



The Planning Inspectorate

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# **Report to Mid Devon District Council**

**by Paul Griffiths BSc(Hons) BArch IHBC**  
**an Inspector appointed by the Secretary of State**

**Date: 26 June 2020**

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Planning and Compulsory Purchase Act 2004

(as amended)

Section 20

## **Report on the Examination of the Mid Devon Local Plan Review 2013-2033**

The Plan was submitted for examination on 31 March 2017

The examination hearings were held on 20 and 21 September 2018, and 14, 15, 19 and 20 February 2019

File Ref: PINS/Y1138/429/12

## **Abbreviations used in this report**

AONB	Area of Outstanding Natural Beauty
CTCRR	Cullompton Town Centre Relief Road
DPA	Dwellings per Annum
DtC	Duty to Co-operate
The Framework	National Planning Policy Framework (2012)
HRA	Habitats Regulations Assessment
MM	Main Modification
OAN	Objectively Assessed Need
The Plan	Mid Devon Local Plan Review 2013-2033
PPG	Planning Practice Guidance
PPTS	Planning Policy for Traveller Sites
SA	Sustainability Appraisal
SAC	Special Area of Conservation
SHMA	Strategic Housing Market Assessment

## **Non-Technical Summary**

This report concludes that the Mid Devon Local Plan Review 2013-2033 (the Plan) provides an appropriate basis for the planning of the District, provided that a number of main modifications (MMs) are made to it. Mid Devon District Council has specifically requested that I recommend any MMs necessary to enable the Plan to be adopted.

The MMs all concern matters that were discussed at the examination hearings. Following the hearings, the Council prepared a schedule of the proposed modifications and carried out sustainability appraisal (SA) of them alongside revisiting the Habitats Regulations Assessment (HRA), and the Equalities Impact Assessment. The MMs were subject to public consultation over a six-week period. In some cases, I have amended their detailed wording and/or added consequential modifications where necessary. I have recommended their inclusion in the Plan after considering all the representations made in response to consultation on them.

The MMs can be summarised as follows:

- MMs to establish a proper link between the development of housing and related infrastructure and to provide for a trajectory that should ensure a rolling five-year supply of deliverable housing sites;
- A group of MMs necessary to allow the Plan to properly provide for the needs of Gypsies and Travellers and Travelling Show-People;
- MMs to ensure the major development proposed at Junction 27 of the M5 is brought forward in an acceptable way;
- MMs to deal with constraints relating to the allocation under Policy SP2; and
- Various MMs to ensure that development management policies are effective and consistent with national policy.

## Introduction

1. This report contains my assessment of the Mid Devon Local Plan Review 2013-2033 (the Plan) in terms of Section 20(5) of the Planning & Compulsory Purchase Act 2004 (as amended). It considers first whether the Plan's preparation has complied with the duty to co-operate (DtC). It then considers whether the Plan is sound and whether it is compliant with the legal requirements. Paragraph 182 of the National Planning Policy Framework 2012 (the Framework) makes it clear that in order to be sound, a Local Plan should be positively prepared, justified, effective and consistent with national policy.
2. The revised National Planning Policy Framework was published in July 2018 and further revised in February 2019. It includes a transitional arrangement in paragraph 214 which indicates that, for the purpose of examining this Plan, the policies in the 2012 Framework will apply. Similarly, where the Planning Practice Guidance (PPG) has been updated to reflect the revised Framework, the previous versions of the PPG apply for the purposes of this examination under the transitional arrangement. Therefore, unless stated otherwise, references in this report are to the 2012 Framework and the versions of the PPG which were extant prior to the publication of the 2018 Framework.
3. The starting point for the examination is the assumption that the local planning authority has submitted what it considers to be a sound plan. The Plan, as submitted in March 2017, is the basis for my examination. It is the document that was published for consultation in January 2017.
4. Having established that, for the purposes of clarity, it is worth outlining the various stages of progress of the Plan. The first iteration was published for consultation as far back as 2015. In response to that consultation process, the Council made significant changes to it. The consultation exercise was then re-run and it is that second iteration of the Plan: The Mid Devon Local Plan Review 2013-2033 Proposed Submission (incorporating proposed modifications) of January 2017 (to give it its full title) that was submitted for examination in March 2017.
5. Preliminary hearings were originally scheduled for 26 and 27 September 2017 but these were postponed, at the Council's behest, to allow for an independent review of the SA underpinning the Plan by an outside consultant<sup>1</sup>. The findings and consequent (relatively minor) changes to the SA were consulted upon between 28 February and 11 April 2018. While the results of that process were being considered, I had cause to ask the Council to review the submitted HRA<sup>2</sup>. The Council undertook this task<sup>3</sup> and it was concluded that the HRA as submitted remained robust.
6. Preliminary hearings then took place over two days in September 2018. After that, I issued a letter dated 29 October 2018 setting out some brief conclusions that allowed main hearings to take place in February 2019.

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<sup>1</sup> Land Use Consultants (LUC)

<sup>2</sup> In the light of the judgment in *People over Wind, Peter Sweetman v Coillte Teoranta* (Case C-323/17)

<sup>3</sup> Again through LUC

7. Those hearings exposed concerns about the housing trajectory in the light of assumptions made about the progress of the Cullompton Town Centre Relief Road (CTCRR), in particular. The Council undertook some further work on this matter and after that, I indicated to the Council that consultation on the MMs could then take place. This process took place between 6 January and 17 February 2020.

### **Main Modifications**

8. In accordance with section 20(7C) of the 2004 Act the Council requested that I should recommend any MMs necessary to rectify matters that make the Plan unsound and thus incapable of being adopted. My report explains why the recommended MMs, all of which relate to matters that were discussed at the examination hearings, are necessary. The MMs are referenced in bold in the report in the form **MM01**, **MM02** etc, and are set out in full in the attached Appendix.
9. As outlined above, on my direction, after the main examination hearings, the Council prepared a schedule of proposed MMs and carried out SA of them, alongside revisiting the HRA, and the Equalities Impact Assessment. The MM schedule was subject to public consultation for six weeks. I have taken account of the consultation responses in coming to my conclusions in this report and in this light, I have made some amendments to the detailed wording of the MMs and added consequential modifications (in red) where these are necessary for consistency or clarity. None of the amendments significantly alters the content of the modifications as published for consultation or undermines the participatory processes and SA that has been undertaken. Where necessary I have highlighted these amendments in the report.

### **Policies Map**

10. The Council must maintain an adopted policies map which illustrates geographically the application of the policies in the adopted development plan. When submitting a local plan for examination, the Council is required to provide a submission policies map showing the changes to the adopted policies map that would result from the proposals in the submitted local plan.
11. In this case, the submission policies map comprises the comprehensive set of maps/plans attached to the Mid Devon Local Plan Review 2013-2033 Proposed Submission (incorporating proposed modifications) of January 2017.
12. The policies map is not defined in statute as a development plan document and so I do not have the power to recommend main modifications to it. However, two of the published MMs to the Plan's policies require further corresponding changes to be made to the policies map. These further changes to the policies map were published for consultation alongside the MMs (as Plan MM35 and Plan MM45). I refer to these in the body of the report.
13. When the Plan is adopted, in order to comply with the legislation and give effect to the Plan's policies, the Council will need to update the adopted policies map to include all the changes proposed, incorporating any necessary amendments identified in this report.

## Assessment of Duty to Co-operate

14. Section 20(5)(c) of the 2004 Act requires that I consider whether the Council complied with any duty imposed on it by section 33A in respect of the Plan's preparation. The manner in which the Council has engaged with other local authorities and organisations in relation to strategic matters raised by the Plan has been set out<sup>4</sup>.
15. In terms of the provision of housing, the Council has sought to deal with its own needs in full and has required no assistance in doing so from other authorities. Similarly, while discussions between authorities in the Housing Market Area have taken place, no neighbouring authority has asked the Council to assist in meeting some of its housing needs.
16. The Council has taken a similar approach in providing to meet its own needs for commercial development. No neighbouring authority has sought the Council's assistance in meeting its own commercial needs.
17. However, the Plan does propose a major allocation adjacent to J27 of the M5 motorway for a major tourism, leisure and retail attraction that would be a strategic intervention in the region. Some of the initial objections to it from neighbouring authorities were couched in terms of a failure in terms of the DtC. I did not see them as such but in any event, as part of continued discussions after the date of submission, the concerns initially expressed have developed and they now relate more to the potential impact of the retail element of the proposed allocation on existing centres, and similar shopping facilities, rather than matters around the DtC.
18. In its reliance on improvements to J27 and J28 of the M5 motorway, and in bringing forward the Cullompton Town Centre Relief Road, alongside the provision of a new railway station in Cullompton, the Plan does raise strategic issues around transport. However, it is very clear that the Council engaged constructively with the Highway Authority and the Highways Agency in particular in dealing with these issues up to the point of submission, and indeed beyond.
19. Taking all those points together, I am satisfied that where necessary the Council has engaged constructively, actively and on an on-going basis in the preparation of the Plan, and that the DtC has therefore been met.

## Assessment of Soundness

### Main Issues

20. Taking account of all the representations, the written evidence and the discussions that took place at the examination hearings, I have identified a series of main issues upon which the soundness of this plan depends. This report deals with those main issues. It does not respond to every point or issue raised by representors. Nor does it refer to every policy, policy criterion or allocation in the Plan.

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<sup>4</sup> In the Council's DtC Statement

**Issue 1: Are the vision and spatial strategy of the Plan positively prepared, justified, effective and consistent with national policy?**

21. Adopting the central tenet of the Framework in relation to sustainable development, the vision of the Plan is to bring benefits to local communities by promoting community well-being; supporting economic success; conserving and enhancing the area; and respecting environmental limits.
22. In order to bring that vision to fruition, the intention through the Plan is to create a prosperous economy with increased inward investment; meet objectively assessed needs for development in locations best suited to accommodate it, with a suitable balance of housing, employment and other facilities within towns, smaller settlements, and rural areas; reduce the use of the private car and encourage more use of public transport, walking and cycling; reduce carbon emissions; and promote social inclusion and reduce inequality by providing better access to jobs, services, and housing.
23. As a vision for the District, that is clearly positive and consistent with national policy that seeks to marry economic growth with sustainable forms of development and environmental improvement.
24. The spatial strategy of the Plan, in the medium to long term, is to make the market town of Cullompton the strategic focus of new development, reflective of its existing status as one of the larger settlements in the District as well as its accessibility, economic potential, and environmental capacity. The market towns of Tiverton and Crediton are treated as secondary focal points for development; a reflection of their infrastructures, economies, characters, and constraints. Below that, limited development is envisaged for some of the larger and better-served villages commensurate with their scale while development in smaller settlements, lower in the hierarchy, and the countryside, will be limited to forms of development that bring benefit to the rural economy.
25. In parallel with all that, a major development is proposed adjacent to J27 of the M5 motorway to bring a high-quality tourist, leisure and retail attraction to the District, attracting visitors to the District, thereby generating economic activity and jobs, and acting as a gateway to the South-West.
26. The prominence given to Cullompton as the primary focus for development, and the scale of what is proposed at J27 bring challenges in terms of infrastructure and road capacity in particular. However, other approaches, such as using Tiverton as the primary location for development rather than Cullompton, have significant challenges too – in that case landscape impact. Overall, I am satisfied that what the Council has put forward as a strategy in the Plan is positive, justified, likely to be most effective, and consistent with national policy. I am left in no doubt that it is the best strategy available to deliver the vision for the District that the Council has set out.

