

Report to: **Strategic Planning Committee**



Date of Meeting: 14 February 2023

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**Proposed response to Government consultation - Levelling-up and Regeneration Bill: reforms to national planning policy**

**Report summary:**

The Government are currently undertaking consultation that could have a particular bearing on planning policy matters, specifically including proposed changes to the National Planning Policy Framework (NPPF), and therefore on the new East Devon Local Plan. These changes run ahead of legislative changes that are proposed in the Levelling-up and Regeneration Bill (which is currently going through Parliament) though are clearly informed by thinking set out in the Bill.

The consultations close at 11:45pm on 2 March 2023 and this report sets out a proposed response to the consultation by this Council. One matter that has been very topical in recent debate, including in comments on the local plan consultation, is the potential to plan for lower levels of housing growth than those set out under the current planning system (under the current Government methodology). This matter is discussed and addressed in this report and also officer recommended responses to the consultation, from this council, reference the subject matter.

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

Budget                      Yes  No

Policy Framework      Yes  No

**Recommendation:**

- 1. Strategic Planning Committee agree that this Council respond to the Government consultation with the boxed text explicitly set out in this committee report.**

**Reason for recommendation:**

To secure members endorsement of the proposed response by this council to the Government consultation on changes to the NPPF.

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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

1. [Levelling-up and Regeneration Bill: reforms to national planning policy - GOV.UK \(www.gov.uk\)](https://www.gov.uk/levelling-up-and-regeneration-bill)
2. [National Planning Policy Framework: draft text for consultation \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/consultations/national-planning-policy-framework-draft-text-for-consultation)
3. [East Devon, Exeter, Mid Devon and Teignbridge Local Housing Needs Assessment 2022](#)

### Link to Council Plan

Priorities (check which apply)

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

## 1. Background

- 1.1 The Levelling-up and Regeneration Bill is currently going through Parliament. Once (assuming) it is passed, and then in whole or parts enacted, it will introduce what could be significant changes to planning legislation. Any new legislation could have a particular bearing on planning policy matters and as such on the emerging new local plan for East Devon.
- 1.2 Running ahead of the legislation (though informed by thinking and content within) are proposed changes to the existing NPPF, though these changes are not (it is assumed) reliant on legislative changes. The Government are currently undertaking consultation on the current proposed changes to the NPPF and also wider matters that may inform future redrafts of the NPPF and/or guidance or legislation. It is recommended that this council submit a response. In the consultation the Government advises:

### ***“Consultation description***

*This consultation seeks views on our proposed approach to updating to the National Planning Policy Framework. We are also seeking views on our proposed approach to*

*preparing National Development Management Policies, how we might develop policy to support levelling up, and how national planning policy is currently accessed by users.”*

- 1.3 It should be noted that the further round of changes (after those currently being consulted on) are proposed to the NPPF and these will follow at a later date. These later changes will (or at least may) reflect and be informed by legislative changes that will come through in the Levelling-up and Regeneration Bill (noting, of course, that the Bill might change as it passes through Parliamentary stages, assuming it gets through them).
- 1.4 It should be noted that the Government do not advise that they are inviting comments on the Levelling-up and Regeneration Bill or other aspects of planning legislation. However, through making comment on the current consultation and the NPPF any respondent might be seen to be making observations that could have some impacts on the bill.
- 1.5 On the Government web site there are two documents that form part of the consultation:
  - The first ( [Levelling-up and Regeneration Bill: reforms to national planning policy - GOV.UK \(www.gov.uk\)](#) ) – referred to as the ‘Prospectus’) forms a commentary around the proposed changes to the NPPF and wider planning matters and it asks a series of questions; and
  - The second ( [National Planning Policy Framework: draft text for consultation \(publishing.service.gov.uk\)](#) ) forms what the Government reference as “*indicative changes for consultation*” to the NPPF. It is a tracked changes re-draft of the NPPF.

#### Potential future changes to NPPF

- 1.6 Whilst many of the proposed changes to planning policy relate to housing and would occur in spring 2023, subject to the consultation, further potential additional changes have been signalled in the consultation.
- 1.7 First, plans progressed under the new Bill’s proposals, as currently drafted, would not face that legal test as the Bill would remove the Duty to Co-operate. However, the Duty to Co-operate will remain in place until the Bill’s provisions come into effect.
- 1.8 Members are advised that the Government’s Prospectus highlights potential future changes to NPPF in addition to those in the consultation document. The Government proposes to introduce an “Alignment policy” as part of a future revised NPPF, so as to secure appropriate engagement between authorities where strategic planning considerations cut across boundaries. This will replace the Duty to Cooperate. Consistency with the policy will be tested at Examination. Unlike the current system, authorities and Inspectors would have the ability to amend plans to improve alignment. No further details are available on how the policy will operate. Government will undertake further consultation on what should constitute the alignment policy. What the consequences of any unmet need would be for East Devon under the alignment policy and whether it would enable the Council to justify a housing requirement policy that is lower than local housing need is unclear.

- 1.9 Second, other changes to NPPF may occur. The Government is signalling it will consider the implications of new 2021 Census-based household projections, planned to be published by the ONS in 2024. It will then review the approach to assessing housing need, *“to make sure the method for calculating need commands long-term support based on the most relevant data”*. Using more up to date evidence and/or longer timeframes may be appropriate. However, new ONS district level household projections will not be available for some time.
- 1.10 The LHNA 2022 shows more housing is needed in East Devon as the result of the Standard Method (including its ‘affordability uplift’) compared to 2014-based demographic trends. The Government has not signalled terminating the use of a Standard Method as the starting point to establish local housing need, nor do we know what, if any, ‘exceptional circumstances’ could be identified for East Devon to justify a lower housing need figure. But if it could be justified then this LHNA 2022 information could start to provide a steer on what a different lower need level could look like.

## **2. Commentary on and proposed responses by this Council to the Government Consultation**

- 2.1 This Government consultation document contains a series of Chapters and in this proposed response to the consultation we run through the document in sequential order. We list each chapter heading separately and then, under each chapter heading, we:
- Identify each question asked in turn;
  - provides some commentary around and related to each question drawing on material in the consultation document and matters that might be specifically relevant to East Devon; before then
  - providing (in boxed text) a proposed response by this Council to the question asked (the boxed text forms the recommended text for submission to Government).
- 2.2 In providing suggested responses we cross-reference, in some cases, to the specific proposed (indicative) new NPPF wording. Though it should be noted that not all matters in the consultation questions are actually cross-referenced in or through proposed current changes to the NPPF. Some questions and matters go to possible future longer term changes.
- 2.3 Consultation responses need to be submitted by 11:45pm on 2 March 2023 and there is an on-line response form that we intend to use for making responses, it’s the boxed text in this report that we propose to submit through this system. All questions have a text box for answers and some questions also have a ‘Yes’, ‘No’, ‘Indifferent’ tick box options. Where these tick boxes appear, or in other limited cases there is a slightly differing format, we will tick the relevant box that most closely aligns with the agreed text answer or otherwise complete the form as appropriate.

**Chapter 1 – Introduction** – this chapter forms an introduction to the consultation and does not actually ask any questions, therefore no response is proposed by this Council

explicitly in respect of this chapter though themes and matters it introduces come up further in the consultation and are reflected in proposed responses to the consultation.

**Chapter 2 - Policy objectives** - this chapter, also, does not actually ask any questions, therefore no response is proposed by this Council. The chapter itself sets out seven broad policy objectives, with supporting commentary, headed:

- Building beautiful and refusing ugliness;
- Securing the infrastructure needed to support development;
- More democratic engagement with communities on local plans;
- Better environmental outcomes;
- Empowering communities to shape their neighbourhoods;
- All this is needed to deliver more homes in the right places, supported by sustainable and integrated infrastructure for our communities and our economy.

**Chapter 3 – Providing certainty through local and neighbourhood plans** – this chapter contains Questions 1 to 5 and text below sets out commentary related to the questions and a proposed response.

**Q.1: Do you agree that local planning authorities should not have to continually demonstrate a deliverable 5-year housing land supply (5YHLS) for as long as the housing requirement set out in its strategic policies is less than 5 years old?**

The consultation advises of removal of the requirement for local authorities with an up-to-date plan to demonstrate continually a deliverable 5-year housing land supply. This is an important factor as land supply assessment, typically updated on an annual basis, can fluctuate over the life of a plan and might for some years dip under five years supply even though an overall whole plan life picture will clearly establish a total supply to meet needs.

This proposed change would not remove the need to demonstrate a five year land supply at the point of local plan adoption or the ability to maintain supply after adoption, for plan making purposes. This will be tested at local plan Examination. Nor does it remove the need to monitor housing supply against housing requirement after plan adoption. But it does mean that the 5 year housing land supply could not be a material consideration where an adopted plan with policy on housing requirements is less than 5 years old.

**Proposed EDDC response to Question 1**

East Devon District Council supports the proposal that local planning authorities should not have to continually demonstrate a deliverable 5-year housing land supply where they have an up to date plan. The critical consideration when it comes to delivering appropriate levels of planned for and high quality housing is not one of possible minor fluctuations that could see a temporary dip below having a five year supply, but one of having an overall picture, established over a number of years, that will see appropriate levels of high quality housing delivery.

**Q.2: Do you agree that buffers should not be required as part of 5YHLS calculations (this includes the 20% buffer as applied by the Housing Delivery Test)?**

Due to our Housing Delivery Test result, the current buffer in East Devon is only 5% for the 5YHLS calculations used for development management purposes. This means that the identified deliverable supply for the next 5 years, as at the annual monitoring point, needs to be 5% more than the housing requirement for the next 5 years. So by removing the buffer we need less identified deliverable supply needs to achieve a 5 year housing land supply.

For plan-making purposes the current buffer for East Devon is 10%. Removing the buffer does not reduce the overall housing requirement in a plan period, but it makes it easier to demonstrate achieving a 5YHLS at the point of plan adoption. It would still be necessary to identify a robust and deliverable housing land supply and so some leeway may still need to be built in.

The consultation advises of the proposed removal of buffers noting that they *“can add a complexity which may not bring equivalent supply rewards. For plan-making, they can prolong debate, making it harder to get plans into place. For decision-making they can open additional routes to unplanned development. Therefore, to simplify the planning system, support a plan-led approach and to make housing land supply calculations more comprehensible to the public, we propose removing these 5-year housing land supply buffers from national planning policy in the future.”*

It should be noted that there is a separate, additional Question 16 on 5YHLS, with a proposed EDDC response.

**Proposed EDDC response to Question 2**

East Devon District Council supports the proposal for the removal of the buffers from 5YHLS calculations and agrees that it would simplify plan making and support a plan-led approach to securing new development that aligns with Government aspirations to ensure high quality housing is built in appropriate locations to meet recognised needs.

**Q.3: Should an oversupply of homes early in a plan period be taken into consideration when calculating a 5YHLS later on, or is there an alternative approach that is preferable?**

There have been interpretations, by some Inspectors at planning appeals, that have concluded that where a planning authority has a past level of housing supply that has exceeded need levels (for example annual housing policy requirements set out in an adopted plan) the past oversupply should not be taken into account in assessing future five year land supply assessments. Very sensibly the consultation identifies this as a flawed approach noting that proposed changes *“..... will enable a local planning authority to include historic oversupply in its 5-year housing land supply calculations and to demonstrate it is meeting its community’s overall housing requirements.”*

### **Proposed EDDC response to Question 3**

East Devon District Council supports the proposed changes to paragraphs 11b(iii) and 75 that ensure that 'over supply' in previous years should be taken onto account in respect of calculating five year land supply. This aligns with the logic of also taking into account past under supply in overall assessment work. The most important consideration is that plan led development is meeting community needs over longer term time horizons and that fluctuations or variations that result in 'over-supply' in one or more past years are not discounted. To do otherwise, i.e. discount past oversupply, could discourage planned for development and would lead to disincentives for local planning authorities to encourage timely and potentially early development.

### **Q.4: What should any planning guidance dealing with oversupply and undersupply say?**

Noting Question 3, above, and the proposed answer, the logic, if we are to achieve plan-led development that is geared to meeting appropriately identified need, then we should consider all aspects of supply and demand, over longer time periods, are taken into account to determine whether there is an appropriate supply position to deliver appropriate levels of housing development.

The draft NPPF proposes changes to both 5YHLS calculations and when calculating housing provision requirement for plan-making.

(Note: text in bold are additions; strikeouts are deletions)

NPPF paragraph 75 “ ..... **When the housing requirement set out in strategic policies becomes more than five years old<sup>44</sup>, local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement set out in adopted strategic policies<sup>45</sup>, or against their local housing need (taking into account any previous under or over-supply as set out in planning practice guidance).**”

NPPF paragraph 11b) “strategic policies should, as a minimum, provide for objectively assessed needs for housing and other uses, as well as any needs that cannot be met within neighbouring areas , unless:.....

**iii) there is clear evidence of past over-delivery, in terms of the number of homes permitted compared to the housing requirement in the existing plan,; in which case this over-delivery may be deducted from the provision required in the new plan.”**

However, it is unclear whether the 'over-delivery' for plan making purposes is based on having delivered all the housing requirement for the whole plan period or whether it is based on the annualised requirement in the adopted plan for the plan period to date.

