closely with town and parish councils and local communities to develop joint lists of priorities for CIL spend at a local level. Much of this work will be delivered through support in the development of Neighbourhood Plans. Guidance/protocols will need to be established to ensure a consistent approach to defining the locality for spending and consultation purposes. This will need to include consultation and joint working with adjoining communities to determine the approach to CIL spending from development that may occur on or near parish boundaries.
- 3.7 Town and parish councils have to produce an annual report of their CIL income and spending. They will therefore have political accountability if there is an urgent need for a particular infrastructure project but their meaningful proportion has been spent on another project, or for instance if it is spent on a project not identified as a priority in a Neighbourhood Plan or through another community agreed list. The Regulations also allow the Council to ‘clawback’ any CIL money not spent within 5 years or not spent appropriately

(as set out in paragraph 3.2 above). There is discretion in this for instance if a town or parish council makes it clear through their Neighbourhood Plan or other community agreed list that it is purposefully 'banking' its meaningful proportion until it has collected sufficient to pay for a specific larger infrastructure project.

#### **4. Main CIL pot and prioritisation of infrastructure projects**

- 4.1 As explained in paragraph 2.8 above, the remaining Net CIL income amounts to around 76% of the Total CIL income. This remainder must be spent on the "provision, improvement, replacement, operation or maintenance of infrastructure" as defined by the Planning Act 2008 (as amended by the Localism Act 2011) which includes:
- Roads and other transport facilities;
  - Flood defences;
  - Schools and other education facilities;
  - Medical facilities;
  - Sporting and recreational facilities; and
  - Open spaces.
- 4.2 The IDP identifies all of the infrastructure required to deliver the Local Plan and within that it identifies the specific infrastructure projects that may be funded either wholly or partly by CIL. The Council will need to use the Net CIL income it receives to help fund at least some of these projects.
- 4.3 It should be noted that the IDP 2015 is currently being reviewed and the IDP 2017 will be brought to the next meeting of Strategic Planning Committee. This will replace the previously endorsed IDP published in March 2015 to support the Local Plan examination. It is the result of ongoing conversations with infrastructure providers including Devon County Council and other organisations/bodies. The reviewed IDP will set out required and identified infrastructure into three distinct priorities: 1) Critical; 2) Important; and 3) Desirable. Delivery of all of the infrastructure contained within it will be required to deliver the Local Plan in full, but clearly the priority for delivery of this infrastructure is set out based on needs, costs, timescales and severity of issues.
- 4.4 Within each broad priority there will clearly be sub-priorities, however these are not identified within the IDP. The sub-prioritisation of projects will need to be assessed in due course and this is outlined further below.

#### Habitat Regulations Assessment Mitigation

- 4.5 The exception to this is the delivery of projects related to Habitat Regulations Assessment (HRA) mitigation. As set out in the South East Devon European Sites Mitigation Strategy (SEDESMS), a suite of mitigation measures including provision of SANGS, on-site mitigation, cross-site measures and monitoring is required to mitigate the potential harm that planned new developments may have on the Exe Estuary, East Devon Pebblebed Heaths and Dawlish Warren. This mitigation is a legal requirement and as such these projects *have* to be considered as absolute priority 1 and the costs of providing the infrastructure elements of that mitigation *must* be top-sliced from the Net CIL income.



4.6 Going forwards it is considered that HRA mitigation for dwellings should be collected through a combination of CIL and S106. CIL should be used to collect and deliver the infrastructure elements of the mitigation (e.g. SANGS) and S106 contributions to collect and deliver the non-infrastructure elements (e.g. monitoring and some on-site mitigation and offsite measures). In order to introduce these changes the validation checklist will need to be amended to reflect the requirement for the non-infrastructure contributions. The breakdown between infrastructure and non-infrastructure mitigation costs per dwelling is detailed in the following table:

Area	Total mitigation cost	Infrastructure mitigation cost to be gathered via CIL	Non-infrastructure mitigation cost to be gathered via S106
Exe only	£600	£503.54	£96.46
Pebblebed Heaths only	£626	£479.15	£146.85
Both	£749	£547.39	£201.61

4.7 Housing monitoring (to a base date of 31 March 2016) suggests that the following numbers of dwellings (permitted or projected to be permitted post 1 September 2016) will be constructed over the plan period in each area. This includes sites with acknowledged development potential (sites with a resolution to grant subject to S106 or otherwise considered policy compliant and likely to deliver), allocations that do not yet have permission, and an assumption of projected future windfalls based on a calculation of previous trends and overall district-wide windfall assumptions.

Area	Acknowledged Development Potential	Allocations	Future Windfalls	Total
Exe only	0	0	0	<b>0</b>
Pebblebed Heaths only	0	100	529	<b>629</b>
Both	438	4,876	546	<b>5,860</b>
<b>TOTAL</b>	<b>438</b>	<b>4,976</b>	<b>1,074</b>	<b>6,488</b>

4.8 The following table shows how much mitigation these dwellings would be required to pay broken down by area and mitigation element.

Area	Total projected net dwelling completions gaining permission after 1 September 2016	Total mitigation cost	Infrastructure mitigation cost to be gathered via CIL	Non-infrastructure mitigation cost to be gathered via S106
Exe only	0	£0	£0	£0
Pebblebed Heaths only	629	£393,488.33	£301,182.00	£92,306.33
Both	5,860	£4,388,819.13	£3,207,470.90	£1,181,348.23
<b>TOTAL</b>	<b>6,488</b>	<b>£4,782,307.45</b>	<b>£3,508,652.90</b>	<b>£1,273,654.56</b>

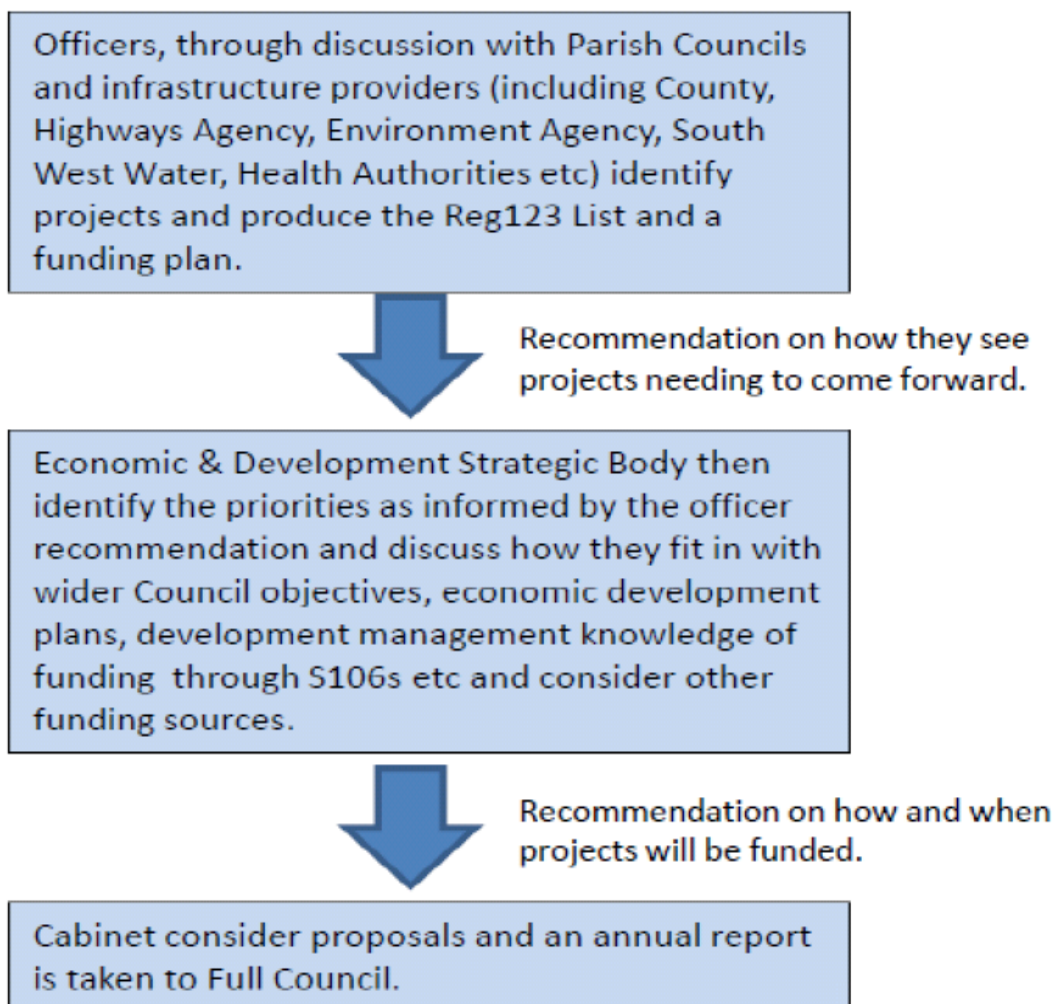
4.9 The total infrastructure mitigation cost (highlighted in red above) *must* be top-sliced from the Net CIL income. The total non-infrastructure mitigation cost will be secured through S106 agreements.

- 4.10 The total infrastructure mitigation cost of £3,508,652.90 amounts to approximately 11.4% of the projected Net CIL income or 8.6% of the projected Total CIL income.
- 4.11 Two options exist for top-slicing this figure:
- 1) Divert the first £3,508,652.90 of Net CIL income received into a separate pot for mitigation; or
  - 2) Divert 8.6% of the Total CIL income per annum into a separate pot for mitigation.
- 4.12 Officers recommend diverting 8.6% of the Total CIL income per annum into a separate pot for mitigation. This ensures that the delivery of other critical infrastructure is not hampered unnecessarily by securing all HRA mitigation significantly up front. The exact percentage will need to be kept under review to ensure that sufficient (or alternatively not excessive) mitigation is being secured.

#### All other infrastructure

- 4.13 After taking account of the 5% administration, 15%-25% meaningful proportion and the 8.6% for HRA mitigation, this leaves around 67.2% of the Total CIL income available for use on delivering the remainder of the required and identified infrastructure needed to deliver the Local Plan. This is likely to equate to around £27.3m over the course of the plan period.
- 4.14 The aggregate funding gap for the infrastructure identified in the IDP 2015 as needing funding in whole or in part by CIL is £158.8m. Around £8.4m of this was at the time expected to be required for HRA mitigation (some of which has been). That being the case, the aggregate funding gap for the IDP 2015 minus the HRA mitigation is £150.4m. This means there is a residual funding gap of around £123.1m once the above £27.3m CIL is factored in which reiterates the points made earlier about maximising use of CIL and other funding sources. The funding gap for priority 1 infrastructure (excluding HRA mitigation) identified as potentially being paid for in whole or in part by CIL in the IDP 2015 is £4.9m. However, it should be noted that this figure is likely to rise in the next iteration of the IDP.
- 4.15 This means that the Council could *theoretically* use CIL to fund all of the priority 1 (critical) infrastructure in full but then it would not be able to contribute much CIL towards priority 2 (important) or priority 3 (desirable) infrastructure and as such the delivery of these projects would be put seriously at risk. It is instead recommended that CIL is generally used to match fund other funding sources so that it can stretch over multiple priorities.
- 4.16 A number of Members and town and parish councils have expressed concern that CIL raised in one part of the district will be used to fund infrastructure elsewhere in the district. This is a key element of CIL which breaks the direct link between a development and the infrastructure which it funds. The meaningful proportion is designed to help address this issue to a degree, but potentially the main CIL pot could be further split to allow a certain percentage of the remaining CIL income to be used towards more local infrastructure delivery (potentially in addition to the meaningful proportion) and the remainder to be retained for spend on strategic infrastructure delivery.
- 4.17 However, this would lack flexibility and potentially leave very small pots of funding available to deliver either key strategic or local infrastructure projects in a timely manner. Instead it is recommended to retain a single main CIL pot which has more flexibility and is likely to allow more timely delivery of key infrastructure.

- 4.18 Using this approach and subsequently identifying projects for CIL spend on an annual basis alongside New Homes Bonus, business rates retention and the capital programme as part of the Council's annual budget setting process would enable CIL spend to have regard to strategic priority within the IDP, specific pressures arising from development, time pressures for delivery, and reflect corporate priorities and actual funds available at the time.
- 4.19 It is anticipated that a significant amount of CIL expenditure will still occur in the general localities where development has taken place as the infrastructure pressures caused by developments will need mitigating and in most cases of policy compliant development those issues should have been identified in the IDP. This more flexible approach should also enable Members to balance spend on Devon County Council schemes (such as education, and highways improvements) with pressures for funding other infrastructure issues such as open space and healthcare provision. Flexibility enables the balance to vary year on year to respond to changing circumstances and the timing and location of developments and CIL income.
- 4.20 The recommendations of the CIL TaFF which were agreed at Cabinet in September 2013 set out a broad governance structure for determining the spend of CIL (summary diagram reproduced below).



- 4.21 Following this basic formula the following more detailed governance structure is recommended:



- Consultation with infrastructure delivery partners (e.g. Devon County Council, Highways England, health authorities etc) and identify their priority infrastructure projects requiring funding in the year ahead
- Invitation to submit funding bids
- Cross reference of delivery partner priorities with projected housing delivery
- Assessment of wider funding availability

- Consider projects against one another and draw up recommendations for CIL spend over the year ahead

- Recommendation of revisions to IDP and Regulation 123 List (if necessary)
- Request to allocate incoming CIL funds for the year ahead towards specific projects
- Request to allocate New Homes Bonus, business rates retention and capital programme funds towards specific projects

- Agreement of Strategic Planning Committee and Cabinet minutes

- Implementation of recommendations

- 4.22 At the officer identification of priorities and funding stage it will be important to properly assess potential infrastructure projects against one another using a suitable scoring system. This will therefore require infrastructure delivery partners to provide a certain level of detail through a Full Application for Funding pro-forma identifying things such as other funding sources, timescales for delivery, risks of non-delivery/non-funding etc.
- 4.23 In order to ensure only projects that have a realistic chance of being eligible for CIL funding apply it is recommended that a pre-requisite for applying is to meet certain key criteria as identified below. This will ensure that ineligible projects or projects unlikely to score highly enough are filtered out to avoid unnecessary time being spent by the applicant or officers.

Criteria	Y/N
Does the project align with an infrastructure type included in the adopted Reg. 123 List?	
Is the project specifically identified in the adopted IDP?	
Does the IDP identify the project as potentially being funded in whole or in part by CIL?	
Will the project contribute towards the delivery of the Local Plan?	

- 4.24 As it is unlikely that there will be sufficient CIL funds available to consider allocating/spending receipts for at least the first year the Full Application for Funding form has not yet been produced. Whilst CIL funds for certain projects may well far exceed £100,000, it is likely that a similar format would be suitable for managing them. Such detail is reasonably required to ensure that CIL funds are being used for their correct purpose, that alternative funding sources have been explored and to satisfy audit processes.
- 4.25 It is proposed to delegate agreement of the final version of this form to the Service Lead for Planning Strategy and Development Management. Council officers will then need to compare and score projects and subsequently make recommendations as to the prioritisation of funds for the coming year. These recommendations will then be considered and potentially amended by an officer/Members working group to ensure that subsequent reports to Strategic Planning Committee and Cabinet have been informed by key priorities and knowledge of wider issues. The detail of the officer/Member working group will need determining in due course but initially Members are requested to agree to set such a group up.

**Report to:** **Strategic Planning Committee**

**Date of Meeting:** 29 March 2017

**Public Document:** Yes

**Exemption:** None

**Review date for release** None

**Agenda item:** 9

**Subject:** **Housing monitoring and Five Year Land Supply Calculations**

**Purpose of report:** The Council are required to monitor housing completions on at least an annual basis and calculate whether it can demonstrate a “Five Year Land Supply” of sites for housing. This report sets out the latest monitoring figures on housing completions and projections and sets out the Five Year Land Supply calculation to a base date of 30 September 2016. In summary there have been **354 net completions** in the last six months (1 April 2015 to 30 September 2016) and officers consider that the Council is able to demonstrate **6.13 years supply of housing**.

**Recommendation:**

- 1. Note the Housing Monitoring Update to 30 September 2016 ;**
- 2. Agree the approach to the calculation of the 5 Year Land Supply ; and**
- 3. Note the implications of the latest monitor going forwards.**

**Reason for recommendation:** To keep Members of the Strategic Planning Committee up to date on latest housing completions and projections and the latest Five Year Land Supply position.

**Officer:** Graeme Thompson, Planning Policy Officer,  
[gthompson@eastdevon.gov.uk](mailto:gthompson@eastdevon.gov.uk), 01395 571736

**Financial implications:** There are no direct financial implications identified in the report, however members will be aware of the financial implication in not delivering additional housing and the implication on the Council’s New Homes Bonus funding.

**Legal implications:** There is a legal requirement for the Council to monitor housing completions and demonstrate a ‘Five Year Land Supply’ of sites for housing. This reports ensures that the Council is complying with its duties and can demonstrate an adequate supply of housing. Other legal implications are covered in the report.

**Equalities impact:** Low Impact

**Risk:** Medium Risk

There is little to no risk involved in reporting data on completions as this is essentially factual. However, there are risks associated with housing projections and the calculation of the Five Year Land Supply position.

A number of assumptions have to be made about the likely build out rates for sites that have planning permission or acknowledged



development potential, allocations and future windfalls. Assumptions are made based on an application of the HELAA methodology agreed build out rates plus the latest understandings about the intentions of developers and constraints for specific sites. These assumptions have taken a conservative approach unless officers have information to clearly suggest that delivery will come forward more quickly.

The calculation of Five Year Land Supply makes an assumption that the Council should apply the 5% buffer required by paragraph 47 of the NPPF as was agreed to be applied at the last monitor.

These issues represent medium risks to the Council in that they may be contested by the development industry and third parties at appeal. Officers are confident of the position set out in this report and the attached Housing Monitoring Update and consider it to be defensible at appeal, however, it is a risk that should be highlighted.

**Links to background information:**

- [Appendix 1 – Full list of completions and projections for sites with planning permission](#)
- [Appendix 2 – Full list of sites no longer expected to go ahead](#)

**Link to Council Plan:**

Encouraging communities to be outstanding; Developing an outstanding local economy; Delivering and promoting our outstanding environment; Continuously improving to be an outstanding council

## 1. Introduction

- 1.1 Officers monitor housing delivery every six months to base dates of 30<sup>th</sup> September (half year) and 31<sup>st</sup> March (full year). Appended to this report is the latest Housing Monitoring Update (HMU) to 30 September 2016. As was highlighted when the previous HMU was considered by Strategic Planning Committee in November 2016, limited staff resources and other workloads have meant monitoring has taken longer than it ideally would in recent times. The new staff identified in that report have now begun in the Planning Policy team, however have primarily been engaged in other workstreams over the last six months but should be available to help with completing the next monitor. Work improving ICT systems has stalled, partly to try and align with work on improving ICT systems for the wider Greater Exeter Strategic Plan, and partly because STRATA have had to focus on delivery of Global Desktop, reducing their capacity to deliver on other priorities. Improved systems remain key to being able to deliver quicker and better monitoring and as such this is not a workstream that should be lost but it does require additional resource from STRATA. It is also felt that wider monitoring processes could benefit from systems thinking in due course to improve efficiency and effectiveness. The hope would be that this would enable a fuller suite of indicators to be monitored.
- 1.2 Housing monitoring is important to ensure that officers and Members are aware of and understand how and where housing is being delivered in the district. In addition to this there is an inherent pressure from central government via the National Planning Policy Framework (NPPF – paragraphs 47-49 in particular) to ensure that the district can demonstrate an up to date five year land supply or else Local Plan policies for the supply of housing may not be considered up to date. It is also an important way of knowing whether Local Plan policies are being successful or require review.

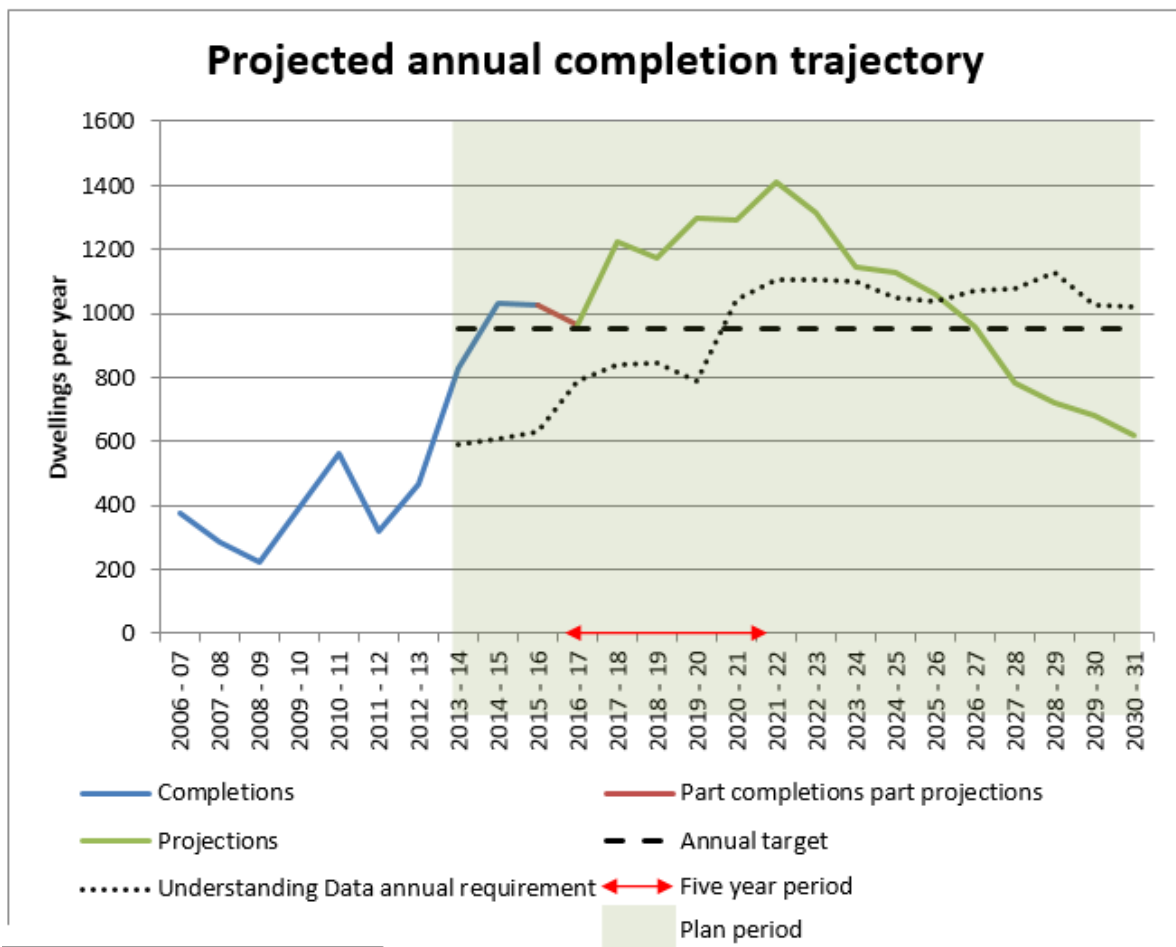
## 2. **Headline monitoring figures**

- 2.1 The latest HMU shows that over the six month period from 1 April 2016 – 30 September 2016 there were **354 net new dwellings completed** in East Devon. This is a significant drop off from the last three six month periods which saw 569, 512 and 515 net completions respectively, and the lowest since the new plan period started in April 2013.
- 2.2 Drilling down a little further, it is important to note that of the 354 net completions over that period 172 (49%) have been at the West End, with 182 (51%) in the rest of the district. Whilst the last report to Strategic Planning Committee explained that there had been drop off in completions at the West End and a rise in completions in the rest of East Devon, the last six months now show a significant drop off in the rest of the district as well as at the West End. The reasoning for lower completion rates over the last six months is considered later in this report, however it is considered to be a temporary “blip” and not a significant cause for concern at this stage.
- 2.3 Over the course of the last six months approximately 84% of net completions were on Greenfield sites (including fields and undeveloped greenspaces, barn conversions and garden sites). Members should keep this in mind and consider the need to increase the number of homes coming forward on Brownfield sites (redevelopments, conversions and change of use). The new Local Plan has a monitoring target to deliver at least 50% of all windfall sites on brownfield land (ie not allocated in the current or previously adopted or draft Local Plans or “made” Neighbourhood Plans). 129 dwellings were completed on non-allocated sites in the last six months, with 76 of these on Greenfield sites and 53 on brownfield. This means that 41.1% of windfall completions were on brownfield sites. This position has also consistently worsened over recent years and will be monitored but it shows a pressing need to increase brownfield delivery. The Council has started work on a Brownfield Land Register which may potentially help to bring forward more brownfield development with sites identified through this process potentially benefiting from a “permission in principle” in due course. Equally, Members should look to maximise the development potential of Brownfield sites that come before them at Development Management Committee, and feel confident in the Five Year Land Supply position to refuse Greenfield sites where there is reason to do so.
- 2.4 72 of the 354 completions were affordable, with 37 (51.4%) of these coming from the West End (Old Park Farm at Pinhoe and Cranbrook). The 35 affordable completions in the rest of East Devon have been driven by completions on just a few sites but mainly Land South of the A35 (off George Lane) in Kilmington, Land East of Butts Road in Ottery St Mary and Chard Road in Axminster. The significant numbers of mixed market/affordable sites in the rest of the district that had delivered in recent years appears to have dropped off, perhaps in response to uncertainty over the future of affordable housing, starter homes and the housing white paper.
- 2.5 The 31 March 2016 monitoring report to Strategic Planning Committee in November 2016 projected that over the full monitoring year for 2016/17 there would be 946 completions. 354 completions in the first six months falls some way short of half of this figure, however, it is still projected that the year as a whole (to 31 March 2017) will be strong and see 966 completions due to the number of sites currently under construction. Should the overall monitoring year deliver less than the projected 966 (even as low as 708 – double 354 or lower) then that would not necessarily signal a major issue due to the sheer number of dwellings with permission and under construction within the system. The specific yearly projection figures are largely academic in isolation. Of key importance is the fact that a total of 6,225 homes are projected to be built out within the five year period (equating to circa



1,245 homes per annum) which is slightly above the build rates achieved over the last two full monitoring years.

- 2.6 A grand total of 18,652 net new dwellings are now projected to have been completed over the full plan period (2013-2031). This is above the 17,100 minimum figure of housing need outlined by the new Local Plan.
- 2.7 Whilst the below graph shows a flattening out or slight reduction in completions for 2016/17 and projections for 2017/18 then a sharp rise this is a result of the application of the methodology and calculations. In reality, completions will not follow this projection line exactly, some sites projected to be completed next year may be completed in 4 years time, and conversely some projected to be built out in 4 years time may be completed next year. The key point is that over the five year period if completions were annualised (averaged out over the period), the projected completions would be significantly above the 950 per annum target set by the Local Plan as explained in the previous paragraph. Therefore if actual completions do not meet specific projections set out in this or earlier years that is not necessarily an issue as long as they are made up over the five year period.
- 2.8 In addition to this, the graph below shows the annual requirement as set out by the Understanding Data report<sup>1</sup> which identifies that annual dwelling requirements over the plan period are not evenly distributed but instead gradually increase over time. Annual projected completions clearly far exceed this secondary annual requirement right up until 2026-27 from which point onwards they drop down significantly. This is evidence of the fact that housing is being brought forward from later in the plan period as required by paragraph 47 of the NPPF.



<sup>1</sup> Demographic advice for East Devon Council (August 2015), Understanding Data, available at: <http://eastdevon.gov.uk/media/1287188/psd2015u-demograpicsunderstandingdataaug2015.pdf>

### 3. West End delivery

- 3.1 Housing delivery at the West End has dropped over the last year or so, however this is a temporary situation primarily caused by the reduced flow of available plots with reserved matters at Cranbrook and to a lesser extent uncertainty as a result of the Cranbrook Plan DPD process. It is important to note that in comparison, Old Park Farm (Pinhoe) has continued to deliver at above projected rates and is moving into phase 2 ahead of schedule.
- 3.2 The reduced flow of available plots has started to be addressed with further applications in the pipeline however, it is important to recognise this is still a finite supply of plots with reserved matters approval which has an impact on the delivery rate at Cranbrook.
- 3.3 It is ultimately more cost-effective for the developers to slow build rates down and keep workforces on-site than it is to rush through completions at expected rates and for contractors etc to have to go off-site and be re-engaged when further plots become available. That being the case, until more plots with reserved matters approval are available to build out it is likely that build rates will continue at a reduced level.
- 3.4 The future projected build out rate for Cranbrook has taken this into account by assuming the following depressed and slowly recovering rate over the next few years. This is a conservative assessment which may be exceeded if the above issues can be resolved sooner rather than later.

	2016/17	2017/18	2018/19	2019/20	2020/21
Cranbrook	200	275	350	400	400

- 3.5 The Major Projects team are in pre-application discussions in anticipation of reserved matters applications for other parcels of land within the outline permitted area. This identifies the flow of plots for the next few years. For this reason, it is not considered to be an ongoing/extended issue. The Cranbrook Plan DPD will drive future development.

### 4. Rest of East Devon delivery

- 4.1 Housing delivery has dropped significantly in the last six months after a fairly big rise over the previous three six month periods. It is difficult to be sure of why this has happened, but it would appear to potentially at least in part be the result of reasonable drop-offs in completions at Axminster, Exmouth and Sidmouth together with just one rural exception scheme delivering in the last six months in comparison to a number in the previous year. Overall numbers of completions at settlements do fluctuate quite significantly on a six monthly or annual basis because they are so sensitive to specific sites and their point of development. For instance completions in Sidmouth in the previous two six month periods were pushed up by development of the Combe Hayes site which has now completed. Completions at Cloakham Lawn in Axminster have seen a reasonable drop off, however it is not obvious why this has occurred and it is therefore reasonable to assume that it is more about the specific timings of completions being recorded and that delivery will pick up once more in due course. These are just two examples but it shows the volatility of completions when monitored on a six monthly basis. There may also be an element of uncertainty and volatility in markets since the EU referendum which has underlined reduced outputs in this time, however this is purely anecdotal speculation.
- 4.2 Considering this and the significant number of sites with planning permission and which are under construction it is reasonable to assume that completions will rise again in future months and that this should be considered a temporary “blip”.

## 5. Five Year Land Supply

- 5.1 The final page of the HMU sets out the five year land supply calculation based on the 30 September 2016 monitor. It shows that East Devon can demonstrate **6.13 years supply** of land for housing taking account of a 5% buffer as required by paragraph 47 of the NPPF. A 5% buffer has been applied, consistent with the approach agreed at the previous monitor.
- 5.2 6.13 years is up from 5.80 years at the last monitor to 31 March 2016. This is due to a significant number of new permissions being granted in the last six months and because we have moved forwards by six months which pulls an extra six months of completions in on larger sites that span beyond the five year period.
- 5.3 It is important to note the conservative nature of assumptions made in the supply side of the equation. In general, HELAA methodology compliant build-out rates have been used to project future completions unless there is evidence that alternative build out rates are likely. The approach taken is set out on a site by site basis within the HMU.
- 5.4 In addition to this, a robust but conservative assessment of future windfalls has been used which complies with NPPF requirements and is set out in the HELAA methodology which has been agreed by development industry representatives on the HELAA panel. In all reality, it is likely that the projected numbers of windfalls will be exceeded.
- 5.5 Where it is understood that there are specific constraints or sites are otherwise stalled, this has been taken into account and projected delivery has been either pushed back within the five year period or identified as likely to be delivered outside the five year period. A number of these sites could conceivably deliver within the five year period but it has been assumed that they will not in the interests of calculating a robust and conservative assessment.
- 5.6 The build out rates, approach to calculating windfalls and detailed site assessments mean that generally the projected housing supply calculations err on the conservative side.
- 5.7 The calculation shows that over the five year period a surplus of 1,148 net new dwellings are projected to be built over the district as a whole. This is a healthy surplus that means that should certain sites not deliver or under-deliver there is an added buffer of supply, however this is not anticipated to be an issue.
- 5.8 The fact that the Council can demonstrate a healthy five year land supply means that Local Plan policies can be given full weight in assessing planning applications. Members should not, however, become complacent over the existence of a five year land supply and the projected surplus as such a buffer can quickly be reduced if appropriate future windfall sites or allocated sites are not developed.



## **East Devon District Council**

### **Housing monitoring update to 30 September 2016**

**March 2016**



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VERSION CONTROL

Version Number	Reason for Update	Date
01	Internal draft	03/03/2017
02	Draft for Strategic Planning Committee	10/03/2017

# 1. Introduction

- 1.1 This document provides a housing monitoring update for East Devon District Council to a base date of **30 September 2016**. The report considers the following:
- Housing completions over the last six months (1 April 2016 – 30 September 2016) including:
    - Total completions district wide, on a parish by parish and settlement by settlement basis;
    - Breakdown of completions on brownfield and greenfield sites; and
    - Breakdown of completions of affordable housing.
    - Analysis of windfall completions.
  - Housing projections and housing trajectory for the plan period;
  - Five year land supply calculations for the period 1 October 2016 to 30 September 2021.
- 1.2 Section 113 of the Localism Act (2011) removed the requirement of Councils to submit an Annual Monitoring Report (AMR) to the Secretary of State, but allowed monitoring reports to be produced covering individual indicators which must be published at least once a year. This housing monitoring update complies with that requirement.
- 1.3 The National Planning Policy Framework (NPPF) requires Councils to be able to demonstrate a five year supply of land for housing plus a 5% or 20% buffer requirement depending on past performance. Paragraph 47 of the NPPF states that local planning authorities should:
- “identify and update annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements with an additional buffer of 5% (moved forward from later in the plan period) to ensure choice and competition in the market for land. Where there has been a record of persistent under delivery of housing, local planning authorities should increase the buffer to 20% (moved forward from later in the plan period) to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land”.*
- In addition to this, paragraph 49 of the NPPF states:
- “Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites”.*
- 1.4 This report considers the extent to which extant permissions, sites with a resolution to grant permission or acknowledged development potential, proposed allocations and future windfalls contribute towards meeting the five year requirement.



## 2. Completions

### How do we know if a house has been completed?

2.1 Housing completions are monitored every six months through interrogation of Building Control and Council Tax records against a list of sites with planning permission.

Dwellings are considered to be complete if they fall into one of the following brackets:

- East Devon Building Control have recorded a dwelling as having completed; OR
- East Devon Council Tax have recorded a dwelling as being banded or awaiting banding (sent to the Valuation Office); OR
- A Building Control approved inspector has notified the Council that a dwelling has been completed; OR
- The developer of a site has provided the Council with a build return showing completions; OR
- Planning permission is retrospectively granted to legalise an existing use.

### How is a “dwelling” defined?

2.2 For the purposes of housing monitoring, generally, a dwelling is defined as being a separately Council Tax banded property. As an example, this would mean that if a house that had previously been a single Council Tax banded dwelling were split into four flats, each being separately Council Tax banded, then there would be an assumed three net new dwellings on the site upon completion.

2.3 The above definition means that annexes are not counted as a dwelling unless they become separately Council Tax banded. By becoming Council Tax banded, the annexe is recognised as a self contained dwelling. Despite the fact that it may still be tied conditionally to be used ancillary to the main dwelling, it is serving the purpose of a self contained dwelling and therefore should still be counted as such for the purposes of monitoring.

2.4 In addition to this the Housing and Economic Land Availability Assessment (HELAA) methodology for the Exeter Housing Market Area (HMA) 2016 states that care and extra-care homes should contribute towards dwelling numbers despite units not being separately Council Tax banded. The reasoning for this is that as elderly people move into care / extra-care homes they “free up” open market dwellings for others to move into. The methodology conservatively assumes that one dwelling is freed up by every two nursing or care home beds created. This is based on primary research conducted within the HMA whereby existing care homes were contacted to find out numbers of residents, the proportion that were permanent and the proportion that had previously lived alone. This research suggested that on average 50% of residents were permanent and had previously lived alone which suggests that when they permanently moved to the care home they were leaving an empty house. This equates to the rate of two beds equalling one dwelling. Two bed spaces equalling one dwelling is the final confirmed ratio in the HELAA methodology, however previous drafts of the methodology have included 1.4 bed spaces equalling one dwelling and 1.67 bed spaces equalling one dwelling. Completions of care/nursing homes in the October 2013-March 2014 monitoring period assumed 1.4:1 as a ratio, completions from April 2014 to September 2014 assumed 1.67:1 as a ratio, and completions/projections from 1 October 2014 onwards now assume 2:1 as the correct ratio. Extra-care homes/sheltered housing is assumed to be a new dwelling in its own right. Generally this type of housing is separately Council Tax banded anyway.

## Total completions

2.5 A full schedule of completions and projections with planning permission by site from the start of the plan period (April 2013) can be found at Appendix 1. As shown in the table below, over the last six months (1 April 2016 to 30 September 2016) a total of 354 dwellings have been completed in East Devon. This includes 172 at the district's "West End" and 182 in the Rest of East Devon.

	April 2013 - Sept 2013	Oct 2013 - Mar 2014	Apr 2014 - Sept 2014	Oct 2014 - Mar 2015	Apr 2015 - Sept 2015	Oct 2015 - Mar 2016	Apr 2016 - Sept 2016
West End	184	302	225	306	223	180	172
RoED	202	142	235	263	289	335	182
East Devon TOTAL	386	444	460	569	512	515	354
Annual TOTAL	830		1,029		1,027		

- 2.6 Looking at the East Devon total for the past six month period, completions have dropped off significantly in comparison to recent years, with the total being the lowest recorded for a six month period since the start of the plan period in 2013. Whilst West End completions have remained largely on a par with the previous six month period (which in turn was significantly reduced from previous years due to a temporary slow down of development at Cranbrook), Rest of East Devon figures have dropped off significantly. Over recent years there has been a trend whereby completions for the rest of the district have increased year on year, however the trend appears to have been bucked in the last six months. This would appear to be a blip in the otherwise fairly consistent trend of increased completion rates in the rest of the district.
- 2.7 Following two full monitoring years of completions exceeding 1,000 dwellings and the six month periods within them being relatively high and consistent, this significant drop off in half year monitoring figures on one hand could suggest that the annual total for 2016/17 might be lower than previously projected (946 in the monitor to 31 March 2016), however due to the significant number of permissions and sites under construction it is expected that the second half of the year will see a return to higher completion figures.
- 2.8 It is clear from both the six monthly and annual figures in the table above and completions prior to the current plan period that housing delivery has significantly increased across the district. This has been a result of completions both at the West End and in the Rest of East Devon. The fact that district-wide figures have generally (until the anomaly of the last six months) remained high despite a temporary reduction in completions at the West End is evidence that the upturn in housing delivery is not solely because of Cranbrook and other West End sites. Though clearly, they are a significant factor and once delivery at Cranbrook and other West End sites yet to come on stream increases again then potentially district-wide figures will increase further. This shows that the "step change" in housing delivery that the Government is promoting is being implemented in East Devon and in a more general sense reflects a market desire to build that was less pronounced in previous years.

## Completions by parish

2.9 The table below shows the last year (divided into the two six month periods) of completions by parish. Town councils are highlighted in yellow.

Parish	1 Apr 16 – 30 Sept 16
All Saints	1
Awliscombe	1
<b>Axminster</b>	<b>47</b>
Axmouthe	0
Aylesbeare	1
Beer	0
Bicton	0
Brampford Speke	0
Branscombe	0
Broadclyst	52
Broadhembury	1
Buckerell	0
<b>Budleigh Salterton</b>	<b>4</b>
Chardstock	0
Clyst Honiton	1
Clyst Hydon	0
Clyst St George	0
Clyst St Lawrence	0
Clyst St Mary	0
Colaton Raleigh	0
Colyton	1
Combe Raleigh	3
Combpyne	0
Rousdon	0
Cotleigh	0
<b>Cranbrook</b>	<b>120</b>
Dalwood	0
Dunkeswell	3
East Budleigh	0
<b>Exmouth</b>	<b>24</b>
Farringdon	0
Farway	0
Feniton	0
Gittisham	0
Hawkchurch	3
<b>Honiton</b>	<b>13</b>
Huxham	0
Kilminster	15
Luppitt	1
Lympstone	3
Membury	0
Monkton	1
Musbury	1
Newton	0
Poppleford	0
Northleigh	0
Offwell	0
Otterton	0
<b>Ottery St Mary</b>	<b>34</b>
Payhembury	0
Plymtree	1

Parish	1 Apr 16 – 30 Sept 16
Poltimore	0
Rewe	0
Rockbeare	4
<b>Seaton</b>	<b>14</b>
Sheldon	1
Shute	0
<b>Sidmouth</b>	<b>2</b>
Southleigh	0
Sowton	0
Stockland	0
Stoke Canon	0
Talaton	0
Uplyme	1
Upottery	0
Upton Pyne	0
Whimble	0
Widworthy	0
Woodbury	1
Yarcombe	0
<b>Totals</b>	<b>354</b>

### Completions by Built-up Area Boundary and Strategic Allocation

2.10 The table below shows completions over the last six months by Built-up Area Boundaries (BuABs) and Strategic Allocation. The BuABs for the towns of Axminster, Budleigh Salterton, Exmouth, Honiton, Ottery St Mary, Seaton and Sidmouth are defined by the New Local Plan. Strategy 27 of the New Local Plan identifies 15 settlements at which BuABs will be defined by the Villages Plan DPD (which is currently in production). Until the Draft Villages Plan has progressed further towards Examination the previous BuABs (as defined by the old Local Plan) are being used for this exercise. Lypstone BuAB is defined in the Lypstone Neighbourhood Plan. In addition to these, development within the Strategic Allocations at the West End are recorded. Development outside of the defined BuABs or Strategic Allocations is considered to be in open countryside by the Local Plan.

2.11 Sub-totals for each section (West End Strategic Allocations, towns and Strategy 27 villages) are highlighted in yellow.

BUAB/Allocation	1 Apr 16 – 30 Sept 16
<b>West End Strategic Allocations - Totals</b>	<b>172</b>
Cranbrook	120
Pinhoe	52
North of Blackhorse	0
<b>Towns - Totals</b>	<b>112</b>
Axminster	44
Budleigh Salterton	4

<b>BUAB/Allocation</b>	<b>1 Apr 16 – 30 Sept 16</b>
Exmouth	24
Honiton	13
Ottery St Mary	11
Seaton	14
Sidmouth	2
<b>Strategy 27 Villages - Totals</b>	<b>9</b>
Beer	0
Broadclyst	0
Clyst St Mary	0
Colyton	1
East Budleigh	0
Feniton	0
Kilmington	2
Lypstone	3
Musbury	0
Newton Poppleford	0
Sidbury	0
Uplyme	0
West Hill	3
Whimple	0
Woodbury	0
<b>Open Countryside</b>	<b>61</b>
<b>Grand TOTAL</b>	<b>354</b>

2.12 The above table shows that of the 354 net completions in the last six months, 61 (17%) have been outside of BuABs and strategic allocations. These are likely to be mainly the result of planning permissions either granted by the Council or allowed on appeal in recent years in response to a lack of five year land supply due to the absence of an adopted Local Plan housing target. The percentage of overall completions, however, is lower than in the previous two six month monitors which suggests that the policy direction of the New Local Plan is now starting to have an impact. The table appears to show fairly limited development at the Strategy 27 villages and at certain key towns, however in some cases this is because many of the relevant permissions granted and currently being built out are simply beyond the BuAB.

### **Completions by settlement**

2.13 The following table shows completions by the settlement which the site is *effectively* at. This is irrespective of policy boundaries (BuABs and allocations) and provides a more accurate picture of housing delivery by settlement without applying policy boundaries. Towns are highlighted in yellow, Strategy 27 villages are highlighted in green and West End settlements are highlighted in blue.

Settlement (at which the development occurs whether within BuAB or not)	1 Apr 16 – 30 Sept 16
Alfington	0
Awliscombe	0
<b>Axminster</b>	<b>44</b>
Axmouthe	0
Aylesbeare	1
Beer	0
Blackhorse	0
Brampford Speke	0
Branscombe	0
Broadclyst	0
<b>Budleigh Salterton</b>	<b>4</b>
Chardstock	0
Church Green	0
Clyst Honiton	1
Clyst Hydon	0
Clyst St George	0
Clyst St Lawrence	0
Clyst St Mary	0
Colaton Raleigh	0
Colestocks	0
Colyford	0
Colyton	1
Combe Raleigh	2
Combpyne	0
Cotleigh	0
Cowley	0
<b>Cranbrook</b>	<b>120</b>
Dalwood	0
Dulford	0
Dunkeswell	1
Dunkeswell (Highfield)	2
East Budleigh	0
Ebford	0
<b>Exmouth</b>	<b>24</b>
Exton	1
Farringdon	0
Farway	0
Feniton	0
Gittisham	0
Harpford	0
Hawkchurch	3
<b>Honiton</b>	<b>13</b>

Settlement (at which the development occurs whether within BuAB or not)	1 Apr 16 – 30 Sept 16
Huxham	0
Jack in the Green	3
Kerswell	1
Kilmington	15
Luppitt	0
Lympstone	3
Marsh	0
Membury	0
Monkton	0
Musbury	0
Newton Poppleford	0
Newtown	0
Northleigh	0
North of Blackhorse	0
Offwell	0
Old Feniton	0
Otterton	0
Ottery St Mary	30
Payhembury	0
Pinhoe	52
Plymtree	0
Poltimore	0
Rawridge	0
Raymond's Hill	2
Rewe	0
Rockbeare	1
Rousdon	0
Rousdon Estate	0
Salcombe Regis	0
Seaton	14
Seaton Junction	0
Sheldon	0
Shute	0
Sidbury	0
Sidmouth	2
Smallridge	1
Smeatharpe	0
Southleigh	0
Stockland	0
Stoke Canon	0
Street	0
Talaton	0

Settlement (at which the development occurs whether within BuAB or not)	1 Apr 16 – 30 Sept 16
Tipton St John	0
Tytherleigh	0
Uplyme	1
Upottery	0
Upton Pyne	0
West Hill	4
Weston, Honiton	1
Weston, Sidmouth	0
Whimble	0
Whitford	0
Wilmington	0
Woodbury	0
Woodbury Salterton	0
Yarcombe	0
Yawl	0
Yettington	0
Other rural areas	7
<b>Grand TOTAL</b>	<b>354</b>

2.14 The table above shows that whilst a significant portion of completions have been outside of policy boundaries, the majority of completions have been “at” the towns, West End and more sustainable villages. Having said that, whilst remaining relatively high, completions at Axminster and Exmouth have dropped off quite significantly from previous six month periods. There have been surprisingly few completions at Sidmouth in the last six months.

