

Agenda for Strategic Planning Committee Monday, 15th July, 2024, 10.00 am

Members of Strategic Planning Committee

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

Venue: Council Chamber, Blackdown House, Honiton

Contact: Wendy Harris;

01395 517542; email wharris@eastdevon.gov.uk

(or group number 01395 517546)

Friday, 5 July 2024



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

DX 48808 HONITON

Tel: 01404 515616

www.eastdevon.gov.uk

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 - 6)

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 Current and Future Housing Land Supply Challenges (Pages 7 - 13)

This report seeks to highlight the current situation with regard to housing land supply and concerns regarding our future housing land supply position in the run up to submission of the Local Plan for examination.

8 East Devon Local Plan work programme update (Pages 14 - 18)

This report advises on progress on production of the new Local Plan and key steps and stages ahead.

9 Local Plan Zero Carbon Policies for New Developments (Pages 19 - 26)

This report specifically seeks direction from Committee on new development zero carbon policies for inclusion in the new Local Plan.

10 Renewable Energy Generation Policies (Pages 27 - 31)

This report seeks direction from Committee on policies in the new Local Plan specifically around the issue of renewable energy generation – wind and solar farms.

Under the Openness of Local Government Bodies Regulations 2014, any members of the public are now allowed to take photographs, film and audio record the proceedings and report on all public meetings (including on social media). No prior notification is needed but it would be helpful if you could let the democratic services team know you plan to film or record so that any necessary arrangements can be made to provide reasonable facilities for you to report on meetings. This permission does not extend to private meetings or parts of meetings which are not open to the public. You should take all recording and photography equipment with you if a public meeting moves into a session which is not open to the public.

If you are recording the meeting, you are asked to act in a reasonable manner and not disrupt the conduct of meetings for example by using intrusive lighting, flash photography or asking people to repeat statements for the benefit of the recording. You may not make an oral commentary during the meeting. The Chair has the power to control public recording and/or reporting so it does not disrupt the meeting.

Members of the public exercising their right to speak during Public Speaking will be recorded.

[Decision making and equalities](#)

For a copy of this agenda in large print, please contact the Democratic Services Team on 01395 517546

EAST DEVON DISTRICT COUNCIL**Minutes of the meeting of Strategic Planning Committee held at Council Chamber, Blackdown House, Honiton on 4 June 2024****Attendance list at end of document**

The meeting started at 10.00 am and ended at 11.30 am

103 Minutes of the previous meeting

The minutes of the Strategic Planning Committee meeting held on 30 April 2024 were confirmed as a true record.

104 Declarations of interest

There were no declarations of interest.

105 Public speaking

Alison Stenning who spoke on behalf of Colyton Parish Council addressed the committee regarding the proposed development and asked Members to respect Colyton's neighbourhood plan by removing Coly_02a and Coly_02b to help protect the natural setting of the town and its conservation area. These sites can be viewed across the Coly Valley and Axe Valley from Musbury which are both in the national landscape and outside the established built up area boundary of the settlement. Residents believe that Colyton does not need additional housing especially as 72 houses were already being built on the old Ceramtec site and the further 49 dwellings proposed would be unsustainable due to existing infrastructure being at capacity.

Colin Pady, a parishioner of Colyton spoke about how the proposed development to the north west of Colyton at Hillhead would impact on the setting of the conservation area and should not be included for development. He urged Members to listen to the residents of Colyton as they do not want any skyline development which could be seen for over 3 miles away to the east. Mr Pady suggested that a more sustainable site could be chosen on land to the south west of Courtenay Drive where the joint landowners are amenable for this land to be released.

106 Matters of urgency

There were no matters of urgency.

107 Confidential/exempt item(s)

There were no confidential or exempt items.

108 Assessment of potential development sites and plan making update

The report presented to the committee provided details of the process for reviewing the selection of housing allocations sites that would go forward into the Local Plan and sought Members agreement for this work to commence to allow future work to progress.

The Assistant Director – Planning Strategy and Development Management referred to Section 2 of the report and sought Members views on the proposed stepped approach. He advised that the member working party, with invitations extending to all relevant ward members that fall within the boundary, would meet over a number of meetings to consider each town area-based report which would then be brought back to the Strategic Planning Committee for approval. The Assistant Director – Planning Strategy and Development Management emphasised that at no point would any decisions be made outside of the Committee but that it would be an opportunity for sites to be discussed and issues debated and shared.

Members noted that an updated timetable would be brought back to Committee at the next meeting to allow discussions from this meeting to take place first.

The Chair emphasised two points to Members. The first being that Members were not to discuss individual site allocations but to focus their attention on the process itself and the second was to bear in mind that an alternative process could be considered by discussing all the housing allocation sites in formal committee rather than the member working party.

Questions and discussions from Members covered:

- Clarification was sought on when the water cycle study will be ready as although it keeps getting promised but keeps getting delayed. It was advised that a date had been set in June but this has been postponed until after the General Election.
- A concern was raised about public perception to the member working party being discussed behind closed doors. The intention was to have discussions with officers and members to understand public concerns about particular sites and to share knowledge to make sure the assessment work is robust before final details are brought back to committee.
- Clarification was sought on the meaning of paragraph 3.1 Section 2. For example 'a big picture' local plan strategy could be referring to constraints in sustainable locations that may need to be considered and how it fits into the wider strategy and in other cases where other better performing sites are not allocated would mean sites in less sustainable locations such as in tier 4 that have fewer constraints but may not been in a sustainable location.
- Clarity is needed to make sure everyone is clear what the roles are for the working party and Strategic Planning Committee. The Assistant Director – Planning Strategy and Development Management advised that notes will be taken at the working party meetings and put in the public domain for transparency.
- A concern was raised that paragraph 5.1 could suggest it could form the policy writing.
- Clarification was sought on the number of meetings needed. It was suggested between 7 – 8 half day meetings but these could be longer and more meetings needed.
- Councillors Ingham and Parr expressed their support for the meetings to be done within the Strategic Planning Committee as it was important to get this right. Some members were not in favour of this suggestion due to work commitments and other members raised concerns that discussing hundreds of sites within the committee would be unworkable.
- Clarification was sought on how many members were on the working party. The Assistant Director – Planning Strategy and Development Management advised it was 6 Committee Members and the Leader.
- It was suggested to invite at least one town and parish council member to each relevant working party meeting.

RESOLVED:

That the work proposal and timetabling as set out in this report be endorsed with the addition to invite one representative from each relevant town and parish council to the working party meeting.

109 **Defining and Justifying Major Development in National Landscapes**

The report sought Members endorsement to the proposed methodology as set out in Section 4 of the topic paper to consider a small number of sites within the National Landscapes to ensure that any proposed allocations within a national landscape are assessed in line with the National Planning Policy Framework (NPPF).

Questions and comments received from Members included:

- Reassurance was sought that the same methodology would not be used for the Green Wedges and boundaries methodology. In response the Assistant Director – Planning Strategy and Development Management advised he was mindful of the issues from the Green Wedge methodology and suggested that if Members were minded the recommendations could be amended to ‘note’ rather than ‘agree’ until the findings are presented.
- Clarification was sought on what constitutes ‘major development’ as it is not defined in the NPPF. Although a definite answer could not be given as national landscapes were all very different in character it was suggested it related to site specific and was left to councils to interpret each case on its own merits.
- Support was expressed for the methodology but it goes against council policies and opinions of the planning officers. In response it was advised that all sites would need to be robustly considered for the Local Plan to be found sound.
- A query was made about the tilted balance and the housing land supply if by the time this Local Plan was submitted for examination the council was required to consider the five year housing land supply. The Assistant Director – Planning Strategy and Development Management advised that there would be an issue if the current 4.25 housing land supply dropped which would mean the tilted balance would apply but this would not change things in terms of national landscapes.
- Clarification was sought on what the difference would be if a development was classed as ‘major’. The Assistant Director – Planning Strategy and Development Management advised that fundamentally any major development would need to be justified as exceptional circumstances for allocating housing in the national landscape.
- A concern was raised about the wording in Section 5 bullet point 2 as the wording for the Spatial Strategy appeared to be ‘set in stone’ and did not appear flexible.

