

Report to: **Strategic Planning Committee**

Date of Meeting: Tuesday 27 November 2018

Public Document: Yes

Exemption: None



Review date for release Update reviews will be provided on any future changes that impact on housing number calculations.

Agenda item: 7

Subject: **Future housing needs and requirements in East Devon**

Purpose of report: This report provides an overview of work, including Government policy and a recently published report from the Campaign to Protect Rural England, on future house building needs and levels.

Recommendation:

1. **Members to note the motion on future housing provision in East Devon from the Council meeting of 24th October 2018.**
2. **That an independent study be commissioned to consider the specific housing needs of all groups within the community and how these needs make up the overall housing need for the area.**
 - a. **That the committee recommend to Council that a budget of up to £30,000 be set aside to meet the costs of the study.**
 - b. **That a Member workshop be set up in the new year to consider the housing needs study and the overall housing need.**
3. **Approve the proposed responses to the Government consultation on a proposed revised approach to determining housing numbers contained in Appendix 1 to this report.**

Reason for recommendation: To ensure members note current thinking on and possible future choices in respect of future housing development levels and also respond to Government consultation.

Officer: Ed Freeman, Service Lead – Strategic Planning and Development Management

Financial implications: The budget implications are mentioned within the above recommendation and should be considered against the future financial pressures as highlighted within the medium term financial plan. The funding will be taken from the New Homes Bonus grant which is in itself driven by growth within the district.

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

Equalities impact: Low Impact
N/A

Risk:	Low Risk
	This report introduces debate around potential thinking and approaches to future house building levels. Being a report on assessments, rather than seeking to establish policy, means low risks are identified.
Links to background information:	<ul style="list-style-type: none"> • Links to background reports and information are included in the body of the report.
Link to Council Plan:	Provision of new housing will have links to all Council priorities.

1 Introduction

- 1.1 This report has been produced to set out commentary on potential future levels of housing provision in East Devon. The report highlights and comments on;
- Government policy for housing provision;
 - A recent housing needs report for Devon produced by consultants for the Devon branch of the Campaign to Protect Rural England (CPRE) ; and
 - Possible policy approaches to housing for the Greater Exeter Strategic Plan (GESP).

On the 24 October 2018 a motion was put to Council in respect of the potential scale of house building for East Devon, the adverse impacts that would arise and the need to consider scope to establish lower levels. It was resolved that the motion be referred to Strategic Planning Committee for further consideration. See Council minutes at: <http://eastdevon.gov.uk/media/2686683/241018x-council-mins.pdf>

This report to committee addresses matters raised in the motion as well as wider housing requirement issues.

- 1.2 It should be noted that when this committee report was in preparation, at the end of October 2018, the Government issued a consultation document on a proposed revised approach to determining housing numbers. Information drawn from the Government consultation document has been incorporated into this report and Appendix 1, at the end of this report, sets out proposed responses to the questions included in the Government consultation document. The consultation document itself can be viewed at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/751810/LHN_Consultation.pdf
- 1.3 A recently published CPRE report (produced before the Government consultation document was published) challenges a number of Government and locally generated assumptions and conclusions around housing need. The report was produced for the CPRE by a well respect consultancy firm, a spin-out company of Swansea University, called Opinion Research Services (ORS). They are a company that has been employed by this and partner authorities in recent years. Unfortunately the CPRE report has not (yet) been published on-line and is only available to purchase by mail order. A copy purchased by the Council can be made available to Members on request.

- 1.4 There is also a second CPRE document, produced for them by Dr Philip Bratby, called – A Review of Government Housing Policy and its Impacts on Devon. This second report covers some similar ground to the main report and is only briefly commented on in this report. It also is only currently available in paper format to purchase by mail order but can also be made available to Members on request.

2 What generates the need for additional housing?

- 2.1 The size and make-up of a population in any given area will change over time and this will impact on the number of people and families (the households) that need homes. In respect of changes in the population, over time, there are four key factors that are taken into account in demographic modelling;
- a) The number of births in an area;
 - b) The number of deaths in an area;
 - c) The number of people moving into an area;
 - d) The number of people moving out of an area.

These are looked at in the context of the age of people involved other than births.

