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Exemption applied: None

Review date for release N/A

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## Changes to the The National Planning Policy Framework

### Report summary:

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

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

### Is the proposed decision in accordance with:

Budget Yes  No

Policy Framework Yes  No

### Recommendation:

Members are asked to:

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

### Reason for recommendation:

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

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Portfolio(s) (check which apply):

- Climate Action and Emergency Response  
 Coast, Country and Environment

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

**Equalities impact** Low Impact

**Climate change** Low Impact

**Risk:** Low Risk;

**Links to background information**

Link to [Council Plan](#)

Priorities (check which apply)

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

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

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

## **Housing Need Calculations**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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### **Financial implications:**

There are no direct financial implication resulting from the report.

### **Legal implications:**

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