### **Proposed EDDC response to Question 4**

East Devon District Council is of the view that planning guidance should recognise issues of possible undersupply and oversupply in respect of assessing whether there is sufficient planned and committed development to provide for plan-led development needs. Most

importantly the onus should be on providing for housing over longer time periods rather than leaving assessment vulnerable to the vagaries of year on year fluctuation, especially where such fluctuations are beyond the controls of a planning authority – for example if they occur because the economy is in recession and developers, for commercial reasons, do not want to build new homes. Furthermore, where plan-led development proposes major long term and larger scale or complex development schemes, such as a new town, there should be scope to establish land supply calculations that are measured and assessed against greater than five year time horizons and which could show stepped patterns of delivery, perhaps lower in early years and greater in later years.

We are concerned that NPPF paragraph 11b(iii) is unclear. To avoid confusion, challenge and unnecessary debate at appeals, the Government should clarify in PPG that the term ‘over-delivery’ in NPPF paragraph 11b(iii) is based on the annualised requirement(s) in the adopted plan for the plan period to date and does not mean having delivered all the housing requirement for the whole plan period. It would be unreasonable to expect the latter when there are still several years until the end of the current plan period.

**Q.5: Do you have any views about the potential changes to paragraph 14 of the existing Framework and increasing the protection given to neighbourhood plans?**

Prospectus Ch 3 paragraph 8 to 11 is about boosting the status of Neighbourhood Plans. The Government expects that neighbourhood plans will be more protected in future, because the consultation proposes that where a local plan for the area is up-to-date, a 5-year housing land supply will not be required. This would mean that the presumption in favour of sustainable development would not apply as often.

Government is further proposing additional protections for neighbourhood plans in circumstances where a local planning authority’s policies for the area covered by the neighbourhood plan are out-of-date.

1. By extending protection to neighbourhood plans that are up to 5 years old instead of the current 2 years.
2. By removing tests which currently mean local planning authorities need to demonstrate a minimum housing land supply and have delivered a minimum amount in the Housing Delivery Test for Neighbourhood Plans to benefit from the protection afforded by the Framework.

**Proposed EDDC response to Question 5**

Overall, East Devon District Council in principle supports the proposed changes as set out in NPPF paragraph 14, but mindful of the Council’s response to Questions 16, and 18 to 21, and with a number of observations as follows.

The existing 2 year protection is not considered to be of sufficient length given the significant time and effort often over many years of dedicated community volunteers to prepare neighbourhood plans, set alongside the speed at which the development process tends to move. Neighbourhood Plans are also very unlikely (in our experience) to be

reviewed within 5 years. In East Devon we now have 25 made neighbourhood plans, dating back to 2015, and with none have as yet been through a review / modification process.

A 5 year protection would therefore seem much more fitting and would better reflect the purpose and value of neighbourhood plans as introduced and promoted by the Government as a tool within the statutory planning system to facilitate greater community engagement and influence. It could also encourage more communities to consider production (or review of) a neighbourhood plan, although we would identify the following potential issues / implications for consideration by the Government;

- i. the importance of encouraging positive neighbourhood plan making, beyond a desire to secure this enhanced protection;
- ii. the risk of the enhanced protection creating inequality / a two-tier system between those communities that have a neighbourhood plan, and those that do not (for whatever reason, noting that not all communities will have neighbourhood plans and that a neighbourhood plan is not right for every community)

**Chapter 4 – Planning for housing** – this chapter contains Questions 6 to 21 and text below sets out commentary related to the questions and a proposed response.

**Q.6: Do you agree that the opening chapters of the Framework should be revised to be clearer about the importance of planning for the homes and other development our communities need?**

The first paragraph in the draft NPPF is sending a clear message.

1. The NPPF "sets out the Government's planning policies for England and how these should be applied<sup>1</sup>. It provides a framework within which locally-prepared plans **can provide** for **sufficient** housing and other development in a sustainable manner.~~can be produced~~. **Preparing and maintaining up-to-date plans should be seen as a priority in meeting this objective.**"

(Note: text in bold are additions; strikeouts are deletions)

The 7<sup>th</sup> paragraph repeats the message

7. The purpose of the planning system is to contribute to the achievement of sustainable development, **including the provision of homes and other forms of development, including supporting infrastructure in a sustainable manner.**

.....

Officer assessment is that:

- The proposed changes in NPPF paragraphs 1 and 7 do more than simply signal that "providing for necessary development that is integrated with local infrastructure is a core purpose of the planning system" as asserted in the Prospectus. It may not negate the fundamental importance of respecting the overarching economic, social and environmental objectives which set out in NPPF Chapter 2. But together with a plethora of changes proposed in the NPPF it clearly signals the Government's

continued and strengthened message for increasing the focus on housing growth delivery.

- The word “sufficient” in paragraph 1 manages to be vague and at the same time is clearly driven by the Government’s housing objective and target
- The changes to paragraphs 1 and 7 add a layer of emphasis, particularly about housing, that can be viewed as tipping the balance of the economic, social and environmental objectives which set out in NPPF Chapter 2. Provision of homes is emphasised as part of planning’s role in delivering sustainable development. Consequently, there appears to be a higher risk that the emphasis on housing delivery will be given greater weight when balanced against environmental and social factors, or in the balance of housing and other types of development
- Adding the words “including supporting infrastructure” in paragraph 7 is laudable but vague, if there is no mention of timing or the nature of infrastructure delivery.

#### **Proposed EDDC response to Question 6**

East Devon District Council is of the view that Government should give greater consideration as to whether including the word “sufficient” regarding housing and other development in NPPF paragraph 1 is helpful without better defining what is meant. The Council considers that additional text should be included in revised PPG to provide greater clarity on how a local planning authority determines what is meant by “sufficient”. In doing so it will be important for Government to consider whether the proposed changes to NPPF paragraphs 1 and 7, in combination with other changes related to housing, risk tipping the balance of sustainable development that could undermine the creation of sustainable places.

#### **Q.7: What are your views on the implications these changes may have on plan-making and housing supply?**

Providing for “sufficient” housing and other development is a vague concept. It requires interpretation in light of Government policy, particularly as there is no change to the Government’s objective of significantly boosting the supply of homes, nor to the target of 300,000 dwellings per year by the mid-2020s. Combined with the other proposed housing policy change, this simply consolidates the drive to deliver housing.

Officer assessment about the implications of the related changes to NPPF for plan making and housing supply leads to the conclusion that the proposals will have unintended consequences from shifting the burden of proof about supply delivery from post plan adoption, to the local plan examination, increasing the need for resources for plan-making and testing, and impacting on the plan-making timetable.

#### **Proposed EDDC response to Question 7**

East Devon District Council considers that Government should give further thought to the following unintended consequences that can be expected to flow from the changes to 5 year land supply, Housing Delivery Test and the proposed approaches aimed at more build-out.

- Delivery of housing is a priority, so we can expect evidence of actual and forecast housing delivery to be closely scrutinised, including where it supports the selection or rejection of site allocations.

- Removing buffers from the 5 year housing land supply and the changes to the Housing Delivery Test will benefit development management once the plan is adopted. But these changes reduce the degree of supply 'flexibility' for the plan period. The unintended consequence is they place a greater burden on the Planning Authority and increase the need for resources for plan-making and testing. The unintended consequences relate to evidential requirements for the local plan to demonstrate housing supply flexibility. In particular,
  - More detailed and robust evidence is needed to justify the housing delivery forecasts, the scale of supply headroom, and contingency mechanisms eg the use of reserve sites and monitoring/phasing and governance;
  - The evidence has to be updated at least annually before and during the plan examination, and the consequences for policy and plan making analysed and reported, including detailed audit trail documentation
  - Removing the buffer does not mean that fewer development sites are needed. Sufficient sites still need to be identified and allocated to provide headroom.
  - The planning authority will continue to have to evidence a rolling 5 year housing land supply for the plan period for the examination– certainly at the point of plan adoption and for at least the following 5 years.
- The housing land supply position will still need to be monitored for plan performance purposes. Otherwise, without performance measures such as five-year supply how would the Planning Authority know if supply issues need addressing. Not having to demonstrate a '5 year land supply position' does not remove appellants' ability to question the scale and type of housing supply. The unintended consequence is that the changes shift the burden of proof for the Planning Authority from 5 year deliverable supply to the full plan period, to show how supply is being maintained.

**Q.8: Do you agree that policy and guidance should be clearer on what may constitute an exceptional circumstance for the use of an alternative approach for assessing local housing needs? Are there other issues we should consider alongside those set out above?**

Much has been said in respect of the Levelling-up and Regeneration Bill about housing numbers. Under the current NPPF, and associated guidance, the Government set out a standard methodology that determines the levels of housing growth that Local Planning Authorities should plan for, this is a **need** figure. It is stressed that use of the current methodology is not mandatory but it is extremely difficult to deviate from this standard and justify alternative numbers.

The current NPPF and Guidance focuses on using the Standard Method to calculate local housing need, noting that there is, however, already the flexibility for a Planning Authority to use alternative methods to calculate need. However, if the alternative approach results in a lower housing need figure then the Planning Authority has to demonstrate, using robust evidence, that the figure is based on realistic assumptions of demographic growth and that there are exceptional local circumstances that justify deviating from the standard method.

As the Levelling-up and Regeneration Bill progressed through early stages of parliamentary procedure in late 2022 there were messages coming through that there could be more

flexibility for Planning Authorities to establish and determine for themselves what they consider are appropriate levels of housing to plan for. There was speculation in the press that the proposed changes weaken the link between the government's local housing need figures and councils' local plan homes targets.

In the context of possible changes there was a statement made by Michael Gove, the Secretary of State for Levelling Up, Housing and Communities, in the House of Commons on 6 December 2022 in which he said,

*"I will retain a method for calculating local housing need figures, but consult on changes. I do believe that the plan-making process for housing has to start with a number. This number should, however, be an advisory starting point, a guide that is not mandatory. It will be up to local authorities, working with their communities, to determine how many homes can actually be built, taking into account what should be protected in each area—be that our precious Green Belt or national parks, the character of an area, or heritage assets. It will also be up to them to increase the proportion of affordable housing if they wish."* [Michael Gove – 2022 Statement on the Planning System – UKPOL.CO.UK](#)

It is not fully clear what is meant by the above, however, we can reasonably see from the tone of the consultation that the Government are not minded to completely open it up to all or any Planning Authority to freely plan for whatever they think is appropriate.

The Prospectus explicitly states:

Chapter 1 - paragraph 6 - *"The government remains committed to delivering 300,000 homes a year by the mid-2020s and many of the immediate changes focus on how we plan to deliver the homes our communities need."*

The consultation NPPF does not propose to change the Government's objective to significantly boost housing supply and the Prospectus reconfirms the target. This driver for housing growth would therefore remain.

The Prospectus also explicitly states

Chapter 4 - Paragraph 3 – *"The standard method for assessing local housing need was introduced in 2018 to make sure that plan-making by local authorities is informed by an objective assessment of projected household growth and affordability pressures, while speeding up the process of establishing housing requirement figures through local plans. It remains important that we have a clear starting point for the plan-making process and we are not proposing any changes to the standard method formula itself through this consultation."*

The consultation Prospectus indicates that the outcome of the Standard Method is therefore a starting point and states that it is 'advisory', not mandatory. It also makes clear that the ability to use an alternative method would be retained. Whilst text in the Prospectus does clearly suggest some greater flexibility to consider alternative housing provision it would not be a reasonable reading of the consultation document to conclude that there is Government aspiration or expectation that there is now going to be complete freedom for Planning Authorities to unilaterally determine need.

From the Prospectus, the more reasoned reading would be that the Government are minded to accept more nuanced grounds, perhaps quite if not very narrowly defined, to establish a basis for deviating from the existing approach. There may be more clarity in Spring 2023 when the Government responds to the consultation and publishes NPPF revisions about the type of demographic and geographic characteristics specific to the authority's area that could be used to demonstrate 'exceptional circumstances'.

The consultation states that "local authorities will be expected to continue to use local housing need, assessed through the standard method, to inform the preparation of their plans; although the ability to use an alternative approach where there are exceptional circumstances that can be justified will be retained. We will, though, make clearer in the Framework that the outcome of the standard method is an advisory starting-point to inform plan-making – a guide that is not mandatory – and also propose to give more explicit indications in planning guidance of the types of local characteristics which may justify the use of an alternative method, such as islands with a high percentage of elderly residents, or university towns with an above-average proportion of students. We would welcome views on the sort of demographic and geographic factors which could be used to demonstrate these exceptional circumstances in practice".

The consultation provides a new opportunity to consider whether to make a case for the other combinations of characteristics that might justify "exceptional circumstances". Whilst a high and growing proportion of elderly residents is a key demographic characteristic of East Devon it is not unique. What is unique (or at least unusual or not-typical) in the district is the combination of constraints of.

- 66% of the district being protected landscape (AONB designated) – which surrounds or abuts nearly all of our market towns; plus
- two sides of the district (nearly 50% of the district boundary) being sea or estuary, including the East Devon part of the Dorset and East Devon Coast World Heritage Site (the "Jurassic Coast") plus
- a significant area to mitigate the impact of development through the South-East Devon European Sites Mitigation strategy (e.g. through SANGS) – much of what is not AONB falls into catchment boundaries and there are also AONB overlays; plus
- the River Axe SAC catchment (where Nutrient neutrality mitigation and required water efficiency measures are required)

In combination these constraints impact on the amount of land that might be deemed desirable or appropriate for development. There are also additional constraints such as areas vulnerable to flood risk and adverse impacts on heritage assets.

