

**Plymouth and South West Devon Joint Local Plan  
Examination**

**Response to Inspectors' Matters Issues and Questions  
for the Examination Hearings**

**JLP Councils**

**Matter 9 Environment**

JLP Councils: 8 January 2018

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## Matter 9 Environment

*Main Issue - Does the JLP set out policies for place shaping; heritage assets; the natural environment; climate change; flooding and coastal change which have been positively prepared and are justified, effective and consistent with national policy?*

### **Evidence Base and other documents referenced in this Matter Statement**

- [Statement of Common Ground – Historic England \(SCG4\)](#)
- [Statement of Common Ground – Natural England \(SCG6\)](#)
- [Habitat Regulations Assessment \(SUB10\)](#)
- [Schedule of Potential Modifications \(EXC10A\)](#)
- [Shoreline Management Plan Review SMP2 Durlston Head Rame Head \(EN8\)](#)
- [Analysis of Carbon Targets for Plymouth City Council \(EN12\)](#)
- [Solar Optimisation Report \(EN15\)](#)
- [South Hams Open Space, Sport and Recreation Study \(EN24\)](#)
- [West Devon Open Space, Sport and Recreation Study \(EN25\)](#)
- [Plymouth Play Assessment \(EN26\)](#)
- [Undeveloped Coast Identification Process \(EN29\)](#)
- [Plymouth Greenspace Policy Development Process \(EN31\)](#)
- [Plymouth Policy Area Open Space Assessment \(EN34\)](#)
- [Plymouth Policy Area Open Space Assessment Appendix 2 \(EN34A\)](#)
- [Baseline Trajectories for Carbon Dioxide Emissions \(EN38\)](#)
- [Plymouth City Wide District Energy Strategy \(EN39\)](#)
- [Strategic Flood Risk Assessment \(F1\)](#)
- [Plan for Managing Local Flood Risk \(F9\)](#)
- [Plan for Managing Local Flood Risk Annex 1 \(F9A\)](#)
- [Plan for Managing Local Flood Risk Annex 2 \(F9B\)](#)
- [Local Flood Risk Management Strategy \(F11A\)](#)
- [Local Flood Risk Management Strategy Appendices \(F11B\)](#)
- [Sustainable Drainage Systems \(F12\)](#)
- [Joint Local Plan Whole Plan Viability Study \(O5\)](#)

## **Issue 9.1: Place shaping and heritage (Policies DEV20 - DEV23)**

### **Question 9.1(i)**

*Is it clear how the criteria in Policy DEV20 will be assessed when considering development proposals?*

- 9.1 It is considered that there is sufficient clarity with regards to how Policy DEV20 will be assessed when considering development proposals.
- 9.2 National Planning Practice Guidance (NPPG) defines good design in following way.
- ‘Good design should:
- ensure that development can deliver a wide range of planning objectives
  - enhance the quality buildings and spaces, by considering amongst other things form and function; efficiency and effectiveness and their impact on well being
  - address the need for different uses sympathetically.’
- 9.3 Our aim has been to embed the delivery of good quality design throughout the plan and it should be recognised that, in addition to DEV20, we have a range of policies that help deliver good design when understood in the context of the Framework and NPPG.
- DEV1 seeks developments which are designed to protect health and amenity – including for example in relation to accessibility of public spaces and the layout of residential developments.
  - DEV10 specifically addresses the quality of housing developments, including in relation to issues such as the contribution it makes to the wider community, avoiding town cramming and designing out crime / fear of crime.
  - DEV21 and 22 relate to the historic environment elements of design.
  - DEV23 deals with design in the context of the World Heritage Site.

- DEV24 – DEV30 each contain provisions relating to design in the context of the natural environment.
- DEV31 includes provides relevant to the relationship of design to transport.
- DEV34 and 37 support resilient design in the context of climate change, flood risk and water quality.
- Additionally a number of strategic and site specific policies for the Plymouth Policy Area and Thriving Towns and Villages Policy Area include provisions relating to the design of development.

9.4 In this context we believe that the primary requirement of the Framework para 58, namely “Local and neighbourhood plans should develop robust and comprehensive policies that set out the quality of development that will be expected for the area” has been met.

9.5 DEV20 itself brings together in one place key aspects of place making and quality of design that need to be met through the development process, without going into excessive detail.