27. The Plan relies on the relevant SHMA<sup>5</sup>, Employment Land Review<sup>6</sup>, and Retail Study<sup>7</sup> as the bases for overall provision in the Plan for housing and employment development.
28. In terms of housing provision, the SHMA sets out the OAN for Mid Devon as falling within the range of 359-381 dwellings per annum (DPA). While the SHMA is clear in its conclusion that there is no need for any uplift to that range to reflect market signals or other factors, the Plan sets a housing target of 393 DPA (or a total of 7,860 over the Plan period). This takes the maximum figure set out in the SHMA and adds an uplift of 12 DPA to cater for additional need arising from the jobs that would be created as a result of the major development proposed adjacent to J27 of the M5 motorway. In my view that is a reasonable approach given that the SHMA took no account of the proposal adjacent to J27 in its calculations, and in my view the figure of 393 DPA in the Plan is sound in its derivation and has been justified.
29. As far as commercial development is concerned, the Employment Land Review recommended that the Council should plan to provide 30-40ha of employment land. That is roughly equivalent to 140,000 square metres of actual floorspace. Alongside that, the Retail Study identified a need for non-food retail of around 7,000 square metres. In that overall context and having regard to the retail floorspace proposed as part of the J27 allocation, the Plan proceeds on the basis of a need for 147,000 square metres of commercial floorspace. Again, having regard to the evidence underpinning the calculation, that figure has been justified and is a reasonable one.
30. However, to comply with national policy in the Framework, the figures for housing and commercial floorspace need to be expressed as minima which as submitted, Policy S2 which deals with the amount and distribution of development, and Policy S3 which deals with housing specifically, fail to do. Both use the term 'approximately' which is unsuitable, in that it is imprecise and would allow for the figures to be undercut, as well as overshot. MMs are necessary to both policies [**MM03, MM04**] to correct this matter and to make the policies, and thereby the Plan, positive, effective, and compliant with national policy in this regard.
31. As one would expect, the Plan includes a series of allocations that seek to bring this housing and commercial development forward. I deal with detailed matters relating to the housing allocations below but in spatial terms, they closely follow the strategy set out above.
32. To provide for the largest part of the Plan's overall housing provision in accordance with the Spatial Strategy outlined above, significant allocations are proposed to the north-west of Cullompton (Policy CU1 North West Cullompton – 1350 dwellings amongst other things) and east of Cullompton, on the opposite side of the M5 motorway (Policy CU7 East Cullompton – 1,750 dwellings amongst other things, in the Plan period, with 850 to follow post-2033 in the form of a Garden Village). Other Cullompton allocations are proposed at Knowle Lane (Policy CU13 – 296 dwellings), Ware Park and

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<sup>5</sup> The Exeter Housing Market Area SHMA Final Report 2014/15

<sup>6</sup> The Employment Land Review 2013

<sup>7</sup> The Mid Devon Retail Study 2012

Footlands (Policy CU14 - 38 dwellings), Land at Exeter Road (Policy CU15 - 24 dwellings), Cummings Nursery (Policy CU16 - 100 dwellings) and Land at Colebrook (Policy CU21 - originally a contingency site for 100 dwellings that I deal with further below).

33. Notwithstanding their secondary status in the hierarchy, Tiverton and Crediton have significant allocations for housing too. Land is set aside in Tiverton in the form of an Eastern Urban Extension (Policy TIV1 - 1580-1830 dwellings), Farleigh Meadows (Policy TIV6 - 255 dwellings), Town Hall/St Andrew Street (Policy TIV7 - 59 dwellings), Moorhayes Park (Policy TIV8 - 8 dwellings), Howden Court (Policy TIV9 - 10 dwellings), Roundhill (Policy TIV10 - 20 affordable dwellings), Palmerston Park (Policy TIV11 - 25 affordable dwellings), Phoenix Lane (Policy TIV12 - 60 dwellings), Tidcombe Hall (Policy TIV13 - a contingency site for 100 dwellings), and Blundells School (Policy TIV16 - a site for 200 dwellings).
34. Crediton has sites earmarked at Wellparks (Policy CRE1 - 185 dwellings amongst other things), Red Hill Cross, Exhibition Road (Policy CRE2 - 135 dwellings), Cromwells Meadow (Policy CRE3 - 35 dwellings), Woods Group, Exeter Road (Policy CRE4 - 8 dwellings), Pedlerspool, Exhibition Road (Policy CRE5 - 200 dwellings amongst other things), Sports Fields, Exhibition Road (Policy CRE6 - 120 dwellings), Stonewall Lane (Policy CRE7 - 50 dwellings), Land at Barn Park (Policy CRE8 - 20 dwellings), and Land at Alexandra Close (Policy CRE9 - 15 dwellings).
35. Below that, again in accordance with the spatial strategy, a series of smaller sites are allocated for housing in smaller settlements, notably Bampton, Bow, Bradninch, Chawleigh, Cheriton Bishop, Cheriton Fitzpaine, Coppystone, Culmstock, Halberton, Morchard Bishop, Newton St Cyres, Sampford Peverell, Sandford, Silverton, Thorverton, Uffculme and Willand.
36. I deal with aspects relating to some of these sites in Issue 2, and one particular site in Sampford Peverell (Policy SP2) in some detail below, but on my analysis, the chosen sites, some of which are brought forward from earlier plans, have been justified in terms of the spatial strategy, and in the overall context of the Plan, effective in that they are likely to be delivered.
37. These site allocation policies make specific provision for affordable housing in percentage terms (generally at 28% but with more required on some sites) based on various viability studies<sup>8</sup>. There is a danger that this requirement will act as a drag on delivery and as an example I understand that the site to the north-west of Cullompton (Policy CU1) has been held up for some time pending agreement between the Council and the developer on the extent of affordable housing to be provided.
38. However, the overarching approach to affordable housing, set out in criterion b) of Policy S3 makes clear that viability is to be taken into account. To my mind, that provides a safeguard that ought to ensure that percentage requirements for affordable housing in the allocation policies need not stunt delivery because of difficulties in terms of viability.

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<sup>8</sup> Notably the Viability Update and Review of 2016

39. Leaving aside the allocation adjacent to J27 of the M5 motorway that I deal with in detail below, the Plan makes various allocations for commercial development too, sometimes conjoined with housing sites, in other cases, on a stand-alone basis.
40. Following the hierarchy of the spatial strategy, provision is made in Cullompton as part of Policies CU1 (north-west Cullompton – 10,000 square metres), and CU7 (East Cullompton – 20,000 square metres in the Plan period with 12,000 to follow) with stand-alone sites at Week Farm (Policy CU17 – 15,000 square metres) and Venn Farm (12,000 square metres).
41. Below that, in Tiverton, commercial development is expected to be delivered as part of Policy TIV1 (Eastern Urban Extension – 30,000 square metres), and Policy TIV12 (Phoenix Lane – 7,000 square metres). In Crediton, provision is made for commercial development as part of Policy CRE1 (Wellparks – 2,220 square metres), and on a stand-alone basis at Land South of the A377 (Policy CRE10 – 7,600 square metres). In smaller settlements, there is a relatively small amount (355 square metres) allocated as part of Policy BA2 and 22,000 square metres at Willand Industrial Estate (Policy WI2).
42. The allocations for commercial development follow the line of the spatial strategy and whether proposed as part of larger allocations for housing, or on a stand-alone basis, the sites are well-chosen and effective in that there is no good reason why they would not be delivered.
43. Bringing all those points together, I take the view that with the MMs referred to above, the vision and spatial strategy of the Plan are positively prepared, justified, effective and consistent with national policy.

**Issue 2: Whether the relationship between the provision of housing and attendant infrastructure, amongst other things, is arranged in a way that ensures the Plan delivers a rolling five-year supply of deliverable housing sites?**

44. The particular challenge evinced by the concentration of development on Cullompton relates to highway capacity. Given that Cullompton is already congested, which has knock-on effects on the performance of J28 of the M5 motorway, and air quality in and around the town, the Highways England and the Highway Authority<sup>9</sup> have consistently made plain that improvements to highway capacity must keep pace with the delivery of housing.
45. These highway improvements fall into two main, interrelated categories. The first relates to capacity improvements at Junction 28 of the M5 motorway, the second to the provision of the CTCRR. Both act as significant constraints on the rate of delivery of housing in and around Cullompton.
46. Thanks to the now completed signals at Junction 28, the site to the north-west of Cullompton for 1350 dwellings (Policy CU1) can deliver 600 dwellings before completion of the CTCRR. The remaining 750 dwellings must await its completion, as must the first 500 dwellings of the large allocation to the east of Cullompton for 1,750 dwellings (Policy CU7). Beyond that first 500 units,

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<sup>9</sup> Devon County Council

the Policy CU7 allocation will require a significant strategic intervention to facilitate further development which may take the form of a new Junction 28a on the M5 motorway.

47. The Council has received funding from Central Government, albeit conditional, for part of the cost of the CTCRR. This offers some reassurance. However, the Council's assumptions about delivery of the CTCRR have been optimistic. As a result, the housing trajectory outlined in the Plan, which after the first five years, is so dependent on the prompt delivery of the CTCRR, does not appear capable of delivering a rolling five-year supply of deliverable housing sites.
48. In response to the concerns I expressed about this matter after the main hearings, the Council looked again at its assumptions relating to the CTCRR, and the associated housing trajectory. Based on that, a raft of MMs have come forward to make the delivery of housing more likely to provide an acceptable rate of supply. This has been achieved by, amongst other things, bringing forward sites previously identified as Contingency Sites, and taking away unnecessary ties on other sites, while applying a more reasonable programme for delivery of the CTCRR.
49. I appreciate that some consider that the revised programme for the delivery of the CTCRR is still unrealistic. On my analysis, given the nature of major infrastructure projects, and potential issues around land ownership, what the Council has put forward remains optimistic, but it is not unreasonably so.
50. One can point to the risks that any delay poses to the Plan, and its housing trajectory, but a risk of that nature works in two ways. Of course, if the CTCRR runs into problems, it will be difficult for the Council to maintain a rolling five-year supply of deliverable housing sites. There is scope for some slippage but even if the Council make no planned response, the Framework<sup>10</sup> makes provision for alternative sites to come forward in those circumstances. That most likely unpalatable possibility, alongside the Council's obvious appreciation of the need for rapid progress on the CTCRR, suggests to me that they will do all they can to bring it forward quickly, and make decisions about it in that context. That is why I do not consider the Council's approach to be unrealistic.
51. There are issues too about the implications for delivery of coupling allocations for Gypsies and Travellers and Travelling Show-People with major allocations for general and affordable housing. It appears that linking provision in this way might lead to difficulties with lending institutions, resulting in developers being unable to proceed with the allocated sites because of funding difficulties. This would have an obviously negative impact on the delivery of general and affordable housing, as well as pitches for Gypsies and Travellers, or plots for Travelling Show-People.
52. I deal with the implications for provision for Gypsies and Travellers, and Travelling Show-People, in detail below but in terms of general and affordable housing, I am satisfied that it is right to maintain the link.
53. Having said that, to be found sound, the Plan needs to give confidence that general and affordable housing, and provision for Gypsies and Travellers and

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<sup>10</sup> I refer here to the 2019 version against which planning applications will be considered

Travelling Show-People, will be delivered. In general terms, I am reassured that there need be little difficulty in this regard. The MMs to the Plan (that I deal with in detail in Issue 3 below) will allow developers to provide the provision required for the travelling community as part of the overarching allocation, off-site, should they so wish, and permit windfall sites to come forward more easily. That ought to deal with any difficulties that might arise in terms of the delivery of either.

