

Report to: **Strategic Planning Committee**



Date of Meeting 11 September 2024

Document classification: Part A Public Document

Exemption applied: None

Review date for release N/A

Response to proposed reforms to the National Planning Policy Framework and other changes to the planning system

Report summary:

The government published a consultation on changes to the National Planning Policy Framework and other planning matters on the 30th July with a closing date for comments of the 24th September. The consultation covers a wide range of issues from housing numbers and housing land supply issues which were touched on in a report to the Committees meeting of the 6th August to planning application fees and cost recovery. The report sets out the main proposals in the consultation and proposed responses to the consultation questions.

Is the proposed decision in accordance with:

Budget Yes No

Policy Framework Yes No

Recommendation:

That Strategic Planning Committee agree the proposed consultation responses included within this report and that these be submitted as the Council's response to the consultation.

Reason for recommendation:

To ensure that Members have the opportunity to understand and comment on the government consultation and ensure that the views of the council are available to the government to inform decision making.

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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 [Proposed reforms to the National Planning Policy Framework and other changes to the planning system - GOV.UK \(www.gov.uk\)](#)

Link to [Council Plan](#)

Priorities (check which apply)

- A supported and engaged community
 - Carbon neutrality and ecological recovery
 - Resilient economy that supports local business
 - Financially secure and improving quality of services
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Background

The government launched a consultation into changes to the National Planning Policy Framework (NPPF) on the 30th July 2024. The consultation covers a wide range of issues and asks over 100 questions of consultees responding to the document. This report seeks to summarise and respond to all of these issues to help Members to understand how they may impact on East Devon and how it is recommended that the Council respond.

The report is structured using the chapters set out in the consultation with a brief summary of each section in the form of bullet points followed by a proposed response to each question. Chapters 1 and 2 comprise of an introduction and high-level policy objectives. These have been widely reported and are available for Members to review in the consultation document (see link above). The chapters requiring a response are summarised below with draft responses highlighted:

Chapter 3 – Planning for the homes we need

Advisory starting point and alternative approaches

This section seeks to:

- Reverse the changes made to the NPPF in December 2023 that sought to make the standard method an advisory starting point for establishing a housing requirement and to make it very clear that the standard method should be used to assess housing need.
- Local authorities will be expected to make all efforts to allocate land in line with their housing need.
- A lower housing requirement could be justified on the basis of local constraints but local authorities will need to demonstrate that they have taken all possible steps including optimising density, sharing need with neighbouring authorities and reviewing Green Belt boundaries before a lower requirement will be considered.

Question 1

Do you agree that we should reverse the December 2023 changes made to Paragraph 61?

East Devon District Council considers that the changes in December promised a lot but delivered very little in terms of meaningful change. In reality there was no real scope to depart from the standard method anyway. Reversing these changes is therefore likely to make little or no difference.

Question 2

Do you agree that we should remove reference to the use of alternative approaches to assessing housing need in paragraph 61 and the glossary of the NPPF?

Yes – the alternative approaches text does not help given that any alternative approach was required to reflect current and future demographic trends and market signals and so would not be markedly different and the example given in footnote 26 is too specific to be helpful.

Urban uplift

This section states that:

- It is proposed to reverse the application of an urban uplift to the standard method which increases the requirement in cities and large urban areas.
- Maintain the approach of directing housing growth to the larger urban areas but to do this through the new standard method which distributes growth more widely than the urban uplift.

Question 3

Do you agree that we should reverse the December 2023 changes made on the urban uplift by deleting paragraph 62?

The urban uplift was a crude instrument, however urban densification should remain a clear focus of planning policy and be reflected in the housing numbers for large urban areas.

Character and Density

This section states that:

- It is proposed to delete paragraph 130 which states that significant uplifts in the average density of residential development may be inappropriate if the resulting built form would be wholly out of character with the existing area.
- Strengthening expectations that plans should promote an uplift in density in urban areas and supporting the efficient use of land will be key features of government policy but will be focused through design codes, masterplans and guides for areas subject to most change.

Question 4: Do you agree that we should reverse the December 2023 changes made on character and density and delete paragraph 130?

The existing text does not appear to be out kilter with the proposed approach and is helpful in clarifying that densification should not be of significant detriment of the character of an area and so it is difficult to see any reason for its deletion.

Question 5: Do you agree that the focus of design codes should move towards supporting spatial visions in local plans and areas that provide the greatest opportunities for change such as greater density, in particular the development of large new communities?

Yes – A design code on a district wide basis is likely to achieve very little due to the diversity of the built form and characters of different settlements and so design codes are much more effective over a smaller geography.

Strengthening and reforming the presumption in favour of sustainable development ('the presumption')

This section proposes:

- Strengthening the presumption in favour of sustainable development by clarifying its primary role in addressing inadequate land supply and making it clear that it applies where relevant policies relating to land supply are out of date.
- Ensuring that the presumption is not used to promote low quality, unsustainable development and that there remains a need to locational and design policies as well as the delivery of affordable housing.

Question 6: Do you agree that the presumption in favour of sustainable development should be amended as proposed?

Yes – The proposals are a useful clarification to ensure that the presumption is correctly applied and the quality of development is maintained when it is applied.

Restoring the 5-year housing land supply (5YHLS)

This section proposes:

- To reverse the changes from December 2023 which introduced a requirement for authorities in the late stages of plan making so that they need only demonstrate a 4-year housing land supply.
- To remove wording that enabled authorities with a previous oversupply to offset this against future supply.

Question 7: Do you agree that all local planning authorities should be required to continually demonstrate 5 years of specific, deliverable sites for decision making purposes, regardless of plan status?

Yes – Although the 4-year requirement was on the face of it beneficial to authorities in the late stages of plan production the fact that they still had to demonstrate a 5-year housing land supply at plan adoption was challenging. Without applying the tilted balance, it is difficult to boost housing land supply and thus the two requirements were in conflict meaning that the 4-year housing land supply we not really beneficial in the long term.

Question 8: Do you agree with our proposal to remove wording on national planning guidance in paragraph 77 of the current NPPF?

