

## Agenda for Strategic Planning Committee Tuesday, 9th January, 2024, 10.00 am

### Members of Strategic Planning Committee

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

**Venue:** Council Chamber, Blackdown House, Honiton

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(or group number 01395 517546)

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This meeting is being recorded for subsequent publication on the Council's website and will be streamed live to the [East Devon District Council Youtube Channel](#).

- 1 Minutes of the previous meeting (Pages 3 - 9)
- 2 Apologies
- 3 Declarations of interest  
Guidance is available online to Councillors and co-opted members on making [declarations of interest](#)
- 4 Public speaking  
Information on [public speaking](#) is available online
- 5 Matters of urgency  
Information on [matters of urgency](#) is available online
- 6 Confidential/exempt item(s)  
To agree any items to be dealt with after the public (including the Press) have been excluded. There are no items which officers recommend should be dealt with in this way.
- 7 Changes to the National Planning Policy Framework (Pages 10 - 14)  
This report seeks to draw Members attention to changes made to the National Planning Policy Framework at the end of last year.
- 8 East Devon Local Plan - A revised new vision (Pages 15 - 19)  
This report sets out a revised new draft vision for the East Devon Local Plan.

9 East Devon Local Plan - Timetable update report (Pages 20 - 23)

This report summarises progress on key work streams.

10 Issues related to Housing Windfall Sites (Pages 24 - 84)

11 Exeter City Council Local Plan - Draft Local Plan (Regulation 18) Consultation and Water Lane SPD Consultation (Pages 85 - 94)

This report sets out a proposed response by this council to the consultation.

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[Decision making and equalities](#)

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**EAST DEVON DISTRICT COUNCIL****Minutes of the meeting of Strategic Planning Committee held at Council Chamber, Blackdown House, Honiton on 5 December 2023****Attendance list at end of document**

The meeting started at 10.08 am and ended at 2.35 pm. The meeting was adjourned at 12.02 pm and reconvened at 12:15 pm and 1.06 pm and reconvened at 1.50 pm.

In the absence of the Vice Chair, Councillor Mike Howe, the Committee agreed to Councillor Paul Hayward being Vice Chair for this meeting.

**41 Minutes of the previous meeting**

The minutes of the Strategic Planning Committee held on 23 October 2023 were confirmed as a true record.

**42 Declarations of interest**

Minute 46. New Community Options Appraisal.  
Councillor Jessica Bailey, Other Registerable Interest, Devon County Councillor.

Minute 46. New Community Options Appraisal.  
Councillor Paula Fernley, Affects Non-registerable Interest, Broadclyst Ward Member and received an email objection.

Minute 47. Joint Strategy for East Devon, Exeter, Mid Devon and Teignbridge.  
Councillor Jessica Bailey, Other Registerable Interest, Devon County Councillor.

Minute 48. Teignbridge Local Plan -Publication Plan (Regulation 19) addendum consultation.  
Councillor Jessica Bailey, Other Registerable Interest, Devon County Councillor.

Minute 49. Employment of agency staff in the Planning Policy Team.  
Councillor Jessica Bailey, Other Registerable Interest, Devon County Councillor.

**43 Public speaking**

Councillor Jerry Bird on behalf of Farringdon Parish Council and Farringdon Residents Association spoke on item 7 expressing his concerns about the impact the new community would have on the village of Farringdon which has centuries of history, rich arable farmland, diverse fauna and flora, small lanes and character properties. He stated that the consultation process was flawed and clunky and had used the phrase 'option 1 our preferred option' throughout the consultation process which was telling people what the council wants. There were three choices in the consultation, but Mr Bird suggested there should have been a fourth choice 'none of the above'.

Farringdon which is protected by its neighbourhood plan is only suitable for low scale development but now due to landowner developer led development Farringdon will be tipped into the melting pot of mass development losing hundreds of acres of arable land and Mr Bird invited Strategic Planning Committee Members to a site visit before making key decisions.

65% of residents in East Devon do not want a new town – this is a clear message and must be respected.

In relation to the development Mr Bird raises a concern that in reality the developers will promise the earth and deliver pluto, something cold and less inspiring which will probably be too expensive for local people who will be forced to move away – where is the logic in that. He also raises concerns about the infrastructure that is stretched beyond capacity and suggests that options 2 and 3 will come into reality in decades to come which is a catastrophe for East Devon.

He urged Members to think before voting and to not vote in favour if Members had any doubt.

The following statement on item 7 was read out on behalf of Nigel Dutt.

Independent of the choice of options to be discussed in item 7, my issue for this relatively new Strategic Planning Committee is this: From the strategic planning point of view are you as a committee happy that a second new town will be placed just a few hundred metres from a similar sized new town, and between it and Exeter, meaning that neither will establish its own identity, but both will inevitably form part of an extended Greater Exeter conurbation? Remember that we are talking here about two new towns each with eventual populations around the size of present day Tiverton and together a population in excess of 35% of Exeter's population today. This seems to be much too significant a decision to simply be driven by a call for sites rather than first taking a strategic view of East Devon and asking where it would be sensible to place a new community of that size, and whether that is still considered by you to be the solution to the housing problem, especially in the light of the ongoing debates at government level.

A further major issue with the site selection process that has resulted in the three options under discussion is that site ownership has been conflated with site development. This removes the opportunity to separate out the choice of developers from the choice of site and, for example, the ability to require the very highest quality eco building standards and to have an open developer selection process where such an approach is mandated. This in turn leads to what many people, including myself, believe is a developer led plan where you are not able to push back on the developers. For example, they have resisted a requirement for high quality building standards by asserting that this will impact the delivery of affordable housing and so far EDDC appears to be simply parroting that particular line. Apart from anything else, it completely undermines your assertion that EDDC is taking the climate emergency seriously. You can require the highest building standards and choose developers who will meet them as Exeter have proved, otherwise you are simply green-washing.

In summary then, my issue is whether as a relatively newly formed committee you have your own strategic view on these issues, or you are simply going with the flow and doing what you're told to do.

In response the Chair advised if Members felt they had insufficient information to let Mr Dutt know.

#### 44 **Matters of urgency**

There were no matters or urgency.

45 **Confidential/exempt item(s)**

There were no confidential or exempt items.

46 **New Community Options Appraisal**

The Committee considered the Assistant Director – Planning Strategy and Development Management’s report that sought a preferred approach for a further new community which Members agreed in principle at the meeting on 1 November 2022 and considered three options in the consultation which ran from December to January 2023.

The Assistant Director – Planning Strategy and Development Management gave a short presentation to the Committee that provided a history of why a new community was needed and an overview of the three options.

East Devon’s key constraints:

- Just under 60% of the district was in Areas of Outstanding Natural Beauty
- Honiton, Sidmouth, Budleigh Salterton, Exmouth, Seaton, Colyton and Axminster are constrained by AONBs which prevent major development coming forward
- Coastal Preservation Areas
- Clyst Valley Regional Park
- Green Wedges
- Flood Zones 2 & 3
- European Protected Habitats (Exe Estuary and East Devon Pebblebed Heaths)

Opportunities:

- To deliver a more sustainable and low carbon development
- Opportunities on the edge of Exeter to build on growth
- Delivery at scale makes delivery of new infrastructure easier
- Access to road network
- Scope for innovative delivery models to achieve a higher quality place

Following two call for sites in 2017 and 2021 landowners and developers had come forward with potential land for development. All land options were assessed by consultations on their suitability and viability and as a result the following three options had been identified:

Option 1 – Land to the north of A3052 up to the A30 (east of WestPoint and north of Hill Barton Business Park

Option 2 – Similar areas to option 1 but extends south to the east of Crealy to Greendale Business Park

Option 3 – South of the A3052 and east of the A376 at Clyst St George

Objectives:

- Climate resilience, future proofing and net zero carbon
- Biodiversity Net Gain contributions
- Community ownership of land
- Townscape, design including open space
- Relationship to existing settlements
- Flexible master planning
- A truly sustainable self-sufficient settlement
- Sustainable access, transport, utilities and infrastructure

- Connected and integrated transport infrastructure

Members attention was drawn to the Option Appraisal Technical Assessment – Scoring Summary which detailed the scoring for the three options as follows:

- Option 1 – total score 38.3
- Option 2 – total score 31.7
- Option 3 – total score 37.4

The Assistant Director – Planning Strategy and Development advised that Option 1 had the best potential as it was the close to East of Exeter for sustainable travel and had the potential delivery route from the A3052 to the A30 and mitigation for wider transport impacts.

Discussions included the following:

- There is a government requirement to build 910 dwellings a year – this would meet the requirement and option 1 is the best viable option although this will not, please everyone.
- Frustration was expressed about the transport infrastructure. Buses are constantly late, and this needs to be improved across all East Devon.
- Clarification was sought on the impact on other areas if the new community was not built. It was advised that towns and villages would need to significantly increase their numbers for development which would have a substantial impact on some as some tough decisions were already being considered.
- There was a suggestion for a park and ride to be provided further out of the area.
- There are lessons to be learnt from Cranbrook as it still does not have a town centre. The Assistant Director – Planning Strategy and Development Management confirmed that EDDC would be more engaged from the beginning and through a delivery vehicle it will be delivered fit for purpose.
- It is essential to have a new town for the infrastructure.
- Support was expressed for option 1.
- Option 3 was unacceptable.
- It was suggested that along with option 1 SWW should provide a sewage treatment works.
- There is a need for a large industrial estate to decrease commuting.
- It was noted that option 1 did have some higher-grade land.
- There is a strong possibility that if option 1 was selected there would be a need to extend to option 2 in 5 years' time.
- Concerns raised about the scoring summary. It was advised that Members would need to consider their own weighting of the scoring of the options appraisal technical assessment as individual opinions will differ.
- Clarification was sought on the low climate resilience figure.
- Delivery of a new town is a better option than increasing development in other towns.
- It was suggested for SANGS around Farringdon to help protect it.
- Transport into Exeter is a major issue and if option 1 is preferred then this will only increase the problem.
- Clarification was sought on how many other authorities have built two new towns so close together. It was advised that Cambridge was in the same position as they have 3 new towns.
- It was suggested that the new town is an easy option and would be developer led. We are being forced to do this because of the government housing numbers.

- The lack of a railway line is a concern. The Assistant Director – Planning Strategy and Development Management reassured Members that DCC Highways and Network Rail were looking at a Transport Strategy.
- It was suggested that a site visit would be beneficial, along with a transport assessment for the full 8,000 homes instead of the 2,500. The Assistant Director – Planning Strategy and Development Management advised that a site visit can be arranged if Members preferred but urged caution about the tight deadline. He also advised that it is not possible to accurately model the impact of the 8,000 homes over the next years in relation to the transport assessment.
- Clarification was sought on why Compulsory Purchase Orders (CPO) had not been considered for purchasing land. The Assistant Director – Planning Strategy and Development advised that to purchase land by a CPO would be a time consuming and costly process and would cause many challenges.
- There is a need to put more emphasis on moving away from travelling by car.

**RESOLVED:**

That Members agree to option 1 being the council's preferred approach for a further new community and the consultant group be instructed to progress their work in master planning this option, developing a preferred delivery model and business case.

47 **Joint Strategy for East Devon, Exeter, Mid Devon and Teignbridge**

The Assistant Director – Planning Strategy and Development Management presented the report which updated the Committee on comments and responses received to the Joint Strategy for East Devon, Exeter, Mid Devon and Teignbridge.

The Joint Strategy reflects the ambitions across a range of strategic planning matters across the four local authority planning areas, together with a high-level list of infrastructure matters that have cross-boundary significance.

Members noted that a small number of stake holder consultees had not responded, these included the NHS, National Grid, Western Power and Devon Housing Commission.

Comments about the Joint Strategy document included the following:

- Clarification was sought on the light purple circles on page 6 of the attached appendix. It was confirmed these were major growth areas that included Moss Hayne, Tithe Barn and the new town (approximate location which will be changed in light of previous discussions).
- It was noted that Exeter had the second largest travel to work area in the UK with 37,000 daily commuters.
- Clarification was sought on the major tourism opportunities detailed on page 14 of the appendix. It was advised these were proposals by Mid Devon District Council.

**RESOLVED:**

That the Joint Strategy (Appendix 1) be approved subject to this being agreed by the partner authorities, with delegated authority given to the Assistant Director – Planning Strategy and Development Management, in consultation with the Portfolio Holder Strategic Planning, to make any amendments arising from the resolution of the other authorities provided these do not materially alter the content of the document.

48 **Teignbridge Local Plan -Publication Plan (Regulation 19) addendum**

## **consultation**

The Assistant Director – Planning Strategy and Development Management briefed Members on the response to Teignbridge District Council’s initial Regulation 19 Local Plan Consultation in which East Devon District Council had previously raised concerns about the housing provision in Torbay which would cascade down to Teignbridge and onwards. Members noted that these comments would still stand.

The Assistant Director – Planning Strategy and Development Management referred to the amendments in the addendum which related to issues with the Habitat Regulations and the threshold of the delivery of SANGS mitigation and drew Members attention to East Devon District Council’s proposed response to Teignbridge District Council.

It was advised that guidance from Natural England was as follows:  
‘SANGs should aim to supply a choice of routes of around 2.3 – 2.5km in length with both shorter and longer routes of a least 5km as part of the choice, where space permits.

The Assistant Director – Planning Strategy and Development Management advised that SANGs should be at least 10 hectares in size and he raised a concern that Teignbridge District Council’s Local Plan had relatively small housing allocations and was proposing to deliver SANGs on-site which was less than 10 hectares and therefore would not be able to deliver the 2.3 – 2.5km routes.

### **RESOLVED:**

That the proposed response to the Teignbridge Local Plan consultation be endorsed and its submission to Teignbridge District Council be approved.

## **49 Employment of agency staff in the Planning Policy Team**

The report sought agreement to recommend to Cabinet for additional funding to appoint an agency planning officer on an interim basis to work in the Planning Policy Team to support the Local Plan production.

Members noted that the Planning Policy Team had been short staffed for a significant amount of time which could challenge the timetable for the local plan production.

The Assistant Director – Planning Strategy and Development identified two key options which was to either seek an agency planning officer which would be in place of the permanent vacancy, or to send work out to consultants. Officers’ preference was to look for an agency planning officer on an interim basis, to work alongside officers who would be able to pick up on specific and dedicated work required to support the local plan production which would help work to the timetable.

Comments included:

- Why has the permanent vacancy position not been filled? The reason was due to a shortfall of experienced planners and competition with private companies.
- There is a need to look at market supplements and find a way to make the Planning Department more appealing in the long term to help keep existing and future staff.

### **RECOMMENDED TO CABINET:**



That funding of £55,000 be committed to appointing an agency planning officer on an interim basis to work in the Planning Policy Team to support the Local Plan production and cover the vacant Planning Officer post in the team.

**Attendance List**

**Councillors present:**

B Bailey  
J Bailey  
K Blakey  
O Davey (Chair)  
P Fernley  
C Fitzgerald  
P Hayward  
B Ingham  
Y Levine  
T Olive  
H Parr

**Councillors also present (for some or all the meeting)**

I Barlow  
C Brown  
J Brown  
R Collins  
P Faithfull  
G Jung

**Officers in attendance:**

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

**Councillor apologies:**

B Collins  
M Hartnell  
M Howe  
D Ledger

Chairman .....

Date: .....



Report to: Strategic Planning Committee

Date of Meeting 9 January 2024

Document classification: Part A Public Document

Exemption applied: None

Review date for release N/A

## Changes to the The National Planning Policy Framework

### Report summary:

This report seeks to draw Members attention to changes made to the National Planning Policy Framework at the end of last year. It particularly seeks to highlight changes to the wording used in the NPPF to refer to the application of the standard method for calculating housing need but concludes that these do not materially alter the advice given by officers on housing numbers in the report presented to Members meeting on the 5 September 2023.

The report also draws Members attention specifically to changes to the requirements for the 5-year housing land supply calculation and notes significant uncertainties about how a potential reduced requirement for a 4 year housing land supply only should be applied. Notwithstanding this it highlights a need to continue to bolster the housing land supply position in the district.

### Is the proposed decision in accordance with:

Budget Yes  No

Policy Framework Yes  No

### Recommendation:

Members are asked to:

1. Consider the changes to the NPPF as published on the 20 December 2023.
2. Note that changes in paragraphs 77 and 226 of the NPPF mean that the Council is only required to demonstrate a 4-year housing land supply, albeit it is unclear how this is to be calculated and therefore whether this can currently be demonstrated.
3. Agree that despite the changes to the NPPF there remains a need to continue to bolster the housing land supply position through granting consents for new housing developments where the adverse impacts of doing so would not significantly and demonstrably outweigh the benefits.

### Reason for recommendation:

To ensure that Members are aware of the latest changes to the NPPF and their impacts so that they can make informed decisions.

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

Portfolio(s) (check which apply):

- Climate Action and Emergency Response  
 Coast, Country and Environment

- Council and Corporate Co-ordination
- Communications and Democracy
- Economy
- Finance and Assets
- Strategic Planning
- Sustainable Homes and Communities
- Culture, Leisure, Sport and Tourism

**Equalities impact** Low Impact

**Climate change** Low Impact

**Risk:** Low Risk;

**Links to background information**

Link to [Council Plan](#)

Priorities (check which apply)

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

## **Background**

At their meeting of the 14 February 2023 Members considered a report responding to a government consultation on changes to the National Planning Policy Framework (NPPF). The many changes proposed included some relating to the calculation of housing need and 5-year housing land supply that would potentially have significant implications for plan making and decision taking. On the 20 December 2023 the government published a revised version of the NPPF incorporating some of the proposed changes as well as a detailed response to the consultation that had previously been undertaken. The revised NPPF can be found at: [National Planning Policy Framework \(publishing.service.gov.uk\)](#). There is also useful commentary on how the government have considered the feedback received on the consultation at: [Government response to the Levelling-up and Regeneration Bill: reforms to national planning policy consultation - GOV.UK \(www.gov.uk\)](#).

This brief report is intended to draw Members attention to the key changes relating to housing numbers and how these impact on East Devon. The many other changes included in the new NPPF are available in the document links above and Members are urged to familiarise themselves with these particularly the latest version of the NPPF.

## **Housing Need Calculations**

Paragraph 61 of the NPPF has been amended to make it clear that the standard method for calculating housing need is a “starting point for establishing a housing requirement for the area”. It goes on to state that “There may be exceptional circumstances, including relating to the particular demographic characteristics of an area which justify an alternative approach to assessing housing need; in which case the alternative approach should also reflect current and future demographic trends and market signals”. In a foot note it is stated that “Such particular demographic

characteristics could, for example, include areas that are islands with no land bridge that have a significant proportion of elderly residents”. No further clarification of these characteristics is given.

In the government response to the consultation the government states that the changes are “...to provide greater clarity and certainty to plan-makers” and “...to remove ambiguity from existing policy and clarify what is meant by exceptional circumstances”. It is expressly not a change in policy.

Members will recall that in the Council’s response to the consultation it was argued that environmental constraints to the district and the capacity of the district to accommodate growth should be considered. The government’s response states “Some issues raised, such as constraints due to flood risk, should be taken into account via existing policy when local planning authorities are planning for housing in their areas, rather than when establishing need”. This confirms officers understanding that ‘need’ and ‘constraints’ are two very different considerations that should not be merged or mixed together.

The government’s consultation response document goes on to state that “Existing policy (paragraph 67) expects strategic policy-making authorities to establish a housing requirement figure for their whole area, which shows the extent to which their identified housing need (and any needs that cannot be met within neighbouring areas) can be met over the plan period. This could include consideration of constraints on land as set out in paragraph 11b and footnote 7 of the Framework such as areas at risk of flooding and Areas of Outstanding Natural Beauty”. As explained in officers report to committee on the 5 September 2023 on housing numbers (see: <https://democracy.eastdevon.gov.uk/documents/s21214/1.%20Housing%20numbers%20in%20the%20local%20plan%20Ver03.pdf>), the housing need and housing requirement figures are two distinctly different figures with the need figure being unconstrained by any debate around whether it is reasonable to accommodate the number; whereas the requirement figure takes into account what can actually be supplied and delivered. The government response confirms the approach taken in the 5 September 2023 report that any unmet need would have to be robustly evidenced and agreement sought with neighbouring authorities to meet that unmet need. These issues are fully explored and explained in the 5 September 2023 report.

In conclusion, on this issue, it is considered that the changes to the NPPF simply seek to clarify that the standard method should be a starting point for establishing housing need but there needs to be exceptional circumstances in relation to the demographic characteristics of an area to justify departing from the standard method.

In terms of the housing requirement, it likewise clarifies that environmental and other constraints can be considered when determining the housing requirement figure but if the figure is lower than the identified need then there is an expectation that unmet needs are resolved through discussion with neighbouring authorities. As detailed in the report on housing needs to committee on the 5 September there is not considered to be exceptional circumstances to justify pursuing a lower need figure than that indicated by the standard method. Equally while the constraints of the district were acknowledged in the 5 September report it was not considered that these would prevent us from being able to meet the need figure and many of the constraints are common issues that many other authorities also face and are not therefore exceptional. It is therefore considered that there is nothing in the changes to the NPPF that alters officers’ recommendations on the issues of housing need and housing requirement figures as set out in the 5 September report.

## **5 Year Housing Land Supply Calculations**

The new NPPF makes some notable changes in terms of 5-year housing land supply calculations. Councils will no longer usually have to provide for 5-year housing land supply buffers and so the previously applied 5% buffer would no longer apply thus boosting our 5-year housing land supply position from 4.28 years to approximately 4.5 years. A buffer would only now apply where there has been significant under delivery over the previous 3 years as calculated under the Housing Delivery Test.

A more significant change is the potential to benefit from a new provision for decision-making purposes, where the 'rolling' housing land supply we are required to demonstrate from specific deliverable sites is lower (ie 4 years not 5). Paragraph 77 of the NPPF states that "...local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide either a minimum of five years' worth of housing, or a minimum of four years' worth of housing if the provisions in paragraph 226 apply".