Previously, Government guidance has been very clear that supply constraints are not taken into account. Officers' assessment of the consultation document is that one of the suggestions in the Prospectus for exceptional circumstances appears to relax the policy. It implies that the implications for sustainability resulting from supply constraints could be taken into account, at least for some constraints. The unintended consequence is that other areas could seek to use combinations of characteristic that include supply constraints to justify exceptional circumstances. This may not be what the Government intends, because it would more than 'tip the balance' away from meeting housing needs towards protecting the environment character in many areas. The conclusion is that it could be very challenging to manage to try and persuade the Government to significantly relax the policy to the extent that the

combination of environmental constraints in East Devon would be recognised as 'exceptional circumstances'.

#### **Proposed EDDC response to Question 8**

East Devon District Council supports greater clarity in policy and guidance on what constitutes an exceptional circumstance for the use of an alternative approach for assessing local housing need. In this respect the Government should consider whether the example of 'islands with a high percentage of elderly residents' quoted in the Prospectus is appropriate as it is very specific and more common examples should be used. It is also unclear if this touches on introducing supply constraints as an exceptional circumstance.

In our case it is the presence of Areas of Outstanding Natural Beauty which make up two thirds of the land in the district which are the biggest constraint on development. Given that government policy is clear that great weight should be given to protecting them and that they should have the highest level of protection in landscape terms there should be means for authorities with large areas of AONB to appropriately reduce their housing need.

Similarly European protected habitats such as SAC's, SPA's and RAMSAR sites should also be an exceptional circumstance as these limit the potential to accommodate housing in a district. Delivering the numbers generated by the standard method may have a significant effect on the protected habitat and even if these impacts can be mitigated the cost of mitigation can be that the scheme cannot viably delivering the infrastructure to support it.

Government should give some clarity about the extent to which these constraints could justify an exceptional circumstance in order to manage community expectations, provide clarity to the development industry and local authorities and ensure that time and resources are not wasted seeking a disproportionate change to the assessed local housing need. Guidance is needed as to what is considered to be "sufficient" housing where exceptional circumstances are applied.

**Q.9: Do you agree that national policy should make clear that Green Belt does not need to be reviewed or altered when making plans, that building at densities significantly out-of-character with an existing area may be considered in assessing whether housing need can be met, and that past over-supply may be taken into account?**

The need to optimise the efficient use of land is set out within the Consultation Draft East Devon Local Plan which already includes policy 63 where proposals for residential development will be permitted provided that the development which optimises the density of the site in a manner that conserves or enhances the character of the area and makes efficient use of land.

#### **Proposed EDDC response to Question 9**

1. East Devon District Council has no comment about Green Belt other than to say that it would be perverse to protect Green Belt in this way and not include the protection of AONB's as an exceptional circumstance given that these are the highest quality

landscapes in the country and Green Belt land is often of very low landscape quality albeit of importance to prevent settlement coalescence.

2. East Devon District Council supports an approach where building at densities that are significantly out of character with an existing area may be considered in assessing whether housing need can be met, but it considers the wording of draft NPPF paragraph 11 b (ii) to be unclear (*“such adverse impacts may include situations where meeting need in full would mean building at densities significantly out of character with the existing area”*.) The proposed wording of draft NPPF could have unintended consequences. By its very nature development changes the character of an area. The lack of clarity on what this means in practice, or what constitutes ‘significant’, casts uncertainty over all site allocations but particularly those on greenfield sites. In a rural area such as East Devon, there are limited previously developed land opportunities, and the need to use greenfield land for urban or village extensions or for new settlements could be compromised by proposed paragraph 11b(ii).
3. East Devon District Council agrees that past over-supply may be taken into account. The Council supports the proposed change that ensures that ‘over supply’ in previous years should be taken onto account in respect of calculating five year land supply. This aligns with the logic of also taking into account past under supply in overall assessment work. The most important consideration is that plan led development is meeting community needs over longer term time horizons and that fluctuations or variations that result in ‘over-supply’ in one or more past years are not discounted from and therefore not recognised as being part of the appropriate planned for development. To do otherwise, i.e. discount past oversupply, could discourage planned for development and would lead to disincentives for local planning authorities to encourage timely and potentially early development

**Q.10: Do you have views on what evidence local planning authorities should be expected to provide when making the case that need could only be met by building at densities significantly out-of-character with the existing area?**

Under this proposed change, if the only way to meet development (eg housing) need in full is by building at densities significantly out of character with the existing area, this could be a reason to justify setting a housing requirement total lower than the housing need within the planning authority area. However, it would need robust evidence. The Council would need to prioritise resources to produce design guides/code and evidence about areas’ characters if we needed to use this policy to justify our housing requirement policy.

Officer assessment concludes the proposed changes to NPPF appear to be aimed primarily at urban areas where significant increases in density can be achieved by extending buildings upwards and/or downwards, and out on to gardens. This could lead to a significant change in character of the existing built up area. But the policy could apply to East Devon and have consequences. It could for example run counter to the Council’s emerging proposals that could increase in the amount of affordable housing on existing housing estates owned by the Council, achieved through redevelopment and intensification.

Paragraph 11b(ii) as revised could be interpreted in more than one way, depending on what is meant by “existing area”. The policy needs to be clarified so that it could not be used for

example to justify not allocating housing on a greenfield site adjoining/very close to a settlement just because the site currently has no built development (i.e. nil density). For allocations that would extend existing settlements then “existing area” should mean the adjoining part of the settlement. Paragraph 11b(ii) should not apply to new settlement proposals. In East Devon, this would mean a greenfield, or largely greenfield site, well detached from existing settlements. Although there isn’t a specific question on this point, the Council can still raise this issue.

An initial assessment of the type of evidence required suggest that it would need to be locally relevant, robust evidence, and available no later than at the time of making decision on the Publication (Pre-submission) local plan to be consulted on at Regulation 19 stage. This would be onerous in terms of the work required to produce an agreed methodology, and then use this to produce a sufficiently fine-grained assessment of the “character of the area” across settlements within the settlement hierarchy where the Local Plan allocations. The methodology would need to be guided by design guides/codes which are part of the development plan (or adopted as SPG). It would be a considerable burden on the Council’s resources.

#### **Proposed EDDC response to Question 10**

East Devon District Council in principle supports the proposed change to NPPF paragraph 11b(ii) provided that it is not interpreted as a reason to preclude development of allocated greenfield sites either adjoining the built form of existing settlements, or allocated as a free-standing new settlement or other detached site in a plan.

The evidential requirements are likely to be a potentially huge burden on the planning authority. Government should consider whether there is a realistic prospect of this being achievable in the timeframes and resources available to planning authorities.

We would though also stress the value that design codes have to offer. We would suggest that district-wide design codes would need to be produced in accordance with national guidance including defined area types and respective densities. These density assessments would therefore be available to guide appropriate densities in accordance with the character of the district and areas contained within. Following assessment of the local housing need, a district-wide assessment of available sites appropriate for allocation could be evaluated against the district-wide density guidance to assess the district’s total character-appropriate housing capacity. This evidence could be made available to justify a reduced local provision where harm to local character would result.

By its very nature, development changes the character of an area. The lack of clarity on what ‘significantly out-of-character’ means in practice casts uncertainty over all site allocations but particularly those on greenfield sites. We would encourage design-code guidance that is clear on the appropriate assessment of density for green field sites adjacent to settlements or for exception sites in the open countryside.

#### **Q.11 Do you agree with removing the explicit requirement for plans to be ‘justified’, on the basis of delivering a more proportionate approach to examination?**

Currently the NPPF includes the test of soundness that the Local Plan should be “*Justified – an appropriate strategy, taking into account the reasonable alternatives, and based on proportionate evidence*”. The Government proposes deleting this test for plan-making

purposes. However, the other three tests of soundness remain, albeit with proposed changes to the test of being 'positively prepared'. There is no change proposed to NPPF paragraph 31. The Planning Authority still has to explain the reasons for the plan's policies and proposals, and under NPPF paragraph 31, the preparation and review of a local plan still requires relevant and up to date evidence.

A more proportionate approach to examination will still need to take account of which issues in East Devon are particularly relevant to supporting the delivery of the local plan's vision and objectives, as well as demonstrating consistency with national planning policy and effectiveness (ie deliverability. Some matters such as the explanation of site selection or the scale of housing requirement, can be expected to continue to require significant evidence. Simply deleting the justification test does not remove the evidential test.

#### **Proposed EDDC response to Question 11**

East Devon District Council supports the intention to deliver a more proportionate approach to examination, but concludes that the proposal to delete the test of soundness about plan 'justification' in previous NPPF para 35b) is negated by the retention of the test of soundness that the local plan should be consistent with national policy (ie '*enabling the delivery of sustainable development in accordance with the policies in this Framework and other statements of national planning policy, where relevant and other national planning policy*') – in Paragraph 35d) -now 35c).

Draft NPPF paragraph 31 still states "*The preparation and review of all policies should be underpinned by relevant and up-to-date evidence. This should be adequate and proportionate, focused tightly on supporting and justifying the policies concerned, and take into account relevant market signals*".

The need for evidence remains relevant when the planning authority demonstrates how the other tests of soundness are met ie is the plan positively prepared and is it effective, or when demonstrating that legal tests have been met.

In light of the proposed changes to the tests of soundness, the Council considers that Government should provide new guidance in PPG to make clear what is meant by "proportionate" in NPPF paragraph 31 as a matter of urgency. In particular, to make clear what is the evidence 'bar' for key matters such as housing and employment development. Without this, the Planning Authority may not produce the necessary evidence in a timely way. Alternatively it could gather and use evidence that is no longer necessary. In both circumstance there is a risk of delay or challenge to plan making, and a risk of incurring unnecessary or avoidable costs.

**Q.12: Do you agree with our proposal to not apply revised tests of soundness to plans at more advanced stages of preparation? If no, which if any, plans should the revised tests apply to?**

Prospectus Ch4 paragraph 13 indicates that "*For the purposes of the changes to the test of soundness, the Government proposes that the change regarding the test of soundness will not apply to plans that have reached pre-submission consultation stage, plans that reach that*

*stage within 3 months of the introduction of this policy change, or plans that have been submitted for independent examination”.*

The emerging East Devon Local Plan is unlikely to meet those criteria.

The applications of footnote 24 in Draft NPPF paragraph 36 is unclear and needs to make it clear which tests of soundness will be applied.

As written the qualifying criteria related to footnote 24 can be read as implying that:

- a) none of the tests of soundness apply to any development plans that have reached Regulation 19 stage; or
- b) none of the tests of soundness apply to non-strategic policies in development plans that have reached Regulation 19 stage

It seems very unlikely that this is what Government means, and this needs to be corrected or clarified, otherwise there will be unintended consequences (ie no test of soundness applies).

#### **Proposed EDDC response to Question 12**

East Devon District Council is of the view that Government should give greater consideration as to whether the addition of footnote 24 as worded, to draft NPPF paragraph 36, has introduced the risk of an unintended consequence. As written, the qualifying criteria related to footnote 24 can be read as implying that:

- a) none of the tests of soundness apply to any development plans that have reached Regulation 19 stage; or
- b) none of the tests of soundness apply to non-strategic policies in development plans that have reached Regulation 19 stage

This seems very unlikely and in order to avoid challenge and delay to plan-making this needs to be corrected or clarified. The Councils suggests that this could be achieved by adding the following to the end of NPPF paragraph 225.

*“All the tests of soundness shown in the previous version of NPPF (July 2021) will continue to apply to plans that have reached Regulation 19 stage and continue to progress through the plan-making process”.*

**Q.13: Do you agree that we should make a change to the Framework on the application of the urban uplift?**

**Would not apply to East Devon as the urban uplift only applies to the largest cities.**

#### **Proposed EDDC response to Question 13**

East Devon District Council has no comment to make as changes would not impact on the district.

**Q.14: What, if any, additional policy or guidance could the department provide which could help support authorities plan for more homes in urban areas where the uplift applies?**

Would not apply to East Devon.

**Proposed EDDC response to Question 14**

East Devon District Council has no comment to make as changes would not impact on the district.

**Q.15: How, if at all, should neighbouring authorities consider the urban uplift applying, where part of those neighbouring authorities also functions as part of the wider economic, transport or housing market for the core town/city?**

As worded in draft NPPF, this would not apply to East Devon as the nearest local planning authority falling under the urban uplift classification is Plymouth.

However, Government has yet to publish its 'alignment policy' which is signalled in the Prospectus (to replace the Duty to Cooperate) and whether this applies only to the 20 largest cities and their surroundings, or whether it would also apply to smaller towns and cities, such as Exeter. So it is unclear at this time what the consequences would be for East Devon.

**Proposed EDDC response to Question 15**

East Devon District Council has no comment on urban uplift as set out in draft NPPF paragraph 62 as this relates to the top 20 cities. Prospectus Ch 4 paragraphs 14 and 15 appear to relate to the top 20 cities. But in the absence of the Government's proposal for an 'alignment policy' as signalled in the Prospectus there is no clarity at this time about what mechanisms there will be to address strategic planning considerations which cut across boundaries at smaller cities and towns. The Council reserves its position, but urges Government to give further consideration to this matter for the next review of the NPPF.