The governments ambitions to boost housing delivery are noted but the ability to take account of previous over-supply works both ways and the changes may discourage authorities from enabling an over-supply if they know that they cannot offset this against future supply so this change could be counterproductive.

It is also important that all authorities take equal responsibility for meeting housing needs. Not being able to take account of past over-supply feels like a punishment for those that have been successful in the past when they should be rewarded.

Restoring the 5% buffer

This section proposes:

- Restoring the requirement to maintain a 5% buffer on top of the 5-year housing land supply position to ensure choice and competition in the market which had previously been removed in changes introduced in December 2023.
- To remove the option for authorities to fix their 5-year housing land supply position through an annual position statement.

Question 9: Do you agree that all local planning authorities should be required to add a 5% buffer to their 5-year housing land supply calculations?

Yes - It makes sense to include a buffer as not all sites will be delivered and so a robust 5-year housing land supply should include a buffer.

Question 10: If yes, do you agree that 5% is an appropriate buffer, or should it be a different figure?

This should be set at a local level based on local conditions and circumstances rather than set nationally.

Question 11: Do you agree with the removal of policy on Annual Position Statements?

As a council we have never submitted an annual position statement and have seen little benefit in doing so. As a result, we do not object to its removal.

Maintaining effective co-operation and the move to strategic planning

This section seeks to:

- Highlight that the duty to co-operate will be revoked under the Levelling up and Regeneration Act 2023 but will continue to apply to Local Plans pursued within the current system.
- Set a clear aspiration for universal coverage of strategic planning with legislation to follow in relation to production of Spatial Development Strategies (SDSs) across appropriate functional economic areas with democratic mechanisms for securing agreement.
- Set out that in the meantime, we should be maintaining effective co-operation to ensure that the right engagement is occurring on sharing unmet housing needs and other strategic issues.

Question 12: Do you agree that the NPPF should be amended to further support effective co-operation on cross boundary and strategic planning matters?

Effective co-operation on cross boundary and strategic planning matters is important to the appropriate planning of an area. However, with increasing housing numbers and ever-increasing demand for infrastructure which cannot cope with proposed growth levels there are numerous issues that cannot be resolved at the local or even regional level and will need government intervention particularly in terms of funding if the governments growth aspirations are to be achieved.

It then:

- Notes concerns that plans containing strategic scale proposals and associated infrastructure that require implementation over a long period can be difficult to evidence in terms of deliverability and viability.
- States that the government wants the planning system to enable such long-term ambitious planning as long as this is grounded and realistic but has no specific proposals at this time.

Question 13: Should the tests of soundness be amended to better assess the soundness of strategic scale plans or proposals?

Yes – there is a need to lower the bar in terms of viability and deliverability in relation to longer term strategic proposals such as new towns to ensure that these more aspirational proposals can be incorporated into local plans without an excessive burden of testing work.

Question 14: Do you have any other suggestions relating to the proposals in this chapter?

The consultation materials refer to SDSs being led by elected mayors in Mayoral Combined Authorities but there is no detail about how this works in non-mayoral areas. It is important that in such areas that district level planning authorities are in the driving seat of SDSs and that the skills and expertise they hold about their area are fully utilised to ensure that plans are deliverable and viable and that there is local level buy in to the plan.

Chapter 4 – A new Standard Method for assessing housing needs

- It is proposed to revise the standard method for assessing housing needs to ensure that the new method supports the governments ambition to deliver 1.5million homes over the next 5 years, provide greater certainty, achieve a more balanced distribution of homes across the country and be straight forward to understand and apply.
- A new standard method is proposed that uses a baseline set at a percentage of existing housing stock levels rather than household projections data, has a stronger affordability multiplier and removes caps and additions.
- The baseline housing stock level increase would be 0.8% based on an average housing stock increase nationally over the last 10 years.

Question 15: Do you agree that Planning Practice Guidance should be amended to specify that the appropriate baseline for the standard method is housing stock rather than the latest household projections?

The use of the household projections data tends to focus a disproportionate number of new homes in locations that have previously seen significant growth leading to a position where past growth leads to future growth. This puts pressure on places that have been successful in delivering growth in the past to deliver more and more even where this is not sustainable. Using a baseline of existing housing stock at 0.8% nationally reduces the impact of this and so is favoured over the household projections data.

- It is proposed to retain an adjustment for affordability based on workplace based median house prices to median earnings ratio leading to an uplift in housing numbers in the least affordable areas.
- The new method would increase the significance of affordability by increasing the multiplier and using an average affordability ratio over the last 3 years rather than just the most recent data.
- Under the current method the affordability adjustment is capped at 40% but it is proposed to remove this cap.
- It is also proposed to remove the urban uplift which was previously added to the top 20 major towns and cities which is considered to be arbitrary and unrealistic.

Question 16: Do you agree that using the workplace-based median house price to median earnings ratio, averaged over the most recent 3-year period for which data is available to adjust the standard method's baseline, is appropriate?

Yes – using data over a 3-year period will help to smooth out fluctuates and provide greater certainty.

Question 17: Do you agree that affordability is given an appropriate weighting within the proposed standard method?

We are concerned about removal of the cap on the affordability adjustment. House prices are often higher in the most environmentally attractive and therefore sensitive parts of the country and these are often locations where supply is constrained by a lack of availability of developable land. The result of lifting the cap is that these areas will see the assessed housing need figures rise significantly and yet these are often the locations where the environment is least able to accommodate the higher numbers.

We would also question the whole philosophy behind the uplift as there is no evidence that increasing assessed housing needs helps to address affordability. The private sector will only deliver the number of homes a year that it is in the interests of the market to provide. Developers will also favour those sites that are easiest and cheapest to deliver and so the approach is likely to lead to more sites being allocated than the development industry will realistically deliver and easy to developer greenfield sites being favoured while the brownfield sites that should be a higher priority are left undeveloped as they are 'too difficult'.

The affordability gap can only be addressed through the delivery of a higher proportion of affordable homes and not necessarily increasing the total number built. This can only be achieved by public sector intervention and yet there is nothing in the consultation that seeks to support and fund the increased delivery of affordable homes by local authorities and registered providers when this is what is needed to address the acute need for affordable housing.