### Greenfield/brownfield split

2.15 The table below shows the breakdown of completions between greenfield and brownfield sites over the past year. Greenfield describes any site on land which has not previously been developed. Brownfield therefore describes sites of previously developed land, the definition of which can be found within the glossary of the NPPF but is reproduced below for ease of reference:

*“Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or has been occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill purposes where provision for restoration has been made through development control procedures; land in built-up areas such as private residential gardens, parks, recreation grounds and allotments; and land that was previously-developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape in the process of time.”*



		April 2016 to Sept 2016	
		Dwgs	%
Greenfield	Greenfield	280	79%
	Barn Conversions	1	0%
	Garden Sites	18	5%
	<b>TOTAL</b>	<b>299</b>	<b>84%</b>
Brownfield	Redevelopment	32	9%
	Conversions/COU	23	6%
	<b>TOTAL</b>	<b>55</b>	<b>16%</b>
<b>TOTAL</b>		<b>354</b>	<b>100%</b>

2.16 The table above shows that around 5/6 of completions in the district over the last year were on greenfield sites. This figure has crept up consistently over the last few years presumably as a consequence of the lack of a five year land supply and NPPF requirement to permit greenfield developments that might otherwise have been resisted where this is the case.

2.17 The new Local Plan has a monitoring target to deliver at least 50% of all windfall sites on brownfield land (ie not allocated in the current or previously adopted or draft Local Plans or “made” Neighbourhood Plans). 129 dwellings were completed on non-allocated sites in the last six months, with 76 of these on Greenfield sites and 53 on brownfield. This means that 41.1% of windfall completions were on brownfield sites. This position has also consistently worsened over recent years and will be monitored but it shows a pressing need to increase brownfield delivery. The Council has started work on a Brownfield Land Register which may help to bring forward more brownfield development.

### Affordable completions

2.18 The table below shows the number of affordable homes completed across East Devon over the last year. Affordable homes are those completed as “affordable rented”, “social rented”, “shared ownership”, “intermediate” or “affordable by design”.

	April 2016 to Sept 2016
RoED	35
West End	37
<b>East Devon TOTAL</b>	<b>72</b>

2.19 A large proportion (51.4%) of affordable completions have come from the West End developments at Cranbrook and Old Park Farm. This would appear to be a combination of Cranbrook in particular delivering more affordable dwellings in the last six months than in the previous period and reduced build rates in the rest of the district outlined earlier in the report. The affordable completions in the rest of East Devon have been driven by completions on just a few sites but mainly Land South Of The A35 (off George Lane) in Kilminster, Land East of Butts Road in Ottery St Mary and Chard Road in Axminster. The significant numbers of mixed market affordable sites in

the rest of the district that had delivered in recent years appear to have dropped off, perhaps in response to uncertainty over the future of affordable housing and housing associations.

### Windfall completions

2.20 Windfalls refer to sites built out which are the result of speculative planning applications. They have not been allocated by the current, previously adopted or any emerging Draft Plans.

2.21 The table below shows that over the past six months 128 of the 354 net completions have been windfalls. This equates to 39.4% of all completions in the last year. However, of these 405 net windfall completions 3 were on the Wainhomes site at the West End and the remaining 402 were in the Rest of East Devon. This means that of the 624 net completions in the Rest of East Devon, 64.4% were windfalls.

Gross site capacity	1-2 dwellings	3-5 dwellings	6-9 dwellings	10-20 dwellings	21+	TOTAL
RoED	41	27	4	25	28	<b>125</b>
West End	0	0	0	3	0	<b>3</b>
<b>TOTAL</b>	<b>41</b>	<b>27</b>	<b>4</b>	<b>28</b>	<b>28</b>	<b>128</b>
<b>Percentage</b>	<b>32.0%</b>	<b>21.1%</b>	<b>3.1%</b>	<b>21.9%</b>	<b>21.9%</b>	<b>100%</b>

2.22 In addition to the headline totals, the above table shows how many windfalls have been delivered on sites of different sizes. The gross site capacity refers to the gross number of dwellings due to be delivered on a site as a whole. As an example, if 2 windfall dwellings were completed in the last six months on a site due to take a total of 5 gross new dwellings they would be listed in the 3-5 dwellings column.

2.23 In terms of calculating five year land supply, paragraph 48 of the NPPF allows for future windfalls to be counted towards supply, however the figure should not include residential gardens. This being the case, the assessment below shows the number of net windfall completions in the last year on sites other than back gardens. Further analysis of windfalls for the purposes of projections can be found in paragraphs 3.20-3.23 below.

Gross site capacity	1-2 dwellings	3-5 dwellings	6-9 dwellings	10-20 dwellings	21+	TOTAL
RoED	28	22	4	25	28	<b>107</b>
West End	0	0	0	3	0	<b>3</b>
<b>TOTAL</b>	<b>28</b>	<b>22</b>	<b>4</b>	<b>28</b>	<b>28</b>	<b>110</b>
<b>Percentage</b>	<b>25.5%</b>	<b>20.0%</b>	<b>3.6%</b>	<b>25.5%</b>	<b>25.5%</b>	<b>100%</b>

### 3. Projections

- 3.1 This section is an assessment of projected completions for the remainder of the plan period. The adopted New Local Plan runs from 2013 to 2031.
- 3.2 Projections are broken down into:
- Extant permissions;
    - These are sites that already have planning permission (either in full or outline and including sites that are already under construction) and are expected to be built out.
  - Acknowledged development potential;
    - These are sites which either have gained a resolution to grant planning permission subject to a S106 being signed, or sites which are known to be available and which are policy compliant but which do not yet have planning permission.
  - Allocations;
    - These are sites allocated by the adopted East Devon Local Plan or the adopted Lympstone Neighbourhood Plan which do not yet have planning permission.
  - Future windfalls.
    - These are an allowance for completions on windfall sites that do not yet have permission. Windfalls are calculated based on historic past windfall completions in line with the NPPF.
- 3.3 Projections are based on the status of sites and extant planning permissions at 30 September 2016 unless pertinent additional information has arisen since that date to aid understanding of delivery (e.g. commencement information).
- 3.4 Projected build out rates for sites generally follow the approach advocated by the Exeter Housing Market Area (HMA) Housing and Economic Land Availability Assessment (HELAA) methodology market conditions model unless we are aware of an alternative build out rate. The market conditions model assumes currently reduced build out rates for the next five years indicating a lack of market confidence from the HELAA panel which includes representatives of the development industry. This approach is set out over the page for ease of reference. This is a conservative assumption as seen by the clearly increased delivery over the past six months and year in comparison to previous months and years. However, they are used to project the delivery of the majority of sites in the interest of consistency. Where an alternative build out rate is used this is because there is clear evidence that the site has and will continue to build at above or below methodology rates and the commentary column explains the reasoning behind this.
- 3.5 A full schedule of completions and projections with planning permission on a site by site basis can be found at Appendix 1.

**Excerpt from the Exeter HMA HELAA Methodology: Market conditions model for calculating housing delivery rates**

Size of site (no of dwellings)	Commencement of sites			Build out rate	
	Sites where dwellings are under construction	Sites where dwellings have planning permission	Suitable sites without planning permission	Years 1-5	Years 6+
1-15 dwellings (assumes one developer)	Commence in Year 1	Commence in Year 1	Commence in Year 3	1 <sup>st</sup> year – 12 dwellings maximum 2 <sup>nd</sup> year onward – 25 dwellings per year maximum	1 <sup>st</sup> year 25 dwellings maximum 2 <sup>nd</sup> year onward – 50 dwellings per year maximum
16-500 dwellings (assumes one developer)	Commence in Year 1	Commence in Year 2	Commence in Year 3	1 <sup>st</sup> year – 12 dwellings maximum 2 <sup>nd</sup> year onward – 25 dwellings per year maximum	1 <sup>st</sup> year 25 dwellings maximum 2 <sup>nd</sup> year onward – 50 dwellings per year maximum
501-1000 dwellings (assumes two developers)	Commence in Year 1	Commence in Year 3	Commence in Year 4	1 <sup>st</sup> year – 12 dwellings maximum 2 <sup>nd</sup> year onward – 50 dwellings per year maximum	1 <sup>st</sup> year 25 dwellings maximum 2 <sup>nd</sup> year onward – 100 dwellings per year maximum
1001+ dwellings (assumes three developers)	Commence in Year 1	Commence in Year 3	Commence in Year 4	1 <sup>st</sup> year – 12 dwellings maximum 2 <sup>nd</sup> year onward – 75 dwellings per year maximum	1 <sup>st</sup> year 25 dwellings maximum 2 <sup>nd</sup> year onward – 150 dwellings per year maximum

N.B. These figures provide a general guideline. Different commencement dates or build out rates may be chosen for selected sites by the HELAA panel if warranted due to site specific issues, or if landowners have identified sites as being available at a later date.

### Extant permissions

3.6 The tables below consider large sites (sites of 10 or more gross units) already with planning permission at 30 September 2016 which are expected to be built out. It discounts any sites which are acknowledged as unlikely to go ahead – these are set out at Appendix 2. Sites which have gained permission since 30 September 2016 and sites whose planning permission is deemed to have lapsed are not included.

### Large development sites with planning permission in the Rest of East Devon

Site	Permission	Parish	Settlement (at which the development occurs whether within BuAB or not)	Commentary on Site	Oct 2016 – Mar 2017	2017 - 18	2018 - 19	2019 - 20	2020 - 21	Apr 2021 - Sept 2021	Oct 2021 - Mar 2022	2022 - 23	2023 - 24	2024 - 25	2025 - 2026	Apr 2026 - Sept 2026	Oct 2026 - Mar 2027	2027 - 28	2028 - 29	2029 - 30	2030 - 31	Five Year Supply - Oct 15 to Sept 20	Overall Projections
Land At Rear Of West Close , West Street, Axminster, Devon	03/P2728 AND 07/1128/MRES AND 08/2300/RES AND 12/2257/FUL AND 13/2612/MFUL	Axminster	Axminster	Site containing multiple permissions and different parts of the site are at different stages. Building control records and Council Tax show 7 terraced cottages and 2 townhouses complete with 2 more approaching completion. 8 apartments and remaining 4 townhouses have commenced so assume completion of these in 2016/17. 5 apartments do not yet have approved building control applications so assume completion of these in 2017/18. Total of 11 completions to date.	14	5																19	19
Land At, Dukes Way, Axminster, Devon Phase 2	09/2350/MFUL	Axminster	Axminster	Second phase of Betterment Homes development. Variation to S106 agreed October 2014 to now only require 6 further affordables on this site. Site recommenced soon after this and now back on track. 12 homes Council Tax banded by 31 March 2016 and a further 5 by 30 September 2016. Assume remaining homes to be completed in line with SHLAA methodology.	12	25	16															53	53
Land at Cloakham Lawns	10/0816/MOUT AND 13/1489/MRES AND 14/0774/MRES	Axminster	Axminster	Site well underway. Wider site (400 units total) now has reserved matters approval. Completions are ahead of HELAA rate and could argue for 30-40 per annum but a conservative approach of applying HELAA rates has been used. 79 completed (27 of which affordable).	12	25	25	25	25	13	25	50	50	50	21							125	321

Site	Permission	Parish	Settlement (at which the development occurs whether within BuAB or not)	Commentary on Site	Oct 2016 – Mar 2017	2017 - 18	2018 - 19	2019 - 20	2020 - 21	Apr 2021 - Sept 2021	Oct 2021 - Mar 2022	2022 - 23	2023 - 24	2024 - 25	2025 - 2026	Apr 2026 - Sept 2026	Oct 2026 - Mar 2027	2027 - 28	2028 - 29	2029 - 30	2030 - 31	Five Year Supply - Oct 15 to Sept 20	Overall Projections
Land At Milbrook Valley Stoney Lane Axminster	92/P0998  AND 11/0509/VAR	Axminster	Axminster	Jessopp site adjacent to Wainhomes (Chard Road) site, part of the oldest permission for Chard Road developments, permission therefore remains extant. 2011 variation of condition to enable development without improvements to Stoney Lane. Site still expected to be built out but conservatively beyond the five year period.	0	0	0	0	0	0	6	12										0	18
Chard Road - Phase 3 - south of brook (eastern portion)	10/0132/MFUL	Axminster	Axminster	Phase 3 of Wainhomes site off Chard Road. Total of 95 dwellings completed to date including 10 dwellings completed pre-plan period. 37 affordables completed to date. Assume remaining dwellings will be completed in 2016/17.	3																	3	3
Axminster Football Club	11/1660/MFUL  AND 15/0309/FUL	Axminster	Axminster	Development well advanced with just 14 units remaining. Assume all 14 (11 of which will be affordable) will be completed in 2016/17.	8																	8	8
Stoneleigh Holiday And Leisure Village Weston Sidmouth EX10 0PJ	08/2558/MFUL	Branscombe	Weston, Sidmouth	17 additional holiday lets on holiday park site. 1 of the new dwellings already completed and Council Tax banded. Assume others will not be so no projections shown, but will continue to be monitored and any that do become banded will be counted as completions.																		0	0
Kerswell Barton Farm Broadclyst Exeter EX5 3AF	12/1285/MFUL	Broadclyst	Rural areas	Site at early stage. Assume completion will be in 2017/18	0	12																12	12
Land South Of B3178 Budleigh Salterton	11/2629/MFUL	Budleigh Salterton	Budleigh Salterton	Site on North side of Budleigh Salterton which was allocated in the draft Local Plan. Site commenced June 2016. Assume first completions will be in remainder of 2016/17 and built out at rate consistent with HELAA methodology.	12	25	22															59	59
Land West Of Woodbury Road Clyst St George	14/0167/MFUL	Clyst St George	Clyst St George	Large site adjacent to Clyst St George allowed at appeal. Site commenced May 2016. Assume completion will be in 2017/18 and 2018/19 in line with HELAA methodology.	0	12	13															25	25
Land North Of Yaffles Coly Road Colyton	13/1401/MOUT	Colyton	Colyton	Large site on edge of Colyton. No reserved matters approval as yet. Application to vary S106 requirement relating to affordable units refused September 2016. Assume completion	0	0	12	4														16	16

Site	Permission	Parish	Settlement (at which the development occurs whether within BuAB or not)	Commentary on Site	Oct 2016 – Mar 2017	2017 - 18	2018 - 19	2019 - 20	2020 - 21	Apr 2021 - Sept 2021	Oct 2021 - Mar 2022	2022 - 23	2023 - 24	2024 - 25	2025 - 2026	Apr 2026 - Sept 2026	Oct 2026 - Mar 2027	2027 - 28	2028 - 29	2029 - 30	2030 - 31	Five Year Supply - Oct 15 to Sept 20	Overall Projections
				will be in 2018/19 and 2019/20 in line with HELAA methodology.																			
Land At, Marcus Road, Exmouth	10/1392/MFUL	Exmouth	Exmouth	4 completed, remaining 10 all under construction. Assume completion of remainders in line with HELAA methodology.	8	2																10	10
11 Camperdown Terrace, Exmouth, EX8 1EJ	10/1686/MFUL	Exmouth	Exmouth	Building control plans submitted Feb 2014 for 3 of the apartments (plots 9,10 and 11). Excavations on plot 9 began March 2014. Letter on planning file states that this was considered to be a material operation and so planning consent remains extant. Previously assumed that this meant the site would build out now,however, no further information so now conservatively assumed to not deliver within the five year period.	0	0	0	0	0	0	12											0	12
6 Portland Avenue, Exmouth, Devon, EX8 2BS	11/0733/FUL AND 12/2171/FUL	Exmouth	Exmouth	Site commenced. Assume completion will be in 2016/17	6																	6	6
Dunsinane Maer Road Exmouth EX8 2DA	11/0721/MFUL	Exmouth	Exmouth	Former Rolle College halls of residence site on Maer Road. Commenced on site Summer 2013. Flatted development of two blocks so expected to deliver all flats in each block around the same time. 13 complete, with remaining 1 remainder expected to be completed in remainder of 2016/17.	1																	1	1
Pier Head Mamhead View Exmouth	12/2163/MFUL	Exmouth	Exmouth	Site adjacent to Exmouth Docks commenced March 2015. Assume completion in line with HELAA methodology in 2016/17 and 2017/18.	12	1																13	13
34 Cranford Avenue Exmouth EX8 2QA	13/2647/MFUL	Exmouth	Exmouth	Site at an early stage. Assume completion will be in 2017/18	0	11																11	11
Pankhurst Close Trading Estate Pankhurst Close Exmouth	13/1230/MFUL	Exmouth	Exmouth	Large redevelopment site in Exmouth. Not yet implemented. Assume completion will be from 2017/18 onwards in line with HELAA methodology.	0	12	25	13														50	50
83 Salterton Road Exmouth EX8 2EW	15/1938/MFUL	Exmouth	Exmouth	Redevelopment site with permission for replacement of 2 flats with 10 apartments. Not yet implemented. Assume completion will be in 2017/18.	0	8																8	8
4 Elwyn Road Exmouth EX8 2EL	15/2654/FUL	Exmouth	Exmouth	Not yet implemented. Assume completion will be in 2017/18	0	8																8	8
Moreton 13 Drakes Avenue	15/1818/MFUL	Exmouth	Exmouth	Permission for the demolition of existing 40 bed care home and adjacent	0	12	25	25	8													70	70

Site	Permission	Parish	Settlement (at which the development occurs whether within BuAB or not)	Commentary on Site	Oct 2016 – Mar 2017	2017 - 18	2018 - 19	2019 - 20	2020 - 21	Apr 2021 - Sept 2021	Oct 2021 - Mar 2022	2022 - 23	2023 - 24	2024 - 25	2025 - 2026	Apr 2026 - Sept 2026	Oct 2026 - Mar 2027	2027 - 28	2028 - 29	2029 - 30	2030 – 31	Five Year Supply - Oct 15 to Sept 20	Overall Projections
Exmouth EX8 4AA				dwelling (total of 21 equivalent dwellings in accordance with HELAA methodology) and replacement with 70 self contained retirement living care units. Total of 49 net new dwellings. Not yet implemented but pre-commencement conditions discharged so assume completion will be from 2017/18 onwards in accordance with HELAA methodology.																			
The Q Club Elm Grove Exmouth EX8 1DJ	16/0153/MFUL	Exmouth	Exmouth	Not yet implemented. Assume completion will be in 2017/18	0	10																10	10
34 Douglas Avenue Exmouth EX8 2HB	15/1955/MFUL	Exmouth	Exmouth	Redevelopment of former hotel site to provide 11 dwellings. Commenced 2015. Assume completion will be in 2016/17.	11																	11	11
Rolle College Playing Field Douglas Avenue Exmouth	16/0787/MOUT	Exmouth	Exmouth	Large site abutting the Exmouth BuAB on playing field land. Reserved matters must be applied for within 1 year of outline permission and development commenced within 1 year of reserved matters permission. Current appeal running regarding refusal to vary condition and amend coverage. Assume completion will be from 2018/19 onwards in line with HELAA methodology.	0	0	12	11														23	23
Land North Of Acland Park Feniton	11/1021/MFUL	Feniton	Feniton	Site allowed at appeal. Commenced on site. Assume completion will be from 2017/18 onwards in accordance with HELAA methodology.	0	12	20															32	32
Land West Of Hayne Lane Honiton	13/2744/MOUT	Gittisham	Honiton	Site approved February 2015. No reserved matters application as yet so assume completions from 2018/19.	0	0	12	25	25	13	25	50	50	50	50							75	300
Land Off Of Clapper Lane (Previously Allotments) Honiton	13/2508/MOUT	Honiton	Honiton	No reserved matters approval as yet. Assume completion will be in 2018/19	0	0	10															10	10
The Cedars Otter Valley Park Honiton EX14 4PA	14/0405/VAR	Honiton	Honiton	No new completions to report. Assume completion will be within the five year period.	0	0	5															5	5
Lilac Haven Jerrard Close Honiton EX14 1DX	15/0895/MFUL	Honiton	Honiton	Site redeveloping existing plot for 10 dwellings. Site at advanced stage so assume completion will be in remainder of 2016/17.	10																	10	10



Site	Permission	Parish	Settlement (at which the development occurs whether within BuAB or not)	Commentary on Site	Oct 2016 – Mar 2017	2017 - 18	2018 - 19	2019 - 20	2020 - 21	Apr 2021 - Sept 2021	Oct 2021 - Mar 2022	2022 - 23	2023 - 24	2024 - 25	2025 - 2026	Apr 2026 - Sept 2026	Oct 2026 - Mar 2027	2027 - 28	2028 - 29	2029 - 30	2030 – 31	Five Year Supply - Oct 15 to Sept 20	Overall Projections
Heathfield House, Rosemount Lane, Honiton, EX14 1RN	15/0612/MFUL	Honiton	Honiton	Redevelopment site with permission for 14 (13 net new) dwellings. 7 completed, assume remainder will be completed in rest of 2016/17.	7																	7	7
Land At Ottery Moor Lane Honiton	14/0557/MOUT	Honiton	Honiton	Local Plan allocation for the redevelopment of Ottery Moor Lane industrial estate. Issues regarding restrictive covenant have now been resolved and as such site is expected to come forward sooner than previously thought and within the five year period. No reserved matters approval as yet but assume completions will be from 2018/19 onwards in line with HELAA methodology.	0	0	12	25	25	13	25	50										75	150
Land To The West Of Strawberry Hill Lympstone	15/1970/MFUL	Lympstone	Lympstone	Mixed market and affordable site immediately adjacent to Lympstone. New permission with alternative access recently approved. Not yet implemented. Assume completion will be in 2017/18 and 2018/19 in accordance with HELAA methodology.	0	12	3															15	15
Land South Of King Alfred Way Newton Poppleford Sidmouth	13/0316/MOUT	Newton Poppleford	Newton Poppleford	Reserved matters (15/2172/MRES) recently allowed at appeal. Assume completion from 2018/19 onwards in line with HELAA methodology.	0	0	12	25	3													40	40
Land Adjacent To North Star Ottery Street Otterton	11/1597/MFUL	Otterton	Otterton	Mixed market/affordable site on the edge of Otterton. S106 finally signed November 2015 after years of negotiation. Assume will now be built out. Not yet implemented so assume completion will be from 2017/18 onwards in line with HELAA methodology.	0	12	3															15	15
Marist Convent 8 Broad Street Ottery St Mary Devon EX11 1BZ	12/1622/MFUL	Ottery St Mary	Ottery St Mary	Large site in the centre of Ottery St Mary. 4 completed at end of September 2016. Assume remainder will be completed in 2016/17.	8																	8	8
Land East of Butts Road, Higher Ridgeway, Ottery St Mary	13/0577/MRES	Ottery St Mary	Ottery St Mary	106 completions by end of September 2016, building out ahead of projected HELAA rate and could argue 40+ per annum but conservatively projected HELAA compliant rate for future years.	12	12																24	24
Land At Barton Orchard Tipton St John	11/2172/MFUL AND 14/1745/VAR AND 15/2753/VAR	Ottery St Mary	Tipton St John	Mixed market and affordable site immediately adjacent to Tipton St John. Various variations have enabled this site to be developable. Site commenced January 2017 (after monitor). Assume completion will be in 2017/18 and 2018/19 in accordance with HELAA methodology.	0	12	3															15	15

Site	Permission	Parish	Settlement (at which the development occurs whether within BuAB or not)	Commentary on Site	Oct 2016 – Mar 2017	2017 - 18	2018 - 19	2019 - 20	2020 - 21	Apr 2021 - Sept 2021	Oct 2021 - Mar 2022	2022 - 23	2023 - 24	2024 - 25	2025 - 2026	Apr 2026 - Sept 2026	Oct 2026 - Mar 2027	2027 - 28	2028 - 29	2029 - 30	2030 - 31	Five Year Supply - Oct 15 to Sept 20	Overall Projections
Land Adjoining The Tumbling Weir Hotel Ottery St Mary	12/2770/MFUL	Ottery St Mary	Ottery St Mary	Part of former emerging allocation in the Draft Local Plan (removed from final adopted version as already had permission). This site forms Area 1 of the regeneration area and comprises of 29 retirement apartments. Understood that this part of the site is now likely commence in Spring 2017 and come forward in the next few years so assumed completion from 2018/19 onwards in line with SHLAA methodology.	0	0	12	17														29	29
Former Town Mills Mill Street Ottery St Mary	12/2771/MFUL	Ottery St Mary	Ottery St Mary	Part of former emerging allocation in the Draft Local Plan (removed from final adopted version as already had permission). This site forms Area 2 of the regeneration area and comprises of 30 apartments. Site has commenced but likely to be delivered later in the five year period so assume completion will be from 2018/19 onwards in line with HELAA methodology.	0	0	0	12	18													30	30
Land North Of Higher Ridgeway Ottery St Mary	14/2419/MFUL	Ottery St Mary	Ottery St Mary	Site redeveloping existing allotments and replacing them on adjacent land. Essentially phase 2 to Redrow development off Butts Road (13/0577/MRES). Continuing trend of delivery above HELAA methodology rates. Assume completion in remainder of 2016/17 and 2017/18.	12	13																25	25
Land South Of Exeter Road Ottery St Mary	14/2553/MRES AND 15/2059/MRES	Ottery St Mary	Ottery St Mary	Site previously allocated in the Draft Local Plan for up to 200 dwellings. Permission is for 165 dwellings plus a 66 bed care home (which equates to 33 dwellings in HELAA methodology) so total of 198 dwelling equivalents. Reserved matters permission granted for 165 dwellings in March 2015. Care home reserved matters approval in March 2016. Commenced May 2015 with first completions in December 2015. Understood to likely be a further 30 completions by March 2017 but then conservatively assumed to be compliant with HELAA methodology in future years.	30	25	25	25	25	13	25	14										143	182
Land North Of Eastfield West Hill	14/2861/MRES	Ottery St Mary	West Hill	Site for 25 dwellings commenced. Assume completion from 2016/17 onwards in line with SHLAA methodology.	6	19																25	25

Site	Permission	Parish	Settlement (at which the development occurs whether within BuAB or not)	Commentary on Site	Oct 2016 – Mar 2017	2017 – 18	2018 - 19	2019 - 20	2020 - 21	Apr 2021 - Sept 2021	Oct 2021 - Mar 2022	2022 - 23	2023 - 24	2024 - 25	2025 - 2026	Apr 2026 - Sept 2026	Oct 2026 - Mar 2027	2027 - 28	2028 - 29	2029 - 30	2030 – 31	Five Year Supply - Oct 15 to Sept 20	Overall Projections
Salston Manor Hotel Ottery St Mary EX11 1RQ	13/0496/MFUL	Ottery St Mary	Rural areas	Site for conversion of former hotel into apartments. Initial notice received November 2015 for 16 of the apartments and in the process of clearing pre-commencement conditions but significant technical work required. Assume completion will be in 2018/19 and 2019/20 in line with HELAA methodology.	0	0	12	15														27	27
West Hayes West Hill Road West Hill Ottery St Mary EX11 1UZ	15/1258/MFUL	Ottery St Mary	West Hill	New permission (15/1258/MFUL) for 10 dwellings at 40% affordable approved November 2015. Site commenced April 2016. Assume completion will be in 2017/18.	0	10																10	10
Former Gerway Nurseries Ottery St Mary EX11 1PN	16/0103/MRES	Ottery St Mary	Ottery St Mary	Large site on the edge of Ottery St Mary. Commenced May 2016. Assume completion will be from 2016/17 onwards in line with HELAA methodology.	6	25	14															45	45
Mill Buildings, Mill Street, Ottery St Mary	16/0093/MRES	Ottery St Mary	Ottery St Mary	Part of former emerging allocation in the Draft Local Plan (removed from final adopted version as already had permission). This site forms Area 3 of the regeneration area and comprises of 33 dwellings. Site has commenced and is progressing well so assume completion will be from 2017/18 onwards in line with HELAA methodology.	0	12	21															33	33
The London Gold Street Ottery St Mary EX11 1DG	15/2309/MFUL	Ottery St Mary	Ottery St Mary	Implemented previously approved scheme for 8 (94/P1125). New permission for 13 flats approved August 2016. Assume will require new building control application so completion will be in 2017/18 and 2018/19 in line with HELAA methodology.	0	12	1															13	13
Land Adjacent Harbour Road Seaton	13/2392/MRES AND 16/0435/MFUL	Seaton	Seaton	Site within Seaton Regeneration Area adjacent to Tesco. Total of 44 completions by 30 September 2016 in line with stated intentions of Bovis so just above HELAA methodology rate.	15	30	30	30	30	15	15	21										150	186
Land To Rear Of, 39 Fore Street, Seaton, Devon, EX12 2AD	14/1960/MRES	Seaton	Seaton	Reserved matters (14/1960/MRES) approved November 2014. Building control plans approved June 2015. Site not yet commenced. Viability concerns but variation applications currently pending consideration to resolve this. Assume completion will be in 2019/20 and 2020/21 in line with HELAA methodology.	0	0	0	12	1													13	13

Site	Permission	Parish	Settlement (at which the development occurs whether within BuAB or not)	Commentary on Site	Oct 2016 – Mar 2017	2017 – 18	2018 - 19	2019 - 20	2020 - 21	Apr 2021 - Sept 2021	Oct 2021 - Mar 2022	2022 - 23	2023 - 24	2024 - 25	2025 - 2026	Apr 2026 - Sept 2026	Oct 2026 - Mar 2027	2027 - 28	2028 - 29	2029 - 30	2030 – 31	Five Year Supply - Oct 15 to Sept 20	Overall Projections	
Fosse Way Court Seaton EX12 2LP	14/0187/MFUL	Seaton	Seaton	Refurbishment of existing apartments plus construction of new block linking existing buildings comprising total 30 additional open market apartments. Not yet implemented and understood to be stalled due to a freeholder/leaseholder issue so assume completion will be beyond the 5 year period.	0	0	0	0	0	0	0	0	0	12	18								0	30
Land North Of Rowan Drive Seaton	13/1091/MOUT	Seaton	Seaton	Part of site allocated for 30 dwellings by the newly adopted Local Plan. Permission is for 36. Reserved matters being considered by Committee in February 2017. Assume completion will be in 2018/19 and 2019/20 in line with HELAA methodology.	0	0	12	24															36	36
Land Off Barnards Hill Lane Seaton	15/1195/MOUT	Seaton	Seaton	Site previously allocated in the Draft Local Plan. New permission reducing overall numbers and percentage of affordable homes. No reserved matters approval as yet. Assume completion will be in 2018/19 and 2019/20 in line with HELAA methodology.	0	0	12	8															20	20
Seaton Quay, (Former Racial Site), Riverside Way, Seaton, Devon, EX12 2UE	16/0503/MRES	Seaton	Seaton	Seaton Quay development that has been stalled for recent years but has now been permitted with less obligations. New permission granted in 2013 with 0% affordable housing and recent variation allowed a more viable site layout to be considered through a subsequent reserved matters application which has now been approved. This being the case, the site is now expected to move forward. Assume completion from 2018/19 in line with HELAA methodology.	0	0	12	25	25	13	15												75	90
Victoria Hotel, The Esplanade, Sidmouth, Devon, EX10 8RY	06/2382/MRES	Sidmouth	Sidmouth	Site commenced 2008 (08/1873/CPE certificate of lawfulness for foundations implementing this development). No further information and assume requires new building control application approval to recommence but expected to happen within the five year period.	0	0	0	12	2														14	14
Land At Frys Lane Sidford	12/2222/MOUT	Sidmouth	Sidmouth	Reserved matters application (16/2696/MRES) pending consideration. Assume completion will be in 2018/19	0	0	12															12	12	
Land To The East Of The Village Hall Sidmouth Road Clyst St Mary	15/1269/MRES	Sowton	Clyst St Mary	Large site on the edge of Clyst St Mary. Commenced in mid 2016. Assume completions will be from 2016/17 onwards in line with SHLAA methodology.	12	25	25	18														80	80	

Site	Permission	Parish	Settlement (at which the development occurs whether within BuAB or not)	Commentary on Site	Oct 2016 – Mar 2017	2017 - 18	2018 - 19	2019 - 20	2020 - 21	Apr 2021 - Sept 2021	Oct 2021 - Mar 2022	2022 - 23	2023 - 24	2024 - 25	2025 - 2026	Apr 2026 - Sept 2026	Oct 2026 - Mar 2027	2027 - 28	2028 - 29	2029 - 30	2030 – 31	Five Year Supply - Oct 15 to Sept 20	Overall Projections
Land Adjacent To Tredrewen Town Lane Woodbury	14/1380/MOUT	Woodbury	Woodbury	Large site immediately adjacent to Woodbury. Site previously permitted for 15 dwellings (11/2490/MFUL) and current application (16/1249/OUT) pending consideration for only 5 as alternative option with no affordable housing. No reserved matters permission as yet so assume completion will be in 2018/19.	0	0	11															11	11
Land To South Broadway Woodbury	15/1370/MRES	Woodbury	Woodbury	Site immediately adjacent to the BUAB. Reserved matters (15/1370/MRES) approved December 2015. Current application to vary affordable percentage pending consideration. Assume completion in line with SHLAA methodology from 2018/19 onwards.	0	0	12	8														20	20
<b>REST OF EAST DEVON TOTAL</b>					<b>217</b>	<b>399</b>	<b>441</b>	<b>359</b>	<b>187</b>	<b>80</b>	<b>148</b>	<b>197</b>	<b>100</b>	<b>112</b>	<b>89</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1,683</b>	<b>2,329</b>
					1,683					646					0								

## Large development sites with planning permission at East Devon's West End

Site	Permission	Parish	Settlement (at which the development occurs whether within BuAB or not)	Commentary on Site	Oct 2016 – Mar 2017	2017 - 18	2018 - 19	2019 - 20	2020 - 21	Apr 2021 - Sept 2021	Oct 2021 - Mar 2022	2022 - 23	2023 - 24	2024 - 25	2025 - 2026	Apr 2026 - Sept 2026	Oct 2026 - Mar 2027	2027 - 28	2028 - 29	2029 - 30	2030 - 31	Five Year Supply - Oct 15 to Sept 20	Overall Projections	
Land At Old Park Farm Pinn Hill Exeter EX1 3TH	12/0130/MRES	Broadclyst	Pinhoe	Developers have advised that expect to complete Old Park Farm 1 by Autumn 2017 depending on sales. 345 units CT banded or awaiting banding by end of March 2016. Remaining units awaiting completion. Site building out well ahead of HELAA rate and even above projections so far. Projections for future years may be conservative.	50	34	12																96	96
Tithebarn Green, Land At Monkerton, Exeter And Redhayes/North Of Blackhorse, East Devon	12/1291/MOUT  AND 15/1565/V106	Broadclyst	North of Blackhorse	Large site straddling the M5 between East Devon and Exeter. 580 of the proposed dwellings would be within the EDDC area. Site has outline permission and signed S106. Variation to S106 agreement reducing affordable housing on site from 28% to 25%. Reserved matters for northern end of the link road approved and implemented. Reserved matters for first residential parcel of 248 dwellings (Barratt/David Wilson Homes) approved Feb 2017 (after monitor) but phasing plan shows intended commencement on housing in Spring 2017. Pre-application discussions started for second parcel of 230 dwellings. Phasing plan discharging condition 22 of outline permission shows development of residential parcels 1 and 2 between 2017 and 2022. Linked permission for Mosshayne development (14/2761/MOUT) likely to be built out simultaneously and at a higher overall rate than previously assumed.	0	37	91	126	158	81	48	39											493	580
Pinn Court Farm Pinn Court Lane Exeter EX1 3TG	12/0795/MOUT	Broadclyst	Pinhoe	Appeal allowed June 2015. Reserved matters for phase 1 approved December 2016 (after monitor). Phasing schedule received June 2015 suggests phase 1 (150 dwellings) to start March 2016 and built out over three years with phase 2 (150 dwellings) starting in June 2019 and phase 3 (130 dwellings) starting in June 2022 but now intending to start March 2017 and deliver to same build rates. Assume SHLAA compliant 12 dwellings for year 1 then remaining 138 to be delivered over the following 27 months to June 2020 = 5.11 per month = 61.33 per annum so assume 61	0	12	61	61	66	25	25	50	50	50	50	25	15						225	490

Site	Permission	Parish	Settlement (at which the development occurs whether within BuAB or not)	Commentary on Site	Oct 2016 – Mar 2017	2017 - 18	2018 - 19	2019 - 20	2020 - 21	Apr 2021 - Sept 2021	Oct 2021 - Mar 2022	2022 - 23	2023 - 24	2024 - 25	2025 - 2026	Apr 2026 - Sept 2026	Oct 2026 - Mar 2027	2027 - 28	2028 - 29	2029 - 30	2030 – 31	Five Year Supply - Oct 15 to Sept 20	Overall Projections
				maximum build out per year. Future years (beyond June 2020) build out reduced to 50 per annum in line with submitted phasing schedule. 2x 60 bed care homes (equivalent to 60 dwellings total) in addition to the 430 dwellings = total of 490 dwellings.																			
Old Park Farm Two West Clyst Exeter	13/0001/MOUT  AND 15/2902/MRES	Broadclyst	Pinhoe	Phase 2 of Old Park Farm with outline permission for 350 dwellings now reduced through Reserved Matters to 317. First 165 dwellings Reserved matters (15/2902/MRES) approved May 2016. Remaining 152 dwellings Reserved Matters currently pending consideration Site due to be developed out by Redrow rather than David Wilson Homes. Agreement in place for them to be able to access their site ahead of completion of phase 1. Submitted phasing plan shows start on site summer 2016 with first 3 phases (165 dwellings) completed by December 2019 and all dwellings completed by December 2021. This assumes a slightly slower build out than phase 1. Commenced June 2016.	12	50	75	75	75	30												317	317
Land South Of Moonhill Copse West Clyst Exeter	15/1240/MRES	Broadclyst	Pinhoe	Site immediately to North of Pinn Court Farm allocation site now with reserved matters permission. Commenced June 2016. Assume completion from remainder of 2016/17 in line with HELAA methodology.	6	25	4															35	35
Mosshayne Land North Of Tithebarn Lane Clyst Honiton	14/2761/MOUT	Broadclyst	North of Blackhorse	Allocated site for 900 dwellings linked to Tithebarn Green development and dependent on access provided through first housing phase (expected around 2019). Likely to be a separate developer to phases 1 or 2 of Tithebarn Green. No Reserved Matters approval as yet and dependent on access through Tithebarn Green so assume completions from 2019-20 onwards in line with HELAA methodology.	0	0	0	12	50	25	50	100	100	100	100	50	50	100	100	63		87	900
Site Of New Town Honiton Road Rockbeare Exeter Devon	03/P1900  AND 11/0053/MRES  AND 13/1752/MFUL	Cranbrook	Cranbrook	New Community being developed by East Devon New Community Partners (EDNCPs) consortium of developers. Latest build returns shows 1,378 completions by the end of September 2016 so 117 completions since last monitored position. Updating further, there have been 1,431 completions to the end of December 2016. Local Plan Inspector suggested 400 projections per	100	275	350	400	400	200	275	109										1,725	2,109

Site	Permission	Parish	Settlement (at which the development occurs whether within BuAB or not)	Commentary on Site	Oct 2016 – Mar 2017	2017 - 18	2018 - 19	2019 - 20	2020 - 21	Apr 2021 - Sept 2021	Oct 2021 - Mar 2022	2022 - 23	2023 - 24	2024 - 25	2025 - 2026	Apr 2026 - Sept 2026	Oct 2026 - Mar 2027	2027 - 28	2028 - 29	2029 - 30	2030 - 31	Five Year Supply - Oct 15 to Sept 20	Overall Projections
	AND 14/2137/MRES			annum a reasonable figure to use for EDNCP sites, however currently experiencing temporarily lower build rate due to flow of sites with reserved matters approval. New reserved matters recently issued and others in the pipeline, however, projected a slowly recovering build rate up to 400 per annum in 2019/20. Beyond the five year period delivery rate assumed to increase to 475 per annum on EDNCP sites in order to deliver the full Local Plan allocation within the plan period.																			
Land Rear Of The Jack In The Green London Road Rockbeare	14/0300/MFUL	Cranbrook	Cranbrook	Windfall site immediately adjacent to main Cranbrook development. Commenced March 2015. 3 units completed by September 2016 with remainders not far behind. Expect remainder to be completed this monitoring year.	16																	16	16
<b>WEST END TOTAL</b>					<b>184</b>	<b>433</b>	<b>593</b>	<b>674</b>	<b>749</b>	<b>361</b>	<b>398</b>	<b>298</b>	<b>150</b>	<b>150</b>	<b>150</b>	<b>75</b>	<b>65</b>	<b>100</b>	<b>100</b>	<b>63</b>	<b>0</b>	<b>2,994</b>	<b>4,543</b>
					2,994						1,221						328						

3.7 The tables above show that for the next five years, 1,683 dwellings are projected to be built on large sites with extant planning permissions in the rest of East Devon and 2,994 dwellings on large sites with extant planning permissions at the West End.

3.8 Small sites are shown as a combined total in the table below which shows they are projected to complete a total of 696 net new dwellings over the five year period. There are 504 small sites with extant planning permission (all within the rest of East Devon) expected to deliver between 0 and 9 gross units. 390 of these sites are expected to deliver the 696 net new dwellings in the next five years. 20 of the remaining 114 sites are considered to be currently stalled or otherwise not expected to deliver within the five year period and so these sites have been projected to deliver beyond the five year period (hence the 41 small site completions projected in the second half of 2021-22). A further 84 sites are projected to have 0 net completions (generally because they are replacement dwellings). The remaining 10 sites are understood to no longer be going ahead and so are not projected to be delivered – these are contained in Appendix 2 for information. All other small sites with planning permission can be found within the table of all completions and projections at Appendix 1. It is important to note that whilst these smaller sites are projected to deliver in specific years based on their status (under construction, not yet implemented or awaiting reserved matters etc), it is in fact perhaps more appropriate to consider them as being deliverable within the five year period as a whole (or not in the case of the stalled sites). For instance, a site that is under construction is generally projected to be completed within the next twelve months, however, in reality some sites take longer and may be delivered in the following year or even the one after that but critically they can reasonably be expected to deliver in the five year period. An implication is that future projected



year on year predictions can show variation compared against actual delivery that will be recorded with a bias to higher first year development. But over the longer term, 5 years, peaks and troughs even out and so it is the five year total projection that is the relevant and critical consideration.

	Oct 2016 – Mar 2017	2017 - 18	2018 - 19	2019 - 20	2020 - 21	Apr 2021 - Sept 2021	Oct 2021 - Mar 2022	2022 - 23	2023 - 24	2024 - 25	2025 - 2026	Apr 2026 - Sept 2026	Oct 2026 - Mar 2027	2027 - 28	2028 - 29	2029 - 30	2030 – 31	Five Year Supply Oct 2015 to Sept 2020	Total outstanding
All small sites with planning permission (all RoED)	211	389	96	0	0	0	41	0	0	0	0	0	0	0	0	0	0	696	737

3.9 The combined totals of large and small sites with planning permission are shown in the table below.

All sites with planning permission	Oct 2016 – Mar 2017	2017 - 18	2018 - 19	2019 - 20	2020 - 21	Apr 2021 - Sept 2021	Oct 2021 - Mar 2022	2022 - 23	2023 - 24	2024 - 25	2025 - 2026	Apr 2026 - Sept 2026	Oct 2026 - Mar 2027	2027 - 28	2028 - 29	2029 - 30	2030 – 31	Five Year Supply Oct 2015 to Sept 2020	Total outstanding
Total Rest of East Devon	428	788	537	359	187	80	189	197	100	112	89	0	0	0	0	0	0	2,379	3,066
Total West End	184	433	593	674	749	361	398	298	150	150	150	75	65	100	100	63	0	2,994	4,543
<b>Combined Total</b>	<b>612</b>	<b>1,221</b>	<b>1,130</b>	<b>1,033</b>	<b>936</b>	<b>441</b>	<b>587</b>	<b>495</b>	<b>250</b>	<b>262</b>	<b>239</b>	<b>75</b>	<b>65</b>	<b>100</b>	<b>100</b>	<b>63</b>	<b>0</b>	<b>5,373</b>	<b>7,609</b>

3.10 The table above shows that 2,379 dwellings with permission in the rest of East Devon and 2,994 dwellings with permission at the West End are projected to be built out within the next five years.