Paragraph 226 states: "From the date of publication of this revision of the Framework, for decision-making purposes only, certain local planning authorities will only be required to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of four years' worth of housing (with a buffer, if applicable, as set out in paragraph 77) against the housing requirement set out in adopted strategic policies, or against local housing need where the strategic policies are more than five years old, instead of a minimum of five years as set out in paragraph 77 of this Framework. This policy applies to those authorities which have an emerging local plan that has either been submitted for examination or has reached Regulation 18 or Regulation 19 (Town and Country Planning (Local Planning) (England) Regulations 2012) stage, including both a policies map and proposed allocations towards meeting housing need. This provision does not apply to authorities who are not required to demonstrate a housing land supply, as set out in paragraph 76. These arrangements will apply for a period of two years from the publication date of this revision of the Framework".

The draft local plan consultation undertaken by this council in November 2022 to January 2023 was carried out under Regulation 18 and so the Local Plan is sufficiently progressed to benefit from this provision. However, the NPPF does not explain how a 4-year housing land supply is to be calculated and at present the accompanying planning practice guidance only refers to how to calculate a 5-year housing land supply. There are two options for how this could be intended to be carried out. These are:

1. The supply position is calculated based on supply forecasts for years 1 to 5 as before and where the forecast position is in excess of 4 years then a 4-year housing land supply position can be demonstrated for the purposes of paragraphs 77 and 226 of the NPPF;
2. The supply position is calculated based on supply forecasts for years 1 to 4 only and where the forecast position is more than 4 years based on supply in years 1 to 4 then a 4-year housing land supply position can be demonstrated.

In the case of East Devon each option has quite different outcomes. If calculated based on option 1 then we would have approximately a 4.5-year supply, however if based on option 2 this drops to about 3.76 years supply. This is because the supply is not evenly forecast across the 5-year period with more than 1 year's supply forecast to come forward in year 5 and less than 1 year's supply forecast to come forward in some of years 1 to 4. The consequence being that how the housing supply position is calculated alters whether the district has an acceptable supply position under government policy and therefore whether the provisions of paragraph 11(d) of the NPPF

apply. Therefore, in the absence of guidance on how a 4-year housing land supply should be calculated it is unclear whether paragraph 11(d) of the NPPF should be applied and whether the so called “tilted balance” should be applied.

Advice on the interpretation of these changes has been sought from the government’s Chief Planner and the Planning Advisory Service (PAS), however it is revisions to the PPG that would be required to formally address this position. The government have indicated that amendments to the PPG will be forthcoming but there is no specific mention in the documents of this specific issue being addressed or exactly when any new guidance will be published.

It is clear however that a local plan and its supporting evidence should at examination demonstrate a deliverable pipeline of sites for the first 5 years of the plan and paragraph 76 of the NPPFF states “Local planning authorities are not required to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years’ worth of housing for decision making purposes if the following criteria are met:

- a) their adopted plan is less than five years old; and
- b) that adopted plan identified at least a five-year supply of specific, deliverable sites at the time that its examination concluded”.

There is therefore clear incentives to achieving a 5-year housing land supply position at the time of examination of the Local Plan.

The plan is to be submitted in Spring 2025 and so this does not leave much time to bolster our supply position. Notwithstanding these changes to the NPPF and the potential for these to mean that only a 4-year housing land supply is currently required; it is vital that the Council continues to bolster its housing supply position by continuing to grant consents for new homes where the benefits of doing so are not significantly and demonstrably outweighed by the planning harm that would result.

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### **Financial implications:**

There are no direct financial implication resulting from the report.

### **Legal implications:**

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

Report to: **Strategic Planning Committee**

Date of Meeting: 9 January 2024

Document classification: Part A Public Document

Exemption applied: None

Review date for release N/A



## **East Devon Local Plan – A revised new vision**

### **Report summary:**

On the 31 October 2023 Strategic Planning Committee received a report setting out a proposed new vision for the local plan. Committee made various suggestions to improve on the proposed vision and asked for these to be considered and a revised vision to come to the January 2024 committee meeting. This report sets out a revised new draft vision.

### **Is the proposed decision in accordance with:**

Budget Yes  No

Policy Framework Yes  No

### **Recommendation:**

That committee endorse the proposed vision as set out in this report and agree to its inclusion in the East Devon Local Plan.

### **Reason for recommendation:**

To replace the vision in the existing draft local plan with a more locally relevant, forward looking and spatially defined vision that is more directly relevant to East Devon and its future.

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

### **Portfolio(s) (check which apply):**

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

**Equalities impact** Low Impact

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**Climate change** Low Impact

**Risk:** Low Risk;

## **Links to background information**

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

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

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

## **Link to Council Plan**

Priorities (check which apply)

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

## **1. Background information**

- 1.1 This report follows on from a report considered at Strategic Planning Committee on the 31 October 2023 which considered a new vision for the local plan. The October committee report should be reviewed for full background information, see: [Local Plan Vision report.pdf \(eastdevon.gov.uk\)](#)
- 1.2 At the committee meeting members highlighted several matters they felt could usefully be incorporated into the vision and changes they would endorse. The minutes of the meeting record the following suggestions and comments:
- It was suggested that a section should be included about the concerns raised about the oversubscribed schools and hospitals.
  - There is a need to include the Clyst Valley Regional Park.
  - It had been suggested that further work was needed before it could be endorsed.
  - There was a need to look at the punctuation.
  - It was suggested that each town should have its own vision.
  - The vision needs to acknowledge the east and west district divide – urban and rural communities need to be defined.
  - Greater emphasis on climate change.
  - There is a need to address affordable housing and the protection of local residents to avoid inward migration.
  - Infrastructure and transport should be included.
  - Support was expressed to include a vision for each of the towns.
  - As some villages need small scale development this should also be mentioned.
  - It was suggested that the sixth paragraph should be expanded to include what to expect from new development and what it delivers.
- 1.3 In response to the comments made, seeking to pick up on key themes raised, the vision has been reworked and new proposed text for inclusion in the plan is set out below in highlighted text.



**By 2040 and beyond** East Devon will be a diverse, inclusive and thriving place to live and work and a pleasure to visit and enjoy.

In responding to the climate emergency we will continue to play our part in what will be an increasingly net zero carbon world. At a local level we will be fully decarbonised; minimising energy consumption and maximising renewable energy generation. Communities in East Devon will be adapting to changes brought about by a warming climate.

We will ensure our urban areas and towns and villages, as they grow to meet future needs, continue to be great places to live and they will have improved access to the surrounding countryside. Looking beyond our boundaries we will continue to sustain strong relationships with the adjacent city of Exeter and our other neighbours.

The western side of East Devon will remain a focal point for growth with Cranbrook now well established and thriving. Our second new town will be expanding rapidly to meet the needs of a growing population. Alongside additional housing new high technology green businesses will continue to invest in the western side of the district securing high quality jobs and training. This development will come forward in an outstanding environment with the expanded and expansive Clyst Valley Regional Park wrapping around new developments.

Our less constrained towns and villages will see higher levels of growth and at these and in other settlements there will be a focus on provision of housing to meet local and affordable needs. We will, however, still recognise East Devon to be a place that others will want to move into. New and improved housing will give greater choice of tenure and locations with adaptable housing supporting local communities.

Our town centres will form a focal point for business, social and community activity serving residents and visitors alike. We will secure well-paid jobs in both traditional and emerging sectors closing the gap between average earnings and house prices. We will enhance self-containment of our communities by creating more job opportunities close to where people live.

Rural East Devon will retain its outstanding charm and character with modest sensitively planned development to meet the needs of the local communities. Farming and traditional rural activities will still dominate the use of land. Where possible we will retain high quality land in agricultural production as we move towards more environmentally sustainable farming practices into the middle decades of the 21st century.

Across East Devon new development will draw on our outstanding heritage legacy but will also be innovative in design and forward looking to incorporate net zero carbon technologies in new buildings and built spaces. Working with partner bodies we will strive to secure better facilities, especially where there may be current deficits in provision, including for schools and medical services. This will include in locations where past housing development has occurred without adequate services.

New, expanded and improved physical, social and community facilities and infrastructure will be delivered alongside development. This will ensure that people live healthier and happier lives with greater access to services and facilities in a cleaner and greener setting. Sustainable transport links and active travel and infrastructure connecting communities will be

enhanced and provided alongside development. High quality urban spaces, and our existing towns and built development, will link in with enhanced Green Infrastructure, open space and recreational facilities.

Our beautiful and diverse countryside, Areas of Outstanding Natural Beauty, world class Jurassic coast, nature reserves and built heritage assets will remain and be enhanced. We will ensure that alongside new development there is greater care of the natural world with biodiversity improvements and a far richer and more nature friendly tapestry of green spaces in the future. These will support both biodiversity and the health and well-being of our communities.

## **2 A vision for towns and areas of higher development levels.**

- 2.1 Strategic Planning Committee of the 31 October 2023 also resolved that “... *the new local plan should include a vision for each of the towns to act as a focus for the plans approach for each of these locations.*”
- 2.2 Over the coming months, as redrafted plan chapters come to committee, we will bring proposed location specific vision text to committee seeking approval.

### **Financial implications:**

There are no direct financial implication resulting from the report.

### **Legal implications:**

There are no substantive legal issues to be added to this report



Report to: **Strategic Planning Committee**

Date of Meeting: 9 January 2024

Document classification: Part A Public Document

Exemption applied: None

Review date for release N/A



## **East Devon Local Plan – timetable update report**

### **Report summary:**

At Strategic Planning Committee on the 31 October 2023 it was suggested that at every second meeting of committee there should be an update report on overall progress on local plan production. This report summarises progress on key work streams. In summary it is reported that work is progressing according to timetables. It is highlighted that we have issued a tender brief seeking appointment of consultants to produce a whole plan viability assessment.

### **Is the proposed decision in accordance with:**

Budget Yes  No

Policy Framework Yes  No

### **Recommendation:**

That committee note the ongoing work on local plan production as summarised in this update report.

### **Reason for recommendation:**

To ensure Members of committee are kept aware of local plan making progress.

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

### Portfolio(s) (check which apply):

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

**Equalities impact** Low Impact

## **Climate change** Low Impact

**Risk:** Low Risk;

### **Links to background information**

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

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

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

### **Link to Council Plan**

Priorities (check which apply)

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

## **1. Local plan work planning**

- 1.1 At Strategic Planning Committee on 31 October 2023 it was agreed that at every second meeting an update report on local plan work progress would be presented to committee. In practical terms we would see this as being once every two months, or at committee meetings that most closely correspond to this pattern.
- 1.2 The emphasis on updating being to:
  - report on key work and tasks being undertaken
  - to highlight any concerns about deviation from the timetable, and
  - to report on forthcoming reports to committee.
- 1.3 Updating on progress should be seen within the wider context of getting to the Publication consultation stage of plan making to a target date of November 2024 and thereafter to the Submission stage to a target date of May 2025.
- 1.4 We are reviewing work progress alongside the timeline chart set out below/over. This chart was first presented to committee on 31 October 2023. It is not changed from its original iteration as there are no programming changes to report on. In subsequent drafts, however, we will look to amend if appropriate and if changes are needed, if or where so these will be reported on.

## Proposed table of key work stages to take the East Devon Local Plan to Submission for Examination

Key work stages	2023			2024												2025						
	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	
Committee approval of this work plan (31 Oct 2023)	X																					
Ongoing evidence work and preparing Reg 18 consultation documents																						
Reports on emerging evidence as it becomes available																						
SPC approval of Reg 18 consultation																						
Reg 18 consultation																						
Officer assessment of representations received																						
Feedback on consultation to committee																						
Ongoing evidence and assessment work																						
<b>Redrafted chapters to committee as below:</b>																						
Ch. 1 introduction and Ch. 2 vision																						
Ch. 7 Climate change and Ch. 8 Housing																						
Ch. 10 design and Ch. 11 transport																						
Ch 15. heritage, Ch 16. community																						
Ch. 13 biodiversity and Ch. 14 open space																						
Ch 12. Landscape and Ch 19. Glossary																						
Ch 5. and Ch 6. development allocations and Ch. 9 economy																						
Ch 3. spatial strategy and Ch 17. implementation																						
Final redrafting of the proposed Publication Plan																						
SPC approval of Reg 19 Publication plan																						
Council approval of Publication plan for consultation																						
Publication plan consultation																						
Officer assessment of submissions received																						
Council approval of plan submission																						
Submission of the plan for Examination																						

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 Green bars indicate key background work and consultation periods

 Red crosses indicate key committee dates (actual dates to be confirmed)

- 1.5 Referring to the chart, it is reported that officers have been undertaking ongoing evidence production and assessment to inform plan production to the end of 2023 and this is continuing into 2024. Work is progressing to timescales. We can report that in December 2023 we issued a brief inviting consultants to tender for undertaking a whole plan viability assessment. This work also includes work outputs, that parallel local plan viability assessment, to inform a review of Community Infrastructure Levy (CIL) charges. Future reports on the CIL work will be brought to committee.
- 1.6 A whole plan viability assessment is critical evidence to support the local plan. It will establish, amongst other matters, whether infrastructure and contributions sought from development, and as such as specified in policy, can be borne out from and by development profits and returns. At a future point in local plan making it is likely that Committee will need to debate and decide on where priorities for developer contributions lie and therefore what standards or levels of provision should be sought in differing local plan policies.

## **2. Future reports to committee**

- 2.1 In accordance with the timetable for local plan production the current emphasis on work production is producing reports setting out proposed consultation on selected topic matters, highlighted in the report to committee in October 2023, for consultation in March and April 2024. These will come to Committee in March 2024 and be in respect of consultation on:
- Employment allocations
  - Potential new housing or other allocations
  - Clyst Valley Regional Park Boundary
  - Green wedges
  - Coastal Preservation Areas
  - Designated Neighbourhood Area housing requirements
  - Town centre retail boundaries
- 2.2 Under our current work programme we will seek to bring reports to Strategic Planning Committee on the 6 February 2024 on the following subject matters:
- Self-build monitoring
  - Water Cycle Study update
  - Strategic Flood Risk Assessment update
  - Updated Coastal Change Management Area boundaries (specifically for Sidmouth)
  - Designated Neighbourhood Area housing requirements

### **Financial implications:**

There are no direct financial implications resulting from the report.

### **Legal implications:**

There are no substantive legal issues to be added to this report.

Report to: **Strategic Planning Committee**

Date of Meeting: 9 January 2024

Document classification: Part A Public Document

Exemption applied: None

Review date for release N/A



## Issues Related to Housing Windfall Sites

### Report summary:

On the 3 October 2023 Strategic Planning Committee resolved to receive a report on the issues relating to windfall sites. This matter is relevant for plan-making and housing supply, and for calculating the 5 year housing land supply for current development management purposes. The strategic issues are: the role of windfall sites; compelling evidence that windfalls provide a reliable supply source; the extent to which development is to be plan-led arising from the balance between windfalls and allocations for housing; the options for a windfall allowance in forecast housing supply; the ability for local plan policies to support windfall delivery; and producing windfall evidence in a timely way.

Under national planning policy the windfall allowance must be justified by compelling evidence that windfall sites will provide a reliable source of supply. Mindful of the windfalls evidence in Appendix A to this report, Members views are sought on the options identified on how to calculate a windfall allowance, and the scale of the allowance. Option 1 is recommended for the 5 year housing land supply assessment 2023 for current development management purposes with the windfall allowance rate of 138/year as used in the Housing Monitoring Update ending 31 March 2023. It is proposed to use option 2 as set out in the report for an allowance for plan-making to take account of more garden land windfalls. We would caveat matters by stressing that the recommendations are based on current evidence and national planning policy at the time of writing this report. Should the current Government (or a future Government) amend national policy, or there be new evidence about windfall sites, then matters may change.

### Is the proposed decision in accordance with:

Budget Yes  No

Policy Framework Yes  No

### Recommendation:

1. That Members endorse the use of the evidence in Appendix A for development management and plan making purposes.
2. That Members endorse Option 1 in this report as the approach to justifying the housing windfall allowance used to calculate the 2023 East Devon 5 year housing land supply position for development management purposes.
3. That Members endorse Option 2 in this report as the approach to inform the council's plan making, its housing supply forecasts and 'rolling' 5 year housing land supply assessments which the council will rely on to justify emerging local plan policies.
4. That Members note that the current 5YLS position and the related windfall allowance for development management and for plan making will be updated in 2024 and in subsequent years when new evidence at relevant monitoring points becomes available.



5. That should Government policy and/or guidance change regarding a windfall allowance then matters should be reviewed to determine whether an alternative approach is applicable, appropriate, and desirable in the East Devon local plan.

**Reason for recommendation:**

To endorse the approach to windfalls as part of future housing supply for development management and plan making purposes, consistent with national planning policy that there is compelling evidence that windfalls will provide a reliable source of supply in the future.

Officer: Ann Cooper – Senior Planning Policy Officer, e-mail – acooper@eastdevon.gov.uk, Tel 01395 571599

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Portfolio(s) (check which apply):

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

**Equalities impact** Low Impact

**Climate change** Low Impact

**Risk:** Low Risk;

**Links to background information**

The East Devon Housing Monitoring Update ending 31 March 2023 (plus Appendix 2), and its companion document the Housing Monitoring Audit Trail Document (and Appendices A to E, and G) can be viewed via the following web link:

<https://eastdevon.gov.uk/planning/planning-policy/monitoring/>

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

**Link to Council Plan**

Priorities (check which apply)

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

**1. Background information**

- 1.1 This report responds to Committee’s resolution at the 3 October 2023 meeting that a report in respect of the issues relating to windfall sites be brought to a future Strategic Planning Committee meeting. Informed by a technical evidence paper on windfall development in East Devon (see Appendix A), this report focuses on the key issues about housing windfall sites, covering:

1. The need for compelling evidence that windfall sites will provide a reliable source of supply if the district's supply forecast includes a windfall allowance.
  2. The ongoing need for resources to monitor windfall development, to capture and analyse relevant information and to forecast future windfalls.
  3. The options about which windfall sources can be included in a windfall allowance for East Devon
  4. The scale of windfalls and options for the balance between allocations and windfalls in the plan period housing supply.
- 1.2 Having considered the options in terms of compelling evidence, risks and implications for the emerging local plan, the report sets out conclusions and recommendations for Members' consideration.

### **What are windfalls?**

- 1.3 The National Planning Policy Framework (NPPF) defines windfall sites as "*Sites not specifically identified in the development plan*".
- 1.4 This means that windfall developments are 'unidentified' developments. They are typically sites that are not allocated in an adopted local plan (currently the adopted East Devon Local Plan 2013 to 2031) or 'made' neighbourhood plans. They are unexpected in terms of their contribution to housing land supply.
- 1.5 Members are advised that for the LPA's plan-making work we do not count sites on emerging Local Plan allocations for housing as windfalls. This is because we assume the emerging plan will be adopted and become part of the future development plan. It also means we avoid double counting windfalls and allocations.

### **Windfall completions in East Devon in recent years**

- 1.6 Recent windfall completions have formed a significant part of the overall supply of residential development in East Devon, with 2,267 completions delivered on windfall sites between 1 April 2017 and 31 March 2023. These provided 39% of the total net housing completions in East Devon. Of these:
- Half were on the hundreds of sites of 20 or less dwellings (mostly sites of 1 or 2 dwellings) broadly split evenly between brownfield and greenfield sites (including garden land).
  - The other half were on 19 sites of 21 or more dwellings, about three quarters of which were non-garden greenfield sites, mostly agricultural land, and the rest were brownfield. (See Tables 10 and 11 in Appendix A).
- 1.7 Members are advised that three large sites in the West End of the district were windfalls when approved but are now in areas allocated for housing development in the subsequently adopted East Devon Local Plan 2013 to 2031. Currently, they are not defined as windfalls and so are not included in that 39% of recent supply, so they are counted in the 61% of supply from non-windfalls in the period 1 April 2017 to 31 March 2023. The three sites are:
- Redhayes (519 completions)
  - Pinn Court Farm (296 completions); and
  - Mosshayne (193 completions).

- 1.8 Appendix A to this report provides the detailed evidence about the windfall completions between 1 April 2017 and 31 March 2023. It breaks them down by site types and size. This evidence draws on information available from the council's monitoring database and additional work informed by development management data including committee reports, delegated officer reports and appeal decisions. Appendix A is available as evidence for development management and plan making purposes.
- 1.9 Completions on windfall sites between 1 April 2020 and 31 March 2023 count towards housing supply for the emerging local plan as 'completions' within the plan period 1 April 2020 to 31 March 2040.
- 1.10 Windfall sites which had planning permission that had not expired at the 2023 monitoring point (31 March 2023) and have dwellings yet to be completed at that date, are known 'commitments'. They also count towards housing supply for the emerging Local Plan, provided the dwellings are forecast to be delivered in the plan period.

## **2. Issues about windfall sites**

### **Issue 1: The role of windfall sites.**

- 2.1 National planning policy strongly supports the development of windfall sites. In seeking to achieve the overarching objective of a sustained increase in housing supply. Government planning policy (NPPF para. 69) recognises that small and medium sized sites can make an important contribution to meeting local housing requirements. NPPF promotes the development of a good mix of sites. To encourage their development, NPPF advises amongst other things that LPAs should “*support the development of windfall sites through their policies and decisions*” – “*giving great weight to the benefits of using suitable sites within existing settlements for homes.*”
- 2.2 By implication, NPPF supports the development of windfall sites at *Chapter 11. Making effective use of land,* which among other things advocates giving substantial weight to the re-use and redevelopment of brownfield sites for housing, including vacant space above shops, the re-use or development of underutilised land and commercial floorspace, and the upward extension of existing residential or commercial buildings (paras. 119 and 120). Linked to this, appropriate residential development is encouraged in town centres to support their vitality (para. 86).
- 2.3 NPPF does not preclude windfalls on residential gardens but para. 71 states that *'plans should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area'*.
- 2.4 CONCLUSION For the emerging local plan to be found sound, the council will need to be consistent with NPPF when developing policies in the emerging local plan towards housing supply and future windfall housing development. This is considered further under Issue 5.