9.6 We think this is consistent with advice in NPPG that says: “While the content of Local Plans will vary depending on the nature of the area and issues to be addressed, all Local Plans should be as focused, concise and accessible as possible. [...] In drafting policies the local planning authority should avoid undue repetition, for example by using generic policies to set out principles that may be common to different types of development.” NPPG later says that supplementary planning documents “should build upon and provide more detailed advice or guidance on the policies in the Local Plan.”

9.7 The level of detail set out in DEV20 is considered appropriate for a local plan – and we have said in the narrative that follows that the PPA and TTV Supplementary Planning Documents will amplify the design policies of the plan to support the development management process with detailed guidance.

9.8 It is considered reasonable for the policy to suggest seeking to address Building for Life (BFL) criteria or a similar framework and the policy is considered to give sufficient clarity in suggesting that the quality of larger scale development will be

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assessed against a design framework such as Building for Life. Building for Life is the industry standard endorsed by Government for well-designed homes and neighbourhoods and provides a useful framework against which to assess and improve design quality. Building for Life is used by many local planning authorities in this way. The policy gives flexibility on the use of BFL and is considered sound in this respect.

- 9.9 We therefore think it will be clear how DEV20 will be assessed when considering development proposals, but having said this, some minor modifications have been suggested through the representations on the Regulation 19 plan which we are happy to accommodate, but they are not in our view soundness issues. See Schedule of Potential Modification (EXC10A, references M244-246).

**Question 9.1(ii)**

*Are Policies DEV21 and DEV22 justified and consistent with national policy or are modifications necessary for reasons of soundness as suggested by representors including Historic England?*

- 9.10 Paragraph 126 of the Framework says “Local planning authorities should set out in their Local Plan a positive strategy for the conservation and enjoyment of the historic environment”. In addition paragraph 126 says that local planning authorities should take into account how development should: sustain and enhance heritage assets; ensure the wider social, cultural, economic and environmental benefits are conserved; make a positive contribution to an area; and contribute to the character of a place.
- 9.11 It is considered that DEV21 and DEV22 are consistent with this paragraph. DEV21 sets out a positive strategy for the historic environment and DEV22 focuses on how the local planning authority will respond on specific planning applications to meet paragraph 126 of the Framework.
- 9.12 DEV21 is consistent with the Framework as outlined below:

- It reflects para 126 in respect to a positive strategy for the conservation of the historic environment with reference, for example, to character and cultural heritage.
- It reflects paras 128 and 129 by reference to the considering the significance of both the heritage asset and its setting.
- It reflects para 131 in respect to the wider contribution of heritage to achieving wider regeneration.
- It reflects para 135 in respect to considering the significance of non-designated heritage assets in development proposals.
- It reflects para 139 in respect to addressing the importance of archaeology.

9.13 DEV22 is consistent with the Framework as outlined below:

- It reflects para 126 in respect to a positive strategy for the conservation of the historic environment focusing on conservation being in a manner appropriate to significance.
- It reflects para 127 in respect to justifying the value of conservation areas.
- It reflects paras 128 and 129 by requiring the value of a heritage assets to be justified and any harm or loss to be justified against this justification.
- It reflects paras 131 and 132 by requiring both the heritage asset and wider historic environment to be a key consideration.
- It reflects para 133 by referring to the assessment of the level of harm and stating that substantial harm will lead to a refusal.
- It reflects paras 134 and 138 by stating that harm will be weighed against public benefit.
- It reflects para 135 by referring to the significance of non-designated assets and their local significance.
- It reflects para 136 by identifying the consideration when the whole or part of a heritage asset is proposed to be lost.
- It reflects para 137 by considering how new development in conservation areas should enhance and make positive contribution to the conservation area.
- It reflects para 139 in respect to addressing the importance of archaeology.

9.14 Potential modifications to DEV21 and DEV22 have been agreed with Historic England through a Statement of Common Ground (SCG4) and this modified wording is set out in the Schedule of Potential Modifications (EXC10A, references M247-255). We are able to agree that these modifications improve what we considered to be an already sound policy for the following reasons:

- The revisions give the policies greater focus. CS21 is a proactive strategy for the historic environment and CS22 is focused on the requirements for considering planning applications.
- Unnecessary duplication with the Framework has been removed
- Duplication within the two policies has been removed.