### Sites with acknowledged development potential

3.11 Sites with acknowledged development potential are sites that did not have planning permission at 30 September 2016, however, they are expected to gain permission in the future. These are mainly sites that at 30 September had been to Development Management Committee and gained a resolution to grant permission subject to signing a Section 106 Agreement, however there are also sites that are known to be available for development and which are considered to be in principle policy compliant.

3.12 The table below lists the sites with acknowledged development potential in the rest of East Devon and their projected build out rates.

Site	Application number(s) (if relevant)	Parish	Settlement (at which the development occurs whether within BuAB or not)	Commentary on Site	Oct 2016 – Mar 2017	2017 - 18	2018 - 19	2019 - 20	2020 - 21	Apr 2021 - Sept 2021	Oct 2021 - Mar 2022	2022 - 23	2023 - 24	2024 - 25	2025 - 2026	Apr 2026 - Sept 2026	Oct 2026 - Mar 2027	2027 - 28	2028 - 29	2029 - 30	2030 - 31	Five Year Supply - Oct 15 to Sept 20	Overall Projections
Webster Garage Site, Axminster	No applications	Axminster	Axminster	This site is identified as having development potential, was allocated in the old Local Plan and is fully policy compliant. The 25 dwelling figure is a lower end estimate and whilst development may happen in the five year period the site is conservatively projected to come forward outside of this time period.	0	0	0	0	0	0	12	13										0	25
Land adjacent The Fountain Head, Branscombe	10/0921/MFUL	Branscombe	Street	Application (10/0921/MFUL) Delegated recommendation to approve made in May 2011 and awaiting S106 agreement. Unlikely to get S106 signed on this scheme as finances no longer available for affordables. New application (15/1291/MOUT) currently pending consideration for lower number of affordables. Assume development will happen but outside five year period.	0	0	0	0	0	0	10											0	10
Land Adjoining Withycombe Brook St Johns Road Exmouth	12/1016/MFUL	Exmouth	Exmouth	This scheme was previously approved by DM Committee awaiting S106 agreement. Amendments to application means it is currently being reconsidered. Assume completion from 2019/20 in line with HELAA methodology.	0	0	0	12	25	15												52	52
Land Adjacent To Buckingham Close (Plumb Park) Buckingham Close Exmouth	16/1022/MOUT	Exmouth	Exmouth	Previous allocation for 350 homes at Plumb Park, Exmouth. Previously had permission (13/0297/MOU) but this expired 1 April 2016 (after monitor). New hybrid application (16/1022/MOUT) for 350 dwellings (264 for full permission, 86 for outline) gained resolution to grant permission subject to S106 at November DM Committee (after monitor). Site was only removed from the Local Plan as an allocation because it had permission. Assume	0	0	12	25	25	13	12	50	50	50	50	25	25	13				75	350

Site	Application number(s) (if relevant)	Parish	Settlement (at which the development occurs whether within BuAB or not)	Commentary on Site	Oct 2016 – Mar 2017	2017 - 18	2018 - 19	2019 - 20	2020 - 21	Apr 2021 - Sept 2021	Oct 2021 - Mar 2022	2022 - 23	2023 - 24	2024 - 25	2025 - 2026	Apr 2026 - Sept 2026	Oct 2026 - Mar 2027	2027 - 28	2028 - 29	2029 - 30	2030 – 31	Five Year Supply - Oct 15 to Sept 20	Overall Projections
				completions will be from 2018/19 in line with HELAA methodology																			
Exebank And Danby House Mudbank Lane Exmouth EX8 3EG	16/1978/MFUL	Exmouth	Exmouth	Application site within the Built-up Area Boundary with acknowledged development potential for 36 new dwellings (50% affordable) replacing derelict care homes that had not been in use for a number of years. Application approved Feb 2017 (after monitor).	0	0	12	24														36	36
<b>REST OF EAST DEVON TOTAL</b>					<b>0</b>	<b>0</b>	<b>24</b>	<b>61</b>	<b>50</b>	<b>28</b>	<b>34</b>	<b>63</b>	<b>50</b>	<b>50</b>	<b>50</b>	<b>25</b>	<b>25</b>	<b>13</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>163</b>	<b>473</b>
					<b>163</b>						<b>272</b>						<b>38</b>						

3.13 The table below lists the sites with acknowledged development potential at the West End and their projected build out rates.

Site	Application number(s) (if relevant)	Parish	Settlement (at which the development occurs whether within BuAB or not)	Commentary on Site	Oct 2016 – Mar 2017	2017 - 18	2018 - 19	2019 - 20	2020 - 21	Apr 2021 - Sept 2021	Oct 2021 - Mar 2022	2022 - 23	2023 - 24	2024 - 25	2025 - 2026	Apr 2026 - Sept 2026	Oct 2026 - Mar 2027	2027 - 28	2028 - 29	2029 - 30	2030 – 31	Five Year Supply - Oct 15 to Sept 20	Overall Projections
Site Of Cranbrook New Community Road Past Till House Farm London Road Broadclyst	No applications	Cranbrook	Cranbrook	Care/extra care home in Cranbrook town centre identified by S106. 50 beds @ 2 bed = 1 dwelling equivalent = 25 dwelling equivalent. Assume completion in 2020/21 and 2021/22 in line with HELAA methodology.	0	0	0	0	12	13												25	25
<b>WEST END TOTAL</b>					<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>12</b>	<b>13</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>25</b>	<b>25</b>
					<b>25</b>						<b>0</b>						<b>0</b>						

3.14 The combined totals of sites with acknowledged development potential at the West End and in the rest of East Devon are shown below.

All sites with acknowledged development potential	Oct 2016 – Mar 2017	2017 - 18	2018 - 19	2019 - 20	2020 - 21	Apr 2021 - Sept 2021	Oct 2021 - Mar 2022	2022 - 23	2023 - 24	2024 - 25	2025 - 2026	Apr 2026 - Sept 2026	Oct 2026 - Mar 2027	2027 - 28	2028 - 29	2029 - 30	2030 – 31	Five Year Supply Oct 2015 to Sept 2020	Total outstanding
Total Rest of East Devon	0	0	24	61	50	28	34	63	50	50	50	25	25	13	0	0	0	163	473
Total West End	0	0	0	0	12	13	0	0	0	0	0	0	0	0	0	0	0	25	25
<b>Combined Total</b>	<b>0</b>	<b>0</b>	<b>24</b>	<b>61</b>	<b>62</b>	<b>41</b>	<b>34</b>	<b>63</b>	<b>50</b>	<b>50</b>	<b>50</b>	<b>25</b>	<b>25</b>	<b>13</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>188</b>	<b>498</b>

3.15 Of the above sites it can be seen that 163 dwellings in the rest of East Devon and 25 dwellings at the West End are projected to be built out within the next five years.

## Allocations

3.16 The table below shows the allocations in the rest of East Devon which have not yet gained planning permission or a resolution to grant permission.

Site	Application number(s) (if relevant)	Parish	Settlement (at which the development occurs whether within BuAB or not)	Commentary on Site	Oct 2016 - Mar 2017	2017 - 18	2018 - 19	2019 - 20	2020 - 21	Apr 2021 - Sept 2021	Oct 2021 - Mar 2022	2022 - 23	2023 - 24	2024 - 25	2025 - 2026	Apr 2026 - Sept 2026	Oct 2026 - Mar 2027	2027 - 28	2028 - 29	2029 - 30	2030 - 31	Five Year Supply - Oct 15 to Sept 20	Overall Projections	
Land North and East Of Axminster		Axminster	Axminster	Planning applications (15/0435/MOUT, 15/0436/MOUT and 15/0442/MOUT) refused January 2016. Now working in pre-application discussions with all relevant interests on a comprehensive masterplan. Assumed completions from 2019/20 onwards in line with HELAA methodology.	0	0	0	12	25	13	50	100	100	100	100	50	50	50				50	650	
Winslade Park	16/2460/MOUT	Clyst St Mary	Clyst St Mary	Brownfield site allocated in the Local Plan. Applications refused May 2016 and new hybrid application (16/2460/MOUT) currently pending consideration. Assume completion will be from 2019/20 onwards in line with the HELAA methodology.	0	0	0	12	25	13	25	50	25									50	150	
Goodmores Farm, Exmouth	14/0330/MOUT	Exmouth	Exmouth	Site allocated in Local Plan. An application is currently being considered having been submitted in February 2014. Subject to gaining outline and subsequent reserved matters approval development might be expected to commence in 2018/19 in line with SHLAA methodology.	0	0	12	25	25	13	25	50	50	50	50	25	25					75	350	
Lympstone Nurseries	No applications	Lympstone	Lympstone	Allocated by the Lympstone Neighbourhood Plan. Assume completion will be in the latter part of the five year period.	0	0	0	0	6													6	6	
The Knowle, Station Road, Sidmouth, EX10 8HL	16/0872/MFUL	Sidmouth	Sidmouth	Local Plan allocates 50 dwellings at The Knowle. Recent application for 118 retirement apartments refused in December 2016. Conservatively assume that just 50 dwellings will be delivered but may be more. The Council has publicly stated its intention to relocate from The Knowle with relocation to be finalised in early 2018. Assumed first completions on this site to be in 2019/20.	0	0	0	12	25	13													50	50
Manstone Depot, Sidmouth	No applications	Sidmouth	Sidmouth	Site allocated in Local Plan and no applications as yet. Assume completion beyond the five year period.	0	0	0	0	0	6	6	8										6	20	
Port Royal, Sidmouth	No applications	Sidmouth	Sidmouth	Site allocated in Local Plan and no applications as yet. Assume completion will occur from the latter part of the	0	0	0	12	18													30	30	

Site	Application number(s) (if relevant)	Parish	Settlement (at which the development occurs whether within BuAB or not)	Commentary on Site	Oct 2016 - Mar 2017	2017 - 18	2018 - 19	2019 - 20	2020 - 21	Apr 2021 - Sept 2021	Oct 2021 - Mar 2022	2022 - 23	2023 - 24	2024 - 25	2025 - 2026	Apr 2026 - Sept 2026	Oct 2026 - Mar 2027	2027 - 28	2028 - 29	2029 - 30	2030 - 31	Five Year Supply - Oct 15 to Sept 20	Overall Projections
				five year period in line with SHLAA methodology.																			
				<b>REST OF EAST DEVON TOTAL</b>	<b>0</b>	<b>0</b>	<b>12</b>	<b>73</b>	<b>124</b>	<b>58</b>	<b>106</b>	<b>208</b>	<b>175</b>	<b>150</b>	<b>150</b>	<b>75</b>	<b>75</b>	<b>50</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>267</b>	<b>1,256</b>
					267					864					125								

3.17 The table below shows the allocations at the West End that have not yet gained planning permission or a resolution to grant permission and their projected build out rate.

Site	Application number(s) (if relevant)	Parish	Settlement (at which the development occurs whether within BuAB or not)	Commentary on Site	Oct 2016 - Mar 2017	2017 - 18	2018 - 19	2019 - 20	2020 - 21	Apr 2021 - Sept 2021	Oct 2021 - Mar 2022	2022 - 23	2023 - 24	2024 - 25	2025 - 2026	Apr 2026 - Sept 2026	Oct 2026 - Mar 2027	2027 - 28	2028 - 29	2029 - 30	2030 - 31	Five Year Supply - Oct 15 to Sept 20	Overall Projections
Cranbrook Expansion Areas (East, West and additional areas to be defined through the Cranbrook Plan DPD)	14/2945/MOUT AND 15/0045/MOUT 15/0046/MOUT 15/0047/MOUT	Cranbrook	Cranbrook	This provision will form part of the longer term development at Cranbrook comprising of allocated East and West expansion areas (totalling 2,820 including 250 on Farlands site by separate developer) plus 1550 on additional land to be defined through the Cranbrook Plan DPD. Farlands site is a separate developer and anticipated to come forward earlier than other parts of expansion areas with first completions in 2019/20. Remainder of expansion areas assumed to be delivered by the EDNCPs following completion of extant permissions in 2022/23 at a rate of 470 per annum (beyond the five year period). Delivery in years 2022/23-2024/25 includes both EDNCP and Farlands sites. Inspector suggested 400 projections per annum a reasonable figure to use for EDNCP sites, however, beyond the five year period it is assumed that this will increase in order to deliver Local Plan allocations within the plan period.	0	0	0	12	25	13	25	411	520	520	495	235	235	470	470	470	469	50	4,370
				<b>WEST END TOTAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>12</b>	<b>25</b>	<b>13</b>	<b>25</b>	<b>411</b>	<b>520</b>	<b>520</b>	<b>495</b>	<b>235</b>	<b>235</b>	<b>470</b>	<b>470</b>	<b>470</b>	<b>469</b>	<b>50</b>	<b>4,370</b>
					50					2,206					2,114								

3.18 The combined projected build out rates for the remaining allocations are shown in the table below.

All allocated sites	Oct 2016 – Mar 2017	2017 - 18	2018 - 19	2019 - 20	2020 - 21	Apr 2021 - Sept 2021	Oct 2021 - Mar 2022	2022 - 23	2023 - 24	2024 - 25	2025 - 2026	Apr 2026 - Sept 2026	Oct 2026 - Mar 2027	2027 - 28	2028 - 29	2029 - 30	2030 – 31	Five Year Supply Oct 2015 to Sept 2020	Total outstanding
Total Rest of East Devon	0	0	12	73	124	58	106	208	175	150	150	75	75	50	0	0	0	267	1,256
Total West End	0	0	0	12	25	13	25	411	520	520	495	235	235	470	470	470	469	50	4,370
<b>Combined Total</b>	<b>0</b>	<b>0</b>	<b>12</b>	<b>85</b>	<b>149</b>	<b>71</b>	<b>131</b>	<b>619</b>	<b>695</b>	<b>670</b>	<b>645</b>	<b>310</b>	<b>310</b>	<b>520</b>	<b>470</b>	<b>470</b>	<b>469</b>	<b>317</b>	<b>5,626</b>

3.19 The above assessment shows that of the allocations sites 267 dwellings in the rest of East Devon and 50 dwellings at the West End are projected to be built out in the next five years.

## Windfalls

3.20 Paragraph 48 of the NPPF allows for future windfall completions to be taken into account so long as historic windfall delivery is considered and sites on gardens are not counted. The Exeter HMA HELAA methodology sets out a clear process by which windfalls will be calculated assessing delivery of windfalls (excluding gardens and sites of more than 20 gross dwellings) over the last five full years. That being the case, the assessment below shows net windfall completions (excluding gardens) over the last five full years (1 April 2011 to 31 March 2016). Half year figures are not available for 2011-2012 so the five year period cannot be assessed up to 30 September 2016. Net completed windfall dwellings are split into the gross capacity of the site on which they came forward in order to be able to analyse the types of windfalls that might come through in the future.

Gross site capacity	Net windfall dwellings completed district-wide (excluding garden sites)					
	2011 to 2012	2012 to 2013	2013 to 2014	2014 to 2015	2015 to 2016	Average per year
1 - 2 dwellings	32	41	45	37	70	45
3 - 5 dwellings	14	27	23	21	53	28
6 - 9 dwellings	22	12	11	16	37	20
10 - 20 dwellings	54	47	74	58	50	57
<b>Totals</b>	<b>122</b>	<b>127</b>	<b>153</b>	<b>132</b>	<b>210</b>	<b>149</b>

3.21 The table above identifies a basic net average windfall projection of 149 dwellings. The methodology then requires this figure to be tempered by projected windfall completions on sites with planning permission or resolution to grant permission subject to S106. The table below shows how this figure is tempered accordingly.

Final projected windfall allowance	Oct 2016 – Mar 2017	2017 - 18	2018 - 19	2019 - 20	2020 - 21	Apr 2021 - Sept 2021
Total windfall sites with permission	359	676	360	192	111	43
<i>Of which sites of 20 or less gross dwellings and not on garden sites</i>	289	498	143	28	3	0
Total windfall sites with acknowledged development potential	0	0	12	36	25	15
<i>Of which sites of 20 or less gross dwellings and not on garden sites</i>	0	0	0	0	0	0
Basic windfall projection (A)	74	149	149	149	149	74
<i>Total eligible net windfalls in the system (B)</i>	289	498	143	28	3	0
<b>Adjusted windfall projection (A-B)</b>	<b>0</b>	<b>0</b>	<b>6</b>	<b>121</b>	<b>146</b>	<b>74</b>

3.22 Of course this is still a conservative estimate and in reality larger windfall sites will on occasion come forward for development as will garden sites.

3.23 The table below shows the same assessment applying over the full plan period and identifies 347 windfall completions projected to occur within the next five years.



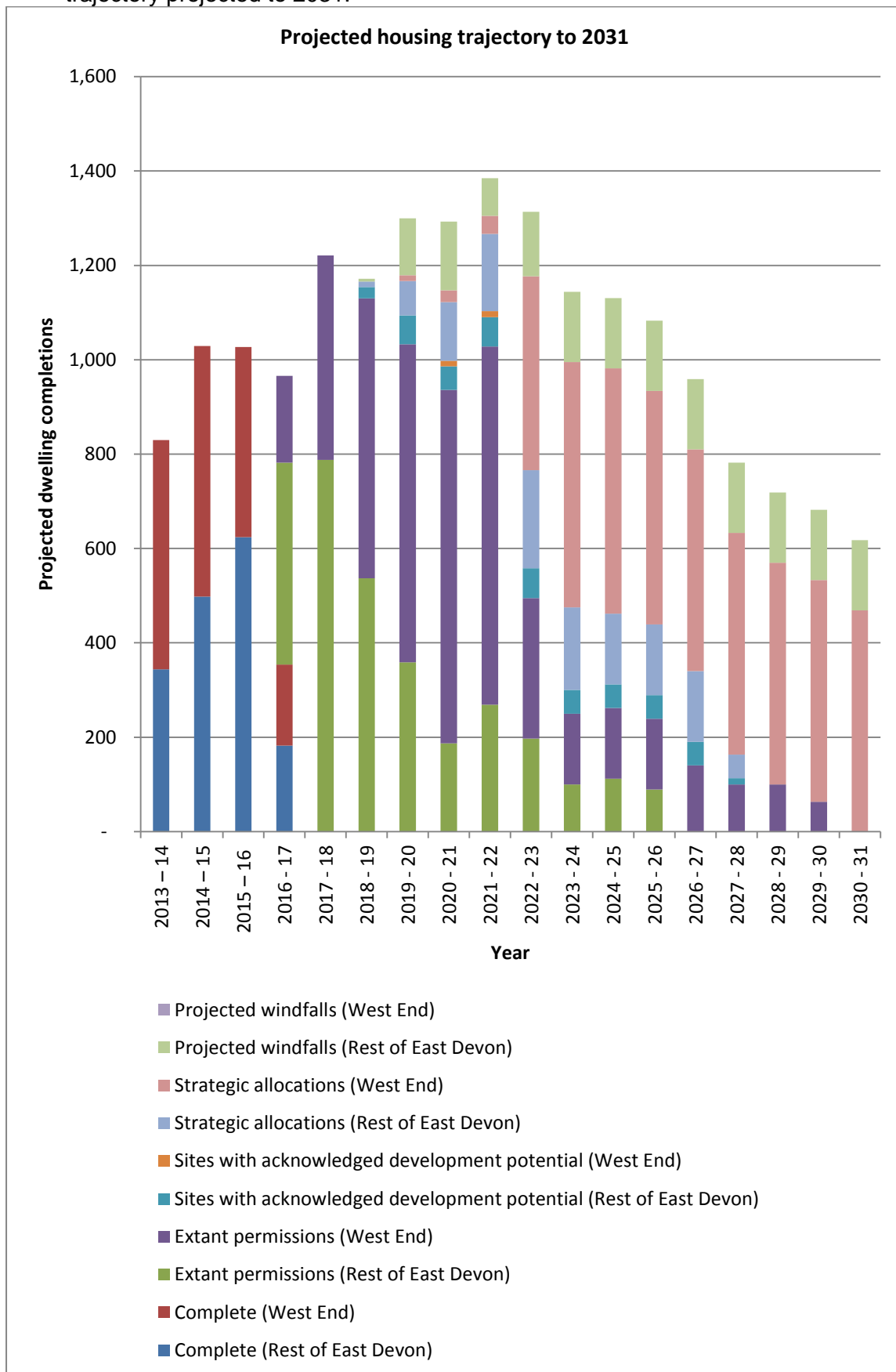
Windfalls	Oct 2016 – Mar 2017	2017 - 18	2018 - 19	2019 - 20	2020 - 21	Apr 2021 - Sept 2021	Oct 2021 - Mar 2022	2022 - 23	2023 - 24	2024 - 25	2025 - 2026	Apr 2026 - Sept 2026	Oct 2026 - Mar 2027	2027 - 28	2028 - 29	2029 - 30	2030 – 31	Five Year Supply Oct 2015 to Sept 2020	Total outstanding
Total windfall sites with permission	359	676	360	192	111	43	84	62	50	62	68	0	0	0	0	0	0	1,741	2,067
<i>Of which sites of 20 or less gross dwellings and not on garden sites</i>	289	498	143	28	3	0	59	12	0	0	0	0	0	0	0	0	0	961	1,032
Total windfall sites with acknowledged development potential	0	0	12	36	25	15	10	0	0	0	0	0	0	0	0	0	0	88	98
<i>Of which sites of 20 or less gross dwellings and not on garden sites</i>	0	0	0	0	0	0	10	0	0	0	0	0	0	0	0	0	0	-	10
Basic windfall projection (A)	74	149	149	149	149	74	74	149	149	149	149	74	74	149	149	149	149	744	2,158
<i>Total eligible net windfalls in the system (B)</i>	289	498	143	28	3	0	69	12	0	0	0	0	0	0	0	0	0	961	1,042
<b>Adjusted windfall projection (A-B)</b>	<b>0</b>	<b>0</b>	<b>6</b>	<b>121</b>	<b>146</b>	<b>74</b>	<b>5</b>	<b>137</b>	<b>149</b>	<b>149</b>	<b>149</b>	<b>74</b>	<b>74</b>	<b>149</b>	<b>149</b>	<b>149</b>	<b>149</b>	<b>347</b>	<b>1,679</b>

## Overall projections and trajectory

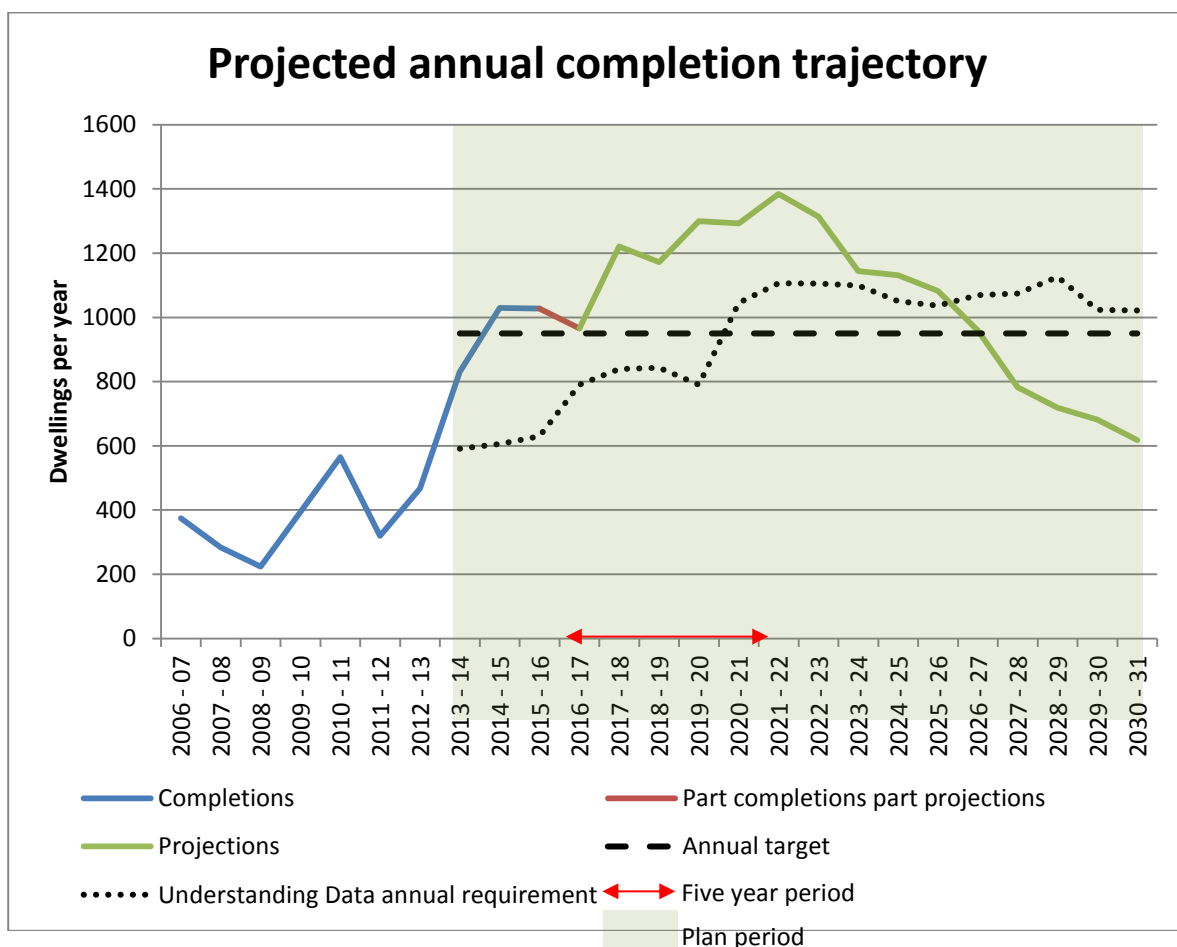
3.24 Having gone through the various elements of supply above, the below table and graph set out the projected development for the plan period to 31 March 2031.

	2013 – 14	2014 – 15	2015 – 16	Apr 2016 - Sept 2016	Oct 2016 – Mar 2017	2017 - 18	2018 - 19	2019 - 20	2020 - 21	Apr 2021 - Sept 2021	Oct 2021 - Mar 2022	2022 - 23	2023 - 24	2024 - 25	2025 - 2026	Apr 2026 - Sept 2026	Oct 2026 - Mar 2027	2027 - 28	2028 - 29	2029 - 30	2030 – 31	Total outstanding
Complete (Rest of East Devon)	344	498	624	182	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1,648
Complete (West End)	486	531	403	172	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1,592
Extant permissions (Rest of East Devon)	-	-	-	-	428	788	537	359	187	80	189	197	100	112	89	-	-	-	-	-	-	3,066
Extant permissions (West End)	-	-	-	-	184	433	593	674	749	361	398	298	150	150	150	75	65	100	100	63	-	4,543
Sites with acknowledged development potential (Rest of East Devon)	-	-	-	-	-	-	24	61	50	28	34	63	50	50	50	25	25	13	-	-	-	473
Sites with acknowledged development potential (West End)	-	-	-	-	-	-	-	-	12	13	-	-	-	-	-	-	-	-	-	-	-	25
Strategic allocations (Rest of East Devon)	-	-	-	-	-	-	12	73	124	58	106	208	175	150	150	75	75	50	-	-	-	1,256
Strategic allocations (West End)	-	-	-	-	-	-	-	12	25	13	25	411	520	520	495	235	235	470	470	470	469	4,370
Projected windfalls (Rest of East Devon)	-	-	-	-	-	-	6	121	146	74	5	137	149	149	149	74	74	149	149	149	149	1,679
Projected windfalls (West End)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	0
<b>Total (Rest of East Devon)</b>	344	498	624	182	428	788	579	614	507	240	334	605	474	461	438	174	174	212	149	149	149	8,122
<b>Total (West End)</b>	486	531	403	172	184	433	593	686	786	387	423	709	670	670	645	310	300	570	570	533	469	10,530
<b>TOTALS</b>	<b>830</b>	<b>1,029</b>	<b>1,027</b>	<b>354</b>	<b>612</b>	<b>1,221</b>	<b>1,172</b>	<b>1,300</b>	<b>1,293</b>	<b>627</b>	<b>757</b>	<b>1,314</b>	<b>1,144</b>	<b>1,131</b>	<b>1,083</b>	<b>484</b>	<b>474</b>	<b>782</b>	<b>719</b>	<b>682</b>	<b>618</b>	<b>18,652</b>

3.25 The graph below shows the breakdown of different sites making up the housing trajectory projected to 2031.



- 3.26 It should be noted that projected completions are based on an assessment of available sites and a HELAA panel/developer assessment of what can and is available to build on. Whether house builders choose to build at these levels will be informed by market demand and commercial attractiveness to build.
- 3.27 Whilst both the above and below graphs show a flattening out or slight reduction in completions for 2016/17 and projections for 2017/18 then a sharp rise this is a result of the application of the methodology and calculations. In reality, completions will not follow this projection line exactly, some sites projected to be completed next year may be completed in 4 years time, and conversely some projected to be built out in 4 years time may be completed next year. The key point is that over the five year period if completions were annualised (averaged out over the period), the projected completions would be significantly above the 950 per annum target set by the Local Plan. Therefore if actual completions do not meet specific projections set out in this or earlier years that is not necessarily an issue as long as they are made up over the five year period.
- 3.28 In addition to this, the graph below shows the annual requirement as set out by the Understanding Data report<sup>1</sup> which identifies that annual dwelling requirements over the plan period are not evenly distributed but instead gradually increase over time. Annual projected completions clearly far exceed this secondary annual requirement right up until 2026-27 from which point onwards they drop down significantly. This is evidence of the fact that housing is being brought forward from later in the plan period as required by paragraph 47 of the NPPF.



<sup>1</sup> Demographic advice for East Devon Council (August 2015), Understanding Data, available at: <http://eastdevon.gov.uk/media/1287188/psd2015u-demograpicunderstandingdataaug2015.pdf>

3.29 Looking back at previous completions and projected completions it is possible to see the significant increase in annual figures especially in the first ten years of the new plan period (2013 – 2023). The graph above shows that East Devon is providing the “step change” in housing delivery required by the Government.

## 4. Five Year Land Supply Calculations

- 4.1 Paragraph 47 of the NPPF requires Councils to *“identify and update annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements with an additional buffer of 5% (moved forward from later in the plan period) to ensure choice and competition in the market for land. Where there has been a record of persistent under delivery of housing, local planning authorities should increase the buffer to 20% (moved forward from later in the plan period) to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land”*.
- 4.2 The point of demonstrating a five year land supply is to ensure that there is enough housing coming forward to meet requirements. On top of this, the current Government is seeking to increase housing delivery in the immediate future by requiring Councils to demonstrate a minimum of 5% extra provision but in places where delivery has been persistently below requirements 20% extra. There is no adopted Government guidance on how or when to apply which percentage buffer or what constitutes “persistent under delivery”, which is left to local authorities to determine. The Council has in recent years applied the 20% buffer as a conservative approach, recognising that there was under delivery in the years prior to the current plan period. However, it is now reasonable for the Council to say that it is clearly delivering at around or above requirements and that the trajectory projects it to continue doing so for the next ten years and so the 5% buffer should apply.
- 4.3 Above sections of this report outline how the build out rates, approach to calculating windfalls and detailed site assessments mean that generally the projected housing supply calculations err on the conservative side.
- 4.4 The NPPF explains that to be considered deliverable in the context of the requirement to demonstrate a five year land supply, *“sites should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years and in particular that development of the site is viable. Sites with planning permission should be considered deliverable until permission expires, unless there is clear evidence that schemes will not be implemented within five years, for example they will not be viable, there is no longer a demand for the type of units or sites have long term phasing plans”*.
- 4.5 Now that the new Local Plan has been adopted the Council is able to rely on all deliverable sites for its five year land supply calculations. Prior to adoption it was accepted that until adoption of the new Local Plan potentially deliverable strategic allocations in the Local Plan that had not yet gained planning permission or a resolution to grant permission could not be relied upon. That is no longer the case as the Inspector has found the plan and the allocations within it to be sound.
- 4.6 The adopted new Local Plan has a housing requirement of 17,100 new homes for the 2013 -2031 plan period, equivalent to an average of 950 dwellings per annum.

## Five Year Land Supply calculation

	Item	Calculation	ROED	West End	Combined
A	Requirement (from Strategy 2 of the adopted Local Plan)		6,537	10,563	17,100
B	Annual requirement (basic)	A/18	363	587	950
C	5 Year requirement (basic)	Bx5	1,816	2,934	4,750
D	Requirement to have been delivered by 30 September 2016	Bx3.5	1,271	2,054	3,325
E	Completions 1 April 2013 - 30 September 2016		1,648	1,592	3,240
F	Shortfall/Surplus	D-E	- 377	462	85
G	5 Year requirement (excluding buffer)	C+F	1,439	3,396	4,835
H	<b>5 Year Target (including 5% buffer)</b>	<b>Gx1.05</b>	<b>1,511</b>	<b>3,566</b>	<b>5,077</b>

I	<b>Annual Target (assuming 5% buffer)</b>	<b>H/5</b>	<b>302</b>	<b>713</b>	<b>1,015</b>
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	Supply element at 30 September 2016 expected to deliver 1 October 2016 - 30 September 2021				
J	Extant permissions (including under construction)		2,379	2,994	5,373
K	Sites with resolution to grant permission or acknowledged development potential		163	25	188
L	Strategic allocations		267	50	317
M	Future windfalls		347	-	347
N	<b>Total deliverable supply</b>	<b>J+K+L+M</b>	<b>3,156</b>	<b>3,069</b>	<b>6,225</b>

O	<b>Surplus/Deficit (assuming 5% buffer)</b>	<b>H-N</b>	<b>- 1,645</b>	<b>497</b>	<b>- 1,148</b>
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P	<b>Years of land supply (assuming 5% buffer)</b>	<b>N/I</b>	<b>10.44</b>	<b>4.30</b>	<b>6.13</b>
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- 4.7 Row P in the above assessment shows that taking account of all deliverable sites across the district as a whole, the Council is able to demonstrate **6.13 years** of land supply. This has increased from 5.80 at the previous monitor six months ago primarily as a result of significant new permissions and pulling in a further six months' worth of projected completions at the end of the plan period.
- 4.8 According to the above calculation, there is a surplus (number of dwellings above the required supply for the next five years) of 1,148 dwellings (row O) which is a significant buffer (in addition to the required 5% buffer) capable of allowing for non-implementation or reduced build out rates of a number of sites if necessary. This averages out at just shy of 230 dwellings per year surplus over the five year period.
- 4.9 The calculation also demonstrates the impact that West End sites have on the five year supply. Clearly, due to the scale of development at the West End, a slightly lower than 5 year supply in the West End has a big impact on the overall combined 5 year land supply for the district as a whole.

**Report to:** **Strategic Planning Committee**

**Date of Meeting:** 29 March 2017

**Public Document:** Yes

**Exemption:** None

**Review date for release** None



**Agenda item:** 10

**Subject:** **Planning Obligations Supplementary Planning Document**

**Purpose of report:** This report provides a summary of the representations received during the recent public consultation and proposes that the guidance be revised in light of the feedback, and adopted as a Supplementary Planning Document.

**Recommendation:**

- 1. To agree that 4 weeks consultation on the Planning Obligations Supplementary Planning Document and its Consultation Statement be undertaken.**
- 2. To agree that, if no substantive comments are received in response to the consultation, the proposed changes to the Planning Obligations Supplementary Planning Document be agreed and it is recommend that the Supplementary Planning Document be adopted by Cabinet.**

**Reason for recommendation:** To obtain the agreement of Members to adopt the Supplementary Planning Document.

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Tel: 01395 571543

**Financial implications:** The recommendations in this report have no direct financial implications.

**Legal implications:** Planning obligations are contained in legal agreements set out as deeds under section 106 of the Town and Country Planning Act 1990, as amended. The Community Infrastructure Levy is governed by the Planning Act 2008, as amended and the Community Infrastructure Levy Regulations 2010 as amended. Once adopted the Planning Obligations SPD will form a material consideration in the determination of planning applications.

**Equalities impact:** Low Impact

**Risk:** Medium Risk

A lack of clarity could lead to delays in determining planning applications, potential refusals and additional legal costs. There is also a risk that the amounts calculated are open to challenge.



- Links to background information:** Planning obligations are covered by a variety of legislation, including
- the Growth and Infrastructure Act 2013
  - the Localism Act 2011
  - CIL Regulations 2010 (as amended)
  - the Town and Country Planning Act 1990 (as amended)
- Relevant previous Committee reports:
- <http://eastdevon.gov.uk/media/1652003/200416-combined-council-agenda.pdf> (Item 10- CIL Adoption)
  - <http://eastdevon.gov.uk/planning/planning-policy/infrastructure-provision-and-community-infrastructure-levy/>
- Consultation Statement:
- <http://eastdevon.gov.uk/media/1930928/obligations-spd-consultation-statement.pdf>

**Link to Council Plan:** Encouraging communities to be outstanding; Developing an outstanding local economy; Delivering and promoting our outstanding environment; Continuously improving to be an outstanding council

## Report in full

### 1. Introduction

1.1 Members considered a report last November which proposed that a draft Planning Obligations Supplementary Planning Document be consulted upon. This guidance is intended to give everyone involved in the planning process a clear understanding as to what charges (through the Community Infrastructure Levy and planning obligations) will be applicable for different forms of development and should reduce the time taken to determine applications and the associated costs.

### 2. Consultation Outcome

2.1 The consultation ran for longer than the usual 6 weeks to allow for Christmas and New Year. It was advertised on the Council's website and through press releases. Statutory consultees, Parish Councils, District Councillors and potentially interested parties on the Council's database were informed. Copies of the SPD were available online, through Parish Councils, at EDDC Offices and in local libraries (please note the request from Cranbrook Town Council that future consultations also be available in the new Cranbrook Library).

2.2 The consultation has now finished and 26 responses were received. Representatives included agents, developers, statutory consultees, Parish and adjoining District Councils, Devon County Council and infrastructure providers. A summary of the representations is attached at Appendix 2 of this report. The Regulations require the Consultation Statement to be amended to include the persons who were consulted when the Supplementary Planning Document was prepared; a summary of the main issues raised by those persons and how those issues have been addressed in the SPD (essentially, the information contained at Appendix 2 of this report). The consultation statement should then be made available for 4 weeks further consultation.

2.3 The draft SPD was accompanied by a Strategic Environmental Assessment, Habitat Regulations Screening, Equalities Impact Assessment and Consultation Statement. These do not require amendment following the consultation and the statutory consultees who commented, agreed with their content.

- 2.4 Generally, the principle of the guidance was supported, with most respondents welcoming clarification as to what developers might be expected to provide as part of a new development, and the process for collecting and spending any money.
- 2.5 Some respondents (particularly developers and their agents) felt the requirements were unduly costly, too restrictive and that planning conditions would usually suffice so that planning obligations are unnecessary. EDDC's approach to overage and viability, in particular, attracted numerous objections. The SPD explains how overage and viability will be addressed but includes links to supporting information, rather than the information itself. This has generated objections but, where information may need to be updated regularly- eg where legal decisions lead to national guidance updates- it avoids the need to review the SPD very frequently.
- 2.6 As a result of the consultation, a number of amendments have been made to the guidance, a revised version of which is attached at Appendix 1. The main changes are that the document has been reordered to avoid duplication, a process is in place to review CIL/Regulation 123 list, the table which sets out the sort of issues covered by a planning obligation has been clarified and the Council's position with regard to overage and viability has been clarified (through the guidance notes rather than in the SPD).
- 2.7 It should also be noted that a new Housing White Paper was released on 8<sup>th</sup> February and this has implications for CIL and planning obligations in the future. The independent review of CIL and its relationship with Section 106 planning obligations, published alongside the White Paper, found that the current system is not as fast, simple, certain or transparent as originally intended. The Government will examine the options for reforming the system of developer contributions including ensuring direct benefit for communities, and will respond to the independent review and make an announcement in the Autumn Budget 2017. The White Paper does not warrant changes to the SPD, and it is important to adopt it for use as soon as possible, but a future review is likely to be required.

### **3. Adoption of the Supplementary Planning Document**

- 3.1 The responses to the consultation have informed the redrafting of the SPD, which is attached for Members information. The changes are not substantive and the majority of objections relate to viability issues which will be addressed through redrafted guidance notes rather than the SPD. A further 4 weeks consultation will now be carried out so that interested parties have the opportunity to comment on the Consultation Statement and the amended SPD. If substantive further changes to the SPD are required as a result of this consultation it will be referred back to Members. If the consultation does not warrant substantive further changes then Members are asked (in line with Regulation 14 of the Town and Country Planning (Local Planning) (England) Regulations 2012) to recommend the Planning Obligations Supplementary Planning Document to Cabinet for adoption.

February 2017



# East Devon Planning Obligations



## Planning Obligations

# Supplementary Planning Document- February 2017

This document is supported by:

- Strategic Environmental Assessment and Habitat Regulations Screening Report
- Equalities Impact Assessment
- Consultation Statement

These documents are available online at <http://eastdevon.gov.uk/planning/planning-policy/planning-obligations-supplementary-planning-document-spd/> and at the Council Offices in Sidmouth.

The Team responsible for this Plan can be contacted at:

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or by post to: Planning Policy, East Devon District Council, The Knowle, Station Road, Sidmouth, EX10 8HL

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## 1.0 Introduction

- 1.1 Development may place demands on existing infrastructure and generate a need for new infrastructure. When new homes are built their occupants will need to use roads, sewers, new play areas, community halls, new schools etc. Sometimes, private sector business will provide facilities and infrastructure, because there is money to be made in doing so, but for many essential facilities this will not be the case.
- 1.2 In the past, some development, particularly new house building, hasn't been accompanied by the timely provision of the necessary social, physical and community infrastructure. We need to ensure this doesn't happen in the future. The Local Plan will play a key role in identifying infrastructure requirements, ensuring that provision and investment by providers is co-ordinated with development.
- 1.3 In order to address the impacts of development Councils seeks contributions from developers in the form of facilities, infrastructure or financial contributions. Contributions were historically collected through 'Section 106 Agreements' (after Section 106 of the Town and Country Planning Act 1990). The Government has now introduced the Community Infrastructure Levy (CIL) which allows Councils to raise funds from developers undertaking new building projects in their area, to be used to fund a wide range of infrastructure that is needed as a result of development. The Levy operates alongside traditional Section 106 Agreements as a means of collecting developer contributions. The Council sets out in the Infrastructure Delivery Plan <http://eastdevon.gov.uk/planning/planning-policy/infrastructure-provision-and-community-infrastructure-levy/provision-of-infrastructure/infrastructure-delivery-plan-idp/> which items of infrastructure are expected to be funded through the Levy and which will be secured through Section 106 Agreements. This provides clarity about the infrastructure required and ensures there is no double charging for the same item.
- 1.4 The critical document in introducing the Levy is the Charging Schedule, which sets out the charging rates (on a £ per SqM basis) for different types of development, potentially with different rates for different areas within the District. The Charging Schedule is underpinned by a robust evidence base on the impact of proposed Levy rates on development viability. The Charging Schedule can be viewed at <http://eastdevon.gov.uk/media/1680258/adopted-charging-schedule.pdf> . A summary is available later in this document.

## 2.0 Legislative and Policy Context

2.1 The National Planning Policy Framework (NPPF) sets out the Government's planning policies for England and how these are expected to be applied. It explains that planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition. This is supported by Planning Law<sup>1</sup>.

### 2.2 Town and Country Planning Act 1990

The Act<sup>2</sup> states that planning obligations may:

**(a) restrict the development or use of the land in any specified way** (for example by imposing an age restriction on occupiers);

**(b) require specified operations or activities to be carried out in, on, under or over the land** (for example, on some sites development will only be acceptable if particular constraints can be addressed before, during or after construction. In circumstances where planning conditions (which would usually be imposed) cannot control issues that include flood risk, land contamination, access and disruption caused by construction works, planning obligations are likely to be sought as failure to address such issues is liable to result in planning permission being refused);

**(c) require the land to be used in any specified way** (for example as public open space); or

**(d) require a sum or sums to be paid to the authority on a specified date or dates or periodically** (to clarify, negotiation over the level of contributions will take account of the costs and viability of the development, including any abnormal costs and other planning objectives that may affect the proposal. However, the Council also considers that costs incurred in delivering a sustainable, high quality development are to be expected, and should not reduce the ability of the site to contribute towards relevant planning objectives).

2.3 Planning obligations are usually entered into as part of planning applications to ensure that developers address additional community and infrastructure needs and mitigate the social, environmental and economic impacts of new development. They usually run with the land in perpetuity and may be enforced against the original covenantor, and anyone else that acquires an interest in the land, until such time as they are discharged or otherwise modified. Planning obligations can be secured by:

**(a) Section 106 Agreements** between local planning authorities, persons with a legal interest in a piece of land and any other interested parties.

**(b) Section 106 Unilateral undertakings** signed solely by parties with a legal interest in the land.

These are appropriate when only the person with a legal interest in the land (and not the Council) needs to be bound by the agreement.

### 2.4 Community Infrastructure Levy Regulations

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<sup>1</sup> The legislative framework for planning obligations is set out in Section 106 of the Town & Country Planning Act 1990, as amended by Section 12 of the 1991 Planning and Compensation Act. Further legislation is set out in Regulations 122 and 123 of the Community Infrastructure Levy (CIL) Regulations 2010 as amended. Government policy on planning obligations is set out in Paragraphs 203 to 205 of the National Planning Policy Framework (NPPF) (March 2012).