### **Issue 2: Compelling evidence that windfalls provide a reliable supply source**

- 2.5 NPPF paragraph 71 enables the LPA to make an “allowance for windfall sites as part of anticipated supply”. A windfall allowance considers the prospect of more sites being approved that are not on allocations in development plan documents (DPDs) and are

currently without planning permission. This allowance is separate from and additional to the known and identifiable windfalls, going forward.

- 2.6 The council's forecast of housing supply can include a windfall allowance but only if there is compelling evidence that windfall sites will provide a reliable source of supply in the future. This means that we must consider which types of windfalls will be a reliable source in East Devon when justifying the 5 year housing land supply calculation for NPPF Paragraph 74 and development management purposes, and for housing supply to 2040 for the emerging local plan.
- 2.7 NPPF places the burden of proof on the council to provide this compelling evidence if we want to include a windfall allowance forecast supply for the 5 year housing land supply calculations and/or where we include a windfall allowance is part of the forecast supply for the plan period of an emerging local plan. That evidence would be part of the emerging local plan's evidence base.
- 2.8 Members are advised that in justifying a 'windfall allowance' the council is not required to predict which specific sites will be developed. Indeed, if specific sites are identified as suitable, available, and achievable, logically they would be tested through the site selection process for consideration for site allocations in the emerging local plan.
- 2.9 To avoid double counting, it is essential that windfall sites with permission at the latest monitoring point base date (1 April 2023) are not part of the 'windfall allowance'. The allowance is in addition to and separate from windfall completions and commitments. However, this does not preclude using historic windfall completion rates to help justify a future windfall allowance rate.
- 2.10 Government planning policy in NPPF paragraph 71 is clear and relevant. It states that:
- “Where an allowance is to be made for windfall sites as part of anticipated supply, there should be compelling evidence that they will provide a reliable source of supply. Any allowance should be realistic having regard to the strategic housing land availability assessment, historic windfall delivery rates and expected future trends. Plans should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area”.*
- 2.11 So, we can use our evidence from the HELAA as well as the council's housing monitoring which captures data about actual housing completions.
- 2.12 We need to use our evidence to show whether windfalls have come forward consistently in the district over a relevant and sufficiently long period. The evidence needs to show what are the clear trends in the scale, direction or rate of change, type, or distribution of windfalls.
- 2.13 We also need to consider whether there are drivers of change that could impact on the future delivery of windfall site types and change those trends. The scale of historic windfalls can be the consequence of not being able to demonstrate a 5 year housing land supply. Or it can be as the result of having fewer allocations available for development as the result of not having a recently adopted, up to date local plan. The emerging Local Plan would change that position, resulting in fewer windfalls coming forward. The type of windfalls may change type if government planning policy and/or legislation changes. For example, the amount of small windfall sites outside rural settlements increased following changes in rural planning policy and the introduction

of Class Q permitted development (conversion of agricultural buildings to dwellings). This is relevant in rural areas such as East Devon,

- 2.14 A local plan Inspector will need to conclude whether our evidence is 'compelling' in demonstrating that windfalls are a reliable source of housing supply over the plan period. If the evidence is not compelling, then either they will ask the council to provide the evidence, or they will amend the windfall allowance downward or exclude it from supply so that the plan is consistent with NPPF and can be found sound.

### **Issue 3 The extent to which development is to be plan-led arising from the balance between windfalls and allocations for housing**

- 2.15 NPPF paragraph 15 states that *"The planning system should be genuinely plan-led."* Evidence about windfalls is part of the wider picture about forecast housing supply for the plan period which we use to demonstrate whether the policy on housing requirement in the emerging East Devon local plan is deliverable and consistent with NPPF, and whether the policy is 'sound'.
- 2.16 The balance between windfalls and local plan allocations is fundamental to the ability of the local plan's policies to support the achievement of the plan's vision, objectives, and strategy.
1. **Allocations** clearly provide a plan-led approach towards development for increasing housing supply and meeting housing need. They provide greater certainty because the sites are identified and can be tested for soundness and sustainability. Allocations are also a sign that the plan is 'positively prepared' by the LPA as part of a strategy seeking to meet the district's objectively assessed housing needs, where the council has been responsible for identifying the scale, type, and location of housing growth.
  2. **Windfalls** depend on developers, house builders and landowners to identify and bring forward 'unplanned' and sometimes speculative, ad hoc development. This adds to planned supply. It would not be realistic for the council to try to predict which specific windfall sites would come forward, particularly because of the number of small sites involved (mostly for one or two dwellings) and because most windfall sites that come forward in the future are currently unknown. Windfalls provides flexibility and choice, and they occur in the context of the circumstances at the time.
- 2.17 Committee has a vital role in considering the balance between windfalls and allocations in the preparation of the housing requirement policy and housing supply policies. This balance is considered further under issue 4 about the options for a windfall allowance in the forecast housing supply.

### **Issue 4 –The options for a windfall allowance in forecast housing supply**

- 2.18 The council can only include a windfall allowance where there is compelling evidence to demonstrate that windfalls will be a reliable source of housing supply in the future. Appendix A provides detailed compelling evidence of a series of 8 technical options for calculating a windfall allowance. In brief the options fall into three categories which are the current position, increasing the windfall allowance or decreasing the windfall

allowance. The following section summarises officers' assessment of each of these broad options majoring on options 1 and 2 which are the most feasible: .

### **OPTIONS ABOUT THE SCALE OF THE WINDFALL ALLOWANCE**

- 2.19 In considering the options, Members should be aware that the allowance is used for two different purposes:
- a) As part of the calculation for the 5 year housing land supply assessment for NPPF Paragraph 74 and development management purposes;
  - b) As part of the total housing supply forecast for the plan period in the emerging local plan, and the related rolling 5 year housing land supply forecasts.

#### **OPTION 1 HMU 2023 windfall allowance of 138 dwgs/year**

- 2.20 Option 1 is based on the evidence in Appendix A and is the windfall allowance used in the 5 year housing land supply assessment in the East Devon Housing Monitoring Update ending 31 March 2023 which Committee endorsed as evidence at their meeting of 3 October 2023. There being compelling evidence that recent rates of windfall sites of 1 to 20 (excluding garden land) will be a reliable source of supply in the future. Also, there is no need to wait for decisions on the content of the emerging local plan. It is essential that the council has a 2023 base date 5 year housing land supply position where Committee continues to endorse the 5YLS assessment, including the windfall allowance within the forecast housing supply. Lack of endorsement would seriously undermine the council's ability to use and defend its 5YLS evidence for development management purposes. If windfalls were not included in forecast supply, the 5YLS would fall from 4.28 down to 3.8 years.
- 2.21 The plan period allowance under Option 1 is substantial, at 1,965 dwellings. This is about 10% of a housing requirement based on local housing need of 910/year plus a 10% supply headroom. However, it is justified by the evidence in Appendix A.
- 2.22 The basic windfall allowance rate of 138/year can be compared to the rates in other LPA areas, as shown in Appendix A. However, we would urge caution in reading too much into comparisons, as areas vary greatly in their circumstances.
- 2.23 **CONCLUSION:** OPTION 1 is recommended to Committee for use for NPPF Paragraph 74 and development management purposes.
- 2.24 The rest of this part of the report about Issue 4 focuses on the options available to the council in terms of the scale of the windfall allowance and the balance between the allowance and allocations in the emerging local plan.

#### **A- Increasing the Windfall Allowance**

- 2.25 Members may want to consider the possibility of increasing the windfall allowance for plan-making purposes. Appendix A looks at 4 options for increasing the allowance.

#### **OPTION 2 Non-strategic increase - Adding in garden land windfalls**

- 2.26 There is compelling evidence to demonstrate that garden land windfall sites of 1 to 9 dwellings would provide a reliable source of windfalls in the future. Including them would increase the allowance rate by 39 dwellings/year. However, they were not included in Option 1 because of the lack of evidence about the cumulative impact on

the density and character of local areas from this type of windfall continuing to come forward and the risk of prejudging or having to wait for the emerging local plan policy towards windfalls on garden land.

- 2.27 Including garden windfalls in the windfall allowance for plan making depends on Members' views on:
- The extent to which future development should be plan led.
  - Whether increasing the windfall allowance increases the risk that the plan could be found not sound. (e.g., if the plan is not positively prepared or effective)
  - The potential risk of a perception that adding this type of windfall into the allowance is 'messaging' a relaxation of local planning policy towards windfall development on garden land.
  - Whether they can consider this option ahead of evidence about the cumulative impact of garden windfalls through greater densification of residential areas.
- 2.28 Members have already agreed as part of the methodology for defining settlement boundaries to draw these more loosely and this is likely to lead to more windfall developments coming forward. This option would take account of this within the windfall allowance. Appendix A considers the evidence and issues related to adding garden land into the allowance in more detail.
- 2.29 **CONCLUSION:** Subject to Members' views, the recent rate of completions on garden windfalls on sites of 1 to 9 dwellings could be added to the windfall allowance from Option 1 for the whole plan period. This would add a net 548 dwellings to forecast supply for the plan period to count towards meeting the housing requirement and a degree of supply headroom. It could increase the total district windfall allowance in the plan period to 2,513 dwellings. Mindful of the objections received about the windfall allowance of 2,335 at the Regulation 18 Draft Local Plan consultation stage, we can reasonably expect to receive objections to an allowance of about 2500 dwellings.
- 2.30 Other options for adding to the windfall allowance are considered in Appendix A, however in each case there is insufficient evidence to demonstrate that they will provide a reliable source of windfalls in the future.

### **B- Decreasing the Windfall Allowance**

- 2.31 Members may also want to consider if they want the local plan to provide more certainty by changing the balance between windfalls and allocations by decreasing the windfall allowance and increasing the amount of allocations for housing development within the forecast housing supply for the emerging local plan.
- 2.32 Appendix A to this report considers three options to decrease the allowance. These options include having no windfall allowance or reducing the allowance to a greater or lesser extent and making up the required housing numbers through additional allocations. These options are not considered to be appropriate as there is a limited supply of suitable sites for allocation and so it is unclear where additional allocations would come from. In reality windfall sites will come forward and many will be acceptable and so it does not make sense to exclude these from the calculations and force ourselves into having to allocate more land than will ultimately be needed. The alternative of reducing or removing the windfall allowance and not compensating for this through additional allocations would mean that we would not be putting forward a

plan that meets the required housing need and runs the significant risk of it being found unsound. If Members were minded to reduce the windfall allowance then it is only option 8 which is considered to be feasible but this would still require additional allocations to be identified albeit a smaller number than the other options presented for decreasing the windfall allowance.

### **Issue 5 The ability for local plan policies to support windfall delivery**

- 2.33 The Regulation 18 draft Local Plan set out draft policies towards supporting future housing windfall delivery by enabling windfalls to be brought forward for development. These include:
- 3. Strategic Policy – levels of future housing development (*windfalls are listed in the supply categories to count towards meeting requirement*)
  - 6. Strategic Policy – development inside settlement boundaries
  - 7. Strategic Policy – development beyond settlement boundaries
  - 44. Policy – self build and custom build housing
  - 45. Policy - residential sub-division of existing dwellings and buildings and replacement of existing dwellings
  - 47. Policy - hostels and houses in multiple occupation
  - 49. Policy – rural exception sites and first homes exception sites
  - 50. Policy – housing for rural workers
  - 53. Policy – farm diversification
  - 57. Policy - town centre development
  - 62. Policy – design and local distinctiveness
  - 63. Policy – housing density and efficient use of land.
- 2.34 Members are reminded that to be consistent with NPPF, the emerging local plan’s housing requirement policy (currently in policy Strategy 3) is a minimum target for delivering ‘at least’ the policy figure for net completions in the plan period. It does not preclude additional windfall development from coming forward.
- 2.35 At their meeting on 5 April 2022, Members endorsed the methodology for producing settlement boundaries for the emerging local plan. The settlement boundaries denote where different policy approaches will apply. The main principle of the work is to establish areas where development including residential windfalls is likely to be acceptable in principle. Work is currently progressing on the production of amended settlement boundaries around certain settlements to be shown on the Policies Map for the emerging local plan. The amended settlement boundaries and related evidence are scheduled to be considered by Committee in September 2024.
- 2.36 The methodology is likely to result in more areas within the boundaries with the potential for windfall development to come forward. However, development of windfalls on specific land cannot be guaranteed.
- Some land is small scale and below the 0.15 ha size threshold for HELAA and allocations. It allows for limited incremental growth in keeping with the scale of settlement and its character. Unlike the previous local plan, whole curtilages are included within the settlement boundary (ie the boundary does not cut across the garden) unless it would have the capacity to very significantly extend the built form of the settlement.



- Some areas of land that are largely contained between site allocations proposed in the emerging local plan and the main built up area of the related settlement.
- Some larger areas (more than 0.15 Ha) may not have been considered suitable for allocation, but nevertheless may provide suitable development opportunities if applicants demonstrate through the development management process that individual proposals would be acceptable. However, such windfalls are likely to be rare.

2.37 The methodology would therefore provide opportunities to enable the continuation of windfall rates within the settlements with boundaries. This supports the council's view that there is compelling the evidence about windfalls as reliable sources of supply which support Windfall Allowance Options 1, 2 and 8. However, the changes to the settlement boundaries are unlikely to be of such a scale as to justify a conclusion that windfall delivery rates would increase significantly over the plan period.

**2.38 CONCLUSION** Committee will have the opportunity in 2024 to consider policies to support windfall delivery through the preparation of the Regulation 19 local plan's vision, strategy, objectives, and policies.

#### **Issue 6: Producing windfall evidence in a timely way**

2.39 One further issue is how to ensure the council continues to produce robust, up to date evidence about supply from known, identifiable windfalls, and to produce compelling evidence for a windfall allowance in a timely way. Members are advised that:

1. Each year we update the count of actual completions on known and identifiable windfall sites to the latest monitoring point base date (currently 2023). We will need to use the latest available monitoring point base date evidence (i.e. the 2024 monitoring point data) for the Publication plan (Regulation 19).
2. We can also reasonably expect to have to update the housing supply evidence, including evidence about windfalls, during the local plan examination i.e. to the 2025 monitoring point (and beyond, depending on the length of the Examination), as Inspectors require housing evidence that is 'up to date'; and
3. In addition to historical counts of actual completions, we also forecast the residue of completions going forward based on known and identifiable sites. They are part of the 5 year housing land supply and part of the local plan housing trajectory. Forecasting future supply for major sites is onerous, particularly for sites with only outline planning approval. It is an evidential 'burden of proof' placed on the council by NPPF. The 2023 Housing Monitoring Audit Trail report shows the information and clear analysis needed to justify a site trajectory.

2.40 There are considerable demands on Planning Policy team resources for evidence and plan preparation. Work is intense between March and October/November each year when we undertake housing monitoring and analysis. This will be particularly so in 2024 as we prepare for the Regulation 19 Local Plan, and in 2025 during Examination. This includes engaging with developers, then producing the HMU, the monitoring audit trail document, the local plan housing trajectory (including a rolling 5YLS), and the housing topic paper update. All rely on or relate to the windfall allowance.

2.41 **CONCLUSION** It is vital that sufficient resources are available each year to ensure we produce the housing delivery evidence in a timely way. Members will be regularly updated about the progress of housing evidence production, to ensure evidence is available in time to inform plan making and Committee decisions.

**Financial implications:**

There are no direct financial implication resulting from the report.

**Legal implications:**

There are no substantive legal issues to be added to this report

# **APPENDIX A**

## **EAST DEVON DISTRICT HOUSING SUPPLY WINDFALLS/UNIDENTIFIED HOUSING DEVELOPMENT**

Analysis and Justification Background Paper

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## 1. SUMMARY AND BACKGROUND

- 1.1. Windfall developments are 'unidentified developments', meaning that they are typically sites that are not allocated in a local plan or neighbourhood plan, and are unexpected in terms of their contribution to housing land supply.
- 1.2. Historically, windfalls have formed a significant part of the overall supply of residential development in East Devon. When they have planning approval, they become 'known' and the council counts actual completions and commitments (i.e. with planning permission) from these sites as part of the identified supply from completion and commitments, at the monitoring points. The latest monitoring point is 31 March 2023, which is the base date for the information in the council's evidence document Housing Monitoring Update ending 31 March 2023 (HMU 2023).
- 1.3. This paper provides evidence of data and an assessment of past trends and future potential housing supply on 'windfall' sites in East Devon district. The evidence draws on completions data in the council's housing monitoring database about previous windfall/unidentified residential development in East Devon District from 1 April 2017 to 31 March 2023. This enables conclusions to be drawn about trends and to consider reasons why trends might change. It also considers evidence from the East Devon Housing and Economic Land Availability Assessment November 2022.
- 1.4. In addition, the Government's National Planning Policy Framework (NPPF) allows the council to include an allowance for future, unidentified windfalls as part of the forecast housing supply subject to compelling evidence that windfalls will be a reliable source of supply.
- 1.5. This paper is part of the audit trail to demonstrate that evidence about the issues relating to windfall sites, and in particular the windfall allowance, is available to the council in a timely way to inform its plan preparation and decision making, and in justifying the allowance in the current 5 year housing land supply assessment.
- 1.6. It demonstrates that the evidence is available to identify, assess and consider a complete range of potential strategic options for a windfall allowance. It reaches conclusions about which options meet NPPF requirements. The paper also considers the strategic implications for the balance in the forecast housing supply between unplanned windfalls and planned allocations in the emerging local plan.
- 1.7. This paper identifies eight options for the windfall allowance for East Devon based on particular windfall types and site size in the district.
  - Option 1 focuses on the windfall allowance for current development management purposes, related to the 2023 Housing Monitoring Update and its 5 year housing land supply assessment.

- The other 7 options consider the potential to increase or decrease the windfall allowance compared to Option 1, and the implications for the balance between windfalls and allocations in the emerging local plan, for plan-making purposes.
- 1.8. The paper contains evidence which is used to assess the eight options for forecasting an allowance for future windfalls not yet approved as at the 2023 monitoring point (31 March 2023). An allowance can then be included as part of the forecast housing supply for the following time periods:
- The 5 year period 1 April 2023 to 31 March 2028, for calculating the 5 year housing land supply for NPPF paragraph 74 purposes; and
  - The plan period (1 April 2020 to 31 March 2040) for the emerging East Devon local plan, for inclusion in the forecast housing supply for the plan period. This paper is part of the evidence base for the emerging East Devon local plan.
- 1.9. The paper concludes that there is compelling evidence that windfalls which underpin Option 1 will be a reliable source of supply. Option 1 is currently used in the 5 year housing land supply assessment for the 2023 Housing Monitoring Update, for development monitoring purposes. There is therefore no need to revise this approach for the HMU2023 5 year housing land supply assessment at the 2023 monitoring point.
- 1.10. The paper concludes that there is compelling evidence for windfalls under Options 1, 2 and 8 to provide a reliable source of supply in the future, for plan making purposes. However, this is subject to the council's consideration of the balance between windfalls and allocations in the emerging local plan as part of the plan period housing supply forecast.



## 2. NATIONAL PLANNING POLICY AND GUIDANCE

- 2.1. The National Planning Policy Framework (NPPF) defines windfall sites as *“Sites not specifically identified in the development plan”*.
- 2.2. This means that windfall developments are ‘unidentified’ developments. They are typically sites that are not allocated in an adopted local plan (currently the adopted East Devon Local Plan 2013 to 2031) or ‘made’ neighbourhood plans. They are unexpected in terms of their contribution to housing land supply.
- 2.3. National planning policy strongly supports the development of windfall sites. In seeking to achieve the overarching objective of a sustained increase in housing supply. Government planning policy (NPPF paragraph 69) recognises that small and medium sized sites can make an important contribution to meeting local housing requirements. NPPF promotes the development of a good mix of sites. To encourage their development, NPPF advises amongst other things that LPAs should *“support the development of windfall sites through their policies and decisions” – “giving great weight to the benefits of using suitable sites within existing settlements for homes.”*
- 2.4. By implication, NPPF supports the development of windfall sites at *Chapter 11. Making effective use of land,* which among other things advocates giving substantial weight to the re-use and redevelopment of brownfield sites for housing, including vacant space above shops, the re-use or development of underutilised land and commercial floorspace, and the upward extension of existing residential or commercial buildings (paragraphs 119 and 120). Linked to this, appropriate residential development is encouraged in town centres to support their vitality (paragraph 86).
- 2.5. NPPF does not preclude windfalls on residential gardens but paragraph 71 states that *‘plans should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area’*.
- 2.6. NPPF paragraph 71 is clear and relevant, as it states that:  
*“Where an allowance is to be made for windfall sites as part of anticipated supply, there should be compelling evidence that they will provide a reliable source of supply. Any allowance should be realistic having regard to the strategic housing land availability assessment, historic windfall delivery rates and expected future trends. Plans should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area”*.
- 2.7. A windfall allowance considers the prospect of more sites being approved that are not on allocations in development plan documents (DPDs) and are currently without planning permission. This allowance is separate from and

additional to the known and identifiable windfalls, going forward. It is emphasised that the windfall allowance does not try to predict which specific sites will be developed.