Councillor Mike Howe proposed two slightly amended recommendations as follows, seconded by Councillor Bethany Collins.

1. That Strategic Planning Committee note to adopt the approach set out in Section 4 of the topic paper to identify whether any of the allocations in the national landscapes proposed in the local plan constitute ‘major’ development for the purposes of paragraph 183 of the NPPF.
2. That Strategic Planning Committee note to adopt the approach set out in Section 5 of the topic paper to establish whether there are any exceptional circumstances that would justify individual allocations that are ‘major development’ in the public interest.

RESOLVED:

1. That the approach set out in Section 4 of the topic paper to identify whether any of the allocations in the national landscapes proposed in the local plan constitute 'major' development for the purposes of paragraph 183 of the NPPF be noted.
1. That the approach set out in Section 5 of the topic paper to establish whether there are any exceptional circumstances that would justify individual allocations that are 'major development' in the public interest be noted.

Attendance List

Councillors present:

B Bailey
J Bailey
K Blakey
B Collins
O Davey
P Hayward
M Howe (Vice-Chair)
B Ingham
G Jung
D Ledger
Y Levine
T Olive (Chair)
H Parr

Councillors also present (for some or all the meeting)

I Barlow
R Collins
M Rixson

Officers in attendance:

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

Councillor apologies:

C Brown
P Fernley

Chairman

Date:



Report to: Strategic Planning Committee

Date of Meeting 15th July 2024

Document classification: Part A Public Document

Exemption applied: None

Review date for release N/A

Current and Future Housing Land Supply Challenges

Report summary:

This report seeks to highlight the current situation with regard to housing land supply and concerns regarding our future housing land supply position in the run up to submission of the Local Plan for examination. Members are advised that while the revised NPPF and the 4-year housing land supply requirement set out within the document provides some comfort in the short term it presents a number of challenges in the medium and long term as we need to have a 5-year housing land supply for the local plan to be found sound. In order to achieve this it is recommended that Members look to bolster our supply position and by granting more consents for housing developments which can deliver homes within the 5 year period.

Prior to the new NPPF the 'tilted balance' was in effect in the district, and this required us to give greater weight to housing land supply issues. In the absence of the 'tilted balance' advice from Kings Counsel (KC) has been sought on the weight that should be given to these issues given the current and forecast supply position. The advice suggests that although the 'tilted balance' should not be applied these issues should still be carrying significant weight in the balance of material planning considerations and are certainly capable of outweighing adopted policies in the Local Plan. Members have also received training from the Planning Advisory Service (PAS) to aid understanding of these issues.

Members are asked to note the current position and the advice that has been sought and to advise Planning Committee of the need to give significant weight to these issues in decision making.

Is the proposed decision in accordance with:

Budget Yes No

Policy Framework Yes No

Recommendation:

That Members advise Planning Committee that in considering planning applications for housing developments that would deliver homes within the next 5 years in a sustainable way, significant weight should be given to the need to bolster the council's housing land supply position. This is in order to ensure that the council has a robust housing land supply and as a result a sound local plan in respect of housing land supply for examination of the Local Plan.

Reason for recommendation:

To ensure Members are aware of the current and forecast housing land supply position and the actions that are recommended to ensure that a 5-year housing land supply position can be demonstrated by the time of submission of the new Local Plan for the plan examination.

Officer: Ed Freeman – Assistant Director – Planning Strategy and Development Management

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: High Risk; There is considered to be a very significant risk that if action is not taken as set out in this report that we will be unable to demonstrate the required 5-year housing land supply at the time of examination of the Local Plan and therefore it would be found unsound. There is also risk of planning decisions being challenged where substantial weight is given to the housing land supply position, however these risks are considered to be significantly less than those associated with submitting an unsound local plan and are mitigated by the advice that has been sought from PAS and a KC which indicate that the proposed approach is reasonable.

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

The issue of the Council's housing land supply and application of the 'tilted balance', whereby greater weight is given to housing supply issues, has been an area of concern to members for some time. This led to a resolution at Council in December 2023 which read:

"As a result of Conservative government planning policies, EDDC planning officers are under considerable pressure to recommend approval of totally inappropriate, highly unpopular, and very damaging planning applications such as that for land east of Sidmouth Road, Ottery St Mary and Land at Eastfield West Hill.

East Devon is being penalised by the government due to its lack of '5 year land supply' despite an excellent track record in recent years. 9,000 new homes have been delivered over the past decade in East Devon and more than 4,000 houses are set to be delivered in the next 5 years.

This Council is fully committed to ensuring homes are delivered for residents - particularly those who are younger and less well off. However, this Council believes that harm will be caused to the countryside and communities of East Devon under the government's approach.

That this Council will ask the Planning Advisory Service or other appropriate organisation to review its planning reports given its lack of 5 year land supply and advise how best to resist speculative

development particularly by reference to the work of other councils and decisions taken by the planning inspectorate.”

This report seeks to report back on the advice that has been sought and the actions taken since the above motion.

It should also be noted that Strategic Planning Committee on the 9th January 2024 Members received a report setting out the changes including in the latest iteration of the National Planning Policy Framework which had been published on the 20th December 2023. Among the main changes was a provision that under certain circumstances local planning authorities would only need to identify an annual supply of specific deliverable sites to provide a minimum of 4 years' worth of housing. The stated circumstances were considered to apply to East Devon but there was concern at that time as to how a 4-year housing land supply should be calculated since the published guidance only related to calculation of a 5-year housing land supply. The report set out two potential methodologies that could be applied based on the current guidance. Members resolved that this should be calculated in line with option 1 as set out in the report thus giving the authority a 4-year housing land supply. The government has subsequently published guidance confirming this interpretation as correct.

Challenges

In the months following discussion at 9th January meeting and the subsequent government clarification, the implications of these changes have become apparent. At first glance these changes put the council in a stronger position with the tilted balance no longer being applicable and the weight to be attributed to the Local Plan being restored. Although the 4-year housing land supply requirement eases pressures in terms of decision making in the short term these provisions only apply for 2 years. They also do not alter the requirement to demonstrate a 5-year housing land supply position upon adoption of the Local Plan.

An up-to-date annual housing monitoring report is in production, however the 2022/23 monitoring report noted that the housing land supply position was in decline. This and the need to bolster supply in order for the new Local Plan to be found sound was noted in the report on the changes to the NPPF reported to the January committee meeting as well. The position has been slightly eased through the annual recalculation of the housing requirement figure under the governments standard method for calculating housing need. This is done each year as new data is published for one of the variables in the calculation which relates to the affordability of housing. A modest increase in the affordability of housing in the district means that the requirement figure has reduced from 910 homes per year to 893 homes per year.