Question 18: Do you consider the standard method should factor in evidence on rental affordability? If so, do you have any suggestions for how this could be incorporated into the model?

There is a logic to considering rental affordability rather than just linking the ratio to house prices as rental prices are affected by wider issues than just house prices. It is however difficult to see how this could be achieved and seeking to do so would make the standard method overly complicated.

Question 19: Do you have any additional comments on the proposed method for assessing housing needs?

We would question the logic of a standard method that pays no regard to the capacity of a place to accommodate growth either in terms of the environmental constraints in an area and also the capacity of the infrastructure to accommodate it. The standard method needs to incorporate adjustments to take account of both of these factors if the figures it generates to are to be realistic and achievable and we are to retain what makes East Devon such an attractive and special place to live, work and visit.

There remains a need to focus growth in large urban areas through the use of brownfield land and increasing densities. The results of the standard method substantially reduce the requirement in a number of large urban areas which seems to be counter to the proposed approach.

Chapter 5 – Brownfield, grey belt and the Green Belt

Much of this chapter is not relevant to East Devon as there is no Green Belt within or close to the district. It is therefore only proposed to respond to the first part of this chapter which relates to Brownfield development. Responses to the remaining questions 21 – 46 would therefore be “No Comment”.

In terms of Brownfield land, the chapter proposes:

- An intention to make it clear that the principle of development not be in question on brownfield land and that development of previously developed land should be viewed positively.

Question 20: Do you agree that we should make the proposed change set out in paragraph 124c, as a first step towards brownfield passports?

It is agreed that brownfield sites should be redeveloped, however not all brownfield sites are in sustainable locations. Some historic uses in remote rural locations can lead to land being classed as brownfield and so any default answer of yes to brownfield development should not override the need for development to be sustainable. This would also need to be a requirement of any future proposals for brownfield passports as a fast track to consents on brownfield land.

Chapter 6 – Delivering affordable, well-designed homes and places

Delivering affordable housing

This section states that:

- The government does not intend to introduce the new infrastructure levy as introduced in the Levelling-up and Regeneration Act 2023 as a replacement for CIL but will instead work on improving the existing system of developer contributions.
- It is proposed to leave local areas to decide the right mix of affordable housing for their communities' enabling requirements for a higher proportion of social rented housing with needs for this to be identified through a housing needs assessment.
- It is proposed to remove the requirement to deliver at least 10% of the total of homes on major sites as affordable home ownership and requirements that a minimum of 25% of affordable housing units secured through developer contributions should be First Homes.

Question 47: Do you agree with setting the expectation that local planning authorities should consider the particular needs of those who require Social Rent when undertaking needs assessments and setting policies on affordable housing requirements?

Yes – there is an acute need for social rent affordable housing that cannot currently be met. These are the residents in greatest need of affordable housing and yet the current requirements leave us unable to meet more than a small proportion of the need that exists.

Question 48: Do you agree with removing the requirement to deliver 10% of housing on major sites as affordable home ownership?

Yes - Removing requirements for affordable home ownership products will enable us to better meet the housing needs of residents of East Devon which are largely in need of Social Rent units.

Question 49: Do you agree with removing the minimum 25% First Homes requirement?

Yes - Removing requirements for First Homes will enable us to better meet the housing needs of residents of East Devon which are largely in need of Social Rent units. First homes are unaffordable to low and median income households in East Devon and this requirement pushes out other types of intermediate housing that would better meet local needs and as a consequence puts housing associations off acquiring such sites.

Question 50: Do you have any other comments on retaining the option to deliver First Homes, including through exception sites?

Although there is little harm in retaining First Homes as an option there is little point in doing so as they are not favoured by the development industry meet the needs of relatively few whose needs can be met through other means and they are very resource heavy for local authorities to administer. It therefore seems unlikely that they will be delivered in future.

First Homes should not form part of exception sites as they sideline affordable housing for rent which is what is most needed.

Promoting mixed tenure development

This section seeks to:

- Introduce a new requirement that expects local planning authorities to take a positive approach to delivering a wider mix of tenures (including rented affordable housing and build to rent) and housing types (including self and custom build and housing for older people).

Question 51: Do you agree with introducing a policy to promote developments that have a mix of tenures and types?

Yes – It is important that we deliver a mix of housing types and tenures that meet the needs of the community as identified in a housing needs assessment and evidenced elsewhere such as in our self-build register or housing waiting list.

Supporting majority affordable housing developments

This section states that:

- Developments that are predominantly (or exclusively) a single tenure may still be appropriate and should be supported such as where a high percentage of Social Rent is to be delivered.
- Views are sought on how predominantly or exclusively affordable housing schemes can be supported given evidence around the benefits of mixed communities. Views are sought on aspects such as an appropriate maximum size for such sites and how to support affordable housing in rural areas.

Question 52: What would be the most appropriate way to promote high percentage Social Rent/affordable housing developments?

To ensure the delivery of mixed communities it is important that these are delivered at a modest scale and in and among developments of a wider mix of tenures to ensure that it is an inclusive and mixed community. Local connection criteria within Section 106 agreements can help to ensure that homes are occupied by people who already live, work or have family in the area. This can lead to less anti-social behaviour and stock turnover.

Question 53: What safeguards would be required to ensure that there are not unintended consequences? For example, is there a maximum site size where development of this nature is appropriate?

It is difficult to put a scale on it and it may vary according to local circumstances and the locality. This could be set at a local level through local plans.

Question 54: What measures should we consider to better support and increase rural affordable housing?

An issue in East Devon is the number of second homes and holiday lets in rural areas which price local people out of the market. Action needs to be taken to disincentivise second home ownership or at least ensure that those with second homes contribute in some way to the delivery of affordable housing to meet local needs.

Policies could be introduced to give greater weight to rural affordable housing to meet identified housing needs over other considerations.

Meeting the needs of looked after children

This section states that:

- The government wants to support the delivery of housing to meet the needs of looked after children that are looked after by the local authority under the Children Act 1989.
- It is proposed to include housing for looked after children as one of the groups in the community who housing needs should be assessed and reflected in planning policies. This would be through adding them to a list of such groups in Paragraph 63 of the NPPF.