<sup>2</sup> Section 106 of the Town and Country Planning Act 1990 (as amended by Section 12(1) of the Planning and Compensation Act 1991) Note- the non-bold examples are provided for clarification by the authors of this guidance, they are not contained in the Act

Further legislation is set out in the Planning Act 2008 (as amended) and Regulations 122 and 123 of the Community Infrastructure Levy (CIL) Regulations 2010 (as amended).

- 2.5 Regulation 122 includes the following tests that a planning obligation must satisfy:
- (a) necessary to make the development acceptable in planning terms;**
  - (b) directly related to the development;**
  - (c) fairly and reasonably related in scale and kind to the development**
- 2.6 The Government intends that CIL will be the mechanism for new development to contribute towards investment in a wide range of infrastructure that is needed as a result of new development, including strategic transport facilities, flood defences, schools, sports facilities and open spaces. Councils are no longer able to use a tariff-based approach to secure contributions through an SPD or pool Section 106 contributions from more than five developments to enable the provision of a single item of new infrastructure. Planning obligations may be used to provide affordable housing and site specific measures required to mitigate the impact of development.
- 2.7 It should be noted that, in 'Fixing our Broken Housing Market' the White Paper of 7 February, the Government commit to examining the options for reforming the system of developer contributions, including ensuring direct benefit to communities, with the findings being announced at Autumn Budget 2017.
- 2.8 East Devon Local Plan  
The Council adopted the East Devon Local Plan in January 2016, which sets out the vision, strategy, objectives and development management Policies for the District up to 2031. Development that may require the provision of planning obligations should be made in accordance with the relevant policies of the East Devon Local Plan. This SPD supports the Local Plan, particularly strategy 50, and constitutes an important material consideration in the decision-making process.
- 2.9 Some local communities have produced, or are in the process of producing, Neighbourhood Plans. Once made, these plans form part of the development plan for the District and will carry the same weight as the Local Plan in decision making. Where a Neighbourhood Plan is made, 25% of any CIL raised in the Neighbourhood Plan area may be spent by the Parish Council responsible for producing the Plan in accordance with Government guidance. In areas without a 'made' Neighbourhood Plan, 15% of the CIL raised will be passed to the Parish Council to be similarly spent (up to a maximum £100 per council tax banded property in the parish, per year).



## Strategy 50 - Infrastructure Delivery

The Council produced and consulted (in June/July 2013) on an Infrastructure Delivery Plan to set out how the implementation of Local Plan policies and proposals will be supported through the timely delivery of infrastructure improvements. It identifies schemes, sets out how much they will cost, indicates potential funding sources and establishes a funding gap. Developer contributions will be sought to ensure that the necessary infrastructure improvements are secured to support the delivery of development and mitigate any adverse impacts.

The Council will introduce the Community Infrastructure Levy (CIL) alongside the Local Plan. The Infrastructure Delivery Plan will inform the Council's Regulation 123 List which will establish items of infrastructure to be funded in whole or in part through the Levy

Through Section 106 Agreements and negotiations over site development and where otherwise not met through alternative committed schemes or proposals the Council will ensure that:

1. Infrastructure requirements that arise as a direct consequence of developments are met in full to serve the needs of the proposal and occupants and users.
2. The loss of, or adverse impacts on, any significant amenity or resource present on the site prior to the development is offset by the provision of alternative facilities that are of at least equal value.




Infrastructure provision should be phased to meet development and failure to provide or absence of relevant infrastructure will be grounds to justify refusal of permission.

*Open space at Broadclyst*



### 3.0 Purpose and status of the SPD

- 3.1 The SPD will provide clarity to developers, decision makers, stakeholders and local communities regarding the basis on which planning obligations will be sought when considering planning applications in East Devon. In the form of a legal agreement, planning obligations are secured to ensure that development mitigates the impacts of, and provides for the requirements arising from, development in a sustainable way.
- 3.2 The SPD details the obligations that may be required from different types and amounts of development and sets out the basis on which the level of obligation will be calculated, where appropriate. It complements and provides further guidance to the policy approach set out in the District Council’s East Devon Local Plan (Adopted January 2016) and will assist in securing the provision of high quality, sustainable new development supported by appropriate infrastructure provision. The SPD forms a material planning consideration in the determination of planning applications and will ensure that decisions are made in a consistent way.
- 3.3 The SPD will be produced in accordance with the following process:

SPD Process stage	What is involved?
<p><b>Stage 1</b> Development of evidence base</p> 	<ul style="list-style-type: none"> <li>• Identification of the issues and collection of the information needed to prepare the SPD</li> <li>• Engagement with relevant stakeholders to decide on content and level of detail of the SPD</li> </ul>
<p><b>Stage 2</b> Drafting of the SPD and consultation (Regulation 12 of Local Plan Regulations 2012)</p> 	<ul style="list-style-type: none"> <li>• Drafting of SPD</li> <li>• Consultation with stakeholders and members of the public</li> <li>• Minimum of 4 weeks consultation</li> </ul>
<p><b>Stage 3</b> Preparation of the SPD</p> 	<ul style="list-style-type: none"> <li>• Formal consideration of points raised in Stage 2.</li> <li>• Amendment of the SPD as required and finalisation of the supporting documents in light of consultation.</li> <li>• Consultation on the Consultation Statement and amended SPD</li> </ul>
<p><b>Stage 4</b> Adoption of SPD by the Council (Regulation 14 of local Plan Regulations 2012)</p>	<ul style="list-style-type: none"> <li>• Report to Strategic Planning Committee (for ratification by Cabinet). If Cabinet agree, then EDDC can adopt the SPD and produce an Adoption Statement</li> </ul>

- 3.4 The SPD will be regularly reviewed, and updated as necessary, to ensure it remains consistent and in conformity with National policy and legislation and emerging Development Plan Documents comprising East Devon’s Local Plan.

## 4.0 The Council's Approach to Planning Obligations and CIL

4.1 In determining planning applications, East Devon District Council has regard to the provisions of the development plan and any other material considerations.

### CIL

4.2 This is a non-negotiable charge and is triggered by the commencement of development.

4.3 The following types of planning applications are liable to pay CIL:

- Applications for the creation of new dwellings. This includes agricultural workers dwellings, new-build holiday lets and student accommodation.
- Applications for extensions of 100 square metres or more to existing dwellings
- Applications for retail development in chargeable areas.

4.4 CIL is a tariff in the form of a standard charge on the above types of development, which in East Devon is set by the District Council to help the funding of infrastructure. The principle behind CIL is that most development has some impact on infrastructure and should contribute to the cost of providing or improving infrastructure.

4.5 CIL applies to new floor space and charges are based on the size, type and location of the new development. Developments of less than 100 square metres new build floor space will not be liable to pay CIL unless they result in the creation of a new dwelling.

4.6 Charges are calculated on Gross Internal Floor Area; refer to RICS 'Code of Measuring Practice' available at <http://www.isurv.com/site/scripts/download.aspx?type=downloads&fileID=167> .



*Redhays bridge spans the M5 providing a link for cyclists and pedestrians*

4.7 East Devon District Council will collect the levy, co-ordinate the spending of the funds and report this to the community annually.

4.8 CIL liable applications will be charged in accordance with the rates set out in the CIL Charging Schedule. This, and the different charging zones across the District, can be viewed at <http://eastdevon.gov.uk/planning/planning-services/planning-development-management/community-infrastructure-levy-cil/how-much-will-i-pay/#article-content> . CIL liable applications will require a CIL Information form to be valid.

- 4.9 Some types of development may be eligible for Relief, including affordable housing, charitable development and self-build housing. Conditions apply to exemptions and if they are not complied with, the CIL that would have been due will be clawed back.

## Regulation 123 List

- 4.10 The Regulation 123 List <http://eastdevon.gov.uk/planning/planning-services/planning-development-management/community-infrastructure-levy-cil/> sets out the infrastructure which money raised through CIL will be used to fund in whole or in part. The local authority is not able to require planning obligations (S106 Agreements) to contribute towards any infrastructure on that list in addition to the CIL payment. "123" refers to the Regulation within the CIL Regulations which requires the list to be produced and does not mean it is a priority 1, 2, 3 list. The Infrastructure Delivery Plan (IDP) <http://eastdevon.gov.uk/planning/planning-policy/infrastructure-provision-and-community-infrastructure-levy/provision-of-infrastructure/infrastructure-delivery-plan-idp/> provides a guide to the specific projects that are required to deliver the Local Plan (only some of which will be funded in whole or part by CIL) and the priority for their delivery. The Strategic Planning Committee will determine the projects on which funding will be spent.

*The design for a play area at Axminster, chosen by the local community*



**Preventing**

## Duplication

- 4.11 The CIL Regulations restrict the use of pooled contributions towards items of infrastructure. Planning obligations can no longer be agreed in respect of a specific infrastructure project or a type of infrastructure through a Section 106 agreement or unilateral undertaking, if five or more obligations for that project or type of infrastructure have already been entered into since 6 April 2010, and it is a type of infrastructure that is capable of being funded by the levy.
- 4.12 In respect of planning obligations secured prior to 6 April 2015; these can continue to be used to fund Infrastructure items.
- 4.13 In respect of affordable housing, which cannot be funded by CIL, there is no restriction in terms of the numbers of obligations that may be pooled, but due regard must be given to the wider policies and guidance on planning obligations set out in the NPPF and NPPG.

- 4.14 To ensure developers do not pay twice for the same items, the Council have published a Regulation 123 list of infrastructure that the Council intends will be, or may be, wholly or partly funded by CIL. These types of infrastructure cannot therefore be funded through new Section 106 planning obligations.
- 4.15 In order to increase transparency and certainty as to what infrastructure may be funded from CIL (and thus what may still be secured through planning obligations), the Council's Regulation 123 list will be reviewed and amended going forward to ensure that it represents an up to date list of Infrastructure to be funded by CIL. Any review of the Regulation 123 list will be informed by the latest Infrastructure Delivery Plan and subject to appropriate local consultation.

### **Planning Condition or Planning Obligation?**

- 4.16 A planning condition may be imposed on a grant of planning permission to ensure that development is acceptable. Where it is not possible to address unacceptable impacts of development proposals through a planning condition the National Planning Policy Framework states that planning obligations may be used. Therefore, the Council will seek to use planning conditions in most instances and use planning obligations only where a condition will not suffice.
- 4.17 Planning obligations must be directly relevant to the proposed development.
- 4.18 Where a planning obligation is required it must be secured by legal agreement (under Section 106 of the Town and Country Planning Act 1990). Where the nature of the obligations required are relatively simple and it is not necessary for the Council to be a signatory. Applicants are encouraged to submit a Section 106 Unilateral Undertaking for consideration by the Council. Where a Unilateral Undertaking is not appropriate a Section 106 Agreement will be required, which will be drafted by the Council's Legal Team, unless otherwise agreed. The applicant will be required to pay the legal costs reasonably incurred in respect of preparing a Section 106 agreement or reviewing a Section 106 Unilateral Undertaking.
- 4.19 Applicants should agree with the Development Management Team the most appropriate mechanism to secure planning obligations at an early stage in the planning process.

*The energy centre which provides the district heating system to Cranbrook*



## 5.0 Matters to be addressed through Planning Obligations

- 5.1 It is extremely important that developers enter into pre-application discussion with the Councils Development Management Officers at an early stage about planning obligations that may be required for their development by the Council.



*Many applications are required to contribute to mitigating the harm to the East Devon pebblebed heaths which can arise from new housing development*

- 5.2 The summary table below provides an indication on the types of planning obligations that are often agreed in relation to new development in East Devon where such matters cannot be addressed through planning conditions. The table is purely a guide and does not include strategic infrastructure such as education facilities, strategic transport improvements or flood defences. Unless otherwise stated, policy references are to Policies and/or Strategies of the East Devon Local Plan. Please note that the specific infrastructure requirements of an expanded Cranbrook will be covered in the Cranbrook Plan (Development Plan Document) which will align with the guidance in this SPD. Where matters are not addressed in the Cranbrook Plan, the guidance in this SPD will apply.

Obligations	Requirement	Usual Due Date
On-site* Affordable Housing (designation, definition and prescription of) and/or off-site contributions	<p>In accordance with Strategy 34 of the Local Plan, <b>50% on-site housing</b> (as a proportion of the total number of units built) to be affordable on sites capable of accommodating 1 or more units (or the minimum threshold set out in Government policy) in all areas except Axminster, Exmouth, Honiton, Ottery St Mary, Seaton and major strategic 'west-end' sites, where <b>25% on-site housing</b> will be sought. On rural exceptions sites <b>at least 66%</b> of housing is to be affordable.</p> <p>Tenure split of affordable housing: Target of 70% social or affordable rent and 30% intermediate. For rural exception sites the tenure should reflect the identified need from the</p>	In phase with the delivery of market dwellings

Obligations	Requirement	Usual Due Date
	Rural Housing Needs Survey. If non-policy compliant tenure splits are proposed, this will need to be justified and evidenced.	
On-site Open Space	<p>On-site formal and informal Open Space (including play areas and allotments) will be sought through S106 Agreements in line with Strategy 43 of the Local Plan. Developments will be expected to provide open space on-site through S106 Agreements in line with the following thresholds:</p> <ul style="list-style-type: none"> <li>• <b>9 dwellings or less</b> will not be required to provide any specific open space typologies on-site, however developers may choose to make such provision.</li> <li>• <b>10 – 49 dwellings</b> will be required to provide amenity open space on-site as per the open space standards.</li> <li>• <b>50 – 199 dwellings</b> will be required to provide amenity open space, and children’s and youth play space on-site as per the open space standards.</li> <li>• <b>200+ dwellings</b> will be required to provide for all open space typologies on-site as per the open space standards.</li> </ul> <p>It may be necessary or desirable to provide more of certain typologies and subsequently less of others depending on site specifics and an appropriate layout and arrangement will be considered during the planning application process. Where a developer considers an alternative mix is more appropriate evidence should be submitted with an application to demonstrate the justification for an alternative approach.</p> <p>Developments which do not meet these requirements will be refused planning permission where the Council considers them capable of delivering the required open space on-site unless viability assessment proves otherwise.</p>	In line with development and no later than 75% occupations.
Off-site Open Space	Generally off-site contributions towards improvement/enhancement of existing/new open spaces will be delivered through CIL and therefore S106	To be agreed on a case-by-case basis

Obligations	Requirement	Usual Due Date
	<p>Agreements will not be signed towards such contributions. However, in certain circumstances where the proposed development requires replacement provision off-site (such as an application to develop on existing open space), off-site contributions may be sought either through financial contribution or specific provision through S106 Agreement. Replacement provision will need to be identified by a red line on plans accompanying the planning application indicating the applicant's ownership of the two areas of land. However this may prove problematic for developers who do not at the time of application 'own' an area of land suitable in size location and type. That being the case early consultation with the LPA to discuss requirements relating to suitable alternative provision is highlight recommended. Replacement provision must be directly related to the site and be available to the same community as the lost facility.</p>	
Green Infrastructure	<p>In line with Strategy 5, on-site green infrastructure will be integrated with, and protected from the impacts of, development. It will be phased alongside housing delivery.</p>	<p>To be agreed on a case-by-case basis</p>
Public art	<p>In line with Policy D1, public art or contributions are most frequently sought when new development occurs in the form of major schemes that occupy prominent locations.</p>	<p>In line with development</p>
Trees; tree and other planting; landscaping	<p>In accordance with Policies D2 and D3, where it is not possible to address unacceptable impacts of a proposed development in relation to trees, planting and landscaping through a planning condition ie where there is a long-term management issue, the Council will seek to agree the provision of mitigation measures to address these impacts through planning obligations on a case- by-case basis, reflecting the site and scheme characteristics.</p>	<p>To be agreed on a case-by-case basis</p>
Habitat and ecological protection, creation and enhancement, including requirements arising out of Habitat Regulations Assessment (this excludes the Exe Estuary and Pebblebed Heaths European Sites which are	<p>With regard to European wildlife sites, Section 61 of the Habitat Regulations requires the LPA to assess whether a significant effect is likely and, if the LPA considers it is, then they must undertake an Appropriate Assessment to consider whether or not the effect can be fully mitigated. The legislation says that LPAs must NOT grant consent for a development that would, either alone or in-combination with other developments, have a likely significant effect on a European wildlife site, unless full mitigation is provided. In East Devon a number of options exist to ensure that the</p>	<p>Mitigation to be secured before development commences</p>



Obligations	Requirement	Usual Due Date
mentioned in the Regulation 123 List)	<p>legally required mitigation is delivered: on site mitigation and/or capital contributions through the CIL or via Section 106. The most suitable option for ensuring adequate mitigation will be discussed at the application stage.</p> <p>On other (non-European) sites, where it is not possible to address unacceptable impacts on habitats and ecology through a planning condition, the Council will seek to agree the provision of mitigation measures to address these impacts through planning obligations on a case-by-case basis.</p>	
Site specific roads, car parking, footways and cycle paths, footbridges, public transport stops, bus shelters, traffic calming, junction improvements, road improvements and other transport infrastructure excluding those identified in the Regulation 123 List	Site specific highway and transport requirements are determined on a case-by-case basis. Obligations include traffic orders (around £3,000), highway and junction improvements, bus stops and walking and cycling facilities.	Before development commences
Travel planning (including measures to support and encourage modal shift)	These are defined on a case-by-case basis, reflecting the site and scheme characteristics.	To be determined in the S106 agreement
On-site renewable energy provision that primarily serves the development and/or off-site contributions (including Carbon Reduction Plans)	These are defined on a case-by-case basis, reflecting the site and scheme characteristics. In accordance with Strategy 40, provision for connection to a Decentralised Energy Network should be integrated into the design of larger new development (as specified in the Strategy).	To be determined in the S106 agreement
On-site drainage, sewerage and water management requirements provision (including the maintenance and	These are defined on a case-by-case basis, reflecting the site and scheme characteristics. Sustainable Urban Drainage Systems should be an integral part of the design of new development.	To be determined in the S106 agreement

Obligations	Requirement	Usual Due Date
management of sustainable urban drainage) and/or off-site contributions		
On-site remedial action to deal with contaminated land	In most cases this would be addressed through a planning condition, however there may be occasions when land ownership is to be transferred or ongoing monitoring is required, when a Section 106 agreement is required. The requirement will depend on the scale and nature of the contamination. Where contamination is anticipated, a contaminated land assessment will be required as part of the planning application. Remedial action would usually be required before development commences unless contamination becomes apparent during development or occurs on part of the site which is to remain undeveloped, where the trigger may be before first occupation.	Before development commences
Neighbourhood Centres including A1, A3, A4, and A5 land uses	These are defined on a case-by-case basis, reflecting the site and scheme characteristics.	To be determined in the S106 agreement
Phasing of infrastructure for economic development purposes, including serviced land or buildings for B1, B2 and B8 land uses	These are defined on a case-by-case basis, reflecting the site and scheme characteristics.	To be determined in the S106 agreement
Other infrastructure which is directly related to the development and required to make the development acceptable in planning terms and which does not appear on the Regulation 123 List	These are defined on a case-by-case basis, reflecting the site and scheme characteristics.	To be determined in the S106 agreement
Land to enable delivery of infrastructure on-site	Where it is important to deliver specific infrastructure on an application site that serves a wider purpose than meeting just the needs of that application/site then the reservation and/or transfer of that land to enable delivery of that	In line with development, usually no

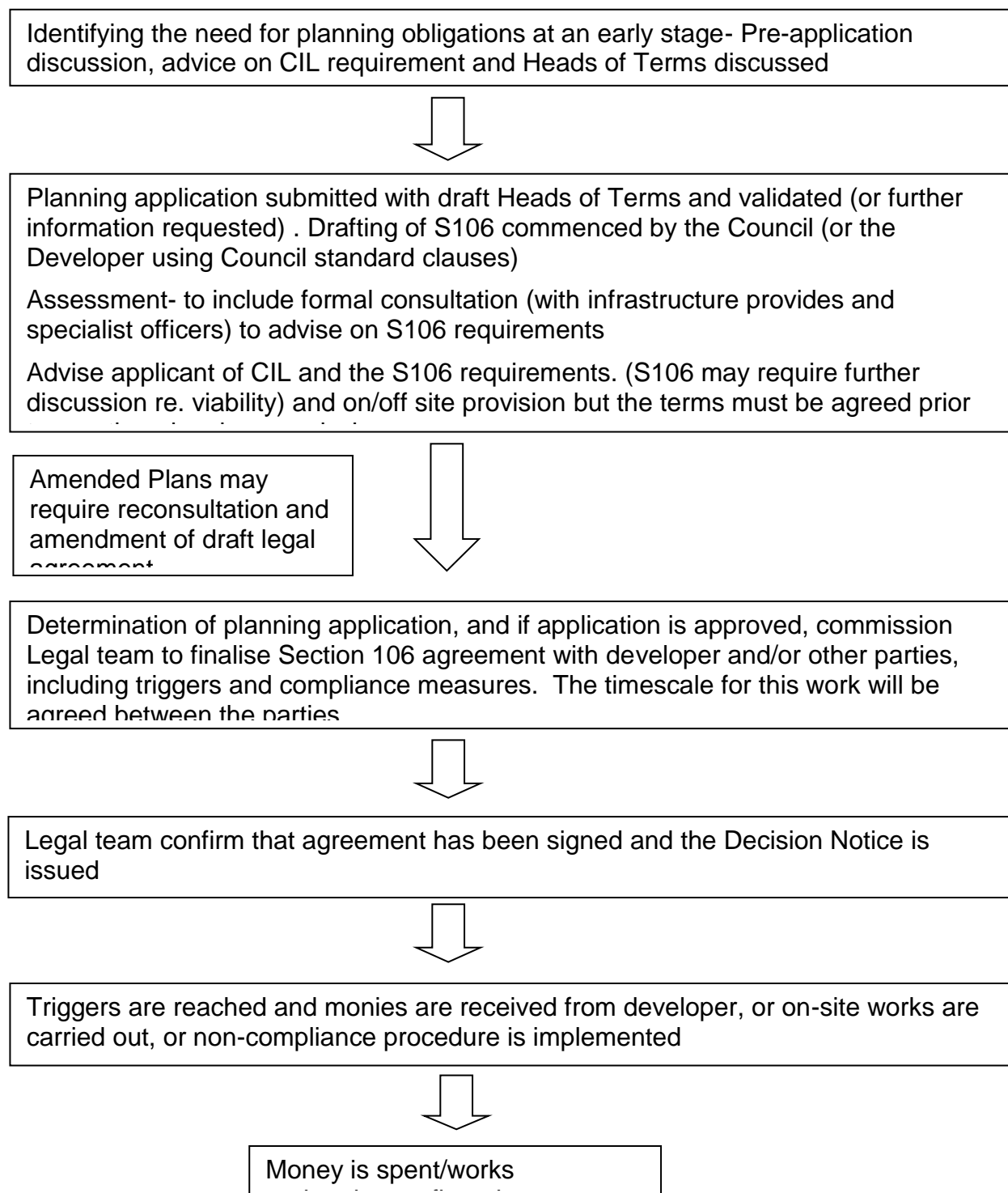
Obligations	Requirement	Usual Due Date
	infrastructure in that location will be required through S106 Agreement. The infrastructure itself may be delivered by S106, CIL or other means.	later than 75% occupations.
Site wide masterplans that agree the spatial layout and land uses of sites including the location of specific infrastructure or land uses within the development site that are essential to the delivery of a sustainable development	These are defined on a case-by-case basis, reflecting the site and scheme characteristics.	Before development commences
Sheltered housing or extra care housing facilities	A mix of dwellings on sites of 15 or over (Policy H2) that should include Care/Extra Care homes and other forms of specialist housing for older persons where the targets set out in Strategy 36 have not been met or a Care Needs Assessment establishes a need.  Where extra care or sheltered housing is proposed, obligations may control the occupation of the dwellings or the level of care to be provided.	In line with development and no later than 75% occupations.
Accessible and adaptable homes	All affordable and 20% of market homes to meet part M4(2) of the Building Regulations, Category 2 accessible and adaptable dwellings (or any comparable updated nationally set standard (Strategy 36).	In line with development and no later than 75% occupations.
Phasing and timing of land uses and/or development on mixed use sites	These are defined on a case-by-case basis, reflecting the site and scheme characteristics.	Before development commences
On-site air quality management and monitoring, and/or off-site contributions to measures aiming for air quality enhancements	This would depend on the scale and nature of the activity. Where air pollution is anticipated, an air quality assessment will be required as part of the planning application. Remedial action would usually be required either before development commences or as part of a development scheme, where the trigger may be before first occupation.	Before development commences

Obligations	Requirement	Usual Due Date
Noise and other environmental amenity and heritage asset impact reduction	These are defined on a case-by-case basis, reflecting the site and scheme characteristics.	To be determined in the S106 agreement
Considerate construction or similar schemes to limit negative environmental impacts during the construction process	These are defined on a case-by-case basis, reflecting the site and scheme characteristics.	To be determined in the S106 agreement
Planning obligation monitoring and administration support contributions	This would depend upon the scale and nature of the development. Such as where a very large development is proposed to be delivered in several phases with a wide suite of planning obligations which would place an added burden on the local planning authority requiring additional resources to cover the administration and monitoring of the site above that already provided.	Before development commences
Overage where viability considerations deem it appropriate	Overage clauses will be required in all cases where viability assessments have been provided on an open book basis and clearly demonstrate the scheme is currently unable to provide the required affordable housing contributions. This will be capped at the amount required to deliver a policy compliant scheme.	To be determined in the S106 agreement
Management Companies	These are defined on a case-by-case basis, reflecting the site and scheme characteristics. Developers are expected to forward fund management arrangements to ensure there are sufficient funds to maintain them in the future.	To be determined in the S106 agreement

\*On-site refers to anywhere within the red line on the map accompanying the planning application/Unilateral Undertaking/S106 Agreement. Off-site refers to anywhere outside of this line.”

## 6.0 Submitting the planning application- validation, assessment and determination

6.1 A summary of the planning obligations process that will be followed:



### Validation

6.2 In order to reduce the delay in assessment of the planning application applicants should ensure that all information required to assess an application is submitted. Where the application does not accord with the Local Plan (and any Neighbourhood Plan) due to financial viability constraints, this will need to be demonstrated as part of the application and the application cannot be validated without it. The Validation Guidance Note may be downloaded here <http://eastdevon.gov.uk/planning/planning-permission/apply-for-planning-permission/general-validation-advice/> .

## CIL

- 6.3 The CIL Additional Information Requirement Form must be submitted in order to validate the application.

### Planning Obligations

- 6.4 Before planning obligations can be agreed, the Council will require the following:
- (a) Agreed heads of terms** supplied in electronic form for ease of circulation.
  - (b) Land Registry title documents** for the application site and any other land that needs to be bound by a planning obligation (for example where the use of adjoining land is to be restricted).
  - (c) A solicitor's undertaking to meet the Council's legal costs** in preparing and completing an agreement. The Council will be able to provide an estimate of costs once the heads of terms have been broadly agreed. The Councils' costs are to be paid whether or not the agreement is actually completed.
- 6.5 Where a planning obligation is required, the Council may refuse an application for planning permission if a legal agreement has not been completed by (or after) the date that the application is due for determination and the developer is responsible for the delays.
- 6.6 The signatories of a Section 106 agreement will be those with a legal interest in the land, East Devon District Council and, in some cases, Devon County Council and other organisations or parties (for instance Parish Councils taking on responsibility for public open space).
- 6.7 The Council has prepared model Section 106 agreements that are available on request. These cover the types of obligations most commonly encountered but may not be appropriate in all cases, and it should be noted that these documents are liable to change from time to time.
- 6.8 It is usual for the Council to prepare the draft agreement with the Developer meeting their reasonable costs. Developers may instruct their solicitor to draft a Section 106 Agreement but are strongly encouraged to use the Council's standard clauses as alternative wording is likely to result in additional costs being borne by the developer and delays.
- 6.9 Please note that negotiation of a Section 106 agreement does not indicate that the Council is minded to approve a planning application and the Council's costs will still need to be paid by the Developer where an application is refused. When the Council is minded to approve an application the decision notice will not be issued until the agreement has been completed.



### **Assessing and determining the application**

- 6.10 The Council will usually make information submitted as part of the planning application available to the public by publishing information on the webpage, this will ensure stakeholders have an opportunity to comment.
- 6.11 Where additional information is submitted during consideration of the application the Council reserves the right to reconsult the public which may delay determination of the application. Please note that amendments may require submission of a new CIL application (and liability may increase) as well as amended Heads of Terms.
- 6.12 At this stage, consultation will take place formally to ensure that S106 requirements are identified and are fully covered in the appropriate legal agreement.
- 6.13 Upon the completion of a Section 106 agreement, the Council's legal fees associated with the agreement's preparation will be payable. The Council will register the agreement as a Local Land Charge and the developer may, if covenanted within the agreement, be required to register the agreement as a charge against the Title of the land. The Council will also update the statutory registers and send a copy of the completed agreement to all relevant parties including Council officers.
- 6.14 The Council will confirm the draft liability for CIL following the grant of planning permission and this is double checked and confirmed following the submission of a commencement notice. There are clear guidelines and process for CIL as defined by the Government. This is set out on <http://eastdevon.gov.uk/planning/planning-services/planning-development-management/community-infrastructure-levy-cil/> . Failure to comply with any of the process can incur surcharges and the loss of phased payments.

### **Appeals**

- 6.15 Where an applicant pursues an appeal against the decision<sup>3</sup> of the Council and a planning obligation is required by the Council, the draft Section 106 agreement or Unilateral Undertaking should be made available at the time the appeal is submitted in a form that is conditional upon the appeal

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<sup>3</sup> Including appeals against non-determination of planning applications  
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being allowed. This will then be considered as part of any statement of common ground. This is without prejudice to the Council's position in respect of those refusal reasons which are unrelated to the contents of the obligation.

*Affordable housing at Kilmington*



### Thresholds and Site sub-division

6.16 Different thresholds may apply to different obligations. In order to clarify what is expected, the most common requirements, and the thresholds at which they apply are set out in the tables below. In line with Government policy, affordable housing will only be sought on sites of 11 or more dwellings in urban areas, or 6 or more dwellings in the remainder of the district, although CIL and Habitat Regulations mitigation (depending on location) will apply from one dwelling upwards.

6.17 Urban Areas (defined in the 1985 Housing Act as the wards of- Exmouth, Honiton, Sidmouth and Seaton)

No of houses proposed	Requirements applicable
10 and under	CIL, Habitat Regulations Mitigation (depending on location)
11+	CIL, On-Site Affordable Housing, On-site open space, Habitat Regulations Mitigation (depending on location)

6.18 Rural Area (the remainder of the District, outside the wards of- Exmouth, Honiton, Sidmouth and Seaton)

No of houses proposed	Requirements applicable
5 and under	CIL, Habitat Regulations Mitigation (depending on location)
6+	CIL, Affordable Housing contribution (commuted sum- for calculator see <a href="http://eastdevon.gov.uk/planning/planning-services/planning-development-management/unilateral-undertakings-section-106-agreements-habitat-mitigation-and-affordable-housing-contributions/">http://eastdevon.gov.uk/planning/planning-services/planning-development-management/unilateral-undertakings-section-106-agreements-habitat-mitigation-and-affordable-housing-contributions/</a> ), Habitat Regulations Mitigation (depending on location)
11+	CIL, On-Site Affordable Housing, On-site open space, Habitat Regulations Mitigation (depending on location)

6.19 Where sites are subdivided so that developments fall below the thresholds at which contributions will be payable the Council will consider the site, and infrastructure/mitigation required, as a whole.



This will prevent a situation arising where a series of applications on a given site or land area, each fall below policy thresholds but collectively exceed thresholds.



*The Beehive Community Centre, Honiton*

## Viability

6.20 CIL contributions are fixed and non-negotiable, however, if an application is concerned about the viability of their scheme they can seek to have the amount of Section 106 reduced on viability grounds. In order to do this we would require a full open book viability appraisal to be provided. We may use internal expertise and/or employ a specialist, such as the District Valuer, to advise on the viability appraisal, in which case the applicant can be expected to meet the Council's costs which will vary depending on the scale and complexity of the scheme. We have provided some guidance for applicants which set out the level of information we require. This can be found here –

- Viability Guidance Note One sets out what information will be required

<http://eastdevon.gov.uk/planning/planning-services/planning-development-management/viability-guidance-notes/viability-guidance-notes-1/>

- Viability Guidance Note Two explains what efforts should be taken to improve viability

<http://eastdevon.gov.uk/planning/planning-services/planning-development-management/viability-guidance-notes/viability-guidance-notes-2/>

6.21 Mitigation of effects on a European site, required by the Habitat Regulations, and associated CIL contributions are non-negotiable and cannot be reduced.

## Overage

6.22 Strategy 34 in the adopted Local Plan requires that where a reduced contribution is agreed for viability reasons, an overage clause will be sought in all cases. Overage is a potential right to receive future payments in respect of land. In this case, it is applied when actual values exceed the estimated value used to calculate viability and therefore a development is more profitable than originally anticipated. This ensures that a fair proportion of the contributions is actually paid. Overage (also known as 'claw-back') clauses will therefore be applied to all planning permissions where viability information has resulted in a less than policy compliant amount of affordable housing being accepted. Overage will be applied to all applications, including single-phase developments, and will be applied without any periods of deferral or other restrictions.

## Vacant Building Credit

- 6.23 Vacant building credit can be applied when a vacant building is being demolished or brought back into use. It can be applied where a building has not been abandoned. A credit, for the existing floorspace of a vacant building, can be given against the affordable housing requirement. The credit can be applied when calculating either the number of affordable housing units to be provided within the development or where an equivalent financial contribution is being provided. The credit is intended to incentivise brownfield development. In considering whether a scheme should be able to claim vacant building credit, the Council will consider:
- Whether the building has been made vacant for the sole purposes of re-development.
  - Whether the building is covered by an extant or recently expired planning permission for the same or substantially the same development.
- 6.24 The Council approach is that Vacant Building Credit (VBC) will be considered on a case by case basis and that, other than in exceptional circumstances, the following criteria shall be applied:
- VBC will only be granted where it would help to secure the redevelopment of vacant brown-field land or buildings
  - VBC will not be granted where land has been purchased for redevelopment and a 'vacant' period of time is a normal part of the development process
  - VBC will not be applied when the 'vacant' period is a policy requirement for demonstrating the land is no longer required for its current use

## Viability at Outline

- 6.25 CIL regulations requires calculation of CIL liability to be based on actual net floor area. This poses a difficulty for any outline application where the actual net floor area is either not provided, or provided in relation to an indicative plan only. As it is the actual (and not an indicative) figure that would be needed to undertake the calculations in relation to CIL, exact costs for calculating CIL, and indeed for developing the scheme remain unknown at outline stage. In these cases the amount of net floor area for the development will not be pinned down until the reserved matters application. This gives rise to issues in relation to proving viability when relying on an indicative scheme at outline stage. This highlights a clear tension around accepting reduced contributions due to viability on outline applications. There are two ways that this issue could be addressed:
- 1) Accept the use of viability appraisals at outline stage, and require the details of the scheme that justify the viability conclusions to be pinned down. For example, if a scheme was for 9 three bed houses with a total floorspace of 891 sqm, would have a viability appraisal prepared on this basis and the outline would pin this down. The completed scheme would then still need to be subject to viability appraisal on completion to assess whether or not any overage payment was due under a section 106 obligation.
  - 2) Accept that at the moment the indicative viability indicates that there may be a viability issue with the scheme but this could only be confirmed at reserved matters stage, when full details of the scheme are known. A Section 106 agreement would be required that sets out the mechanisms by which the current viability appraisal would be tested, adjusted, or redone, as required at reserved matters stage. The Section 106 agreement would also then set out the requirement for a viability appraisal of the completed scheme, and how the assessment of any overage payment would be undertaken.

- 6.26 Applicants are encouraged to contact the Council at the earliest opportunity where viability is likely to be an issue, whether this relates to pre-application advice, an outline, detailed or full application. We are happy to provide advice and guidance before any viability work is commissioned or undertaken to help ensure it is comprehensive and robust.
- 6.27 In light of these issues, and the Council's approach to dealing with them applicants are strongly advised to consider the merit of committing resources to seeking to demonstrate viability at outline stage, recognizing it may only be of limited value.



*Construction at Cranbrook*

## Confidentiality

- 6.28 There is a strong public interest in financial viability appraisals being made available for scrutiny when relied upon to secure planning permission and, for this reason, the council will make this information publicly available. We consider that transparency is extremely important and the public benefit of publishing all aspects of a viability appraisal will generally outweigh any potential commercial harm to the applicant. If an applicant feels that some or all of the information should be kept confidential, then it will be necessary for the applicant to show how disclosure of that information would cause specific harm (in this context this means that 'it is more probable than not that some harm would be caused' - it will not be sufficient to say it might cause harm) to a legitimate economic interest. Applicants will need to identify to the Council what the economic interest is and how specific harm would be caused to it when the viability information is provided. This view will be taken into account, and balanced against the wider public interest in disclosure, when the council makes its decision about the publication of the viability appraisal.

## Priorities

- 6.29 It is essential that developers enter into discussion with the Council's planning officers at an early stage about planning obligations that may be required for their development. It is not possible for this guidance to provide an overarching priority list of planning obligations that may be sought, because the relative importance of an obligation will be dependent on the development proposal being considered. In making the judgement, Planning Officers will have regard to the Development Plan; adopted Neighbourhood Plans; advice from statutory consultees, the financial viability of the proposals if necessary; and individual site characteristics.

## Self-build and Permitted Development

- 6.30 Some types of development may not require planning permission, or may qualify for exemption from CIL requirements. This could include self-build dwellings, dwellings built or converted as

permitted development or large extensions to dwellings. In some cases, it may still be necessary to enter into a Section 106 agreement and mitigation under the Habitats Regulations may still be sought.

- 6.31 Where an exemption is granted, CIL may still be payable if the status of the building subsequently changes e.g. If a self-build house is sold within the first 3 years, or is not constructed as a self-build following the grant of planning permission.



*Flood alleviation works at Feniton*

## **7.0 Implementing Planning Obligations and non-compliance**

- 7.1 The Council starts managing and monitoring planning obligations as soon as they are signed. A small fee may be incorporated into the agreement to cover monitoring and administration costs. This is a complex process which covers thousands of legal documents, all with multiple trigger points and obligations. EDDC employs a Planning Obligation Officer dedicated to overseeing this complex programme and ensuring the successful delivery of the obligations.

### **Triggers for the payment of Financial, or delivery of Non-Financial, Planning Obligations**

- 7.2 During the negotiation process, trigger points for each obligation will be agreed upon between the developer and the Council. There are established trigger points which are suitable for S106 agreements and triggers selected in each case will be based upon the nature of the obligation and the stage at which the mitigation is required. The established trigger points, which the Council will encourage to be used in negotiations, are:

- The date that the agreement is signed;
- Upon or prior to commencement of the development (commencement is the Council's preferred trigger point)
- Upon or prior to practical completion of the development; and
- Upon or prior to occupation of the development

### **Delivering Non-Financial Contributions**

- 7.3 The delivery of non-financial contributions, or in-kind obligations, will be monitored by the appropriate service areas responsible for project delivery, but the Planning Obligations Officer will

be the primary point of contact. For example, where there is an Affordable Housing element to a legal agreement, the Council's Housing Needs and Strategy Team will monitor this section of the agreement to ensure that it is complied with.

## Financial Obligations

- 7.4 Financial contributions will be collected in accordance with specific triggers as per the legal agreement and, if they fail to be paid, will be collected in accordance with the enforcement procedures set out later in this document.
- 7.5 Contributions will only be refunded where they were made under a bilateral agreement and weren't spent within given the timescale. The developer would then need to formally request a reimbursement.'

## Price Index linking

- 7.6 Financial contributions will be index linked to allow for the fluctuation of prices between the date the agreement is signed and the date the payment is made. This is calculated based on the indexation adjustment of the relevant index, from the date the S106 agreement is signed to the expected date of payment. The additional amount paid on top of the financial contribution adjusts the contribution in accordance with inflation.
- 7.7 The method of indexation should be specified within the legal agreement and will usually either be the Retail Price Index (RPI) published by the Department of Trade and Industry (DTI), the Building Cost Information Service Index (BCIS) published by the Royal Institution of Chartered Surveyors (RICS) or the Consumer price index (CPI) published by the Office for National Statistics, depending on the nature of the contribution. In the event that the index shall decrease, the contribution shall not fall below the figure set out in the S106 agreement.
- 7.8 The Tender Price Index of Public Sector Building Non Housing (PUBSEC) measures the movement of prices in tenders for building contracts in the public sector in Great Britain.

## Bonds

- 7.9 Planning obligations can include financial contributions, the provision of land, buildings or services and physical works. These requirements have been identified as necessary for development to proceed and it is reasonable that the Council should take steps to secure their delivery in the event of unforeseen circumstances such as a developer going into administration. For this reason the Council may require that some or all planning obligations are secured through a performance bond. It is recognised that bonds can place a significant financial burden on developments. As such consideration may be given to alternative mechanisms for securing contributions where practicable and where there is confidence that such mechanisms will provide adequate security for the investment.
- 7.10 The Council will consider each planning obligation and bonding requirement on a case by case basis with consideration given to issues including:
- The nature and timing of the obligations.
  - Structure of payment (s).
  - Risk of non-delivery of the obligation and to the public purse.

- The value of the obligation and its importance.
- Development viability.

### **Interest and Enforcement of Obligations**

- 7.11 Trigger points will vary for each individual obligation within the S106 agreement. The developer is bound to notify the Council upon commencement of the development. If the Council is not notified and obligations become overdue the Council may seek to enforce the obligation and charge interest on the amount outstanding. This clause requires interest to be paid when payments are overdue. As a final recourse, where obligations are not subsequently complied with, the Council may take legal action against those in breach of the S106 agreement. Non-financial obligations are also legally binding and non-compliance may also result in legal enforcement by the Council.
- 7.12 Late payments will be charged at an interest rate of 4% above the base lending rate. The interest due will be calculated after the indexed sum has been calculated.

## **8.0 Reporting of Section 106 and CIL Receipts**

- 8.1 To ensure transparency, both EDDC and parish councils (where CIL has been received) must publish a CIL report on an annual basis. This must be done by 31<sup>st</sup> December after the financial year end.
- 8.2 To comply with this requirement, The Planning Obligations Annual Monitoring Report will outline the financial and non-financial obligations in a given year; those secured, monies received, obligations complied with and also any monies spent in accordance with S106 agreements or CIL. This report will be presented to Members and available to the public.

## 9.0 Appendix 1- Glossary of Terms

Acronym	Term	Description
	Adoption	<p>The procedure by which a plan becomes formal council responsibility. The Neighbourhood Planning Regulations also call this stage 'made' for the purposes of your Neighbourhood Plans.</p> <p>This is also the term used when a Council takes responsibility (and usually ownership) of a piece of infrastructure e.g. a road or play area</p>
	Affordable Housing	As defined in the NPPF but, specifically, housing for local people within East Devon that cannot afford to buy or rent within the open housing market. Eligibility is determined with regards to local incomes and local house prices. Affordable housing should include provisions to remain at an affordable price for future eligible households or for the subsidy to be recycled for alternative affordable housing provision.
	Allocation /Allocated Site	A piece of land that has had a particular use earmarked to it via the Neighbourhood Plan or Local plan. This might be for housing employment or another purpose such as amenity use.
	Bond	A debt security which can be used by the Council in the event that the Developer fails to provide the infrastructure required by a planning obligation.
BCIS	Building Costs Information Service Index	Administered by the Royal Institute of Chartered Surveyors it provides an Index identifying the inflationary % increase in the costs of construction year on year.
CIL	Community Infrastructure Levy	A charge that allows local authorities to raise funds from developers undertaking new building projects in their area. The money collected can be used to help provide a wide range of infrastructure that is needed as a result of development.
	Commencement of Development	Means the commencement of the Development by the carrying out of any material operation (as defined in Section 56 of the 1990 Act) but for the purposes of legal Agreements only shall not include operations consisting of site clearance, demolition works, archaeological investigations, investigations for the purpose of assessing ground conditions, remedial works in respect of any contamination or other adverse ground conditions, erection of any temporary means of enclosure, the display of site notices or advertisements.
EDDC/LP A	The Council	For the purposes of the SPD the Council is East Devon District Council, who are also the Local Planning Authority. This is distinct from Devon County Council or the Town and Parish Councils of East Devon.
	Consultee	In the case of planning obligations, this is a person, body or group consulted by the Council to help determine Heads of Terms for planning obligations, for example the Highway Authority or Environment Agency.