Further work undertaken by officers modelling the potential delivery trajectories of sites identified as first choice and second choice sites in the draft Local Plan indicate that demonstrating the required 5-year housing land supply in the new Local Plan is extremely challenging. This is because although the sites (if allocated) would meet the identified housing requirement, the timing of the delivery of these sites mean that there would be a significant shortfall in the early years of the plan due to delays as sites are opened up and delivered. The only way the required 5-year supply position could potentially be achieved would be to present a case for what is known as a “stepped trajectory” whereby supply is noted as being lower than 893 homes per year in the early years of the plan and then steps up to a higher than 893 figure in the later years of the plan to compensate. This is an approach that has been accepted at some local plan examinations and it is considered that there is a case for pursuing this approach in East Devon given that the second new community makes up a significant proportion of the housing land supply over the plan period and it will take time for the site to be opened up and delivered causing a delay to housing delivery in the early years of the plan. Some other sites will also be delayed due to the need for infrastructure to be delivered before the sites can come forward.

Although there is an argument to be made for this approach it would be a vulnerability at local plan examination as some parties may argue against this approach. In particular the current housing crisis and the shortage of affordable housing in the district could count against this approach and indicate the importance of delivering the homes as soon as possible. It also presents a significant future risk if the authority then becomes quite reliant on the second new community to maintain a 5-year housing land supply in the future. This is akin to the approach taken with a previous Local Plan where there was great reliance on the delivery of Cranbrook which once delayed led to the Council not having a 5-year housing land supply and having to grant consent for other major developments in the west end of the district which were not previously planned. It would therefore be best to avoid being in this same position again. More fundamentally adopting a stepped trajectory would only just deliver a 5-year housing land supply and so would be very vulnerable to sites being removed from the plan as discussions and consultations progress over the coming months or through the Local Plan examination. It is important to bear in mind that the 5 year supply is a minimum requirement and we should be aiming to have a comfortable cushion to ensure that our position is robust and resilient.

It would therefore be beneficial to boost the council's housing land supply position so that we can present at least a 5-year housing land supply position to the local plan examination. This would involve granting planning permissions for more housing sites that are capable of delivering homes within the next 5 years. Progressing the Local Plan and allocating sites within it helps towards future housing supply but it is only consents that will help to fill the more immediate shortfall.

Usually when an authority is in this position then the 'tilted balance' would apply which is designed to adjust the balance of material considerations such that housing supply issues carry greater weight thus releasing more housing sites to address under supply. With the introduction of the 4-year housing land supply requirement, the 'tilted balance' is not in force and so this has raised questions over the legitimacy of giving significant weight to future housing land supply issues in the absence of the application of the 'tilted balance'. This is an issue that only arises because of the changes in the new NPPF. Housing land supply is ordinarily a material planning consideration but it would not usually carry such substantial weight as to outweigh policies in the Local Plan in the same way that it would when the 'tilted balance' is in effect.

There have been developers challenging whether the draft local Plan has reached the stage of preparation referred to in the new NPPF and therefore whether we can benefit from the 4-year housing land supply provisions. Some parties have questioned whether the references to sites as first and second choice sites within the plan means that it does not include allocations. The position has been further muddied by some recent appeal decisions in other parts of the country where inspectors have given greater weight to housing land supply issues than might usually have been expected even where the authority in question had an adequate supply at present under the NPPF.

To try and clarify the position officers have sought advice from Kings Counsel. We have also sought assistance from the Planning Advisory Service (PAS) who are part of the LGA (Local Government Association) to help to address the concerns raised by the council resolution above and aid Members understanding of the current issues relating to housing land supply. A training session was held with PAS on the 15th May in which these issues were discussed in detail. PAS are also undertaking a desk-based assessment of our housing monitoring reports and reports assessing planning applications where the tilted balance was applied.

Kings Counsel was asked to advise on a number of issues relating to these matters. The KC opinion has confirmed that in their opinion the Local Plan has progressed to such a point that it satisfies the requirements of the NPPF for when the 4-year housing land supply can be applied. The KC is satisfied that it includes site allocations as required and so it is considered that we are in a strong position to respond to any challenges to this position and can conclude that the 'tilted balance' should not be applied. The KC however highlights that regardless of the 'tilted balance' and while the planning system is plan-led, the council is required to consider other material considerations in its decision making. The KC has confirmed that future housing land supply issues are capable of being a material consideration to be weighed in the balance when considering a planning application. He particularly highlights the weight that is being given in appeal decisions to affordable housing needs highlighting that the identified affordable housing need significantly exceeds the numbers being delivered and that this would carry significant weight in the eyes of an inspector when considering a development that is sustainable development even if not compliant with the adopted Local Plan.

In his conclusion the KC advises that the Council should note that the government has a long-standing approach of seeking to boost the delivery of housing and in particular affordable housing. He states that in his opinion the Council ".....needs to take steps to seek both to boost its current supply of both market housing and affordable housing and also take steps to seek to bring forward a development plan which will provide sufficient homes with a realistic prospect of delivery over the future plan period". He considers that concerns about the housing land supply position and the soundness of the Local Plan are well founded. With regard to bolstering supply by granting consent for more housing sites he states that "I recognise that the approach that will need to be taken should be bespoke and have careful regard to the circumstances of each site. Although the tilted balance may not fall to be applied, in my view that should not preclude officers from recommending suitable sites for approval, having regard to the weighty considerations of housing and affordable housing need identified above".

Options

There are a number of applications held in the system that were submitted when the 'tilted balance' was to be applied where officers were minded to recommend approval of the applications having weighed up the material considerations as required. Due to the changes to the NPPF and uncertainty regarding the weight to be given to these issues in the absence of the 'tilted balance' officers were unable to make a recommendation on these applications. There were also some applications which had a resolution to grant following application of the 'tilted balance' prior to publication of the new NPPF which have also been held up because of these issues. These applications were subject to Section 106 agreements and so were not issued prior to the changes to the NPPF. Those decisions now need to be reconsidered in light of the changes to the NPPF and without the 'tilted balance' being applied. This is because the decision has to be made based on the policy position at the time of the decision which is the date the decision is actually issued rather than the date of the committee resolution. Wherever possible these applications have been held under agreed extensions of time with the applicant so that they do not impact on the council's performance against government performance indicators. However, the affected developers are understandably keen to have a decision on their applications.

In light of the clarity of the weight to be given to these issues through the KC opinion; Officers will need to review their consideration of the relevant applications in light of this opinion and draft reports so that these can be taken to Planning Committee for a decision. Clearly the approach will have to be tailored to the merits of each individual application, but it is considered that significant weight should be given to the housing land supply issues highlighted in this report.

It is not the role of Strategic Planning Committee to consider individual planning applications and so this report deliberately does not refer to the specific applications to avoid such references being misconstrued. It is however written in the terms of reference for Strategic Planning Committee as set out in the constitution for the committee to:

- (i) To provide advice to the Planning Committee on the interpretation of the policies of the Development Plan if requested to do so by either officers or the Planning Committee.

In this case Members could seek to advise Planning Committee that although the 'tilted balance' is not to be applied significant weight should still be given to the housing land supply position as set out in this report and the need to bolster the housing land supply position over the coming year in the run up to submission of the Local Plan for examination. Planning Committee therefore could be asked to have significant regard to these issues when considering applications for housing development where they are considered to constitute sustainable development.

It is important to bear in mind that it is not a simple case of granting enough homes to make up the immediate shortfall. Although the current shortfall is estimated at about 0.5-years housing land supply which equates to 447 homes (when rounded up), it is not simply a case of granting consent for this number of homes. In order to positively impact on the housing land supply position, they would need to be homes that we can be reasonably sure will be delivered in the 5-year period. It often takes time for sites to actually commence on site and there will be limitations on the number of homes that any site is likely to deliver in any given year. In order to fully address the shortfall, it will therefore be necessary to grant consent for a number of sites which in total will be well in excess of 447 homes in order to deliver at least this number of homes within the 5-year period with the remainder to be delivered in later years. Members are also reminded that a 5-year housing land supply is a minimum requirement and we should be seeking to bolster supply to well above this level if we are to present a robust supply position.