**Q.16: Do you agree with the proposed 4-year rolling land supply requirement for emerging plans, where work is needed to revise the plan to take account of revised national policy on addressing constraints and reflecting any past over-supply? If no, what approach should be taken, if any?**

Draft NPPF paragraph 226 proposes that. "*From the date of publication of this revision of the NPPF, for the purposes of changes to paragraph 61, for decision-taking, where emerging local plans have been submitted for examination or where they have been subject to a Regulation 18 or Regulation 19 (Town and Country Planning (Local Planning) (England) Regulations 2012) consultation which included both a policies map and proposed allocations towards meeting housing need, and the housing requirement as set out in strategic policies has become more than five years old in the extant plan, local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of four years' worth of housing against their local housing need instead of a minimum of five years as set out in paragraph 75 of this document. These arrangements will apply for a period of two years from the publication date of this version*".

Prospectus Chapter 4 paragraph 17 makes clear that the 2 year time frame is proposed because it is the government's "*objective to provide time for review while incentivising plan adoption*". It aligns with the Secretary of State's 5 December 2022 letter to MPs which indicated that the purpose of the proposed change is to make sure that places where plan making is advanced are less at risk from speculative development, by reducing the amount of land which they need to show is available on a rolling basis (from the current five years to four).

This proposal is a pragmatic way to encourage planning authorities such as EDDC which have reached Reg. 18 stage and meet the criteria, to continue to progress their plan making. It is a lower bar and an easier test to meet. Members may wish to consider the significant benefit this proposal provides by only having to demonstrate a 4 year housing supply, mindful that the published East Devon Housing Monitoring Update 2022 demonstrated a 4.6 year supply.

**Proposed EDDC response to Question 16**

East Devon District Council supports the proposal for 4-year rolling land supply requirement for emerging local plans that meet the criteria in NPPF paragraph 226. This approach is entirely sensible where plans are progressing beyond the Reg. 18 consultation stage and allows time for local planning authorities to progress their plans without the added pressures of having to apply the presumption in favour of sustainable development because housing supply has temporarily dipped below 5 years. The current position means that the assessment of sites through the local plan allocation process can be undermined by applications pre-empting that process coming through the system and proving hard to resist where the presumption in favour of sustainable development is to be applied. This can lead to plan making being overridden by decision making and a public loss of confidence in the system as a result.

**Q.17: Do you consider that the additional guidance on constraints should apply to plans continuing to be prepared under the transitional arrangements set out in the existing Framework paragraph 220?**

Would not apply to East Devon. The emerging East Devon Local Plan is not being prepared under the transitional arrangements in current NPPF paragraph 220.

**Proposed EDDC response to Question 17**

East Devon District Council has no comment.

**Q.18: Do you support adding an additional permissions-based test that will 'switch off' the application of the presumption in favour of sustainable development where an authority can demonstrate sufficient permissions to meet its housing requirement?**

Under NPPF paragraph 11d (for decision taking where the policies which are most important for determining the application are out of date) and footnote 9, this test is only relevant where "*the Housing Delivery Test indicates that the delivery of housing was below 75% of the housing requirement over the previous three years (unless permissions for housing in excess*

*of 115% of the requirement over the same period have been granted, as set out in footnote 49)". Footnote 49 states "The presumption is, however, not to be applied if permissions have been granted for homes in excess of 115% of the authority's housing requirement over the applicable Housing Delivery Test monitoring period".*

The latest East Devon HDT result is 123%, which is well above the 75% bar. However, in the current housing market it is prudent to consider a response on this matter. The government wants to apply an additional test to ensure that authorities where developers are not building out sufficient permissions are not penalised for the behaviour of developers if they have issued sufficient permissions. The shift to a permissions based test could enable the planning authority to take account of dwellings granted permission over the relevant HDT time period. In principle this may be helpful if completions slow down. Nevertheless, there are practical issues about how "permissions" are counted – which is the subject of Question 20.

#### **Proposed EDDC response to Question 18**

East Devon District Council supports this additional test in principle, but has concerns about the practicalities of standardising a count of permissioned homes for the relevant HDT time period, as set out in the Council's response to Questions 20. It is also concerned that by adding a permissions based test into the HDT there is a danger of taking the test away from its purpose of testing the delivery of housing and starting to look at supply side issues which are the pervue of the 5 year housing land supply test. It would only make sense to do this if the 5 year housing land supply test were withdrawn otherwise it is a unnecessary duplication and authorities who fail the HDT should simply be given the opportunity to justify exceptional circumstances at which point these issues could be looked at rather than making it part of the test and monitoring data for all.

#### **Q.19: Do you consider that the 115% 'switch-off' figure (required to turn off the presumption in favour of sustainable development Housing Delivery Test consequence) is appropriate?**

In Prospectus Ch4 paragraph 22, the 115% figure is intended to provide for 'contingency'. Government proposes defining 'sufficient' deliverable units as 115% of the housing requirement or local housing need, and this will form the basis for the 'switch off'. The figure is based on an average of 15% of planning permissions in England that are not progressed or revised ie which expire. It is unclear whether that 15% takes account of new applications being submitted subsequently on the sites. It penalises authorities where the rate of expiring is less than 15%. However, although the commitments figures in the East Devon Housing Monitoring Updates take account of expired planning permissions (ie removes them from the counts), the HMU does not report which permissions have expired or a count of the related number of dwellings that were permissioned.

#### **Proposed EDDC response to Question 19**

East Devon District Council has no comment on the 115% figure at this time, except to note that it appears to be the mid-point of the expiry range (where "10 to 20% of permissions do not materialise into a start; the permission 'drops out') which Ruth Stanier DCLG showed in her presentation to the HBF Planning Conference September 2015.

**Q.20: Do you have views on a robust method for counting deliverable homes permitted for these purposes?**

A robust method means using data that can calculate net dwellings (including dwelling 'equivalents') similar to the method the district council uses to monitor 'commitments' from planning permissions. Monitoring commitments is complex, and has to be undertaken each and every year, on an annual basis. At this time, there is no quick technical solution to capturing this data. However, the Council undertakes annual monitoring to calculate the net commitments figure for East Devon at the annual monitoring point. This could provide the source data for counting deliverable homes permitted for the years relevant to the HDT.

**Proposed EDDC response to Question 20**

East Devon District Council considers that Government needs to be realistic about the timing and availability of the housing monitoring data for 'permitted' data, if this is to be collected via national statistics data gathering. In particular, will robust data on permitted units from a 31 March monitoring point be ready in time for the National Statistics data collection deadline? Identifying and calculating the net housing commitments take longer than identifying /counting completions – particularly in rural areas such as East Devon which have a high number of small sites to monitor).

This proposal raises a lot of detailed issues but ultimately the administrative burden on local authorities does not justify this approach. As a result this approach should only be taken, if at all, where a local authority would be unfairly penalised under the HDT for slow housing delivery results rather than all authorities having to produce this data. This could be done as a focused secondary piece of work in circumstances where the HDT has been failed and an authority feels that they are being unfairly penalised without permissions being taken into account.

**Q.21: What are your views on the right approach to applying Housing Delivery Test consequences pending the 2022 results?**

The consultation is inviting views on three options relating to the consequences of proposed changes to the Housing Delivery. Responses to these options below. The Officer assessment concludes that the only appropriate option is "*frozen to reflect the 2021 Housing Delivery Test results while work continues on our proposals to improve it*". This option is appropriate because in East Devon our 2021 HDT result was 123% so no action is required. We then keep this position until the Government concludes its work on HDT.

**Proposed EDDC response to Question 21**

East Devon District Council response is as follows:

1. Should the test's consequences follow from the publication of the 2022 Test?
  - a. EDDC Response - No, because there are no national statistics for the permitted units at this time.

2. Should they be amended, suspended until the publication of the 2023 Housing Delivery Test?
  - a. EDDC response - Unclear if this means that the 2022 results would be published but not lead to action if HDT is less than 95%
3. Should they be frozen to reflect the 2021 Housing Delivery Test results while work continues on Government's proposals to improve it.
  - a. EDDC response - This option is appropriate.

**Chapter 5 – A planning system for communities** – this chapter contains Questions 22 to 32 and text below sets out commentary related to the questions and a proposed response.

**Q.22: Do you agree that the government should revise national planning policy to attach more weight to Social Rent in planning policies and decisions? If yes, do you have any specific suggestions on the best mechanisms for doing this?**

The consultation reiterates a commitment from the Levelling Up White Paper to increase the amount of social housing available over to provide the most affordable housing to those that need it.

The Regulation 18 Consultation draft Local plan has already looked at this issue because of the planning policy in the Written Ministerial Statement 24 May 2022 on First Homes which set out national planning policy for 25% of affordable housing from development to be First Homes (affordable home ownership), then to prioritise social rent housing. But there are potential issues with this mix, as our local plan evidence shows that the WMS policy reduces the amount of social rent housing in our affordable housing mix. It also squeezes out Shared Ownership from the mix. The latter has been an effective means in East Devon to help deliver a higher number of affordable dwellings from development.

If Government maintains its policy on prioritising First Homes, then this means we cannot prioritise Social Rent first. We can only seek to deliver Social Rent once the 25% for First Homes is provided for, if our Local Plan is to be consistent with national planning policy. First Homes reduces the delivery of Social Rent, Affordable Rent and Shared Ownership dwellings.

However, the draft NPPF continues to be silent on First Homes, and the Prospectus only says that "*We will also consider opportunities to incorporate existing written ministerial statements into revised national planning policy, such as that on First Homes policy*". This comes across as surprisingly ambivalent given the Government's current planning policy approach for First Homes to be the Government's preferred form of affordable home ownership. The current WMS requirement prioritises First Homes ahead of Social Rent when the mix of affordable housing types are being considered in plan making and development management.

**Proposed EDDC response to Question 22**

East Devon District Council strongly supports giving more weight to Social Rent in planning policies and decisions when considering the affordable housing mix within development. However recent government commitments to First Homes in a Written Ministerial Statement

is making the delivery of social housing even more difficult than it was before and needs to be reconsidered.

House prices in East Devon are now over 10 times average salaries and so providing discounted first homes with a 30% discount simply does not meet the needs of district and certainly does not meet the needs of those in greatest housing need. However regardless of our local evidence of needs which shows a very high and acute need for social housing we are required under government policy to provide 25% of affordable housing as First Homes. If we are to deliver social housing and meet the needs of our community then we need to have the ability to significantly reduce this percentage to address local circumstances.

Government should reconsider the implications of its First Homes and affordable home ownership 'targets', and in particular should reconsider the priority order. The Council would support prioritising Social Rent ahead of First Homes if national planning policy were to allow this and where there is evidence of the urgent need to deliver social rent affordable housing.

**Q.23: Do you agree that we should amend existing paragraph 62 of the Framework to support the supply of specialist older people's housing?**

In the Prospectus, the Government indicates that it has been considering ways in which the Framework can further support the supply of older people's housing. They propose to do this by adding an additional specific expectation that within ensuring that the needs of older people are met, particular regard is given to retirement housing, housing-with-care and care homes, which are important typologies of housing that can help support our ageing population.

The Regulation 18 consultation draft East Devon Local Plan already includes policy on housing for older people. We may need to tailor policy to align fully with the types identified in NPPF as follows:

- retirement housing,
- housing-with-care and
- care homes

Members should note that the draft NPPF does not propose changing the definition of older people that is in the NPPF glossary.

*"People over or approaching retirement age, including the active, newly retired through to the very frail elderly; and whose housing needs can encompass accessible, adaptable general needs housing through to the full range of retirement and specialised housing for those with support or care needs"*

That definition includes **accessible, adaptable general needs housing** – not just retirement housing, housing with care and care homes. So the local plan policy still needs to reflect the important role of housing adaptations.

Prospectus Chapter 4 paragraph 9 says that the Government is also launching a taskforce on older people's housing, which was announced in the Levelling Up White Paper. This taskforce will explore how to improve the choice of and access to housing options for older people and will follow important work conducted recently by Professor Mayhew on meeting the challenges

of our ageing population. There is no indication when this will report, or whether there will be a further review of this matter in a later NPPF revision.

### **Proposed EDDC response to Question 23**

East Devon District Council is broadly supportive of the proposed changes to NPPF paragraph 62 (now renumbered as paragraph 63). We acknowledge the need for a range of types of housing to meet the needs of older people and the importance of this in freeing up the wider housing stock to meet the needs of the wider community by enabling older people to down size and move from their current homes into more suitable accommodation. Linked to this is a need to provide affordable housing within retirement housing schemes and care facilities, however current case law means that such facilities that fall within the C2 use class do not need to provide affordable housing even when they are providing units with their own front doors and facilities. Government policy should address this so that the needs of older people who are in housing need and cannot afford market housing can also be met.

### **Q.24: Do you have views on the effectiveness of the existing small sites policy in the National Planning Policy Framework (set out in paragraph 69 of the existing Framework)?**

The current NPPF requires us to provide at least 10% of our housing requirement on small sites these being sites no greater than one hectare. The consultation suggest that this is proving insufficient and seeks views on the effectiveness if this and how this approach could be strengthened in order to speed up the delivery of housing (including affordable housing), diversify the housing market and support SME's.

The small sites policy has unintended consequences when applied to the traditional planning obligations mechanism. Small sites fall below the threshold for seeking affordable housing or may have viability issues. Overemphasis on delivery on small sites further undermines the ability to deliver large enough numbers of affordable housing in East Devon to meet our Affordable Housing Need (AHN) as evidenced in our Local Housing Need Assessment 2022, and the forecast of delivery as evidenced in our Interim Housing Topic Paper November 2022. The issues on small sites are as follows.