Acronym	Term	Description
		In the case of a planning application, this is a person, body or group invited to comment.
	Developer	In the case of planning obligations and for the purpose of the SPD the Developer is the owner of a piece of land. Planning obligations that apply to a developer run with the land and apply to successive proprietors unless otherwise agreed
	Development	The carrying out of building, engineering mining or other operations in, on or over or under land, or the making of any material change in the use of any buildings or other land (Town and Country Planning Act, 1990, Section 55)
DV	District Valuer	Provides professional property and valuation advice for the public, private and third sector.
	Enforcement Action	The LPA may enforce a planning obligation by injunction or, where the developer is required to carry out works on the land and 21 days notice has been given, by entering the land, doing the works itself and recovering all reasonable expenses.
	Formal and Informal Open Space	<p>Formal Open Space- sites which have a clearly defined boundary and which are gardened frequently. Usually accommodating higher than average visitor usage (e.g. sports pitches, church grounds, parks or gardens).</p> <p>Informal Open Space- usually areas for unsupervised outdoor children's play (e.g. open space within housing estates, equipped play areas, skateboard parks).</p> <p>This will include allotments.</p>
PD	Permitted Development	The Town and Country Planning General (Permitted Development) Order is a statutory document that allows minor kinds of development (such as small house extensions) to be undertaken without formal planning permission.
	Heads of Terms	The key issues identified during the initial assessment of a development proposal that will need to be addressed through planning obligations.
	Infrastructure	Publicly accessible assets, systems and networks including roads, electricity, sewers, water and education services.
	Local Plan	The name for a document (or collection of documents) prepared by the local planning authority for the use and development of land and for changes to the transport system. The adopted Local Plan forms part of the Statutory Development Plans for the area.
LPA	Local Planning Authority	East Devon District Council



Acronym	Term	Description
	Material Consideration	Any issue that should be taken into account when deciding a planning application or an appeal against a planning decision. Planning policies will guide planning application decisions unless other material considerations associated with need, impact and local circumstance are considered to carry greater weight.
	Mitigate	In the case of planning obligations, actions to correct for the negative impacts and effects of a development.
	Neighbourhood Plan	A planning document created by a parish council or a neighbourhood forum, which sets out a vision for the neighbourhood area, and contains policies for the development and use of land in the area. Neighbourhood plans must be subjected to an independent examination to confirm that they meet legal requirements, and then to a local referendum. If approved by a majority vote of the local community, the neighbourhood plan will then form part of the statutory development plan.
NPPF	National Planning Policy Framework	Sets out the Government's planning policies for England and how these are expected to be applied through local planning policy and decision making.
NPPG	National Planning Policy Guidance	Sets out guidance to accompany and add detail on the implementation of the Government's planning policies
	Overage	Overage (also called clawback or uplift) is a potential right to receive future payments in respect of land. In this case, it is applied when actual values exceed the estimated value used to calculate viability.
	Planning Condition	Guided by Circular 11/95, planning conditions impose restrictions on the grant of planning permission. Planning obligations should only be agreed where planning conditions are not sufficient.
	Planning Obligation	In the form of a legal agreement, planning obligations apply to an area of land and are secured to ensure that developers mitigate for the impacts of, and provide for the infrastructural requirements arising from, development.
	Policy	A concise statement of the principles that a particular kind of development proposal should satisfy in order to obtain planning permission.
RPI	Retail Price Index	The retail price index (in the UK) an index of the variation in the prices of retail goods and other items. Commonly used to measure inflation.
S106	Section 106	Planning obligation under Section 106 of the Town and Country Planning Act 1990, secured by a local planning authority through negotiations with a developer to offset the public cost of permitting a development proposal. Sometimes developers can self-impose obligations to pre-empt objections to planning permission being

Acronym	Term	Description
		granted. They cover things like highway improvements or open space provision.
SPD	Supplementary Planning Document	Guidance which amplifies and provides more detail on the policies contained within the Local Plan. SPDs are subject to public consultation and are a material consideration in determining planning applications.
	Town & Country Planning Act 1990	Currently the main planning legislation for England and Wales is consolidated in the Town and Country Planning Act 1990: this is regarded as the 'principal act.'
	Trigger	The point (in terms of time or the extent of development) at which a planning obligation should be completed.
UU	Unilateral Undertaking	A Unilateral Undertaking is a simplified version of a planning agreement, which is relatively quick and straightforward to complete, and is entered into by the landowner and any other party with a legal interest in the development site.
	Viability	This is when a development proves to be economically feasible and sustainable in terms of the financial resources invested into it.

## Appendix 2

### East Devon Planning Obligations Supplementary Planning Guidance

#### Draft for Consultation from 28/11/2016 to 16/01/2017 Summary of Responses

These tables include a brief officer summary of comments received on the East Devon Planning Obligations SPD draft for consultation. For full details of responses received please see <http://eastdevon.gov.uk/planning/planning-policy/planning-obligations-supplementary-planning-document-spd/> .

Rep no.	Name	Comment/Summary of comment	Officer Response
18	Seaton Town Council	Supports document. Fully supports Sections 6.21 to 6.28 especially that there is a strong public interest in financial viability appraisals being made available for scrutiny when relied upon to secure planning permissions. STC consider that transparency is extremely important and the public benefit of publishing all aspects of a viability appraisal outweighs any potential commercial harm to the applicant.	Support Noted
34	Axminster Town Council	P12 - 4.2 With reference to the Site specific roads, car parking etc. bus shelters should be included and these should be suitable for use by elderly/disabled people. 4.2 When traffic orders are required the opportunity should be afforded to add into them any measures which would be beneficial elsewhere in the town and which otherwise would have to be deferred where D.C.C. was not making a traffic order itself for a single item. 4.2 With reference to travel planning consideration should be given to provision (possibly by E.D.D.C.) of additional car/cycle parking to serve Axminster Railway Station, accessed from Trafalgar Way with a pedestrian link to the station itself. P13- 4.2 With reference to other infrastructure provision of dog bins should be included. 4.2 With reference to land to enable delivery of infrastructure on-site consideration should be given to the inclusion of contributions towards items off-site, such as roundabouts, which may form part of later improvement schemes which will complement the on site works.	Bus shelters added  These suggestions are noted. The table is indicative of the types of issue which can be addressed through S106's rather than a comprehensive list and some of these issues would need to be raised in relation to specific planning applications.  Support noted  Guidance will be available

		<p>P17- 5.8 Strategy 50 no 1 – do these include healthcare and education or are they a separate issue.</p> <p>5.8 Stragegy 50 no 2 – phased provision of infrastructure must be monitored and further development must be made dependent on timely delivery of this.</p> <p>P21- 6.16 It is recommended that in situations where these conditions cannot be met for sound reasons that the obligations can be transferred to provision/enhancement of facilities at the nearest available site.</p> <p>P25- 7.1 The application of a small fee is supported to enable effective monitoring of the process.</p> <p>P27- 8.1 Presumably the District Council will provide the necessary information to the Parish Councils to enable them to fulfil their obligations.</p>	
124	South West Water	(2 responses) No comment	-
135	Colyton Parish Council	<p>Section 8.1 – the Parish Council does not receive regular S106 updates and is unlikely to be able to publish a CiL report on an annual basis if there is a similar lack of information.</p> <p>The Council would like to have these details on a regular basis in a format that could easily be formulated into a report for general consumption. EDDC has employed an extra staff member but this has not increased the information available.</p>	The CIL Regulations (62A) require Town and Parish Councils to publish a report including CIL receipts and CIL expenditure (amongst other things) for each year when they have received neighbourhood funds from CIL. If the Town/Parish Council have not received any money they do not need to publish a report.
261	Newton Poppleford and Harpford	<p>No particular comments.</p> <p>Leisure facilities, improvements to footpaths and traffic management measures to improve safety on School Lane and four Elms Hill should be included in the list of CIL projects. The Parish is preparing a neighbourhood Plan and this may throw up other requests for infrastructure in the Parish.</p>	
526	Woodland Trust	<p>We are pleased to support the inclusion of ‘trees’ in the summary table (section 4.2, p.12), this should include new tree planting as well as retention of existing ancient and valued trees, and also ancient woodland.</p> <p>Benefits of trees and woods for local communities strongly supported by current national planning policy. The Woodland Trust believes that woodland creation is</p>	Amend table at 4.2 to read ‘Trees; <i>tree and other</i> planting; landscaping’

		<p>especially important because of the unique ability of woodland to deliver across a wide range of benefits – see our publication <i>Residential Development and Trees</i> - <a href="https://www.woodlandtrust.org.uk/publications/2015/07/residential-developments-and-trees/">https://www.woodlandtrust.org.uk/publications/2015/07/residential-developments-and-trees/</a> including landscape and biodiversity (helping habitats become more robust to adapt to climate change, buffering and extending fragmented ancient woodland), for quality of life and climate change (amenity &amp; recreation, public health, flood amelioration, urban cooling) and for the local economy (timber and woodfuel markets).</p> <p><a href="http://www.woodlandtrust.org.uk/publications/2015/02/space-for-people/">http://www.woodlandtrust.org.uk/publications/2015/02/space-for-people/</a> Access Standard recommends:</p> <ul style="list-style-type: none"> <li>- that no person should live more than 500m from at least one area of accessible woodland of no less than 2ha in size</li> <li>- that there should also be at least one area of accessible woodland of no less than 20ha within 4km (8km round-trip) of people’s homes.</li> </ul> <p>Strongly support the use of tree planting as an obligation in this Planning Obligations SPD. We suggest the reference in the summary table at section 4.2, p.12 is amended to read (<i>italic amendment</i>) : ‘Trees; <i>tree</i> planting; landscaping’.</p>	
553	Equality and Human Rights Commission	<p>The Commission does not have the resources to respond to all consultations, and it is not our practice to respond to consultations on local plans or infrastructure projects unless they raise a clear or significant equality or human rights concern. Local, Parish and Town Councils and other public authorities have obligations under the Public Sector Equality Duty (PSED) in the Equality Act 2010 to consider the effect of their policies and decisions on people sharing particular protected characteristics. We provide advice for public authorities on how to apply the PSED, which is the mechanism through which public authorities involved in the planning process should consider the potential for planning proposals to have an impact on equality for different groups of people.</p>	Noted
1608	Cllr Jill Elson	<p>1. Contribution to Education should be a priority as general housing provides for the needs of families. Education is a priority for all young people and retraining of adults to ensure skills are upgraded to provide the workforce for the future. This is not only basic classrooms but also specialist rooms for science, technology, computing etc. This is in the economic plan of the Local Enterprise Partnership.</p> <p>2. Affordable housing is vital in this area due to the high price of housing within East Devon. They should be on ‘affordable rents’ (80% of market rents) and low cost market homes. Many of our employers are saying they are unable to recruit due to the cost of housing within East Devon.</p>	<p>These comments are noted and support the possible requirements in the table at 5.2 (4.2 in consultation version). The information will be used to inform the IDP/Regulation 123 list review and could assist Exmouth Town Council in prioritising their spending.</p>

	<p>3. 'Extra Care' housing is now vital as East Devon has one of the highest numbers of people over 75yrs and some vulnerable disabled people younger than that who need support. These must be true 'Extra Care' in that they will provide a minimum of 10 hours personal care up to 24 hour 7 days per week.</p> <p>4. Contribution to highway network to ease 'travel to work' and main highways to access main employment areas</p> <p>5. Contribution to public transport network to encourage increased use to travel to employment centres.</p> <p>6. Retirement homes specifically built for those over 55yrs should make a contribution to Social Care and Medical services.</p> <p>7. Environmental contributions to be sought towards maintaining our beaches, estuaries, wildlife, countryside parks.</p> <p>8. Flood prevention measures for those areas that have a high gross value.</p> <p>9. Contributions 'off site' from small developments towards improvement of community buildings (eg. village halls, community centres), play spaces, leisure activities helping toward Health and Well Being agenda.</p> <p>10. Contribution towards Play space/community centre or other in consultation with local Parish/Town Council in the larger developments. Large developments may have these within their overall scheme (350 homes plus for example)</p> <p>11. Supported housing is required for young people who have left care, vulnerable due to a disability and need help with maintaining a home. They can move on when assessed as able to manage a tenancy.</p> <p>12. To continue with policy of an overage clause if a developer is successful in proving his development is financially unviable at a specific time but as the economy improves becomes viable.</p> <p>13. Consultation with relevant Parish/Town Councils with Neighbourhood Plans to ask if they wish to use part of their 25% of CIL towards any of the above costs. This to be standard practice.</p> <p>My recommendation for 1,2,3 list for Exmouth is as follows.</p> <p>1. Contribution towards Exmouth Community College phase 2 scheme to help increase the capacity from 2500 to 2900 by 2019. (I declare an interest in this item as Chairman of Governors).</p> <p>2. Dinan Way Extension as this has been accepted as needed since 1979. This will help towards reducing 'rat runs' through Exmouth Halsdon and Town Wards' – namely Rivemead Avenue, Featherbed Lane, Iona Avenue/Seymour Road, Gipsy Lane, Marpool Hill and Claremont Grove.</p> <p>3. Flood Prevention for the Colony and Exmouth seafront.</p>	<p>Suggestions for the CIL Regulation 123 list are noted. These comments will be considered in updating the list, which will be subject to a separate consultation in due course.</p>
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		<p>4. Contributions to social care and medical care.</p> <p>5. Beach Management and Estuary to prevent 'overtopping' along seafront. Local seafaring community consider dredging should be re-introduced.</p> <p>6. Affordable Housing</p> <p>7. Extra-Care housing – 10 hour to 24 hour 7 day per week provision</p> <p>8. Supported Housing for adults from 18 to 55 yrs who need help and support to maintain a tenancy before 'moving on'.</p> <p>9. Contributions to upgrade existing play equipment/areas.</p>	
3209	David Lock Associates on behalf of East Devon New Community Partners	<p>Para 2.2 should refer to the Regulation 123 tests needing to be satisfied - for contributions to be necessary, directly related to development and fairly and reasonably related in scale and kind. Reference should also be made to the requirement in section 173 of the NPPF to the need to have careful attention to viability and costs before they are imposed on development and the central objective of the NPPF to boost the supply of new homes.</p> <p>PPG states LPA's "should be flexible in their requirements" and policy "should be clear that such planning obligations will take into account specific site circumstances". The need for flexibility in the application of the SPD guidance and the need to take account of site specific circumstances should be set out clearly and early in the East Devon SPD.</p> <p>Paras 3.14 and 3.15 refer to the Regulation 123 list that sets out what infrastructure is intended to be, or may be, wholly or partly funded by CIL and the text should be expanded and set out when and how this will be reviewed.</p> <p>A key aspect of the review process will be to undertake a review to ensure the most effective means of delivering infrastructure associated with the expansion of Cranbrook as anticipated in the Local Plan. To this end, and subject to the outcome of that review, the delivery of infrastructure is likely to be best achieved through a substantial reduction in the CIL rate for the expansion of Cranbrook and an amendment in the Regulation 123 list to ensure that infrastructure delivered through section 106 mechanisms in Phase 1 of the development will continue to be so in the future expansion of the town.</p> <p>Paragraph 3.6 states that the calculation of CIL will be on the Gross Internal Floor Area as measured in the RICS Code of Practice. The code identifies that Garages</p>	<p>These tests are set out in paragraph 5.5, but consider that the legislative and policy context should be towards the beginning of the SPD.</p> <p>Agree, add the following text at the end of para 3.15: "Any review of the Regulation 123 list will be informed by the latest Infrastructure Delivery Plan and subject to appropriate local consultation."</p> <p>Comments on the CIL rate and amended Regulation 123 list at Cranbrook are noted. However these issues will be considered separately through a review of the CIL Charging Schedule and Regulation 123 list. These comments will be considered in updating the list, which will be subject to a separate consultation in due course.</p>

	<p>are included in the internal floor area, this is incorrect as garages are not habitable areas and are clearly not part of the habitable fabric of a building and should by definition be excluded.</p> <p>Para 4.1 suggests that pre application discussions regarding planning obligations are essential. However, potential section 106 requirements may emerge through the consultation process on the submitted application. Moreover, the purpose of this SPD would appear to be to outline potential requirements. As such section 4.1 should instead point to the SPD as providing guidance for consideration by developers in drawing up proposals and perhaps suggest that EDDC would welcome early discussions. Such discussion should not be identified as essential.</p> <p>Paragraph 4.2 explains the table set out below which provides an indication on the types of planning obligations that are often agreed. That the table is said to be a guide is welcomed. Inevitably, the scale and kind of obligation must be considered on a site by site basis in the light of the development proposed and the national tests. It would be helpful if this were described in the SPD. Although only a guide, there are a number of items listed for which there is no policy justification. The summary table should therefore be clear where text is based on clear policy justification and where it is not; where it is not the text should clarify that such provision cannot be required. Eg the <b>on-site affordable housing provision</b> should make reference to Strategy 34, in the Local Plan which sets out the wider considerations and the scope in appropriate circumstances to negotiate an alternative mix.</p> <p>There should be a review mechanism and recognition that starter homes may be considered as affordable housing in light of the Government’s intention to introduce them.</p> <p>In relation to <b>on site open space</b>, consistency with regard Strategy 43 would also require that there should also be a “demonstrable need for such open space in the vicinity, the last sentence of this section of the SPD should be amended to refer not only to viability but also to “or where there is no demonstrable need for such facilities in the vicinity”. Equally alternative justification may be provided to allow variation from the standards proposed - in particular and appropriate circumstances. The last sentence of the onsite open space provision might therefore be amended as follows: “Developments which do not meet ...unless</p>	<p>4.1 Replace ‘essential’ with ‘extremely important’</p> <p>Refer to LP policy to clarify</p> <p>This is not yet a Policy requirement</p>
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	<p>viability assessment proves otherwise, <i>or there is no demonstrable need for the facilities in the vicinity or there are other good reasons or justification for doing so - for instance relating to the delivery of such facilities</i></p> <p>Recognition should also be made to the opportunity to improve sports and leisure provision - and that these are intended to be secured through CIL contributions. Where such improvements take place, the need for on-site provision may be adjusted.</p> <p>The approach to <b>off-site open space provision</b> should be clarified. As presently drafted, the Council's Regulation 123 list suggests that all off site provision - irrespective of purpose or rationale - should be delivered through CIL.</p> <p>It is not appropriate, or practical, to require all off site provision to be provided before development commences. Nor is this fair or reasonable since, being CIL funded, it is not in the gift of the developer to guarantee the delivery of off-site infrastructure. As to need, the need for off-site infrastructure - in scale and kind - and the timing of its provision - will vary in each individual case - having regard to the range of provision in the vicinity already and a wide range of other factors. To require provision before the commencement of development in all cases will be contrary to the NPPF and EDNLP both in terms of the flexibility in demands in terms of contributions but in particular to the commitment to secure the early delivery of much needed new housing. There is no policy justification for delivery before development and this would be a case of creating new policy untested by an evidence base or in terms of viability. The reference to "before development commences" must be deleted</p> <p>With regard to <b>public art</b>, there is no policy requirement to include public art in development proposals. Indeed the provision of public art is clearly not necessary to ensure that development is acceptable. The provision of public art should be omitted from the SPD.</p> <p>With regard to <b>trees; planting and landscaping</b> - there is no requirement for such planting or landscaping to be complete before development commences. This is not supported by policy and is not supported by an evidence base that justifies such provision in terms of planning or viability. It is contrary to the practice of the Authority in granting applications for planning approval - where the timing of</p>	<p>The table explains the circumstances in which off-site open space provision should be provided.</p> <p>Policy D1 states that we may seek to negotiate public art</p> <p>Protective measures will be required before commencement. Wording has been clarified.</p> <p>The text does not only relate to European wildlife sites. In any case, Beer Quarry Caves, The River Axe and the Branscome cliffs are all Natura 2000 sites not listed in the reg 123 list.</p>
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	<p>planting is agreed by condition and never before development commences. The reference to “before development commences” should be deleted.</p> <p>With regard to the <b>habitats and ecological protection creation and enhancement</b>, arising from the HRA (but excluding those sites listed in the Reg 123 list), clarification should be provided. We are unclear what European sites other than those listed in reg 123 might be referred to in this section of the table. The need for this part of the table is therefore unclear. The term non-infrastructure contribution is not understood and should be explained and consulted upon as necessary.</p> <p>The timing of any provision should be a matter of negotiation and not be a requirement before development commences or before first occupation. The reference to the due date for ecological protection and enhancements must therefore be amended to refer to “<i>in accordance with a timetable to be agreed with the LPA</i>”.</p> <p>The timescale for <b>site specific roads and other transport improvements</b> should not be before development commences but as in other categories “<i>to be determined in the section 106 or highway agreement</i>”.</p> <p>While policy 38 of the Local Plan encourages consideration to be given to a broad range of aspects relating to <b>sustainable construction and design</b>, including renewable energy, no specific aspect is a requirement of the policy so it should not be anticipated that on-site renewable energy provision be an expectation of new development.</p> <p>The need for any <b>phasing of infrastructure for economic development</b> must not be predetermined, and in any event should be determined on a case by case basis. Any provisions must recognise the ability of the developers to reflect demand for economic development and must not be rigidly constructed. The SPD should recognise this.</p> <p>For <b>land necessary to enable the delivery of infrastructure</b> on site to be addressed through the section 106 agreement then this would need to be consistent with the appropriate legal and policy tests - provision should be necessary and directly related to the development, as well as proportionate in scale</p>	<p>Text amended to address this.</p> <p>Some of these comments have been addressed through changes to the table. Otherwise the text makes it clear that the table is indicative of the types of issues which may be covered by S106’s and is not absolute or all-encompassing</p>
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and kind. This is set out in the NPPF and PPG and in Strategy 50 of the Local Plan which refers to infrastructure requirements that are a direct consequence of the development. While there may be other mechanisms to bring forward such land - including through negotiation and agreement - any section 106 obligation seeking to ensure that land required to serve a wider purpose than meeting the needs of the application site must demonstrably meet the legal and policy tests. It is unclear how some such elements would satisfy the necessary tests. This should be acknowledged in the SPD as well as the need to consider a variety of mechanisms to achieve this objective - other than section 106. The timing of delivery of any such land should only be by agreement in the section 106. The existing "when due" reference should be deleted, being far too specific without any reference to what is being planned.

The expectation that **land will be provided to enable the delivery of sheltered or extra care housing** goes beyond the expectation of the Local Plan policy. A fundamental requirement of SPD policy is that it does not extend or create new planning policy. As drafted the policy does so. To remedy the SPD reference it is suggested that there should be no specific *requirement* for Care/Extra Care but to highlight this as a matter for discussion with developers.

In any event and as a minimum:

- reference to land being part of the obligation should be deleted (delete "land to enable");
- reference should be given to a mix being "encouraged to include" rather than should include;
- reference to making provision where a Care Needs Assessment establishes a need" must be deleted as being contrary to the policy - Delete "or a Care Needs Assessment" establishes a need");
- any when due reference should be amended to be "in line with the development or in accordance with such triggers agreed in the section 106 development"

Any Accessible and Adaptable Homes should be provided in negotiation with developers having regard to Policy Strategy 36 and should be in line with the development or in accordance with such triggers agreed in the section 106 development.

Regarding the **phasing and timing of development**, it will not normally be case that land uses or development would be phased. Where infrastructure elements

In line with the adopted validation checklist and LP Strategy 34, the Council is entitled to require viability information at validation stage if the application is seeking to argue viability as justification for a reduced provision eg of affordable housing. Without understanding the viability arguments being made it is not possible to assess any application which seeks to argue for a lower amount of affordable housing than the policy requires. The requirement is not to submit a planning obligation per se but to submit some information that explains how (which can be done

	<p>need to be phased then these will be spelt out in an agreed section 106 agreement. The reference in the SPD should clarify.</p> <p>It is unclear why <b>Air Quality Management</b> and monitoring needs specific reference as part of the SPD. The need to consider air quality will be addressed in each application and mitigation measures as required set out through the planning application process. We question the need for a specific reference in the SPD.</p> <p>Paragraph 6.2 refers to the need where an application does not accord with the Local Plan due to financial viability constraints, for the application to demonstrate why, without which the application cannot be validated. This is contrary to the national planning practice guidance which, addressing the Making of Planning Applications, reminds all parties that “<i>The purpose of planning obligations is to make development acceptable in planning terms. This is about mitigation, rather than just identification, of any undesirable impact and is generally negotiated during the consideration of a planning application. So while it can be good practice to submit information about a proposed planning obligation alongside an application, it should not normally be a requirement for validation of a planning application</i>”. Planning Practice Guidance on Making an Application: Reference ID: 14-042-20140306. Accordingly the reference “and the application cannot be validated without it” should be deleted or substantially amended in accordance with national planning policy guidance.</p> <p>The same applies to the CIL Additional Information Form which we also believe is not required to validate a planning application.</p> <p>Paragraph 6.13 refers to the council’s legal fees for the completion of a Section 106 legal agreement. Reference should be added here to the need for the fees to be reasonable and justified.</p> <p>The section on viability recognises the national and local policy expectation that a number of policy aspirations would have to be subject to viability. The need for all or any viability assessment to adopt an open book approach does not appear to be specific requirement of such assessments. The nature and structure or any assessment should be informed by the particular circumstances of the site and proposed development in question. The SPD may recognise that the expectation is</p>	<p>often most easily with reference to a planning obligation) the scheme complies with Strategy 34</p> <p>The NPPF and Planning Practice Guidance clearly set out the requirements and guidance for detailed viability testing at the decision making stage. The Section of the PPG entitled ‘How should viability be assessed in decision-taking?’ clearly states that “This should be informed by the particular circumstances of the site and proposed development in question. Assessing the viability of a particular site requires more detailed analysis than at plan level.” The request for open book viability appraisals is therefore fully consistent with planning policy.</p> <p>Local Plan policy Strategy 34 has been adopted and requires overage to be applied in all cases when a less than policy compliant level of affordable housing has been accepted. The SPC report considered on Feb 20<sup>th</sup> 2017 (as mentioned above) provides further detail on this. Additional guidance on how overage works in practice will be provided on our website, including hopefully some model section 106 clauses. We have received several applications where numerous viability appraisals have been submitted. For example, there has been a particular issue for a</p>
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	<p>simply that assessing viability should lead to an understanding of the scale of planning obligations which are appropriate.</p> <p>Whilst we understand that CIL contributions are non-negotiable and can't be reduced, it is our understanding that mitigation of effects on a European site may be achieved by a number of means and not necessarily through financial contributions.</p> <p>Whilst it is noted that Policy Strategy 34 seeks an overage clause where affordable housing falls below targets, viability assessment should generally should be based on current costs and values in decision-taking. Planning applications should be considered in today's circumstances as is indicated in the Planning Practice Guidance. The SPD should recognise that overage may not be appropriate - particularly in all circumstances. Moreover there is no reference in Paragraph 6.23 to the time limit on overage. It is unreasonable, in addition, to require overage to be an open ended commitment. Nor is there any reference to what constitutes a level at which it applies. There is no clear basis set out, and consulted on, and agreed with the development industry, to demonstrate that a workable or realistic form of overage could exist.</p> <p>We have substantial concerns about the need for this section of the SPD. It is inherent in any proposals that basic viability is tested prior to an application so the need for this section is questioned. In addition, S 106 agreements as a standard practice allow for a cascade mechanism in some form where viability is an issue and therefore the need for this within the SPD is unnecessary.</p> <p>As drafted the section appears to divert attention from dealing with matters at outline stage and constrain the bringing forward and early implementation of proposals that are key parts of the Local Plan. It will be incumbent on the Local Planning Authority to adopt a positive approach to ensure that development can come forward promptly.</p> <p>Late payment charges are too high.</p>	<p>scheme that has been subject to various design changes and amendments during the consideration of the planning application. As result numerous updated viability work was submitted.</p> <p>We have also experienced an issue in relation to changing viability on schemes as they move through from outline where a greater reliance is placed on assumptions, to viability assessment for detailed schemes, where there is more certainty. This has, for example, been a particular issue on a site that has changed hands between securing outline permission on the basis of one viability appraisal, and then a revised viability report has been then been submitted reflecting the scheme at detail (see also the comment in relation to viability at outline).</p> <p>In practice, we actively work with applicants to try and identify and resolve any viability challenges at the earliest opportunities, and indeed we are required to consider viability at whichever stage we are to. However, even with a agreed viability at outline, or detailed stage, there is still nothing to stop an applicant seeking to vary the section 106 agreement after it is signed, and we have several examples where this has occurred.</p>
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3301	Nathaniel Lichfield for Bourne Leisure	<p>LPA should consider whether any mitigation measures can be sought in the first instance through planning condition rather than by planning obligation, in accordance with NPPF paragraph 203. The Company therefore requests that the Council carefully considers whether each of the issues included within the draft SPD could be better addressed through planning conditions and so could be removed from the document, or if this revised approach is not accepted for any reason, it is made clear within the document that Section 106 obligations will only be necessary where it is not possible to address unacceptable impacts through planning conditions.</p> <p>The planning obligations summary table para 4.2- Bourne Leisure welcomes the introductory text, which explains that the detail provided on the types of planning obligations that may be considered should be treated as guidance only. Therefore, the Company would like to ensure that this wording is retained in the approved Planning Obligations SPD.</p> <p>Off-site open space- The draft SPD states that, where required, any off-site open space contributions to be delivered via financial contribution or specific provision within a section 106 agreement will be due "[b]efore development commences" In circumstances where the new open space is not replacing existing facilities, Bourne Leisure considers that the timing of any off-site open space contributions not being delivered through CIL should be decided on a case-by-case basis, in order to allow for a judgement to be made on the timing of provision in relation to construction.</p> <p>Public art- 'Prominent locations' should be defined. Text should be amended to read  "Public art or contributions are most frequently sought when new development occurs in the form of major schemes that occupy a prominent location-typically</p>	<p>4.2 introductory text amended to reflect this.</p> <p>Support noted</p> <p>Text amended to 'to be agreed'</p> <p>Policy D1 makes it clear that this is a matter for negotiation not an absolute requirement.</p> <p>Text has been reworded</p>

	<p>within the urban public realm, and would depend upon its relationship to the physical environment and its setting."</p> <p>Trees, planting and landscaping- In many cases, it will not be appropriate to deliver obligations in relation to trees, planting and landscaping prior to commencing development, given that construction work can cause disruption to the natural environment- and particularly for new planting. Hence, these elements are often provided at the end of the construction process (it is accepted that the details of major, structural works are frequently best agreed prior to development commencing, via condition). The necessary timing for each site and development should be considered on its own merits. This would be better dealt with by planning condition. It is suggested that the text be changed to "Where it is not possible to address unacceptable impacts of a proposed development in relation to trees, planting and landscaping through a planning condition, the Council will seek to agree the provision of mitigation measures to address these impacts through planning obligations on a case- by-case basis, These are defined on a case by case basis, reflecting the site and scheme characteristics." (proposed amendments underlined)</p> <p>Habitat and ecological protection, creation and enhancement- The "Habitat and ecological protection..." section of the table on page 12 of the draft SPD is intended to provide an indication of the types of planning obligation that are often agreed in relation to habitat and ecological protection, creation and enhancement, including the requirements arising from the Habitats Regulations. However, the descriptive text in the second column of the table only considers mitigation in relation to European wildlife sites. Bourne Leisure therefore considers that a paragraph should be added to the table in relation to development not covered by the Habitats Regulations that has an impact on habitats and ecology. Suggested replacement wording "Where it is not possible to address unacceptable impacts on habitats and ecology through a planning condition, the Council will seek to agree the provision of mitigation measures to address these impacts through planning obligations on a case-by-case basis."</p> <p>Bourne Leisure notes the Council's approach in providing flexibility on the timing of the delivery of mitigation relating to habitats and ecology, reflecting the variety of development types and circumstances in East Devon. Whilst some new</p>	<p>Text has been reworded</p> <p>Support noted</p>
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	<p>developments will have an impact on habitats and ecology during construction, others will only affect biodiversity once the development is occupied.</p> <p>Other planning obligations</p> <p>The Council states within the draft SPD that several types of planning obligation will be defined on a case-by-case basis, including:</p> <ol style="list-style-type: none"> <li>1 Highway and transport requirements (Table p.12, "Site specific roads, car parking...");</li> <li>2 Travel planning measures (Table p.12, "Travel planning..."); On-site renewable energy provision (Table p.12, "On-site renewable energy provision");</li> <li>4 On-site drainage, sewerage and water management requirements (Table p.12, "On-site drainage...");</li> <li>5 Other infrastructure which is required to make the development acceptable in planning terms and which does not appear on the Regulation 123 list (Table p.13, "Other infrastructure...");</li> <li>6 Site wide masterplans (Table p.13, "Site wide masterplans, etc.");</li> <li>7 Noise and other environmental amenity (Table p.14, "Noise..."); and,</li> <li>8 "Considerate construction" or other schemes to limit negative environmental impacts during construction (Table p.14, "Considerate construction...").</li> </ol> <p>Bourne Leisure agrees with the Council's pragmatic approach in defining these types of planning obligation on a case-by-case basis, in order to reflect individual site and scheme characteristics.</p> <p>Viability appraisals- The Council indicates it will promote transparency in publishing viability appraisals, but its commitment to providing confidentiality for the commercially sensitive elements of an appraisal is unfortunately unclear. Bourne Leisure therefore requests that paragraph 6.27 of the draft SPD is amended as follows:</p>	<p>Support noted</p> <p>The Council's position is that viability assessments should be made public unless the applicant requests confidentiality and makes it clear which sections are confidential.</p>
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		<p>"There is a strong public interest in financial viability appraisals being made available for scrutiny when relied upon to secure planning permission. We consider that transparency is extremely important and the public benefit of publishing all aspects of a viability appraisal outweighs any potential commercial harm to the applicant. However, the Council will maintain confidentiality for the commercially sensitive elements of a viability appraisal, whether or not this has been requested by the applicant. Applicants are, however, advised to identify elements of a viability appraisal which could undermine their commercial position with the council through the pre-application process. The Council may require redacted versions of the information, or may carry out the redaction. The Council will advise the applicant whether the sufficient information has been made available to assess the viability of the proposed scheme."</p>	
3347	PCL Planning	<p>The relationship between planning obligations and the Council's CIL should be made clearer within the introduction of the SPD, as it establishes the basis of what planning obligations can lawfully be sought by the Council. We would suggest that direct reference to the CIL regulations and supporting planning practice guidance cited above is referenced upfront within section 1.0 of the document.</p> <p>Paragraph 3.10 states that "<i>whilst CIL can also be spent on other infrastructure projects which are not identified on this [Reg 123] list, it serves as a good guide as to what CIL money may be spent on</i>". This is incorrect. CIL Regulation 123 (4) (definition of 'relevant infrastructure') is clear that where a charging authority has published a list of infrastructure that it intends to be funded by CIL receipts, it can only be spent on those infrastructure projects/ types of projects. This sentence should therefore be omitted. We do however support the recognition later in this paragraph and at paragraph 3.14 that infrastructure identified on the Regulation 123 List cannot be funded through planning obligations, to prevent 'double counting'.</p> <p>Paragraph 3.21 is incomplete.</p> <p>Paragraph 4.1 states that "<i>it is essential that developers enter into pre-application discussions</i>" with the Council about planning obligations which may be required by their development. This is simply not the case. Whilst it may be desirable/ recommended by the Council that applicants engage with officers prior to the submission of an application, there is no statutory requirement to do so. This</p>	<p>Agree: delete the second sentence in paragraph 3.10.</p> <p>This has been rectified.</p> <p>Amended to read 'extremely important'</p> <p>In some cases the open space may be of community benefit but not be open to the general public</p>

		<p>paragraph should therefore be amended to accord with the advice set out in planning practice guidance ref. ID: 23b-024-20150326.</p> <p>In the ‘obligations’ table at paragraph 4.2, it should be made clear in the second and third columns relating to on/off-site open space, that these comments relate to areas of <i>public</i> open space.</p> <p>Paragraph 6.7 refers to the Council’s model Section 106 agreements which its states “<i>can be made available on request</i>”. For the sake of greater transparency and timeliness in agreeing planning obligations, these templates should be made available on the Council’s website rather than need to be requested from the Council.</p> <p>Paragraph 6.9 of the document states that “<i>the negotiation of a Section 106 agreement does not indicate that the Council is minded to approve a planning application and the Council’s costs will still need to be paid by the Developer where an application is refused</i>”. It would be unreasonable for a S106 agreement to be advanced unless an officer recommendation of approval is likely, and this should be reflected in this text.</p> <p>In relation to viability, paragraph 6.21 should make clear that should the Council look to employ a specialist to advise in reviewing viability appraisals, that this would be agreed with the applicant if they are expected to meet the costs for this work.</p> <p>In the bullet points presented at paragraph 7.2, it is stated that the Council’s ‘preferred’ trigger point for planning obligations is ‘prior to commencement of development’. This would not be an appropriate trigger point for a number of obligations and this comment is at odds with the recognition at paragraph 7.10 that trigger points vary between individual obligations. This reference should therefore be removed.</p>	<p>The agreements are being prepared by our Legal Team and will be available on line shortly.</p> <p>This is a factual statement and t would be unreasonable not to make developers aware.</p> <p>This is a factual statement, and reflects the Councils preferred position.</p> <p>The council currently utilises both in house and external viability advice. At present the DV is commissioned on a case by case basis, although we are exploring the merits of Service Level Agreement with the DV. The points raised here will feed into the wider considerations in relation to accessing specialist viability advice. It is not considered appropriate to include this specific matter in an SPD on planning obligations, as it is a procedural issue.</p>
3712	Sustainable Places,	Response advising consultation has been passed to the Sustainable Places Team.	No further response received.

	Environment Agency		
3743	Natural England	<p>Para 3.10. The last sentence states that the Strategic Planning Committee will determine the projects (from the Regulation 123 list) on which funding will be spent. It is suggested that clarification is provided here regarding provision for mitigation of effects on European sites. This should state that some projects will be necessary to ensure effects on European sites are mitigated and that their funding will therefore be essential in order for development to proceed.</p> <p>Green Infrastructure should be included in the table at Section 4.0, as it's importance is recognised in Local Plan Strategy 5, and NPPG.</p> <p>Table entry for 'Habitat and ecological protection'. The last sentence of the explanation against this project type and particularly the reference to a "non-infrastructure contribution" is confusing. It is suggested that this sentence is simplified. Wording along the following lines could be considered:          "In East Devon a number of options exist to ensure that the legally required mitigation is delivered: on site mitigation and/or capital contributions through the CIL or via Section 106. The most suitable option for ensuring adequate mitigation will be discussed at the application stage".</p> <p>Para 6.22. It is suggested that the wording in this sentence be made clearer through addition of the word "associated" before "CIL".</p> <p>We concur with conclusion set out in para 1.3 which states that the SPD is unlikely to have a significant effect on the environment or a negative impact on any Natura 2000 sites and therefore will not need to be subject to SEA or Habitat Regulations Assessment (HRA).</p>	<p>Noted, the Council will prepare a report relating to CIL governance and spending in due course, which will detail mitigation on European sites.</p> <p>Agree</p> <p>The text should be included in the table.</p> <p>Add 'associated' to text</p> <p>Support noted, SEA HRA are not required.</p>
5122	Rapeleys on behalf of the Crown Estate	<p>Table at para 4.2- note and support the principle that a number of obligations are to be defined on a case-by-case basis reflecting site and scheme characteristics.</p> <p>Support the principle of providing draft heads of terms information upfront to allow discussions to take place early in the planning process in accordance with</p>	<p>Support noted</p> <p>Support noted</p>

	<p>Paragraph: 025 Reference ID: 23b-025-20150326 of the Planning Practice Guidance (PPG) which confirms that discussions about planning obligations should take place as early as possible.</p> <p>Support that S106 does NOT have to be completed prior to consideration of the application at Committee, and no deadline for agreement, although the expectation is as quickly as possible.</p> <p>Paragraph 6.8 proposes that the Council will ordinarily draft the legal agreement and that developers should use standard clauses as use of alternative wording will result in additional costs to the developers. Whilst the PPG encourages Local Authorities to use standard forms and templates, there is no requirement for the Local Authority to prepare the agreement. We consider that the wording of this paragraph, which suggests that use of alternative wording would result in fines for developers who use them, is not in accordance with government guidance which confirms that each agreement must be dealt with on a case-by-case basis.</p> <p>Overage payments referred to in Strategy Policy 34 relate to provision of affordable housing.</p> <p>The draft SPD indicates that overage would be payable where actual values achieved exceed assumed values applied when assessing the viability position. This is a very simplistic way of looking at viability. The viability of any development is a function of values and costs and it is perfectly possible that any increase in sales revenues is offset by a corresponding increase in build costs, whether this relates to the base build cost or abnormal development costs. The scheme is only more viable if the appraisal based on the known assumptions generates a higher land value than that generated from the appraisal which supported the original viability assessment. Furthermore, given that the revised appraisal would only be able to be undertaken once all the units on the development had sold, it would not be possible to provide a higher provision of affordable housing at this stage and any overage would need to be in the form of a payment. The possibility of a developer having to pay a LPA a future payment is likely to have funding implications. In any event, the issue of overage has to be dealt with on a case-by-case basis and only if the affordable requirement is NOT met. The SPD should make this clear at the very least.</p>	<p>Support noted</p> <p>No change- The text does not suggest developers will be fined, it simply points out that use of alternative wording is likely to lead to additional developer costs (as they will be paying for bespoke clauses to be written) and delays.</p> <p>See comments in response to Planning Issues on behalf of Churchill Retirement Properties (6753) in relation to overage and David Lock (3209) about open book assessments, and further detail set out in the SPC of 20<sup>th</sup> Feb 2017.</p>
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		<p>Paragraph 6.25 identifies, quite reasonably, that CIL liabilities are calculated on actual net floor area which are often not fully known at outline application stage. Three options are identified to address this. We do not support option 2 (refusing to concede any reduction on contributions) as this is an overly negative approach. It also presents a false impression to Councillors about the likely level of affordable housing and other financial contributions to be achieved from a scheme.</p> <p>Support in principle Paragraph 6.27 which notes that there is strong public interest in financial viability appraisals being made available but allows some redaction of elements of the viability appraisal which could undermine an applicants commercial position.</p>	<p>Support noted</p>
6128	Blue Cedar Homes	<p>Welcomes SPD in hope it will provide greater certainty to development process.</p> <p>Paragraph 6.23 of the draft SPD conflicts significantly with National Planning Practice Guidance and numerous recent planning appeal decisions in relation to the appropriate use of overage. It also contradicts EDDC's own Viability Guidance Note 2. Specifically paragraph 6.23 which refers to Strategy 34 of the Local Plan. Policy "Strategy 34" does not explicitly state that overage will be sought in all cases. It states that overage will be sought, without confirming scenarios- ie whether overage will apply before the development commences or if the development is not completed after a certain time. It does not clarify the scenarios where overage will be sought either.</p> <p>Overage may be appropriate for larger multi-phase development, but NPPG (para 17) prohibits the use of affordable housing overage for single-phase development that can be commenced and completed in relatively short time scale. It is clear that the NPPG does not support the blanket application of "overage" provisions of the type suggested by the current draft SPD. Where a scheme is a single-phase development which is to be delivered in the short term, the NPPG considers that the viability should be assessed once, on the determination of the application. EDDC's own Viability Note 2 (which sits outside of this SPD) is more consistent with the NPPG as it implies that overage clauses are appropriate on larger multi-phase developments.</p> <p>Overage clauses present significant funding risks to development. You may be aware that the imposition of an overage clause on BCH's proposal for an enabling</p>	<p>Support noted</p> <p>See comments in response to Planning Issues on behalf of Churchill Retirement Properties (6753) in relation to overage and David Lock (3209) about open book assessments, and further detail set out in the SPC of 20<sup>th</sup> Feb 2017. This report included a clear explanation in relation to the circumstances that supported the use of 'delayed overage clauses in the past, and why they are no longer appropriate.</p> <p>The Council remains of the view the Strategy 34 allows us to apply overage in all cases and to do so, in the way that we do in East Devon, does not conflict with the NPPF, PPG or any other planning guidance.</p> <p>Additional guidance on how overage works will be provided on the Council's website alongside the current Viability Guidance Notes</p>

	<p>development at Rolle College (Outline Planning Permission 16/0787/MOUT) has meant that BCH is unable to secure development finance for new playing pitch upgrades, new access and facilities at the former Rolle College grounds. Effectively this circa £800,000 improvement package for the pitches is unable to come forward (subject to the outcome of a current planning appeal- against EDDC's decision to refuse 16/0227/VAR). Please see Appeal Statement attached to this representation as well as Appendices 8 &amp; 9 which highlight the funding difficulties that overage can bring to developments.</p> <p>Notwithstanding the application of overage to the above proposals, it has become apparent that EDDC does allow for 'delayed' overage provision for smaller developments as noted from District's Agreement of a delayed overage trigger for development of 19 dwellings at Rockbere (14/0300/MFUL).</p> <p>Because the draft SPG is silent on the treatment of overage between single-phase and multiple phase development, policy "Strategy 34" cannot be implemented consistently and in accordance with national planning guidance and national case law. The draft SPD should be amended to acknowledge the guidance set out at Paragraph 17 of the NPPG in relation to overage and single-phase development.</p> <ul style="list-style-type: none"> <li>Amend Paragraph 6.23 to confirm that, in line with advice set out in the NPPG, EDDC will seek overage only on schemes that require phased delivery over the medium and longer term. Paragraph 6.23 must also state that overage will not be sought on single phase development whereby development will be completed within 24 months from commencement of development.</li> </ul> <p>If the changes above are not made to the document the SPD will be contrary to national guidance and numerous recent planning appeal decisions relating to overage (See Appendix 3- Case Law- Overage on Single Phase Developments).</p> <ul style="list-style-type: none"> <li>Delete hyperlinks to both Viability Notes at Page 22 -If EDDC choose to change Viability Notes 1&amp; 2 following adoption of the SPD, these changes would not require consultation and scrutiny and could allow for 'back door' amendments to the document. Any relevant guidance from Viability Notes 1&amp; 2 should be brought within the text of the SPD. If guidance in relation to overage changes</li> </ul>	<p>As the Rolle College playing fields application is currently subject to an ongoing planning appeal, many of the points being made here are contested, and currently before a planning inspector. The results of this appeal and any resulting recommendations for updated policy or practice will be reported to Members in the usual way.</p> <p>The Viability Guidance notes are provided for Guidance and do not form part of the Development Plan. They are provided in the form precisely so they can be updated as required, but as they do not include any policies, but only explain how the policies work in practice, this is felt to be entirely appropriate. Any policy changes could only be made through the Local Plan, and revisions to the SPD would require full public consultation. The guidance notes explain the policy and the SPD not the other way round.</p>
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		through new national policy or other circumstances then,new circumstances should be weighed against the SPD once adopted.	
6154	Policy Team, South Somerset District Council	No comments.	-
6200	Barton Wilmore on behalf of Taylor Wimpey	<p>The consultation SPD is not accompanied by a viability report. In the absence of a viability assessment it is difficult to comment on the soundness of the SPD and the proposed contributions within it.</p> <ul style="list-style-type: none"> <li>• Affordable housing- The SPD repeats the same Affordable Housing requirement as set out in Strategy 34 of the East Devon Local Plan (25% for Honiton)</li> <li>• On-site open space- The contributions proposed are a duplication of what is set out in Strategy 43 of the East Devon Local Plan. The SPD states that open space contributions are due in line with development and no later than 75% of occupations. This requirement needs to be supported by robust viability testing to justify this requirement and ensure that it will not stifle deliverability of schemes, as required by the NPPF.</li> <li>• Off-site open space- The proposed requirement for any off-site open space contributions to be due before development commences could have a negative impact on the delivery of planning applications, particularly in the case of large strategic sites where there may be multiple housebuilders delivering the site.</li> <li>• Public art- More information and detail is required on how and when public art will be sought.</li> <li>• Trees; planting; landscaping- The requirement for trees, planting and landscaping to be delivered before development commences is unrealistic and not justified. Further detail and viability testing is required if this is to be proposed.</li> <li>• Habitat and ecological protection- No comment</li> </ul>	<p>The contributions have already been agreed. They are not being consulted upon.</p> <p>The table at 4.2 sets out examples of the types of planning obligations that are often agreed in East Devon it does not establish new requirements. Therefore, most requirements/thresholds are already established in Local Plan policy or other legislation.</p>

		<ul style="list-style-type: none"> <li>• Site specific roads, car parking, footways etc- The SPD proposes that site specific highway and access is due before the development commences. This is inappropriate and will harm site delivery, particularly of larger residential sites. A more effective and commonly used approach is for the contributions to be phased with trigger points.</li> <li>• Travel planning- No comment</li> <li>• On-site renewable energy- No comment</li> <li>• On-site drainage- No comment</li> <li>• On-site remedial action to deal with contamination- This contribution duplicates what is already set out in East Devon Local Plan Strategy EN16</li> <li>• Neighbourhood centres- No comment</li> <li>• Phasing of infrastructure for economic development- No comment</li> <li>• Other infrastructure not on the 123 List- No comment</li> <li>• Land to enable delivery of infrastructure onsite- The requirement for infrastructure to be delivered no later than 75% of occupations is unsubstantiated and is not supported by any explanation or justification for this. Evidence of robust viability evidence required.</li> <li>• Site wide masterplans that agree the layout spatial layout and land uses- The inclusion of a requirement for a Masterplan as a planning obligation is unusual, as this would already form part of the planning application. This requirement needs to be justified so that its purpose can be understood.</li> <li>• Land to enable the delivery of sheltered housing- The requirement for land to enable the delivery of sheltered housing to be delivered no later than 75% of occupations is unsubstantiated and is not supported by any explanation or justification for this. Evidence of robust viability evidence is required.</li> <li>• Accessible and adaptable homes- The obligation is a duplication of what is already required by East Devon Local Plan Strategy 36, and the requirements of Building Regulations Part M4(2), so its purpose is unclear.</li> <li>• Phasing and timing of land use- no comment</li> <li>• On-site air quality- This obligation and the requirement for air quality assessments seems to be a duplication of what is already covered by East Devon's planning application validation requirements, and mitigation would generally be controlled a by planning condition, not planning obligation.</li> <li>• Noise- No comment</li> <li>• Considerate construction- No comment</li> </ul>	
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- Planning obligation monitoring- It would be helpful to see a detailed breakdown of proposed costs for monitoring
- Overage where viability considerations deem it inappropriate- It would be helpful to have clarification on how the capped amount required to deliver a policy complaint scheme is defined and whether, the council's viability assessment, the developer's viability assessment or through open book negotiations between both parties.
- Management companies- No comment

2.4 Our general observation of the table of proposed obligations is that many of them are duplications of policy requirements already contained in the East Devon Local Plan, and often where this is not the case the requirement simply states that obligations will be defined on a case-by-case basis. As such, in its current form it is difficult to see how the SPD meets its own objective of providing clarity to developers on how and when planning obligations will be sought.