An alternative approach to that set out above would be for the committee to not issue any new advice to Planning Committee regarding the weight to be given to housing land supply matters. In reality as officers are required to give their professional opinion and set out all material considerations, the committee would still be advised of these matters but on a case-by-case basis and without the benefit of a strategic perspective on the issue from Strategic Planning Committee. This approach may lead to an inconsistent application of the weight to be given to housing land supply issues and make it more challenging for the Planning Committee to fully consider the wider impacts of their decision for the plan making process. It may also increase the likelihood of applications for housing developments that depart from the strategy in the adopted Local Plan being refused by the committee and then subsequently allowed on appeal if housing land supply matters are given greater weight by inspectors when considering appeals. This could also have implications for costs to the council in defending those decisions which would be likely to involve public inquiries and the costs associated with that including legal representation.

Members may choose not to take any actions to address these issues both through Strategic Planning Committee and Planning Committee. As a result, there would be a significant risk that come the examination of the Local Plan the council is unable to present a 5 year housing land supply position, even with the stepped trajectory approach referred to above, or that the position only narrowly meets the 5 year requirement and is vulnerable to challenge. Such an approach would risk the local plan being found unsound at examination and much of the work in its production being wasted. By this time the 2 years protection provided under the 4-year supply position would either have expired or been lost as a plan would no longer be at an advanced stage of production and so the tilted balance would need to be applied again. There is a significant risk

in this scenario that the undersupply would be substantial by that point and with plan production needing to start again, under a new system, there would be a lot of work needed in terms of plan production and a lot of consents needed to be granted to readdress the situation. In all likelihood it would be a number of years before a 5-year housing land supply could be demonstrated.

A more optimistic but unlikely scenario would see supply bolstered through sites coming forward in accordance with the current local plan strategy such that a 5-year housing land supply position can be demonstrated at local plan examination without the need for a change in the weight to be attributed to such issues. In an ideal world this would be the case but there are not considered to be any significant known sites within the current strategy that are likely to come forward and deliver new homes within the timescale to adequately address the situation. The housing requirement figure has however fallen in the last two years due to improvements in the affordability ratio and if this trend were to continue or accelerate then this would help to improve the supply position. It should also be noted that faster than expected build out rates on large scale sites such as the Cranbrook expansion areas would also help to improve the position without a need to change the current approach. Although outline consents have now been granted for two of the main expansion areas totalling over 2500 homes in the absence of reserved matters consents work cannot start on site. There are significant costs and challenges to open up these sites which mean it is appropriate to be conservative about when these sites may start delivering new homes and how many they would deliver in the early years of build out. In reality their build out is likely to take many years.

Conclusion

From the above analysis it is considered that action is needed to address the future housing land supply issue and ensure that we can demonstrate a 5-year housing land supply upon adoption of the new Local Plan. Although individual applications will need to be determined on their own merits it is considered important that Planning Committee understand the importance of this issue for progression of the Local Plan and delivery of wider strategic planning objectives in the district which are the purview of the Strategic Planning Committee. Members are therefore recommended to issue advice to the Planning Committee on this issue to aid their consideration of applications that could help to address the housing land supply challenges that we face.

Financial implications:

There are no direct financial implications raised in the report.

Legal implications:

The legal implications are set out within the report.

Report to: **Strategic Planning Committee**

Date of Meeting: 15 July 2024

Document classification: Part A Public Document

Exemption applied: None

Review date for release N/A



East Devon Local Plan work programme update

Report summary:

This report advises on progress on production of the new local plan and key steps and stages ahead noting the timetable to take a Regulation 19 plan to committee in November 2024. This would lead to the opportunity for comments through engagement to be made on the plan from December 2024 to January 2025 and for Submission for Examination in May 2025.

Is the proposed decision in accordance with:

Budget Yes No

Policy Framework Yes No

Recommendation:

That committee note the work programme going forward on production of the new East Devon Local Plan.

Reason for recommendation:

To ensure committee are aware of the work going forward.

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

Portfolio(s) (check which apply):

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

Equalities impact Low Impact

Climate change Low Impact

Risk: Medium Risk;

Links to background information

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

Link to Council Plan

Priorities (check which apply)

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

1. Further Regulation 18 Local Plan consultation

- 1.1 Committee will be aware that further consultation has taken place under Regulation 18 of the plan making regulations. This was under a select range of topic matters, having undertaken much fuller consultation on a draft plan from Monday 7 November 2022 until Sunday, 15 January 2023.
- 1.2 The consultation closed on 27 June 2024. At the time of writing this report responses had not been assessed although we received a good response rate.

2. Member workshops and site assessments

- 2.1 Committee will also be aware that we have started to hold the member site assessment workshops with to date workshops for Sidmouth and surrounding areas and Seaton and surrounding areas having been completed (and for Axminster and surrounding areas scheduled to have been completed at the time of the committee meeting). Workshops for the following locations and surrounding areas are scheduled to run from late July into August - Exmouth, Honiton, Ottery St Mary and West end.
- 2.2 The workshops are considered to be a really useful means to understand the type of concerns and considerations members and town/parish councils have about potential development sites. The workshops are not a forum to make decisions but debate held will very usefully inform officer report and recommendation writing.
- 2.3 The intent is that a report on site allocation choices will come to committee as soon as the work is completed and there has been the chance to assimilate information. We are aiming to report back to the meeting of this committee scheduled for the 3 September 2024 and also to a proposed follow on meeting for the 11 September – but depending on matters raised at workshops we may need more time to undertake relevant work.
- 2.4 It is highlighted that reports to committee in September are unlikely to be final definitive recommendations on site choices, there is still technical work to be completed. We would hope, however, that in reporting back we can give a clear recommended direction of travel. But we may need to also highlight fundamentally

difficult challenges going forward, including in respect of total supply of land/sites for development (especially housing) and also to secure timely delivery.

3. Local Plan policy redrafting

3.1 With the shift of focus towards site selection work the actual redrafting of local plan policy has moved down the timing priority order list. However, there will be a shift of officer workloads over the coming weeks to redrafting of policies. The aim will be to start to send the next redrafted plan chapters (amendment of the draft plan to form an early iteration of what we suggest the Regulation 19 plan should look like) to committee in September 2024 – though volumes of work are such that there may well need to be several committee meetings to consider plan redrafting.

4. Ongoing evidence gathering

4.1 As part of the plan making work we still have various ongoing evidence gathering studies that will inform plan making work. Major work areas, the subject of external commissions or work directly by officers, that we are undertaking or may wish or need to pursue include:

- Settlement Boundary definition work
- New community assessment and masterplan work
- Greater Exeter transport study
- Water Cycle Study
- Housing need assessment update
- Heritage strategy update
- Playing pitch strategy
- Sustainability Appraisal
- Habitat Regulations Assessment
- Viability assessment
- Equalities impact assessment
- Site Selection final technical reports
- HELAA completion
- Duty to co-operate reporting
- Strategic Flood Risk Assessment
- Assessment of inclusion of Cranbrook in the new local plan
- Infrastructure Delivery Plan
- Major developments in National Landscapes assessment

4.2 We would stress the above is not a definitive list. But it does illustrate that there is still a significant volume of work to be completed.

5. Regulation 19 local plan consultation

5.1 Officers are still working to a timetable that will see a report coming to committee in November 2024 recommending that the local plan is made available under Regulation 19 of the plan making regulations for people to make comment on.