Question 55: Do you agree with the changes proposed to paragraph 63 of the existing NPPF?

Clearly it is very important that the needs of looked after children are met, however it is unclear how these needs differ from other groups and how these are not met through normal housing delivery. As a result, it is not clear what the planning authority needs to do differently to address the needs of this group. This needs to be clarified in the final NPPF or through Planning Practice Guidance.

Delivering a diverse range of homes and high-quality places

This section states that:

- It is proposed to strengthen support for community led development such as those delivered by a community land trust, housing cooperative and other community-based groups.
- It is proposed to support community led housing by including groups originally set up for a purpose other than housebuilding within the definition of 'community led development' and removing the size limit for community led exception sites, where an alternative limit is established through the development plan.

Question 56: Do you agree with these changes?

Yes – Community led housing schemes should be supported in-principle. Groups should be able to bring forward housing schemes but also community work spaces, renewable energy projects, recreational areas and other projects needed by their community.

CLT's could also be involved in providing affordable housing on sites they have not themselves brought forward such as sites within their community that have been allocated through a local plan.

- A new definition of 'affordable housing for rent' is proposed which would make it easier for organisations that are not registered providers such as community-led developers and alms-houses, to develop new affordable homes.

Question 57: Do you have views on whether the definition of 'affordable housing for rent' in the Framework glossary should be amended? If so, what changes would you recommend?

It is important to ensure that affordable housing for rent is provided by reputable organisations with the ability to manage and maintain the properties to the required standards and act in the best interests of their tenants. The requirement to be a registered provider seeks to ensure that this is the case and such standards need to be maintained in any amendments, however a balance needs to be struck as becoming a registered provider can be very time consuming and costly for small organisations.

Making the small site allocation mandatory

This section states that:

- The government is looking to support small and medium sized builders and is concerned that they are not able to access the small sites that they need and that local authorities are not bringing forward small sites in plans.
- There is a current expectation that 10% of local plan allocations are small sites but most plans do not achieve this. The government is seeking views on whether this should be required in all cases, what would be required to make this happen, whether a definition distinguishing between small and medium sites would improve clarity and whether requiring authority specific small site strategies would help implement the 10% allocation.

Question 58: Do you have views on why insufficient small sites are being allocated, and on ways in which the small site policy in the NPPF should be strengthened?

Many small sites are windfalls and do not come through the plan making process and so cannot be allocated in plans for this reason. Pursuing smaller sites through the plan making process can generate a disproportionate amount of work in identifying and assessing sites for the number of homes that they will deliver in the context of a local plan that needs to deliver thousands of homes.

The current guidance is sufficiently clear and we continue to do what we can to identify small sites. Our understanding is that aside from access sites other factors such as access to affordable finance are also major issues for SME builders where support may be more effective.

Requiring “well designed” development

This section states that:

- The current NPPF includes references to ‘beauty’ and ‘beautiful’ in relation to well-designed development and while this is important these are very subjective terms that are difficult to apply consistently. It is therefore proposed to remove these references.
- It is also proposed to amend Paragraph 138 to reflect that the National Model Design Code is in widespread use and that this is the primary means for improving design alongside any local design codes.

Question 59: Do you agree with the proposals to retain references to well-designed buildings and places, but remove references to ‘beauty’ and ‘beautiful’ and to amend paragraph 138 of the existing Framework?

Yes – It is important that assessments of design quality are as objective as possible and so subjective terms such as ‘beauty’ are not helpful in this context. It is agreed that design codes can be a powerful tool in improving design quality.

Supporting upward extensions

This section states that:

- In 2023 the NPPF was updated to encourage upward extensions to increase densities and make efficient use of land. The wording however emphasises the use of mansard roofs which are just one way of extending upwards and the government wants to amend wording to lend support to all upward extensions.

Question 60: Do you agree with proposed changes to policy for upwards extensions?

Yes – mansard roofs may be appropriate in some locations but are not a common architectural form found in East Devon. However upward extensions in urban areas can be a good way of increasing densities and making efficient use of land albeit such extensions are rare in East Devon.

Question 61: Do you have any other suggestions relating to the proposals in this chapter?

No

Chapter 7 – Building Infrastructure to grow the economy

Building a modern economy

This section states that:

- The changes to the planning system seek to support key industries such as laboratories, gigafactories, digital infrastructure and freight and logistics. It is proposed to make it easier to build such facilities and create an expectation that suitable sites for these types of uses are identified in local plans.
- It is also proposed to include wording to ensure that supply chains, transport innovation and decarbonisation are considered in terms of the locational requirements of storage and distribution sectors and that there is support for the expansion or modernisation of key growth sectors.

Question 62: Do you agree with the changes proposed to paragraphs 86 b) and 87 of the existing NPPF?

Yes – It makes sense to have regard to the locational requirements of these key growth industries when allocating land for economic development.

Question 63: Are there other sectors you think need particular support via these changes? What are they and why?

Other key growth sectors in East Devon include Science, Technology, Engineering, Mathematics and Medicine or STEMM industries including smart data, clean growth, future aviation, health innovation and smart logistics. They are key knowledge based industries that are helping to grow the local economy and provide roles linked to training opportunities at Exeter University and providing much needed uplift in skills and knowledge as well as better paid roles in the area.

It is however important that key traditional sectors including agriculture, tourism and food and drink production are supported modernise and diversify.

In this section:

- Views are sought on whether data centres, gigafactories and laboratories should be able to opt into the Nationally Significant Infrastructure Projects (NSIP) regime whereby applications would be considered by the government directly via the Planning Inspectorate.

Question 64: Would you support the prescription of data centres, gigafactories, and/or laboratories as types of business and commercial development which could be capable (on request) of being directed into the NSIP consenting regime?

It is important that decision making on planning matters including for these types of development is made at the local level and developments are not imposed on local communities by central government. It is difficult to see how these forms of development would be nationally significant to justify inclusion within the NSIP regime.

Question 65: If the direction power is extended to these developments, should it be limited by scale, and what would be an appropriate scale if so?

Yes – the scale should be set higher than is currently set for such projects (at least 40,000sqm) as it is considered that to be nationally significant a business space would have to be very substantial in scale.