- 2.8. The council's forecast of housing supply can include a windfall allowance but only if there is compelling evidence that windfall sites will provide a reliable source of supply in the future. This means that we must consider which types of windfalls will be a reliable source in East Devon when justifying the 5 year housing land supply calculation for NPPF Paragraph 74 and development management purposes, and for housing supply to 2040 for the emerging local plan.
- 2.9. A windfall allowance is used for two different purposes:
  - a) As part of the calculation for the 5 year housing land supply assessment for NPPF Paragraph 74 and development management purposes. and
  - b) As part of the total housing supply forecast for the plan period in the emerging local plan, and the related 'rolling' 5 year housing land supply forecasts.
- 2.10. NPPF places the burden of proof on the council to provide this compelling evidence if we want to include a windfall allowance forecast supply for the 5 year housing land supply calculations and/or where we include a windfall allowance is part of the forecast supply for the plan period of an emerging local plan. That evidence would be part of the emerging local plan's evidence base.
- 2.11. So, the council can use its evidence from the HELAA as well as the council's housing monitoring which captures data about actual housing completions.
- 2.12. The council needs to use its evidence to show whether windfalls have come forward consistently in the district over a relevant and sufficiently lengthy period. The evidence needs to show what are the clear trends in the scale, direction or rate of change, type, or distribution of windfalls.
- 2.13. The council should also consider whether there are drivers of change that could impact on the future delivery of windfall site types and change those trends. The scale of historic windfalls can be the consequence of not being able to demonstrate a 5 year housing land supply. Or it can be as the result of having fewer allocations available for development as the result of not having a recently adopted, up to date local plan. The emerging Local Plan would change that position, resulting in fewer windfalls coming forward. The type of windfalls may change type if government planning policy and/or legislation changes.
- 2.14. To avoid double counting, it is essential that windfall sites with permission at the latest monitoring point base date (1 April 2023) are not part of the

'adjusted windfall allowance' included in the housing supply forecasts. The allowance is in addition to and separate from windfall completions and commitments. However, this does not preclude using historic windfall completion rates to help justify a future windfall allowance rate.

### 3. WINDFALL ALLOWANCE OPTIONS AND ASSESSMENT

3.1. This section of the paper considers eight options for a windfall allowance for East Devon based on:

- a) Which types and sizes of windfall sites have or have not provided a consistent source of supply and whether that position is or is not likely to change significantly; and
- b) Which options are deliverable, and what are the potential implications for plan making in terms of opportunities, risks, and mitigations.

3.2. Table A below lists eight broad options for justifying a windfall allowance for East Devon, including a No Windfall Allowance, and the key conclusions.

**TABLE A** Windfall Allowance Options

No.	OPTION	KEY CONCLUSION
1	HMU 2023 windfall allowance of 138dws/year (recent delivery rates on windfall sites of 1 to 20 dws, excluding garden land)	Compelling evidence of being a reliable source of supply
2	Non-strategic increase of 39/year in windfall allowance to 177/year by adding Garden Windfall sites (1 to 9 dws) to Option 1.	Compelling evidence of being a reliable source of supply, but potential cumulative impact on local areas' density/character
3	Including Brownfield windfall sites of 21+ dws	No compelling evidence of being a reliable source of supply
4	Including Non garden land greenfield windfall sites of 21+ dws	No compelling evidence of being a reliable source of supply
5	Including Garden land greenfield windfall sites of 10+dws	No compelling evidence of being a reliable source of supply
6	No windfall allowance; and corresponding increase in allocations (1,965 dws)	Compelling evidence of windfall supply for an allowance is not an issue, but undeliverable and/or unnecessary or pointless
7	Strategic decrease in the Option 1 windfall allowance; and Corresponding increase in allocations (1,000 to 1,300 dws)	Compelling evidence of windfalls being a reliable source of supply but undeliverable
8	Non-strategic decrease in windfall allowance in the long term (i.e. Option 1 but 100/year allowance from 2032/33 onwards; increase allocations (300 dws)	Compelling evidence of being a reliable source of supply and potentially deliverable

3.3. Section 3 of this paper considers whether these broad options are consistent with NPPF paragraph 71. That is, whether there is compelling evidence that the allowance from each option, based on the types and sizes of windfalls, will provide a reliable source of supply. The assessments in this section draw

on evidence about the HELAA (formerly the SHLAA), historic windfall delivery rates (see section 4 of this paper) and expected future trends. Options 1 to 8 consider whether diverse types and sizes of windfall sites have or have not provided a consistent source of supply and whether that position is or is not likely to change significantly in the future. They also consider the implications of mitigating the changes from decreased or significantly increased windfall allowance through identifying additional land for allocations to offset the change in windfall allowance.

- 3.4. In identifying potential windfall allowance options the council is mindful that the windfall allowance is currently used in two different contexts. One is the current 5 year housing land supply assessment for the purpose of NPPF paragraph 74 and development management use. Option 1 focuses on this purpose. The other is the preparation and justification of the emerging local plan. Option 1 could be used for that purpose, but Options 2 to 8 could also be considered. In both cases justification of the windfall allowance relies on evidence that needs to be consistent with NPPF and PPGs.
- 3.5. However, the emerging East Devon Local Plan is still in preparation. Relevant matters about the vision, objectives, strategy, and in particular the balance between windfalls and allocations and the ways in which the plan's policies support windfalls to come forward are evolving as the plan progresses towards its Regulation 19 Publication Plan stage. This paper is part of the evidence base to assist plan-making and related decisions.

## **WINDFALL ALLOWANCE - DEVELOPMENT MANAGEMENT PURPOSES**

### **OPTION 1: HMU 2023 Windfall allowance of 138/year (recent delivery rates on windfall sites of 1 to 20 dwellings, excluding garden land)**

- 3.6. Option 1 is the method used to produce the basic windfall allowance that is included as part of the supply forecast for the 5 year housing land supply calculations that are set out in the Housing Monitoring Update 2023. This is used to produce the district's 2023 monitoring point 5 year housing land supply assessment for NPPF paragraph 74 and development management purposes. This allowance is based on recent historic data about completion rates on sites of between gross 1 and gross 20 dwellings for the following windfall types:
- Non-garden greenfield sites (including agricultural/horticultural, scrub/grassland/woodland/copse/parkland); and
  - Brownfield sites (including residential redevelopment, conversions, change of use/redevelopment of other non-greenfield uses).
- 3.7. HMU 2023 Paragraph 3.16 explains that the method used to calculate projected windfall completions is as set out in the Exeter HMA HELAA methodology, available on the council's website at <https://eastdevon.gov.uk/media/3724867/appendix-a-helaa-methodology-may-2021.pdf>

- 3.8. In line with the HELAA method, the 2023 windfall allowance rate in the HMU is based on recent historic delivery rates achieved in the last 5 years i.e. between 1 April 2018 and 31 March 2023 for these two windfall categories. This results in an average allowance rate of 138 dwellings per year at the 2023 monitoring point (see HMU 2023 Table 9 windfall completions analysis). That rate is lower than the previous allowance at the 2022 monitoring point when the rate was 158 dwellings per year.
- 3.9. The method then goes on to temper this basic windfall allowance rate to produce an adjusted windfall forecast for each year which is added into the district forecast housing supply. Paragraphs 3.19 and 3.20 explain how the windfall allowance is calculated each year. It produces an adjusted windfall projection by subtracting the forecast of completions on known windfalls in each year (from HMU data). The adjusted windfall projection is constrained to the basic windfall projection in that year (See HMU 2023 Table 10). Only the adjusted windfall projection for the 5 year period is included in the 5 year supply for NPPF paragraph 74 purposes. This avoids double counting with the forecast completions on 'planning commitments'.
- 3.10. HMU 2023 paragraph 3.20 also explains how the windfall allowance is extended to cover the rest of the adopted local plan's plan period i.e. to 31 March 2031, including adjusting for the remaining residue of commitments.
- 3.11. The council's planning judgement is that there is compelling evidence that the two windfall supply sources included in Option 1 will be a reliable source of windfalls in the future and therefore this justifies the basic rate of 138 dwellings/year. The reasons why these windfall types are expected to continue to be a reliable source in the future are as follows:
- a) The allowance rate is evidence based. That is, it relies on evidence of recent historic rates, summarised in Tables 8 and 9 in Section 4 of this paper, from the regular, comprehensive monitoring of council records of dwelling completions for the last 6 years, categorised consistently by year, gross site size, and windfall type. This provides robust evidence about the recent delivery of completions on these two types of windfall sites which can be used to identify trends.
  - b) There are hundreds of individual sites relating to those historic completions. This is a considerable number, mostly from small sites for 1 to 2 dwellings, with a modest percentage of sites with 3 to 9 dwellings, and sites with 10 to 20 dwellings.
  - c) As well as completions on the hundreds of very small-sized sites, the council considers that the evidence of the recent delivery of 207 completions from 22 sites of 10-20 dwellings is also likely to be continued consistently in the future. This is based on 119 completions on 15 brownfield sites - comprising 5% of all windfalls (Table 12 in this paper)

and 88 dwellings on 9 non-garden greenfield sites of 10-20 dwellings comprising 4% of all windfalls (Table 13 in this paper)).

- d) The average rate of windfall completions is updated each year using the latest data. Averaging the rate from the data available, as set out in the HELAA method, is appropriate because this:
- Reduces the risk of skewing the results compared to relying on a single year, mindful of the challenges over the last few years, and the variation between the years; and
  - Reduces the risk of a single site or type of site skewing the results.
- e) The windfall sites of 20 or less dwellings with recent completions are on land with a wide range of former brownfield and non-garden land uses. They are not dominated by a sole use. For example, unlike some large urban areas elsewhere in England, they are not dominated by conversion or change of use of old industrial land or offices to housing. There is no evidence at this time to demonstrate that the previous wide mix of uses would not continue to be sources of supply in East Devon.
- f) Part of the supply of dwellings on non-major sites comes from subdivision and intensification. There is a continuing need for smaller dwellings, as well as a significant need for housing for older people. Together, this indicates that it is reasonable for the council to anticipate that market demand and affordable housing need will continue to drive a steady supply of windfall sites through subdivision and intensification.
- g) The planning applications related to the recent completions were approved or allowed in the context of contemporaneous national and local planning policy. Government policy continues to focus on boosting housing supply and, in light of that, the local plan needs to be 'positively prepared'. The council notes that:
- At the time of drafting this paper there were no confirmation from Government that they have changed this policy, or that there would be changes to permitted development/prior approvals over the short to medium term (i.e. the next 5 years) that would significantly alter the delivery of these two windfall types on sites of 1 to 20 dwellings.
  - However, we are awaiting the results of the December 2022 consultation on NPPF changes, and further consultation on NPPF has also been signalled.

3.12. Option 1 does not include garden windfall sites in the allowance. NPPF does not preclude this, but the HMU 2023 windfall allowance was mindful of NPPF paragraph 71 where *"Plans should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area"*.

- 3.13. HMU 2023 Paragraph 2.38 explains that:  
*“In the absence of evidence at this time to demonstrate that reliance on windfalls on garden land would not have an adverse impact on the character of built up areas, the council avoids this risk by not including past housing development on residential gardens in the windfall supply calculation.”*
- 3.14. Consequently, Option 1 does not include garden windfalls in the windfall allowance. The Option 1 approach is prudent for the purposes of justifying a windfall allowance in the supply calculations for the 5 year housing land supply for NPPF paragraph 74 and development management purposes. It avoids prejudging changes to policy in the emerging local plan and it avoids the risk of unintended ‘messaging’ that the policy is more relaxed about windfalls on garden land, though without evidence of the consequences. In particular, the impact of garden land on neighbours, and/or the impact on density and the character of residential areas.
- 3.15. The base windfall allowance rate under Option 1 is 138 dwellings/year. Over the 5 year period for the 2023 5YLS, this would equate to 690 dwellings. Deducting 254 windfall dwellings already committed and forecast to be completed to 31 March 2028 (to avoid double counting), leaves an adjusted windfall allowance of net 436 dwellings for future additional windfalls in the 5 year period under Option 1 (see HMU 2023 Table 15).
- 3.16. OPTION 1 is necessary to provide a windfall allowance for use for NPPF Paragraph 74 and Development Management Purposes. Option 1 does not need to be informed by other considerations relevant to the balance of windfalls and allocations which need to be considered for the preparation of the emerging local plan.
- 3.17. The council is of the view that the evidence for Option 1 is also evidence there will be a reliable supply from windfall development coming forward after the 5 years from the 2023 monitoring point (appropriately adjusted to avoid overlap with the modest residue of commitments on windfall sites not already discounted from the forecast).
- 3.18. CONCLUSION There is compelling evidence from historic trends to demonstrate that non garden land windfall sites and brownfield sites of 1 to 20 dwellings would be a reliable source of housing supply in the future in East Devon. This is the basis for OPTION 1, for the 2023 base 5 Year Land Supply Assessment for NPPF paragraph 74 and development management purposes. OPTION 1 reflects recent windfall completion rates for those types which resulted from planning applications approved in the context of the existing development Plan.

### **WINDFALL ALLOWANCE - PLAN MAKING**

- 3.19. The council can consider using the OPTION 1 allowance to inform its plan-making, as part of the total forecast supply for the plan period 2020 to 2040



for the emerging East Devon Local Plan. If we apply the rate of 138/year over the 17 years between the 2023 and 2040 monitoring points, this equates to 2,346 dwellings. To avoid double counting with commitments we discount 381 dwellings on windfalls sites in the two categories which had planning permission and are forecast to be completed after the 2023 monitoring point. So, the adjusted windfall allowance to 31 March 2040 is 1,965 dwellings.

- 3.20. At 1,965, dwellings, the scale of the net windfall allowance to 2040 under Option 1 is substantial. It represents about 10% of the housing requirement (assuming a requirement based on local housing need of 910/year plus 10% headroom). This certainly provides ample opportunity for supply flexibility across the plan period for currently unidentified speculative sites to come forward through the development management process.
- 3.21. The scale of the windfall allowance in the supply evidence at the time of the Regulation 18 Draft Consultation Local Plan was higher, at 2,335 dwellings. See the EDDC Interim housing Topic Paper November 2022 on the council's website at <https://eastdevon.gov.uk/media/3724865/http-east-devon-housing-need-supply-requirement-interim-topic-paper.pdf> That allowance was based on the previous 2022 monitoring point. There were objections to that scale of windfall allowance, based on concerns that the draft plan was not 'sound', because:
- It relied too heavily on unidentified windfalls, so was not positively prepared. Some respondents wanted development to be more planned i.e. by allocations; and not leave so much to developers/landowners to take the lead in bringing forward unplanned, ad hoc proposals; and
  - It precluded additional site allocations which reduced the certainty or likelihood that the plan is effective in delivering:
    - housing development
    - affordable housing development
    - housing development on identified small and medium sized sites.
- 3.22. The 2023 windfall allowance rate is lower, but it is still a substantial number. Mindful of objections to date, it is likely that a rate of 138/year for 17 years will be challenged on similar grounds in terms of the tests of soundness.

#### Comparisons to windfall allowances in other areas

- 3.23. We can compare our windfall allowance rates to those included in housing supply forecasts in other local plans. For example, at 1,965, the allowance is broadly similar in scale to the allowance in the latest Teignbridge Local Plan Addendum (2,160). Exeter City have yet to publish their windfall figure for local plan-making purposes.

3.24. Table B below shows examples of windfall allowance rates. It illustrates the range of recent windfall allowances in local plans and 5YLS assessments. But the list is not intended to be fully representative of the ranges and we should be cautious in drawing comparisons because:

- Local plans vary greatly in the amount of windfall allowance which is included in the housing supply forecast evidence. In part this is because of differences in the size of the district and the overall housing requirement. In part it is due to location and the types of sites available for allocation, and therefore the need for windfall delivery. London boroughs seem to have particularly high windfall allowances, but their circumstances are vastly different to those of East Devon.
- Rates have risen since the change to NPPF removed the restriction on including garden land. Also as LPAs have tried to identify sufficient supply to meet housing need calculated by the standard method.

**TABLE B** Comparison of Windfall Allowance rates in other areas

Islington LB – 484/year on small sites plus 62/year on large sites
Bexley LB - 305/year
Tonbridge and Malling had 2 rates (184/year to 2034/35 including 114 on large sites), then 298/year including 228 on large sites to 2040
St Albans 290/year (small and large sites)
South Worcestershire (3 districts) 150/year for 7 years, then reduced to 100/year (non-major sites only)
Winchester 115/year (small sites and some large sites)
Crawley – 100/year
Fareham - about 94/year (for small and large sites)
Havant - about 99/year
Hinkley and Bosworth - 87/year
Blackburn – 70/year
South Hams 72/year for years 4 and 5 of their 5YLS (non-major sites only)
West Devon 32/year for years 4 and 5 of their 5YLS (non-major sites only)
Maldon has a very conservative windfall allowance in its LDP based on historic windfall completion rate of 20/year (but they expect windfall delivery in the foreseeable future to far exceed this figure)

3.25. For plan-making, the council also should consider two further factors that are relevant when justifying the scale of the windfall allowance. They are the windfall allowance as a share of the forecast housing supply to 2040, and the resultant balance between windfalls and allocations in the emerging local plan. They have implications for plan making in terms of:

- Delivering the plan’s vision, objectives, and strategy.
- The extent to which future housing development is ‘plan-led’,

- The degree of flexibility in housing supply; and
  - Whether the allowance directly or indirectly helps or hinders the plan in achieving the target of 10% of housing supply being on small and medium sized sites (1 hectare or less) in accordance with NPPF.
- 3.26. NPPF paragraph 15 states that “*The planning system should be genuinely plan-led.*” Evidence about windfalls is part of the wider picture about forecast housing supply for the plan period which we use to demonstrate whether the policy on housing requirement in the emerging East Devon local plan is deliverable and consistent with NPPF, and whether the policy is ‘sound’.
- 3.27. The balance between windfalls and local plan allocations is fundamental to the ability of the local plan’s policies to support the achievement of the plan’s vision, objectives, and strategy.
1. **Allocations** clearly provide a plan-led approach towards development for increasing housing supply and meeting housing need. They provide greater certainty because the sites are identified and can be evaluated for soundness and sustainability. Allocations are also a sign that the plan is ‘positively prepared’ by the LPA as part of a strategy seeking to meet the district’s objectively assessed housing needs, where the council has been responsible for identifying the scale, type, and location of housing growth.
  2. **Windfalls** depend on developers, house builders and landowners to identify and bring forward ‘unplanned’ and sometimes speculative, ad hoc development. This adds to planned supply. It would not be realistic for the council to try to predict which specific windfall sites would come forward, particularly because of the number of small sites involved (mostly for one or two dwellings) and because most windfall sites that come forward in the future are currently unknown. Windfalls provide flexibility and choice, and they occur in the context of the circumstances at the time.
- 3.28. The council’s role is to determine the balance between windfalls and allocations in the preparation of the housing requirement policy and housing supply policies.
- 3.29. Options 2 to 7 below consider alternatives to Option 1, through:
- The potential to increase or decrease the windfall allowance either by adding other types and sizes of windfalls, or
  - to make a policy decision to reduce the reliance on windfalls and instead to allocate more sites for housing in the emerging local plan.
- 3.30. The choice of which option to include in the forecast supply depends on Members’ views on the extent to which future development should be planned and whether by including or excluding types and sizes of windfalls in the

allowance and by making compensatory allocations there is a risk that the plan may be found not sound.

## **A. INCREASING THE ALLOWANCE**

### **OPTION 2 Non-strategic increase - adding garden land windfalls (1 to 9 dwellings)**

- 3.31. Option 1 does not include garden windfall sites of any size as part of the windfall allowance. They were omitted in the 2023 HMU supply forecast in order not to prejudge decisions on the emerging local plan. However, including garden windfalls is a potential option that could realistically increase the windfall allowance in East Devon for plan making purposes and in the long term for future development management purposes.
- 3.32. NPPF 2023 no longer precludes windfalls on residential garden land from being taken into account when justifying the windfall allowance. These are sites within the curtilage of the existing residential property or properties but excluding the dwelling itself (so does not include intensification for example by conversion/subdivision). The development would be new dwellings in existing residential plots or through the net increase from the redevelopment of dwelling(s) to provide new or further residential accommodation on a notably larger footprint than the previous building.
- 3.33. Private garden land was not actively surveyed for development potential as part of the Council's HELAA November 2022. This is due to the difficulties in assembling garden land and the certainty of deliverability/developability of sites. In many cases, it would also fall below the study threshold (less than 0.15 Ha or less than 5 dwellings). As such, it was not practicable to identify the exact locations of very small sites for the purposes of the HELAA and/or for allocation through the emerging Local Plan.
- 3.34. It is therefore more suitable for inclusion as unidentified windfall development. The issues relating to major and non-major garden windfalls are considered as follows.

#### **a) Non-major garden greenfield windfall sites (1 to 9 dwellings)**

- 3.35. Option 2 is an opportunity to consider the implications of departing from the HELAA method. That is, by including garden land as a source of supply in calculating the windfall allowance for the purposes of the emerging local plan. Adding garden windfalls will increase the windfall allowance rate.
- 3.36. Evidence in Tables 8 and 9 in this paper demonstrates that windfalls have been consistently delivered on garden land in recent years on non-major sites (i.e. sites of 1 to 9 dwellings). The HMU records that a total of 189 dwellings completed over the last 5 years, the average rate was 38 completions per year. Tables 8 and 9 shows that over the last 6 years, there

were a total of 231 completions, with an average rate of 39/year. It is noted that the number fell to 21 completions in the last monitoring year 2022/23.

3.37. The planning approval of those 231 dwellings was in the context of contemporaneous national and local planning policies. For example, windfall development within the Built up Area Boundaries can be appropriate, in accordance with relevant policies. In the absence of a meaningful change in planning policy, there is no evidence at this time to conclude that windfalls on garden land for sites of 1 to 9 dwellings would not continue to be delivered at a broadly similar rate for the next 5 years.