- 5.2 This is the timetable set out in the Local Development Scheme and it advises of the period for comments running from December 2024 to January 2025. The plan itself, the comments received and supporting evidence documents will be sent (the Submission) to the Planning Inspectorate for the Examination of the plan. We are aiming to submit for Examination in May 2025, noting that as things stand there is a proposed deadline date of June 2025 for submission to meet in order to progress under the current plan making regime.
- 5.3 We would highlight, however, to meet deadlines there are some challenging targets to be met. Workloads for officer are and will be high, there are likely to be challenging decisions for members to make and we are dependent on third party work coming through in a timely manner, notably consultant reports that need to inform our plan making. And there are unknowns about the future shape and requirements of future Government policy.
- 5.4 We would advise of some, but limited potential, for timetable slippage to meet the June 2025 submission deadline. We have created a simplified work schedule (Gantt chart style) to illustrate timetabling of key workloads set out in this report – see below/over the page. As dates extend into the future they are best current estimates.

Financial implications:

There are no direct financial implications raised in the report.

Legal implications:

There are no legal implications requiring comment.

Timetable for East Devon Local Plan preparation – key tasks – at July 2024

key tasks and work areas	2024/25												2025/26												2026/27															
	Apr-24	May-24	Jun-24	Jul-24	Aug-24	Sep-24	Oct-24	Nov-24	Dec-24	Jan-25	Feb-25	Mar-25	Apr-25	May-25	Jun-25	Jul-25	Aug-25	Sep-25	Oct-25	Nov-25	Dec-25	Jan-26	Feb-26	Mar-26	Apr-26	May-26	Jun-26	Jul-26	Aug-26	Sep-26	Oct-26	Nov-26	Dec-26	Jan-27	Feb-27	Mar-27				
Further Reg 18 Consultation																																								
Further Reg 18 consultation period		■	■																																					
Assess Reg 18 draft plan comments				■	■																																			
Feedback report on further Reg consultation to SPC						■																																		
Site assessment workshops																																								
Local plan member working group - Site assessment				■	■	■																																		
Site selection reports to SPC						■																																		
Policy Redrafting																																								
Officer work on policy redrafting			■	■	■																																			
1st redraft of amended policies to SPC						■																																		
The Publication draft of the local plan																																								
Finalise plan and draft committee papers							■																																	
SPC/Council approval for publication plan								■																																
Plan Publication (Reg 19 engagement)									■	■																														
Collate comments received										■	■	■																												
Council approval for submission											■	■																												
Submission for examination												■																												
Plan Examination																																								
Examination period													■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■		
Receive Inspectors report																																					■			
Plan adoption through committee/Council																																					■			

Page 9

Report to: **Strategic Planning Committee**

Date of Meeting: 15 July 2024

Document classification: Part A Public Document

Exemption applied: None

Review date for release N/A



Local plan zero carbon policies for new developments

Report summary:

This report specifically seeks direction from committee on new development zero carbon policies for inclusion in the new local plan. In the draft plan, consulted on from 7 November 2022 to January 2023, we included a series of proposed policies in Chapter 7 - Tackling the climate emergency and responding to climate change. They were fit for purpose for consultation but they now need refinement going forward and depending on how we progress them it may be a requirement that we buy in specialist consultancy advice to undertake technical assessment in support of our approach. Through this report, whilst we do set out recommendations, we seek instruction from members on how they would like to progress with plan policy.

Is the proposed decision in accordance with:

Budget Yes No

Policy Framework Yes No

Recommendation:

1. That committee endorse a policy approach for new development that places the emphasis on seeking to minimise carbon emissions during and through the construction phase of development.
2. That committee endorse a local plan policy approach that relies on application of building regulations in respect to future energy standards for construction, rather than one that seeks to exceed these standards.

Reason for recommendation:

To seek agreement from committee to inform work going forward

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

Portfolio(s) (check which apply):

- Climate Action and Emergency Response
- Coast, Country and Environment
- Council and Corporate Co-ordination
- Democracy, Transparency and Communications

- Economy and Assets
- Finance
- Strategic Planning
- Sustainable Homes and Communities
- Tourism, Sports, Leisure and Culture

Equalities impact Low Impact

Climate change Low Impact

Risk: Medium Risk;

Links to background information

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

Link to Council Plan

Priorities (check which apply)

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

1. Draft local plan policy

- 1.1 The draft local plan [commonplace-reg-18-final-071122.pdf \(eastdevon.gov.uk\)](#) under Regulation 18 of [The Town and Country Planning \(Local Planning\) \(England\) Regulations 2012 \(legislation.gov.uk\)](#) included within it Chapter 7 - Tackling the climate emergency and responding to climate change. The intent is to split off the 'responding to climate change' section/policies and put these in a new separate plan chapter. They, draft plan policies 35 to 38 and supporting text, relate to water and flooding matters and will form a logical plan chapter in their own right.
- 1.2 What we do seek clarity and instruction from committee on is, however, how in principle to proceed with draft plan policies on minimising carbon emissions in respect of new development and specifically the following policies in the draft plan:
 - Strategic Policy 28 - Net-zero carbon development
 - Strategic policy 34 - Embodied energy
- 1.3 Depending on the approach that committee wish to see policy take there may be a need to commission further technical advice and support from an outside specialist consultancy. We would also highlight that we comment on other carbon emission related matters in this paper.
- 1.4 Members will recall that in March 2024, as part of a report on the Local Plan timetable, Members were asked to consider whether they wish to pursue a policy approach in the new Local Plan that sets out Local Plan Policy on energy efficiency standards that exceed building regulations. This March report followed a written ministerial statement

advising that local authorities should not seek to do this, however Members were clear that they still wanted to pursue a higher standard in the new Local Plan. This report seeks to update Members on progress in considering these issues since that time including discussions with South West Energy and Environment Group (SWEEG) which suggest that seeking to exceed building regulations may not be the best approach.

- 1.5 The content of this committee report can be usefully read alongside the consultation feedback report that was produced in response to the draft plan consultation – see: [accessible-reg-18-consultation-feedback-report-spring-2023.pdf \(eastdevon.gov.uk\)](https://www.eastdevon.gov.uk/accessible-reg-18-consultation-feedback-report-spring-2023.pdf) Feedback was broadly supportive and encouraging, in principle, of reducing carbon emissions, though there were clear qualified concerns and objections raised to some aspects of policies. In this committee report we touch on some of the feedback received.

2. Wider corporate considerations

- 2.1 The Local Plan is essentially concerned with new development and determination of planning applications for new building. New dwellings and buildings built each year will form a limited addition to the existing stock and new dwellings will be more energy efficient than the dwellings that already exist, in many cases very much more so. It should be noted that we would generally be very supportive of energy efficiency measures being incorporated into older buildings (and they can apply to many newer ones as well). Though often planning permission will not be required and as such considerations fall outside of and beyond the planning system. Though where listed buildings, other heritage assets or other sensitivities apply, there may be valid planning constraints, which are relevant. Issues around undertaking such works really are matters of owner/occupier choice or if relevant would fall to other non-planning regulatory powers.
- 2.2 In respect of solar panel installation on roofs most developments would be Permitted Development and as such would largely fall outside of our control, subject to various conditions being complied with. Though there are exceptions to this in relation to heritage assets where a balance between protection of assets and avoidance of adverse impacts would need to be considered alongside carbon emission saving benefits. Many, especially larger scale, developments for renewable energy generation would however fall under the planning regime.
- 2.3 Outside of the local plan and planning policy there may be a corporate desire to encourage and support energy efficiency and renewable generation, including for example the energy efficiency upgrading of existing dwellings. However, these would be matters to be considered elsewhere/through other means rather than through the local plan.
- 2.4 It is important to highlight, as well, that the local plan, in various chapters, includes policies that have relevance to carbon emissions and their reduction. We do not comment on these in this report but, for example, planning for development in ways that can allow for people to choose to not use private vehicle, specifically making places that are walking and cycling friendly, is a critical consideration. In this respect

planning for the appropriate location of new development is one of the most important matters that local plan policy seeks to address.