2.5 In addition, it is difficult to comment on the proposed obligations and the potential impact on the deliverability of sites in the absence of a viability assessment, formulas for calculating obligations and evidence of how the proposals have been tested to justify the requirements proposed. Paragraph 153 of the NPPF is clear that supplementary planning documents should be used where they can help applicants make successful applications or aid infrastructure delivery.

2.6 In relation to ensuring viability and deliverability of development, the NPPF (2012) is clear that, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable. This must be taken into account in taking the Planning Obligations SPD forward. At this stage the SPD is not supported by a robust evidence base to justify the obligations or triggers proposed and evidence supporting the assessment should be proportionate, using only appropriate available evidence.

2.7 We consider that the Planning Obligations SPD does not comply with national policy on deliverability of development and the role of local plans, as set out above. The SPD does not contain sufficient evidence and justification to support the

		Planning Obligations and triggers proposed. As such the SPD in its current form is not justified or effective and is therefore unsound.	
6324	Planning, Transportati on and Environmen t, Devon County Council	<p>DCC is responsible for providing critical infrastructure items required to support new development. Paragraph 4.2 states that strategic transport improvements and education facilities are not included within the SPD, but doesn't clarify the reasons for this. Additional text should be included here to explain that developments will still contribute towards these items, but that this will be achieved through CIL (through inclusion on the 123 list) rather than S106.</p> <p>The term 'strategic transport improvements' requires further explanation as to what it is intended to encompass. It is agreed that strategic transport improvements should not be included in the SPD, as these are included on the 123 list, but there still remains uncertainty within the SPD as to what qualifies as strategic transport improvements (and is therefore covered by CIL) and what may be requested under S106.</p> <p>DCC has some concerns regarding the approach to education provision. Education is identified on the CIL 123 list and appears to include education provision at Cranbrook. DCC understood that education provision at Cranbrook would be funded under S106 and not through CIL but this does not appear to be the case as things stand but may be considered as part of the proposed CIL Review .</p> <p>The CIL and S106 details do not currently therefore provide any certainty over education provision that is required to mitigate development. DCC requires further certainty that requests for CIL funding will be supported. This is partly facilitated through the current IDP review and the priorities placed upon education items, but further detail should be given in the SPD to explain this.</p> <p>The SPD does not refer to any other items of infrastructure for which DCC is responsible. Most requests made will be for education and transport purposes but the SPD should acknowledge that requests may also be made for libraries, youth provision and health.</p>	Comments on the CIL Regulation 123 list are noted, but this will be subject to separate consultation, informed by an updated Infrastructure Delivery Plan. These comments will be considered in updating the list.
6753	Planning Issues on behalf of Churchill Retirement Properties	<p>We note in paragraph 6.8 that the Council will take responsibility for drafting the S106 agreement. This must be done quickly and without delay in order not to hold up development post planning.</p> <p>Viability (paragraphs 6.21 and 6.22)- It is suggested that a "full open book" appraisal is provided. Using an "open book" approach runs contrary to accepted practice. As planning permissions run with the land, it is only appropriate to use generic viability appraisals that use industry acceptable inputs. This position is</p>	<p>See comments in response to David Lock (3209) about open book assessments</p> <p>Viability Appraisals consider the use of the land and the scheme proposed, and not the applicant. PPG makes specific reference to older person's</p>

	<p>supported by the RICS guidance (Financial Viability in Planning) which states in paragraph 2.5.2 that applications should disregard the applicant as planning applications “run with the land”. Inputs to the Financial modelling should “disregard either benefits or disbenefits that are unique to the applicant”. It goes on to say that “the aim should be to reflect industry benchmarks as applied to the particular site in question”. This contradicts the requirement in the SPD.</p> <p>RECOMMENDATION: Paragraph 6.21 to omit reference to “open book viability appraisal” and replace with “In order to do this we would require an assessment of the viability based on industry accepted inputs, assumptions and benchmarks”.</p> <p>Overage- The inclusion of an overage clause on <u>all</u> developments is contrary to best practice and guidance and it has been established through a number of significant appeal decisions that confirm that it an overage should not apply to small scale single phased developments. Restrictions in relation to start on site timeframes were considered more appropriate in such cases.</p> <p>The use of overage clause on small, single phased schemes introduces uncertainty to the development process and also restricts commercial activity making it difficult for residential developers to secure funding and adversely affecting land value.</p> <p>RECOMMENDATION:</p> <p>Replace the requirement in Paragraph 6.23 for an overage clause on <u>all</u> developments and replace with an acknowledgement that an overage clause for small and single phased developments is inappropriate and that a re-appraisal should be considered where there is a longer term, multi phased development. Care should be taken when drafting such re-appraisal provisions in order that they do not result in earlier phases becoming uncertain as to the amount of the development to be provided on site.</p> <p>Vacant Building Credit- It might be advantageous to add the following explanation about how VBC works: Calculation of Vacant Building Credit</p>	<p>housing stating “ the specific scheme format and projected sales rates may be a factor in assessing viability”.</p> <p>The inclusion of overage clauses on all developments was the subject of a paper to Strategic Planning Committee on Feb 20<sup>th</sup> 2017. This paper clearly sets out the council’s rationale behind overage. It was endorsed by members. The drafting of this paper was in part informed by the comments received in response to the SPD, and it was originally planned that both papers would go to the same committee. Although t his was not possible, members can be assured that officers considered the SPD responses when drafting the report to SPC.</p> <p>As explained in the SPC report, the use of overage clauses in the way East Devon apply them, does not introduce uncertainty or require a re-appraisals . They rely instead on a Development Account of actual costs and values submitted at the completion on the scheme. Overage is only payable on any super-profit, and this in fact ensures the developer’s percentage profit is not undermined.</p> <p>To assist clarity additional guidance on how overage works will be provided on the Council’s website</p>
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The target percentage of affordable housing should be recalculated to take into account the two gross floor areas (the original building and the proposed replacement building) to arrive at a net affordable housing target. This will be the revised maximum target for that site.

The formula to arrive at this is straightforward: A = Area affordable housing target (%)

Coefficient =  $1 - (\text{Existing building area} / \text{Proposed building area})$  Net affordable housing target = A x

Coefficient

So, by way of example, a vacant retail building in Sidmouth of 865m<sup>2</sup> which is being redeveloped for 26 dwellings with a gross internal floor area of 1,607.1m<sup>2</sup> would normally have a policy target percentage for affordable housing of 50%. The calculation of the revised target for this site would be as follows:

Policy target affordable housing (A) - 50%

Coefficient -  $1 - (865 / 1,607.1) =$

0.46176342

Net affordable housing target (A x coefficient) - 23.09%

Therefore the revised target percentage is 23.09% which will remain unaltered if the proposed GIA remains the same, for example, but the number of dwellings changes. This also simplifies the calculation where flatted developments have common areas that have to be taken into account in the overall internal area.

Viability at Outline- Churchill Retirement Living is not likely to submit an outline planning application.

Confidentiality- While we understand the need for the public to be confident that planning obligations are being negotiated in a professional manner, there is also a need to maintain commercial confidentiality. This is especially the case where local

alongside the current Viability Guidance Notes

The application of Vacant Building Credit, was also covered in the report on viability considered at the Strategic Planning Committee on Feb 20<sup>th</sup> 2017. The paper clearly sets out the council's approach to VBC, and member re-endorsed the principles behind how it will be applied.

To assist clarity additional guidance on how VBC works in practice will be provided on the Council's website alongside the current Viability Guidance Notes.

Again members can be reassured that officers considered the SPD responses in relation to VBC when drafting the report to SPC

The Council's position is that viability assessments should be made public unless the applicant requests confidentiality and makes it clear which sections are confidential.

		<p>authorities are seeking an open book approach. There is a conflict here between the council's requirement for open book viability and a need for viability appraisal being made available to the public. In an open book scenario the amount of redactions would make the viability assessments that could be published virtually meaningless. The council are more likely to get support from developers if the principles of generic, industry benchmarks and assumptions are required in development viability appraisals.</p>	
7207	Cranbrook Town Council	<p>SPD doesn't address Cranbrook specific issues (despite Cranbrook accounting for around half East Devon's new development) but focuses on smaller sites. The purpose of the SPD is to offer clarity to developers and Cranbrook Town Council fully supports that principle. However, the SPD could offer greater clarity on how future planning obligations will be delivered in the specific case of Cranbrook, how the adopted charging schedule might be applied in the case of Cranbrook and whether obligations will fall under Section 106 or Community Infrastructure Levy (CIL) arrangements. Also, should clarify how key infrastructure might be brought forward early and, where appropriate, a mechanism for bringing about changes to a previously agreed obligation. With a development which has been in existence for some four years at Cranbrook and which will carry on for at least another fifteen, there is need to have scope for change as the needs of the town change. The situation in Cranbrook is quite different from other smaller developments in existing settlements and the SPD does not appear to address that fully.</p> <p>Specific examples of where the SPD fails to address and be relevant to the development at Cranbrook are:</p> <ul style="list-style-type: none"> <li>- Paragraph 3.19 of the SPD states that planning obligations must be directly relevant to a proposed development. Cranbrook Town Council queries how this policy statement relates to the delivery of East Devon District Council's Regulation 123 list of infrastructure which draws from CIL contributions to finance infrastructure projects across the district.</li> <li>- On page 13 the SPD states that "Site wide masterplans [...] agree the spatial layout and land uses [...] including the locations of specific infrastructure" before development commences. Cranbrook Town Council would endorse this policy but would appreciate confirmation whether it will apply to all future planning applications for Cranbrook and if so, how delays will be avoided.</li> </ul>	<p>It is agreed that Cranbrook requires specific guidance and the text has been amended to state that this will be provided through the Cranbrook Plan DPD. Where matters are not addressed in the Cranbrook Plan, this SPD will apply.</p> <p>Comments on the CIL Regulation 123 list are noted, but this will be subject to separate consultation, informed by an updated Infrastructure Delivery Plan. These comments will be considered in updating the list.</p>

	<p>- Paragraph 5.8 of the SPD makes general reference to the percentage contribution from CIL to town and parish councils dependent upon the existence of a neighbourhood plan and Cranbrook Town Council questions how relevant this is to Cranbrook.</p> <p>- Section 8 relates to obligations of both East Devon District Council and parishes to publish an annual CIL report. Cranbrook Town Council remains unclear how will this relate to and apply in Cranbrook where many of the traditional town facilities are being provided as part of the initial construction process.</p> <p>The table at 4.2 needs a strong evidence base and clear policy for each of the listed obligations rather than consideration on a case by case basis.</p> <p>The non-compliance procedure could be strengthened; penalties should include a percentage of the capital value of the total development and the right to seize assets to cover costs, without the need for a court order and bailiff seizure as existing penalties are not sufficient to work.</p> <p>There is so much guidance to be taken into account now, it is difficult to put it into practice. The consequence is little or no checks and balances at the time of delivery and the consequential delays and difficulties which arise when there is subsequent realisation that the detail has not strictly been observed.</p> <p>The Planning Obligations SPD is available in a number of libraries across East Devon but not in Cranbrook, please can planning consultation documents be made available in hard copy in Cranbrook library in the future.</p> <p>There appears to be an incomplete glossary of abbreviations in which explanations of e.g. LPA and NPPG are missing.</p> <p>The correct use of apostrophes and relative pronouns should be reviewed and a consistent use of capital letters applied throughout the document.</p> <p>The Strategic Environmental Assessment and Habitat Regulations Assessment concludes that the “SPD is unlikely to have a significant effect on the environment” and that, hence, “the SPD does not require a Strategic Environmental Assessment” (paragraph 3.6). Again, this document appears to be aimed at smaller developments and Cranbrook Town Council would argue that any planning applications do have a significant effect on the environment locally. Cranbrook Town Council has no specific comments on the Equality Impact Assessment.</p>	<p>Agree re availability of documents in Cranbrook library. We have amended our procedures to ensure this happens in future.</p> <p>These have been added</p> <p>The statutory consultees agree that SEA is not required. Development to which the SPD applies may require SEA as part of the planning application process</p>
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7647	Persimmon Homes	<p>Paragraph 1.3 and Paragraph 3.10 of the Supplementary Planning Document (SPD) The Regulation 123 List .</p> <p>The IDP lists the delivery of the Axminster North South Relief Road as an item which is key to the delivery of its strategy for Axminster. Yet t he Regulation list ("Regulation 1 23" List) as at April 2016 does not list it as a key project which is inconsistent. Recent discussions with the Council and DCC Highways have indicated that the road could be funded by CIL so it should be listed as a specific item in the 1 23 list .The 123 list is a document capable of being amended as part of the implementation of the plan and this consultation provides t he opportunity to revise the Regulation 1 23 List and include t he road as a specific priority one project funded by CIL.</p> <p>Para 2.2 should refer to the Regulation 123 tests needing to be satisfied - for contributions to be necessary, directly related to development and fairly and reasonably related in scale and kind. Reference should also be made to the requirement in section 173 of the NPPF to the need to have careful attention to viability and costs before they are imposed on development and the central objective of the NPPF to boost the supply of new homes.</p> <p>The need for flexibility in the application of the SPD guidance and the need to take account of site specific circumstances should be set out clearly and early in the East Devon SPD.</p> <p>Paragraph 3.6 states that the calculation of CIL will be on the Gross Internal Floor Area as measured in the RICS Code of Practice. The code identifies that Garages are included in the internal floor area, this is incorrect as garages are not habitable areas and are clearly not part of the habitable fabric of a building and should by definition be excluded.</p> <p>There should be a review mechanism and recognition that starter homes may be considered as affordable housing in light of the Government's intention to introduce them.</p> <p>Proposed Approach to CIL.-: Residential Development</p>	<p>Comments on the CIL Regulation 123 list are noted, but this will be subject to separate consultation, informed by an updated Infrastructure Delivery Plan. These comments will be considered in updating the list.</p> <p>Reference to the three 'tests' for planning obligations are set out in paragraph 5.5 in the draft SPD. Agree that reference to NPPF 173 would be useful in the policy context chapter.</p> <p>Unsure of reference to maps in Appendix I.</p>
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	<p>The maps supplied in Appendix I are welcomed .How does the council intend to respond where an applications spans two charging schedule area .Will the rate be averaged out? The map showing the residential charging zone areas are diagrammatic and in some areas it is unclear if land falls within urban envelope or the countryside area. This is especially true at Axminster where the policy map as drafted under Strategy 20 is capable of amendment as is allowed for in the Planning Performance Agreement that accompanied the Planning Applications. To add clarity on this the maps should be at a more detailed level, the council should amend the map format to show this.</p> <p>The council's approach to sites which fall within an area that spans these designations is unclear as to how apportionment would work .Sites don't necessarily fall within arbitrary lines drawn diagrammatically . The map based approach allows transparency in this regard and the better interpretation of policy.</p> <p>Strategy 50 -Infrastructure Delivery . The comments set out above concerning paragraph 1.3 and 3.10 apply equally to Strategy 50 The IDP is capable of being updated and some 4 years have elapsed since the previous one was prepared. The 123 list and the IDP are part of the essential monitoring process and projects are capable of being added to it. This consultation provides the opportunity to do so Axminster Strategy 20 identifies the Relief Road as a key part of the policy and we object to the fact that the Current 123 list does not refer to it.</p> <p>Instalments Policy. We would welcome further involvement on the instalments policy referred to in the consultation and would favour an approach based on completions not commencement of development. Larger sites will require a longer lead in to deliver essential infrastructure and the definition of commencement at the point of a start on site might involve essential infrastructure which is needed many months before homes are delivered. The Policy should allow instalments to be paid at thresholds of actually completed homes. We disagree with the view that if it were based on occupations this would remove an incentive to complete developments.</p> <p>Viability at Outline stage</p>	<p>Incorrect – the latest currently published IDP is from March 2015. Comments on the CIL Regulation 123 list are noted, but this will be subject to separate consultation, informed by an updated Infrastructure Delivery Plan. These comments will be considered in updating the list.</p> <p>The council has received several applications where applicants are seeking to make viability arguments at outline, including on outline applications where all matters are reserved. In such cases assessing viability on an indicative scheme seems of very limited value. For example it is very difficult to assess costs and values for a scheme, or consider options that may help improve viability, when even the floor space (and therefore also the CIL</p>
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		<p>It is inherent in any proposals that basic viability is tested prior to an application so its need is questioned. In addition S 106 agreements as a standard practice allow for a cascade mechanism in some form where viability is an issue and therefore the need for this within the SPD is unnecessary.</p> <p>Overage (6.23) There is no reference in Paragraph 6.23 to the time limit on overage. It is unreasonable to require overage to be an open ended commitment .Nor is there any reference to what constitutes a level at which it applies. It would be nonsense in terms of policy if it was applied at unreasonably small amounts of increase in value and administration costs could outweigh the benefits if the bar was set too low. We urge the council to rethink this element of the SPD .The policy has to be reasonable and directly related to the development hence there seems no mechanism which has been set out to show what those thresholds of value are.</p>	<p>liability) is unknown. This experience justifies the need to highlight this issue in the SPD. The wording of the SPD has been reviewed and revised to express this more clearly.</p> <p>We are also working actively with applicants and potential applicants to seek to resolve the challenges around overage at outline on a case by case basis</p>
7715	Collier Planning on behalf of Baker Estates Ltd	<p>SPD provides useful guidance for developers, landowners and local communities alike.</p> <p>Concerned that paras 6.25 and 6.26 suggest that the level of planning obligations associated with a development may not be able to be established at an outline application stage because the exact costs for calculating CIL, and developing the scheme, are unknown so such decisions would need to effectively be deferred to the reserved matters stage.</p> <p>Accept Local Plan requirement for an overage clause but reference to “in all cases” should be deleted from the draft SPD as it is not consistent with the Local Plan or national guidance which makes it clear that overage clause will only be justified within phased development, not all developments as currently suggested within the draft SPD. Secondly, consideration of viability assessments within outline applications should be considered on the basis of the circumstances that apply at the time of the decision.</p> <p>We recommend that further guidance is provided within the SPD as to how the Council intends to apply such overage clauses, in what situations and within what parameters.</p>	<p>Support noted</p> <p>This may be the case.</p> <p>See comments in response to Planning Issues on behalf of Churchill Retirement Properties (6753) in relation to overage and David Lock (3209) about open book assessments, and further detail set out in the SPC of 20<sup>th</sup> Feb 2017.</p> <p>Additional guidance on how overage works will be provided on the Council’s website alongside the current Viability Guidance Notes</p>

		<p>While we recognise that the precise level of CIL will not always be able to be established at an outline stage, we would generally support the first of the three options set out within paragraph 6.25 which would require the use of viability appraisals at outline stage based as firmly as possible on what is known at that stage and for those to be accepted. It is not always possible for all of the matters upon which such viability appraisals have to be based to be pinned down as paragraph 6.25 then suggests would need to occur and we would be opposed to any such requirement.</p> <p>Again, this could have serious repercussions for the actual delivery of development, particularly housing developments, because an outline planning permission often triggers the requirement for a developer to acquire a site from a landowner. It would be commercially untenable for a developer to proceed with the acquisition of a site if the overall level of planning obligations are not able to be quantified at that stage.</p> <p>We strongly recommend that paragraphs 6.25 and 6.26 of the draft SPD are reconsidered.</p> <p>In respect of paragraph 6.27, there is a fine balance to be struck between demonstrating transparency and maintaining commercial confidentiality and we would urge the Council to again reconsider the content of this paragraph carefully. As currently drafted it has the potential to limit the scope by which decisions, as to what information should be placed in the public domain, can be made on a case by case basis which is what we consider would be a more appropriate approach.</p>	<p>The Council's position is that viability assessments should be made public unless the applicant requests confidentiality and makes it clear which sections are confidential.</p>
7716	Redrow Homes West Country Ltd	<p>General structure- Section 5 provides the legislative and policy context for the application of obligations and the Community Infrastructure Levy. If this were presented after the introduction, paragraphs 3.17 and 3.18 could be removed as they replicate section 5.</p> <p>2.1- The last sentence of para 2.1 states that "planning obligations (via a s106 as opposed to CIL which is for the purposes of this document, not considered an obligation in the same way as a negotiated settlement under s106) are secured to ensure that development mitigates the impacts of, and provides for the requirements arising from, development in a sustainable way." A further narrative is required to clarify to all parties that planning obligations should only be sought where it is not possible to address the unacceptable impacts through a planning condition. Suggest inserting textual references to the content of paras 203 and 204</p>	<p>Agreed- text has been reordered</p> <p>The legislation is provided in a footnote to this section.</p>

	<p>of the NPPF at the end of this paragraph or redraft the opening para of the current Section 5 to refer to these paragraphs and move Section 5 forward in the document, thereby supporting removal of 2.1.</p> <p>3.10- Insert 'to contribute to' after '(S106 Agreements)'</p> <p>3.11- This paragraph should not be written in the future tense, replace 'may' with 'can'. It replicates para 5.6 and should be removed in favour of restructuring the document.</p> <p>3.15- It is agreed that the Council should act in a transparent manner and review and amend the Council's Regulation 123 List. However, the para fails to advise as to the frequency of the review. This should be included within the SPD.</p> <p>3.17- This is considered superfluous given the legislative and policy section (Section 5) within the document. If retained, clarification is required in order to be consistent with the Glossary at the rear of the Draft in relation to the use of the term "open space". This is poorly defined as drafted and offers ambiguity in the application of the obligations.</p> <p>3.17- The example provided in relation to mitigating the impact of development would apply only to the largest of development schemes capable of making contributions towards increased public transport provision without detriment to the overall viability of the scheme (in such cases contributions are generally significant and require detailed contractual positions to be secured with bus providers). A more relevant example in the document could be the on-site creation of new habitats to mitigate the impact caused to nature conservation interests.</p> <p>3.18- The second bullet point within this paragraph implies that there are circumstances where planning conditions cannot control issues relating to flood risk, land contamination, access and disruption caused by construction. These are precisely the type of issues which Local Planning Authorities regularly apply planning conditions in order to make an otherwise unacceptable development acceptable. If these issues cannot be dealt with by condition, it is questionable whether planning permission should be issued. This issue is at the heart of para 203 and 204 of the NPPF. Remove references as stated under the second bullet</p>	<p>Agreed</p> <p>Restructure para.</p> <p>Para updated.</p> <p>Review of the Regulation 123 list will be subject to latest circumstances and evidence, which will vary over time. It is therefore not possible to prescribe the frequency.</p> <p>Sections 3.17 and 3.18 have been deleted as the document has been reordered.</p> <p>Text has been clarified</p> <p>No change- this is a statement of the Council's position.</p>
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	<p>point and replace with reference to "the delivery of community benefits or equipped play space linked to the phased completion of a housing development".</p> <p>3.18- The last bullet point presents the Councils' view that increased costs incurred by developers should be expected in order to deliver a sustainable and high quality development and that these increased costs should not reduce the ability of the site to contribute towards relevant planning objectives. This is considered to present an over-simplification of the economic viability of development projects and will be tested through the preparation of viability impact assessments/viability appraisals. If sales values cannot be achieved, and the cost of delivering the scheme is high, the ability of the development to proceed will be prejudiced.</p> <p>3.21- The sentence ends abruptly. Add the word process?</p> <p>4.2- The supportive text which introduces the main table confirms that the table is "purely a guide" and therefore has no formal status. As such, there are numerous references within the table which appear to over-simplify the delivery of planning obligations. The column "when due" contains ambiguous references which are not appropriate in all circumstances: "before development commences" in relation to the provision of public open space, for example. The "when due" column should be replaced by a supportive paragraph which confirms that obligations which meet the tests set out in legislation and the NPPF will be determined and delivered on a case-by-case basis. Other examples include:  When referring to the tenure split, this applies to the proportion of housing which fall under the "affordable" category.  References to "open space" should use "Formal and/or informal public open space".  On site formal and/or informal public open space should only be required where it has been demonstrated that there would remain a clear deficiency in provision in the relevant catchment area around the application site.  How is "the community" defined in relation to the benefit which shall derive from any replacement formal and/or informal public open space?  Public Art: How is "in line with development" defined and how will it be applied?  Public art should be considered on a case-by-case basis or embedded into the design, negating the need for a S106.  On-site remedial actions to deal with contaminated land would be covered by a condition (extending to the boundary of the application site and therefore land</p>	<p>Done</p> <p>The table has been amended to reflect many of the representors points.</p>
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	<p>within the control of the applicant) and as set out within a technical written scheme of investigation and compliance.</p> <p>Land to enable the delivery of on-site infrastructure implies that this shall be completed prior to the occupation of 75% of the housing units (or commercial premises). Phasing plans as required by condition, or obligations, will specify the trigger point and therefore there is no need for a reference to a particular percentage in this case.</p> <p>Highly sustainable developments can be delivered without specific uses of land to be identified to meet sustainable targets or performance. How sustainable development is defined and brought forward is a matter for the applicant and the identification of land for such uses is not a pre-requisite in all cases.</p> <p>Accessible and adaptable homes can be addressed by condition.</p> <p>Noise and heritage impacts can be addressed by condition.</p> <p>5.8- Insert reference to circumstances where monies can be returned to the applicant in the event that financial contributions are not expended by the Council.</p> <p>6.1- The flow chart appears inconsistent with paras 6.8 and 6.11 and requires clarifications to be made in other areas.</p> <p>The flow chart fails to identify the drafting of the s106 agreement - acknowledged as generally being a responsibility of the Council, or, when undertaken by a developer, encouraged to follow Council templates.</p> <p>The third, smaller box within the flow diagram refers to amendment of the legal agreement. At this stage of the process (prior to determination of the application), the legal agreement will generally be at the Heads of Terms stage and the Council's legal team not yet appointed (by virtue of the potential abortive costs in drafting an agreement relating to a planning application which might then be refused at Committee).</p> <p>Reference to "any amended plans will require reconsultation" is misleading. Minor amendments dealing with matters of factual accuracy for example would not be</p>	<p>Text amended to clarify</p> <p>Flow chart amended to reflect comments.</p> <p>Resources do not allow us to do this as a matter of course. If a developer requests confirmation it is provided.</p> <p>Amended to reflect a timescale to be agreed between the parties.</p> <p>Agreed</p>
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	<p>required to be reconsulted: this is within the gift of the Council and therefore suggest the rewording to refer to "may require reconsultation.</p> <p>The last flow diagram box should include reference to the Council confirming to the applicant/ developer that the financial contribution it made under CIL or s106 has been expended as intended.</p> <p>6.5- Add a reasonable time period after a favourable resolution at Committee to resolve s106 drafting and engross the same. This could be "6 months, or otherwise agreed between the parties". Notwithstanding this, EDDC are requested to consider how it prescribes these procedures to comply with paragraph 205 of the NPPF.</p> <p>6.8- If it is usual for the Council to prepare the s106, this action should be specified within the flow chart under paragraph 6.1: this would also specify that the agreement can be drafted by the developer as may be required.</p> <p>6.16- As drafted, this paragraph implies that paragraph 204 of the NPPF refers to the CIL Regulations "Tests of Lawfulness". This is not accurate. Parag 204 of the NPPF refers to the tests which apply to planning obligations. While there is an obligation to pay any CIL, CIL is not a planning obligation as set out by s106 of the Planning Act.</p> <p>6.17- Reference is made to affordable housing and "tariff style" contributions. This is ambiguous in that affordable housing is delivered by s106 and not CIL. It is not clear what is meant by the term "tariff style contributions".</p> <p>The Draft SPD (para 6.18 tables), by reference to CIL applying to schemes comprising one or more dwellings, appears to set out the CIL thresholds and not the requirements of s106. This requires clarification.</p> <p>6.20- In the event of contiguous parcels of land being progressed separately via full planning applications by each controlling interest, the delivery of affordable housing, or other obligation, would only be justified in the event that the Council had demonstrable evidence that each part of the phased development scheme was to come forward by each separate party: it would be unreasonable to impose onerous obligations on the first part of the scheme in the event that subsequent phases do not materialise. The paragraph should be clarified in the context that the</p>	<p>Text has been amended</p> <p>Text clarified</p> <p>Text clarified</p> <p>Not agreed- the Council will consider the requirements of a whole site to avoid a situation where subdivision avoids the need for contributions, not necessarily by different parties.</p> <p>Para 6.21 relates to viability and the Viability guidance to applicants which addresses the representors point.</p> <p>Option 2 has been deleted and the section reworded to make it more positive.</p>
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	<p>Council has demonstrable evidence that confirms subsequent phases of a development will be brought forward by different parties.</p> <p>6.25- Options 1 and 3 are appropriate. Option 2 is not supported. There is not just one type of Outline application, some have more detail than others. There can also be details of scale and appearance set out in approved documents (e.g. DAS) which allow viability to be undertaken even where the application is say Outline with all matters reserved, for example.</p> <p>6.27- The last sentence advises that the Council will advise whether sufficient information has been made available to assess the viability of the proposed scheme. This is retrospective advice after submission. Given that the Council require Viability Assessments to be submitted to enable validation of the application, the onus should be on the Council to provide clear advice as to the requirements of the assessment at the pre-application stage. Reference should be made to the Council offering constructive pre-application advice in relation to the content of a Viability Assessment to enable the validation of the application and an expedient determination of the same.</p> <p>6.28- This paragraph states that "it is not possible to provide overarching priority list of planning obligations that may be sought.". There will be instances where a developer submits a comprehensive pre-application submission that will enable a comprehensive and coordinated response at pre-application stage to enable the developer to meet the validation checklist requirements. As drafted, this scenario is not provided for, with a blanket statement that appears to abdicate the Councils responsibilities in this area. Insert text to acknowledge that comprehensive pre-application submissions can enable the Council to offer a constructive, coordinated and comprehensive response in relation to likely s106 obligations required for a particular development proposal.</p> <p>7.2- Second bullet point refers to the Councils preference for "commencement of development" as being the trigger for s106 delivery. This is misleading: s106 obligations can be varied, specific to the site and development proposed and could include open and phased trigger points during construction and beyond.</p> <p>7.6- This paragraph seeks to apply an "upward only" approach to the indexation of financial contributions. It is unreasonable for the Council to impose such a</p>	<p>Minor text amendment made to clarify that the guidance cannot provide an overarching priority list of planning obligations as this will vary by site.</p> <p>This sets out the established trigger points usually used by the Council. Text does not require amendment to accommodate unusual situations.</p> <p>The text specifically states "as defined in the NPPF" which reflects current Government Policy.</p>
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		<p>restriction: reducing indices over time could influence the decision to proceed with a development project, or phase of development, removing a reason for the development being stalled (See para 205 NPPF). Remove the last sentence of para 7.6 as a mechanism to enhance the prospects of potentially stalled developments being brought forward in accordance with the provisions of para 205 NPPF.</p> <p>Glossary- Affordable Housing should reflect that as defined by HM Government or the Courts: reference to amendments in definitions should be referred to within the SPD: Starter Homes, and other Government backed initiatives over time have the potential to influence housing funding and delivery over time to meet strategic requirements.</p>	
7717	Cavanna Homes	<p>Paragraph 6.23 of the draft SPD conflicts with National Planning Practice Guidance and planning appeal decisions in relation to the appropriate use of overage as it will be sought in all cases. In addition it contradicts EDDC's own Viability Guidance Note 2.</p> <p>Policy "Strategy 34" does not explicitly state that overage will be sought <i>in all</i> cases. It states that overage will be sought, without confirming scenarios – i.e. whether overage will apply before the development commences or if the development is not completed after a certain time. It does not clarify the scenarios where overage will be sought either.</p> <p>Whilst acknowledging that overage could be appropriate for larger multi-phase development, National Planning Practice Guidance excludes the use of affordable housing overage for single-phase development that can be commenced and completed in reasonably short time scales.</p> <p>This national guidance provides a structure for Local Authorities including East Devon to comply with and does not support the blanket application of "overage" provisions of the type suggested by the current draft SPD. Where a scheme is a single-phase development which is to be delivered in the short term, the NPPG considers that the viability should be assessed once, on the determination of the application.</p>	<p>See comments in response to Planning Issues on behalf of Churchill Retirement Properties (6753) in relation to overage and David Lock (3209) about open book assessments, and further detail set out in the SPC of 20<sup>th</sup> Feb 2017.</p> <p>Additional guidance on how overage works will be provided on the Council's website alongside the current Viability Guidance Notes</p>



		<p>May I suggest that Paragraph 6.23 of the draft SPD is amended in order to advise, in line with advice set out in the NPPG, that EDDC will not seek an immediate affordable housing overage clause. In addition EDDC needs to confirm no overage will be sought for single-phase developments that are likely to be commenced and completed within 24 months, but that a delayed trigger clause may be applied beyond 24 months to allow for potential overage in cases that extend beyond a single phase.</p>	
	<p>Devon and Somerset Fire and Rescue Service</p>	<p>Not necessary to comment</p>	

**Report to:** **Strategic Planning Committee**

**Date of Meeting:** 29 March 2017

**Public Document:** Yes

**Exemption:** None

**Review date for release** None



**Agenda item:** 11

**Subject:** **East Devon Self-build and Custom Build Register**

**Purpose of report:** To highlight changes in the regulations governing the self-build and custom build register that all local planning authorities have had a duty to compile since 1<sup>st</sup> April 2016. The changes make it possible for local authorities to charge a fee for entry on the register and to take into account an applicant's local connections and ability to pay for land.

**Recommendation:**

- 1. To note the level of demand shown on the register for self-build and custom build in East Devon so that it can be taken into account in the Council's planning, housing, regeneration and disposal of land functions;**
- 2. Not to charge fees for entry on the self build register, but to review this decision periodically;**
- 3. To apply a local connection test to 'Part 1' of the register from 1<sup>st</sup> April 2017 as set out in paragraph 2.6 of this report; and**
- 4. Not to apply a financial test to 'Part 1' of the register.**

**Reason for recommendation:** The establishment and maintenance of the register has required limited officer resources to date, but this will increase with the application of a local connection test: it would be prudent to periodically review whether charging a small administration charge is justified. East Devon has a duty to provide a supply of suitable sites to meet the demand for self/custom build shown on the register. There is a danger that demand in East Devon could be inaccurately recorded if a local connection test is not applied because it is possible to apply for more than one local authority register. Whilst it may also be useful to apply a financial test, this would require additional checks that may not be justified (for the Council or the individual) given the limited benefits of acceptance onto the register.

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**Financial implications:** Details are contained in the report.

**Legal implications:** The legal implications are appropriately covered in the report.

**Equalities impact:** Low Impact

**Risk:** Medium Risk  
The increased delivery of land for self-build and custom build purposes is a government priority and there is a duty to provide sufficient serviced plots to meet the demand shown on the register.

**Links to background information:**

- The national planning guidance on the self build register is available at, but please note that this refers to the revoked regulations [Self-build and custom housebuilding - GOV.UK](#)
- This is the link to the [Self-build and Custom Housebuilding Act 2015](#)
- The [Housing and Planning Act 2016](#)
- [The Self-build and Custom Housebuilding \(Register\) Regulations 2016](#) came into force on 1<sup>st</sup> April 2016 and was revoked by
- The Self-build and Custom Housebuilding Regulations 2016, which came into force on 31<sup>st</sup> October 2016 and may be viewed at [http://www.legislation.gov.uk/ukxi/2016/950/pdfs/uksi\\_20160950\\_en.pdf](http://www.legislation.gov.uk/ukxi/2016/950/pdfs/uksi_20160950_en.pdf)
- The Explanatory Memorandum to the October regulations is available at [http://www.legislation.gov.uk/ukxi/2016/950/pdfs/uksiem\\_20160950\\_en.pdf](http://www.legislation.gov.uk/ukxi/2016/950/pdfs/uksiem_20160950_en.pdf)
- The Self-build and Custom Housebuilding (Time for Compliance and Fees) Regulations 2016 may be viewed at [http://www.legislation.gov.uk/ukdsi/2016/9780111148327/pdfs/ukdsi\\_9780111148327\\_en.pdf](http://www.legislation.gov.uk/ukdsi/2016/9780111148327/pdfs/ukdsi_9780111148327_en.pdf)
- The East Devon self-build and custom build web pages are available at [Self-build and custom build - East Devon](#)
- Further advice is available at [The Self Build Portal - The Gateway to more Self and Custom Build Homes](#)

**Link to Council Plan:**

Encouraging communities to be outstanding  
Develop an outstanding local economy

**Report in full**

**1. Introduction**

- 1.1 The Government is keen to increase opportunities for self/custom build in order to provide a wider choice of homes and to add to the overall supply of housing. Compared to other European countries the self/custom build sector is very small in England, but it can offer a cost effective way for people to build a home that suits their needs. The requirement for local planning authorities to hold a 'self-build and custom housebuilding register' (referred to in this report as the self-build register) was introduced by the [Self-build and Custom Housebuilding Act 2015](#). The [Housing and Planning Act 2016](#) inserts a duty on authorities to grant permission for enough serviced plots to meet the demand shown on the register.
- 1.2 The purpose of the self-build register is to provide an indication of the level of interest for self and custom house building. Both the District and County Council must 'have regard' to the register when exercising their planning, housing, regeneration and disposal of land functions. There is no requirement for local authorities to match people on the register with suitable land (paragraph 7.7 of the

Explanatory Memorandum to the October Regulations). The needs identified on the register can be met through a variety of ways ranging from granting consents for small windfall plots as we regularly do to providing serviced plots with planning permission as a Council.

- 1.3 The duty to hold a self build register started on 1<sup>st</sup> April 2016 and [The Self-build and Custom Housebuilding \(Register\) Regulations 2016](#) made it clear that the only information that could be required of applicants related to their name, address, age, nationality and confirmation that they were seeking a plot for their main or sole residence. Whilst the details of the register are confidential, authorities are encouraged to publish 'headline' information.
- 1.4 The East Devon self build register was established by 1<sup>st</sup> April 2016. At 21<sup>st</sup> February 2017 there were 61 individuals on the register and no groups of individuals or associations. In addition to the 'essential' information, the East Devon application form asks additional optional questions regarding budgets, local links, level of interest, size of plot and location. Analysis of the application forms to 21<sup>st</sup> February 2017 is included in APPENDIX 1 to this report.
- 1.5 [The Self-build and Custom Housebuilding \(Register\) Regulations 2016](#) were revoked by the Self-build and Custom Housebuilding Regulations 2016, which came into force on 31<sup>st</sup> October 2016. These regulations drop the requirement for applicants to require a plot for their 'sole or main' residence, but they do introduce the option for local authorities to introduce certain eligibility criteria.
- 1.6 Where local eligibility criteria are set, the self-build register must be divided into 'Part 1' and 'Part 2'. The requirement to grant permission for enough serviced land to meet the need shown on the register only relates to 'Part 1'. Individuals or groups that do not meet any set local eligibility criteria (including any financial test) are excluded from Part 1, but included in Part 2 if they meet the general criteria (relating to age, nationality and wanting a service plot of land in the area for their own self/custom build).

## **2. Consideration of local eligibility criteria**

- 2.1 Authorities may set eligibility criteria to establish whether individuals have 'sufficient connection with the authority's area', known as a 'local connection test'. Any such test must include a provision that includes members of the regular armed forces in particular circumstances.
- 2.2 It is also possible to impose a criterion whereby only individuals who can demonstrate that they have sufficient resources to purchase land for their self/custom build are eligible. This would help to ensure that only those with a realistic hope of financing their self build would be included in Part 1 of the register, but it is considered that any such criteria would be unjustified at the current time because the inputs required are onerous in relation to the benefits of being included on the register.

2.3 The analysis of the East Devon Self-build Register included at APPENDIX 1 to this report highlights the following points relevant to consideration of whether to include a local connection test.

- Around half of the people on the register are already East Devon residents.
- Some applicants have strong links with individual settlements or East Devon in general and only 16 out of 61 have no links. However, of the 4 with only 'other' links, two of these other links were listed as 'friends' and one cited East Devon as a 'preferred retirement location'.
- The price of a plot varies significantly according to size, location and its particular characteristics and individual plots can be sold for over £500,000. It is difficult to generalise about whether the budgets set out in the self build application forms are realistic, but eleven of the individuals on the register state that they have up to £50,000 to spend on a plot and a further 21 have between £50,000 and £100,000. A review of land being marketed shows only one plot for sale at under £100,000 and none under £50,000. This suggests that it may be challenging for a number of those on the register to secure a plot in East Devon for their budget.

2.4 It is considered appropriate to apply a local connection test so that the register more accurately reflects the demand for self build in East Devon. It could also have the benefit of not recording demand for new build holiday homes on Part 1 of the register (ie. the number of self builds East Devon needs to make provision for). When considering what criteria should be applied for a local connection test it may be helpful to consider Strategy 35 (Exception Mixed Market and Affordable Housing At Villages, Small Towns and Outside Built-up Area Boundaries) of the Local Plan which applies a local connection test as follows:

In this policy, local connection means one or more of the following connections in priority order in respect of parishes or the parish grouping:

- i) persons who have been permanently resident therein for a continuous period of three years out of the five years immediately prior to the Affordable Dwelling being offered to them; or
- ii) being formerly permanently resident therein for a continuous period of five years at some time in the past;
- iii) having his or her place of permanent work (normally regarded as 16 hours or more a week and not including seasonal employment) therein for a continuous period of at least twelve (12) months immediately prior to being offered the Affordable Dwelling; or
- iv) persons who can demonstrate a close family connection to the District in that the person's mother, father, son, daughter or sibling has been permanently resident therein for a continuous period of five years immediately prior to the Affordable Dwelling being offered to them and where there is independent evidence of a caring dependency relationship.