3.38. The main advantages and disadvantages of Option 2 are as follows:

Advantages:

1. Option 2 only requires a continuation of planning policy, not a change to policy regarding windfall development.
2. It increases the windfall allowance in East Devon by 39 dwellings/year for the 5 year supply, i.e. a total 195 dwellings. This increases the 5YLS position at 31 March 2023 by about 0.2 years to 4.48 years supply. However, this is still below the 5 year supply required, and is likely to be regarded by planning Inspectors as a 'significant' shortfall.
3. If the 39/year rate is applied across the remaining 17 years of the plan period for the emerging local plan, it would increase the windfall allowance rate to 177/year and increase the allowance total by 663 dwellings. But to avoid double counting we would discount 115 dwellings on garden land windfall sites with planning permission yet to be completed at the 2023 monitoring point. The net addition of 548 dwellings would:
  - a) Add 548 dwellings to forecast supply for the plan period to count towards meeting the housing requirement and a degree of supply headroom.
  - b) It would therefore increase the total district windfall allowance in the plan period to 2,513 dwellings; and
  - c) It would also offset the loss of 340 dwellings due to the reduction of 20 dwellings per year in the HMU windfall allowance due to the change in the rate from 158/year in 2022 down to 138/year in 2023.

Disadvantages

1. 2,513 dwellings equate to nearly 12.5% of the housing requirement (assuming 910 per year need plus 10% headroom). We can reasonably expect objections, similar to those received at the last local plan consultation which had an allowance rate of 158/year rate.

2. Including garden land within the method may have the unintended consequence of ‘messaging’ that the council is more relaxed about windfalls on garden land.
3. Evidence would be needed about the cumulative impact of continued or increased garden land windfall development on neighbours, and/or the impact on density and the character of residential areas.
4. The approach departs from the previously agreed approach in the HELAA methodology that we jointly published with the councils for Exeter City, Mid Devon. and Teignbridge. We may be at greater risk of challenge to the methodology.

**b) Major garden greenfield windfall sites (10 to 20 dwellings)**

- 3.39. Option 1 does not include garden windfall sites of 10 to 20 dwellings. It is not included in Option 2 because there is no trend of delivering this type of windfall and it is not expected to be a future source (see also Option 5).
- 3.40. CONCLUSION: There is compelling evidence at this time based on historic trends that completions on garden windfall sites of 1 to 9 dwellings have been a consistent source of supply in recent years and will be a reliable source of windfall supply in the future, at a basic rate of 39/year. Including garden windfalls in the windfall allowance is a relatively modest addition to potential supply for the plan period. As an addition to supply, there would be no need to identify additional allocations to compensate for a loss of potential supply in the plan period. Subject to consideration about the impact of garden windfalls on the character of areas, and the implications of emerging local plan policies such as settlement boundaries, the evidence supports the inclusion of garden windfall sites of 10-20 dwellings in the windfall allowance for East Devon.

**OPTION 3 Including brownfield windfall sites of 21 or more dwellings**

- 3.41. Option 1 does not include brownfield windfall sites of 21 or more dwellings. Tables 8 and 9 in Section 4 of Appendix A shows that this type of windfall site has contributed 247 dwellings comprising 11% of all windfalls in recent years, and the percentage rose from 3% in 2017/18 to 18% in 2022/23.
- 3.42. However, the 247 completions were only on seven sites (see Table 11 in section 4 of Appendix A) which the council considers is too few to conclude that they could be used to produce a reliable prediction that completions and sites would come forward consistently in the future at a similar rate. Furthermore, readers may consider that some sites in Table 11 have an ‘inflated’ number of completions on brownfield land. For example, three of these sites were former care homes, so the loss of dwelling equivalents should be offset against the gross completions, and the sites at Pankhurst

Close Trading Estate, Exmouth and Amberside Square, Axminster are a mix of brownfield and greenfield.

- 3.43. The November 2022 East Devon HELAA identifies only 3 brownfield windfall sites<sup>1</sup> that were submitted through the call for sites for housing for 21 or more dwellings and were assessed by the HELAA as Available, Suitable and Achievable, that have not been withdrawn or have received planning permission since submission or proposed as an allocation:
- GH/ED/58 Hill Pond Caravan and Camping Site, Clyst St Mary – capacity 48 dwgs (aerial photograph shows about half of the site comprises road and hard standings for the caravan park, the remainder is grassland for camping).
  - Rock\_11 Land adjoining The Grange, London Road, Rockbeare, EX25 2FP - capacity 45 dwellings (this site is a mix of hardstanding and vegetated land)
  - Sidm\_22 Alexandria Industrial Estate, Alexandria Road, Sidmouth, EX10 9HG – capacity 36 dwellings
- 3.44. It should be noted that HELAA Site Axmi\_07 Axminster Carpets Factory Site, Woodmead Road, Axminster, EX13 5PG, capacity 34 dwellings, is in this windfall category but was identified as a preferred site for housing allocation in the Regulation 18 consultation draft Local plan so would not count towards potential windfalls.
- 3.45. The council considers that these 3 sites are too few to conclude that they would produce a reliable prediction that completions and sites of this size and type would come forward consistently in the future.
- 3.46. CONCLUSION: There is no compelling evidence at this time based on either historic trends or HELAA evidence that completions on brownfield sites of 21 or more dwellings will be a reliable source of windfall supply in the future. Therefore, the evidence supports the omission of brownfield sites of 21 or more dwellings from the windfall allowance for East Devon.

#### **OPTION 4 Including Non garden land greenfield windfall sites of 21 or more dwellings**

- 3.47. Option 1 does not include Non garden land windfall sites of 21 or more dwellings. Tables 8 and 9 in Section 4 of Appendix A show that this type of windfall site has contributed 39% of all windfalls in recent years, the highest of all the windfall type/size categories. the rate increased from 37% in 2017/18 to 41% in 2022/23 but varied between 31% (in 2018/19) to 46% (in 2019/20, The 887 completions were on twelve sites (see Table 10 in section 4 of Appendix A), much of which is on agricultural land.

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<sup>1</sup> This excludes sites that were predominantly greenfield with a lesser part being brownfield land)

- 3.48. However 743 of those 887 completions (i.e. 84% of recent delivery from this category) were on eight sites which were approved when the council could not demonstrate a 5 year housing land supply. It would not be prudent to base a future windfall forecast for the category on an expectation of similar circumstances occurring in the future. Not least because it might be perceived as the council signalling a relaxation of policy to allow such large, speculative housing development in the countryside. The remaining 4 sites are too few for the council to conclude that they could be used to produce a reliable prediction that completions and sites of this size and type would come forward consistently in the future at a similar rate.
- 3.49. The November 2022 East Devon HELAA identifies about 170 Non garden land greenfield windfall sites<sup>2</sup> that were submitted through the call for sites for housing for 21 or more dwellings and were assessed by the HELAA as Available, Suitable and Achievable, that have not been withdrawn or have received planning permission since submission. However, some are identified as preferred or second choice sites for allocation for housing in the Regulation 18 draft local plan.
- 3.50. The main issue about this potential source of windfall supply is that most of the HELAA sites in this category are outside settlement boundaries where more restrictive planning policy would constrain housing development. It would not be prudent to base a future windfall forecast for the category on an expectation of large windfalls occurring in the future. Not least because communities and developers might perceive this as the council signalling a relaxation of policy to allow such large, speculative housing development in the countryside.
- 3.51. The council acknowledges that there may be rural exception sites and first home exceptions sites adjoining settlement boundaries but most, if not all, would be below the 21+ dwellings in this category. Also, by definition, exception sites are not identified as allocations in the local plan, and come forward on an ad hoc, unplanned basis.
- 3.52. CONCLUSION: There is no compelling evidence at this time based on either historic trends or HELAA evidence that completions on Non garden land greenfield sites of 21 or more dwellings will be a reliable source of windfall supply in the future. Therefore, the evidence supports the omission of Non garden land greenfield sites of 21 or more dwellings from the windfall allowance for East Devon.

### **OPTION 5 Including garden land greenfield sites of 10 or more dwellings**

- 3.53. The evidence in Appendix A Tables 8 and 9 shows that in recent years garden windfalls in East Devon have only occurred on sites of 1 to 9

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<sup>2</sup> This excludes sites that were predominantly brownfield with a lesser part being non garden greenfield land)



dwellings. There have been no completions in recent years on garden windfall sites of 10 or more dwellings. This is not surprising given that few gardens would be capable of accommodating development of this scale without the risk of adverse impacts on neighbours and on the local character of the area.

3.54. The November 2022 East Devon HELAA identifies 2 sites on garden land that were submitted through the calls for sites, which were proposed for and capable of accommodating 10 or more dwellings and were assessed by the HELAA as Available suitable and achievable. These were:

- **Cran-06** Bluehayes Farm, Bluehayes, Exeter, EX5 3BA proposal to convert existing house to 4 flats and then build up to 12 units in the garden. This site is within the Cranbrook DPD area and the emerging East Devon local plan is not proposing to allocate sites within the Cranbrook DPD area.
- **Whim\_20** Orchard Lea, Church Road, Exeter, EX5 2TF Proposal for 10 dwellings in rear garden.

3.55. For the avoidance of doubt, the council's monitoring database classifies 'parkland' as non garden greenfield. Some parkland-related sites associated with historic parks and gardens have been put forward through the HELAA call for sites process (and not withdrawn). However, the Council does not classify this as garden land, such as the following sites:

- **Exmo-47** Hulham Rd Exmouth –Proposal for 20 dwellings. Assessed as Available, Achievable but Not suitable. It is agricultural land within a Grade II listed Park and Garden.
- **Polt\_07** Land at West Clyst, Poltimore, Exeter, EX4 0BB. Proposal for up to 200 dwellings. Assessed as Available, Achievable but Not suitable. The land to the north of the site comprises parkland associated with the Grade II\* Listed Poltimore House, whilst site Polt\_07 (which is currently agricultural land) forms a more recent 19th century expansion to the parkland.

3.56. **CONCLUSION:** There is no compelling evidence at this time based on either historic trends or HELAA evidence that garden land sites of 10 or more dwellings will be a reliable source of windfall supply in the future. Therefore, the evidence supports the omission of garden land for sites of 10 or more dwellings from the windfall allowance for East Devon.

## **B. DECREASING THE ALLOWANCE**

3.57. The council can consider whether the emerging local plan should provide more certainty through a strategic decision to allocate more land for housing and correspondingly reduce the windfall allowance. This would be consistent

with a plan-led approach and strengthen the plan in being 'positively prepared'. It would also be an opportunity for the council to evidence how the emerging local plan is effective, consistent with NPPF and justified. Options 6, 7 and 8 below look at three potential options to decrease the windfall allowance.

### **OPTION 6 No windfall allowance**

- 3.58. The council considers that there is compelling evidence that Option 1 is a reliable source of windfalls sites in the future. Omitting a windfall allowance based on Option 1 is not necessary as that option has met the tests in NPPF paragraph 71.
- 3.59. NPPF does not require the council to include a windfall allowance in its housing supply forecast. It would mean that all the development to 2040 not yet permitted would be provided through allocations. This would provide greater certainty about the location and deliverability of future development.
- 3.60. However, having no windfall allowance is a potential option for plan-making in some circumstances. It would be logical not to have an allowance if the amount of forecast housing supply already identified from completions, commitments and allocations is sufficient to meet the plan's housing requirement and provide an appropriate degree of supply 'headroom'. This is not the case in East Devon. Currently the forecast supply for the plan period for the Regulation 18 draft local plan depends on a significant scale of windfall allowance to meet the housing requirement plus a degree of headroom.
- 3.61. Furthermore, there are other significant risks with Option 6 that could result in the plan being found not sound and/or failing a legal test, for the following reasons:
1. Option 6 would mean excluding the windfall allowance from the housing supply to count against the policy requirement. This would mean a reduction in supply of 1965 dwellings. Without additional allocations the evidenced forecast supply would be significantly less than a housing requirement of 910 dwellings /year for 20 years. We would then appear to have unmet housing need. This would require the council to evidence that it has met the legal requirements relating to duty to cooperate and that this has been effective is securing the means for unmet need to be met elsewhere. If we cannot show how the need is to be met then there is a risk of not passing the legal test, or at the very least not meeting the test of soundness about an effective local plan.
  2. Identifying more allocations for nearly 2,000 additional dwellings would be particularly challenging.
  3. However, if the council could identify sufficient sites to allocate in the emerging local plan for an additional 1,965 dwellings (the Option 1

windfall allowance) there is a potential risk of significant oversupply in the plan period mindful of the conclusion about Option 1 being a reliable source of windfalls. The risk is that the scale of oversupply would be likely to undermine achieving the emerging plan's visions, objectives, and strategy.

4. It is highly likely that omitting the windfall allowance from the housing supply forecast would result in significant objections being received through the plan-making process from:
  - landowners/developers whose sites are not allocated
  - local communities who may well consider that the plan is over allocating if we have compelling evidence that the windfalls would be a reliable source of supply in the future.
5. It is highly likely that the Examination Inspector will have particularly robust questions for the council about how the plan period forecast housing supply provides sufficient supply, choice, and flexibility.
6. Under Option 1 it is realistic to expect that many future windfalls would be on small and very small sites. Unless a substantial share of the additional allocations were on small and medium sized sites, there is a risk that the plan would not achieve the Government's policy target of 10% of housing development on small and medium sized sites. This could also reduce supply flexibility and choice.

3.62. **CONCLUSION:** Mindful of the compelling evidence for Option 1, OPTION 6 appears to be unnecessary. At the same time it runs a potentially significant risk of the plan being found not sound and/or failing a legal test because the 'demonstrated' supply is technically an undersupply if additional allocations do not compensate for the 'loss' from having no allowance or is an actual 'oversupply' because there is compelling evidence about windfalls providing a reliable source. Therefore, the evidence does not support having no windfall allowance for East Devon.

### **OPTION 7 Strategic decrease in the windfall allowance, and corresponding increase in allocations**

- 3.63. The council could consider an option to allocate more sites for housing in the emerging local plan, with a corresponding strategic reduction in the windfall allowance for the plan period. This would be consistent with a plan-led approach and strengthen the plan in being 'positively prepared'. It would also be an opportunity to evidence how the plan is effective, consistent with NPPF and justified.
- 3.64. The scale of the reduction depends on the council's ability to identify additional sites. Otherwise, it runs the risk of unmet housing need and the

legal and soundness tests relating to duty to cooperate, similar to the issues under Option 6. The percentage decrease may be seen as arbitrary.

- 3.65. Reducing the allowance for example down by 33% to 50% over the 17 years to 2040 would significantly reduce the forecast supply from windfalls from 1,965 down to between 980 and 1310. However, this would mean:
- a) Identifying more sites to allocate in the emerging local plan for an additional 655 to 983 dwellings, a sizeable proportion of which would need to be on small and medium sized sites.
  - b) Demonstrating that the forecast housing supply for the plan period provides sufficient choice and flexibility.
  - c) Anticipating objections to the allowance from:
    - landowners/developers whose sites are not allocated; and
    - local communities who may well consider that the plan is over allocating if we have compelling evidence that OPTION 1 windfalls would be a reliable source of supply in the future.
- 3.66. Identify allocations for another 650 to 1,000 dwellings is likely to be challenging. The risks of technical undersupply, and at the same time actual over delivery are like the issues in Option 6.
- 3.67. CONCLUSION: There is compelling evidence at this time based on historic trends that Option 1 will be a reliable source of windfall supply at 138/year. However, substantial reductions in the windfall allowance has potentially significant risks of the plan being found not sound and/or failing a legal test because the 'demonstrated' supply is technically an undersupply if additional allocations do not compensate for the 'loss' from having no allowance or is an actual 'oversupply' because there is compelling evidence about windfalls providing a reliable source. Therefore, the evidence does not support a strategic reduction in the windfall allowance for East Devon.

**OPTION 8 Non-strategic decrease in windfall allowance relating to windfall sites of 1 to 20 dwellings, and corresponding increase in allocations**

- 3.68. The council could consider an option for a smaller, non-strategic reduction in the windfall allowance in the long term. As local plan allocations already being considered in the Regulation 18 plan provide more development opportunities and do more of the 'heavy lifting' in providing for development, this could reduce the incidence of windfall development to meet housing demand.
- 3.69. Any reduction in the two windfall categories included in Option 1, if it does occur, would likely be towards the end of the plan period for the following reasons:

- A few sites on the emerging local plan allocations have already been the subject of submitted planning applications, and if approved could deliver early.
- However, development on most allocated sites will not occur in the short to medium term due to the need to complete the local plan process AND for the rest of the lead in time- i.e. for development management and legal processes; to commence development, site works and to complete dwelling construction.

- 3.70. So, mindful of NPPF and PPG, it would be prudent to forecast first completions after 5 years from plan adoption for most of the emerging local plan allocations. Assuming that the latest adoption date is December 2026, and allowing for site 'gearing-up', this means that significant numbers of completions on local plan allocations would not occur until about 2032/33. Therefore, any reduction in windfall delivery would probably only be in the last 8 years of the emerging plan i.e. 2032/33 to 2039/40.
- 3.71. With 138/year for 9 years (i.e. 1,242) plus 100/year for 8 years (i.e. 1,000) and subtracting the overlap of 281 dwellings would result in a net windfall allowance for the plan period of 1,661 dwellings. This is a reduction of about 300 dwellings compared to Option 1.
- 3.72. Only 300 additional dwellings would need to be identified as allocations to compensate for this loss of forecast supply. The council would still need to show that there is still sufficient supply flexibility and choice across the district, and we can still expect objections. But this option is less challenging than Options 6 and 7.
- 3.73. **CONCLUSION** There is compelling evidence at this time based on historic trends evidence that Option 1 will be a reliable source of windfall supply at 138/year in the future. A non-strategic reduction in the East Devon windfall allowance from 2032/33 down to 100/year could be offset by a modest increase in identified and deliverable allocations for housing in the plan period. Therefore Option 8 could be used for the windfall allowance for the emerging local plan.

#### **4. EVIDENCE OF RECENT COMPLETIONS ON WINDFALL SITES**

- 4.1. This section provides evidence about net dwelling completions (excluding dwelling equivalents from care homes development) on windfall sites in East Devon in monitoring years from 1 April 2017 to 31 March 2023. It is in 4 parts:
- A) All windfalls
  - B) Brownfield and non-garden land windfall on sites of 20 or less dwellings
  - C) Garden land windfalls
  - D) Windfalls on sites of 21 or more dwellings.
- 4.2. The council's housing monitoring database contains robust information about windfall completions by windfall type and by site size (gross number of dwellings) for the period between 1 April 2017 to 31 March 2023. This provides 6 years of reliable and comprehensive completions data which can be analysed. Data pre-dating 1<sup>st</sup> April 2017 about site type is not as complete and may have anomalies, so is not included in the evidence in this paper and is not relied on to reach conclusions about windfall trends.
- 4.3. The data drawn from the database is set out in the following tables. Additional information about specific sites with planning approval comes from related application documents, committee reports and appeal decisions.
- 4.4. The windfalls data will be updated each monitoring year going forward when the completions data is available, and will inform future Housing Monitoring Updates, 5 year housing land supply assessments and plan-making.