3. Net zero-carbon development

- 3.1 The principle of net zero carbon in new development relates to:
- a) levels of carbon emissions arising from the construction of new buildings and any refurbishment during its life; and
 - b) in use demands for heating and other energy use as the building is used.
- In exceptional cases there can be third element as well, decommissioning after the end of building use/life. This is, however, a rare consideration that other than for temporary permissions would be a challenge to address through the planning system and a such is not addressed in plan policy

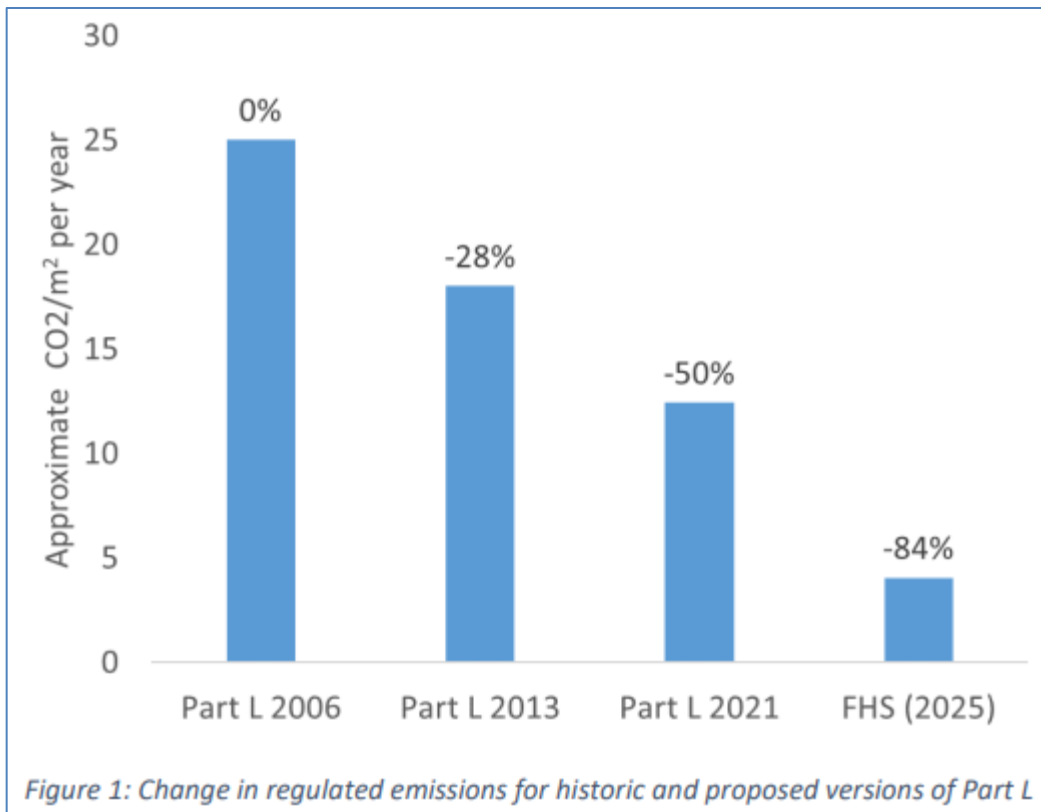
Embodied energy

- 3.2 The materials used in construction and refurbishment of buildings, including extraction, manufacture, transport and other related matters can emit substantial levels of carbon and do so in a relatively short time period associated with building construction, as opposed to the long-term time horizons of building operation.
- 3.3 The South West Energy and Environment Group (SWEEG) produced a report for Exeter City Council [oqjd5xnk4igekjjq6m0v.pdf \(cloudinary.com\)](#) in which they advise that initial analysis suggests that operational emissions from development may only be 3% (assumed per annum) of the upfront emissions of constructing it. As such many buildings will need to be occupied and used for many years before the operational carbon emissions exceed those emitted through and associated with the construction phase. The guidance in the SWEEG work is that there are significant opportunities to have a much greater impact on carbon emissions overall through an embodied carbon policy than through policies that relate to building operational matters.
- 3.4 The short time period of impacts during construction are important in that they occur over an immediate time horizon, thus embedding additional carbon in the atmosphere now that will have impacts over a long-time horizon. This is in comparison to operational demands where net cumulative time horizons are spread out over a longer period. Furthermore over the years ahead, as renewable energy generation increases, the operational impacts of buildings in respect of carbon emission can be expected to decline.
- 3.5 The draft local plan, in Strategy 34, has an aspirational policy around encouraging reduction of embodied energy use in construction of buildings. But as drafted at present it does not set out actual and measurable requirements. It is suggested that we should be doing more through policy to require defined standards or mechanisms in respect of testing the credentials of planning applications and ensuring embodied energy considerations are properly taken into account and schemes seek to and actually do achieve best (minimising carbon) impacts.
- 3.6 The proposal is that officers will do more work around this subject matter before coming back to committee with suggested policy refinement. We did, however, wish

to raise the matter with Committee as it is of importance, and more so than the issue of operational energy performance of (building regulation compliant) new buildings.

Operational carbon emissions of buildings

- 3.7 Operational energy demands of buildings in their day-to-day use include space and water heating (these generate the greatest emission levels), lighting, air-conditioning, appliance use and any other activities that emit carbon.
- 3.8 With exceptionally good building insulation and taking fullest advantage of the heating effect of sunlight entering a building (passive solar gain), and through other means, it can just about be possible to avoid having any heating appliances in new developments, specifically new homes. But having no heating appliances would be pushing building standards to the limits, if not beyond, what is realistically possible and heating appliances of some form are in reality going to be needed in new developments, specifically in new homes. The local plan policy debate is one of how we approach and interpret the goal of net zero and therefore what demands, if any, we seek to spell out in local plan policy.
- 3.9 Government policy, as given affect by the building regulations, is based on requiring high insulation standards in new development (though certainly not as high as is technically possible) and to allow for power (for example electricity to run heat pumps) to be bought into a property, from beyond that property, from the National grid. The development can be argued to be net zero on account of the net generation of the electricity used being from renewable sources. An issue is, of course, that the national grid carries power that is generated from renewable sources and also from non-renewable sources so making use of just renewables energy maybe seen as a somewhat notional concept. Over time, however, the expectation is for non-renewable contributions to the grid to diminish.
- 3.10 The Planning and Energy Act 2008, however, sets out that local plans may go beyond Government policy, such as through more and higher insulation standards. These would be standards that exceed current and future planned building regulations and/or that require on-site or locally generated renewable and low carbon energy, as opposed to that drawn from the national grid, to heat a building. There is an argument that to achieve this outcome, and potentially for a building to become a net exporter of clean energy, is a truer form of being net zero. Drawing from the March committee report we have explored this option further.
- 3.11 Just seeking to apply Government policy (and not setting local standards) is the easier option. It is very important to note that as building regulation standards have increased over the years the energy performance of buildings have increased significantly and through further planned changes, notably advised to occur in 2025, they will increase again. In this report drawing on the SWEEG work produced for Exeter City Council a graphical representation shows the decline in regulated emissions from new dwellings from those constructed in 2006 to projected construction in 2025, see below.