9.15 DEV21 sets out a strategic approach to the historic environment to achieve strategic outcomes for the Joint Local Plan area. For this reason we think this policy may be better located in Section 3 (Spatial Strategy) in the same way that the natural environment has its strategic policy (SPT11) there. This would enable a clearer distinction between the strategic policy and development policy and would be consistent with the approach taken for the natural environment.

### **Question 9.1(iii)**

*Is Policy DEV23 effective or are the changes suggested by Historic England and Tamar Valley AONB justified?*

9.16 We consider that the policy is effective as originally drafted. However, we are also in agreement that modifications proposed by the AONB and Historic England will improve the policy.

9.17 We have set out some potential modifications in EXC10A (references M256 to M261). The two modifications recommended by Historic England were erroneously omitted from the schedule but we are content to put these forward as potential further modifications to the policy.

## **Issue 9.2: Natural environment (Policies SPT11, SPT13, DEV24-DEV30)**

### **Question 9.2(i)**

*Policy SPT11 sets out the strategic approach to the natural environment. Does it reflect the hierarchical approach and level of protection afforded to designations depending on their status?*

9.18 The JLP Councils believe that the submitted JLP is legally compliant and sound. We consider that the policy covered each of the levels of the hierarchical approach. In this respect we have sought to comply with the wording set out in the Framework, for example:

- The language of paras 115 and 116 is reflected in the wording of SPT11.2.
- The language of para 114 (2<sup>nd</sup> bullet point) is reflected in SPT11.3.

9.19 However, through our Statement of Common Ground discussions with Natural England (SCG6) we are happy to propose some modifications to the structure and some of the wording of the policy, in conjunction with linked modifications to DEV28. We think that these can bring greater focus and clarity to our intended approach to conserving and enhancing the natural environment. These are set out in the Schedule of Potential Modification (EXC10A, references M12-M22).

9.20 Framework para 118 provides the principle that 'significant harm (to biodiversity) should be avoided, adequately mitigated or as a last resort, compensated for'. Whereas these provisions were reflected in DEV28.3 we agree that it is helpful to move this in modified form into SPT11.

9.21 The modifications to SPT11 have been agreed between Natural England and the JLP Councils through the Statement of Common Ground.

### **Question 9.2(ii)**

*Is Policy SPT13, and the modifications made to it, justified?*

- 9.22 Policy SPT13 is fully justified as it sets out how strategic impacts on the European sites will be avoided, provides a framework for working across local authority boundaries and enables the local authorities to comply with the Conservation of Habitats and Species Regulations 2010 and 2017.
- 9.23 The Framework states that Local Plans must be prepared with the objective to achieving sustainable development (para 151). Para 152 goes on to state that significant adverse impacts, including environmental impacts, should be avoided, and that where adverse impacts are unavoidable, then mitigation measures should be included. Para 166 states that under the Habitats Regulations assessments need to be undertaken and that where possible assessments should share the same evidence base with neighbouring local authorities.
- 9.24 The Framework also sets out how local authorities should work across administrative boundaries, particularly on those issues that relate to strategic priorities and that the Government expects this to be achieved through joint working (para 178). Para 179 goes on to state that local planning authorities should work collaboratively with other bodies to ensure that strategic priorities across local boundaries are properly coordinated and clearly reflected in individual Local Plans.
- 9.25 There are a number of European Sites which have the potential to be impacted from increased recreational pressure arising indirectly from development proposed through the Joint Local Plan and these are identified in SUB10 Plymouth and South West Devon Joint Local Plan Habitat Regulations Assessment: Submission.
- 9.26 The JLP Councils have been working across local authority boundaries with Natural England and Cornwall Council to ensure that a common strategic approach is adopted to avoid impacts on these European Sites.