54. Other, previously unidentified, infrastructure requirements relating to education provision, and waste facilities have also cropped up. While these do not have quite the same impact on delivery as the issues outlined above, they do need to be addressed through MMs.
55. Against that overall background, I turn to the MMs required to address infrastructure requirements, and the Plan's housing trajectory, in turn. The Plan as submitted includes a Table which sets out that trajectory. This has needed to be changed to reflect the modified assumptions about the delivery of the CTCRR, and the raft of MMs I refer to above. This change **[MM01]** is needed to ensure the Plan is effective, and consistent with national policy.
56. Policy S8 in the Plan as submitted deals with infrastructure, and the need for an Infrastructure Plan, and developer contributions. Having regard to the constraints on housing provision provided by the road network, discussions with the Highway Authority and Highways England highlighted the need for the policy to be expanded to refer directly to the need for highway impacts of development to be mitigated through the vehicle of the Infrastructure Plan. This **[MM06]** is essential in order to ensure that the Plan operates in an effective way.
57. Policy S11 sets out the Plan's intentions for Cullompton. Criterion a) refers to the need for improvements to the M5 motorway and J28 in particular to maintain levels of capacity and safety. Discussions with the Highway Authority and Highways England showed that this wording was lacking and clarity was needed in terms of the strategic nature of the mitigation that would be required, the need to cover the local highway network as well as the motorway, and reference to the Infrastructure Plan(s) referred to in Policy S8. These changes **[MM09]** are needed to make requirements clear and to ensure effectiveness.
58. Policy S12 deals with Crediton. Criterion e) covers the provision of infrastructure but fails to include reference to Green Infrastructure. This omission needs to be rectified **[MM10]** to ensure the Plan is effective in this particular regard.
59. The TIV series of policies relate to development in and around Tiverton. Policy TIV3 addresses environmental protection and Green Infrastructure as part of the Eastern Urban Extension (Policy TIV1). There is repetition in criteria e) and f) in their references to a Sustainable Urban Drainage Scheme and the unnecessary reference in e) needs to be removed **[MM12]** to ensure the policy and thereby the Plan, is effective.
60. Policy TIV4 covers the provision of community facilities linked to the Eastern Urban Extension in Policy TIV1. Based on the submissions of the Waste

Authority<sup>11</sup>, which are accepted by the Council, the development that will be brought forward through the allocation will make demands in terms of recycling facilities that need to be addressed and mitigated. A new criterion f) is required **[MM13]** to ensure that contributions can reasonably be sought to deal with this matter. A corresponding change is needed to Policy TIV15 that covers Tiverton Infrastructure **[MM15]**. Criterion b) of Policy TIV4, as submitted, refers to the need for developers to meet the costs of a 420-place primary school and early years provision. Submissions from the Education Authority<sup>12</sup> that the Council accepts, have clarified that this should refer to provision of a 420-place primary school with early years provision and a children's centre service delivery base. To ensure it performs effectively, the policy needs to be amended to reflect this requirement **[MM14]**.

61. Policy TIV16 allocates a site for 200 dwellings on 14 hectares north of Blundells School. Criterion c) refers to the need for appropriate land shaping to raise areas for development above Flood Zone 3, including an allowance for the effects of climate change, and to create additional flood plain to compensate for the loss of flood plain. However, to comply with national policy, the creation of this additional/compensatory flood plain should also secure wider environmental and sustainability benefits. On that basis, an additional criterion k) is required along with a corresponding change to paragraph 3.60c. These changes **[MM16]** are necessary to ensure the policy is effective and compliant with national policy.
62. Turning then to the manner in which the Plan deals with Cullompton, paragraph 3.70 reflects an earlier understanding of the various ways in which traffic issues in and around the town centre might be dealt with. Further discussions with the Highways Authority and Highways England have crystallised this response into the CTCRR. This changed position **[MM17]** needs to be reflected in paragraph 3.70 to ensure the Plan operates in an effective manner.
63. Policy CU2 refers to North West Cullompton Transport Provision intended to be funded by the Policy CU1 (North West Cullompton) allocation. Criterion h) talks of financial contributions towards capacity improvements at J28 of the M5 motorway. Helpful input from the Highways Authority and Highways England has led to the need for a more specific reference to strategic highway improvements demonstrated by capacity studies that assess the impact of traffic generated by the allocation. This alteration to the policy itself **[MM18]** alongside a corresponding change in paragraph 3.75 of the explanatory text **[MM19]** is needed to make matters clear for potential developers and ensure the Plan is effective.
64. North West Cullompton Community Facilities are the focus of Policy CU4. As set out above, discussions with the Waste and Education Authorities have shown up the need for a new recycling facility generated by development, and clarity in relation to the new school required. Changes to criteria e) and b) of the policy **[MM21, MM20]** are essential to reflect this situation and thereby render the Plan effective.

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<sup>11</sup> Devon County Council

<sup>12</sup> Devon County Council

65. The phasing of the North West Cullompton allocation is addressed in Policy CU6. Criterion i) of the policy requires access improvements to the M5 access before *any* dwellings are occupied and thereafter broadly in step with the development. However, as set out above, thanks to the now completed signals at J28, the Highway Authority and Highways England have agreed that this allocation can deliver 600 dwellings before completion of the CTCRR. To allow the Plan to operate effectively, the benefit of this to the housing trajectory needs to be properly reflected in criterion i) **[MM22]** and the accompanying text in paragraph 3.94 **[MM23]**.
66. The East Cullompton allocation for 1750 dwellings, amongst other things, is the subject of Policy CU7. As suggested, the site lies to the east of the town, on the opposite side of the M5 motorway. Criterion f) requires 'transport provision to ensure appropriate accessibility for all modes, including a new or improved access and egress on to the M5 motorway', as well as pedestrian and cycle links across the motorway to the existing town. The reference to new or improved access to the motorway does not reflect the situation now reached with the Highway Authority and Highways England and as such, this part of the policy needs to be changed to explain that what is required is the provision of transport improvements to ensure safe and suitable access for all modes, including necessary capacity improvements to J28. Those improvements are most likely to flow from the completion of the CTCRR. This amendment **[MM24]** is needed in order to ensure the policy accurately represents what is now required and thereby functions in an effective way.
67. Related to that, Policy CU8 is aimed at East Cullompton Transport Provision. Like criterion f) of Policy CU7 above, criterion a) which deals with mitigation of impacts on J28 of the M5 motorway has been superseded. This also needs to be modified **[MM25]** to refer to the current requirements of the Highway Authority and Highways England to ensure it is consistent and therefore effective.
68. Policy CU10 covers community facilities associated with the East Cullompton allocation. Further discussions with the Education Authority have refined the requirement relating to a primary school. As submitted, criterion a) of the policy requires a 2.5 Ha site to be provided at no cost but this does not reflect current requirements. On that basis, criterion a) needs correction to refer to a serviced site of 2.5 Ha for a new 630 place primary school, or 3 Ha of serviced land in two parcels of 1.1 Ha and 1.9 Ha, appropriately located, for two new primary schools. Criterion c) needs correction too in order to confirm the requirement for land to be provided alongside construction costs for the schools. These changes **[MM26]** are necessary to ensure that Policy CU10 properly reflects current requirements and works in an effective manner.
69. As discussed above, it became clear from the input of the Waste Authority that the additional housing proposed in and around Cullompton would lead to a need for household recycling facilities to be augmented. Policy CU10 requires a new criterion g) **[MM27]** to secure contributions towards such facilities thereby making the policy effective.
70. The phasing of the East Cullompton allocation is the subject of Policy CU12. As submitted, Criterion f) of the policy sets out a need for the first phase of comprehensive M5 access improvements before any dwellings on the

development are occupied followed by strategic interventions in terms highways infrastructure to keep pace with the development overall. However, discussions with the Highway Authority and Highways England have altered this requirement and as a result, criterion f) needs to be changed **[MM28]** to secure 'capacity improvements at Junction 28 M5 to deliver a strategic highway improvement as demonstrated by capacity studies to assess the impact of the traffic generated from the site'. A linked change **[MM29]** is required to paragraph 3.116 of the supporting text. These changes are needed in order to ensure effectiveness.

71. Amongst other things, paragraph 3.120 of the supporting text to Policy CU12 talks about affordable housing and refers to it advancing at a rate of approximately 25%. This is an error because Policy CU7 correctly refers to a rate of 28%. This error needs to be corrected **[MM30]** to ensure the Plan is consistent and thereby effective.
72. The Week Farm employment allocation is the ambit of Policy CU17. Criterion g) talks of the provision of M5 access improvements before any new commercial floorspace is brought into use. Like other allocations referred to above, discussions with the Highway Authority and Highways England have clarified that this would better refer to the capacity improvements at J28 of the M5 motorway informed by capacity studies that assess the impact of traffic that might be generated by the allocation. This revised criterion g) **[MM31]** is necessary to ensure the Plan complies properly with the requirements of the statutory consultees and is therefore effective. A similar change **[MM32]** is required to criterion g) of Policy CU18 that allocates 4.4 ha for employment purposes at Venn Farm, for the same reasons.
73. Policy CU19 provides for the CTCRR. Paragraph 3.143a of the supporting text deals with potential impacts of the new road should it be located on the western side of the M5 motorway in terms of the settings of listed buildings and the conservation area, and archaeology. Input from the Environment Agency has shown that if so located, the CTCRR might also lead to a loss of floodplain that would require mitigation. Additional text **[MM33]** is necessary to make good this important omission and make the Plan effective.
74. The need for strategic infrastructure to cope with the additional development earmarked for Cullompton is covered in Policy CU20. As set out above, the Waste Authority has shown that this additional development will generate a need for expanded recycling facilities. A new criterion n) to the policy **[MM34]** is needed to secure the necessary contributions towards that and to ensure the policy operates in an effective fashion.
75. Policy CU21 of the Plan as submitted allocated Land at Colebrook for 100 dwellings as a contingency site largely because the Council was proceeding on the basis that for highway capacity reasons, the site could not come forward until completion of the North West Cullompton distributor road. However, the Highway Authority has confirmed that this linkage is not necessary and as a result, the contingency status of the site is without foundation. Bringing the site forward earlier will assist in improving the supply of deliverable housing sites early in the Plan period because this site is not dependant either on completion of the CTCRR.

76. On that overall basis, to be properly effective, the policy needs to be amended **[MM35]** to be rid of the contingency site notation, to remove criterion b) that links development to completion of the distributor road, and to make corresponding changes to the accompanying text in paragraph 3.148. Attendant alterations **[MM36]** are also required to paragraph 3.149 to ensure consistency and thereby effectiveness on the subject of off-site highway improvements. There will also be a need to amend the Policies Map (advertised by the Council as Plan MM35).
77. Policy CRE5 allocates a site of 21 ha at Pedlerspool, Crediton for housing, in the main. Criterion b) requires a serviced site of 1.1 Ha for a new primary school. As with other allocations, discussions with the Education Authority have refined the requirements and shown up an ancillary need for early years provision and a children's centre service delivery base. Criterion b) needs additional wording **[MM37]** to provide for that and to ensure the policy operates effectively.
78. With this suite of modifications, the relationship between the provision of housing, other development, and attendant infrastructure, would have a more satisfactory footing. Moreover, while assumptions about the CTCRR might be optimistic, they are not unreasonably so and alongside early release of contingency sites, and sites held back for other reasons (that I address below), the revised trajectory set out in MM01, referred to above, makes it plain that the Plan is well capable of achieving a rolling five-year supply of deliverable housing sites.
79. That much is evident from an analysis of the revised trajectory referred to above (the subject of MM01). The work underpinning that trajectory shows that applying the 'Sedgefield' method, the general requirement is 2,200 dwellings between 2018/19 and 2022/23, 1,364 dwellings between 2023/24 and 2027/28 and 573 dwellings between 2028/29 and 2032/33. With a 20% buffer, those figures increase to 2640, 1637 and 688 respectively, and with a 5% buffer, 2310, 1432, and 602.
80. Against that, there is expected to be a supply of 2,801 dwellings between 2018/19 and 2022/23, 2756 dwellings between 2023/24 and 2027/28 and 1947 dwellings between 2028/29 and 2032/33. In the 20% buffer scenario, that means a supply of 5.30 years between 2018/19 and 2022/23, a supply of 8.42 years between 2023/24 and 2027/28 and a supply of 14.16 years between 2028/29 and 2032/33. In the 5% buffer scenario, those figures are 6.06 years, 9.62 years and 16.18 years respectively.
81. Applying the 'Liverpool method, the general requirement is 2043 dwellings between 2018/19 and 2022/23, 1,442 dwellings between 2023/24 and 2027/28 and 651 dwellings between 2028/29 and 2032/33. With a 20% buffer, those figures increase to 2640, 1637 and 688 respectively, and with a 5% buffer, 2310, 1432 and 602 respectively.
82. Against that, there is expected to be a supply of 2,801 dwellings between 2018/19 and 2022/23, 2756 dwellings between 2023/24 and 2027/28 and 1947 dwellings between 2028/29 and 2032/33. In the 20% buffer scenario, that means a supply of 5.71 years between 2018/19 and 2022/23, a supply of 7.96 years between 2023/24 and 2027/28 and a supply of 12.46 years

between 2028/29 and 2032/33. In the 5% buffer scenario, those figures are 6.53 years, 9.10 years and 14.23 years respectively.