Question 66: Do you have any other suggestions relating to the proposals in this chapter?

No

Chapter 8 – Delivering Community Needs

Public infrastructure

In this section:

- It is proposed to amend para. 100 of the NPPF to make it clear that significant weight should be placed on the importance of facilitating new, expanded and upgraded public service infrastructure.

Question 67: Do you agree with the changes proposed to paragraph 100 of the existing NPPF?

Yes – Clearly planning decisions and policies should support the improvement of public services. The consultation does not however recognise the poor state of public services and the need for them to be enhanced to meet the additional demands which will be placed on them from the growth proposed as a result of the changes to the NPPF and the standard method for assessing housing need. The scale of new housebuilding proposed cannot be accommodated without massive investment in schools, health care facilities, public transport etc. There is also a need for major investment in wastewater facilities. The consultation does not acknowledge these issues or make any proposals for addressing them and yet for the most part the proposals are totally unachievable without substantial investment in public services.

- It is proposed to amend paragraph 99 of the NPPF so that it is not just the need for school places that is considered when planning for growth but also the need for early years and post 16 places.

Question 68: Do you agree with the changes proposed to paragraph 99 of the existing NPPF?

It is important that the educational needs of these additional age groups are considered but it is not clear where the funding for these places will come from. There are insufficient monies coming from developer contributions to provide the necessary infrastructure including school places and so it is difficult to see where the funding will come from through the planning system to deliver places for early years and post-16 education and therefore how these needs can be met within the planning regime. Government investment is needed in order to meet these important educational requirements.

A 'vision-led' approach to transport planning

This section states that:

- At present, transport planning is too often based on a predict and provide approach where a default 'worst case' scenario peak hour scenario is taken. The government is endorsing a 'vision-led' approach to transport planning which focuses on the outcomes that are desired such as more sustainable travel and how they can be delivered. It is proposed to set this approach out in guidance to achieve better transport outcomes in new developments.

Question 69: Do you agree with the changes proposed to paragraphs 114 and 115 of the existing NPPF?

Yes - The proposed changes are helpful in clarifying the position particularly as we have found different approaches being taken by the county highway authority and National Highways.

It is important that we do not plan for ever increasing traffic growth and have a vision for reducing travel requirements and making sustainable forms of transport the preferred means of travel in the future. We can only do this through a 'vision-led' approach.

Promoting healthy communities

This section states that:

- The government is committed to taking action on public health and reducing health inequalities. They note variation in how these issues are addressed in local plans and seek views on how national planning policy could be changed to address these issues.

Question 70: How could national planning policy better support local authorities in (a) promoting healthy communities and (b) tackling childhood obesity?

The consultation refers to controlling hot food takeaways near schools; however, it is unclear how effective such a measure is and the appropriateness of addressing this through planning policy. Aside from this greater financial support for the delivery of green infrastructure, footpaths and cycleways to improve the attractiveness of sustainable and healthy travel in our communities.

Question 71: Do you have any other suggestions relating to the proposals in this chapter?

No

Chapter 9 – Supporting green energy and the environment

Supporting onshore wind

This section states that:

- The government has already committed to deleting text in the NPPF which placed additional tests on onshore wind schemes such as the requirement that they must have community support.
- Views are sought on bringing onshore wind schemes into the NSIP regime.

Question 72: Do you agree that large onshore wind projects should be reintegrated into the NSIP regime?

It makes sense for large scale onshore wind projects to be brought into the nationally significant infrastructure projects regime alongside similar projects of national significance, however as a fundamental principle projects that are not of national significance should be considered at the local level.

Supporting renewable deployment

This section states that:

- It is proposed to direct decision makers to give significant weight to the benefits associated with renewable and low carbon energy generation and proposals' contribution to meeting a net zero future.
- To make it a requirement to identify sites for renewable and low carbon development when producing local plans.
- The government recognises that renewable energy projects may impact on sensitive habitats and that these will be the subject of wider policy requirements set out in the framework.

Question 73: Do you agree with the proposed changes to the NPPF to give greater support to renewable and low carbon energy?

Yes – It is clearly important to maximise opportunities for low carbon energy production but this needs to be balanced with other considerations including the landscape impact and loss of high-grade agricultural land.

Question 74: Some habitats, such as those containing peat soils, might be considered unsuitable for renewable energy development due to their role in carbon sequestration. Should there be additional protections for such habitats and/or compensatory mechanisms put in place?

The key habitats within East Devon are all provided adequate protection through existing legislation.

Setting the NSIP threshold for solar generating stations and onshore wind

This section states that:

- The threshold for solar farms and onshore wind turbines to be considered through the NSIP system is currently 50MW, however it has been shown that greater efficiencies in technology mean that this threshold is capturing relatively small schemes under NSIP. NSIP should only be used for nationally significant infrastructure. This is causing projects to be capped at 50MW to avoid the delays associated with the NSIP regime with only schemes of over 150MW generally being submitted through NSIP. This suggests that schemes of between 50MW and 150MW are not economic to pursue due to the NSIP regime. As a result, there is concern that smaller schemes are not maximising their potential energy production.

Question 75: Do you agree that the threshold at which onshore wind projects are deemed to be Nationally Significant and therefore consented under the NSIP regime should be changed from 50 megawatts (MW) to 100MW?

Yes – It makes sense to amend these thresholds in light of more efficient technology and to maximise the energy generated by such projects albeit there is a danger that similar issues are created with the new threshold as with the old.

Question 76: Do you agree that the threshold at which solar projects are deemed to be Nationally Significant and therefore consented under the NSIP regime should be changed from 50MW to 150MW?

Yes – It makes sense to amend these thresholds in light of more efficient technology and to maximise the energy generated by such projects albeit there is a danger that similar issues are created with the new threshold as with the old.

Question 77: If you think that alternative thresholds should apply to onshore wind and/or solar, what would these be?

N/A

Tackling Climate Change

This section states that:

- The importance of addressing climate change through the planning system is highlighted in the consultation. The government is keen to understand what further action could be taken and highlights issues such as carbon assessments and their delivery.

- The consultation also raises issues around climate change adaptation including coastal and inland flood risk.