- 9.27 Through discussions with Natural England it was agreed to have a single policy to address recreational impacts thereby ensuring a common approach to managing recreational impacts.
- 9.28 Such a policy had already been fully tested through the Cornwall Local Plan process – see Appendix 1. The Cornwall Local Plan Strategic Policies 2010 - 2030 was adopted in 2016. Prior to adoption and following concerns raised by Natural England, the Planning Inspector recommended the addition of a new policy to ensure adequate mitigation of recreational pressures on European protected natural habitats arising from new residential development. See relevant extract from Inspector’s report in Appendix 1.
- 9.29 Through Duty to Cooperate meetings that included Natural England, it was agreed that the wording of Cornwall's strategic policy 'Policy 22' to protect European sites be mirrored as a strategic policy for the Joint Local Plan. This was to ensure a consistent approach for all local authorities that could affect the European sites. The sites of particular concern were the Plymouth Sound and Tamar Estuaries Special Area of Conservation and the Tamar Estuaries Complex Special Protection Area which share boundaries with all four planning authorities.
- 9.30 Regarding modifications; the word 'Protected' was deleted from the title to become 'European Sites' prior to submission of the plan. This was done to reflect the wording in the Framework.

**Question 9.2(iii)**

*Policy DEV24 includes the protection and enhancement of landscape, townscape and seascape character. Is it clear how the policy will apply in these different locations? Is the title of the policy appropriate in this context?*

- 9.31 The JLP Councils believe that Policy DEV24 is legally compliant and sound and that the title is appropriate. Policy DEV24 applies equally across the entire Joint Local Plan area.

- 9.32 The United Kingdom is a signatory to the European Landscape Convention (ELC). The ELC requires “landscape to be integrated into regional and town planning policies and in cultural, environmental, agricultural, social and economic policies, as well as any other policies with possible direct or indirect impacts on landscape”. The ELC defines ‘Landscape’ as “an area, as perceived by people, whose character is the result of the action and interaction of natural and/or human factors.”
- 9.33 The Convention applies to “the entire territory of the Parties and covers natural, rural, urban and peri-urban areas. It includes land, inland water and marine areas. It concerns landscapes that might be considered outstanding as well as everyday or degraded landscapes.”
- 9.34 In accordance with the ELC definition the title of Policy DEV24 ‘Landscape Character’ covers all aspects of landscape. We included references to ‘townscape’ and ‘seascape’ as distinct sub-categories of landscape to ensure the policy was clear that it applies in these areas as well as rural/semi-natural areas that are commonly understood to be ‘landscape’. It is recognised that common understanding of the term ‘landscape’ is different to the technical definition and the policy seeks to make this clearer for readers.

**Question 9.2(iv)**

*Is Policy DEV25 and its supporting text clear about the role of the Heritage Coast and its objectives? Is the extent of the areas covered by the policy clear and do other policies within the JLP (such as DEV26 and DEV29) also apply to these areas?*

- 9.35 The JLP Councils believe that that DEV25 is legally compliant and sound.
- 9.36 The policy areas are mapped clearly on the Policies Maps (Undeveloped Coast) and Map 1: Designated Sites (Heritage Coast). The process for determining which areas to designate as Undeveloped Coast is set out in Undeveloped Coast Identification

Process (EN29). Where policies overlap, appropriate hatching is used to allow clear interpretation of the maps.

- 9.37 Where relevant, areas of the Undeveloped Coast are also variously covered by other policy areas or designations (including DEV26, DEV27 and DEV29) and within the TTV policy area, TTV31 (Development in the Countryside) would also apply. The balance of policy requirements specific to each of these policy areas and their purposes is considered to be appropriate, without unnecessary duplication of policy wording.
- 9.38 We are happy to agree to some modifications to clarify both the policy and text and this is provided for in the Schedule of Potential Modifications (EXC10A, references M267 and M268). These help to clarify the role and objectives of the Heritage Coast as defined by Natural England, and point users of the plan to the objectives contained within the AONB Management Plan. The modifications are considered to be consistent with Framework paragraph 114.

### **Question 9.2(v)**

*Is the wording of Policy DEV27 consistent with national policy or are changes necessary to aid its effectiveness in protecting the AONBs and the Dartmoor National Park?*

- 9.39 The JLP Councils believe that Policy DEV27 is consistent with national policy, and in particular paras 115 and 116 of the Framework in that for example:
- It gives great weight to conserving the landscape scenic beauty of the national protected landscapes (para 115 and DEV27.2).
  - It gives great weight to the conservation of wildlife and cultural heritage in the national park (para 115 and DEV27.3).
  - It says that planning permission for major development should be refused except in exceptional circumstances in the context of a public interest test (para 116 and DEV27.1).

9.40 It is also relevant to note that DEV27 is set within the context of SPT11 as the strategic policy for the natural environment.