- 3.12 The graph illustrates the significance of changes in just 20 years, emissions down 84%, and if we were to look back further we could expect to see emissions, the height of the blue bars, being much greater.
- 3.13 Building improvement standards, when coupled with increasing electricity generation coming from renewable sources, can be expected to lead to an outcome where net carbon emissions from new developments are likely to be (comparatively) minimal. Furthermore, further changes to building regulations in conjunction with new application of new emerging technologies, in the years ahead and beyond 2025, could require even more energy efficient new buildings, with, over time absolutely zero or negative operational carbon impacts.
- 3.14 The challenges in seeking local standards, that go beyond building regulations include:
- Net gains made, from exceeding building regulation standards, could be very limited in benefit, especially when seen in the context of all the other ways that human activities emit carbon and the quantities involved and other ways that the planning system can seek to reduce emissions.
 - Exceeding standards will add to the cost of development and thereby reduces potential developer contributions to pay for infrastructure.
 - Although legislation allows for local standards, a government written ministerial statement from December 2023 [Written statements - Written questions, answers and statements - UK Parliament](#) seeks to restrict how these provisions are implemented. In simplified terms application of the statement would limit how far and in what ways local plan planning policy could go in setting local

standards. There is, however, a legal challenge around the weight and legal credence of the statement and this was heard in the High Court in mid-June 2024 with a judgement potentially to be handed down in July 2024.

d) Any attempt to exceed building regulations will require explanation of policy to applicants for planning permission and a regulatory regime to ensure compliance. This is likely to have some significant cost implications on the Council. There are external regulatory protocols and service providers that could be bought in, though at this stage costs have not been investigated. It would also be possible for the Council to employ specialist staff in this area. Timing impacts on determination of planning applications and development coming forward may arise. It should be noted that for compliance with building regulations we already have an effective, efficient and long-established staff and regulatory regime in place and operating and external approved inspectors exist.

- 3.15 It is relevant to note that in draft plan consultation there was some support for higher standards but there were also significant challenges raised around the practicalities and costs of doing so and concerns about viability impacts that may arise.
- 3.16 Notwithstanding the challenges we would highlight that some local authorities have adopted local plan policies, having taken them through Examination and gained approval by inspectors, for standards that exceed building regulations. Indeed, the Cranbrook Plan DPD adopted by the council in October 2022 includes policy CB12 Delivering Zero Carbon that sets out a series of steps that must be followed to achieve zero carbon across the development. This however proved a complex policy to develop and presents challenges in respect of implementation and enforcement. The policy wording and approach as applied at Cranbrook may be less appropriate for wider application across the district.
- 3.17 We would also highlight that others have failed in attempts to introduce policies that exceed building regulations. It is not, therefore, just simply a case of writing policies that exceed standards and these policies will automatically appear in the adopted local plan. Whenever a local plan deviates from national planning policy it would be prudent to work on the expectation of rigorous challenge from an inspector, and third parties, at plan Examination. A planning inspector could be expected to closely scrutinise such policies and wish to see clear logic for their inclusion in a plan, often such logic would need to rest on clear local circumstances justifying their inclusion.
- 3.18 In this committee report we deliberately do not seek to get into detailed technical debate around exceeding building regulations. We would though highlight that we have discussed the matter with academics from the University of Exeter - under the SWEEG partnership we are part of (also see the SWEEG paper that is referenced in this report produced for the City Council).
- 3.19 From our discussion with SWEEG (and in their paper) they provided a steer for not seeking to exceed building regulation standards. The basis for this is that the benefits in reducing carbon emissions overall are minimal, particularly when compared with the

benefits that can be achieved through other policy approaches, including as referenced in respect of building construction.

- 3.20 For reasons of balance we would, however, highlight that there are organisations and consultancies (other experts) that are advocates of promoting higher standards and that have advised planning authorities in respect of getting such standards into their local plans and through examination. The Town and Country Planning Association are one organisation that is actively championing the cause for setting higher standards – see for example: [The 13 December 2023 WMS and local plan policy for net zero - Town and Country Planning Association \(tcpa.org.uk\)](#) They specifically reference challenges to the Government position.
- 3.21 Aside from carbon emission matters we would also highlight that better insulated buildings, especially new houses, although costing more to build in the first place, can be expected to have lower heating costs in the longer term and provide for more comfortable living conditions.
- 3.22 Should Strategic Planning Committee be of the view that we continue to want to have standards that exceed those set out through building regulations we would seek instruction to do so. If this is the case then we would need to buy-in specialist consultancy advice to advise on and around the matter, we do not have ‘in-house’ officer expertise or time to do the work ourselves. But this is not the recommended course of action and also time available to commission such advice is very limited. In line with what SWEEG are saying officer advise would be to choose to go down the route of the application of the building regulation regime.

Photovoltaics in new development

- 3.23 The SWEEG work highlights potential for seeking or requiring through planning policy the installation of photovoltaics (solar panels or similar) on the roofs of new development at the point of construction.
- 3.24 However, SWEEG note the potential problem is that the way building regulations are set out a consequence or outcome of requiring photovoltaics might be that developers can produce building regulation compliant developments with lower insulation standards. In effect the generation of renewable energy would be ‘offset’ by less energy efficient build standards. As a variation SWEEG highlight the option of requiring developments to be built that are photovoltaic ready, rather than actually requiring installation as part of the development. This avoids the knock-on impact and makes it simpler and cheaper for home owners to install panels at a later date.

Financial implications:

There are no direct financial implications raised in the report.

Legal implications:

There are no legal implications requiring comment.

Report to: **Strategic Planning Committee**

Date of Meeting: 15 July 2024

Document classification: Part A Public Document

Exemption applied: None

Review date for release N/A



Renewable energy generation policies

Report summary:

This report seeks direction from committee on policies in the new local plan specifically around the issue of renewable energy generation – wind and solar farms. Policies consulted on in the draft plan were fit for purpose for that stage of plan making work but they now need refinement going forward and depending on how we progress them it may be a requirement that we buy in specialist consultancy advice to undertake technical assessment in support of proposed approaches. Through this report, whilst we do set out recommendations, we seek instruction from members on how they would like to progress with plan policy.

Is the proposed decision in accordance with:

Budget Yes No

Policy Framework Yes No

Recommendation:

That Committee agree to continue with the currently proposed approach for solar and wind farm development with sites that are technically suitable for these developments identified in the plan but with a criteria-based policy applied to ensure that they are acceptable in terms of impacts on the landscape, heritage assets and other planning considerations.

Reason for recommendation:

To seek agreement from committee to inform on work going forward

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

Portfolio(s) (check which apply):

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

Tourism, Sports, Leisure and Culture

Equalities impact Low Impact

Climate change Low Impact

Risk: Medium Risk;

Links to background information

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

Link to Council Plan

Priorities (check which apply)

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

1. Draft local plan policy

- 1.1 The draft local plan [commonplace-reg-18-final-071122.pdf \(eastdevon.gov.uk\)](#) under Regulation 18 of [The Town and Country Planning \(Local Planning\) \(England\) Regulations 2012 \(legislation.gov.uk\)](#) contained policies detailed below that we major on in this report and that we seek clarity on in respect of future work and progress:
- Strategic policy 30 - Suitable areas for solar energy development
 - Strategic policy 31 - Suitable areas for wind energy development
- 1.2 Depending on the approach that committee wish to see policy take there may be a need to commission further technical advice and support from an outside specialist consultancy. We would also highlight that we briefly comment on other carbon emission related matters in this paper.
- 1.3 The content of this committee report can be usefully read alongside the consultation feedback report that was produced in response to the draft plan consultation – see: [accessible-reg-18-consultation-feedback-report-spring-2023.pdf \(eastdevon.gov.uk\)](#)
- 1.4 It should be noted that in this paper we discuss larger or commercial scale installations rather than small scale domestic developments, for example solar panels on the roofs of houses. In this report we draw on work that South West Energy and Environment Group (SWEEG) produced for Exeter City Council [ogjd5xnk4igekjq6m0v.pdf \(cloudinary.com\)](#)

2. On-shore windfarms and solar energy generation

- 2.1 In recent years, in England, there have been very few significant onshore wind farms built. Many commentators point to the previous draft of the NPPF, requiring lack of

local objections to proposals, for them to be allowed to go ahead. This resulted in it being extremely challenging to gain planning permission leading to a situation where very few wind farm companies or providers were willing to pursue schemes. This is despite the fact that on-shore wind farms generate some of the cheapest renewable energy.