83. In any scenario, therefore, the Plan provides for a rolling five-year supply of housing, in accord with national policy, with a significant surplus in later years of the Plan.

**Issue 3: Whether the provision in the Plan for Gypsies and Travellers and Travelling Show-People has been approached in a positive and effective manner?**

84. The Plan, as submitted, had a number of issues in relation to the provision for Gypsies and Travellers and Travelling Show-People. In the first instance, contrary to Planning Policy for Traveller Sites (PPTS), it fails to provide in full, in specific terms at least, for the need identified in the Plan for 35 pitches for Gypsies and Travellers, and 11 plots for Travelling Show-People, between 2014 and 2034<sup>13</sup>. I appreciate that the District can point to a record of windfall sites for Gypsies and Travellers coming forward. As a consequence, and following the line of pragmatism one is encouraged to take in examining plans, provided the relevant polices make proper provision for these windfall sites to come forward, then the Plan can still function in a positive and effective way.
85. Where allocations have been made, these have been provided as an integral part of major allocations for general and affordable housing. As set out above, in dealing with Issue 2, I see no reason why this linkage need be broken.
86. Nevertheless, to be effective, the Plan needs to avoid building in hurdles to delivery. As such the Plan needs to make it possible for developers of the major housing allocations to provide accommodation for Gypsies and Travellers and Travelling Show-People off-site, and alongside that, for windfall sites for the travelling community to come forward in the countryside.
87. The MMs have been predicated on a preference on the Council's part for provision for Gypsies and Travellers and Travelling Show-People to take place as part of the major allocations for general and affordable housing. On reflection, I am concerned that therein lies a failure to take account of the fact that the Plan will not be meeting the needs of the travelling community in full. To ensure that those needs are properly met, the different forms of provision (through allocation or windfall) must have equal status.
88. Paragraph 2.31, part of the supporting text to Policy S3, must be changed to reflect the changed position. While it is reasonable for the Plan to say that the Council prefers provision as part of the major allocations, the suggestion that provision off-site (or windfalls) will only be accepted where this would provide 'a more favourable outcome' for gypsies and travellers would allow the Council to use its stated preference to block provision on suitable sites elsewhere. This must be changed to 'an acceptable outcome' in order to ensure equal status for on- and off-site provision. With that change, the modification [**MM05 as amended**] would allow the Plan to work effectively.

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<sup>13</sup> Derived from the Gypsy and Traveller Accommodation Assessment

89. Allied to that change, Policy S14 (which deals with development in the countryside) as drafted, makes no accommodation for the needs of Gypsies and Travellers, or Travelling Show-People to be met outside settlements. It must do so in order to allow windfall sites, that the Council will rely on to make up for the shortfall in what has been allocated, to come forward. Changes are required to the policy itself, and the supporting text in paragraph 2.82, to allow for that. This modification **[MM11]** is essential for the Plan to function effectively.
90. Both these modifications defer to Policy DM7 which is the criteria-based development management policy aimed at traveller sites. To form a part of one of the major allocations, meet the 'acceptable' threshold in the supporting text to Policy S3, or square with the requirements of Policy S14, any site would need to accord with all the criteria set out in Policy DM7.
91. As a general approach that is rational. However, Policy DM7 has significant problems in the way it is framed. In particular, it sets out that where development proposals are considered under Policy S14 (referred to above), they are only permissible where the need cannot be met on another suitable site in Mid Devon which has consent or is allocated for Gypsy and Traveller pitches. Again, that would allow alternative provision away from the major allocations, or windfall sites, to be blocked, on the basis that allocations have been made. In a situation where the identified need is not being met in full, that is clearly unacceptable.
92. In response to that, changes are required to the policy itself, and the supporting text. In terms of Policy DM7 itself, the first part sets out criteria that all planning application for pitches and plots (that I take to mean all sites, including those that are part of allocations) must meet. These criteria are reasonable, and it is right that all must be met in order to ensure that sites meet a proper standard.
93. The change to the policy then goes on to deal with provision on allocated sites suggesting that pitches on allocated sites should be provided on-site unless it is demonstrated that off-site provision will achieve a more favourable outcome, taking into account a range of factors. I have no difficulty with the range of factors and that all of them must be considered together, but the 'more favourable outcome' phrase is unacceptable for the reasons set out above. This needs to be amended to 'an acceptable outcome'. Compliance with the range of factors set out would lead to such an outcome.
94. Attendant changes are proposed to the accompanying text in paragraph 4.29. Broadly, the changes follow from the changes to the policy outlined above. Again though, references to 'more favourable' provision need to be amended to read 'acceptable'.
95. A change was also introduced in paragraph 4.29 to suggest that only when provided on-site, will pitches for Gypsies and Travellers be counted against the affordable housing target for the wider allocation concerned. On reflection, I do not consider that justified in the context of the changes in approach necessary to make this aspect of the Plan acceptable. If a housing developer arranges for the pitches for Gypsies and Travellers to be provided off-site, in a way that complies with Policy DM7, as amended, and is tied to the allocation,

then they should properly be included as part of the overall affordable housing target for the allocation. To do otherwise would introduce another potential barrier to meeting the identified need. This part of the amended text must be changed to reflect that.

96. Alongside the others set out above, this modification, suitably amended, **[MM48 as amended]** is necessary to ensure that the approach of the Plan to the provision of accommodation for Gypsies and Travellers, and Travelling Show-People, is positive and effective.

**Issue 3: Have the proposals for J27 been properly justified and is the associated policy effective?**

97. Policy J27 provides for the allocation of a site of approximately 71 hectares, on the southbound side of the M5 motorway, adjacent to Junction 27, for a major tourism, leisure and retail attraction supported by ancillary roadside services and infrastructure, including a pedestrian bridge over the motorway to link the site with Tiverton Parkway railway station.
98. The proposal derives from something of an evidence base<sup>14</sup> but more importantly, what the Council is seeking to achieve through the allocation is the attraction of more visitors to the District, thereby stimulating economic activity, and the provision of jobs. There is nothing amiss about that. Paragraph 18 of the Framework makes very clear the importance of securing economic growth and creating jobs and prosperity. Moreover, paragraph 154 encourages Local Plans to be aspirational. It goes on to make the point that those aspirations should be realistic but there is ample evidence that a development of the sort envisaged could come to fruition. Against that background, while it is somewhat speculative, and without doubt, ambitious, I do not consider the allocation to lack justification.
99. As outlined above, some of the initial objections from neighbouring authorities were couched in terms of a failure in terms of the DtC. As I have set out, there has been no failure by the Council in that regard. In any event, the concerns initially expressed have developed, and they now relate more to the potential impact of the retail element of the proposed allocation on existing centres, and similar outlet shopping facilities. There has also been concern about potential impact on the Tiverton retail offer.
100. Given the significant scale of what is proposed, and in particular the retail element, located away from an existing centre, one would expect any planning application that followed the allocation to include an impact assessment. However, there is no specific requirement in the policy itself. To make good that omission, I required an MM introducing a new policy criterion to suggest that 'any planning application which includes a designer outlet shopping centre should be accompanied by a full Retail and Leisure Impact Assessment'. On reflection, to ensure proper clarity, that criterion needs to have added '.....Impact Assessment to ensure that any potential adverse impacts identified are addressed and mitigated'. With that addition, the modification **[MM40 as amended]** ensures that the policy is effective, in these terms.

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<sup>14</sup> The Mid Devon Tourism Study 2014

101. Moreover, paragraph 3.184c of the Plan sets out that existing town centres will be safeguarded through planning controls. It might be expected that such a Retail and Leisure Impact Assessment will serve to frame the offer presented by the Outlet Shopping Village, given that these facilities can vary greatly in those terms, and the nature and compass of the controls that need to be applied. In that way, any impacts on existing centres and similar facilities, and Tiverton itself, can be kept within reasonable bounds.
102. A major development of the sort proposed, located adjacent to an existing motorway junction, is bound to present challenges in terms of highway capacity and safety. There have been helpful discussions between the Council, the Highway Authority, and Highways England, in this connection. Criterion b), as drafted, talks of transport improvements to ensure appropriate accessibility for all modes, including new or improved access and egress on to the M5 motorway, and pedestrian and cycling links across the motorway to the nearby railway station at Tiverton Parkway.
103. Ongoing discussions brought out a need to be clear that access needs to be safe and suitable, rather than merely appropriate, and more importantly, that the capacity of Junction 27 of the M5 will need to be improved as part of the scheme, to cope with the additional traffic that will inevitably be generated. The reframed policy criterion b) **[MM38]** is necessary to address these matters and make the overall policy effective. I accept that issues around land ownership might make securing the varying accesses to the site complex, but challenges of this sort are not unusual in major developments. I do not consider that it is necessary to specify how the various landowners might collaborate through the policy. Indeed, doing so might serve to limit the various options available .
104. Relatively near to the site covered by the allocation is the Culm Grasslands Special Area of Conservation (SAC). As drafted the policy includes a requirement in criterion e) for mitigation measures, with a timescale for their provision, and future maintenance. However, discussions with Natural England around this issue, alongside the evidence put forward by the proposers of the scheme<sup>15</sup>, have shown this to be unnecessary. On that basis, criterion e) needs to be removed. A linked change is required to the supporting text at paragraph 3.184d along with reference to the potential loss of floodplain within the site and the need for compensatory measures **[MM39]**. Reference is also needed in paragraph 3.184d to the Priority Habitats that form part of the allocation and the need to ensure they are protected and enhanced in line with criterion c) of the policy **[MM41]**.
105. Bringing those points together, the proposals for J27 have been properly justified and with the changes outlined, the associated policy would be effective.

#### **Issue 4: Is the allocation for housing in Higher Town, Sampford Peverell (Policy SP2) justified?**

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<sup>15</sup> And the Habitat Regulations Assessment Appropriate Assessment Report (2016) in particular

106. This proposed allocation has excited particular controversy fed in part by the planning application for housing on the site that has been before the Council for a large part of the examination<sup>16</sup>. That specific proposal is not a matter for me; I am merely tasked with whether the Council's proposed allocation of the site for housing is justified.
107. Put simply, the allocation was included in the iteration of the Plan submitted for examination to deal with the uplift in housing need caused by the inclusion of the J27 allocation in that same iteration. There has been some strident criticism of the process by which the site was chosen, but I deal with the questions around the SA in my Assessment of Legal Compliance section below.
108. There are a number of issues with the policy as it is framed in the submitted Plan. The first point is that the policy explicitly states that the allocation can only come forward once development of the Policy J27 has commenced. That tie is pointless because the Plan has an overall OAN for housing (to which the J27 allocation contributes) that all housing allocations are intended to address. There is therefore no purpose served in the linkage and it needs to be removed. This change to Policy SP2 **[MM42]** is necessary to make it effective.
109. Secondly, criterion b) says that there should be no development until improved access works to the A361 have been completed. The Highway Authority confirmed that the traffic generated by the proposal is not sufficient to trigger such an onerous requirement. Indeed, it seems to me that given the investment off-site that would be required, criterion b) is in effect, a bar on development of an allocated site. In the absence of any need for the highway works, that is palpably unreasonable. In response to all that, criterion b) must be removed alongside 3.224c of the supporting text. This adjustment **[MM43]** is required to make the policy effective.
110. Much has been made about the relationship of the site with the Sampford Peverell and Grand Western Canal Conservation Areas, and an adjoining listed building. Some of the issues raised bear on the SA and I deal with those below. There are a number of other points I would make in this regard. First, the site proposed for allocation lies outside the confines of the conservation areas concerned. Development of the site in accordance with the allocation would not therefore trigger s.72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and could not cause harm to the character or appearance of either conservation area. Development would, however, be visible from the conservation areas concerned, which means that the setting of those conservation areas would undergo change. That said, change is not necessarily harmful and I see no reason why visibility of an appropriately designed development on the allocated site need cause any harm to the setting or the significance of either conservation area.
111. The position in relation to the listed building that adjoins the site is different in that s.66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 protects the setting of listed buildings as well as the buildings

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<sup>16</sup> My understanding is that the Council refused planning permission and an appeal is to be heard through a public inquiry later in the year

themselves<sup>17</sup>. Development of the allocated site would change the setting of the listed building but again, if the design is appropriate then that change need not be harmful to the setting or the significance of the listed building.