9.41 Some wording changes and clarifications have been requested by consultees and we are happy to put some of these forward as potential modifications (see EXC10A, references M269 – M274). None of these are considered to be issues of soundness; however, they are on the whole helpful clarifications that support the effectiveness of the policy in protecting Dartmoor National Park and the AONBs.

### **Question 9.2(vi)**

*Does Policy DEV28 set a clear and effective basis for the protection and enhancement of biodiversity and geodiversity within the plan area or does the policy need modifying in respect of representations made to ensure consistency with national policy?*

9.42 The JLP Councils believe that the submitted JLP is legally compliant and sound. We consider that the policy complies with Framework para 113 that requires local planning authorities 'to set out criteria based policies against which proposals affecting protected wildlife or geodiversity sites will be judged and that distinctions are made between the hierarchy of international, national and locally designated sites commensurate with their status covered each of the levels of the hierarchical approach'. In this respect we have sought to comply with the wording set out in the Framework, for example:

- DEV28.1 states that 'full account will be given in making planning decisions to the importance of any affected habitats and features, taking account of the hierarchy of protected sites.' And goes on to detail the different sites within the hierarchy that relate to the plan area.

9.43 The Framework paras 118 & 119 provides specific detail on the way Local Planning Authorities should assess application that affect European and Nationally protected sites.

9.44 We therefore think that DEV28 is consistent with advice in NPPG that says: "While the content of Local Plans will vary depending on the nature of the area and issues to be addressed, all Local Plans

should be as focused, concise and accessible as possible. [...] In drafting policies the local planning authority should avoid undue repetition, for example by using generic policies to set out principles that may be common to different types of development.”

- 9.45 However, through our Statement of Common Ground discussions with Natural England we are happy to propose some modifications to the structure and some of the wording of the policy, in conjunction with linked modifications to SPT11. We think that these can bring greater focus and clarity to our intended approach to conserving and enhancing the natural environment, and in particular continue to reflect the requirement of Framework para 113 to have criteria based policies against which proposals affecting protected wildlife or geodiversity sites will be judged. In particular the modifications proposed will ensure clear distinctions are made between the hierarchy of international, national and locally designated sites commensurate with their status. These are set out in the Schedule of Potential Modification (EXC10A, references 275-282).
- 9.46 Framework para 118 provides the principle that ‘significant harm (to biodiversity) should be avoided, adequately mitigated or as a last resort, compensated for’. Whereas these provisions were reflected in DEV28.3 we agree that it is helpful to move this in modified form into SPT11.
- 9.47 The modifications to SPT11 have been agreed between Natural England and the JLP Councils through the Statement of Common Ground.
- 9.48 The minor modifications to DEV28 have been agreed between Natural England and the Council’s through the Statement of Common Ground

### **Question 9.2(vii)**

*In relation to Policy DEV29:*

- a. Does the policy clearly define how development proposals will be assessed against its provisions? How will the impact of development on 'function(s)' or 'characteristics' of green spaces be determined? How does the policy relate to paragraph 74 of the Framework?*
- b. Are the allocations/designations based on robust evidence and are they justified and consistent with national policy?*
- c. In relation to Local Green Space, paragraph 77 of the Framework states that this form of designation will not be appropriate for most green areas or open space and should only be used in certain circumstances. Do the designations meet the circumstances set out in the Framework?*
- d. The supporting text refers to the allocation of strategic greenspaces, the designation of Local Green Spaces and the mapping of all other neighbourhood greenspaces in the PPA. It also states that Local Green Spaces will be proposed for designation through neighbourhood plans in the TTVPA. Is such reference in the supporting text effective in allocating/designating such greenspaces or should reference be made to this in the policy?*
- e. Point 4 of DEV29 seeks to address local deficiencies in the accessibility and quality of green space and play space. Is it clear that this only relates to the additional needs of new residents from development?*
- f. Have the requirements of the policy been included in the viability assessment?*

*Does the policy clearly define how development proposals will be assessed against its provisions?*

9.49 NPPG says: 'While the content of Local Plans will vary depending on the nature of the area and issues to be addressed, all Local Plans should be as focused, concise and accessible as possible. ... In drafting policies the local planning authority should avoid undue repetition, for example by using generic policies to set out principles that may be common to different types of development.' NPPG later says that supplementary planning documents 'should build upon and provide more detailed advice or guidance on the policies in the Local Plan.'