2.5 It should be remembered that the purpose of the local connection test is not to exclude people from the register: exclusions can only be made on the basis of age, nationality and not wanting a plot for your own dwelling. Applying a local connection test would restrict the number of people on Part 1 of the register, which shows the level of demand for self build that has to be met by the planning authority. Whilst it would be too onerous to look at an application for the self build register in the same level of detail as the Strategy 35 test, it does suggest the areas that should be considered to demonstrate a local connection – residency, employment and family links.

2.6 The residency and employment connections are reasonable requirements and straightforward to demonstrate, although it is not felt necessary to apply minimum periods as in Strategy 35: current employment or residence is sufficient commitment to East Devon to justify inclusion on Part 1 of the register. The likelihood of people wanting to self build holiday homes in East Devon also makes it appropriate to apply a criterion on sole or main residency. Family links are more difficult to define and it is not recommended that these should form part of the local connection test: the requirement in Strategy 35 is that people demonstrate a 'caring dependency relationship' and this would be too onerous a test in relation to the self build register. Based on these principles it is recommended that, to be included on Part 1 of the self build register, applicants demonstrate:

That they wish to acquire a plot for their sole or main residence and in addition at least one of the following criteria is met:

- that they have a permanent job based in East Devon for at least 16 hours a week;
- that they are a permanent resident of East Devon (that is they have a home in East Devon that they use as their sole or main dwelling and they have been on the electoral register for at least 3 years); and/or
- that they are in the service of the regular armed forces of the Crown (as set out in section 374 of the Armed Forces Act 2006).

## APPENDIX 1

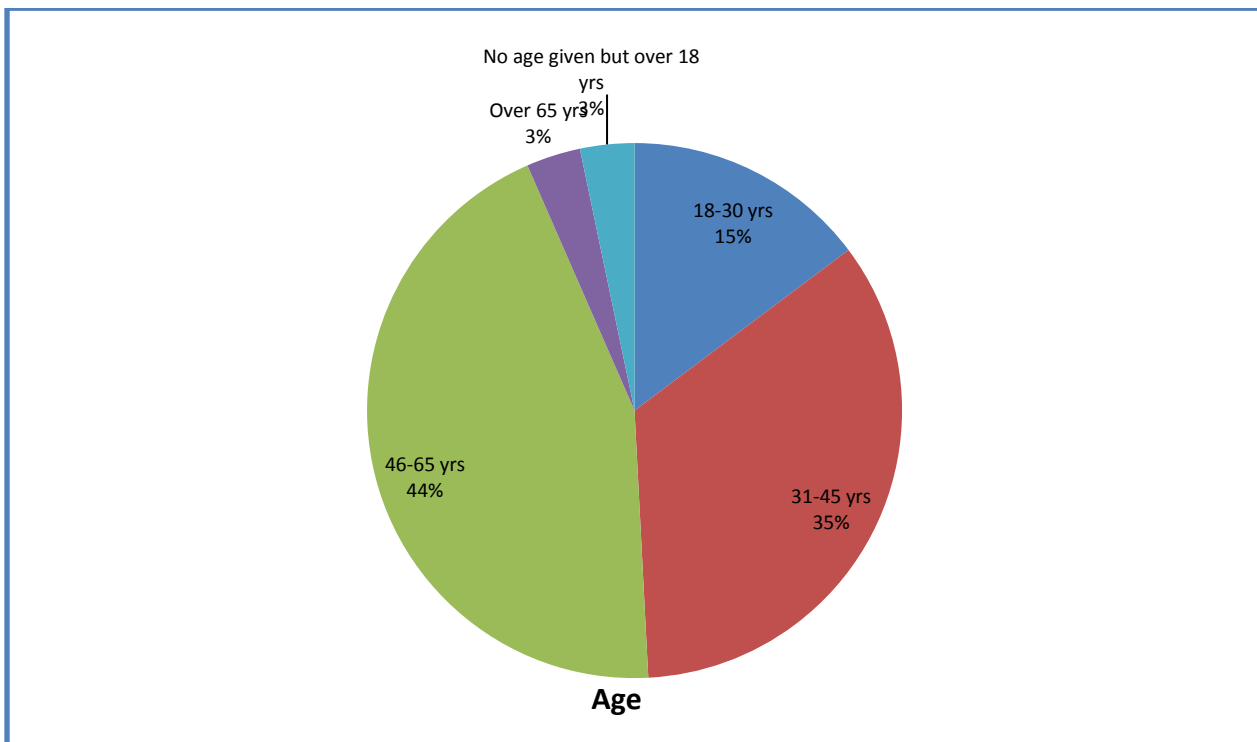
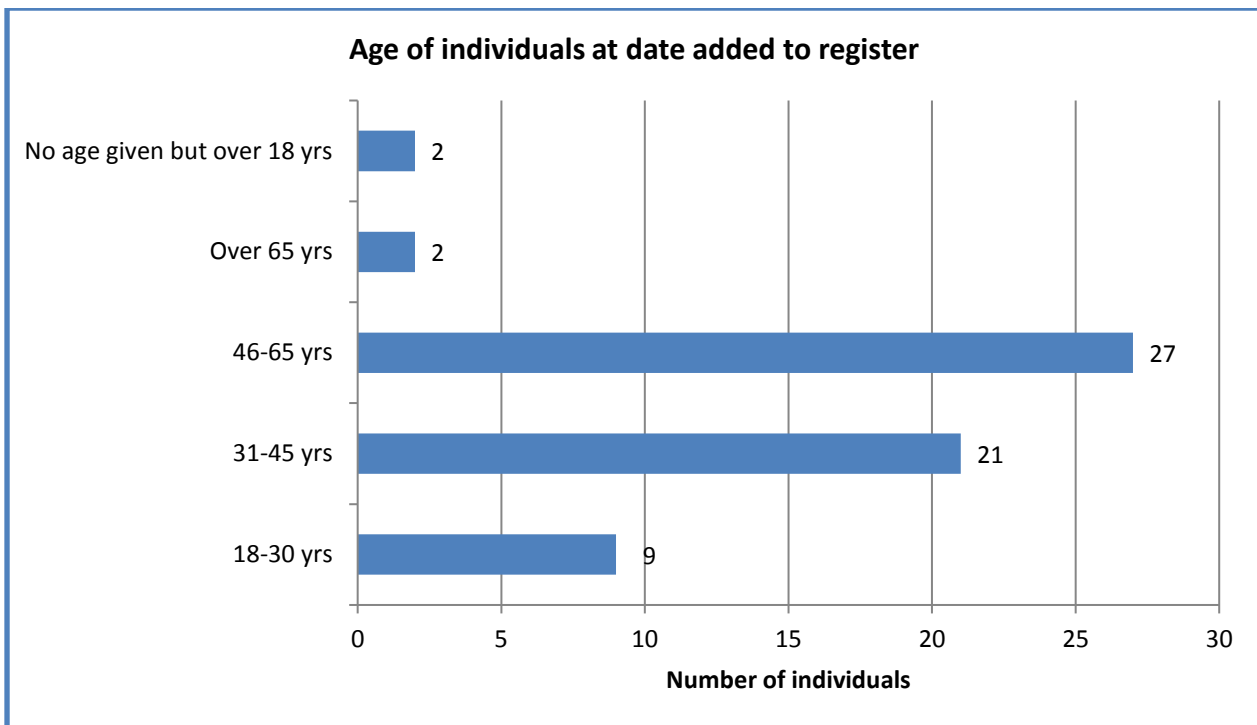
### East Devon Custom Build Register Monitoring 01/04/2016 to 21/02/2017

#### 1. Introduction

- 1.1 This report has been produced to provide 'headline' data on the East Devon Self Build and Custom Housebuilding Register (subsequently referred to as the self build register) from its start in April 2016 until 21<sup>st</sup> February 2017. It has been produced to support consideration of applying a local connection test to the register from 1<sup>st</sup> April 2017.
- 1.2 In addition to the 'standard' questions (name, address, age and nationality), the application form for the self build register includes optional questions to further explore the nature of demand for self build in East Devon. Most applicants have completed the full form and the results are shown on a question by question basis in this report.
- 1.3 The register is open to individuals or groups of individuals. There have been no applications from groups of individuals. On 21<sup>st</sup> February there were 61 individuals on the register and no applications had been refused.

## 2. Age of Applicants

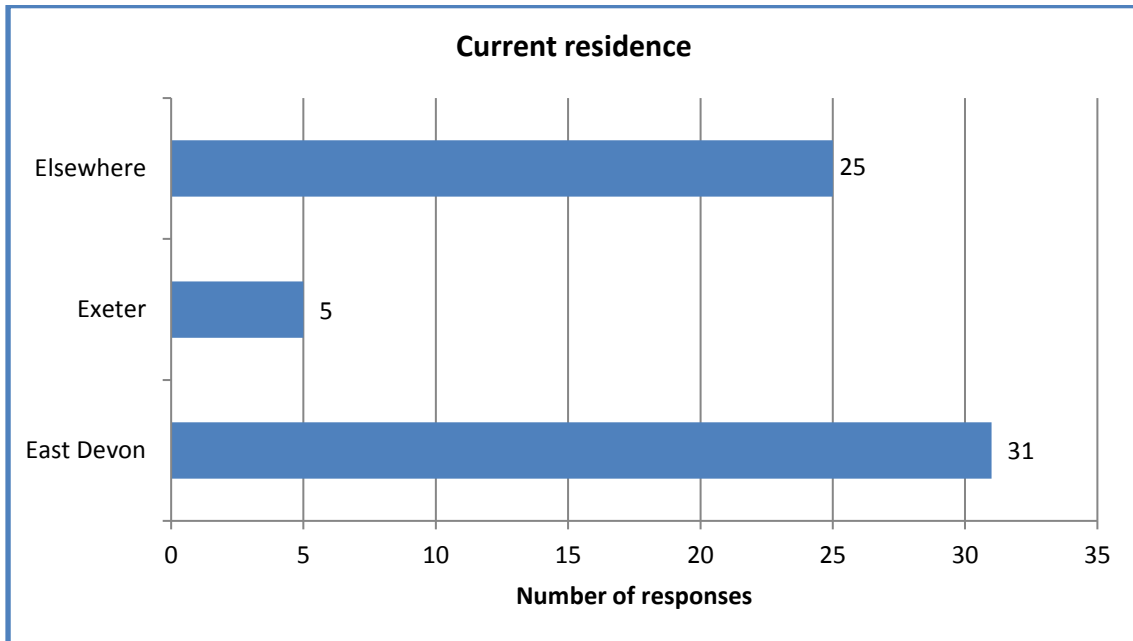
2.1 The age of applicants can be categorised as follows.



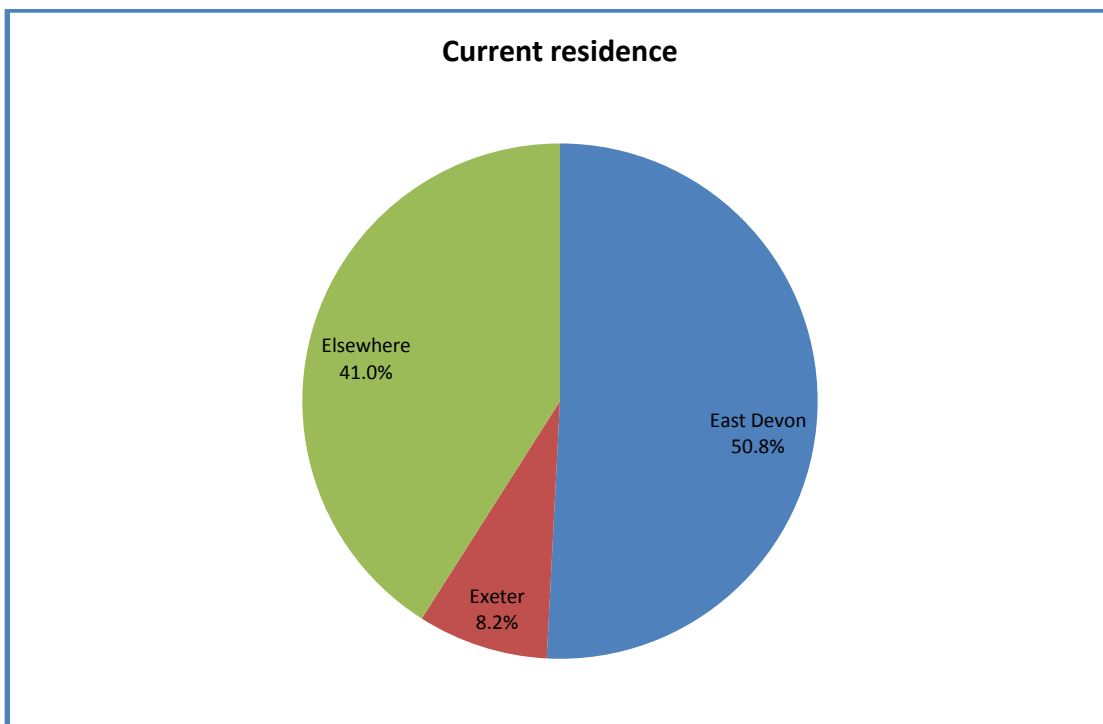
2.2 The vast majority of applicants are of working age.



### 3. 'Where do you currently live?'

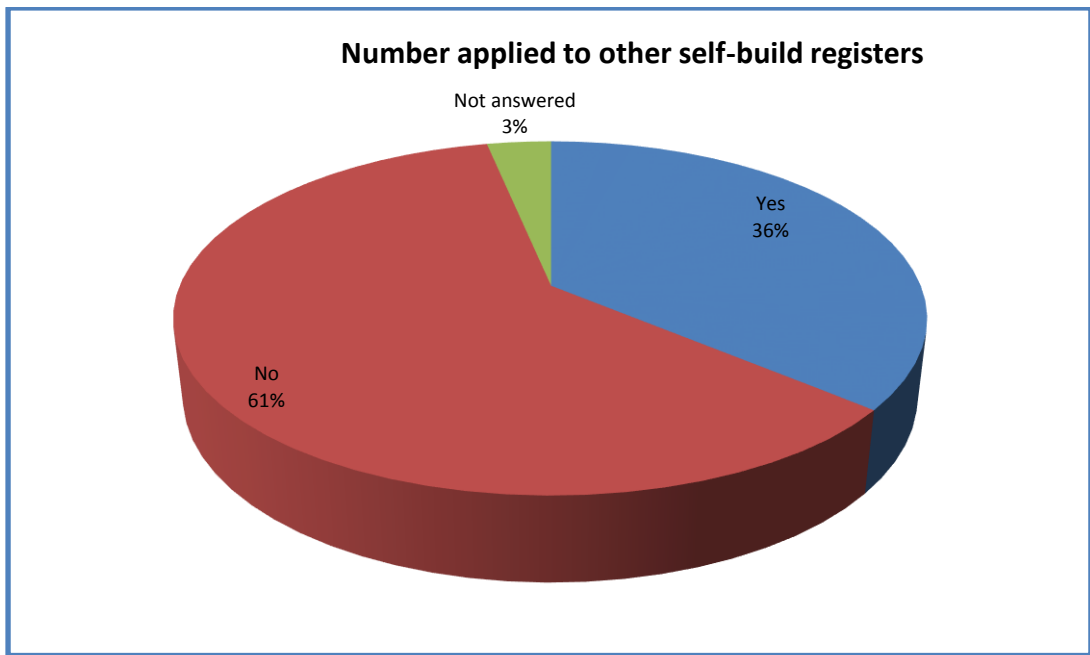
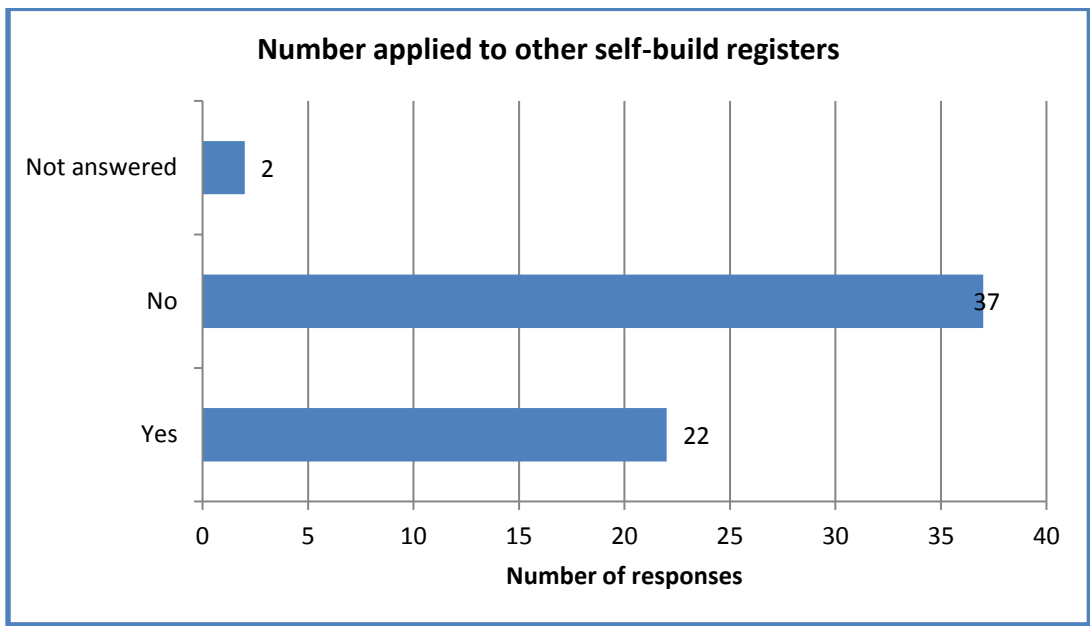


N.B. in this graph 'elsewhere' is defined as anywhere other than East Devon or Exeter.



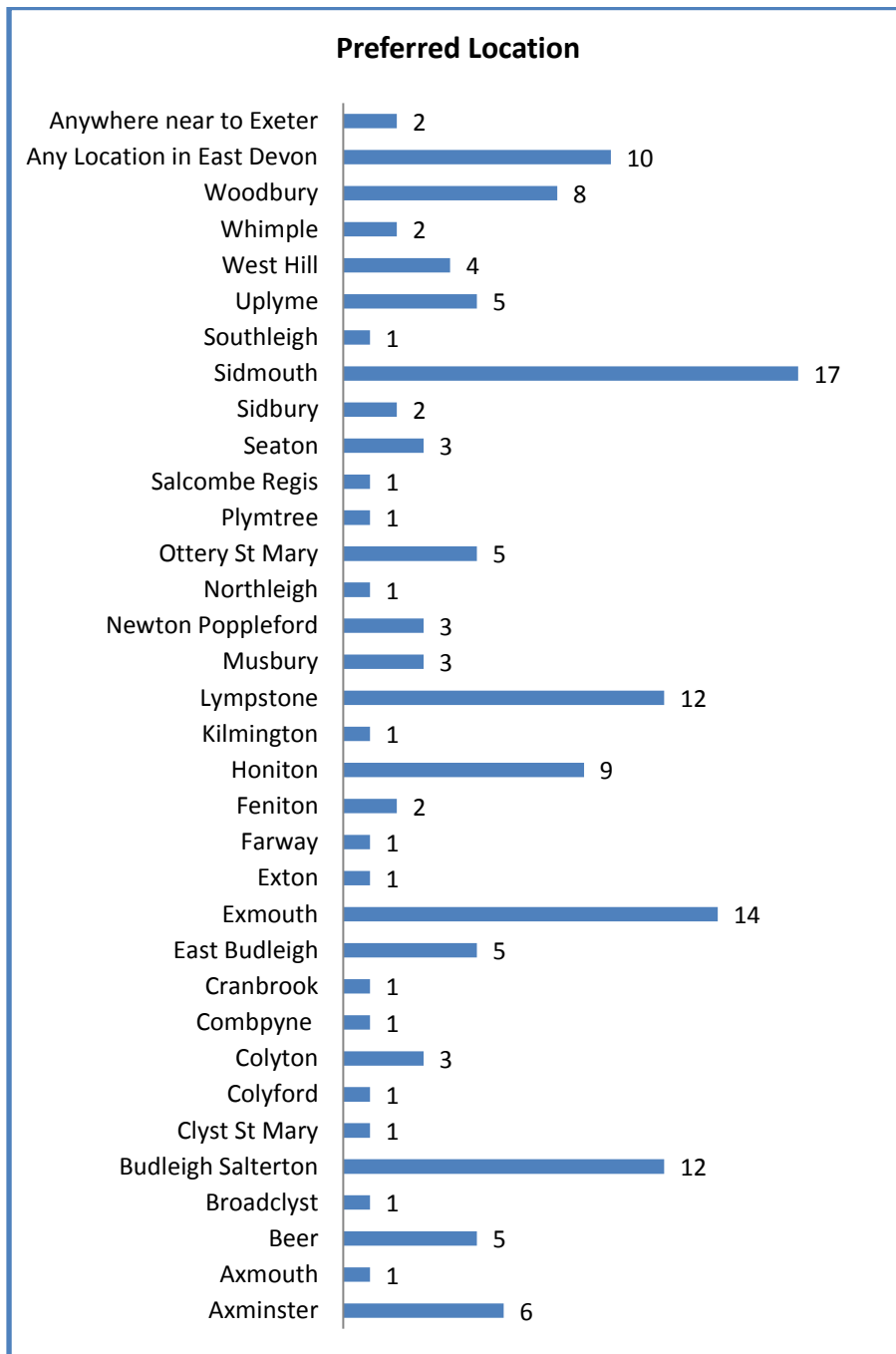
3.1 Around half of the individuals on the register are currently East Devon residents.

4. 'Have you applied to any other register?'



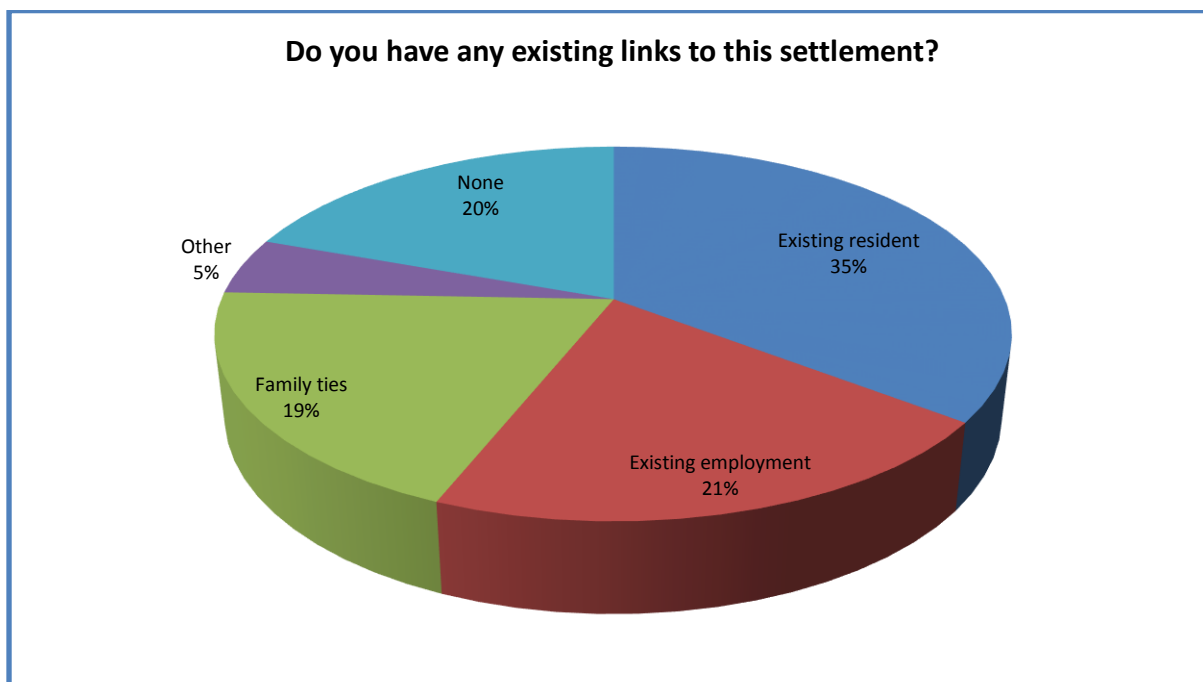
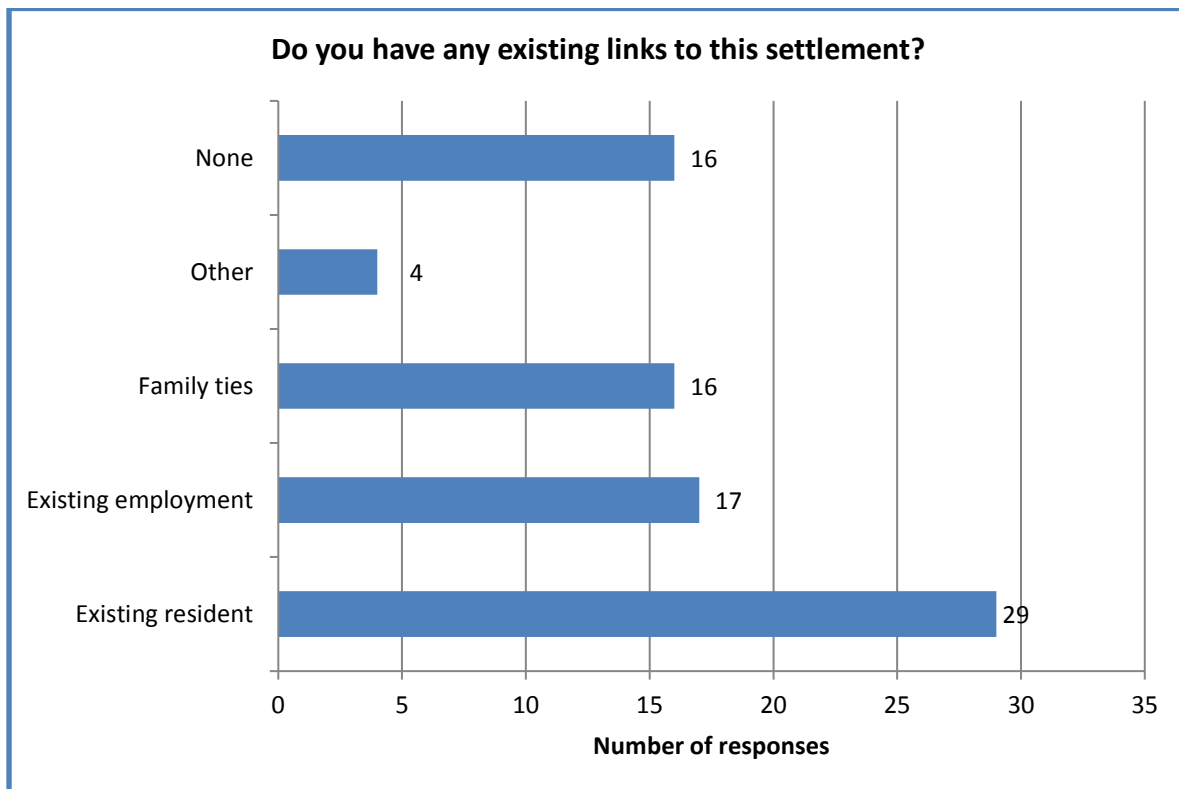
4.1 The majority of individuals had only applied for the East Devon register at the time of their application, although they may have made subsequent applications.

5. 'In which East Devon settlement would you like to acquire a serviced plot?'



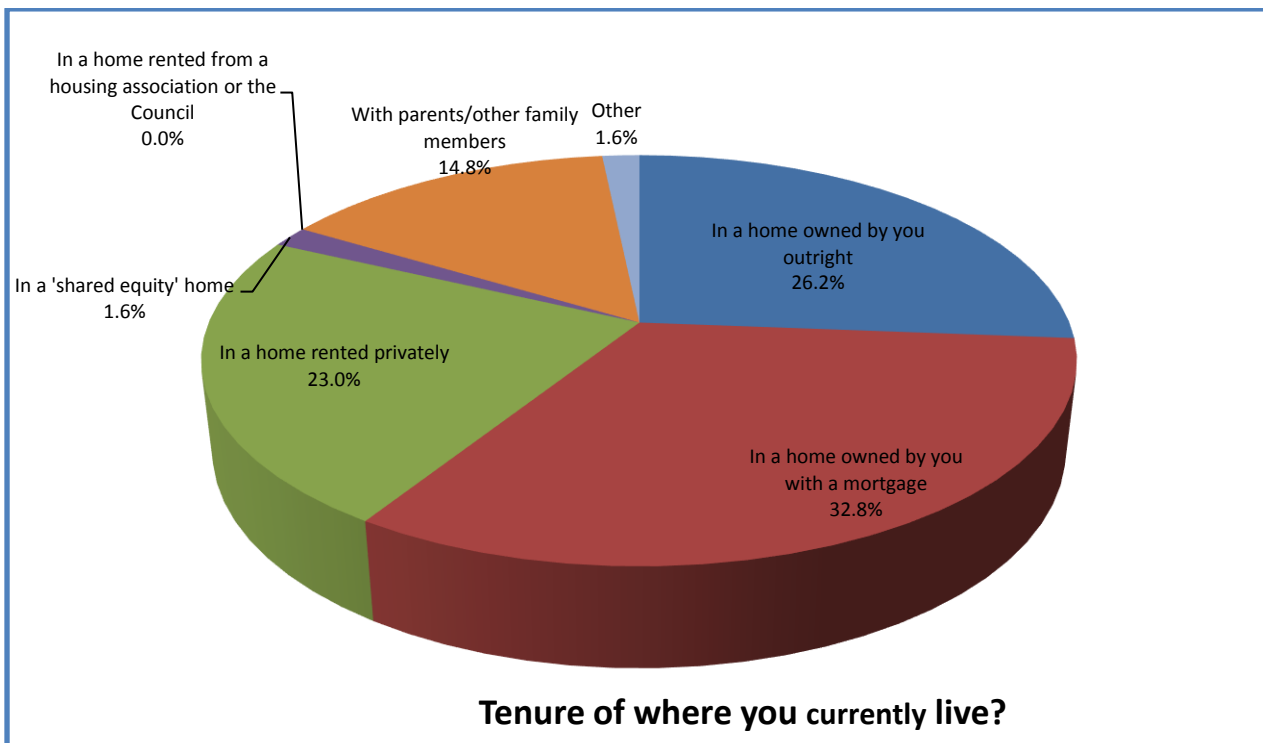
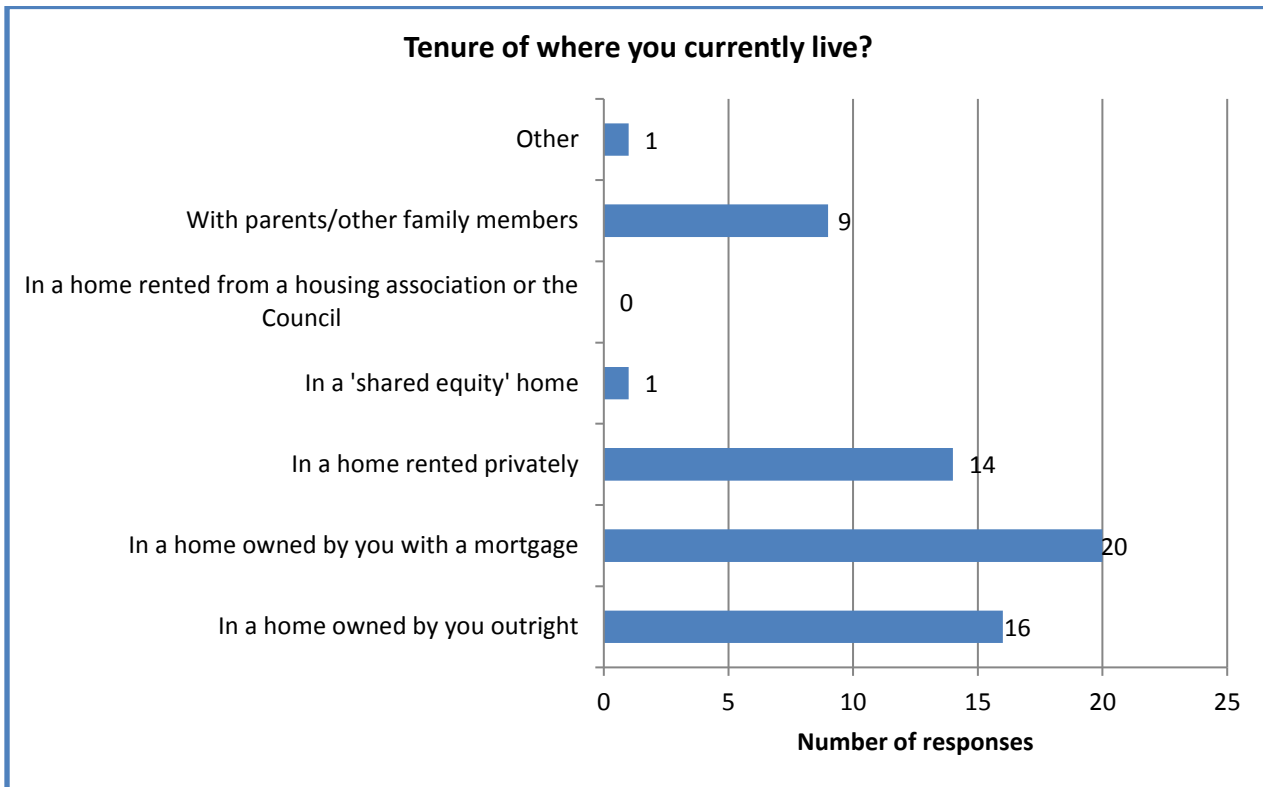
5.1 The question did not limit the number of settlements chosen and many applicants indicated more than one settlement. Sidmouth, Exmouth, Budleigh Salterton and Lympstone were the settlements most commonly listed.

6. 'Do you have any links to this settlement?'



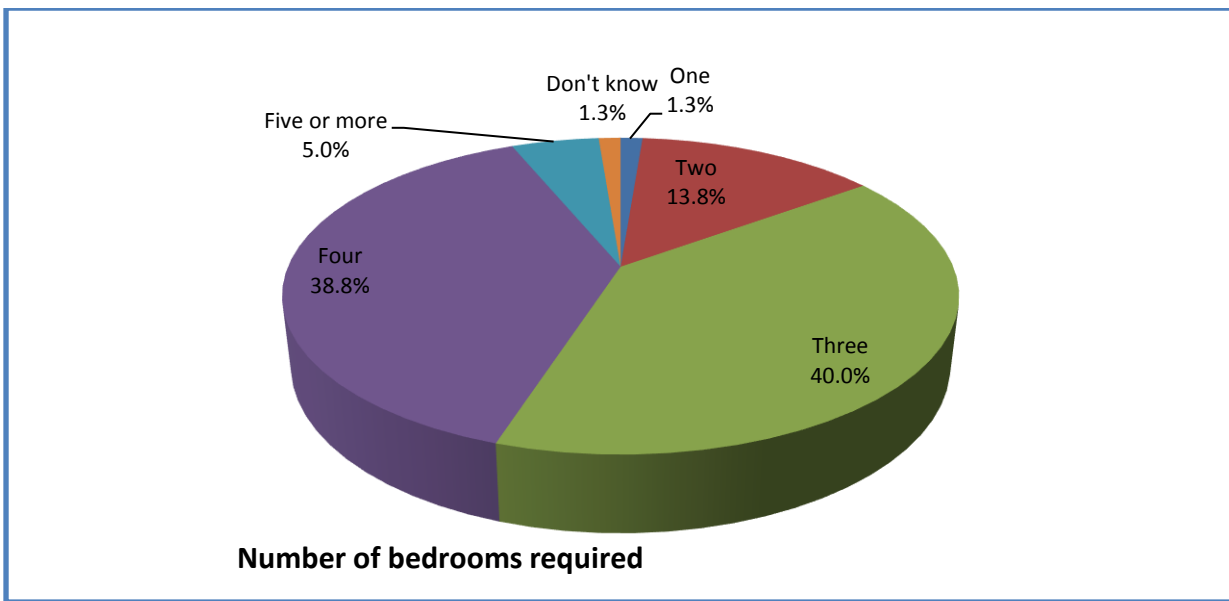
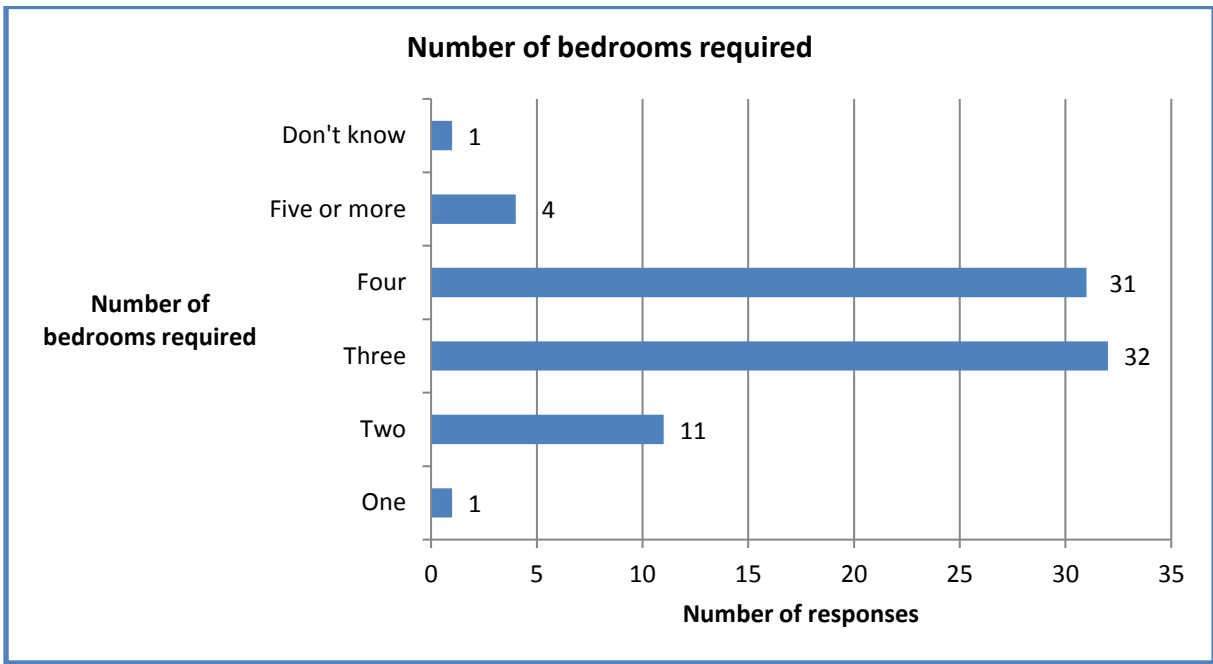
6.1 There were multiple answers to this question as some applicants had two or more links to individual settlements. Most people had either employment or housing links, although it is not always clear whether these links are to individual settlements or to East Devon in general.

7. 'In what type of house do you currently live (housing tenure)?'



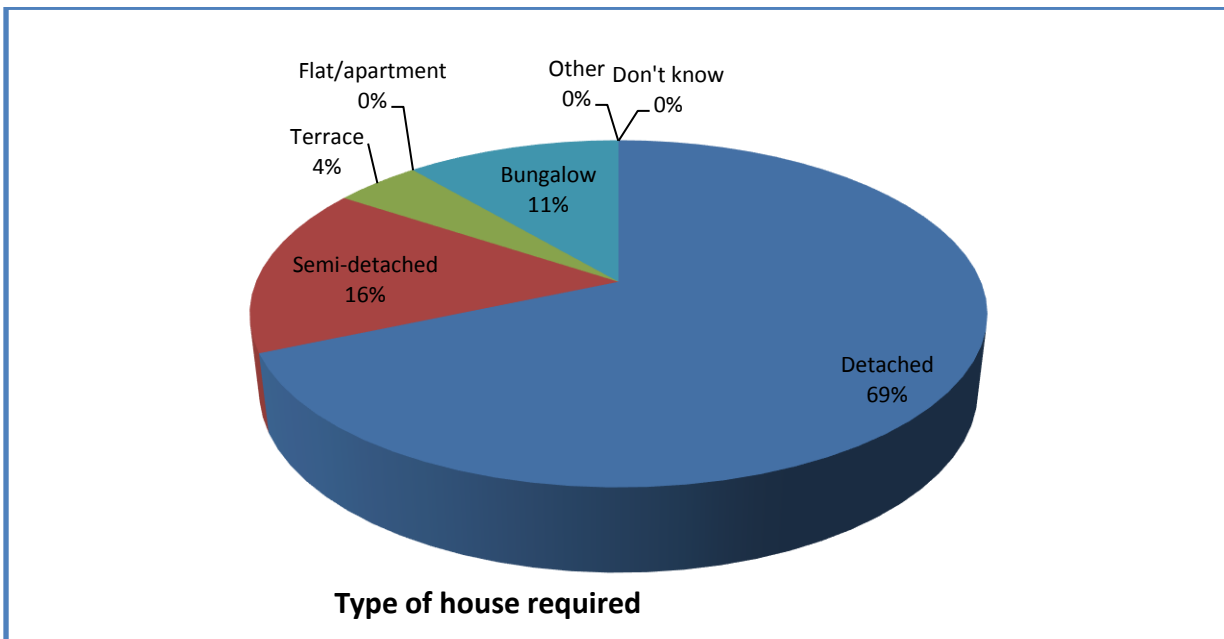
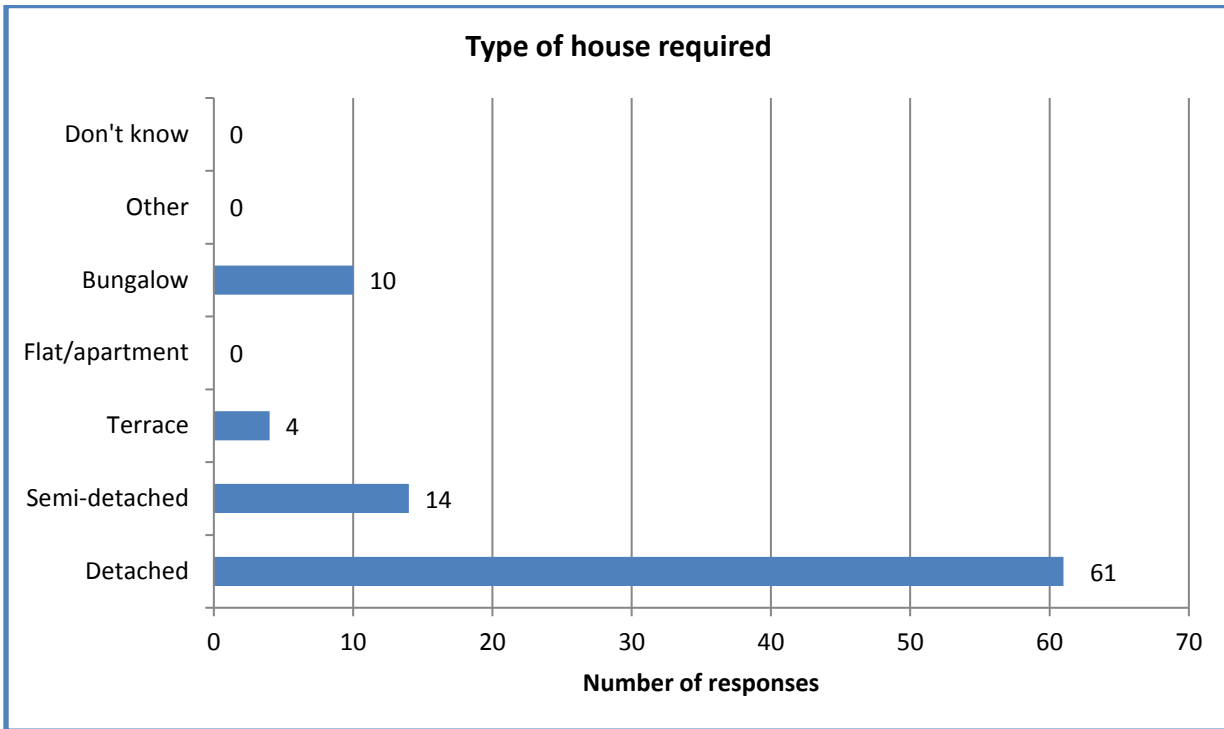
7.1 Almost 60% of individuals are already home owners, but a significant minority (around 15%) live with parents or other family members.

8. 'How many bedrooms would you like in your new home?'