112. Criterion c) of Policy SP2 stipulates that the design and landscaping of any scheme must respect the setting and character of the area, conservation area, and listed building and save for a minor correction to reflect the fact that two conservation areas need to be considered meaning that criterion c) needs to refer to conservation areas<sup>18</sup>, that is sufficient of a safeguard in terms of a policy. Of course, in considering any specific scheme for the site, the Council will need to consider very carefully, in terms of its statutory duties, and in the application of national as well as local policy, any impact on the setting and thereby the significance of designated heritage assets, but those are development control matters, in the main.
113. There is an issue around pedestrian and cycle links to Sampford Peverell from the allocation. No mention is made in the policy as drafted and in order to encourage trips through means other than the private car, an additional criterion is required to secure improved access to the village for pedestrians and cyclists. This new criterion **[MM44]** is needed to make the policy effective.
114. As set out above, it is important to consider any potential impact on the setting of the adjoining listed building. The Green Infrastructure required by criterion g) of the policy is essential in this regard but it must also fit in with the existing contours of the site. The 2 Ha required by criterion g) as drafted is not sufficient to achieve that. To remedy that shortfall, a change to criterion g) **[MM45]** is required to increase the amount of Green Infrastructure to 2.5 Ha. This is necessary to ensure the policy is effective. This will require a parallel alteration to the relevant Policies Map which the Council have advertised as Plan MM45.
115. I recognise that the Policy SP2 allocation was included in the Plan alongside the Policy TIV16 allocation to cope with the uplift to OAN that flowed from the inclusion of the Policy J27 allocation. Removing the tie to the Policy J27 allocation from Policy SP2 cuts that link but for the reasons set out above, the link is unnecessary. The Council has calculated an overall OAN that I consider sound and has sought to respond to that through a development strategy that I also consider sound. The Policy SP2 allocation accords with that strategy and adds to the range and nature of sites available in the Plan. It is important to have a variety of sites available to come forward to ensure the trajectory of the Plan, that I deal with above, is brought to fruition. In that overall context, and having regard to the matters set out above, I consider the Policy SP2 allocation has been amply justified.

### **Issue 5: Are the 'managing development' policies effective and consistent with national policy?**

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<sup>17</sup> And is therefore different to s.72(1) which does not protect the setting of a conservation area

<sup>18</sup> A straightforward correction that would not be sufficient to trigger the need for a MM

116. The Plan, as submitted, includes a suite of policies designed to enable the Council to make decisions on development proposals. I identified issues with a number.
117. Policy DM1 addresses the need to secure designs of high quality and sets out a list of criteria against which proposals will be judged. However, Policy DM12 entitled 'Housing Standards' outlines a list of design requirements for housing, including a reference to 'the Nationally Described Space Standard'. Moreover, the other design requirements in this policy, which aim to secure reasonable living conditions for occupiers in terms of internal and external spaces, daylight, sunlight, and privacy, are all design matters that ought to form part of the general approach in Policy DM1.
118. To address that duplication, the remaining criteria of Policy DM12 need to be subsumed into Policy DM1, while Policy DM12 is deleted, and the supporting text amended. Those modifications **[MM46, MM49]** are necessary to make for an effective design policy that complies with national policy.
119. In general terms, the approach to renewable and low carbon energy in Policy DM2 reflects that of the Framework. However, there is a difficulty with the detailed wording of part of the policy in that it requires proposals to cause no significant harm and demonstrate that impacts are or can be made acceptable, but then goes on to require development to preserve landscape character, the setting of heritage assets, living conditions and so forth. The term 'preserve' means to cause no harm, so its inclusion stands in contradiction to the correct approach previously elucidated. This can be resolved by removal of the reference and this modification **[MM47]** is needed to make the policy effective, and to bring it properly into line with national policy.
120. Policy DM19 is aimed at protecting employment land. As submitted, the policy is permissive provided certain criteria are met. Criterion b) requires there to have been no commercial interest in the re-use of the site for employment, demonstrated by suitable marketing at an appropriate price for at least 18 months. Criterion c) then requires a sequential viability test to be applied after any unsuccessful marketing of the site, based on the following sequence of testing: i) mixed use of the site that incorporates an employment-generating use; then (ii) non-employment use.
121. Bearing in mind paragraph 22 of the Framework, which says that planning policies should avoid the long-term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose, that seems to me far too onerous a requirement. In my view, if criterion b) is satisfied, and suitable marketing has taken place, at an appropriate price, for at least 18 months, without any interest, then an alternative use or uses (given that there would be nothing standing in the way of a mixed-use scheme) should be allowed to come forward. To deal with this matter criterion c) needs to be deleted and a corresponding adjustment made to the supporting text in paragraph 4.60. This modification **[MM50]** is required to ensure an effective policy approach that tallies with national policy.
122. The potential effect of development on heritage assets, and their settings, is the subject of Policy DM25 which applies five criteria to inform decision-

making. This is an area fraught with pitfalls and there are difficulties with all the criteria as framed.

123. Criterion a) says that the Council will apply a presumption in favour of the preservation in situ of the most important heritage assets. However, Statute<sup>19</sup> and national policy takes a different approach and in general terms, seeks to avoid harm to all designated heritage assets, and their settings. Criterion b) deals with development proposals likely to affect heritage assets or their settings but fails to make any reference to significance.
124. Criterion c) refers to the situation where 'proposals would substantially harm heritage assets and their settings' with a direct reference to paragraph 133 of the Framework and the pointer therein towards substantial public benefits. The difficulty with that is the failure to properly reflect paragraph 133 by considering the impact on the significance of any designated heritage asset affected. Moreover, the direct reference to paragraph 133 of the Framework is unnecessary because any proposal put before the Council would have to be considered against the latest version of the Framework. Criterion d) which addresses the situation where less than substantial harm is at issue does not repeat that error but fails to reflect the concentration in the Framework on the significance of designated heritage assets.
125. Criterion e) seeks to ensure that developers make a proportionate but systematic assessment of any impact on the setting of heritage assets with a linkage to the latest advice on such matters from Historic England. Again, there is a need to reflect the fact that setting is an element of the significance of a heritage asset. Further, the link to Historic England advice while well-intentioned risks future difficulties if that advice changes. In response to these points, adjustments are needed to all five criteria. These modifications **[MM51]** bring Policy DM25 into line with national policy and are necessary to make the policy properly effective.
126. Policy DM26 covers the necessity to include green infrastructure in major development. The wording of the policy itself is acceptable but the Environment Agency provided some valuable input in terms of the explanatory text in paragraph 4.88. Clarity is required in relation to the ability of flood plain to provide year-round access, and it does need to be confirmed that development incorporating green infrastructure will need to consider its future management and maintenance. The additions to paragraph 4.88 **[MM52, MM53]** are necessary to put the Plan on a properly effective footing. Moreover, as pointed out by Natural England, Policy S1 that sets out sustainable development priorities needs a reference to 'other green infrastructure' in criterion i) **[MM02]** to ensure effectiveness.
127. Policy DM27 deals with protected landscapes. It is however a little confusing in that it talks of 'development proposals within or affecting those landscapes'. To my mind within or affecting mean the same thing because a development in a protected landscape will obviously affect it. The intention of the Council was to control development within/affecting or in the setting of protected landscapes and the policy needs to be adjusted to take that into account, as

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<sup>19</sup> Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Area) Act 1990 in particular

suggested too by Natural England. This change **[MM54]** is needed to make the policy function effectively.

128. A consequential change **[MM07]** is required to criterion e) of Policy S9 (Environment) to ensure consistency of approach. As part of the same series of observations, Natural England also pointed out some difficulties with criterion f) of Policy S9 in the way it deals with designated sites of international, national and local biodiversity and geodiversity importance. The resulting alterations put forward in response **[MM08]** are necessary to bring the policy into line with the hierarchy set out in paragraph 118 of the Framework and thereby compliant with national policy.
129. I raised concerns about Policy DM28 which covers other protected sites and its approach to mitigation in criterion c) in the light of the judgment in *People over Wind, Peter Sweetman v Coillte Teoranta* (Case C-323/17) suggesting that the Council take advice on the matter. In the light of that advice, it is necessary to replace the final paragraph of the policy itself alongside an associated change to the supporting text in paragraph 4.102. These adjustments **[MM55]** are necessary to bring the policy into line with case law and thereby make it effective.
130. Bringing all those points together, with the MMs identified, the 'managing development' policies will be effective and consistent with national policy.

## Assessment of Legal Compliance

131. My examination of the legal compliance of the Plan is summarised below.
132. The Plan has been prepared in accordance with the Council's Local Development Scheme. Consultation on the Local Plan and the MMs was carried out in compliance with the Council's Statement of Community Involvement.
133. SA has been carried out and is adequate. There has been much criticism of the SA process in relation to the selection of the Policy SP2 site, in particular. However, I would say at the outset that the SA process is one that requires the application of judgment. Someone else might well score sites differently, or reach a different conclusion about the best site to address needs, but the question I need to ask myself is whether the conclusions reached in the SA are reasonable ones. I believe that they are.
134. There are two particular areas of criticism that I need to address. The first is that in assessing the Policy SP2 site against alternatives, the Council failed to have regard to the presence of the Grand Western Canal Conservation Area. The Council told me at one of the hearings that they were of the view that the site proposed for allocation could be developed without causing harm to the conservation area concerned, or its setting, and that could be inferred from the absence of any reference to it in the SA.
135. As explained above, I accept that the Policy SP2 site could be developed without causing harm to the setting or significance of any designated heritage asset so what the Council put to me at the hearing is perfectly plausible. In any event, even if the representors are right, and the Council was ignorant of the presence of the Grand Western Canal Conservation Area in close proximity to the site proposed for allocation, when carrying out SA, their conclusion that the site proposed for allocation could be developed without causing harm to the conservation area concerned, or its setting, means that even if the conservation area had been specifically considered and referenced in the SA, the outcome of the process would have been the same.
136. The second point relates to the manner in which the Policy SP2 site came forward as a response to the uplift in OAN caused by the inclusion of the major development in Policy J27. Having made clear to the Council that the link between the Policy SP2 site and the Policy J27 development should be broken because it serves no purpose, it is said that the SA process should have been re-run to include the entire District because the proximity of the Policy SP2 site to the Policy J27 was a significant factor in its selection.
137. However, it is clear that when the Council considered how to meet the uplift in OAN caused by the inclusion of the J27 allocation in the Plan, it looked at a variety of sites across the District and that while proximity was one factor, the Policy SP2 site alongside the Policy TIV16 site scored better for a variety of reasons. Chief amongst these was that other, larger settlements, like Cullompton, were already thought to be taking a proportion of the District's overall needs that was in line with the Council's strategy. In that context, I do not consider that removing the tie between the Policy SP2 allocation and the Policy J27 development undermines or invalidates the SA process in any way.

138. The March 2015 HRA, read alongside the HRA Addenda of August and December 2016, sets out that an appropriate assessment has been undertaken and that while the Plan may have some negative impact which requires mitigation, that this mitigation has been secured through the Plan, as modified.
139. The Plan includes policies designed to secure that the development and use of land in the local planning authority's area contribute to the mitigation of, and adaptation to, climate change. In particular, criterion j) of Policy S1 which sets out sustainable development priorities commits the Council to meeting the challenge of climate change by supporting a low carbon future, energy efficiency, increasing the use and supply of renewable and low carbon energy, managing flood risk and conserving natural resources, amongst other things. Moreover, Policy DM2 (as modified) allows for renewable energy schemes to come forward.
140. The Plan complies with all other relevant legal requirements, including in the 2004 Act (as amended) and the 2012 Regulations.
141. I have had due regard to the aims expressed in S149(1) of the Equality Act 2010. This has included my consideration of several matters during the examination including the provision of sites to meet the needs of Gypsies and Travellers and Travelling Show-People, amongst other things.