Question 78: In what specific, deliverable ways could national planning policy do more to address climate change mitigation and adaptation?

The written ministerial statement of 13th December 2023 on 'Planning – Local Energy Efficiency Standards Update' and subsequent legal challenges leave an unclear position in terms of the role of planning in securing energy efficiency measures in new developments and how this can be achieved. While controlling this through building regulations is an appropriate response there is concern that we could be doing more and requiring higher standards, more quickly whether through planning or building regulations.

We have also encountered issues with applications for battery storage facilities to enable the more efficient use of solar farms by storing the energy produced for use at a later time. The use of large-scale lithium-ion batteries causes concerns about safety issues given the risk of fire and pollution from these and there is little guidance and contradictory appeal decisions about how this should be considered through the planning process. They also do not appear to be adequately covered by other legislation such as hazardous substances consent. This needs to be addressed.

Question 79: What is your view of the current state of technological readiness and availability of tools for accurate carbon accounting in plan-making and planning decisions, and what are the challenges to increasing its use?

Carbon accounting is not something that we are engaged in at present and there are fundamental questions as to whether such an approach to understanding and accounting for the carbon cost of developments should sit within planning or building control regimes. If introduced it would involve substantial investment in technology and training of staff who are already overwhelmed by the range of specialist and technical matters that they are required to understand through an ever increasingly complicated and technical planning regime. A standard metric and tools for assessing the carbon impact of development would need to be established so that a common approach can be adopted across the country.

Question 80: Are any changes needed to policy for managing flood risk to improve its effectiveness?

No

Question 81: Do you have any other comments on actions that can be taken through planning to address climate change?

No

Availability of agricultural land for food production

This section states:

- The December 2023 version of the NPPF added a footnote that made the availability of agricultural land for food production an explicit consideration in determining if sites are appropriate for development. This added to existing text covering this issue.
- While food security is seen as very important, the government consider that the footnote added little benefit especially as it gives no indication of how authorities are to assess and weigh the availability of agricultural land when making planning decisions. It is therefore proposed to remove it.

Question 82: Do you agree with removal of this text from the footnote?

No – Although these issues are already covered and it is agreed that this addition added little benefit equally there is no benefit to deleting it either. The protection of high-quality agricultural land is an important consideration and any text that highlights this is important to retain.

Question 83: Are there other ways in which we can ensure that development supports and does not compromise food production?

The current survey data for the quality of agricultural land is old and out of date having been done many years ago. There is a need for a national update of data held on agricultural land quality to ensure that decisions are made based on reliable and up to date information.

The country's' ability to meet its needs for food production is a national issue and it is always challenging for a local planning authority considering an individual application or allocation for the loss of a relatively small area of agricultural land to understand the significance of its loss. The loss in each case may not be significant but nationally the incremental loss of high-grade agricultural land could be very significant in the long term. A wider national strategy is needed to understand the issues of food production and the protection of agricultural land needed for food production and how this sits with aspirations for house building and economic growth.

Supporting Water Resilience

Improving the current thresholds for water resources developments in the NSIP regime

In this section:

- The consultation highlights the growing gap in our water supplies and the need for action to improve water supply resilience. This includes reducing leaks and improve efficiency.
- The government is considering how to provide water undertakers with greater certainty on the planning route for new strategic water infrastructure. They are looking at bringing nationally important water infrastructure projects into the NSIP regime.

Question 84: Do you agree that we should improve the current water infrastructure provisions in the Planning Act 2008, and do you have specific suggestions for how best to do this?

Yes – It is clearly vitally important that we maintain water supplies in the future and reduce leakages. It is also important that we better manage surface water with greater use of sustainable drainage systems and retro fit these wherever possible to reduce run off into combined sewers that cannot cope in storm events and lead to sewage discharges that could be avoided.

Question 85: Are there other areas of the water infrastructure provisions that could be improved? If so, can you explain what those are, including your proposed changes?

Urgent action is needed to address wastewater infrastructure which is insufficient in many areas leading to increasing discharges of wastewater polluting water courses and the sea because treatment plants cannot cope. The infrastructure connecting homes and pumping wastewater around the network also cannot cope leading to discharges in the streets and into people's homes. The impact of this on the environment and people's lives is totally unacceptable and needs urgent action to upgrade facilities so that they can cope with the demands placed on them now and in the future.

Question 86: Do you have any other suggestions relating to the proposals in this chapter?

No

Chapter 10 – Changes to local plan intervention criteria

This chapter states that:

- The Planning and Compulsory Purchase Act 2004 includes provisions for the secretary of state to intervene if it thinks that a “local planning authority are failing or omitting to do anything it is necessary for them to do in connection with the preparation, revision or adoption of a development plan document”. The act then sets out various options for action that could be taken by the secretary of state including preparing or revising the document, holding an examination into the document etc.
- The current policy criteria refer to intervention where “the least progress in plan-making had been made”, “policies in plans had not been kept up to date”, there is “higher housing pressure” and “intervention would have the greatest impact on accelerating local plan production”.
- The consultation refers to either withdrawing these criteria or replacing them with wording including that “Decisions on intervention should have regard to: a. local development needs; b. sub regional, regional and national development needs; or c. plan progress”.

Question 87: Do you agree that we should replace the existing intervention policy criteria with the revised criteria set out in this consultation?

The current criteria refer to cases where the least progress has been made ensuring that any intervention is focused on authorities in the worst position. It is considered that any new criteria should similar focus on the worst performing authorities.

The proposed criteria are vague and imprecise and leave significant uncertainty around when they would be applied. Greater clarity is required.

Question 88: Alternatively, would you support us withdrawing the criteria and relying on the existing legal tests to underpin future use of intervention powers?

There is merit in having a criteria-based approach provided they are clear and applied consistently. The legal tests alone would not ensure that this is the case.