- 2.2 In East Devon (and across Devon taken as a whole) there are more deaths each year than there are births and this factor, taken alone, would lead to a declining population. However, there are more people moving into East Devon, and Devon as a whole, than there are people moving out and the impact of net in-migration offsets the fact that death rates are higher than birth rates. The overall picture is one of a year-on-year population increase.
- 2.3 Modelling of projected future in-migration and out-migration takes past trends and patterns, and projects these forward. Rates of population increase fluctuate over time and in and out migration levels and their application in predicting future population levels is an issue that is hotly debated and disputed amongst experts in the field of demography. Projected future birth rates and death rates generate less debate and difference of opinion.
- 2.4 Through understanding the size, age and make-up of the population and the projected change in the population it is possible to make predictions about how many new households there will be in the future and from this how many homes will be needed. Household numbers can be compared against the existing housing stock to calculate whether there are sufficient homes to house the population or additional new homes are required. The demographic assessment process includes looking at such issues as how household composition (especially size) has changed over the years and how things may change in the future, as well as considerations that impact on the 'available' housing stock such as the numbers of holiday homes and vacant properties. Translating population levels into household and housing numbers is, however, also an area where significant differences of opinion exists amongst experts.
- 2.5 Taking all of the demographic factors into account shows, however, a need for additional new home building in East Devon; though it will be of no surprise to note that differing people undertaking assessment will and do come to different conclusions on the numbers.

- 2.6 Over and above (just) the demographic considerations there are other factors that can be taken into account in establishing appropriate levels of house building to meet need, these include:
- a) **Aspirations for job and business growth** – if an area has aspirations for increased job growth it may be that the existing population is not large enough, or lacks relevant skills, to provide the resident workforce to fill jobs. A result may be a need or a policy choice to provide extra housing to accommodate in-migration of extra people to fill the jobs;
 - b) **Affordability of housing** – if homes are expensive in an area, and especially if wage levels are low, it can be very challenging for many people (impossible for some) to buy a home. One response to this challenge can be to encourage more new home building and therefore increasing supply. Conventional economic theory would have it that the price of a commodity is determined by its supply and the demand for it – if supply goes up but demand does not change then the price should come down;
 - c) **Securing more affordable housing** – most new affordable housing is secured as an element (a percentage) of overall market housing developments. If there is an aspiration to secure more affordable housing then one approach is to secure more house building in general; and
 - d) **Meeting needs generated from elsewhere** – if an area cannot meet or provide for its own housing needs then it may be appropriate for another area to meet these needs. A refinement of this approach would be not so much around capacity and ability to meet needs in a given area (say a particular local authority) but to adopt an approach based around where best to accommodate and distribute collective housing needs across a number of areas (for example across a number of local authorities).
- 2.7 With respect to point d) above, there may exceptionally be circumstances, around ability or capacity to accommodate growth, which could justify not meeting housing needs and further on in this report additional commentary is supplied.
- 2.8 It should be noted that housing numbers in the adopted East Devon local plan used demographic trend data as a starting point to determine an appropriate level of housing, but then increased this provision in order to ensure that there was a workforce of sufficient size to meet job growth expectations. Local Plan work estimated an increase of 549 net new jobs per year in the District and to ensure that there would be sufficient employees to meet this projected growth generated a need for 950 new homes per year. However, determining the appropriate number of new homes for East Devon and ensuring that we had a local plan in place that met the requirements of Government policy and that was considered sound by the Planning Inspector was a drawn-out and challenging process.

3. Government policy for housing provision

- 3.1 Under the old National Planning Policy Framework (NPPF – 2012) the requirement was for planning authorities to follow a logical, but not explicitly defined process, to establish appropriate levels of future housing development.
- 3.2 One of the changes in the new NPPF (2018), see paragraph 60, is the introduction of a national methodology for establishing house building levels at local authority level. The national methodology uses nationally defined household projections generated for local authority areas as a starting point, however, it also adds in an additional element based on the affordability of housing in the local authority area. This affordability is calculated through comparing house prices to income levels and is called an affordability ratio.
- 3.3 In September 2018 the consultancy firm of Lichfields published assessment, using the Government methodology, of up-to-date housing requirements generated from the latest available information, see:
https://lichfields.uk/media/4510/lichfields_the_2016_based_household_projections.pdf
It is stressed that this is understood to be Lichfields assessment, not the Government's work – but it is assumed that Lichfields would advise that they have followed the Government methodology and therefore had the Government done the work they would have come up with the same conclusions. It should be noted that in the CPRE report, as referred to later on in this report, the same numbers are also quoted.
- 3.4 In this report we refer to 2017 based assessment and to 2018 based assessment. We use these dates as they are the points in time that assessments were undertaken. However by way of further background information the 2017 assessment was undertaken using 2014-based population projections and the 2018 assessment was made using 2016-based household projections. In the consultation documents these base date projection figures are used in questions asked, it is, therefore, relevant to point out these technical considerations, however this report does not seek to explain the complexities of how the projection assessment work is undertaken.
- 3.5 Annual housing requirement numbers, from September 2018, as specified in the Lichfields report for East Devon and bordering local authorities, are tabled below:

Local authority	Annual housing requirement – new homes per year
East Devon	953
Exeter City	629
Mid Devon	306
Teignbridge	815
Taunton Deane	641
South Somerset	630
West Dorset	495

- 3.6 In the case of East Devon the 953 figure falls very close to the 950 annual average housing figure in the currently adopted local plan. Tabled below are the household projection figures for East Devon generated using the Government methodology, with relevant background statistical information from 2017, this data is compared against the relevant data for the

2018 assessment along with the comparative percentage uplift figure for each year applied taking into account affordability ratios (these numbers are reported on in the CPRE report).

	Household projections total	Workplace affordability ratio	Affordability uplift	Annual housing need
2017 – East Devon Figures	630	9.45	34%	844
2018 – East Devon Figures	698	9.84	37%	953

- 3.7 In this report to committee the housing numbers that have been published have been reproduced but no attempt has been made to replicate the assessment work undertaken to generate the numbers (or alternatives) nor has source data been interrogated (to do so would require some time and specialist skills). It is notable that the household projection total jumps quite significantly in East Devon from 630 homes in the 2017 based assessment to 698 homes in the 2018 based assessment. Teignbridge was the only other Devon local authority to see an increase (up from 551 to 573) with all other Devon authorities seeing a decline (see CPRE report Figures 31 and 32). The CPRE report sets out a Devon wide total that falls from 4,034 in the 2017 assessment to 3,620 in the 2018 assessment.
- 3.8 The affordability ratio and % uplift, the multiplier, applied to the base household projection number increases marginally in East Devon across the 2017 to 2018 data, in some other Devon authority areas this figure also goes up and in some it goes down. It is highlighted that there is no apparent statistical or financial assessment behind the uplift percentages to indicate the potential scale or amount of financial impact that they may have on house prices if or when implemented. They would appear to be numbers that are used to create an uplift in housing requirements but not to be numbers that have a clearly explained or articulated logic behind them.

Government consultation on amending local housing needs assessment

- 3.9 Whilst the housing need requirements for East Devon rose from 2017 to 2018 assessment this was not a pattern replicated across England as a whole. For most local authority areas the need assessment numbers fell and for England as a whole they fell from 269,000 homes per year to 213,000 per year, see paragraph 10 of the consultation document. This, it can probably be assumed, is not an outcome that the Government would have wanted as they clearly identify a need for more house building and not less. In the consultation document, see paragraph 7, the Government refer to delivery of 300,000 homes per year, on average, by the mid-2020s. In paragraph 4 of the consultation document they advise that last year 217,000 homes were built.
- 3.10 One of the complexities involved in modelling the needs for future housing requirements is the issue of translating future population numbers into future household numbers. Over past decades the average size of households has fallen. In simple terms if population levels were to stay the same, but household sizes fall, there will be less people per home and therefore there would be a need for extra homes. This falling average household size was one of the factors that has led to more house building through much of the 20th century

and into the 21st century. In the CPRE report – A review of Government Housing Policy and its Impacts on Devon (see paragraph 2.10) it is reported, however, that the pattern of declining household size “*stopped shrinking in about 2003 and has started to increase*”. If you apply an increasing household size to a situation of a population level that is not changing you would, notionally at least, end up with surplus homes.

- 3.11 Any debate on the subject of increases in average household size could generate wide ranging questions, but key amongst these would be whether the change is:
- a product of individual choices and perhaps changing attitudes and values in society leading toward more people choosing to live together? or
 - whether it is a result of, or more closely related to, availability (and by implication affordability) of housing?

- 3.12 In the Government consultation document, paragraph 11, sub-paragraph 1, there can be little doubt around the Government view on this issue, they advise:

“Household projections are constrained by housing supply. If new, additional homes are not supplied, then households cannot form as there would be nowhere for them to live. This means that actual household growth cannot exceed the number of additional homes which are actually supplied.”