## **Overall Conclusion and Recommendation**

142. The Plan has a number of deficiencies in respect of soundness for the reasons set out above, which mean that I recommend non-adoption of it as submitted, in accordance with Section 20(7A) of the 2004 Act. These deficiencies have been explored in the main issues set out above.
143. The Council has requested that I recommend MMs to make the Plan sound and capable of adoption. I conclude that with the recommended MMs set out in the attached Appendix, the Mid Devon District Local Plan Review 2013-2033 satisfies the requirements of Section 20(5) of the 2004 Act and meets the criteria for soundness in the Framework.

*Paul Griffiths*

INSPECTOR

This report is accompanied by an Appendix containing the Main Modifications.

## Appendix – Main Modifications

The modifications below are expressed either in the conventional form of ~~strikethrough~~ for deletions and underlining for additions of text, or by specifying the modification in words in *italics*.

~~Additions~~ or ~~strikethrough~~ in red are my further changes as referred to in the reasoning above.

The page numbers and paragraph numbering below refer to the submission local plan, and do not take account of the deletion or addition of text.

Ref	Page	Policy/ Paragraph	Main Modification																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																			
MM01	26-27	Overall Provision of housing and employment	<p><i>Replace Table 6: Housing forecast 2013 – 2033 with the following update:</i></p> <table border="1"> <thead> <tr> <th>Location/Site</th> <th>Policy</th> <th>2013/14</th> <th>2014/15</th> <th>2015/16</th> <th>2016/17</th> <th>2017/18</th> <th>2018/19</th> <th>2019/20</th> <th>2020/21</th> <th>2021/22</th> <th>2022/23</th> <th>2023/24</th> <th>2024/25</th> <th>2025/26</th> <th>2026/27</th> <th>2027/28</th> <th>2028/29</th> <th>2029/30</th> <th>2030/31</th> <th>2031/32</th> <th>2032/33</th> <th>Total</th> </tr> </thead> <tbody> <tr> <td colspan="23"><b>Tiverton</b></td> </tr> <tr> <td>Eastern Urban Extension</td> <td>TIV1-TIV5</td> <td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td>25</td><td>100</td><td>100</td><td>100</td><td>100</td><td>100</td><td>25</td><td>550</td> </tr> <tr> <td>Howden Court</td> <td>TIV9</td> 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sites</b></td> </tr> <tr> <td>Newton Square</td> <td>BA1</td> <td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td>5</td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td>5</td> </tr> <tr> <td>Hollywell</td> <td>BO1</td> <td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td>12</td><td>8</td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td>20</td> </tr> <tr> <td>Hele Road</td> <td>BR1</td> <td></td><td></td><td></td><td></td><td></td><td></td><td>7</td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td>7</td> </tr> <tr> <td>Barton</td> <td>CH1</td> <td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td>12</td><td>8</td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td>20</td> </tr> <tr> <td>Land off Church Lane</td> <td>CB1</td> <td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td>12</td><td>8</td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td>20</td> </tr> <tr> <td>Barnhill Close</td> <td>CF1</td> <td></td><td></td><td></td><td></td><td></td><td></td><td>7</td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td>7</td> </tr> <tr> <td>Linhay Close</td> <td>CL1</td> <td></td><td></td><td></td><td></td><td></td><td></td><td>6</td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td>6</td> </tr> <tr> <td>Land at Fishers Way</td> <td>HA1</td> <td></td><td></td><td></td><td></td><td></td><td></td><td>10</td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td>10</td> </tr> <tr> <td>Greenway</td> <td>MO1</td> 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<td><b>320</b></td><td><b>316</b></td><td><b>288</b></td><td><b>304</b></td><td><b>502</b></td><td><b>574</b></td><td><b>574</b></td><td><b>695</b></td><td><b>519</b></td><td><b>439</b></td><td><b>604</b></td><td><b>631</b></td><td><b>583</b></td><td><b>438</b></td><td><b>500</b></td><td><b>497</b></td><td><b>400</b></td><td><b>400</b></td><td><b>400</b></td><td><b>250</b></td><td><b>9234</b></td> </tr> <tr> <td>Five year totals</td> <td></td> <td></td><td>1730</td><td></td><td></td><td></td><td>2801</td><td></td><td></td><td></td><td></td><td></td><td>2756</td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td>1947</td><td></td> </tr> <tr> <td>Cumulative five year totals</td> <td></td> <td></td><td>1730</td><td></td><td></td><td></td><td>4531</td><td></td><td></td><td></td><td></td><td>7287</td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td>9234</td><td></td> </tr> </tbody> 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MM02	31	S1: Sustainable development priorities	<p><i>Amend criterion i) as follows:</i></p> <p><u>"...recreational trails, and accessible land, and other green infrastructure, and opportunities..."</u></p>																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																			

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MM03	32	S2: Amount and distribution of development	<i>Amend policy text as follows:</i> "The diverse development needs of the community will be met through the provision of a <u>minimum of approximately 7,860 dwellings and 147,000 square metres of commercial floorspace between 1<sup>st</sup> April 2013 and 31<sup>st</sup> March 2033.</u> "
MM04	34	S3: Meeting housing needs	<i>Amend criterion a) as follows:</i> "The diverse needs of Mid Devon will be met through the provision of a <u>minimum of approximately 7,860 dwellings between 1<sup>st</sup> April 2013 and 31<sup>st</sup> March 2033.</u> "
MM05	36	Paragraph 2.31	<i>Amend paragraph 2.31 of the supporting text as follows:</i> " <u>....The need for gypsy and traveller pitches will be accommodated by pitches within larger housing sites, for example at Tiverton Eastern Urban Extension, North West Cullompton, East Cullompton and Pedlerspool in Crediton. The Council's preferred approach is for on-site provision as part of larger housing proposals TIV1, CU1, CU7 and CRE5. Provision off-site will only be accepted where it is demonstrated that provision on a different site would achieve an acceptable more favourable outcome for Gypsies and Travellers as described in Policy DM7. Where such an acceptable more favourable outcome can be demonstrated, off-site provision must meet the requirements of Policy DM7, and a mechanism must be put in place to ensure that the pitches are delivered. This will usually be through a s106 agreement requiring the developer to identify and obtain planning permission (which will not be unreasonably withheld by the Council) for the required number and standard of pitches. The pitches will be provided by the development itself or where the land is transferred for a nominal value, by an agreed third party Registered Provider or other agreed private provider, for the sole purpose of occupation and ancillary business by Gypsies and Travellers. The off-site provision of pitches must be provided and made available for occupation before the occupation of a specified proportion of the provision of on-site open market dwellings as part of the larger housing proposal at TIV1, CU1, CU7 or CRE5. Where the off-site provision of pitches generates additional infrastructure needs, developers of the larger housing proposal at TIV1, CU1, CU7 or CRE5 will be expected to contribute fairly towards the cost in accordance with Policies S8 and DM7 of this Plan. The Council is</u>

Ref	Page	Policy/ Paragraph	Main Modification
			<del>working with the travelling showpeople community to approve a large site near Cullompton which would meet the need requirements set out in the GTAA. Policy DM7 (gypsy and traveller accommodation) manages the development of specific sites"</del>
MM06	46	S8: Infrastructure	<i>Modification to include following text at the end of the policy text:</i>  <u>"Planning permission will be granted only where the impact of development is not considered to be severe. Where severe impacts that are attributable to the development are considered likely, including as a consequence of cumulative impacts, they must be subject to satisfactory mitigation having regard to the latest infrastructure plan"</u> .
MM07	48	S9: Environment	<i>Amend criterion e) as follows:</i>  "The preservation and enhancement of the distinctive qualities of Mid Devon's natural landscape, supporting opportunities identified within the landscape character areas. <u>Within or adjoining the Blackdown Hills Area of Outstanding Natural Beauty, and within the setting of the Blackdown Hills Area of Outstanding Natural Beauty, and Exmoor and Dartmoor National Parks, the primary objective will be to protect the special qualities of that landscape and its setting."</u>
MM08	48	S9: Environment	<i>Amend criterion f) as follows:</i>  "The protection and enhancement of designated sites of international, national and local biodiversity and geodiversity importance. On both designated and undesignated sites, development will support opportunities for protecting and enhancing species populations and linking habitats. <u>If significant harm resulting from development cannot be avoided providing impacts should be adequately mitigated mitigation and. Compensation measures will only be considered where appropriate as a last resort; and"</u>
MM09	52	S11: Cullompton	<i>Amend criterion a) as follows:</i>  <del>"Make any necessary improvements to the M5 motorway including junction 28</del> <u>strategic mitigations to maintain highway capacity, and safety, integrity, and sustainability including the M5 and local highway network in conjunction with current and relevant infrastructure plans;"</u>
MM10	55	S12: Crediton	<i>Add to the end of clause e)</i>

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			" , <u>including green infrastructure</u> "
MM11	59	S14: Countryside and paragraph 2.82	<p><i>Amend criterion a) as follows:</i></p> <p>"a) Affordable and low cost housing to meet local needs, <u>gypsy and traveller accommodation</u>, residential conversion of appropriate existing buildings..."</p> <p><i>Amend the last two sentences of supporting text in para 2.82 as follows:</i></p> <p>"National policy requires that new sites for travellers should be <del>very</del> strictly limited in open countryside that is away from existing settlements or outside areas allocated in the development plan. In certain circumstances the development of such sites outside of settlement limits will be appropriate, providing it can meet the criteria set out within Policy DM7 (gypsy and traveller accommodation)."</p>
MM12	70	TIV3: Eastern Urban Extension Environmental Protection and Green Infrastructure	<p><i>Amend criterion e) as follows:</i></p> <p>"Appropriate provision of sewerage system to serve the development <del>and a Sustainable Urban Drainage Scheme to deal with all surface water from the development and arrangements for future maintenance ;</del>"</p>
MM13	72	TIV4: Eastern Urban Extension Community Facilities	<p><i>Add additional policy criterion as follows:</i></p> <p>"f) <u>Contributions towards a new recycling centre to serve Tiverton</u>"</p>
MM14	72	TIV4: Eastern Urban Extension Community Facilities	<p><i>Replace criterion b) as follows:</i></p> <p>"<del>Construction cost for one primary school of 410 places and early years provision</del> <u>Provision of a 420-place primary school with early years provision and a children's centre service delivery base funded by appropriate contributions from developers;</u>"</p>
MM15	83	TIV15: Tiverton Infrastructure	<p><i>Add additional policy criterion as follows:</i></p> <p>"l) <u>Provision of a replacement recycling centre facility.</u>"</p>
MM16	84	TIV16: Blundell's School	<p><i>Add additional criterion as follows:</i></p> <p>"k) <u>The creation of additional/compensatory floodplain should secure wider environmental and sustainability benefits.</u>"</p>

Ref	Page	Policy/ Paragraph	Main Modification
			<p><i>Amend paragraph 3.60c to insert at the end of the sentence:</i></p> <p><u>"subject to the provision of wider environmental and sustainability benefits."</u></p>
MM17	89	Paragraph 3.70	<p><i>Amendment to proposed modified text within paragraph 3.70 as follows:</i></p> <p>"Traffic management measures on Willand Road and Tiverton Road will also be required. Devon County Council queue length monitoring at junction 28 of the M5 motorway indicates congestion at the AM peak. The development will need to mitigate its impact on the junction's capacity through implementation of an improvement scheme, either to the existing junction or in the form of more extensive junction improvement works involving a second overbridge required in connection with development east of Cullompton under policy CU7 of the Cullompton Town Centre Relief Road."</p>
MM18	90	CU2: North West Cullompton Transport Provision	<p><i>Amendment to criterion (h) as follows:</i></p> <p><u>"Financial contributions towards capacity improvements at Junction 28 of the M5, to deliver a strategic highway improvement as demonstrated by capacity studies completed to assess the impact of the traffic generated from the site."</u></p>
MM19	90	Paragraph 3.75	<p><i>Amendment to proposed modified text within paragraph 3.75 as follows:</i></p> <p>"The Development will need to mitigate its impact upon capacity at junction 28 of the M5 by financial contributions towards junction improvements."</p>
MM20	93	CU4: North West Cullompton Community Facilities	<p><i>Replace criterion b) as follows:</i></p> <p><u>"Construction costs for 300 places that arise from the development to contribute to a 420-place primary school with provision for early years; Provision of a 420-place school with early years provision and a children's centre service delivery base funded by appropriate contributions from developers."</u></p>
MM21	93	CU4: North West Cullompton	<p><i>Add additional policy criterion as follows:</i></p>