Chapter 11 – Changes to planning application fees and cost recovery for local authorities related to Nationally Significant Infrastructure Projects

Changes to planning application fees

This section states that:

- Planning application fees are set nationally and despite a significant rise in fees in December 2023 it is acknowledged that they do not reflect the actual cost of delivering the service. This is particularly the case with householder applications which account for 52% of all planning applications.
- The government wants to reduce the funding shortfall by ensuring that planning application fees cover the estimated costs of determining those applications. This will give local authorities more resources to determine applications within the statutory time periods and enable close monitoring of performance and a new performance designation regime so that under-performing authorities are held to account.
- The current fee for householder applications is £258, however the likely cost of considering such applications is considered to be around £528. Although an increase to this level would be substantial it is estimated to represent less than 1% of the average overall cost of a house extension. Given this and permitted development rights for many household extensions it is not considered that a fee increase would deter householders from extending.

Question 89: Do you agree with the proposal to increase householder application fees to meet cost recovery?

Yes – There are ever increasing funding pressures on local councils and it is difficult to justify the use of wider council funding to subsidise householder planning applications. It makes sense for the full costs of these applications to be recovered in full, however the costs associated with this work vary across the country and so any nationally set fee will not necessarily cover the cost in all cases and in some may be higher than needed to recover the cost of processing the application.

Question 90: If no, do you support increasing the fee by a smaller amount (at a level less than full cost recovery) and if so, what should the fee increase be? For example, a 50% increase to the householder fee would increase the application fee from £258 to £387.

If Yes, please explain in the text box what you consider an appropriate fee increase would be.

The fee should be set based on the actual cost of delivering the service. This will however vary by authority and application.

Question 91: If we proceed to increase householder fees to meet cost recovery, we have estimated that to meet cost-recovery, the householder application fee should be increased to £528. Do you agree with this estimate?

Yes

No – it should be higher than £528

No – it should be lower than £528

no - there should be no fee increase

Don't know

If No, please explain in the text box below and provide evidence to demonstrate what you consider the correct fee should be.

Yes – On the face of it the amount sounds realistic but without further information about how that figure was arrived at and work understanding the actual costs to the council of delivering the service it is difficult to comment on the amount.

Proposed fee increase for other planning applications

In this section:

- The consultation highlights applications for prior approval under permitted development rights, section 73 applications for the variation or removal of conditions to a planning permission and applications for the approval of details reserved by condition as other cases where fees are currently inadequate.

Question 92: Are there any applications for which the current fee is inadequate? Please explain your reasons and provide evidence on what you consider the correct fee should be.

We would agree that application fees for the applications identified in the consultation are too low. We have no up to date work on assessing costs by application site or benchmarking with others.

Fees for applications where there is currently no charge

This section states that:

- Fees are not currently charged for works to tree and listed building consents as these are designations that owners cannot opt out of. However, these applications often involve significant cost to the council as specialist officers and reports are needed. Views are sought on whether fees should be charged for these.

Question 93: Are there any application types for which fees are not currently charged but which should require a fee? Please explain your reasons and provide evidence on what you consider the correct fee should be.

Although it is acknowledged that owners cannot opt out of listed building, conservation area and TPO designations they will be aware of these when buying the property concerned and make a choice in purchasing that property to take on the additional burdens that come with these designations. It is therefore considered appropriate in-principle to charge for such works.

In terms of listed buildings, it can be a fine line between maintenance and repair and works to replace original materials. There will be times when works are necessary to protect the building but go beyond repair and need consent. In these circumstances it would be difficult to justify a charge and it may deter owners from undertaking such works if a charge was imposed. However, there will be cases where works are proposed to extend or alter a listed building in which case a fee should be charged for considering the application even if planning permission is also required and incurs a fee.

A similar principle could be applied for works to TPO trees whereby works required for good arboricultural maintenance of the trees do not incur a charge but works that go beyond that such as those to remove a perfectly healthy tree or branch could be charged.

In each of these cases there would be judgement to be made and the time and cost of dealing with queries relating to this could outweigh any benefit from charging.

Localisation of planning application fees

In this section:

- The consultation acknowledges that while increasing fees for householder applications and other applications would help boost local authority resourcing there is an issue with fee setting overall.
- The funding shortfall from nationally set fees could be addressed through localisation of planning application fees on a cost recovery basis but this would lead to disparities in fees causing complexity for applicants.

**Question 94: Do you consider that each local planning authority should be able to set its own (non-profit making) planning application fee?
Please give your reasons in the text box below.**

In theory this would be the only way of ensuring that costs can be fully recovered as they will vary between local authorities. However, it would take a lot of time and resource to develop an accurate and evidenced charging schedule for local fees. It would also be confusing for agents and architects working across administrative boundaries and lead to unnecessary work having to explain why charges differ from elsewhere. A national charging schedule produced on a cost recovery basis would be preferred. If local fee setting were to be introduced then plenty of time and support would be needed for its introduction.

Question 95: What would be your preferred model for localisation of planning fees?

Full Localisation – Placing a mandatory duty on all local planning authorities to set their own fee.

Local Variation – Maintain a nationally-set default fee and giving local planning authorities the option to set all or some fees locally.

Neither

Don't Know

Please give your reasons in the text box below.

A local variation would enable authorities to adopt a local charging schedule in their own time and ensure that fees were charged in the meantime. With resources being stretched across local authorities this approach seems to be the most appropriate and gives local authorities the choice.

Increasing fees to fund wider planning services

This section states that:

- Fees are currently only charged for planning and related applications and there are no charges for plan making or planning enforcement despite the cost of delivering these wider services being estimated at £384 million in 2022-2023.
- In order to cover the cost of these wider services the cost of planning application fees would need to increase by 157% but this would require primary legislation and could deter some development. It is also noted that wider planning services are a public service and not for individual applicants.
- Views are sought on the principle of allowing fees to fund wider planning services and appropriate fee levels.

Question 96: Do you consider that planning fees should be increased, beyond cost recovery, for planning applications services, to fund wider planning services?

If yes, please explain what you consider an appropriate increase would be and whether this should apply to all applications or, for example, just applications for major development?

Yes - the increase should be proportionate to the additional costs that are to be recovered. It is considered that it would be legitimate to recover the costs of plan making but this cost should be allocated so that major developments that are more material to the strategy of the local plan and may even be allocated within it bear more of the cost than a more minor development.

Clear guidance would be needed about what costs can and cannot be included if local fee setting were to include these wider costs.