Further on in the consultation document, see paragraph 13, in quoting an Office for National Statistics statement, the consultation document advises in respect to recent trends in household size data:

“They do not take account of how many people may want to form new households, but for whatever reason aren’t able to, such as young adults wanting to move out of their parents’ house, or people wanting to live on their own instead of in a house share. Therefore, household projections are not a measure of how many houses would need to be built to meet housing demand; they show what would happen if past trends in actual household formation continue.”

- 3.13 In order to overcome an England wide picture of the most recent, 2018 based, work generating a housing needs outcome that falls below the 2017 generated level (and also below Government aspirations for 300,000 per year being built) the Government are proposing in their consultation document that for the short term the 2017 rather than the 2018 need outputs are used. In the longer term they identify a need for a revision of the methodology to calculate local housing needs.

Application of Government Policy

- 3.14 The clear expectation in Government policy is that planning authorities should plan for the number generated, as a minimum, though noting that choices can be made for exceeding numbers. We are not aware of any authority that has sought to legally challenge the validity of this approach to establishing minimum levels and it not clear if or on what grounds such a challenge may be made. It has, however, been reported that there has been a more broad ranging legal challenge to the NPPF and its introduction. This challenge is being pursued by Friends of the Earth and relates to issues of legality of plans or programmes being

introduced in the absence of strategic environmental assessment (as required under EU law). The key issue at stake would appear to be whether the NPPF has the legal status of a 'plan or programme' and therefore the requirement applies.

- 3.15 Aside from legal considerations nor are we aware of any authority that has pursued a policy approach that does not apply the Government methodology on housing numbers and in doing so seeks to argue a case that in policy terms the Government approach is flawed or inappropriate or that they have a more appropriate approach. In their consultation document, at paragraph 15, the Government do advise, however, that:

“The standard method for assessing minimum housing need was designed to identify an appropriate level of need in a straightforward, transparent way. It does not represent a mandatory target for local authorities to plan for, but the starting point for the planning process. Local planning authorities may decide that exceptional circumstances justify the use of an alternative method, but they will need to identify these reasons and can expect them to be tested by the Planning Inspectorate during the examination of their plans.”

The CPRE argue in their document that the Government approach is flawed. Though it is questionable what weight, if any, a Planning Inspector may apply to the CPRE argument and thinking (as set out in their report).

- 3.16 Notwithstanding the above observations, under the NPPF, it is possible to seek to argue a case that lower housing levels should be built than those generated by the standard methodology on account of special circumstances that constrain capacity or the ability to accommodate new homes. This is a different position to one of arguing that the Government methodology is flawed or inappropriate given local circumstances. To justify a case of capacity constraint preventing planning for housing would require demonstration of exceptional circumstances. Despite the significant environmental constraints in East Devon it would be envisaged that it would be very challenging to establish coherent and justified grounds to not meet identified needs (perhaps unless these increase very significantly in the future from previous levels). It is suggested that an argument for not meeting housing needs, and under-providing, based (just) on it being unpopular with residents would be likely to carry very little weight with a planning inspector.

- 3.17 Whilst providing less than the need figure would appear very challenging it is relevant to note that Paragraph 60 of the NPPF advises that:

“In addition to the local housing need figure, any needs that cannot be met within neighbouring areas should also be taken into account in establishing the amount of housing to be planned for.”

- 3.18 In the context of neighbouring areas the NPPF does not state that neighbouring areas explicitly means neighbouring local authorities but this would seem a reasonable starting point (and quite possibly finishing point) to consider cross-boundary need and capacity considerations.

- 3.19 It is also important to note that meeting housing needs is not just about delivering the overall number of new homes needed but meeting the specific needs of all groups in society whether they be specific types of housing to meet the needs of different age groups or people with specific circumstances. Meeting these needs could lead to requirements for specific housing types and tenures but this is vital if the housing needs of the district are to be met. In order to understand these needs further work is needed to establish the nature and extent of the specific housing needs of different groups in the district.
- 3.20 The issue of diversifying the homes being delivered to better meet the diverse range of housing needs found in most communities has been identified by the review recently undertaken by Oliver Letwin MP in the context of increasing housing delivery rates. The full findings of the review can be found at:
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/752124/Letwin_review_web_version.pdf
- 3.21 Once all of the evidence of housing need has been collected and collated it would be appropriate to have a wider debate with Members on the issues of housing need and how we go about meeting the identified housing needs of the district.