Ref	Page	Policy/ Paragraph	Main Modification
		Community Facilities	<u>"e) Contributions towards a new recycling centre to serve Cullompton"</u>
MM22	95	CU6: North West Cullompton Phasing	<i>Replacement policy text for criterion (i) of the policy as follows:</i>  <del>"Provision of M5 access improvements before any dwellings are occupied and thereafter broadly in step with development. Occupation of no more than 600 dwellings prior to the completion of the Cullompton Town Centre Relief Road."</del> <u>"Provision of M5 access improvements before any dwellings are occupied and thereafter broadly in step with development. Occupation of no more than 600 dwellings prior to the completion of the Cullompton Town Centre Relief Road."</u>
MM23	96	Paragraph 3.94	<i>Amendment to proposed modified text within paragraph 3.94 as follows:</i>  <del>"Devon County Council queue length monitoring at junction 28 of the M5 motorway indicates congestion at the AM peak. The development will need to mitigate its impact upon the junction's capacity through implementation of an improvement scheme, either to the existing junction or in the form of more extensive junction improvement works involving a second overbridge required in connection with development east of Cullompton under Policy CU7. No more than 600 dwellings should be occupied before the Cullompton Town Centre Relief Road is completed and open to traffic. The provision of the Town Centre Relief Road provides increased capacity at J28 M5."</del> <u>"Devon County Council queue length monitoring at junction 28 of the M5 motorway indicates congestion at the AM peak. The development will need to mitigate its impact upon the junction's capacity through implementation of an improvement scheme, either to the existing junction or in the form of more extensive junction improvement works involving a second overbridge required in connection with development east of Cullompton under Policy CU7. No more than 600 dwellings should be occupied before the Cullompton Town Centre Relief Road is completed and open to traffic. The provision of the Town Centre Relief Road provides increased capacity at J28 M5."</u>
MM24	97	CU7: East Cullompton	<i>Amendment to criterion (f) as follows:</i>  <del>"f) Transport provision to ensure appropriate accessibility for all modes, including a new or improved access and egress onto the M5 motorway Provision of transport improvements to ensure safe and suitable access for all modes, including necessary capacity improvements to M5 Junction 28 and pedestrian and cycle links across the motorway to the existing town;"</del> <u>"f) Transport provision to ensure appropriate accessibility for all modes, including a new or improved access and egress onto the M5 motorway Provision of transport improvements to ensure safe and suitable access for all modes, including necessary capacity improvements to M5 Junction 28 and pedestrian and cycle links across the motorway to the existing town;"</u>
MM25	99	CU8: East Cullompton Transport Provision	<i>Replacement policy text for criterion (a) of the policy as follows:</i>  <del>"Provision of mitigation measures to ensure only acceptable impacts occur to J28 of the M5 as a result of traffic generated from the site Capacity improvements at junction 28 M5 to deliver a strategic highway improvement as demonstrated by capacity studies completed to assess the impact of the traffic generated from the site;"</del> <u>"Provision of mitigation measures to ensure only acceptable impacts occur to J28 of the M5 as a result of traffic generated from the site Capacity improvements at junction 28 M5 to deliver a strategic highway improvement as demonstrated by capacity studies completed to assess the impact of the traffic generated from the site;"</u>

Ref	Page	Policy/ Paragraph	Main Modification
MM26	102	CU10: East Cullompton Community Facilities	<p><i>Amend criterion a) as follows:</i></p> <p><del>"a) A site of 2.5 hectares for a new primary school at no cost to the Local Education Authority</del> <u>A serviced site of 2.5ha for a new 630 place primary school, or alternatively 3ha of serviced land in two parcels of 1.1ha and 1.9ha appropriately located for the delivery of two new primary schools, at no cost to the Local Education Authority;"</u></p> <p><i>Amend criterion c) as follows:</i></p> <p><del>for</del> <u>at least 630 places plus additional early years provision, including the requisite land to deliver these facilities.</u> The required primary school capacity should be delivered through the provision of either one or two schools;"</p>
MM27	102	CU10: East Cullompton Community Facilities	<p><i>Add additional policy criterion as follows:</i></p> <p><u>"g) Contributions towards a new recycling centre to serve Cullompton"</u></p>
MM28	104	CU12: East Cullompton Phasing	<p><i>Replacement policy text for criterion (f) as follows:</i></p> <p><del>"f) Provision of the first phase of comprehensive M5 access improvements before any dwellings are occupied, followed by strategic highways infrastructure broadly in step with development</del> <u>Capacity improvements at junction 28 M5 to deliver a strategic highway improvement as demonstrated by capacity studies completed to assess the impact of the traffic generated from the site; and"</u></p>
MM29	105	Paragraph 3.116	<p><i>Delete penultimate sentence within paragraph 3.116 of the supporting text as follows:</i></p> <p><del>"The first phase referred to in criterion (f) above therefore only relates to the subsequent highway works set out in the Devon County Council Report."</del></p>
MM30	106	CU12: East Cullompton Phasing	<p><i>Paragraph 3.120, amend as follows:</i></p> <p><del>"Subject to viability, affordable housing will be provided at a rate of approximately 25%</del> <u>28%</u>, in step with the market housing."</p>
MM31	110	CU17: Week Farm	<p><i>Replacement policy text for proposed criterion (g) as follows:</i></p>

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			<del>"(g) Provision of M5 access improvements before any commercial floorspace is brought into use Capacity improvements at junction 28 M5 to deliver a strategic highway improvement as demonstrated by capacity studies completed to assess the impact of the traffic generated from the site;"</del>
MM32	111	CU18: Venn Farm	<p><i>Replacement policy text for proposed criterion (g) as follows:</i></p> <p><u>"(g) Provision of M5 access improvements before any commercial floorspace is brought into use Capacity improvements at junction 28 M5 to deliver a strategic highway improvement as demonstrated by capacity studies completed to assess the impact of the traffic generated from the site;"</u></p>
MM33	114	Paragraph 3.143a	<p><i>Amend paragraph 3.143a as follows:</i></p> <p><u>"...the final scheme will need to incorporate design solutions which mitigate such impacts. Any loss of floodplain at this location should be mitigated by the creation of additional/compensatory floodplain which should secure wider environmental and sustainability benefits including the provision of appropriate ecological and biodiversity enhancements."</u></p>
MM34	114	CU20: Cullompton Infrastructure	<p><i>Add additional policy criterion as follows:</i></p> <p><u>"n) Provision of a replacement recycling centre facility."</u></p>
MM35	115	CU21: Land at Colebrook	<p><i>Remove contingency status. Modifications proposed as follows:</i></p> <p>Land at Colebrook <del>CONTINGENCY SITE</del></p> <p>A site of 4.8 hectares at Colebrook is identified as a <del>contingency site</del> allocated for residential development to be released in accordance with Policy S4, subject to the following:</p> <ol style="list-style-type: none"> <li>100 dwellings with 28% affordable housing;</li> <li>The development shall not commence until completion of the North West Cullompton through route linking Tiverton Road to Willand Road and provision of the first phase of comprehensive M5 access improvements;</li> <li>Provision of two points of access from Siskins Chase;</li> <li>Provisions of 1.1 hectares of green infrastructure, to include the retention of land in the floodplain as</li> </ol>

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			<p>informal amenity open space and for Sustainable Urban Drainage provision;</p> <p>e) Measures to protect and enhance trees, hedgerows and other environmental features which contribute to the character and biodiversity, maintaining a wildlife network within the site and linking to the surrounding countryside;</p> <p>f) Archaeological investigation and appropriate mitigation; and</p> <p>g) Transport assessment and implementation of travel plans and other measures to minimise carbon footprint and air quality impacts.</p> <p><i>Delete paragraph 3.148 from the supporting text.</i></p> <p><i>Delete penultimate sentence from paragraph 3.149 as follows:</i></p> <p><del>"Site commencement will also need to be deferred until after the completion of the through route linking Willand Road to Tiverton Road, which is being provided as part of the North West Cullompton allocation.</del></p> <p><i>Modify the Policies Map as shown on Plan MM35.</i></p>
MM36	116	Paragraph 3.149	<p><i>Amend paragraph 3.149 of the supporting text as follows:</i></p> <p><del>"3.149 Development in this location has the potential to place pressure on the capacity of both the strategic and local road network. Devon County Council has therefore stipulated that development should only take place providing there is sufficient network capacity. If released, the site will need to be phased to come forward after further M5 access improvements are implemented. Any application for development must undertake an assessment of the impact of the proposal on both the capacity of the local road network and Junction 28 of the M5 and permission will only be granted where there are no significant adverse impacts which cannot be mitigated. Site commencement will also need to be deferred until after the completion of the through route linking Willand Road to Tiverton Road, which is being provided as part of the North West Cullompton allocation. The site is expected to contribute to the provision of off-site highways infrastructure. The development would also be expected to provide two points of access from Siskin Chase."</del></p>

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MM37	121	CRE5: Pedlerspool, Exhibition Road	<i>Amendment to criterion (b) to include reference to:</i>  " <u>...with early years provision and children's centre service delivery base</u> ".
MM38	128	J27: Land at Junction 27 of the M5 Motorway	<i>Replace criterion b) as follows:</i>  <del>"Provision of transport improvements to ensure appropriate accessibility for all modes, including new or improved access and egress onto the M5 motorway and pedestrian and cycling link across the motorway to Tiverton Parkway Railway Station. Provision of</del> <u>transport improvements to ensure safe and suitable access for all modes, including necessary capacity improvements to M5 Junction 27 and pedestrian and cycling link across the motorway to Tiverton Parkway Railway Station.</u> "
MM39	128	J27: Land at Junction 27 of the M5 Motorway and paragraph 3.184d	<i>Delete criterion e):</i>  <del>"Prior to the approval of any planning permission for the site any required mitigation measures for the Culm Grasslands Special Area of Conservation shall be identified and agreed together with a time scale for their provision and a mechanism for their maintenance."</del>  <i>Para 3.184d, amend as follows:</i>  "The proposals for a major facility of this nature needs to be considered carefully in terms of its impacts and the policy makes provision for detailed transport assessments, environmental protection and green infrastructure, energy conservation, provision of improved public transport, pollution and drainage considerations, phasing and importantly, master planning with full public consultation prior to any planning applications being approved. <u>Any loss of floodplain at this location should be mitigated by the creation of additional/compensatory floodplain which should secure wider environmental and sustainability benefits including provision of appropriate ecological and biodiversity enhancement.</u> Controls using legal agreements will be required to control the extent and types of use that take place on the site, particularly in respect of retailing which will be tightly controlled. Section 106 planning obligations will also make provision for any necessary infrastructure and public transport improvements <del>and would need to ensure appropriate mechanisms are in place to ensure that</del>

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			<del>the integrity of the Culm Grasslands SAC will not be adversely affected."</del>
MM40	128	J27: Land at Junction 27 of the M5 Motorway	<i>Include additional criterion in policy as follows:</i> "e) Any planning application which includes a 'designer outlet shopping centre' should be accompanied by a full Retail and Leisure Impact Assessment <u>to ensure that any potential adverse impacts identified are addressed and mitigated.</u> "
MM41	129	Paragraph 3.184d	<i>Include the following text at the end of the paragraph 3.184d:</i> " <u>Priority habitats exist within the site and in line with criterion c) of Policy J27 should be protected and enhanced.</u> "
MM42	146	SP2: Higher Town Sampford Peverell	<i>Amend Policy SP2 as follows:</i> "A site of 6 hectares at Higher Town, Sampford Peverell is allocated for a low density residential development, <del>to come forward following the commencement of development of the M5 Junction 27 allocation,</del> subject to the following:"
MM43	146	SP2: Higher Town Sampford Peverell and paragraph 3.224c	<i>Delete criterion b) and re-label the remaining criteria accordingly:</i> " <del>b) No development until the completion of improved access works to the A361;</del> " <i>Delete paragraph 3.224c of the supporting text:</i> " <del>3.224c The Highway Authority has advised that any development of the site should only commence once improvements to the A361 junction at Sampford Peverell have been implemented to create west facing slip roads to enable direct access to and from the west. The site is required to meet additional housing need arising from the allocation at Junction 27 of the M5 motorway. Accordingly it shall only come forward following the commencement of development on that site.</del> "
MM44	146	SP2: Higher Town Sampford Peverell	<i>Include new criterion:</i> " <u>Improved access to the village for pedestrians and cyclists</u> "
MM45	146	SP2: Higher Town	<i>Amend criterion g) as follows:</i>