- 2.2 Off-shore wind farms (those out at sea) typically fall beyond local planning authority boundaries and therefore control and there have been significant off-shore developments in recent years. However off-shore wind farms can be far more costly and complex to develop and operate than on-shore equivalents.
- 2.3 Recent changes to the NPPF have gone some way to be more accommodating of on-shore wind energy developments. But to be fully pro-active in encouraging on-shore provision (should this be seen as desirable) the local plan should be explicit in planning for them and identify appropriate areas on maps for their location.
- 2.4 Paragraph 160 of the NPPF [National Planning Policy Framework \(publishing.service.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/426623/nppf-2019-07-20.pdf) advises *“To help increase the use and supply of renewable and low carbon energy and heat, plans should:*
- a) provide a positive strategy for energy from these sources, that maximises the potential for suitable development, and their future re-powering and life extension, while ensuring that adverse impacts are addressed appropriately (including cumulative landscape and visual impacts);*
 - b) consider identifying suitable areas for renewable and low carbon energy sources, and supporting infrastructure, where this would help secure their development; and*
 - c) identify opportunities for development to draw its energy supply from decentralised, renewable or low carbon energy supply systems and for co-locating potential heat customers and suppliers.”*
- 2.5 There is, therefore, encouragement for renewable installations but not a requirement. Paragraph 163 - item b) determination of planning applications has Footnote 58 that advises *“..... a planning application for wind energy development involving one or more turbines should not be considered acceptable unless it is in an area identified as suitable for wind energy development in the development plan or a supplementary planning document; and, following consultation, it can be demonstrated that the planning impacts identified by the affected local community have been appropriately addressed and the proposal has community support.”*
- 2.6 The NPPF does not state that windfarms must be planned for, there is an option therefore to not make provision in or through planning policy.
- 2.7 In draft local plan policy, Strategies 30 and 31, we have policy that identifies areas that may potentially be suitable and potentially appropriate for wind and solar farms. Through work undertaken by SWEEG [UoE-2020-Low-Carbon-and-Climate-Change-GESP-report-net-zero-draft-120320.pdf](https://www.sweeeg.co.uk/wp-content/uploads/2020/07/UoE-2020-Low-Carbon-and-Climate-Change-GESP-report-net-zero-draft-120320.pdf) we have assessments of technical suitability land areas, based on wind speeds, sunlight levels and connections to the grid, that

may be suitable for wind and solar farm development. This was overlaid with a mapping exercise that identified and excluded potentially sensitive areas, and buffers around them, for example land in National Landscapes (formerly AONBs), to identify potential suitable locations for development. These areas were shown on the draft local plan Policies Map and Strategies 30 and 31 then have quite demanding policy tests that need to be met to allow for development to come forward in the identified areas.

- 2.8 The policy approach in the draft plan is similar to Policy S14: Renewable Energy in the recently adopted Central Lincolnshire local plan [Local Plan for adoption Approved by Committee.pdf \(n-kesteven.gov.uk\)](#) Though it does not go as far as some local plan policies go in respect of more formally and rigorously assessing sites, and then have far less stringent criteria based tests to allow for development to go ahead. We would highlight that Historic England have raised concerns around our policy approach and have inferred that more detailed assessment of identified areas may be appropriate.
- 2.9 To go down the route of being more explicit in allowing wind and solar farms in defined areas shown on the Policies Map may require more landscape and other sensitivity testing to refine boundary lines. Teignbridge District Council have done this in their emerging local plan but to achieve this they have done so on the strength of detailed landscape sensitivity assessment work (see for example - [Wind Turbine Sites in Teignbridge](#)). To do something similar could require a costly commission and may take some time to complete. This does not seem proportionate in the case of East Devon particularly in relation to wind farm development as few opportunities exist to bring forward viable wind farm development in the district. Furthermore even under such a policy approach there are significant uncertainties that planning permissions would or could be granted for schemes. The NPPF still requires community engagement and “*community support*” for wind farm development to go ahead. This does not mean that there are no objections to a proposal though some commentators suggest this test still remains very challenging and is quite likely to stifle many possible applications. Matters have changed little, it is suggested by some, from previous NPPF requirements and they suggest there will remain very major challenges, potentially making it not worth starting to pursue schemes, for prospective developers.
- 2.10 Should committee be of the view that a more proactive and positive policy approach to wind farm development is desirable in East Devon then we would seek clarity on this matter and would wish to appoint specialist consultants to undertake assessment. Members instructions are sought.
- 2.11 The NPPF is not specific in respect of local plan defining locations for solar farms or solar arrays. Strategic Policy 31 of the draft local plan provides for their consideration and is considered appropriate, subject to minor refinement officers may recommend at a later date for inclusion in the plan.
- 2.12 It is worth highlighting that whilst there was some positive feedback in draft plan consultation to wind farms and solar farms there were concerns raised about the nature and scale of impacts that development may have. Smaller scale, especially

domestic installations, were generally seen more favourably than bigger developments.

3. Other climate emergency policies in the local plan

- 3.1 Although majoring on wind and solar energy we touch on other policy matters as set out in the draft plan below – noting that a separate report to committee addresses matters relating to Strategic Policy 28 - Net-zero carbon development and Strategic policy 34 - Embodied energy – so reference is not included here.
- 3.2 **Strategic Policy 27 – Climate emergency** – this is an overarching strategic policy that sets out a broad approach to addressing the East Devon target to become carbon neutral by 2040. Refinements but not major changes are likely to be appropriate.
- 3.3 **Strategic Policy 29 - Promoting renewables and zero carbon energy** - this is also something of a generic overarching policy and it may be reasonable to look at removal of the policy from the plan and incorporating relevant parts in other plan policies. Noting, however, that there is policy reference to limitations on non-renewable energy generation developments.
- 3.4 **Strategic Policy 32 – Energy storage** - Energy storage technologies (including battery storage) allow surplus electricity to be stored as other forms of energy until it is required when it can be re-released as electricity. Policy addresses new developments but it is recognised that larger scale facilities can be challenging to accommodate and there have been issue around whether the energy stored should be from renewable sources only or if it should include non-renewable generation. Policy 32 – Energy Storage, we suggest, strikes a broadly appropriate balance for consideration of proposals for energy storage facilities.
- 3.5 **Strategic Policy 33 – Heat networks** - Strategic heat networks are created from systems where a central plant or plants will generate heat and this will then be distributed along pipe networks. Policy addresses these considerations and along similar lines the SWEEG report for Exeter, that is referenced in this report, refers to **Local energy networks** which can provide potential for energy supplies that may avoid use of the national grid and can provide for specific defined areas or locations. Sometimes they can be achieved through local ownership, drawing on renewables or ‘waste’ heat or energy from say industrial activities. These will warrant further investigation in plan making. We have a district heat network already operating in the district within Cranbrook and the enterprise zone and there are opportunities for a network to serve the proposed second new community as well.

Financial implications:

There are no direct financial implications raised in the report.

Legal implications:

There are no legal implications requiring comment.