4 The CPRE Housing Report

- 4.1 The recently published CPRE report challenges a number of Government and locally generated assumptions and conclusions around housing need.
- 4.2 It should be noted that the main CPRE report covers the whole of what is sometimes termed as 'old-Devon' – this includes the whole of the administrative area of Devon County Council (including constituent District, City and Borough Council areas and Dartmoor National Park and part of Exmoor National Park) as well as the unitary authority areas of Plymouth and Torbay. Whilst some information and examples are highlighted in the report at the lower tier authority levels, including for East Devon, the report is geared around presenting an overall Devon wide picture.
- 4.3 The CPRE report covers a range of housing matters (including matters such as affordable housing need and provision) as well as background demographic information, it contains some interesting statistical assessment and wider policy related observations. However, the commentary below is centred on matters that are raised in the report and that are specifically relevant to overall housing numbers.
- 4.4 The CPRE report is critical of the statistical logic behind the Government approach to calculating housing numbers and amongst other matters they challenge the absence of use of local figures and locally based assessment (paragraph 1.12). Based on their assessment of Government population projections the CPRE report (page 6, first bullet point) advises that 4,300 new homes per year should be built in Devon over the next ten years. This figure is some way lower than the 5,800 homes per year that they identify as predicted by the various local plans. The CPRE report considers that existing local plans are already planning for too much housing. Their 4,300 figure is, however, higher than the

4,034 and 3,620 per year levels that are generated in the demographic (only) projection using the Government methodology (assessments dated 2017 and 2018). The CPRE 4,300 per year figure does not include an affordability uplift and they do not consider applying an uplift to be appropriate or justified.

- 4.5 The CPRE report, at paragraph 4.10, looks at housing costs and changes in prices over time. Data is presented to show that house prices (purchase and renting), relative to local earnings, were lower in 2016 than they were in 2007, at the peak of the market. In contrast, Figure 24 in the CPRE report indicates that on average, across England, the ratio of earnings to house prices was the same (or at most minimally different) in 2007 as it was in 2016.
- 4.6 In support of their case the CPRE report stresses what they see as the importance attached to comparative affordability change (comparative lowering of prices) within the context of Government thinking. They indicate that the Government see this as a critical consideration in respect of establishing overall housing numbers. At paragraph 4.12 the CPRE report advises:

“In standardising the approach to assessing housing need, the Government places considerable weight on the ratio between house prices and earnings – so it is an indicator that has a significant influence when determining the planned level of future housing supply.”

- 4.7 The CPRE report argues a case that as comparative affordability in Devon has reduced over the 2007 to 2016 period the ‘affordability’ uplifts in the Government methodology (the size/scale) are not justified. Figure 24, a graph in the CPRE report, also shows, however, that in 2002 house prices relative to earnings were much lower than they were in either 2007 or 2016. Unfortunately data in the report does not go back further than 2002. We know that the gap between house prices and earnings is increasing and therefore if we are to address this and make housing more affordable logically we should increase supply.

5 Greater Exeter Strategic Plan

- 5.1 As members will be aware the GESP is in production and it covers the local planning authority areas of
- East Devon District Council;
 - Exeter City Council;
 - Mid Devon District Council; and
 - Teignbridge District Council.
- Devon County Council, although not a planning authority in respect of the GESP, are a key partner in GESP production with a particular interest and responsibility in infrastructure and transport matters.
- 5.2 GESP will cover a number of strategic planning issues across the four planning authority areas. The intention is that it will set out housing development numbers through to 2040, and potentially beyond, along with policy for employment land and more generally policies

promoting major facilities and supporting infrastructure. It is planned, as well, that it will identify and allocate strategic/large scale sites for future development.