1. Small sites of 9 or less dwellings – only deliver affordable housing contributions on sites of 5 to 9 dwellings in Designated Rural Areas. These don't deliver affordable housing on site.
2. Small sites of 10 dws to 1 hectare:
  - a) regeneration sites in East Devon – often do not deliver affordable housing due to viability issues
  - b) Greenfield sites (not exception sites) – we seek affordable housing (unless exempted) – but often applicants' assertions about viability issues results in the submission of Deeds of Variation reducing the amount of affordable housing delivered on sites through legal agreements.
3. Exception sites – we have policy in our adopted Local Plan , and in the emerging Local Plan towards Rural Exception sites, requiring at least 66% affordable dwellings. Where this policy can be applied there has been successful delivery of affordable housing BUT there have not been a large number of exception sites planning applications. It may well be that land owners/developers are not putting forward land as exception sites in the

hope of getting planning permission in the future for more market housing on sites adjoining development boundaries. This is taking advantage of the Government's changes to rural planning policy that have occurred since 2012

The work of the Council's Housing Task Force is evidence that alternatives to the traditional planning obligation route also need to be pursued, and this is highlighted in the proposed response to question 24

#### **Proposed EDDC response to Question 24**

East Devon District Council considers that the small sites policy has unintended consequences. Overemphasis on delivery on small sites undermines the ability to deliver large enough numbers of affordable housing through development in East Devon to meet our Affordable Housing Need (AHN). This is partly because government imposed thresholds mean that small sites of 9 or less dwellings are not required to provide affordable housing other than in designated rural areas where those of 5 to 9 dwellings make a financial contribution. This means that increasing the proportion of housing delivered on small sites would reduce the levels of affordable housing being delivered as it is the larger sites that achieve this.

Small sites can be financially challenging to deliver as they are often highly constrained and so it is more than planning support that is needed but also financial support and not just to SME's but also to local authorities who are able and willing to directly deliver housing on small sites.

EDDC is exploring how to deliver additional social and affordable housing in ways other than the traditional route of planning obligations. The work of a new EDDC Housing Task Force is at a very early stage. Members aspire to increase our social and affordable housing portfolio and have allocated resources to achieve this. The aim is to deliver a pipeline programme of directly delivered housing developments, maximise the relationships we have with development partners such as Registered Providers (RPs), Community Land Trusts (CLTs) and pushing for adherence to Section 106 agreements in place with volume builders, amongst other things. This includes

- looking at Council assets in new ways and we have publicised our desire to acquire development sites externally, these will likely be smaller sites of under 30 homes to be delivered as 100% social/affordable rents.
- the Council's own housing stock provides another potential route to deliver additional affordable dwellings.
  - A Stock Condition Survey is underway and there is an expectation that this will highlight areas within our portfolio that would greatly benefit from a stock regeneration programme. This will be a huge area of opportunity for us to build better quality, sustainable, carbon neutral homes in higher density, allowing us to maximise the land resource we have available
  - A significant number of our post war homes have huge gardens which many tenants struggle to maintain. This land can be used to provide additional new housing whilst ensuring that all homes have gardens (houses) or access to beautiful green spaces (flats etc)

- The council is exploring the use of Modern Methods of Construction allowing us to develop previously overlooked land such as a disused garage and brownfield sites etc.

**Q.25: How, if at all, do you think the policy could be strengthened to encourage greater use of small sites, especially those that will deliver high levels of affordable housing?**

**Proposed EDDC response to Question 25**

The Council's response to Question 24 is evidence that a more creative approach is needed to increase the delivery of affordable housing. National Planning Policy is not enough. What is needed is the combined and concerted actions of housing and planning authorities, including directly delivered housing development to boost supply.

Local Plan policies already consider how the spatial strategy distributes growth in ways that support affordable housing delivery, and has proposed sites within urban areas for redevelopment.

The Council is aware that a limited number of Neighbourhood Plans in East Devon include sites allocations as well as Rural Exceptions and delivering affordable housing. Prioritising the redevelopment of small brownfield sites in urban areas would help to encourage sites to come forward, otherwise the focus is on developing larger greenfield sites in order to achieve the 5 year housing land supply.

**Q.26: Should the definition of “affordable housing for rent” in the Framework glossary be amended to make it easier for organisations that are not Registered Providers – in particular, community-led developers and almshouses – to develop new affordable homes?**

Questions 26 to 29 relate to ways to encourage a greater role for community-led housing groups. Government is seeking views on:

- a) Whether the definition of “affordable housing for rent” should be amended to make it easier for organisations that are not Registered Providers – in particular, community-led developers and almshouses – to develop new affordable homes.
- b) How to ensure that any change aligns with the Government's drive (including through the Social Housing Regulation Bill) to ensure that social housing is of good quality and that residents can have access to swift and fair redress.
- c) How to make it easier for community groups to bring forward exception sites for affordable housing in rural areas, as they are often particularly well placed to understand community needs and aspirations.
- d) Whether there are any major barriers for community groups in making use of the existing rural exception sites policy
- e) Whether there are any broader changes that government could make to encourage community involvement in affordable housing delivery, particularly in rural areas

The Government proposals include amending the NPPF Glossary – by adding the following:

**“Community-led developments:** *Community-led developments are those that are driven by non-profit organisations that are owned by and accountable to their community members. The community group or organisation owns, manages or stewards the homes and other assets in a manner of their choosing, and this may be done through a mutually supported arrangement with a Registered Provider that owns the freehold or leasehold for the property. The benefits to the specified community are clearly defined and legally protected in perpetuity”.*

**Proposed EDDC response to Question 26**

East Devon District Council, in principle supports the proposed amendment to the NPPF Glossary to include community led developments, as securing an RP Partner is often the most challenging of CL developments with some failing to do so. However we feel there will need to be appropriately robust safeguards in place including the quality of affordable housing provided, consistency with local occupancy policy, and availability in perpetuity. We also support the proposed changes at paragraphs 60 and 80 which further support community led development.

**Q.27: Are there any changes that could be made to exception site policy that would make it easier for community groups to bring forward affordable housing?**

See text following Question 26. There are examples of community led schemes through Community Land Trusts on Rural Exception Sites in East Devon.

**Proposed EDDC response to Question 27**

East Devon District Council, is not proposing changes to the NPPF exception site policy. EDDC in principle supports the potential for community led developments on Rural Exception sites, provided there are appropriate safeguards including the standard of affordable housing provided, consistency with the minimum percentage of affordable housing on the site, local occupancy policy, and availability in perpetuity.

**Q.28: Is there anything else that you think would help community groups in delivering affordable housing on exception sites?**

See text following Question 26.

**Proposed EDDC response to Question 28**

East Devon District Council has no further comment at this time

**Q.29: Is there anything else national planning policy could do to support community-led developments?**

See text following Question 26.

**Proposed EDDC response to Question 29**

A neighbourhood plan is often the starting point for a community led development, however this is a long, time consuming and resource intensive piece of work for any community to undertake. It is understood why this is the case since it will form part of the Development Plan, however there is currently no stream lined way of reviewing a neighbourhood plan and

so we have concerns that communities that spent a lot of time and effort getting a neighbourhood plan through and made may face having to do this all over again when the plan is out of date. A simplified process of review would enable a neighbourhood plan to be refreshed on a regular basis and additional community led development to come through more easily perhaps with just the changes and new parts of the plan to be examined and subject to referendum. Currently these kind of changes would need an entirely new neighbourhood plan since only minor changes can be made otherwise.

**Q.30: Do you agree in principle that an applicant's past behaviour should be taken into account in decision making? If yes, what past behaviour should be in scope?**

Questions 30 to 32 cover proposals in the consultation relating to the role of developer 'behaviour.'

Separately from the immediate changes to the NPPF, Government is consulting on '*potential ways to improve developer accountability and, in particular, take account of past irresponsible behaviour in decision-making*'. Prospectus Ch5 paragraph 19 emphasises that there are "*instances of irresponsible individuals and companies persistently breaching planning controls or failing to deliver their legal commitments to the community are not uncommon. In their view, public confidence in the planning system is undermined if planning rules are deliberately ignored and there is no sanction against such behaviour.*"

This is part of a wider Government policy approach towards creating a planning system "*where communities are more welcoming of new development*".

The Levelling Up and Regeneration Bill already includes a package of planning enforcement reforms designed to enable local planning authorities to take more effective enforcement action against unauthorised development. These include removing the 4 year rule for immunity for residential development making the 10 year rule apply to all uses, the ability to serve an enforcement warning notice to formalise some letters currently written by LPA's and increased fines. However, the Government wants to go further. Prospectus Ch 5 paragraph 20 states that "*We are keen to explore whether past irresponsible planning behaviour should be taken into account when applying for planning permission. This would ensure bad developers cannot continue to play the planning system, helping to strengthen local communities' trust in it.*"

In Paragraph 21 the Government recognises "*the long-standing principle that planning decisions should be based on the planning merits of the proposed development – and not the applicant. This principle is critical to ensuring the planning system is fair, open and focused on land use considerations. Nonetheless, there are instances where personal circumstances can be taken into account, and we consider it would be legitimate to consider widening this scope to include an applicant's past irresponsible behaviour.*"

Officers have concerns about applying the term 'irresponsible' to the implementation of planning permissions in the context of forecasting housing delivery (the slow build out referred to in Paragraph 22). In particular, the evidential issues about demonstrating such behaviour Detailed concerns are set out in the Council's responses to Questions 31 and 32.

### **Proposed EDDC response to Question 30**

East Devon District Council would agree in principle that an applicant's past behaviour should have consequences however taking it into account in decision making is fraught with difficulties and would be a worrying shift in approach to what constitutes a material planning consideration. Even if the past behaviour is clearly defined it would be very hard to police as developers would simply get someone else to apply on their behalf. It would also encourage objectors to developments to make claims about the applicants behaviour to influence decision making whether true or not. Many such claims may be libellous or inflammatory and could not be published and yet this change would require us to consider such matters.

These issues should be dealt with through stronger enforcement powers at the time the irresponsible behaviour occurs and the Council considers that the changes in the Levelling up and Regeneration Bill do not go far enough in this regard. The Council should have the powers to impose fines on unauthorised developments directly rather than having to go through the service of a notice and then prosecute through the courts. This process is so time consuming and resource intensive and developers know this and exploit it often dragging enforcement cases for months if not years. This severely harms the credibility of the planning system. It is also wrong that planning authorities can only take enforcement action against development that is harmful in planning terms leaving those that undertake unauthorised developments for which consent would have been granted to get away with it. None of the measures proposed by the government address these fundamental problems with planning enforcement.

Taking account of applicants past behaviour in decision making would undermine a basic principle of decision making on planning applications which is that it is based on the planning merits of the proposal. This change would open a pandora's box of other issues that could come into the decision making process for example if we are to have regard to applicants past behaviour why would we not have regard to an applicant's good behaviour or indeed other personal circumstances.

The importance of development delivery is recognised, however the Council considers that the Government should carefully reconsider its proposals to take applicants' past behaviour into account in decision making application when applied to housing delivery. The Council considers that there are more effective ways of speeding up housing delivery and delivering higher quality development and places. The Council's detailed comments are in its response to Questions 31 and 32.

If this proposals were to go ahead then Government should very clearly define what constitutes "irresponsible behaviour".

### **Q.31: Of the 2 options above, what would be the most effective mechanism? Are there any alternative mechanisms?**

The Council's comments on Question 30 drew attention to the changes in the Bill and additional Government proposals in Prospectus Ch 5 paragraphs 20 and 21 about taking an applicant's past behaviour into account in decision making.

Question 31 focuses on Government proposals on how to take account of past irresponsible behaviour. This is wider than the current proposals in the Bill related to slow build out. In

Prospectus Ch 5 paragraph 22 the Government indicates that it “*considers there are at least two potential ways of take account of this past irresponsible behaviour:*”

- *option 1: making such behaviour a material consideration when local planning authorities determine planning applications so that any previous irresponsible behaviour can be taken into account alongside other planning considerations;*
- *option 2: allowing local planning authorities to decline to determine applications submitted by applicants who have a demonstrated track record of past irresponsible behaviour prior to the application being considered on its planning merits - similar to the amendment which we have already made to the Levelling Up and Regeneration Bill allowing local planning authorities to decline to determine new applications on sites where the build out of development has been too slow.”*

In light of the proposed response to Question 30, Members may conclude that neither option proposed in Prospectus Ch 5 paragraph 22 is appropriate. Rather than spending resource on trying to measure, record and deal with alleged “irresponsible behaviour”, including slow development, the Government should consider whether it would be more efficient and effective to ensure that there is adequate resourcing of planning authorities to strengthen pre-application input, to expedite the processing of applications, to strengthen monitoring and intelligence functions, to strengthen plan-making evidence, and to review the currently onerous tests in PPG regarding deliverable development.

Comments regarding the proposals relating to addressing slow development is set out under Question 32.

### **Proposed EDDC response to Question 31**

Aside from the in-principle concerns set out in the answer to question 30 East Devon District Council’s has concerns about the ability to have robust evidence of irresponsible behaviour capable of withstanding close scrutiny at appeals and in courts which is likely to be required if either option were implemented.