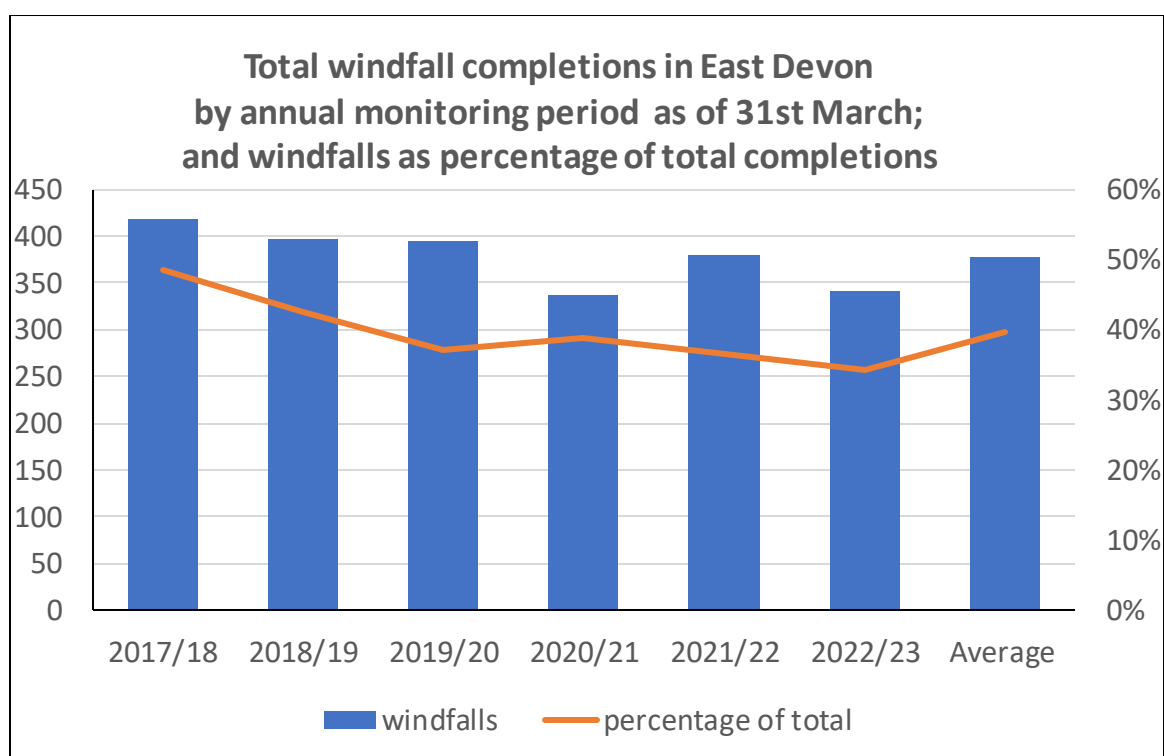
## A - All windfalls in East Devon

TABLE 1 All windfall and non-windfall completions 2017/18 to 2022/23

	Net TOTAL completions	Windfalls	Non windfalls	Windfalls as percentage of TOTAL
<b>2017/18</b>	866	419	447	48%
<b>2018/19</b>	929	396	533	43%
<b>2019/20</b>	1065	395	670	37%
<b>2020/21</b>	867	336	531	39%
<b>2021/22</b>	1039	380	659	37%
<b>2022/23</b>	998	341	657	34%
<b>TOTAL</b>	5,764	2,267	3,497	
<b>Average</b>	961	378	583	39%

Source: 2023 HMU and EDDC monitoring database

GRAPH 1 All windfall completions 2017/18 to 2022/23 by monitoring year, and as percentage of all completions



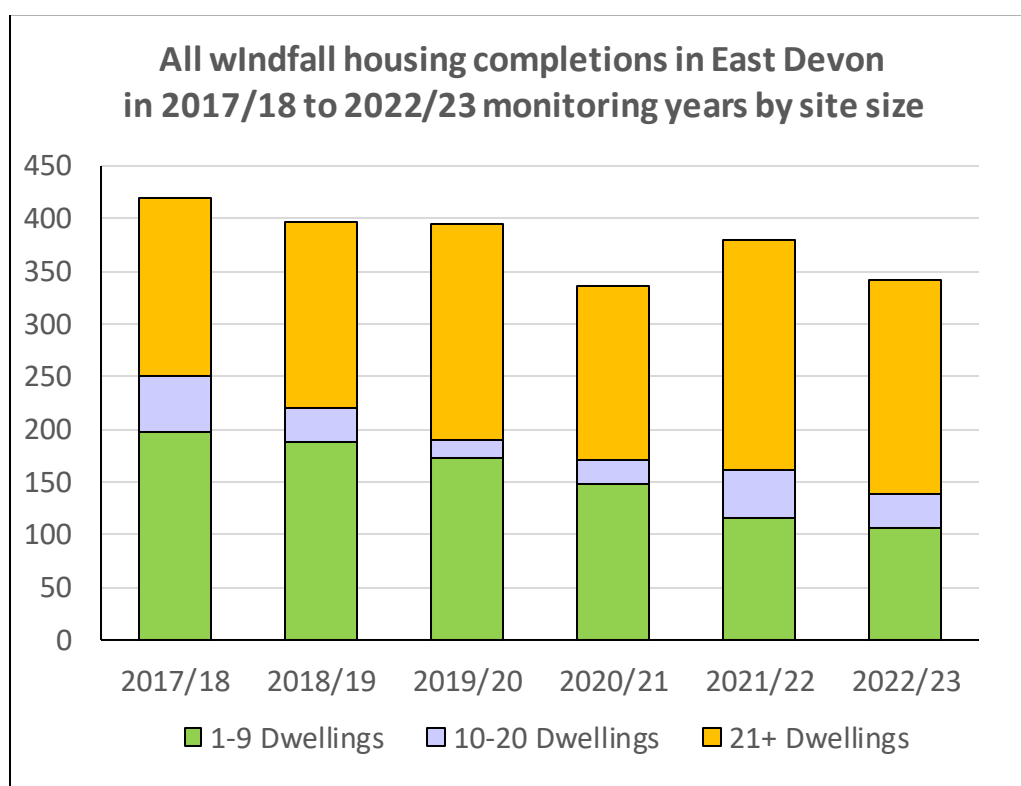
Source Table 1

TABLE 2 All windfalls 2017/18 to 2022/23 by site size

Year	1-9 Dwellings	10-20 Dwellings	21+ Dwellings	TOTAL
<b>2017/18</b>	197	54	168	<b>419</b>
<b>2018/19</b>	187	34	175	<b>396</b>
<b>2019/20</b>	172	18	205	<b>395</b>
<b>2020/21</b>	148	22	166	<b>336</b>
<b>2021/22</b>	115	47	218	<b>380</b>
<b>2022/23</b>	107	32	202	<b>341</b>
<b>TOTAL</b>	926	207	1134	<b>2267</b>

Source: 2023 HMU and EDDC monitoring database

GRAPH 2 All windfalls completions 2017/18 to 2022/23 by site size



Source: Table 2

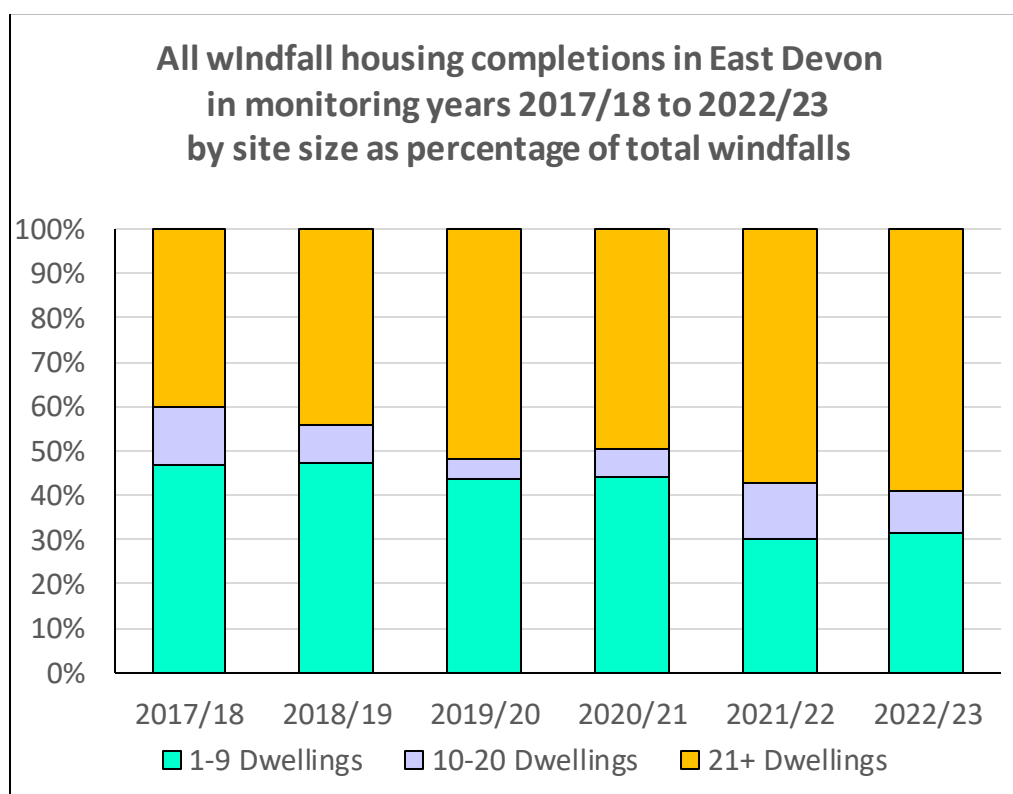


TABLE 3 All windfall completions 2017/18 to 2022/23 by site size as percentage of total

Year	1-9 Dwellings	10-20 Dwellings	21+ Dwellings	TOTAL
2017/18	47	13	40	100
2018/19	47	9	44	100
2019/20	44	5	52	100
2020/21	44	7	49	100
2021/22	30	12	57	100
2022/23	31	9	59	100
<b>TOTAL</b>	41	9	50	<b>100</b>

Source: 2023 HMU and EDDC monitoring database

GRAPH 3 All windfall completions 2017/18 to 2022/23 by site size as percentage of total windfalls



Source: Table 3

## Analysis

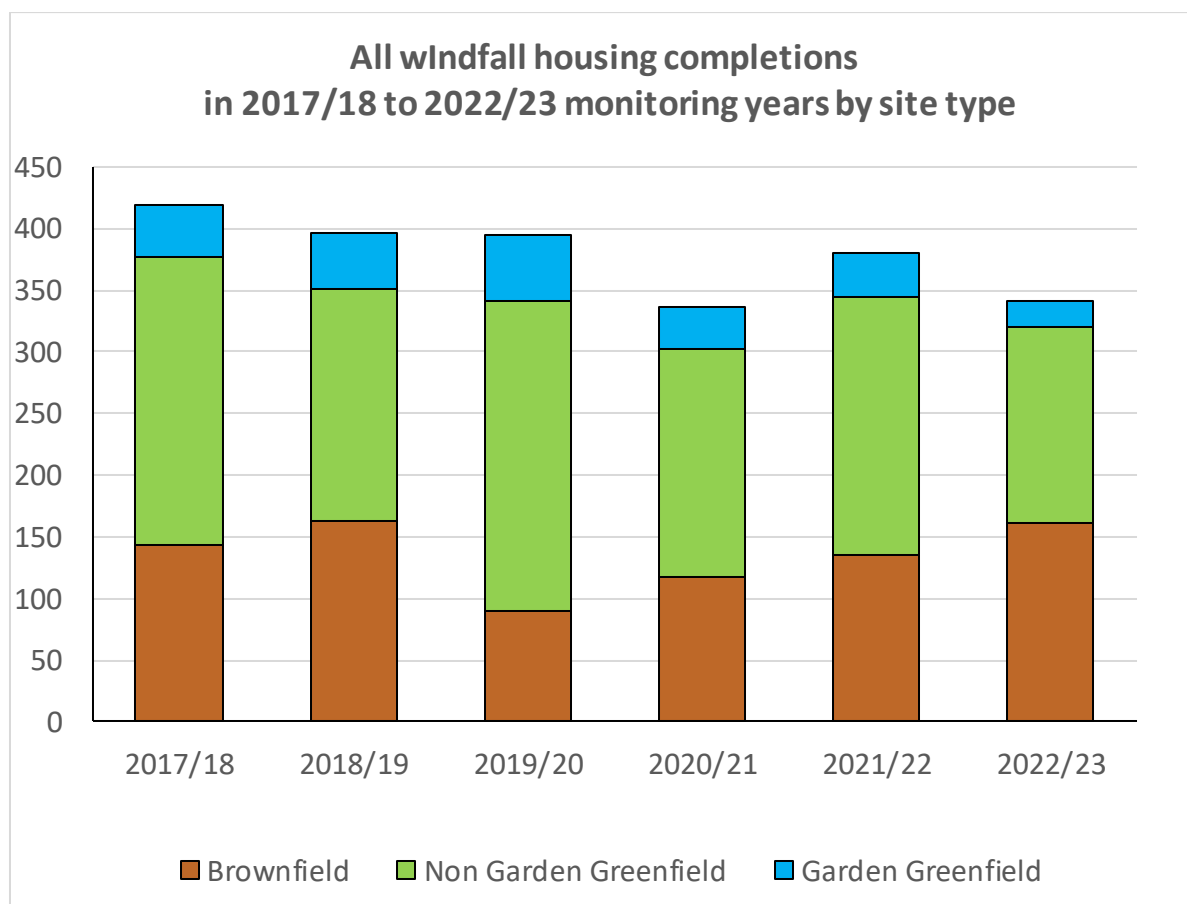
- 4.5. Annual total net completions on all windfall sites decreased by 19% from 419 in 2017/18 to 341 in 2022/23, with a low of 336 in 2020/21, but this masks changes over time and by site size, as follows:
- Annual total net completions on non-major windfall sites (sites of 1 to 9 dwellings) decreased by 46% from 197 in 2017/18 to 107 in 2022/23.
  - Annual total net completions on major windfall sites of 10 to 20 dwellings decreased by 41% from 54 in 2017/18 to 32 in 2022/23. The fall between 2017/18 and 2019/20 was even greater (66%), but delivery has improved since then.
  - Annual total net completions on major windfall sites of 21 or more dwellings increased by 20% from 168 in 2017/18 to 202 in 2022/23
- 4.6. Across the period 2017/18 to 2022/23, windfalls are split 59:41 between major and non-major sites, but this masks changes over time and site size as follows:
- Non-major windfalls accounted for 41% of all windfalls. They declined from 47% in 2017/18 down to 31% of all windfalls in 2022/23.
  - Major windfalls of 10 to 20 dwellings accounted for only 9% of all windfalls. They declined from 13% in 2017/18 to 9% of all windfalls in 2022/23. However, the fall between 2017/18 and 2019/20 was even greater (down to 5% of all windfalls) but has improved since then.
  - Major windfalls of 21 or more dwellings accounted for 50% of all windfalls. They rose from 40% in 2017/18 to 59% of all windfalls in 2022/23.

TABLE 4 All windfall housing completions in East Devon in 2017/18 to 2022/23 monitoring years by site type.

Year	No of Dwellings			TOTAL
	Brownfield	Non Garden Greenfield	Garden Greenfield	
<b>2017/18</b>	143	234	42	419
<b>2018/19</b>	163	188	45	396
<b>2019/20</b>	90	252	53	395
<b>2020/21</b>	118	184	34	336
<b>2021/22</b>	136	208	36	380
<b>2022/23</b>	162	158	21	341
<b>TOTAL</b>	<b>812</b>	<b>1224</b>	<b>231</b>	<b>2267</b>

Source: 2023 HMU and EDDC monitoring database

GRAPH 4 All windfall housing completions in 2017/18 to 2022/23 monitoring years by site type



Source : Table 4

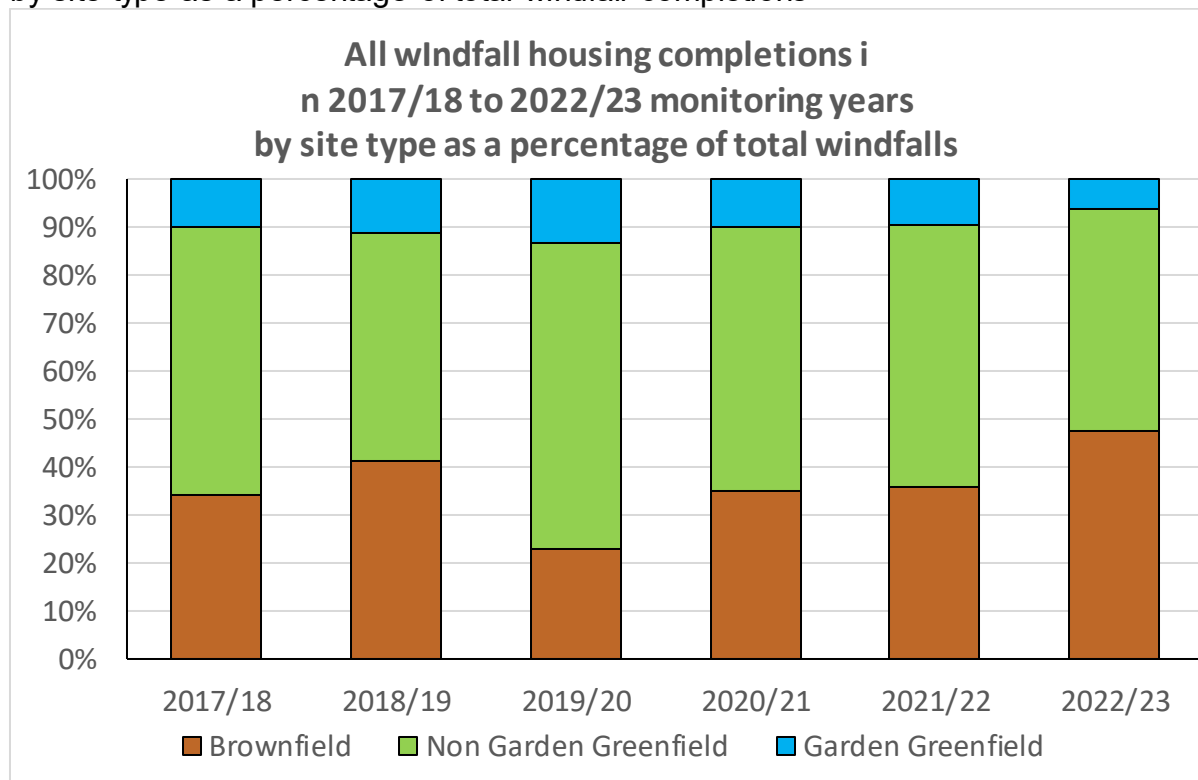
TABLE 5 All windfall housing completions in East Devon in 2017/18 to 2022/23 monitoring years by site type as a percentage of total windfall completions

Year	Percentage of total no. of dwellings			TOTAL
	Brownfield	Non Garden Greenfield	Garden Greenfield	
2017/18	34	56	10	100
2018/19	41	47	11	100
2019/20	23	64	13	100
2020/21	35	55	10	100
2021/22	36	55	9	100
2022/23	48	46	6	100
<b>TOTAL</b>	<b>36</b>	<b>54</b>	<b>10</b>	<b>100</b>

Source: 2023 HMU and EDDC monitoring database

Note: Percentage figures may not sum to 100% due to rounding

GRAPH 5 All windfall housing completions in 2017/18 to 2022/23 monitoring years by site type as a percentage of total windfall completions



Source : Table 5

## Analysis

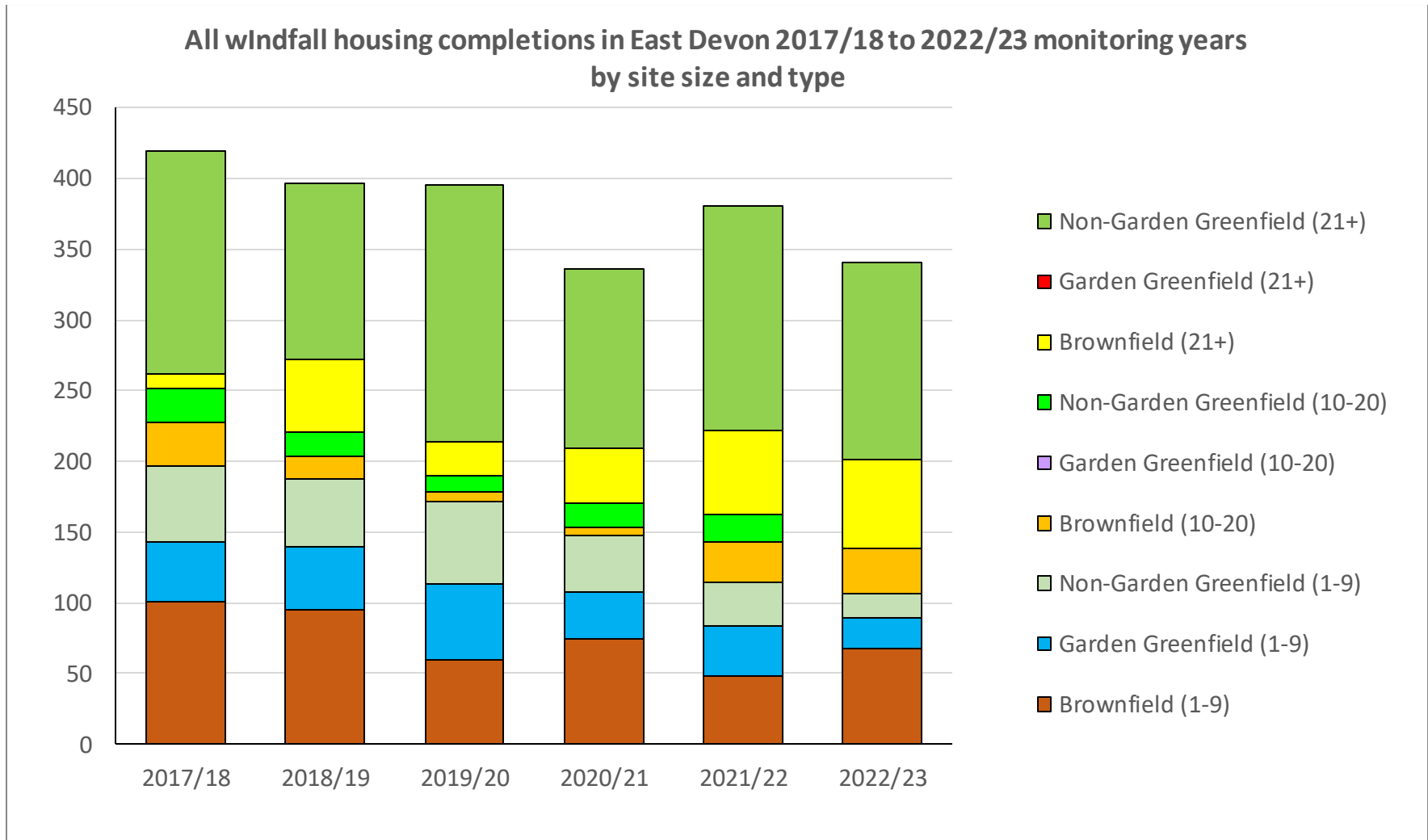
- 4.7. Annual total net completions on all windfall sites decreased by 19% from 419 in 2017/18 to 341 in 2022/23, with a low of 336 in 2020/21, but this masks changes over time and by site type as follows:
- Annual total net completions on brownfield sites increased by 13% from 143 in 2017/18 to 162 in 2022/23, but varied across the years, the lowest being 90 completions in 2019/20.
  - Annual total net completions on greenfield non-garden sites decreased by 32% from 234 in 2017/18 to 158 in 2022/23. The total varied across the years, with a high of 252 in 2019/20, but has since declined
  - Annual total net completions on greenfield garden sites decreased by 50% from 42 in 2017/18 to 21 in 2022/23. Again, the total varied across the years, with a high of 53 in 2019/20 but has since declined.
- 4.8. Across the period 2017/18 to 2022/23, windfalls were split 36:54:10 between brownfield, non-garden greenfield, and garden greenfield sites, but this masks changes over time and site type as follows:
- Brownfield sites accounted for 36% of all windfalls. They increased from 34% in 2017/18 up to 48% of all windfalls in 2022/23 but varied across the years with a low of 23% of all windfalls in 2019/20.
  - Non garden greenfield sites are the largest category of windfall completions over the period 2017/18 to 2022/23. However, the percentage decreased from 56% in 2017/18 down to 46% in 2022/23. The highest percentage was 64% of all windfalls in 2019/20.
  - Garden greenfield sites is the smallest supply category, accounting for 10% of all windfalls. They decreased from 10% in 2017/18 to 6% in 2022/23, but again this varied across the years with the highest rate of 13% of all windfalls in 2019/20.
- 4.9. Tables 6 to 9 breakdown the windfall sites by site size and type, and show these as percentages of total windfalls.