- 5.3 One option for GESP would be to plan to meet the entirety of the, or a, local authorities housing needs in that local/planning authority area. Part of the work on GESP will be, however, to best determine how to accommodate and distribute the collective housing needs of the four GESP authorities across the GESP area. A key part of the logic for producing GESP is that the task of distributing development is most effectively and efficiently undertaken, in line with producing the best strategic outcomes, through a coordinated cross-authority plan. Under such an approach the need figures for an individual authority may be of limited importance. What is important is the total collective sum of new homes needed for all the authorities and then an agreed approach to distribution of those homes.
- 5.4 A slight complication, however, is that Dartmoor National Park covers a part of Teignbridge District and a very small part of Mid Devon District (as well as parts of South Hams and West Devon). Dartmoor National Park authority is a planning authority in its own right but the Government methodology does not generate housing numbers for National Parks. Dialogue will need to take place, in respect of housing numbers and distribution, between the National Park Authority and the constituent District/Borough Councils.
- 5.5 Despite the whole Greater Exeter area approach to housing numbers being adopted through GESP there is no suggestion at this stage of the work on GESP that the number of homes to be accommodated in East Devon per annum would be markedly different from current levels.

6 Conclusions

- 6.1 This report has sought to provide an overview of debate and work on potential future housing numbers and distribution. Whilst critical commentary is included, specifically in respect of the position of Government and the CPRE, this report, by intent, does not seek to explicitly challenge numerical assessments that have been undertaken. Even without challenging numerical assessment it is possible, however, to provide a number of concluding observations.

The potential to not apply the Government housing assessment

- 6.2 It is noted that the CPRE report advises on what they regard as the appropriate level of housing provision for Devon, the scale of housing that should be planned for. Notwithstanding potential policy in GESP for the distribution of housing there would, however, be fundamental concerns around seeking to use CPRE housing numbers as opposed to those generated from the Government methodology. The Government figures are underpinned by Government policy and the NPPF sets out, in clear terms, that they should be used in plan making. Regardless of sympathy, or otherwise, with the lower CPRE figures it seems very unlikely that they would find favour with a Planning inspector at appeal or through planning policy document examination. As something of an aside the CPRE work does not provide a breakdown of what they see as appropriate numbers for

each local authority. There are significant differences between allocated numbers in local plans and the figures generated by the government methodology in areas of Devon such as Plymouth where allocations are more than double the currently identified need. The difference between these figures in other areas in Devon are what largely lead to CPRE's conclusions that numbers are too high across Devon as a whole.

Lack of detailed assessment behind the CPRE numbers

- 6.3. In arriving at their suggested housing numbers for Devon the CPRE work is not based on original demographic modelling work. Their consultants have not using demographic modelling tools to make projections of future population levels and likely housing needs. If there were dissatisfaction with Government projections of population and household change there are various tools that exist that allow for bespoke modelling. For example for the East Devon Local Plan the council employed consultants, Edge Analytics, to use a model called PopGroup to undertake detailed modelling of future population change to generate data on potential future housing needs. Any local detailed assessment of future housing needs might be expected to be backed up by bespoke modelling work.

Seeking to make housing more affordable and other potential policy objectives

- 6.4. The CPRE work recognises that houses prices are significantly greater than wage levels, in their work they advise of a house price to earnings ratio of 8.4 in 2016. Regardless of this being noted in their report as being lower than the position in 2007 it is still a very high gap. Mortgage companies might reasonably lend up to or around (but not much more) than 3.5 times a households income when it comes to lending against house buying. For those on lower incomes, or even for many on what are good incomes, buying a house can still prove to be challenging or impossible. In their report (paragraph 6.7) the CPRE advise:

“it seems unlikely that building more houses would lead to an overall reduction in house prices”.

Unless it was shown that an increase in house prices was matched (and counteracted) by an increase in demand for housing (and/or other factors are at play that actually are the determinant of house prices) this statement appears to fly in the face of conventional economic thinking. Conventional thinking would have it that if more houses are built, availability goes up, prices should fall – but by how much is another matter.

- 6.5 The CPRE work also fails to explore other potential policy objectives that may come about from building more homes or which may generate the need for more house building, including need that may be generated from an economic growth agenda or seeking to secure more affordable housing.

Is possible over provision of housing a problem?

- 6.6 The CPRE challenge the need to plan for more house building. If they are correct in their assertion that the need does not exist it becomes questionable whether the extra houses will actually be built. In a market economy house builders can be expected to carefully monitor and assess what is being sold and house building firms would seek to manage

what they build in the light of what they predict they can sell. It seems unlikely that houses will be built unless there is confidence that they will sell so it may be that over-allocating sites for housebuilding, so long as allocations are in intrinsically good and appropriate locations, is not necessarily a problem. If they are not built the sites will remain undeveloped (and often will remain in productive uses such as for farming) and if they are built they will be appropriately sited for new housing.