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		Sampford Peverell	"2 <u>2.5</u> hectares of Green Infrastructure laid out and managed with landscaping and open space."  <i>Modify the Policies Map as shown on Plan MM45.</i>
MM46	153-154	DM1: High Quality Design and new paragraph 4.5b	<i>Insert additional criteria as follows:</i>  "g) <u>Adequate levels of daylight, sunlight and privacy to private amenity spaces and principal windows;</u>  h) <u>Suitably sized rooms and overall floorspace which allows for adequate storage and movement within the building together as set out in the Nationally Described Space Standard with external spaces for recycling, refuse and cycle storage; and</u>  i) <u>On sites of 10 houses or more the provision of 20% of dwellings built to Level 2 of Building Regulations Part M 'access to and use of dwellings.'</u> "  <i>Insert additional supporting text as follows:</i>  "4.5b <u>National policy states that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. This is particularly important for the design of the homes that people live in and the spaces that surround those homes. The aim in Mid Devon is to deliver high quality buildings and spaces that meet the needs of users, taking account of an aging population whilst ensuring compatibility with surrounding development and uses. Though compliance is delivered through buildings regulations, criterion i) will be implemented through a condition attached to the planning permission.</u> "
MM47	154	DM2: Renewable and low carbon energy	<i>Amend the third sentence in Policy DM2 as follows:</i>  "Proposals must demonstrate that impacts are or can be made acceptable <u>in relation to:</u> <del>and that the development will preserve:</del> "
MM48	164-165	DM7: Traveller sites and paragraph 4.29	<i>Amend Policy DM7 as follows:</i>  1) <u>Planning applications for Pitches and Plots</u>  Planning applications for gypsy and traveller pitches, or plots for travelling showpeople, will be permitted where: a) Suitable onsite facilities will be provided including space for children's play;

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			<p>b) The proposal will have suitable environmental quality for residents including non-isolating boundary treatments;</p> <p>c) <u>The site will not cause unacceptable landscape or ecological impact and is not located in an area at high risk of flooding;</u></p> <p>d) Occupation will be limited to those who meet the Government's published definition of gypsies and travellers, including travelling showpeople <u>or their dependents;</u> and</p> <p>e) <u>Safe and convenient access to local facilities is provided</u></p> <p><del>Where development proposals are considered under S13 "Villages", local services can be accessed without the use of a car.</del></p> <p><del>Where development proposals are considered under S14, the need cannot be met on another suitable site in Mid Devon which has consent or is allocated for gypsy and traveller pitches.</del></p> <p>Sites with associated employment or storage elements <u>may will be permitted</u> where there is specific justification and the location, <u>scale, and nature</u> of the proposed development will not have harmful impacts on local amenity or the local environment. Gypsy and traveller accommodation may be included as part of the affordable housing requirement.</p> <p><u>2. Provision on allocated sites</u></p> <p><u>Gypsy and Traveller pitches on allocated sites (sought by Policies TIV1, CU1, CU7 or CRE5) should be provided on site unless it is demonstrated that off-site provision will achieve an acceptable more favourable outcome for Gypsies and Travellers taking into account:</u></p> <ul style="list-style-type: none"> <li>i) <u>Pitch numbers;</u></li> <li>ii) <u>Site facilities;</u></li> <li>iii) <u>Accessibility to services, including health and education;</u></li> <li>iv) <u>Early delivery of serviced pitches or plots which are available for occupation; and</u></li> <li>v) <u>The provision of an effective mechanism for delivery.</u></li> </ul> <p><u>Such sites must also meet the requirements of part 1 of Policy DM7 above,</u></p> <p><i>Amend supporting text in paragraph 4.29 as follows:</i></p>

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			<p>“4.29 There is a need for 35 new pitches for gypsies and travellers for the period 2014-34, and 11 plots for travelling showpeople for the period 2014-34. The majority of this This need is proposed to be met on the largest strategic allocations. The travelling showpeople community is predominately based in one large site at Cullompton, which is at capacity. A need for 11 plots has been identified and the Council is in discussions with a landowner to grant permission for one additional site near to the town which will meet the outstanding requirement. These are to be included within allocated developments at Tiverton Eastern Urban Extension, North West Cullompton, and Pedlerspool in Crediton. Pitches must be provided on-site unless the <u>acceptable more favourable</u> outcome described by Policy DM7 is demonstrated. Any proposals for <u>acceptable more favourable</u> off-site provision must identify and provide serviced sites in accordance with Policy DM7. A clear mechanism to ensure that pitches or plots are delivered in such a way as to achieve an <u>acceptable more favourable</u> outcome for the travelling community must be identified.</p> <p><u>This will usually be through a s106 agreement requiring the developer to identify and obtain planning permission (which will not be unreasonably withheld by the Council) for the required number and standard of pitches. The pitches will be provided by the development itself or where the land is transferred for a nominal value, by an agreed third party Registered Provider or other agreed private provider, for the sole purpose of occupation and ancillary business by Gypsies and Travellers. The off-site provision of pitches must be provided and made available for occupation before the occupation of a specified proportion of the provision of on-site open market dwellings as part of the larger housing proposal at TIV1, CU1, CU7 or CRE5. Where gypsy and traveller pitches are provided on- or off-site on housing allocations, these are to be counted against the affordable housing targets for that site. There are also existing consented sites in Mid Devon. Proposals for gypsy and traveller accommodation will not be permitted in other locations, unless it is demonstrated that the existing consented or allocated sites will not be available to the prospective occupiers in a reasonable timescale.”</u></p>

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MM49	170	DM12: Housing Standards	<p><i>Delete Policy DM12 Housing Standards (incorporating proposed modifications in the 2017 consultation) and move its content, with amendments in accordance with the Inspector's post hearings advice note, to Policy DM1.</i></p> <p><del>"Policy DM12</del></p> <p><del>Housing Standards</del></p> <p><del>New housing development should be designed to deliver:</del></p> <p><del>a) Adequate levels of daylight, sunlight and privacy to private amenity spaces and principal windows;</del></p> <p><del>b) Suitably sized rooms and overall floorspace which allows for adequate storage and movement within the building together as set out in the Nationally Described Space Standard with external space for recycling, refuse and cycle storage;</del></p> <p><del>c) Private amenity space that reflects the size, location, floorspace and orientation of the property; and</del></p> <p><del>d) On sites of 10 houses or more the provision of 30% of dwellings built to Level 2 of Building Regulations Part M 'access to and use of dwellings'."</del></p>
MM50	179	DM19: Protection of employment land and paragraph 4.60	<p><i>Delete Policy DM19 criterion c):</i></p> <p><del>"e) A sequential viability test has been applied following the unsuccessful marketing of the site, based on the following sequence of testing:</del></p> <p><del>i) Mixed use of the site that incorporates an employment generating use, then</del></p> <p><del>ii) Non-employment use."</del></p> <p><i>Amend para 4.60 of the supporting text as follows:</i></p> <p><del>..."If there is no interest in the site as a result of marketing, the potential of the site for mixed use development including employment must be considered in preference to the total loss of employment. This will involve determining whether the site still has the potential to be developed viably for mixed use development or can only be viable if the whole site is developed for non-employment uses. In</del></p>

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			<del>all cases, the proposed use must not significantly harm any other existing uses in the area, or be harmed by those uses. For example, housing development may not be acceptable in close proximity to general industry, depending on the nature and scale of the industrial use."</del>
MM51	186	DM25: Development affecting heritage assets	<p><i>Amend Policy DM25 as follows:</i></p> <p>"a) Apply a presumption in favour of <u>preserving or enhancing all designated preservation in situ in respect of the most important heritage assets and their settings;</u></p> <p>b) Require development proposals likely to <u>affect the significance of</u> heritage assets <del>and their settings</del>, including new buildings, alterations, extensions, changes of use and demolitions, to consider their significance, character, setting (including views to or from), appearance, design, layout and local distinctiveness, and the opportunities to enhance them;</p> <p>c) Only approve proposals that would <u>lead to substantial harm to or total loss of significance of a designated heritage assets where it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss</u> <del>be likely to substantially harm heritage assets and their settings if substantial public benefit outweighs that harm or the requirements of paragraph 133 of the National Planning Policy Framework are met;</del></p> <p>d) Where a development proposal <del>would</del> <u>will</u> lead to less than substantial harm <u>to the significance of a designated heritage asset, this that harm will should</u> be weighed against <u>the public benefits of the proposal</u> <del>any public benefit</del>, including securing <u>its</u> optimum viable use; and</p> <p>e) Require developers to make a proportionate but systematic assessment of <u>the any impact on the setting and thereby the significance of heritage asset(s) down in the guidance from Historic England: 'The Setting of Heritage Assets: Historic Environment Good Practice Advice in Planning: 3.'</u></p>
MM52	189	Paragraph 4.88	<p><i>Amend paragraph 4.88 as follows:</i></p> <p>... "Green Infrastructure functions can coexist in one place, so the land coverage does not have to be</p>

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			extensive in every case, <u>although developments should recognise that floodplain cannot necessarily provide year-round amenity access.</u> "
MM53	189	Paragraph 4.88	<p><i>At the end of paragraph 4.88 include the following sentence:</i></p> <p><u>"Development incorporating green infrastructure will be required to submit management and maintenance details for the proposed green infrastructure."</u></p>
MM54	190	DM27: Protected landscapes, and paragraph 4.94	<p><i>Amend Policy DM27 as follows:</i></p> <p>"Development proposals <del>within or</del> affecting the Blackdown Hills, Area of Outstanding Natural Beauty, Dartmoor National Park, Exmoor National Park and the North Devon Biosphere Reserve must demonstrate that:..."</p> <p><i>Amend paragraph 4.94 as follows:</i></p> <p>"Where major developments are proposed <del>within or adjoining</del> protected landscapes <u>or within the setting of or adjoining the protected landscapes or the National Parks,</u>"</p>
MM55	191-193	DM28: Other protected sites and paragraphs 4.102 and 4.95	<p><i>Amend Policy DM28 as follows:</i></p> <p><i>Delete the final paragraph:</i></p> <p><del>"Where development proposals would lead to an individual or cumulative adverse impact on Natura 2000 sites, planning permission will be refused unless the proposal complies with criteria b) and c) above, and the fundamental integrity of the features of the Natura 2000 site would not be affected"</del></p> <p><i>Replace the deleted final paragraph with:</i></p> <p><u>"Where development proposals are likely (leaving aside mitigation measures) to have a significant effect on a European site (as defined in regulation 8 of the Conservation of Habitats and Species Regulations 2017), an appropriate assessment will be required. In such cases, planning permission will be refused unless it has been ascertained that with mitigation measures in place the development will not adversely affect the integrity of the site."</u></p> <p><i>Amend supporting paragraph 4.102 as follows:</i></p>

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			<p><i>Delete the sentence:</i></p> <p><del>"... In the case of Natura 2000 sites, compensatory measures may only be considered if the proposal is deemed to be of overriding public interest and would involve engagement with both Central Government and European Commission."</del></p> <p><i>Replace the deleted sentence with:</i></p> <p><u>"... In the case of European sites, where the risk of harm to the integrity of a site has not been ruled out in an appropriate assessment planning permission may be granted for the development only if there is no alternative solution and the development must be carried out for imperative reasons of overriding public interest. In such cases, any necessary compensatory measures must be secured."</u></p> <p><i>Amend the paragraph 4.95 through the deletion of the words:</i></p> <p><del>"Natura 2000 sites" and "Natura 2000 site" and the replacement of these words with the words "European Sites" and "European Site".</del></p>