TABLE 6 All windfall housing completions in East Devon in 2017/18 to 2022/23 monitoring years by site size and type

Year	1-9 Dwellings			10-20 Dwellings			21+ Dwellings		
	Brownfield (1-9)	Garden Greenfield (1-9)	Non-Garden Greenfield (1-9)	Brownfield (10-20)	Garden Greenfield (10-20)	Non-Garden Greenfield (10-20)	Brownfield (21+)	Garden Greenfield (21+)	Non-Garden Greenfield (21+)
2017/18	101	42	54	31	0	23	11	0	157
2018/19	95	45	47	17	0	17	51	0	124
2019/20	60	53	59	6	0	12	24	0	181
2020/21	74	34	40	5	0	17	39	0	127
2021/22	48	36	31	28	0	19	60	0	158
2022/23	68	21	18	32	0	0	62	0	140
<b>TOTAL</b>	<b>446</b>	<b>231</b>	<b>249</b>	<b>119</b>	<b>0</b>	<b>88</b>	<b>247</b>	<b>0</b>	<b>887</b>

Source: 2023 HMU and EDDC monitoring database

GRAPH 6 All windfall housing completions in East Devon in 2017/18 to 2022/23 monitoring years by site size and type



Source : Table 6

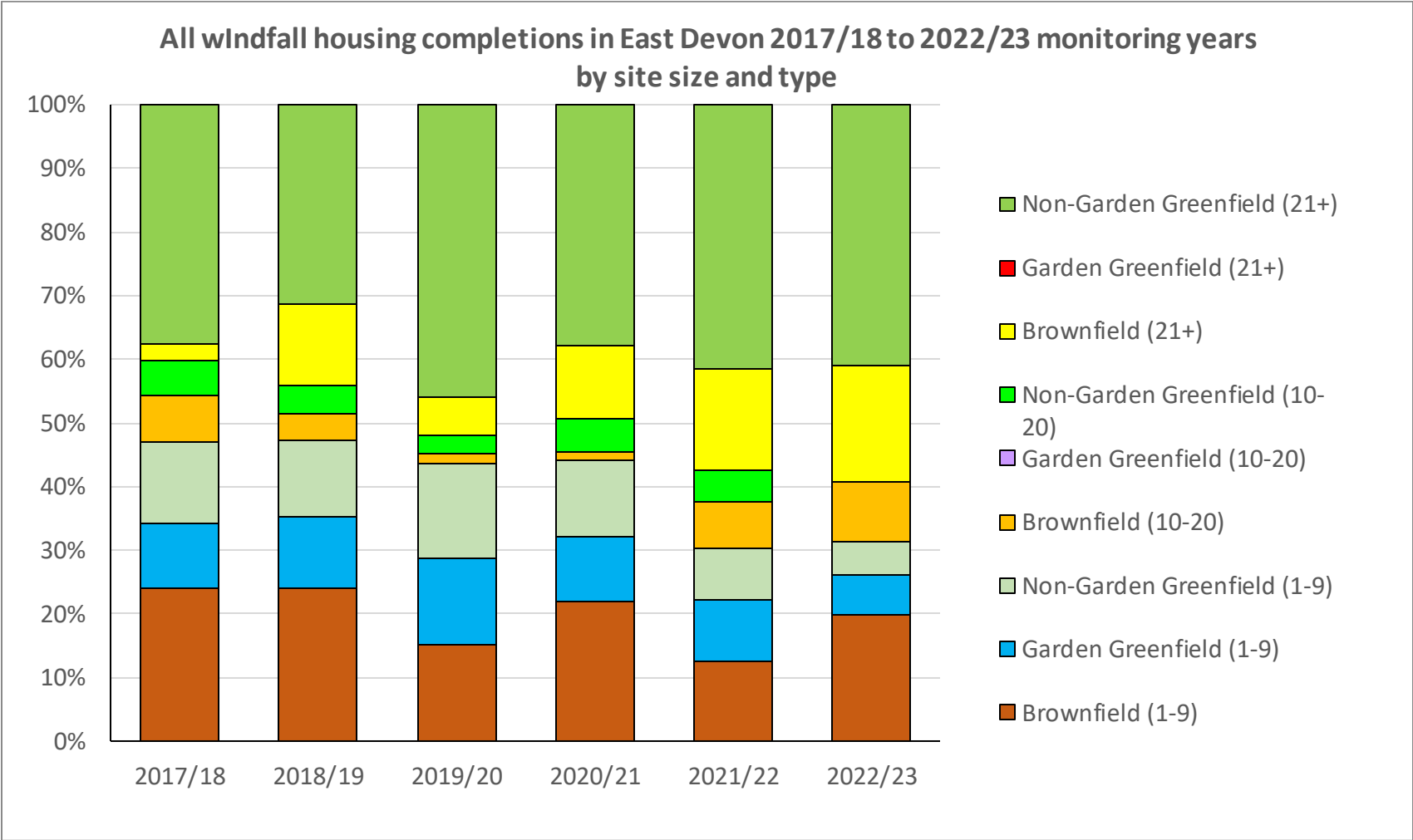
TABLE 7 All windfall housing completions in East Devon in 2017/18 to 2022/23 monitoring years by site size and type as a percentage of all windfalls

Year	1-9 Dwellings			10-20 Dwellings			21+ Dwellings		
	Brownfield (1-9)	Garden Greenfield (1-9)	Non-Garden Greenfield (1-9)	Brownfield (10-20)	Garden Greenfield (10-20)	Non-Garden Greenfield (10-20)	Brownfield (21+)	Garden Greenfield (21+)	Non-Garden Greenfield (21+)
2017/18	24	10	13	7	0	5	3	0	37
2018/19	24	11	12	4	0	4	13	0	31
2019/20	15	13	15	2	0	3	6	0	46
2020/21	22	10	12	1	0	5	12	0	38
2021/22	13	9	8	7	0	5	16	0	42
2022/23	20	6	5	9	0	0	18	0	41
<b>TOTAL</b>	20	10	11	5	0	4	11	0	39

Source: 2023 HMU and EDDC monitoring database



GRAPH 7 All windfall housing completions in East Devon in 2017/18 to 2022/23 monitoring years by site size and type as a percentage of all windfalls



Source: Table 7

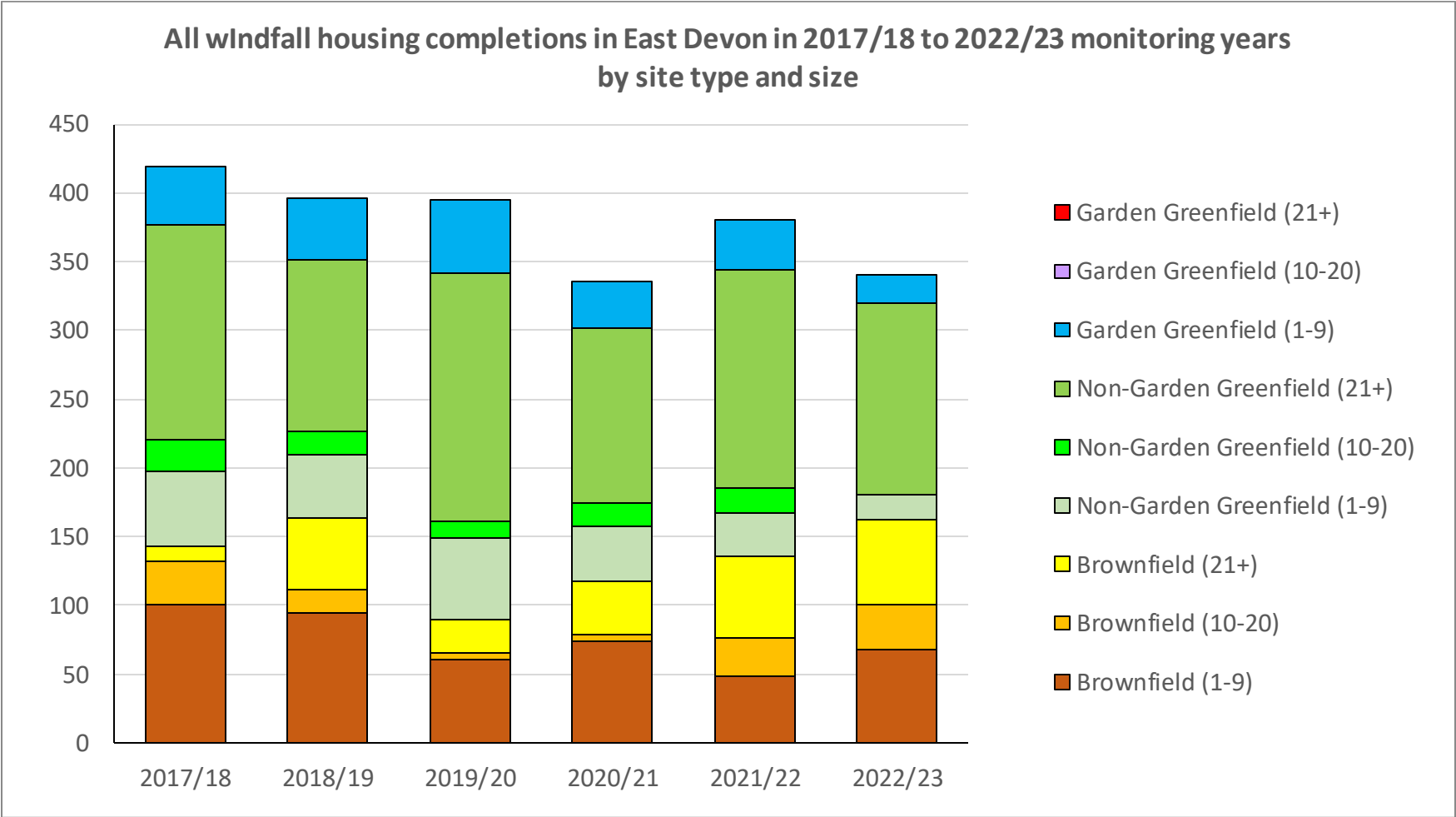
TABLE 8 All windfall housing completions in East Devon in 2017/18 to 2022/23 monitoring years by site type and size

Year	Brownfield (1-9)	Brownfield (10-20)	Brownfield (21+)	Non-Garden Greenfield (1-9)	Non-Garden Greenfield (10-20)	Non-Garden Greenfield (21+)	Garden Greenfield (1-9)	Garden Greenfield (10-20)	Garden Greenfield (21+)	TOTAL
2017/18	101	31	11	54	23	157	42	0	0	419
2018/19	95	17	51	47	17	124	45	0	0	396
2019/20	60	6	24	59	12	181	53	0	0	395
2020/21	74	5	39	40	17	127	34	0	0	336
2021/22	48	28	60	31	19	158	36	0	0	380
2022/23	68	32	62	18	0	140	21	0	0	341
<b>TOTAL</b>	<b>446</b>	<b>119</b>	<b>247</b>	<b>249</b>	<b>88</b>	<b>887</b>	<b>231</b>	<b>0</b>	<b>0</b>	<b>2267</b>

Source: 2023 HMU and EDDC monitoring database

GRAPH 8 All windfall housing completions in East Devon in 2017/18 to 2022/23 monitoring years by site type and size

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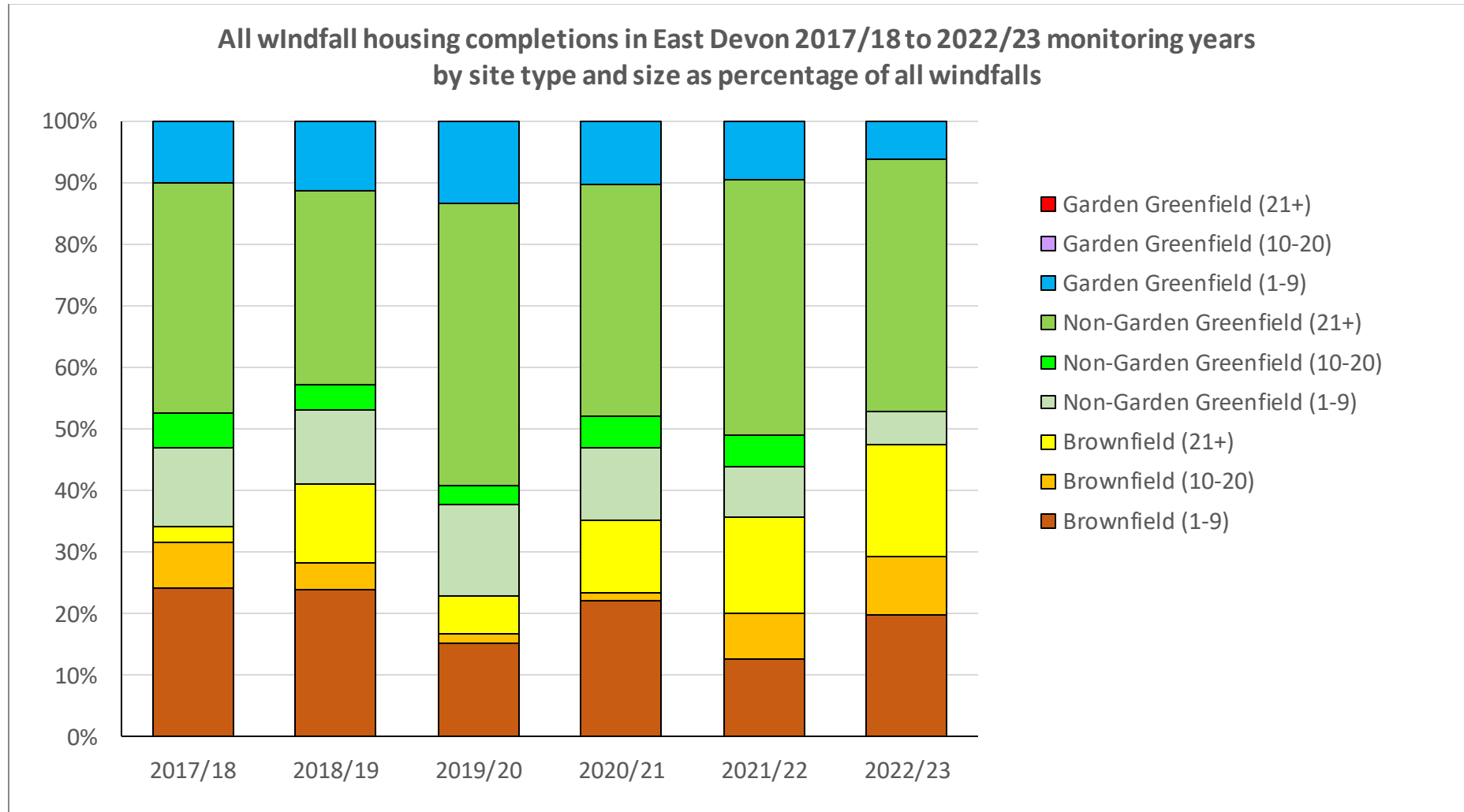
Source : Table 8

TABLE 9 All windfall housing completions in East Devon in 2017/18 to 2022/23 monitoring years by site type and size as a percentage of all windfalls

Year	Brownfield (1-9)	Brownfield (10-20)	Brownfield (21+)	Non-Garden Greenfield (1-9)	Non-Garden Greenfield (10-20)	Non-Garden Greenfield (21+)	Garden Greenfield (1-9)	Garden Greenfield (10-20)	Garden Greenfield (21+)	TOTAL
2017/18	24	7	3	13	5	37	10	0	0	100
2018/19	24	4	13	12	4	31	11	0	0	100
2019/20	15	2	6	15	3	46	13	0	0	100
2020/21	22	1	12	12	5	38	10	0	0	100
2021/22	13	7	16	8	5	42	9	0	0	100
2022/23	20	9	18	5	0	41	6	0	0	100
<b>TOTAL</b>	20	5	11	11	4	39	10	0	0	100

Source: 2023 HMU and EDDC monitoring database

GRAPH 9 All windfall housing completions in East Devon in 2017/18 to 2022/23 monitoring years by site type and size as a percentage of all windfalls



Source : Table 9

**B) Non garden and brownfield windfalls on sites of 21 or more dwellings.**

**Analysis**

4.10. The following assessment focuses on windfalls sites of 21 or more dwellings by windfall type (i.e. non garden; garden; brownfield).

**1. Non garden greenfield (21+)**

4.11. Over the period 2017/18 to 2022/23, the type of windfall site comprising the highest number of completions (887) and the highest percentage of windfalls (39%) was non-garden greenfield sites of 21 and more dwellings. Over that period, the rate increased from 37% in 2017/18 to 41% in 2022/23 but varied between 31% (in 2018/19) to 46% (in 2019/20).

4.12. Only 12 sites contributed to this supply category (See Table 10) and most of these sites were on land previously in agricultural use. 3 sites were in the West End of the district (291 completions), the other 9 were in the Rest of East Devon (596 completions)

TABLE 10 List of Non-Garden Greenfield Windfall sites of 21 and more dwellings with completions 2016/17 to 2022/23

Site	Site Capacity	Completions 1/4/2017 – 31/03/2023	Previous use
Old Park Farm Phase 2 #	317	251	Agricultural land
Equinox III, Exeter Science Park, Clyst Honiton	147	5	Agricultural land
Moonhill Copse, West Clyst, near Pinhoe, Poltimore Way #	35	35	Paddock
Land west of Hayne Lane, Honiton #	291	216	Agricultural land
Plumb Park, Exmouth #	268	208	Agricultural land
Land east of Butts Road, Higher Ridgeway, Ottery St Mary * #	130	21	Agricultural land
Land Adjoining Withycombe Brook, Exmouth	52	51	Agricultural land/ paddocks @
Former Gerway Nurseries, Ottery St Mary #	45	42	Horticultural nursery -
land north Of Higher Ridgeway, Ottery St Mary #	31	12	Agricultural land/ Allotments
land at rear of West Close, West Street, Axminster	30	18	Paddock/trees & garage on road frontage
land west of Woodbury Road, Clyst St George * #	25	25	Agricultural land pasture
Hawkwell Park & Sunnyside, Wareham Road, Hawkchurch Axminster \$	23	3	Caravans
TOTAL		887	

Notes:

*# The Council was not able to demonstrate a 5 year land supply at the date when Committee considered the first application for residential development on the site.*

*\* Appeal allowed*

*@'(Policy EN2 -Valley Parks, Exmouth)*

*\$ Historic council database records 3 completions, but use of the caravans on this site is restricted to Gypsy and Traveller use, so the 3 units should not be counted as unrestricted residential use.*

4.13. It should be noted that Table 10 does not include the following Non-garden Greenfield sites of 21 or more dwellings in the West End of the district. Those sites were windfalls at the time of committee consideration of the application (or at appeal). However, they are no longer windfalls because they were subsequently allocated for residential development in the adopted East Devon Local Plan (EDLP) 2013 to 2031:

- Redhayes, North of Blackhorse Lane (east of and abutting the Science Park) (613 capacity; 519 completions) - planning approval before the adoption of the EDLP but site subsequently allocated in the adopted EDLP. This site was on agricultural land. #
- Pinn Court Farm (430 capacity – now net 426; 296 completions) - planning approval before the adoption of the EDLP but site subsequently allocated in the adopted EDLP. This site was on agricultural land The outline planning application was allowed on appeal. #
- Mosshayne (north of Titebarn Lane and west of the intermodal site) (900 capacity; 193 completions) – Committee resolution to grant planning approval before the adoption of the EDLP but site subsequently allocated in the adopted EDLP. This site was on agricultural land. #

Note: *# The Council was not able to demonstrate a 5 year land supply at the date when Committee considered the first application for residential development on the site and/or a planning appeal was allowed.*

## **2. Brownfield (21+)**

4.14. A further 247 dwellings completions comprising 11% of all windfalls came from brownfield sites of 21 or more dwellings, with the rate rising from 3% in 2017/18 to 18% in 2022/23. Only 7 sites contributed to this supply category (see Table 11) and they were previously developed land with a mix of uses.

TABLE 11 List of Brownfield Windfall sites of 21 and more dwellings with completions 2016/17 to 2022/23

Site	Site Capacity	Completions 1/4/2017 – 31/03/2023	Previous use
Pankhurst Close Trading Estate, Exmouth*	120	105	Industrial (north)/ Agricultural land (south)
Amberside Square / Tigers Way, Axminster **	72	8	Former football ground site
Green Close, Drakes Avenue, Sidford, Sidmouth \$	40	38	Former care home
at Exebank & Danby House, Mudbank Lane, Exmouth \$	36	36	Former care home
land north of Acland Park, Feniton #	32	25	Farm buildings
Davey Court, Buckingham Close, Exmouth \$	30	30	Former care home
The Cedars, Otter Valley Park, Honiton ##	28	5	Holiday lodges
TOTAL		247	

Notes:

\* *This site was part brownfield (industrial buildings in the north of the site) and part greenfield (agricultural land) in the south) but is recorded as brownfield on the monitoring database.*

\*\* *This site was part brownfield (clubhouse/changing rooms/carpark) and part greenfield (football pitch) but is recorded as brownfield on the monitoring database.*

\$ *The completions are gross figures (the loss of the bedrooms in the former care homes are counted separately)*

# *Recorded as brownfield on the monitoring database.*

## *Now with approval for unrestricted permanent residential use.*



**C) Brownfield and non-garden land windfall sites of 20 or less dwellings**

**Analysis**

4.15. The following assessment focuses on windfalls sites of 1 to 20 dwellings by windfall type (i.e. brownfield, non garden greenfield) and by size (10 to 20 dwellings; 1 to 9 dwellings).

**1. Brownfield (10 to 20 dwellings)**

4.16. 119 completions on 15 brownfield sites of 10-20 dwellings comprised 5% of all windfalls. The percentage varied over time from 1 to 9% (See Table 12) and previously were a mix of uses on previously developed land.