Appendix 1 – Proposed response to the questions in the government consultation document:

Technical consultation on updates to national planning policy and guidance - October 2018 - Ministry of Housing, Communities and Local Government

This appendix forms a proposed response to the questions posed in the Government consultation document. It should be noted that some of the questions relate directly to the subject matters highlighted in the committee report whilst others not so much. Explanatory commentary is provided by way of background information in respect of a number of the questions. It should also be noted that some of the questions asked are in respect of matters of some detail and complexity, to gain a full picture the consultation document really does need to be reviewed and in so doing there would also be a need to review wording in the NPPF and planning practice guidance.

Question 1 – in the consultation documents relates to the issue of whether previous rather than the most up to date household projections data is appropriate for use.

Q1: Do you agree that planning practice guidance should be amended to specify that 2014-based projections will provide the demographic baseline for the standard method for a time limited period?

Proposed Response by East Devon District Council:

We would highlight that what is critical is that any housing needs figure generated is done so through a process of logical assessment and evaluation and can be justified by robust evidence. There would appear to be real concerns over the robustness of outputs of one or other (or perhaps both) of the 2014 based and the 2016-based assessments given that they produce such varying conclusions. We would also express concerns around the robustness and more importantly the justification that underlies the affordability uplift calculation that also features in the standard methodology. We would accept that there is a need to uplift numbers to address affordable housing needs but the basis for the current uplift calculator is unclear.

Question 2 – relates to whether there is any justification for the use of 2016-based projections, i.e. the needs figures that were generated in 2018, being used as a justification to plan for less housing. East Devon is an unusual case of a local authority that saw an increase in calculated housing need from the 2017 generated needs to the 2018 generated needs. Most authorities saw a fall in housing needs.

Q2: Do you agree with the proposed approach to not allowing 2016-based household projections to be used as a reason to justify lower housing need?

Proposed Response by East Devon District Council:

We would reiterate that the critical issue in any needs assessment is that any housing needs figure generated is done so through a process of logical assessment and evaluation and can be justified by robust evidence. Where an authority can demonstrate that 2016-based assessment, or other assessment, is appropriate under their circumstances it would appear reasonable for the alternatives to be used. However this must be done so in the context of the need for a full appreciation of the logic, reasoning and thinking that underpins wider Government policy for housebuilding.

Question 3 – under the standard methodology for calculating housing needs there is a cap placed on the amount by which the affordability uplift can increase the total housing numbers. This cap applies in situations such as where a local authority (or more specifically a group of local authorities) produce a new plan that provides for a certain level of housing growth but future Government needs assessment then generates a much higher need figure. A cap can be applied where the increase would be unreasonably high.

The Government are consulting on a specific issue around the application of the cap in respect of spatial development strategies, higher level plans produced by a number of partner authorities – GESP would be an example – and the issue around whether the cap is applicable to individual authority needs or collective needs. The Government consider that applying a single figure across all of the authorities, rather than individual ones, would make the calculation simpler.

Q3: Do you agree with the proposed approach to applying the cap to spatial development strategies?

Proposed Response by East Devon District Council:

We would support measures, in principle, to make assessment work simpler. On the face of it this proposal would appear to achieve that but there may be cases where applying the cap in this way leads to outcomes that are not appropriate given local circumstances. It would therefore be appropriate to establish this approach as the norm but leave flexibility in exceptional local circumstances. It would help, as well, if planning practice guidance was made far clearer in respect of the workings and application of the cap. Regardless of the suggested amendment the current wording lacks clarity.

Question 4 – this question relates to the issue of whether it should only be local plan housing numbers that should be used in five year land supply assessment or whether flexibility should also exist (in the absence of plan policy) to be able to use the standard methodology approach in respect of determining applications or appeals. The Government accept that for five year land supply assessment, where policy does not follow the national methodology for quantifying housing need and so long as policy is up to date, it is appropriate to use policy numbers in the assessment.

The qualified changes the Government propose would, however, prevent authorities undertaking a bespoke assessment of housing need, divorced from plan policy numbers (or where policies are up to date), that sought to justify overall housing need figures that varied from those generated by the standard methodology for use in a five year land supply assessment.

Q4: Do you agree with the proposed clarifications to footnote 37 and the glossary definition of local housing need?