In the absence of robust evidence then there is a risk of

- subjective judgement and decision making based on information not in the public domain and a subsequent loss of transparency
- non-planning matters being brought into consideration on the grounds of ‘irresponsible behaviour’
- challenges to decisions made that will divert planning resources from core development management and plan making functions

Option 1 is particularly concerning because it can take “any” previous irresponsible behaviour into account when making decisions. The evidential bar is unclear. More applications might be refused but there could be more appeals. Ultimately this could lead to acceptable applications which may have wider public benefits such as creating jobs or delivering affordable housing being turned away because of previous irresponsible behaviour or if not refused on this basis the Council being seen to turn a blind eye to this despite it being a consideration.

Of the 2 options Option 2 is preferred as by simply refusing to consider applications many of the concerns with option 1 would be avoided but clarity would be needed on what constitutes irresponsible behaviour and the evidential bar to be met. Declining to determine an application could still be challenged through an appeal process taking up significant resource while applications that could be beneficial would potentially be turned away before even being considered.

**Q.32: Do you agree that the 3 build out policy measures that we propose to introduce through policy will help incentivise developers to build out more quickly? Do you have any comments on the design of these policy measures?**

Speed and timing of house-building is directly relevant to the achievement of the East Devon local plan's vision and objectives and related housing requirement policies. How soon all the permissioned dwellings can be completed depends on:

- Lead in times between planning permission and the first dwelling being built, and
- The speed of build out (ie the number of dwellings completed per year).

The issue of slow or delayed delivery is seen by Government as part of the wider issue of potential barriers to housing delivery. Through proposals in the Bill the government propose:

- House-builders will be required to formally notify local authorities, via a Development Commencement Notice (DCN), when they commence development.
- Existing powers for local authorities are to be modernised and streamlined to serve a completion notice (so that if the development is not completed within the period specified in the notice, the planning permission for unfinished development lapses)
- Housing developers will be required to report annually to local authorities on their actual delivery of housing against a proposed trajectory that they submit on commencing a scheme for which they have permission; and
- Local planning authorities will have discretion to decide whether to entertain future planning applications made by developers who fail to build out earlier permissions granted on the same land.

Government expects local authorities to '*do their bit*' in promptly processing planning permissions and discharging conditions. An increase in planning fees that Government intends to consult on is intended to help resource local authorities to do this.

Question 32 relates to 3 measures set out in paragraph 25, as follows:

*"25. To further strengthen this package, following passage of the Bill, we intend to introduce 3 further measures, via changes to national planning policy:*

*a) We will publish data on developers of sites over a certain size in cases where they fail to build out according to their commitments.*

*b) Developers will be required to explain how they propose to increase the diversity of housing tenures to maximise a development scheme's absorption rate (which is the rate at which homes are sold or occupied).*

*c) The National Planning Policy Framework will highlight that delivery can be a material consideration in planning applications. This could mean that applications with trajectories that propose a slow delivery rate may be refused in certain circumstances.”*

Government is seeking initial views on these measures ahead of consultation as part of a fuller review of national planning policy next year. Government will “*be launching a separate consultation on proposals to introduce a financial penalty against developers who are building out too slowly*” as signalled in Prospectus paragraph 27.

Officer assessment of the proposed measures leads to the issues highlighted in the proposed response to Question 32. The Government’s anticipates that these measures will “*improve transparency and public accountability over build out rates once permission is granted, empower local authorities to take account of build out considerations when making planning decisions, and give authorities stronger tools to address build out problems where they arise.*” Whether this will lead to significantly faster housing delivery is uncertain, in light of the concerns set out in the Council’s response.

### **Proposed EDDC response to Question 32**

East Devon District Council highlights the following as key issues regarding build out measures, to which the Government should give further consideration:

- a) Government in ‘publishing data’ will increase the burden on the planning authority to monitor development (by developer and site size), to capture the ‘commitments’ information and compare this to actual completions and updated forecast. We are not adequately resourced to do this. It is unclear whether minor as well as major housing development applications will need to provide commitments and trajectory.
- b) There will be an increased burden on the development management process in ensuring that Development Commencement Notices are received and contain the correct information. What will be the consequence if they are not submitted? Where are the resources to deal with this coming from?
- c) What happens if the site is sold to another developer/builder? Are they to be held to the previous ‘commitment’ and housing tenures diversity? What happens if companies merge? Does the ‘clock’ reset?
- d) The Planning authority will still need to assess the achievement of commitments annually at a fixed Monitoring Point (ie 31 March) and will need to contact developers to understand why permissioned development has or has not progressed as forecast. Currently this is an important data requirement in PPG, and is part of the evidence audit trail. This work requires resource to be available to prepare and undertake this contact process. Government should factor this in to the data capture timescales if this information is to be provided for national statistics.
- e) Could the planning authority be challenged at local plan examination and at appeal if it has accepted the commitments data but actual delivery is delayed?

At EDDC we have been capturing evidence on housing lead in times and build rates to assess whether there are realistic prospects of delivery in the 5 years, or whether sites are potentially developable. We can and do challenge lead in times and build rates which developers indicate in their responses to our monitoring inquiries. In our experience, the

developers forecast of lead-in times and build rates for their individual sites which they provide to us do not factor in their competitors' development. When we review developers/builders information, sometimes we conclude that their timescales are too short (eg too optimistic for some stages of lead in) or their build rates are too ambitious (eg when sites at a settlement are considered 'in-combination'). We would therefore question the weight that can be given to the trajectories that would be provided by developers under this proposal.

**Chapter 6 – Asking for beauty** – this chapter contains Questions 33 to 36 and text below sets out commentary related to the questions and a proposed response.

**Q.33: Do you agree with making changes to emphasise the role of beauty and placemaking in strategic policies and to further encourage well-designed and beautiful development?**

In its current format, the National Planning Policy Framework (NPPF) makes clear that the creation of high quality places and buildings is a fundamental requirement of the planning and development process. It highlights that good design is a key aspect of sustainable development and helps make development acceptable to communities. The consideration of good design and placemaking in the determination of applications has been enhanced in recent years with the publication of the National Design Guide, National Model Design Code, and Guidance Notes for Design Codes. East Devon's emerging Local Plan places a clear requirement for development to provide for the design of beautiful and healthy spaces and buildings (Chapter 11 - Designing beautiful and healthy spaces and buildings).

The proposed Bill will go further and require every local planning authority to produce a design code / design codes for its area. The requirement is for a district-wide design code and/or smaller area and development specific design codes to guide and improve future design, development and placemaking. These codes will set simple clear minimum standards on development in that area – such as height, form and density. Codes will have statutory status when making decisions on development, either through forming part of local plans or being prepared as a supplementary plan. They will empower communities, working with local authorities, to have a say on what their area will look like by setting clear standards for new, beautiful development.

**Proposed EDDC response to Question 33**

East Devon District Council supports the changes to emphasise the role of beauty and placemaking in strategic policies and to further encourage well-designed and beautiful development. The supporting guidance contained within the National Design Guide, National Model Design Code, and Guidance Notes for Design Codes provide clarity and are further enhanced through available assessment frameworks such as Building for a Healthy Life.

The pilot schemes for the production of design codes at multiple planning authorities suggested that significant funding and resource was essential to produce effective codes.

We would encourage central support and additional production resources to be made available to authorities to facilitate effective design codes.

**Q.34: Do you agree to the proposed changes to the title of Chapter 12, existing paragraphs 84a and 124c to include the word 'beautiful' when referring to 'well-designed places' to further encourage well-designed and beautiful development?**

The Building Better, Building Beautiful Commission published its final report – Living with Beauty – on 30 January 2020. The report proposed a new development and planning framework, which will:

- Ask for Beauty
- Refuse Ugliness
- Promote Stewardship

From the report:

*'Ask for Beauty. We do not see beauty as a cost, to be negotiated away once planning permission has been obtained. It is the benchmark that all new developments should meet. It includes everything that promotes a healthy and happy life, everything that makes a collection of buildings into a place, everything that turns anywhere into somewhere, and nowhere into home. So understood beauty should be an essential condition for the grant of planning permission.*

*Refuse Ugliness. People do not only want beauty in their surroundings. They are repelled by ugliness, which is a social cost that everyone is forced to bear. Ugliness means buildings that are unadaptable, unhealthy and unsightly, and which violate the context in which they are placed. Such buildings destroy the sense of place, undermine the spirit of community, and ensure that we are not at home in our world.*

*Promote Stewardship. Our built environment and our natural environment belong together. Both should be protected and enhanced for the long-term benefit of the communities that depend on them. Settlements should be renewed, regenerated and cared for, and we should end the scandal of left-behind places, where derelict buildings and vandalised public spaces drive people away. New developments should be regenerative, enhancing their environment and adding to the health, sustainability and biodiversity of their context. For too long now we have been exploiting and spoiling our country. The time has come to enhance and care for it instead. Our recommendations are designed to ensure that we pass on to future generations an inheritance at least as good as the one we have received.'*

The recommendations and principles of the report have directly informed the focus on beauty now contained in the NPPF. The subjectivity of 'beauty' is recognised by the report and indeed highlighted as a term often avoided to the cost of placemaking.

The report quotes –

*'Today to talk of beauty in policy circles risks embarrassment: it is felt both to be too vague a word, lacking precision and focus and, paradoxically given its appeal by contrast with official jargon, elitist. Yet in losing the word 'beauty' we have lost something special from our ability to shape our present and our future.'* FIONA REYNOLDS (2016)

Good design, placemaking, and beauty are all terms that potentially contain high degrees of subjectivity in their assessment and value. Design codes, supported by policy and national guidance, do however provide developers with an understanding of the assessment criteria for such terms, whilst not limiting well-designed and beautiful development.

#### **Proposed EDDC response to Question 34**

East Devon District Council supports the emphasis on 'well-designed places' and we understand the context of the word 'beautiful' to be informed by the Building Better, Building Beautiful Commission's final report – Living with Beauty (30 January 2020). However the word is too subjective and sets a very high bar in many people's minds. Quite often developments that are well-designed and attractive places that are perfectly acceptable in planning terms would not necessarily be described as beautiful. Equally many commercial developments such as business units and logistics parks have operational requirements which means they will never be beautiful and yet we still need them to be built.

#### **Q.35: Do you agree greater visual clarity on design requirements set out in planning conditions should be encouraged to support effective enforcement action?**

The consultation states –

*'it is important that local planning authorities have visual clarity on the design of development as part of the planning application process by ensuring conditions refer to clear and accurate plans and drawings. This will help support effective enforcement and ensure well-designed and beautiful places where the design quality of approved development is not materially diminished after a scheme is permitted. We propose to amend the Framework to encourage local planning authorities to consider how they can ensure that planning conditions associated with applications reference clear and accurate plans and drawings which provide visual clarity about the design of development, as well as clear conditions about the use of materials where appropriate, so they can be referred to as part of the enforcement process.'*

It is not uncommon for planning conditions to specify that development should be in accordance with referenced plans and drawings provided with the application.

#### **Proposed EDDC response to Question 35**

East Devon District Council agrees that greater visual clarity on design requirements set out in planning conditions should be encouraged to support effective enforcement action. However this relies on clear and accurate plans being submitted at the outset which relies on having clear validation requirements that prevent application that do not provide the requisite information getting into the system in the first place. The requirement to review and readopt a

local validation checklist every 2 years is an unnecessary and significant burden on local planning authorities. In reality requirements do not change significantly in that time and this period could be extended to 5 or more years.

**Q.36: Do you agree that a specific reference to mansard roofs in relation to upward extensions in Chapter 11, paragraph 122e of the existing Framework is helpful in encouraging LPAs to consider these as a means of increasing densification/creation of new homes? If no, how else might we achieve this objective?**

The consultation states –

### ***Embracing gentle density***

*Building upwards in managed ways can help deliver new homes and extend existing ones in forms that are consistent with the existing street design, contributing to gentle increases in density. The Framework sets out how local planning policies and decisions should consider airspace development above existing residential and commercial premises for new homes. This includes allowing upwards extensions where the development would be consistent with criteria relating to neighbouring properties and the overall street scene, as well as being well-designed and maintaining safe access and egress for occupiers.*

*In some locations, local planning authorities have been reluctant to approve mansard roof development, as it has been considered harmful to the character of neighbourhoods<sup>[footnote 7]</sup>. As a general approach, this is wrong - all local planning authorities should take a positive approach towards well designed upward extension schemes, particularly mansard roofs. It is proposed that a reference to mansard roofs as an appropriate form of upward extension would recognise their value in securing gentle densification where appropriate.*

### **Proposed EDDC response to Question 36**

East Devon District Council recognises the role of appropriate upward extension schemes to contribute to gentle increases in density. We do not however agree that the specific prioritisation of mansard roof development is justified. Mansard roofs may be appropriate in some areas but would be harmful to the character and appearance of other settlements where alternative solutions may be preferable. We would suggest that guidance encourages upward extensions where this can be achieved without causing harm to the character and appearance of an area but the specific use of Mansard roofs should be left to local level design guides and decision making having regard to the character of the local area.

## **Chapter 7 – Protecting the environment and tackling climate change**

– this chapter contains Questions 37 to 40 and text below sets out commentary related to the questions and a proposed response.

**Q.37: How do you think national policy on small scale nature interventions could be strengthened? For example in relation to the use of artificial grass by developers in new development?**

The text supporting question 37 sets out Government commitments to supporting and enhancing the natural environment and this is something that is reflected in the policy approach of the emerging new East Devon local plan. The prospectus highlights a number of the more significant approaches that the government set out in policy and guidance but specifically ask about potential options for smaller scale interventions. It refers to small scale interventions such as bat and bird boxes, bee and swift bricks and hedgehog highways. It also refers to limiting the use of artificial grass which has no value for wildlife.