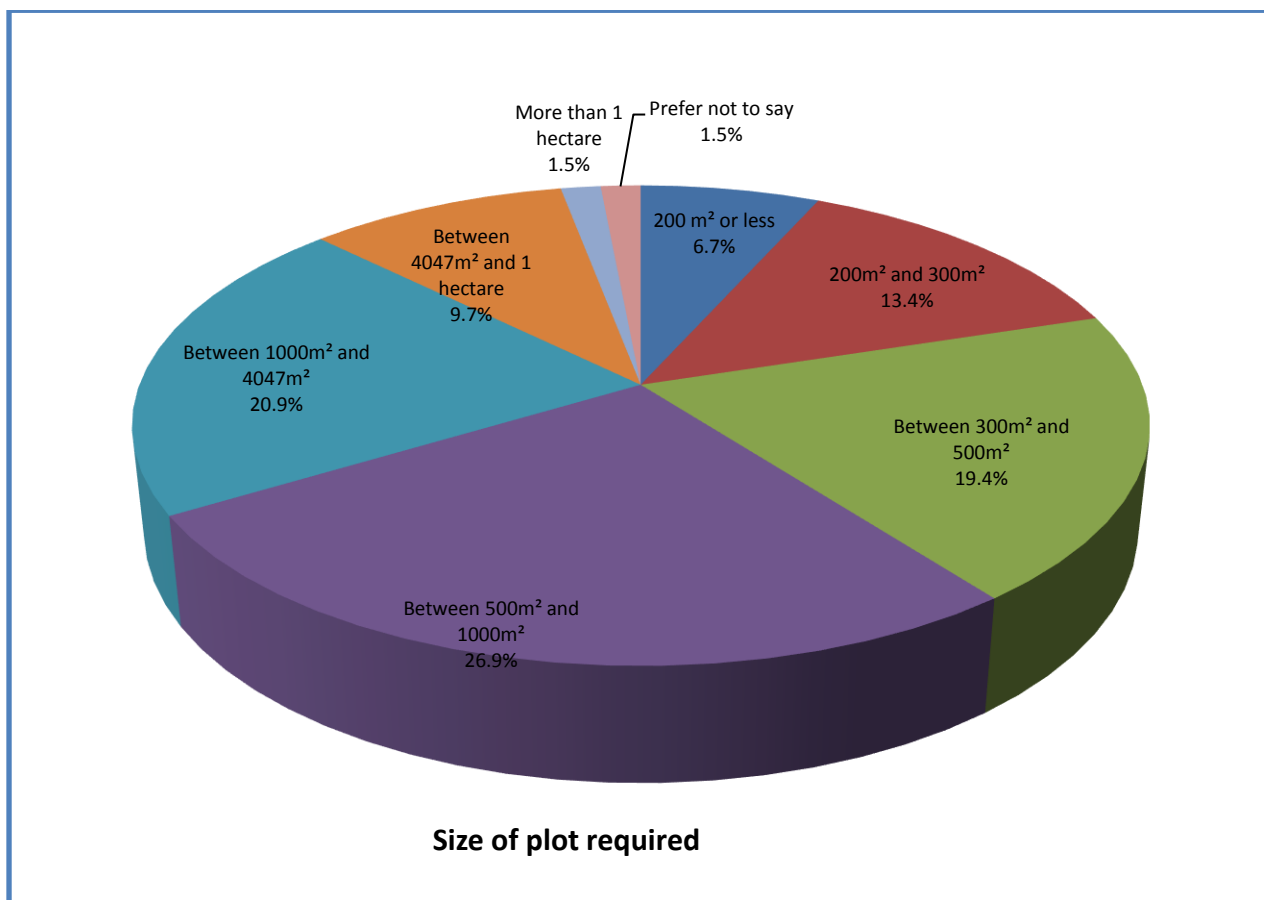
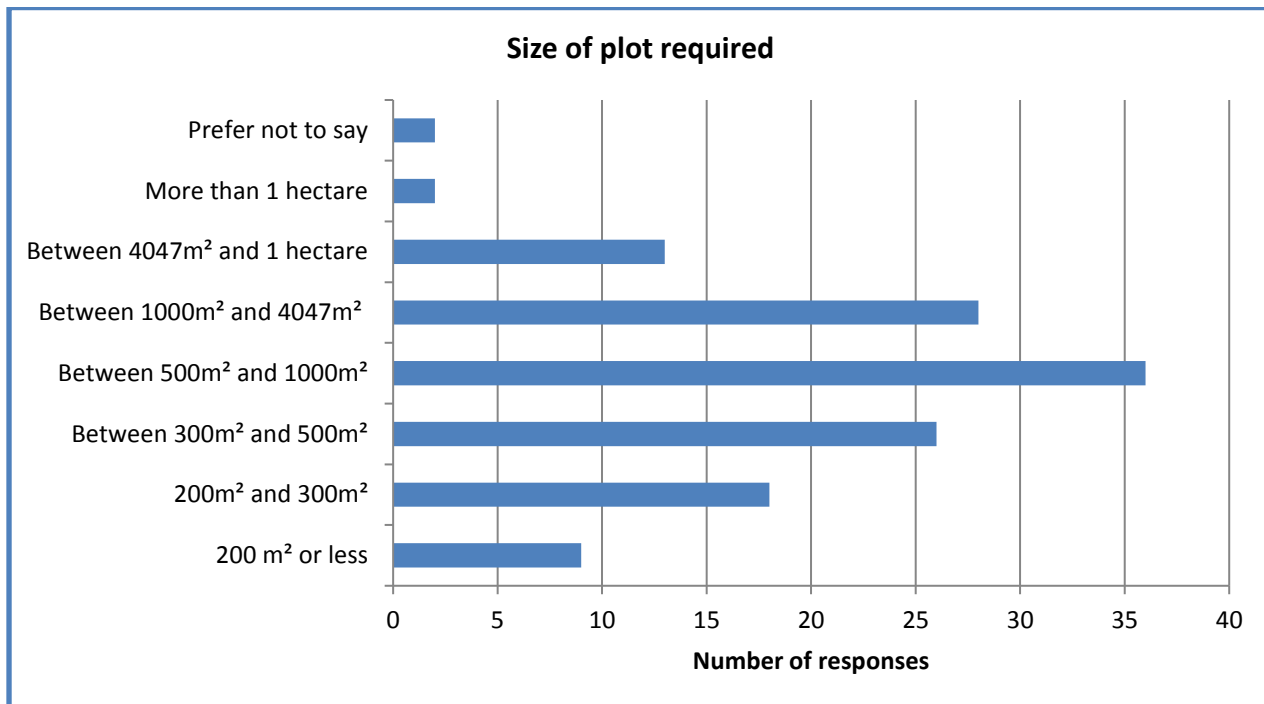
8.1 The vast majority (almost 80%) want three or four bedrooms.

9. 'What type of home do you want to build?'



9.1 All people on the register answered detached, but some put down other options as well.

10. 'What size plot are you looking for?'



10.1 This question allows for multiple answers and few people chose just one category. The question is accompanied by guidance on what sort of house is normally built on the plot sizes given as follows.

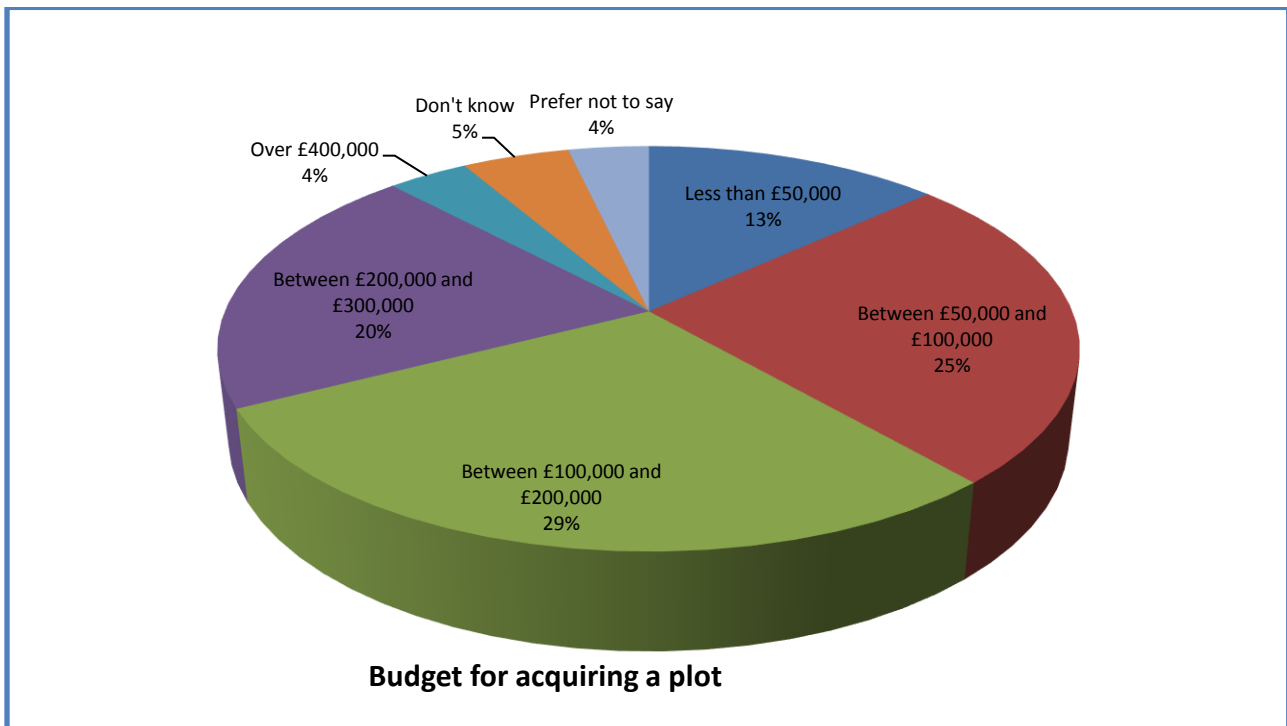
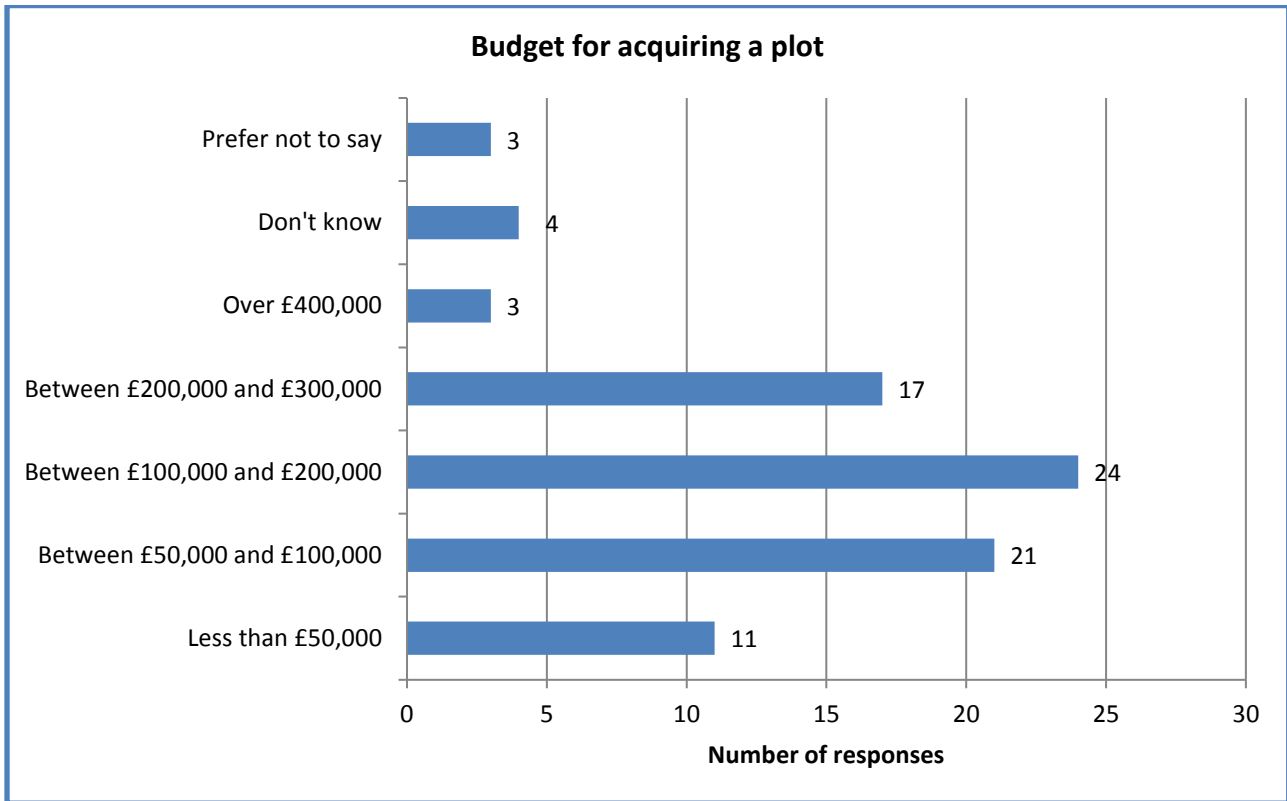
200 m<sup>2</sup> or less (less than 1/20<sup>th</sup> of an acre – small terraced house)



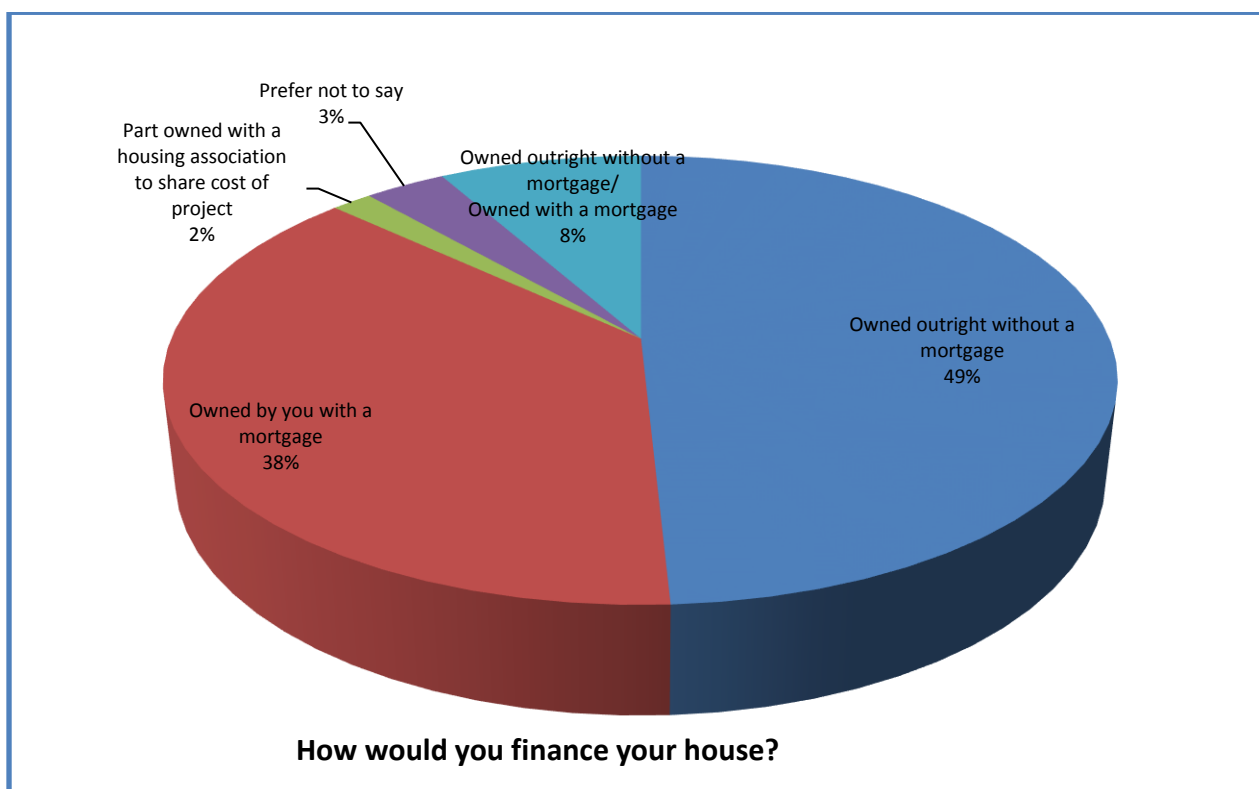
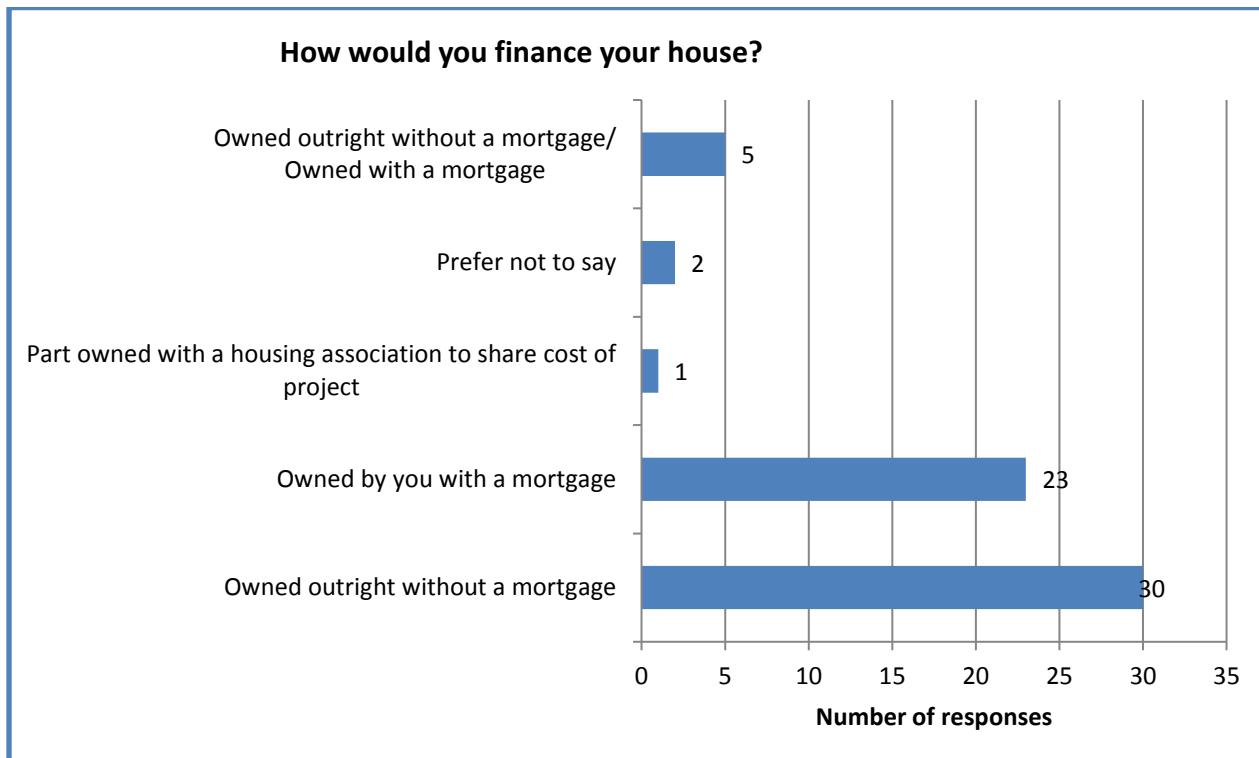
200m <sup>2</sup> and 300m <sup>2</sup> (1/20 <sup>th</sup> of an acre to 1/13 <sup>th</sup> of an acre – 2/3 bed modern estate house)
Between 300m <sup>2</sup> and 500m <sup>2</sup> (1/13 <sup>th</sup> of an acre to 1/8 <sup>th</sup> of an acre – 4 bed detached estate house)
Between 500m <sup>2</sup> and 1000m <sup>2</sup> (1/8 of an acre to 1/4 of an acre – suburban semi/detached with modest to large garden)
Between 1000m <sup>2</sup> and 4047m <sup>2</sup> (1/4 of an acre to 1 acre – suburban/country house with large/very large garden)
Between 4047m <sup>2</sup> and 1 hectare (1 acre to 2.4 acres – suburban/country house with very large garden/small holding)

10.2 There is quite an even spread of demand for a 300m<sup>2</sup> to 500m<sup>2</sup> plot, a 500m<sup>2</sup> to 1000m<sup>2</sup> and 1000m<sup>2</sup> and 4047m<sup>2</sup> (plots ranging in size from 1/3<sup>rd</sup> acre to 1 acre). These categories account for around two thirds of demand.

### 11. 'What is your budget for acquiring a plot?'

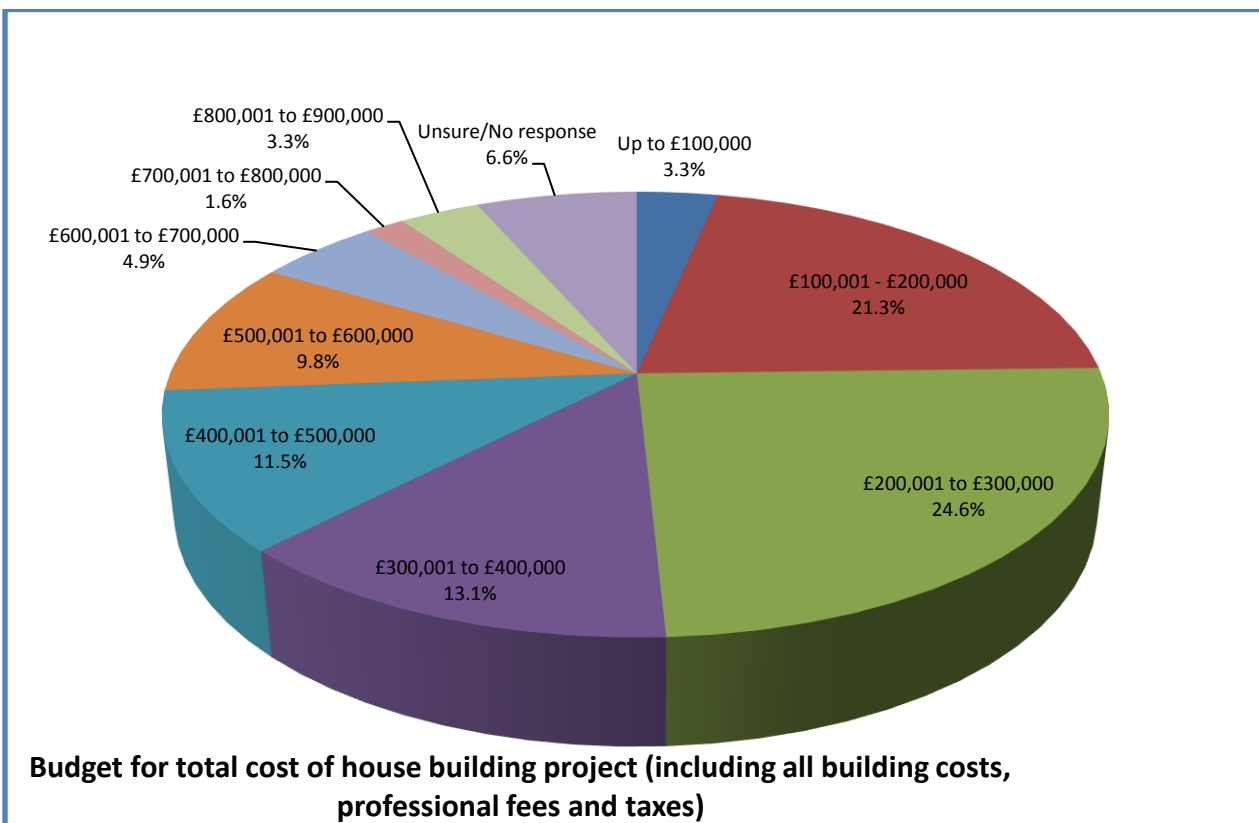
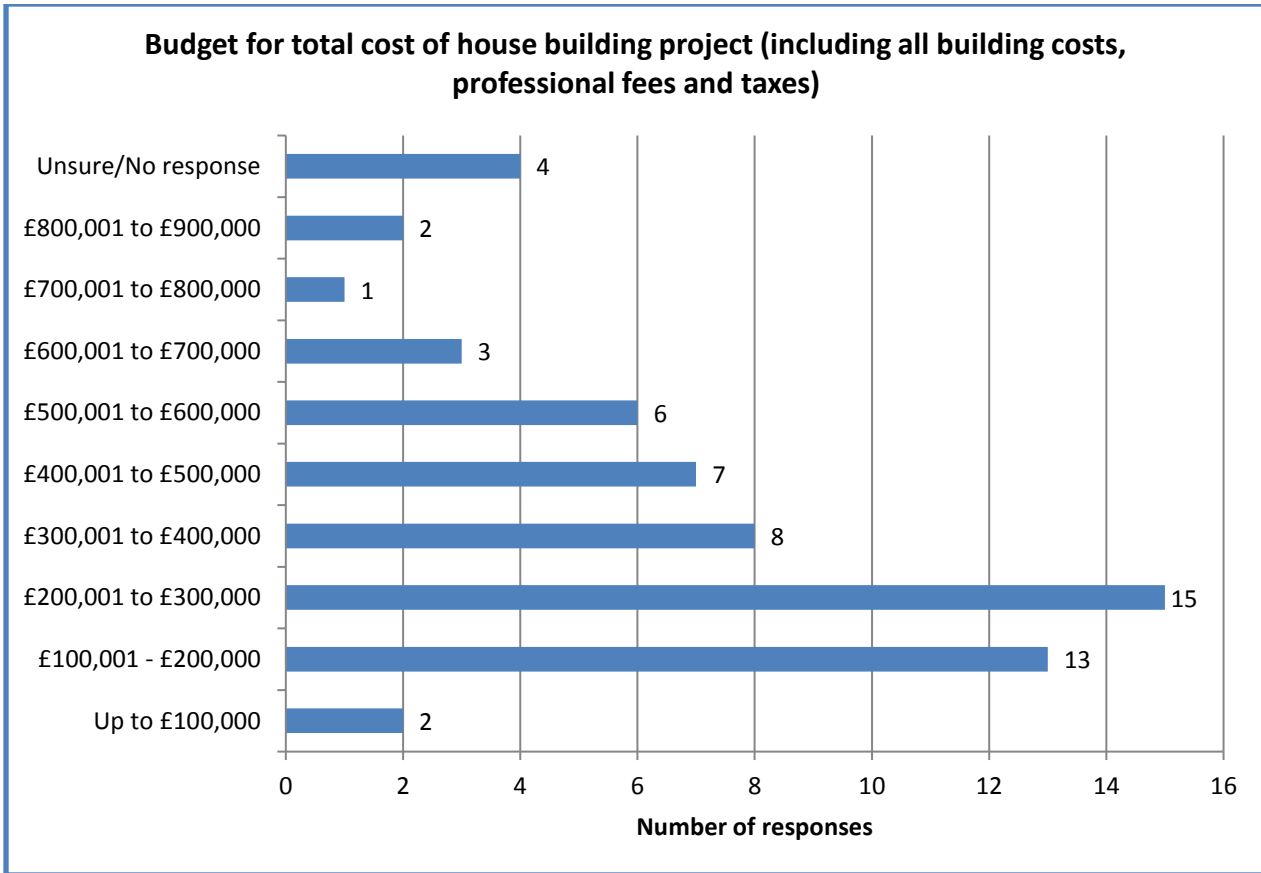


## 12. 'How would you finance your house?'

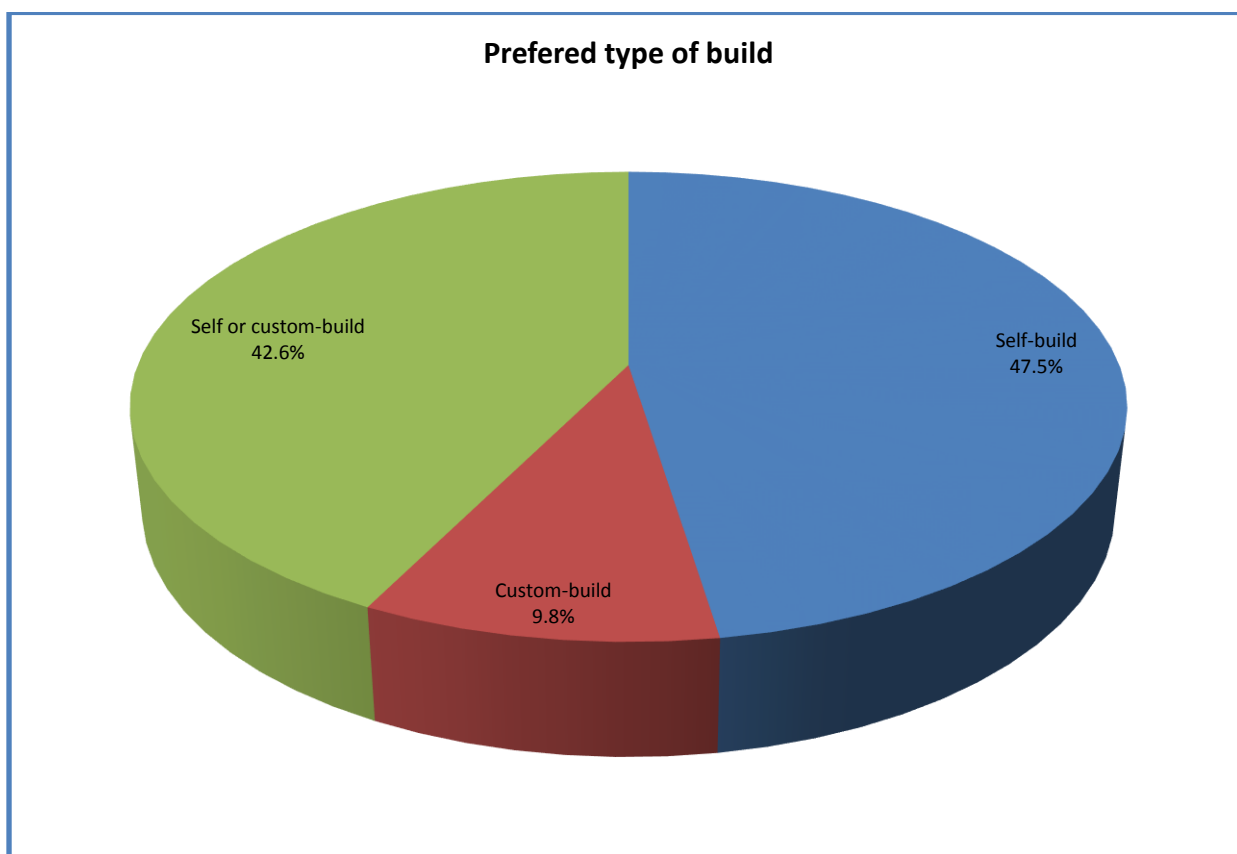
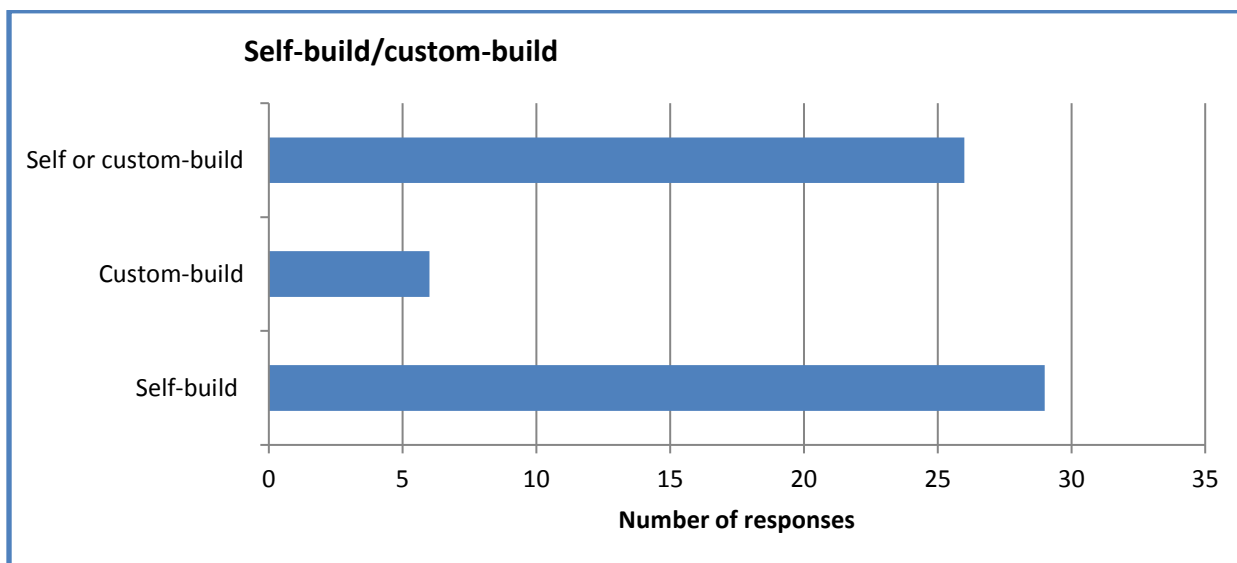


12.1 Only one respondent would look to finance their home with the help of a housing association. Almost half planned to finance their self build without a mortgage.

13. 'What is your budget for the total cost of your house building project? Please include all building costs, professional fees and taxes.'

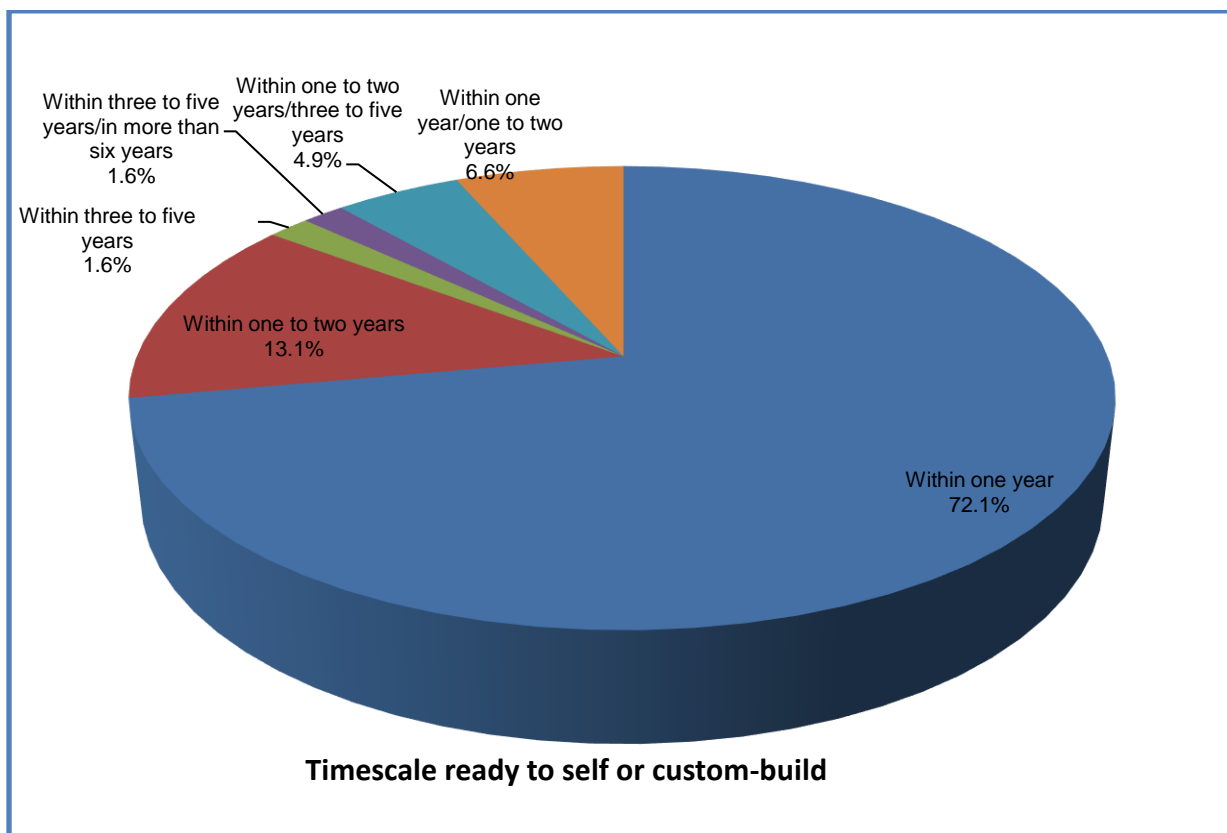
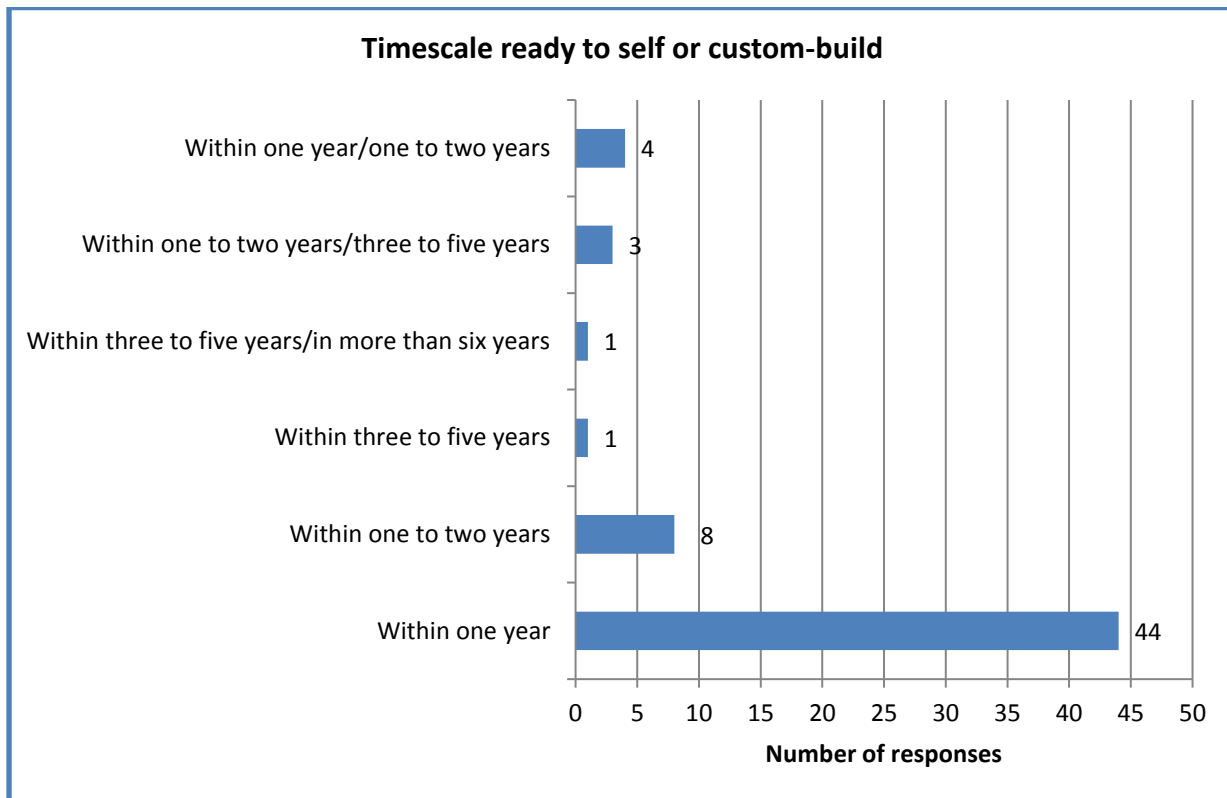


14. 'I am interested in self build (you directly organise the design and construction of your new home), Custom build (you work with a specialist developer who manages the process) or Affordable (shared equity) self-build (you work with a regulated provider such as a housing association or a community land trust).'



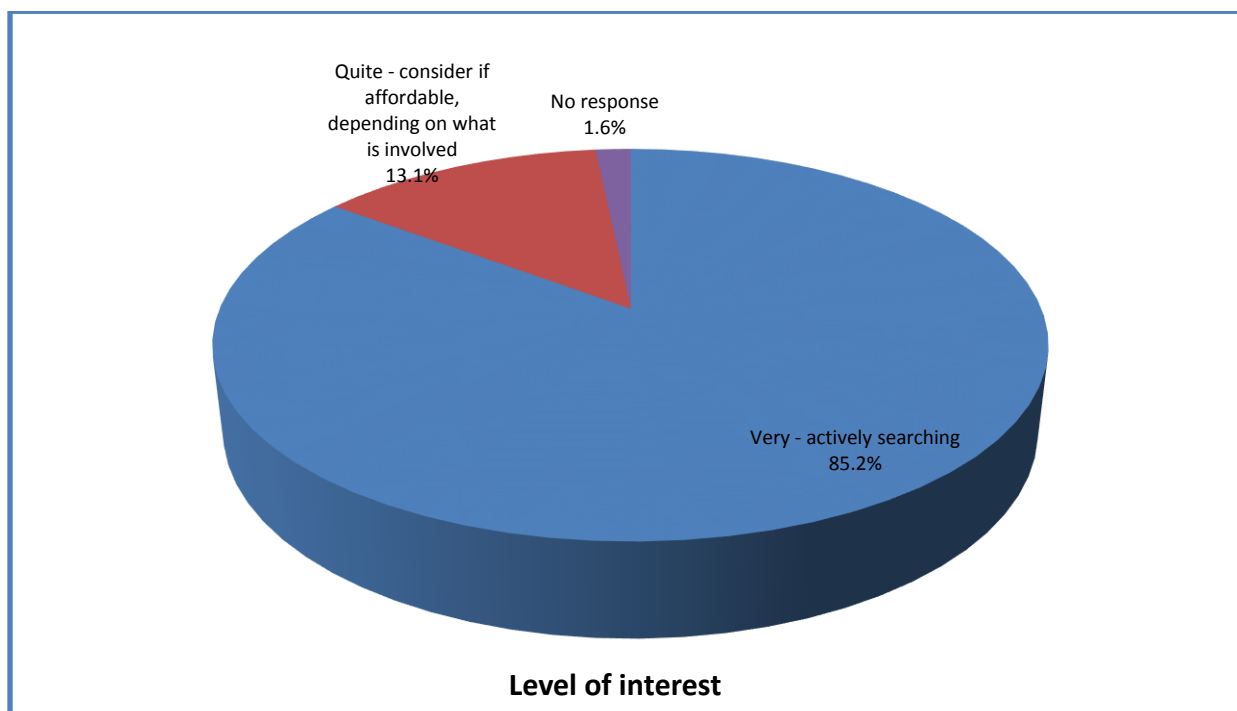
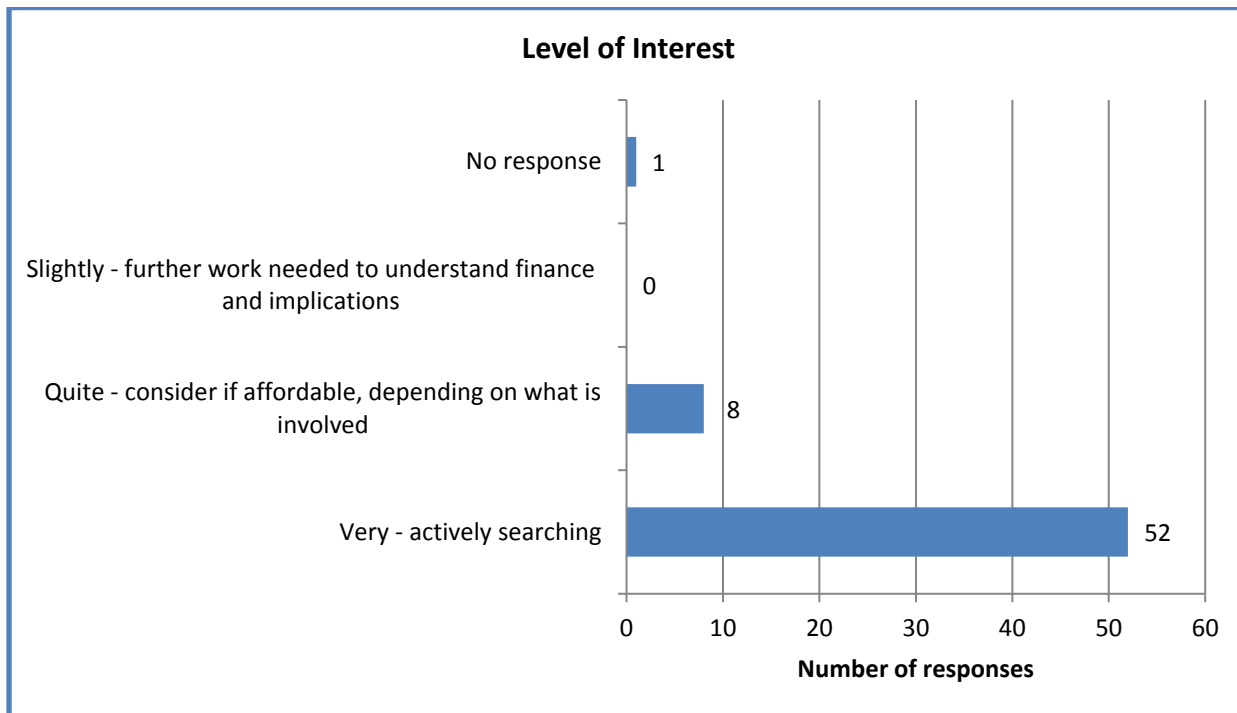
14.1 Although no interest was expressed in working with a regulated provider, in answer to a different question one person said they were interested in help from a housing association with funding their home (see 12.1).

15. 'When could you start, subject to a site being available?'



15.1 Most people on the register are actively looking for a site and would be ready to start within a year.

16. 'Please indicate your level of interest.'



16.1 The majority of people on the register are very interested in self build and actively searching for a plot.