Proposed Response by East Devon District Council:

In principle having up to date plan policies specifying housing need levels is appropriate and will be the correct base position to typically apply in five year land supply assessments. The changes proposed would, however, appear to remove any flexibility for bespoke assessment of need in the absence of up to date plan policy. It would rarely be the case that bespoke local assessment is appropriate, and as such the standard national approach for determining needs, should typically be relied upon. However the changes as suggested would appear to go too far as there may be exceptional cases where nationally generated figures generate perverse levels or numbers, perhaps unreasonably high, and which on sound planning or other grounds could be reasonably challenged. There should be some flexibility in wording to recognise this potential outcome and allow for some local bespoke work, in the absence of adopted up to date planning policy, to establish appropriate local need.

Question 5 – this question relates to the definition in the NPPF, in the glossary of Annex 2, of what constitutes deliverable, it is advised in the consultation document that there was some ambiguity of interpretation of wording as previously drafted. In the consultation document the Government advise of amendment of wording to read:

“Deliverable: *To be considered deliverable, sites for housing should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years. In particular:*

- a) *sites which do not involve major development and have planning permission, and all sites with detailed planning permission, should be considered deliverable until permission expires, unless there is clear evidence that homes will not be delivered within five years (for example because they are no longer viable, there is no longer a demand for the type of units or sites have long term phasing plans).*
- b) *where a site has outline planning permission for major development, has been allocated in a development plan, has a grant of permission in principle, or is identified on a brownfield register, it should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years.”*

Q5: Do you agree with the proposed clarification to the glossary definition of deliverable?

Proposed Response by East Devon District Council:

We would express concerns in the first sentence to the use of the words/phrases “*available now*” and “*suitable location for development now*”. Sometimes sites may not be available or suitable for development now but can confidently be predicted to be in this position in a short period of time, perhaps a year or two. It might be that planned or under-construction infrastructure works (or other considerations) would render the site available in the near future and at a point at which housing delivery could then safely be expected to occur - perhaps in two or three years time.

The qualifying paragraph a) would appear reasonable though we would have concerns about the potential onus of proof on a local authority to demonstrate clear evidence that housing completions will begin in five years as required under paragraph b). Land owners or developers may not share information or pass comment on when they may choose to build so it may be that a local authority simply cannot provide clear evidence. Of significant importance as well are “*will begin*” in the last sentence. The onus should rest on the sites being available for development and therefore it would be better to use the words “*could begin*”. Local planning authorities should not be dependent upon the whims or vagaries of what land owners or developers want to do over development timelines.

Question 6 – this question relates to the Habitat Regulations and is not therefore about housing numbers. The government, nonetheless, decided to include it in the consultation paper. The Habitat Regulations, written to comply with European Law, afford protection to the most important designated wildlife sites of which there are a number in East Devon but of most significance in terms of impacts on planning are the Exe Estuary and the Pebblebed Heaths. Under the Habitat Regulations any proposal that could have adverse impacts on the designated sites needs to be the subject of a formal assessment, if this assessment finds potential for adverse impacts it may necessitate the need for mitigation measures to enable the proposal to go ahead.

A recent legal case, ruling of the European Court of Justice on case C323/17 (People over Wind, Peter Sweetman v Coillte Teoranta), has resulted in a change to when and how assessment under the Habitat Regulations needs to take place. The legislative positions surrounding this case is complicated, but the enthusiast may wish to read articles such as that linked below:

<https://insideecology.com/2018/05/01/habitat-regulations-assessments-no-more-screening-out-with-mitigation-measures/>

In very simplified terms initial assessment work looking at potential adverse impacts (a process called appropriate assessment) which needs to be undertaken at the start of creating a project, such as when initially preparing a planning application, should not take into account any planned mitigation measures to address possible adverse impacts. Rather, if there is the potential for adverse impacts (regardless of whether mitigation measures are embedded in a project at the outset) a detailed assessment under the Habitat Regulations needs to be undertaken. In the light of this, in the current NPPF wording and in respect of the presumption in favour of sustainable development, there is inaccuracy in respect of not making it clear that appropriate assessment may be necessary. The Government propose to amend paragraph 177 of the NPPF wording to read:

“The presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that there will be no adverse effect from the plan or project on the integrity of the habitats site.”

Q6: Do you agree with the proposed amendment to paragraph 177 of the National Planning Policy Framework?

Proposed Response by East Devon District Council:

Support is given to amendments that provide clarity and accuracy in respect of legal matters.