**Proposed EDDC response to Question 37**

East Devon District Council does not highlight any specific smaller scale interventions but would identify that the key issue is that local planning authorities should be afforded greater power through legislative and policy revisions to establish and determine interventions that are appropriate at a local level. National policy should allow planning authorities to follow though at a local level with policy production and decision making that ensures local priorities and initiatives carry weight in decision making and implementation.

**Q.38: Do you agree that this is the right approach to making sure that the food production value of high value farmland is adequately weighted in the planning process, in addition to current references in the Framework on best and most versatile agricultural land?**

This question relates to the importance of food production the text advises “..... an aim to broadly maintain domestic production at current levels to build the UK’s resilience to future crisis and shocks. We have some of the best performing farms in the world, with 57% of agricultural output coming from just 33% of the farmed land area.”

Views are sought on the approach to valuing the most productive land with a change to an NPPF footnote (presumably 67 rather than 58 as referencing on the consultation text) that highlights the relevance of considering food production value of land as a consideration alongside other matters when deciding what sites are most appropriate for development.

**Proposed EDDC response to Question 38**

East Devon District Council are happy to support the proposed amendment to the NPPF noting that we are a District with a substantial agricultural industry. We would, however, highlight the inevitability of tensions between such objectives as resisting the loss of high quality land whilst also having to accommodate large levels of development. This can be especially challenging, as we find, when there are significant overall constraints to development (for example 2/3rds of our District is designated as AONB) and there may be sound logical strategic planning reasons to develop in certain areas when such areas may also be where the most productive land is found.

The approach to best and most versatile agricultural land is very difficult to administer as the soil quality of land changes over time and publically held data on this is very high level and

old. Applicants will often submit their own surveys to demonstrate a site is of grade 3b or lower but there are concerns about how reliable this data is. There is also a more fundamental issue that the grade of the land is perhaps less important than what it is actually being used for. Even high grade land in the district is often not actually being used for food production as there are many other factors at play than just the quality of the soil that impact on what land is used for. It is considered that further work is needed on this issue and more publically held data made available on the quality of soil resources and what land is being used for food production and is capable of being economically used for food production. This would enable greater levels of protection to be given to areas that can genuinely help to feed the nation and enable us to reduce the protection of high grade agricultural land that could never for whatever reason be used for these purposes.

**Q.39: What method and actions could provide a proportionate and effective means of undertaking a carbon impact assessment that would incorporate all measurable carbon demand created from plan-making and planning decisions?**

This question relates to issues in the prospectus around understanding and quantifying the impacts of planning decisions and development on carbon emissions. This could cover a range of factors including locational, design, travel and development choices.

**Proposed EDDC response to Question 39**

East Devon District Council would welcome, in principle, greater importance being attached to understanding emission levels and for such matters to be given greater weight in planning decision making. We would, however, wish to highlight the complexity that will most likely be attached to gathering and assessing relevant information and as such the timing and cost implications this may have. Should the Government wish to pursue carbon impact assessment approaches, which we can see the clear logic for so doing, then careful consideration will certainly be required to ensure they can be efficient and robust and also that they are afforded appropriate weight in the actual decision making processes.

We are trying to push forward with a local plan that requires new development to be zero carbon, however the guidance in the NPPF is currently deficient in this regard and this needs to be addressed so that the framework is more ambitious in how it seeks to address climate change. Carbon Impact Assessments could be a key part of that but local authorities need to be appropriately skilled and resource to consider these issues.

**Q.40: Do you have any views on how planning policy could support climate change adaptation further, including through the use of nature-based solutions which provide multi-functional benefits?**

This question relates to text in the prospectus around climate adaption and flood risk management and is particularly concerned with such matters as the role that nature based solutions may play in helping to adapt to a warming planet and its impacts and implications. The text refers to the impacts of flood risk and implementing further elements of the Flood and Water Management Act 2010 in relation to requirements for sustainable drainage systems. It then refers to doing more to address issues such as overheating, water scarcity and says that

it should do more to focus on nature based solutions such as incorporating more green infrastructure into developments.

**Proposed EDDC response to Question 40**

East Devon District Council would not wish to highlight any specific initiatives noting that much, in-principle is already known anyway. But we would stress that we would see great importance being attached to planning policy and planning decisions supporting nature-based solutions in response to climate adaptation.

**Chapter 8 – Onshore wind and energy efficiency** – this chapter contains Questions 41 to 44 and text below sets out commentary related to the questions and a proposed response.

**Q.41: Do you agree with the changes proposed to Paragraph 155 of the existing National Planning Policy Framework?**

Text in this section of the prospectus relates to on-shore wind farms and the first two questions are specifically related to *“re-powering of renewable and low carbon energy”* which means replacing old technologies on existing sites with newer and more efficient or better equipment, for example older wind turbines with new and potentially bigger turbines.

Members will be aware that there are comparatively few existing wind turbines in East Devon though there are a much greater number of solar farms.

The revisions to the NPPF, new paragraph 157, would see reference added to the text in respect of future repowering of existing sites and their maintenance. This wording would sit alongside existing text that does also currently highlight consideration of adverse impacts and as such the amendment is seen as desirable.

**Proposed EDDC response to Question 41**

East Devon District Council would support, in-principle, the changes proposed. We note that existing text around avoiding adverse impacts is retained and regard that impact considerations will form part of the planning balance in decision making.

**Q.42: Do you agree with the changes proposed to Paragraph 158 of the existing National Planning Policy Framework?**

The changes to the existing paragraph 158, new paragraph 160 of the NPPF, incorporate text which can be seen as an expansion on matters addressed in response to Question 41, in response we suggest a similar answer.

**Proposed EDDC response to Question 42**

East Devon District Council would support, in-principle, the changes proposed. We note that text is included around avoiding adverse impacts and these will form part of the planning balance in decision making.

**Q.43: Do you agree with the changes proposed to footnote 54 of the existing National Planning Policy Framework?**

**Do you have any views on specific wording for new footnote 62?**

Of more contention than up-grading existing on-shore wind farms sites are provision of new sites and the prospectus notes that *“The (current) National Planning Policy Framework currently expects that for any proposed wind energy development to be considered acceptable, it should be located in areas identified as suitable in the development plan and following consultation, it can be demonstrated that the planning impacts identified by the affected local community have been fully addressed and the proposal has community backing”.*

As currently drafted the NPPF places considerable constraints on new wind farm development and as such there have been few new on-shore windfarms built in England in recent years, that is despite advances in technology and the fact that on-shore wind turbines produce some of the cheapest renewable electricity.

Changes to footnote 54 of the existing NPPF, footnote 63 in the amended draft, provide more flexibility for securing new on-shore windfarms. It is suggested that given that the Council has signed a climate emergency we should welcome changes, in-principle, that provides greater scope for on-shore wind turbine development. Albeit East Devon is not as windy as many parts of the south-west of England so is not as technically suitable for new wind farms as other areas and we do retain significant constraints in terms of protected AONB landscapes and large extents of undeveloped coastline that are also afforded protection.

**Proposed EDDC response to Question 43**

East Devon District Council supports wording changes that would give greater support for new on-shore wind turbines being built. We recognise that decisions on development should take into account environmental and other constraints and also public opinion, expressed through comment on matters relevant to planning, should form part of the mix in making decisions.

**Q.44: Do you agree with our proposed new Paragraph 161 in the National Planning Policy Framework to give significant weight to proposals which allow the adaptation of existing buildings to improve their energy performance?**

Text in the prospectus advises *“We have also committed to review the practical planning barriers that households can face when installing energy efficiency measures in their homes, such as improved window glazing and better insulation; and particularly relevant to conservation areas and listed buildings. To help the delivery of such measures, we have proposed adding new Paragraph 161 to the National Planning Policy Framework to clarify that significant weight should be given to the importance of energy efficiency through adaptation of buildings, whilst ensuring that local amenity and heritage continues to be protected.”*

The new paragraph 161 addresses matters referenced above.

**Proposed EDDC response to Question 44**

East Devon District Council, in-principle, supports the proposed changes but it is recognised that there may be challenges around compatibility with heritage concerns. Protecting and enhancing our built heritage assets remains a very important consideration and the wording of paragraph 161 should be revised to give greater clarity about the weight to be given to these issues and how this should be balanced against impacts on the significance of heritage assets. Currently the text simply says that the policies in chapter 16 of the framework should be “taken into account”.

**Chapter 9 - Preparing for the new system of plan-making** – this chapter contains Questions 45 to 48 and text below sets out commentary related to the questions and a proposed response.

**Q.45: Do you agree with the proposed timeline for finalising local plans, minerals and waste plans and spatial development strategies being prepared under the current system? If no, what alternative timeline would you propose?**

The prospectus highlights that changes to the plan making system will come in through the levelling-up bill. These include simplified plans that can be produced more quickly and will carry greater weight in decision making. These will have longer term impacts but before then the prospectus highlights transitional arrangements that will provide for continuation of current plan making under the existing rules.

The prospectus advises “..... *we are proposing that plan makers will have until 30 June 2025 to submit their local plans, neighbourhood plans, minerals and waste plans, and spatial development strategies for independent examination under the existing legal framework; this will mean that existing legal requirements and duties, for example the Duty to Cooperate, will still apply.*”

The Council’s Local Development Scheme shows submission well before this date so assuming that current timetables are adhered to we would expect to proceed under existing rules. We would suggest the proposed timetables for completing plans under the current rules are reasonable.

**Proposed EDDC response to Question 45**

East Devon District Council would consider that the proposed timeline for finalising local plans is reasonable.

**Q.46: Do you agree with the proposed transitional arrangements for plans under the future system? If no, what alternative arrangements would you propose?**

When the new legislation does come into play there will be new and demanding timelines for plan preparation. The prospectus advises “*Under the reformed system, which we expect to go live in late 2024, there will be a requirement for local planning authorities and minerals and waste planning authorities to start work on new plans by, at the latest, 5 years after adoption of their previous plan, and to adopt that new plan within 30 months.*”

Starting work on a new plan within 5 years of previous plan adoption is not, in-principle, an unreasonable thing to do as long as resources are available, and the political will and decision is made to proceed. However completing a plan in 30 months (2½ years) can be seen as far more challenging, at least so under current plan making rules.

To ease the challenges of transitioning to the new system the Government propose to give 30 months leeway for new plan production advising *“we also intend to set out that plans that will become more than 5 years old during the first 30 months of the new system (i.e. while the local planning authority is preparing their new plan), will continue to be considered ‘up-to-date’ for decision-making purposes for 30 months after the new system starts.”*

#### **Proposed EDDC response to Question 46**

East Devon District Council recognise the up-to-test timing to be reasonable, albeit we would raise concerns around the fundamental challenges associated with producing a local plan, from beginning to end, in a 30 month time period. Any new system requires time to bed in and so while it is understood that new style local plans will be simpler and quicker to produce the 30 month time period to do this while adjusting to a new system is considered to be very challenging and should be extended.

#### **Q.47: Do you agree with the proposed timeline for preparing neighbourhood plans under the future system? If no, what alternative timeline would you propose?**

The prospectus advise *“We are proposing that neighbourhood plans submitted for examination after 30 June 2025 will be required to comply with the new legal framework. ‘Made’ neighbourhood plans prepared under the current system will continue to remain in force under the reformed system until they are replaced.”*

We would suggest this sounds reasonable.

#### **Proposed EDDC response to Question 47**

Based on our extensive experience of supporting neighbourhood plan preparation in East Devon, with 25 plans now made, East Devon District Council would consider the cut-off date to be reasonable. To support us to most effectively continue to deliver our statutory duty to support communities with their neighbourhood plans, including in considering the relationship with our emerging Local Plan (currently anticipated to be submitted for examination in 2024), we would welcome early clarity, certainty and guidance from the Government about the future system. We also welcome the clarification in the prospectus that plans already made will remain valid until such time as they are reviewed / replaced.

#### **Q.48: Do you agree with the proposed transitional arrangements for supplementary planning documents? If no, what alternative arrangements would you propose?**

The prospectus advises that *“In the reformed planning system, authorities will no longer be able to prepare supplementary planning documents (SPDs). Instead, they will be able to prepare Supplementary Plans, which will be afforded the same weight as a local plan or minerals and waste plan. We are proposing that when the new system comes into force*

*(expected late 2024), existing SPDs will remain in force for a time-bound period; until the local planning authority is required to adopt a new-style plan. Current SPDs will automatically cease to have effect at the point at which authorities are required to have a new-style plan in place.”*

The Council has a number of SPDs though some are dated and under current legislation we have struggled to see if clearly old SPDs can be formally withdrawn. Under the new system it is proposed that SPDs, at present, will cease to exist but new Supplementary Plans will come into play and they will carry more weight than SPDs, by default (though its not explicitly stated) it would appear they become part of the Development Plan.

Over time we will, no doubt, want to give further consideration to Supplementary Plans and we can presume (or at least hope) the Government will issue more guidance on what they are for, what they will do, and how they will be produced etc. The Prospectus gives few clues to answer these questions. What it does do, however, is give a time based expiry period to existing SPDs related to periods for new local plan production.