Question 97: What wider planning services, if any, other than planning applications (development management) services, do you consider could be paid for by planning fees?

In terms plan making it would be legitimate to argue that these are in effect part of the cost of considering applications as the council has to have a local plan with policies and allocations against which to consider applications. It would therefore be appropriate to increase fees to cover these costs.

In terms of enforcement the cost should be borne by developers who have breached the legislation. The Council should be able to impose fines on developers who have been proven to have breached the legislation and these should be set to recover the cost of undertaking the work to investigate the matter and take action. Where investigations determine that no breach of the legislation has occurred then this would be a public service that the tax payer would need to bear.

Cost recovery for local authorities related to NSIP

This section states that:

- Both host and neighbouring authorities have a significant role to play in developments within the NSIP regime as consultees. This is time consuming and can use significant resource with no current means of recovering these costs other than through a planning performance agreement with the applicants.
- The government is considering whether to make provision to allow local authorities to be able to recover costs for relevant services provided in relation to NSIP applications.

Question 98: Do you consider that cost recovery for relevant services provided by local authorities in relation to applications for development consent orders under the Planning Act 2008, payable by applicants, should be introduced?

Yes – It makes sense for these costs to be recovered from the applicant.

Question 99: If yes, please explain any particular issues that the Government may want to consider, in particular which local planning authorities should be able to recover costs and the relevant services which they should be able to recover costs for, and whether host authorities should be able to waive fees where planning performance agreements are made.

It would make sense for all local planning authorities to be able to recover all relevant and reasonable costs and to waive them in favour of a planning performance agreement if they wish.

Question 100: What limitations, if any, should be set in regulations or through guidance in relation to local authorities' ability to recover costs?

The only limitations should be that they are costs that are reasonable and evidenced and limited to those costs that are incurred.

Question 101: Please provide any further information on the impacts of full or partial cost recovery are likely to be for local planning authorities and applicants. We would particularly welcome evidence of the costs associated with work undertaken by local authorities in relation to applications for development consent.

We have no evidence of costs incurred as a result of applications through the NSIP regime.

Question 102: Do you have any other suggestions relating to the proposals in this chapter?

No

Chapter 12 – The future of planning policy and plan making

Transitional arrangement for emerging plans in preparation

In this section:

- The consultation sets out how local planning authorities should prepare local plans in response to the revised NPPF. It makes it clear that “Local planning authorities should continue to progress their plans to adoption under the existing system without delay. Authorities without an up-to-date plan should not stop work on a plan with the intention of preparing a plan under the new system”.
- The consultation makes it clear that the government wants to achieve complete coverage of up-to-date plans as soon as possible.
- The consultation sets out transitional arrangements to help to maintain the progress of plans at more advanced stages of production. It states that “...those plans that have

reached Regulation 19 publication stage but not yet been submitted for examination one month after the revised framework is published, with a gap of no more than 200 dwellings per annum between the local planning authority's revised Local Housing Need figure and its proposed requirement (as set out in the Publication version of the plan), should also progress to examination under the version of the NPPF it has used when preparing the plan thus far".

Question 103: Do you agree with the proposed transitional arrangements? Are there any alternatives you think we should consider?

It is very important that plans that are at an advanced stage of production are able to continue through to adoption without having to return to an early stage to take account of the changes proposed in the new NPPF. This is particularly true of housing needs assessment figures as these are fundamental to plan making and plans need to have time to progress with a consistent figure and not have to start again with the new figures.

The transitional arrangements however tie plans at regulation 19 stage to the December 2023 version of the NPPF even though there are elements of that version that the new government clearly do not agree with. For example, the requirement for proportions of affordable homes to be delivered as First Homes. It makes little sense for plans to progress with these as requirements if the government proposes to remove them, the development industry don't want to deliver them and they do not meet local housing needs.

There will also be confusion as the written ministerial statement "Building the homes we need" of the 30th July is already a material planning consideration and yet the transitional arrangements allow authorities to continue under the December 2023 NPPF. Are they to disregard the written ministerial statement? Clarity on this is required.

It is suggested that local authorities at regulation 19 stage should be able to proceed by choosing whether they comply with the December 2023 version of the NPPF or the new version with regard to each specific issue. This would enable where possible to comply with the new NPPF but where work is too advanced and it is not possible to amend the plan without undue delay and additional work then it should be able to proceed under the requirements of the December 2023 NPPF. This would ensure that wherever possible plans align with current government thinking.

A further issue is the timescale for reaching Regulation 19 stage as the transitional arrangements state that this must be reached within 1 month of the revised NPPF being published. This is an extremely short timescale particularly without knowing exactly when the new NPPF will be published. It is suggested that this be extended to at least 3 months to reduce wasted work of plans at an advanced stage of production having to be abandoned. This seems to be contrary to the government's aim of achieving total plan coverage as quickly as possible and delivering new homes.

The transitional arrangements make no mention of neighbourhood plans and how they would be affected by the changes to the NPPF where there may be abortive work and time and effort of volunteers taken up in their production only for them to need to re-do areas of work due to these changes.

Further plan-making reforms

In this section the consultation:

- Makes it clear that the government intend to implement the new plan-making system as set out in the Levelling-up and Regeneration Act from summer or autumn 2025.

- Plans under the current system will now need to be submitted for examination no later than December 2026 rather than the original deadline of June 2025. This is to provide more time for plans to reflect the revised NPPF.

Question 104: Do you agree with the proposed transitional arrangements?

Yes

Question 105: Do you have any other suggestions relating to the proposals in this chapter?

That the NPPF make clear how neighbourhood plans that are in an advanced stage of production should respond to the changes in the NPPF.

Question 106: Do you have any views on the impacts of the above proposals for you, or the group or business you represent and on anyone with a relevant protected characteristic? If so, please explain who, which groups, including those with protected characteristics, or which businesses may be impacted and how. Is there anything that could be done to mitigate any impact identified?

No

Financial implications:

Any financial implications associated in producing this report have been covered within the existing budget. We will wait to see the outcome of the consultancy for any future implications.

Legal implications:

The legal implications are set out within the report (002533/September/ALW)