TABLE 12 List of Brownfield Windfall sites of 10 to 20 dwellings with completions 2016/17 to 2022/23

Site	Site Capacity	Completions 1/4/2017 – 31/03/2023	Previous use
Q Club, Elm Grove, Exmouth	18	15	Snooker Club/ Night club
Pier Head, Mamhead View, Exmouth	14	11	Retail units and area for parking/servicing
Dunsinane, Maer Road, Exmouth	14	1	3 buildings (former halls of residence)
Heathfield House , Rosemount Lane, Honiton	14	5	1 dwelling & garden
Site of Marist Convent, 8 Broad St, Ottery St Mary	12	8	Part is hardstanding /parking area /tennis courts; Part is garden area of former convent *
34 Cranford Avenue, Exmouth	12	11 (net)	1 dwellings and garden
4 Elwyn Road, Exmouth	12	10 (net)	2 apartments & garden
Long Range Hotel, Whimble @	12	4	Holiday accommodation
Former Haldon Court Hotel, 34 Douglas Avenue, Exmouth	11	9	Hotel
1 Sarltdown Rd Exmouth	10	9	1 dwelling & garden
14 Rolle Street Exmouth	10	8	1HMO and 1 apartment
83 Salterton Road, Exmouth	10	8	1 dwelling & garden
Land at Lilac Haven, Jerrard Close , Honiton	10	4	1 dwelling & garden
Blossom Hill Park, Louis Way, Dunkeswell @	10	3	Holiday park
South Whimble Farm, Clyst Honiton	19	13	Industrial buildings
<b>TOTAL</b>		<b>119</b>	

Notes:

\* *Monitoring database records site as brownfield*

@ Historic council database records completions, but use of the caravans on this site is restricted to holiday accommodation.

## 2. Brownfield (1 to 9 dwellings)

- 4.17. The type of windfall site comprising the next highest total (446 completions) and next highest percentage (20%) of all windfalls was on non major brownfield sites (i.e. 1 to 9 dwellings) in the period 2017/18 to 2022/23. This share fell from 24% in 2017/18 down to 20% in 2022/23, with a low point of 13% in 2021/22, but has risen since then. These are on hundreds of sites across East Devon on land that were previously developed (i.e. brownfield). Most of the sites are for 1 or 2 dwellings, where the dwellings are achieved by redevelopment, change of use or conversion.

## 3. Non Garden Greenfield (10 to 20 dwellings)

- 4.18. Similarly, 88 dwellings on 9 non-garden greenfield sites of 10-20 dwellings only contributed 4% of all windfalls. The percentage varied from 0 to 5%.

TABLE 13 List of Non-garden Greenfield Windfall sites of 10 to 20 dwellings with completions 2016/17 to 2022/23

Site	Site Capacity	Completions 1/4/2017 – 31/03/2023	Previous use
Rear of Jack in the Green, London Rd, Rockbeare	19	6	Agricultural land
Land north of Yaffles, Coly Road, Colyton #	16	16	Horticultural nursery
land to the west of Strawberry Hill, Lypstone	15	15	Agricultural land
Land at Barton Orchard, Tipton St John	15	15	Agricultural land
land adjacent to North Star, Ottery Street, Otterton	14	14	Agricultural land (rough grazing)
Land at Marcus Road, Exmouth	14	5	2 land parcels – scrub/grass/trees
Willow View Park, Whimble	13	4	Rough disturbed ground 2 buildings *
land south of Glebe Close, Upton Pyne #	10	3	Agricultural land (pasture)
West Hayes, West Hill Road, West Hill	10	10	Grassland, scrub, parkland
TOTAL		88	

Notes:

# The Council was not able to demonstrate a 5 year land supply at the date when Committee considered the first application for residential development on the site

\* Monitoring database records sites as greenfield

#### **4. Non Garden greenfield (1 to 9 dwellings)**

- 4.19. 249 dwellings comprising 11% of all windfalls came from non major (1-9 dws) on non-garden greenfield sites, but the rate declined from 13% in 2017/18 down to 5% in 2022/23. There are over 100 sites, mostly for 1 or 2 dwellings. They include conversion of agricultural/forestry buildings to residential use, including Class Q developments).

## **D) Garden land windfalls**

### **Analysis**

4.20. The following assessment focuses on garden land windfalls sites by size (sites of 1 to 9 dwellings; 10 to 20 dwellings; and 21+dwellings). It uses data from Tables 8 and 9 in this paper.

#### **1. Garden greenfield (1 to 9 dwellings)**

4.21. 231 completions on garden greenfield windfall sites were delivered on sites of 1 to 9 dwellings over the period 2017/18 to 2022/23. They contributed 10% of all windfalls in that period. The rate declined from 10% in 2017/18 down to 6% in 2022/23, although it varied over that period, with a high of 13% in 2019/20. There are about 180 sites, mostly for 1 or 2 dwellings, but 18 sites are for 3 to 8 dwellings).

#### **2. Garden greenfield (10 to 20 dwellings)**

4.22. Over the period 2017/18 to 2022/23 there were no completions on garden greenfield windfall sites of 10 to 20 dwellings and none on sites of 21 or more dwellings. This is not too surprising, mindful that few residential gardens would be capable of accommodating 10 or more dwellings, without the risk of resulting in extremely high densities that might adversely impact on the character of the locality.

#### **3. Garden Greenfield (21+)**

4.23. Over the period 2017/18 to 2022/23 there were no completions on garden greenfield windfall sites of 21 or more dwellings. This is not too surprising, mindful that very few residential gardens would be capable of accommodating 21 or more dwellings, without the risk of resulting in extremely high densities that might adversely impact on the character of the locality. It should be noted that parkland sites are not included in this windfall category (Parkland sites are categorised as Non garden land).

Report to: **Strategic Planning Committee**

Date of Meeting: 9 January 2024

Document classification: Part A Public Document

Exemption applied: None

Review date for release N/A



## **Exeter City Council local plan – Draft local plan (Regulation 18) consultation and Water Lane SPD consultation**

### **Report summary:**

Exeter City Council are undertaking consultation on a full draft local plan. This is the equivalent stage of plan making consultation that was undertaken by East Devon District Council a year ago. The draft local plan for the City sets out a full suite of proposed planning policies, specifically for use in determining planning applications. Consultation feedback on the plan will assist the city council in refining and amending plan content before moving on to subsequent stages of plan making. This committee report sets out a proposed response by this council to the consultation.

One of the sites promoted for development in the Exeter local plan is land at Water Lane. This committee report also includes a proposed response to a Supplementary Planning Document (SPD) for this land that the city council are also consulting on. The response to the SPD majors on employment land considerations and can be usefully seen and read as an expansion on more general proposed local plan feedback comments.

### **Is the proposed decision in accordance with:**

Budget                      Yes  No

Policy Framework      Yes  No

### **Recommendation:**

1. That committee endorse the proposed response to the Exeter local plan consultation and approves its submission to the City Council.
2. That committee endorse the proposed response to the Exeter Water Lane SPD consultation and approves its submission to the City Council.

### **Reason for recommendation:**

To provide feedback to Exeter City Council in respect of planning policy for the City.

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

Portfolio(s) (check which apply):

- Climate Action and Emergency Response
- Coast, Country and Environment

- Council and Corporate Co-ordination
- Democracy, Transparency and Communications
- Economy and Assets
- Finance
- Strategic Planning
- Sustainable Homes and Communities
- Tourism, Sports, Leisure and Culture

**Equalities impact** Low Impact

.

**Climate change** Low Impact

**Risk:** Low Risk;

**Links to background information**

The text of consultation draft of the Exeter local plan, in pdf format, can be viewed at:

[The Exeter Plan Full draft Oct 23 \(cloudinary.com\)](#)

and the policies map (the map that shows spatially where policies apply) can be viewed at:  
[gmpjai6levteep9cuxgd.pdf \(cloudinary.com\)](#)

The Water Lane SPD can be viewed at:

[Liveable Water Lane Supplementary Planning Document \(cloudinary.com\)](#)

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

**Link to Council Plan**

Priorities (check which apply)

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

## **1. Introduction to the Exeter local plan**

1.1 The draft Exeter local plan, formally titled - 'The Exeter Plan This is our city • This is our future', sets out, by way of introduction, that

*"1.1 The Exeter Plan will shape the future of Exeter for the next twenty years and will be the basis for how the city continues to evolve and meet the needs of the community.*

*1.2 The Exeter Plan is the new name for the Local Plan. It will be the main planning policy document for Exeter, setting out where development should take place and providing the policies which will be used in making decisions on planning applications. Once adopted, it will replace the current planning policies in the Core Strategy and the Local Plan First Review."*

- 1.2 The plan is at the Regulation 18 stage of plan making. As a consultation draft document feedback received will help the City Council in its work of refining and amending the plan as it moves forward to subsequent stages of plan making. This will include through to submission of the plan for examination by a planning inspector and after that onto plan adoption.
- 1.3 For the East Devon Local Plan members of committee will be aware of ongoing discussions around a vision for our local plan. There might be interest in noting the overarching Exeter plan vision, at paragraph 2.1 (though there are also chapter-based vision statements):

*'By the time they are an adult, a child born in Exeter today will live in a city that is inclusive, healthy and sustainable - a city where the opportunities and benefits of prosperity are shared and all citizens are able to participate fully in the city's economic, social, cultural and civic life.'*

## **2. The form, format and broad policy approach of the Exeter plan**

- 2.1 The draft Exeter plan sets out, in structure and broad content, what we might expect to see in their final plan. In form and format terms it is quite conventional (as is the East Devon plan) being based around subject based chapters that contain proposed policies for use in determining planning applications. The plan also allocates land for development in the city.
- 2.2 The Exeter plan is subject to consultation from 23 October 2023 to 15 January 2024 and as with the East Devon local plan the intent is that the city council will consult on a Publication (Regulation 19) plan in 2024. The city council indicate possible adoption of the plan in 2025, though we would suggest that this is quite ambitious timetabling.
- 2.3 The Exeter plan places a considerable amount of emphasis on development of previously developed (Brownfield) land in the city and in so doing allocates a number of sites that are currently unused or seen as under-used for redevelopment. These sites, coming from the Liveable Exeter programme, are allocated for mixed uses but with an emphasis on residential development to include flat and apartment developments at higher densities.
- 2.4 This spatial approach in part reflects a long-standing approach of the City Council to resist development on elevated rural areas, within the city boundaries, of land lying to the north and west of the city. The plan highlights a stated need to *"protect the city's landscape setting and retain Exeter's environmental quality."* See paragraph 3.5 of their plan. This same paragraph also advises that *"This strategy will also help to achieve the City Council's net zero 2030 target, enable nature recovery, continue Exeter's economic success and support a healthy and inclusive city. This transformational approach is closely aligned with the Government's Levelling Up policy which aims to reduce inequalities and promote opportunities for all."*

2.5 As with the emerging East Devon plan (and to accord with Government policy) the Exeter plan contains a series of strategic policies and a range of non-strategic policies. The Exeter plan sets out how the City Council, within city administrative boundaries, will accommodate the development needs for and of the city. The Exeter plan does not, therefore, reference seeking to accommodate any city development needs beyond their boundaries. This responsible and positive approach of the City Council would be very much welcomed; however we would query whether the plan does really accommodate all development needs, especially so for job generating and employment uses. This is the main theme addressed in proposed feedback.

### **3. The proposed local plan response to the consultation by East Devon District Council**

3.1 In the shaded text below we set out a proposed response to the Exeter local plan consultation by East Devon District Council. In responding to the plan we concentrate on more significant considerations, rather than specific policy detail, and on matters that have a clear cross-boundary relevance.

3.2 Subject to Strategic Planning Committee approval we will submit this response to the City Council.

East Devon District Council welcomes the draft local plan that Exeter City Council are consulting on. We consider the draft plan to be positive, coherent and well-constructed and that it sets out a positive agenda for future development in the city.

We are especially keen to ensure coordinated working and actions between the City Council and East Devon District Council and to this end the timing of production of the Exeter plan, and for your workloads ahead, neatly align with our own East Devon work and work programmes.

We welcome the commitment to swiftly moving to a position of net zero carbon set out in the plan. This is clearly a challenging goal to arrive at but one which we see that you are positively embracing.

In the housing chapter of your plan we note and welcome the fact that you are providing for a broad range of accommodation needs and are positively making provision to address standard method housing numbers, including having a healthy headroom level of provision should there be any possible element of non-implementation. We note that you propose to address Gypsy needs through a windfall policy and that jointly commissioned work is ongoing to assess the need for a transit site; we would support the allocation of such a site within the City.

We note and welcome the fact that Policy EJ6 allocates 17 hectares of land for employment purposes. However, we do consider that the plan should be more explicit in respect of quantifying overall levels of employment land needed. We note, for example, that the Greater Exeter Economic Development Needs Assessment, in paragraph 10.2.6



(as on your web site and as referenced in your local plan – paragraph 15.10), reports a *“requirement of 43 – 57 ha of industrial land over the Plan period”* in the city. We also note the requirement for *“8-30 ha of office space”*.

From our review of your local plan it is not clear, however, how or where these or other appropriately quantified and justified levels of employment land will be accommodated within the city and therefore how levels of net new job generation will be provided for in Exeter. This should specifically include jobs (new and existing) in not just transformational sectors but also in essential traditional, long-established and mainstream work sectors that underpin the economy.

We note that allocation policies in the plan, including the Liveable Exeter sites, provide limited detail, specifically quantified levels/information on employment uses that will be accommodated, and no clarity or guidance on what will happen to existing employment uses that will be displaced through the development and redevelopment of land areas.

We consider that the Exeter plan should clearly and explicitly set out all sources of supply and allocations to meet fully quantified employment need of the city. We assume that full needs will be addressed through mixed use allocations and redevelopment schemes as well as intensification of existing business sites, infill development and smaller windfall proposals coming forward in the city. However, this should be clearly and explicitly stated and quantified in future refinement and redrafting of the plan. In this context the plan should also set out quantified levels of displaced employment uses resulting from redevelopment proposals and how and where displaced employment uses will be accommodated. If the city council are of the view that existing business sectors and business premises, that will be ‘lost’ through redevelopment, will no longer exist or be needed in the future then this conclusion should be fully justified through corroborating evidence.

We recognise that Exeter is and will remain a focal point for many facilities serving an area that extends beyond the city boundaries. There will, therefore, need to be coordinated and cooperative working, between ourselves and other partners, on a range of subject matters, specifically to include transport and communication considerations. To this end we welcome inclusion of chapter 8 in the plan and specifically note the positive messages around joint working set out in paragraph 8.2 of the plan.

As you will be aware the emerging East Devon local plan places a considerable amount of development on the western side of our District, including provision of a second new community, a strategic mixed-use development north of Topsham (east of the M5) and several major employment sites. This development will add to existing development commitments in this broad area and there will be a need to ensure coordinated work to ensure timely and efficient delivery of proposals.

We note that policy STC8 provides for redevelopment of the existing Moor Lane motorway service station should an appropriate replacement come forward. Although we welcome the removal of the previously proposed allocation of this site we have concerns regarding this policy. We recognise highway benefits that such redevelopment might perhaps generate (though we note these are as yet untested) but would question the soundness of

this policy. We are aware of a site for a new service station being promoted by a landowner in East Devon, around 3km north of Junction 29 of the M5. However, we would stress that no policy provision for such a development features in the emerging East Devon local plan, nor as we understand are similar proposals included in any other planning authority local plan in the area. We would suggest that in the absence of specific agreed proposals for a new service station, which would be very expensive and hugely challenging to deliver, the inclusion of this policy and supporting text is inappropriate and misleading given great uncertainty over possible implementation in practice.

We recognise the relevance of the landscape setting of Exeter, however, would question the appropriateness of Policy NE1, if its application would prejudice the ability of the city to accommodate development to meet all of its needs. The importance of the landscape setting of Exeter needs to be seen within the context of the landscape quality across a much broader cross-boundary area that includes Areas of Outstanding Natural Beauty and Dartmoor National Park. Whilst the hills around Exeter are attractive, they do not form a national designation and they are in very close proximity to city facilities. Should there be concerns around meeting full city development needs then it would be appropriate to review this policy, and its spatial definition, to ensure that fully quantified and appropriate and relevant development can come forward.

We welcome the positive approach to green infrastructure promoted through the plan, for example through policy reference to the Valley Parks. We would be keen, however, to see greater reference to green infrastructure beyond but close to the city. In this respect the Clyst Valley Regional Park is especially important providing an asset that is and will be used by residents of East Devon, the city and a wider area. The plan should refer more fully to links into the Clyst Valley Regional Park noting that the park and adjoining areas offer significant scope for wider environmental benefits to include nature recovery and biodiversity net gain. The Exeter plan could usefully reference the scope for city development to actively contribute to such delivery.

We consider that the plan could say more about recreational impacts on the highest tier of wildlife sites, specifically the Exe Estuary the Pebblebed Heaths and (in Teignbridge) Dawlish Warren. We trust that a new joint mitigation strategy, for East Devon, Exeter and Teignbridge, will be completed next year and this should ensure an agreed collective approach to the delivery of mitigation can be secured. The Exeter Plan should reference this strategy and provide commitment to delivery.

3.3 In considering the above members may wish to review what Exeter City Council said in response to our draft local plan consultation - [Please ask for: \(eastdevon.gov.uk\)](http://eastdevon.gov.uk)

#### **4. The Liveable Water Lane Supplementary Planning Document (SPD) consultation**

4.1 One of the sites promoted for development in the Exeter local plan is land at Water Lane. This land lies to the south of the city centre and it includes a large area of

Brownfield land, understood to previously have been in industrial use. The Water Lane area also currently supports an active mixed range of business uses as well as other commercial activities, some open spaces and residential dwellings.

- 4.2 Exeter local plan policy sets the overarching policy guidance for the Water Lane SPD. The SPD itself is comprehensive and it is clear that a lot of thought, attention and effort has gone into its production. There is much detail in the document that can be commended. However, noting overarching concerns in the proposed local plan consultation response around employment land supply matters, we would regard it as appropriate to highlight employment land considerations in this SPD consultation response.
- 4.3 We note that the SPD consultation had a closing date of 4 December 2023. We have advised Exeter City Council, however, of our desire to take officer concerns on the document to the first available committee meeting, that is this one in January 2024.
- 4.4 The proposed response to the Water Lane consultation is set out in highlighted text below. Subject to Strategic Planning Committee approval we will submit this response to the City Council.

Responding on behalf of East Devon District Council we welcome the opportunity to comment on the Water Lane SPD and Design Code. Clearly lots of effort has gone into production of an attractive document that sets out proposals for significant changes to this part of the city.

We would not want to comment on many matters of detail in your proposals. However, we do wish to express concerns around the way in which you have failed to address, from our review, the need for employment and job provision. On the 9 January 2024 the Strategic Planning Committee of East Devon District Council received a report in respect of the Exeter City local plan – Draft Plan (Regulation 18) consultation. East Devon District Council raised significant concerns around the potential failure of your local plan to address and accommodate full city-wide quantified levels of employment generating uses in the city over the life span of your local plan.

We note that the Greater Exeter Economic Development Needs Assessment, in paragraph 10.2.6, (as on your web site and as referenced in your local plan – paragraph 15.10), reports a “requirement of 43 – 57 ha of industrial land over the Plan period” in the city. We also note the requirement for “8-30 ha of office space”. From our review of your local plan it is not clear, however, how or where these or other appropriately quantified and justified levels of employment land will be accommodated within the city and therefore how levels of net new job generation will be provided for in Exeter. This should specifically include jobs (new and existing) in not just transformational sectors but also in essential traditional, long-established and mainstream work sectors that underpin the economy.

We raise these concerns in the context of the SPD as Water Lane is a long-established employment area in the city that has in the past and continues to support considerable levels of essential employment uses. Many of the jobs accommodated in the Water Lane area are needed to support the public and their needs as well as the economy more widely

– however, many are for uses and in sectors that may not be good neighbours to residential uses and new residential developments.

In your local plan policy for Water Lane - Reference 15 (Strategic policy) – you advise of *“the retention of existing levels of employment floor-space in phases up to 2040”*, however, it is unclear how or if this can be achieved or secured in practice and we note that you reference floor space levels rather than job numbers and also you fail to reference the type of employment sectors that will be accommodated. In the SPD you advise, however, of the Water Lane area accommodating *“more environmentally acceptable”* employment uses and under - W01 - General land use and activity – you advise of accommodating *“employment uses compatible with residential”*.

As you do not quantify overall employment land/job needs (including for all sectors and job types) in your draft local plan (or cross-reference to relevant evidence) we have significant concerns that your proposals for Water Lane will exacerbate potential problems of job retention and provision in the City of Exeter and we are unaware of how or where in the city any jobs displaced from Water Lane will be accommodated.

You show on page 52 of the SPD (W02 - Land use plan) a small area that is shaded and referenced as *“Employment opportunity area (W07)”*. But we cannot see any quantified references in the document to what this means in practice, nor indeed to amounts or levels of employment uses that may be accommodated elsewhere in the Water Lane area. Nor can we see information on the numbers of jobs or make up of existing jobs or the physical extent of land currently in employment uses. We would emphasise the apparent smallness of this employment opportunity area and unless (perhaps) you envisage very high-density job uses (high staff to floorspace ratios such as may be achieved for some multi-story office-based activities) then we would suggest a potential significant under-provision of employment use is set out in proposals and also a lack of provision for a full range of job types.

We would suggest that a thorough review of the SPD (specifically in the context of local plan considerations around job provision and any review the local plan may require) is undertaken before proposals are progressed. Based on past and current uses of the Water Lane area for job generating activities we would see this as a very good area for employment activity to serve the city and a wider surrounding area. That is not to say that it might not be a good location for other and altogether different uses and activities (which we believe you are promoting). But if you are to actively promote these alternatives then it should be undertaken within the context of demonstrating how you will ensure you will meet and deliver full Exeter city employment needs, for all job types, within the city boundary. This should include net new jobs that may be created in the future and any displacement resulting from redevelopment at Water Lane or anywhere else.

**Financial implications:**

There are no direct financial implication resulting from the report.

**Legal implications:**

There are no substantive legal issues to be added to this report.