#### **Proposed EDDC response to Question 48**

East Devon District Council is of the view that the transitional arrangements would be reasonable but it is not possible to give more specific comment as there is a considerable lack of clarity on what Supplementary Plans are or will be. It is suggested that Government consult again on this matter when they can provide greater clarity.

**Chapter 10 – National Development Management Policies** – this chapter contains Questions 49 to 52 and text below sets out commentary related to the questions and a proposed response.

#### **Q.49: Do you agree with the suggested scope and principles for guiding National Development Management Policies?**

One of the major changes that is set out in the levelling-up bill is the proposals for the introduction of national Development Management policies. The expectation is that in the future a standardised set of national policies will apply across the whole of England that will be used, alongside slimmed down local plans and neighbourhood plans in the determination of planning applications.

In the future, therefore, the East Devon Local Plan could be expected to include policies that are clearly East Devon specific and as such not appropriate for generic national policies whilst leaving ‘standardised’ matters to national coverage. It is worth highlighting that to some degree this type of approach does already exist in so far as the NPPF sets out national policy that is used in respect of determination of planning applications.

The undoubted challenge that will exist under the proposed new system (and already exists in respect of the NPPF) will be determining what is nationally relevant for policy coverage and what is local planning authority relevant and how or where a dividing line may exist between the two. Further to this are questions around the degree to which a local plan may add extra considerations or local flavour to a national policy or if this will or should be ‘off-limits’.

In the consultation the government specifically asks about the scope of the national policies (though they understandably) do not seek views on actual specific policies. The consultation advises:

*“12. The government’s initial view is that National Development Management Policies would fall within 3 broad categories:*

- 1. Existing policies aimed at decision-making already provided within the National Planning Policy Framework, subject to these being reviewed on a case-by-case basis so that the rationale for their inclusion is clear;*
- 2. Selective new additions to reflect new national priorities, for example net zero policies that it would be difficult to develop evidence to support at a district level, but which are nationally important.*
- 3. Selective new additions to close ‘gaps’ where existing national policy is silent on planning considerations that regularly affect decision-making across the country (or significant parts of it).*

*13. We also propose that any National Development Management Policies would adhere to a number of principles:*

- Covering only matters that have a direct bearing on the determination of planning applications;*
- Limited to key, nationally important issues commonly encountered in making decisions on planning applications across the country (or significant parts of the country); and*
- solely addressing planning issues, in other words that concern the development and use of land. National Development Management Policies would not address subjects which are regulated through other legislation, for example the building regulations or acts relating to public health, pollution, and employment; although we are minded to retain the scope for optional technical standards to be set locally through plans, where these remain appropriate, so that local planning authorities can go above certain minima set through building standards.”*

In the proposed response we do not include any reference to challenging whether the Government should introduce national policies. Though if members do have concerns around this matter then they should highlight these and provide guidance or instruction on how they would wish for the Council to respond. In the suggested response, below, we do however highlight concerns around the practicalities of such policies and relationship with our own local plan policies.

#### **Proposed EDDC response to Question 49**

East Devon District Council would suggest that the scope and principles set out in the consultation look a reasonable starting point should proposals for National Development Management Policies progress. At this stage we would, however, reserve judgement on

whether such national policies will be a good thing accepting that avoiding duplication is in-principle good.

We would highlight that we see potential for significant challenges in drawing a dividing line between what is or should be set out at a national level in policy and what should fall to a local planning authority to determine as matters for a local plan to cover. This consideration has scope to be heightened if or when a planning authority might wish to add extra material to a national policy or consider that it has limitations or weakness when applied to the particular concerns or characteristics that apply to a specific planning authority area or parts within. This concern would equally apply with Neighbourhood Plans and how policies within them would sit with national development management policies and the divide between the two.

**Q.50: What other principles, if any, do you believe should inform the scope of National Development Management Policies?**

Following on from the above the consultation the Government seek views on other principles that should apply.

**Proposed EDDC response to Question 50**

East Devon District Council would recognise the significant challenges that the Government face in respect of defining nationally coherent development management policies that are fit for use and application across the whole of England. In the context of this challenge, and a reality that there is so much variation across the country, we would highlight that one further principle that should be built into national policies, should they proceed, is that the flexibility should exist for local planning authorities to add extra considerations or value to such policies where local circumstances can be shown to justify such an approach. Further to this where evidence based, and tested through plan examination, there should be scope for a local planning authority to seek to establish grounds to not apply or use a national policy in their locality and take a different approach. But of course grounds for deviation would need to be objectively defined and thereafter assessed.

**Q.51: Do you agree that selective additions should be considered for proposals to complement existing national policies for guiding decisions?**

This questions feels rather oddly constructed and having read the prospectus text it is not really clear what is being asked. In the consultation text three topic areas are highlighted where the text advises of *“Indicative examples of ‘gaps’ where national policy is silent on common decision-making issues, which National Development Management Policies might address.. “*

The listed matters in the consultation are - Carbon reduction in new developments, Allotments and Housing in town centres and built-up areas. It not really clear why these examples are chosen and it suggested that we do not offer more than a ‘we reserve judgement’ response.

**Proposed EDDC response to Question 51**

East Devon District Council would not, at this stage, wish to comment and would choose to reserve judgement until more is published and known.

**Q.52: Are there other issues which apply across all or most of England that you think should be considered as possible options for National Development Management Policies?**

There are no doubt many matters across all or most of England that could be considered for Development Management Policy coverage. However, it's not suggested that we seek to cover or address them.

**Proposed EDDC response to Question 52**

East Devon District Council does not seek to identify issues at this stage but would be keen to remain engaged in discussion as proposals may progress. The government should consult on a draft set of national development management policies when produced so that detailed comments on their requirements, wording and any gaps can be made with full sight of what is proposed.

**Chapter 11 – Enabling Levelling Up** – this chapter contains Questions 53 to 56 and text below sets out commentary related to the questions and a proposed response.

**Q.53: What, if any, planning policies do you think could be included in a new Framework to help achieve the 12 levelling up missions in the Levelling Up White Paper?**

This chapter of the prospectus addresses matters around levelling-up and is somewhat more opened ended in terms of questions asked and potential scope for responses.

In Question 53 the question is asked about what else the NPPF could do in support of levelling-up. There are no specific amendments to the NPPF that are suggested in this officer response but we are mindful that there are wider initiatives that align or relate to planning that are worthy of highlighted, the suggested response, is therefore specifically geared around these.

**Proposed EDDC response to Question 53**

East Devon District Council would not suggest specific amendments or additions to the NPPF to support levelling-up but we do have specific experience of securing substantial inward investment into our District and accommodating substantial levels of growth.

Our experience has shown that the planning system, and allied to this the NPPF, is not really a significant constraint, though getting plans through Examination can be cumbersome and long-winded. What is much more important that the planning process, and policy, in terms of delivering major strategic development are powers and monies related to local

interventions by public sector bodies and partners to enable and ensure that high quality development will happen, specifically in respect to infrastructure provision that is needed to support and enable commercial driven development. This is specifically important noting that many commercial developers will lack the resources to pay substantial up-front costs and often will be too risk averse to do so.

The levelling-up agenda should, therefore, be supported by Government initiatives to support and fund more innovation in delivery vehicles and mechanism, specifically to include enhanced powers, monies and authority to local councils to facilitate high quality development. Allied to this should be scope to secure much more of the uplift in land values that development secures in order to fund necessary social, physical and environment infrastructure that is essential to actual implementation, securing the economic benefits that will be delivered and high quality place making.

Of the 12 levelling up missions the follow are considered to have the most direct land use/spatial implications;

Mission 1 – providing for improved employment opportunities will require ensuring a range and choice of available employment sites

Mission 3 – improving public transport connectivity may require focusing new development on public transport corridors

Mission 4 – digital connectivity can have spatial implications, for example in terms of ensuring a range and choice of service providers alongside wider building regulation requirements

Missions 7 & 8 – the Council has direct experience though the NHS Healthy New Towns programme of trying to secure improved health and wellbeing outcomes for residents.

Mission 9 – promoting the successful regeneration of town centres is an ongoing challenge, particularly in the face of changing retail demand

Mission 11 – designing our crime continues to be a key a consideration in the determination of planning applications

It will be important that these objectives are address in the suite of National Development Management Policies

**Q.54: How do you think the Framework could better support development that will drive economic growth and productivity in every part of the country, in support of the levelling up agenda?**

Text in the prospectus continues by advising of review of the NPPF to amend policies to promote further investment and growth that

*“a. Make sure that local plans in every part of the country support new business investment and give existing business, including SMEs, the confidence to expand and grow.*

*b. Support the sectors and businesses that will drive up productivity. We want technology companies, life sciences and all those involved in Research and Development to invest more and grow more in every part of country – in line with the levelling up R&D mission.*

*c. Spread financial capital and investment to the places, projects and people that need it most. We want to empower local decision makers in those places to say yes to commercial development if it will drive economic growth, deliver new jobs, and stimulate innovation and productivity”*

**Proposed EDDC response to Question 54**

East Devon District Council would repeat it's answer to Question 53 to this question noting that we would be supportive of Government initiatives and outcomes sought, but this should not mean that economic growth objectives are written to over-ride the full range of other planning considerations.

**Q.55: Do you think that the government could go further in national policy, to increase development on brownfield land within city and town centres, with a view to facilitating gentle densification of our urban cores?**

This question and scope for NPPF changes would have some relevance to East Devon, and our towns, but it is suggested that application and relevance is likely to far more relevant to cities and bigger urban areas. Text in the prospectus specifically talks about city development, none the less there is value in providing a favourable response.

**Proposed EDDC response to Question 55**

East Devon District Council would welcome greater strength in national policy to support and encourage brownfield land and higher quality urban development and renaissance. Further to the economic benefits that brownfield development in city and town centres may help deliver it also lessens the need for Greenfield development and as such has wider than economic benefits.

**Q.56: Do you think that the government should bring forward proposals to update the Framework as part of next year's wider review to place more emphasis on making sure that women, girls and other vulnerable groups feel safe in our public spaces, including for example policies on lighting/street lighting?**

The question asked is seen as self-explanatory and the answer is yes,

**Proposed EDDC response to Question 56**

East Devon District Council is strongly of the opinion that all possible initiatives should be taken to ensure women, girls and other vulnerable groups feel safe in our public spaces, The NPPF should be rigorously reviewed and amended to ensure potential to achieve the outcomes sought are embedded in national policy. We regularly consult with our local police on designing out crime issues, however further guidance on this issue would be helpful particularly in terms of striking the right balance between making spaces accessible and permeable from a design perspective and avoiding spaces that lack natural surveillance and encourage crime and anti-social behaviour. This can be a difficult balance.

## **Chapter 12 - Wider changes to national planning policy in the**

**future** – this chapter does not contain any questions and we would not, therefore, envisage any responses being made. However, in this chapter of the Prospectus Government signals wider changes to NPPF that are likely to be needed to reflect the Bill and other aspects of Government policy. These would be additional to the proposed changes in the current consultation draft NPPF: The list is indicative and not exhaustive. For example, under plan-making chapter 12 lists the following: :

- any changes to the ‘soundness’ tests for assessing draft plans which may be appropriate so that plan examinations are proportionate;
- how infrastructure delivery strategies are to be prepared;
- the importance of effective community engagement in plan-making, including through digital means
- taking Neighbourhood Priorities Statements into account when preparing local plans; and
- other procedural changes to plan-making, including a fixed timetable for local plan production, the role of gateway checks, new data standards, streamlined evidence requirements and the introduction of Environmental Outcome Reports.
- how to encourage wider uptake of strategic planning to understand and resolve environmental issues in a joined up way. Strategic planning also needs to consider rural communities to ensure that local policies are tailored to their different needs.

It also signals the intention to introduce an Alignment policy which has been considered in paragraph 2.27 of this Committee report.

## **Chapter 13 - Practical changes and next steps** – this chapter contains

Questions 57 to 58 and text below sets out commentary related to the questions and a proposed response.

**Q.57: Are there any specific approaches or examples of best practice which you think we should consider to improve the way that national planning policy is presented and accessed?**

This chapter is specifically concerned with presenting national policies in an accessible and used friendly manner.

### **Proposed EDDC response to Question 57**

East Devon District Council would not wish to highlight specific approaches to bring about the objectives, but would stress the importance of high quality communication that is easy for end users to access and apply. Approaches taken should seek to integrate with other procedures so, for example, if or when national Development Management policies are written they should be presented in a way that seamlessly allows for them to be used in Development Management and processing software systems.

The NPPF and PPG should be searchable on-line to improve access and make it easier to locate the relevant sections. The current search engine searches the whole of the Gov.uk website and shows throws up a whole host of other documents whereas a specific search engine dedicated to the NPPF and PPG would make access much easier.

**Q.58: We continue to keep the impacts of these proposals under review and would be grateful for your comments on any potential impacts that might arise under the Public Sector Equality Duty as a result of the proposals in this document**

The question below is specifically about Public Sector Equality Duty considerations.

**Proposed EDDC response to Question 58**

East Devon District Council recognises and applauds the importance of Public Sector Equality Duty considerations. These should be rigorously applied in Government work. We have no additional specific comments to raise at this point.

**Chapter 14 – Table of questions** – this chapter repeats all the questions that are responded to in the above report and so is not repeated and **Chapter 15 - About this consultation** – sets out process information about the consultation and privacy information.

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**Financial implications:**

There are no specific financial implications regarding the council's finances on which to comment.

**Legal implications:**

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