- 9.50 We think our policy is consistent with this approach – it is sets at an appropriate level of detail for the context of the JLP; we are proposing SPD to amplify the provisions as necessary and set out more detailed guidance with respect to assessment of impacts and/or conflict with the green spaces.
- 9.51 The wording in the policy is clear how development proposals will be assessed against the provisions of the different types of greenspace:
- DEV29.1 clearly states that on Strategic and Local Greenspaces development will be resisted where the development would 'result in an unacceptable conflict with the function or characteristic' of the site. It goes on to specify that 'in these areas development will normally only be permitted where it enhances the value of the greenspace'. The policy gives examples of the type of development that would be permitted, i.e. allotment and play provision.
  - DEV29.2 specifies how developments on neighbourhood and other greenspace would be judged. It is clear that the acceptability of development will be assessed in relation to impacts on 'the function(s) and characteristics' of the green space and taking account of 'the plan's green space and play accessibility standards'. It also provides a clear wording on when development will be resisted.
  - DEV29.3 and 29.4 provide clear provisions on how developments will be judged against local targets and standards and how development can meet the requirements.

9.52 The wording of policy DEV29 provides clear provisions for how developments proposals on greenspaces will be judged and how the requirements can be met where appropriate. The level of detail is appropriate for the requirements of the JLP and further detail will be provided in the SPD in line with the requirements of the NPPG.

*How will the impact of development on 'function(s)' or 'characteristics' of green spaces be determined?*

9.53 Framework para 73 states that planning policies 'should be based on robust and up to date assessments of the needs for open space, sports and recreation facilities and opportunities for new provision'.

The Councils have produced up to date assessments for the PPA and TTV areas on which to base the policy. The assessments define the function and characteristics for green spaces across the Plan area.

- 9.54 Within the Plymouth Policy Area the impact of development proposals on Strategic, Local and Neighbourhood greenspaces will be assessed against the 'functions' and 'characteristics' of each green and play space as defined in the Plymouth Policy Area Open Space Assessment (EN34) and Plymouth Policy Area Open Space Assessment Appendix 2 (EN34A) and Plymouth Play Assessment (EN26) in addition to any supporting site specific data available to the Councils. The further information available for Strategic Greenspaces are detailed in table 1 of EN31.
- 9.55 Within the TTV Policy Area the impact of development proposals on 'other green spaces' will be assessed against the 'functions' and 'characteristics' of each green and play space as summarised in the South Hams Open Space, Sport and Recreation Study (EN24 – namely Greenspace Audit Summary in Appendix 1, and Play Spaces Audit in Appendix 4) and West Devon Open Space, Sport and Recreation Studies (EN25 – namely Greenspace Audit Summary in Appendix 1 and Play Spaces Audit in Appendix 3), and in addition to any supporting site specific data available to the Councils.
- 9.56 The policy seeks to resist development which conflicts with Local Green Spaces which, in the TTV Policy Area will subsequently be designated through Neighbourhood Plans. Guidance has been given to Neighbourhood Plan groups within the TTV area elaborating upon the Framework (Para 77) with respect to identifying appropriate green spaces. For consistency within the TTV, this guidance was based upon that used previously in the PPA when inviting nominations for Local Green Spaces from local communities. Subsequent Neighbourhood Plans will identify the function and characteristics of those sites proposed, these being the basis for their inclusion as Local Green Spaces. Any Local Green Space policies within forthcoming Neighbourhood Plans will need to be consistent with DEV29.
- 9.57 Development proposal will be assessed as to whether it can be delivered and retain the identified function and characteristic of the greenspace within these respective assessment and studies.

9.58 The policy therefore clearly sets out how developments impacts will be judged on greenspace utilising robust and up to date evidence. This level of detail is appropriate for the JLP and more specific detail will be provided in the SPD in line with the requirements specified in the NPPG.

How does the policy relate to paragraph 74 of the Framework?

9.59 It is considered that with respect to 'open spaces' the policy provides the basis for undertaken an assessment and betterment as required by Framework Paragraph 74.

9.60 References to 'sports and recreational buildings and land, including playing fields' and the requirements of Paragraph 74 are dealt with separately by DEV3 (Sport and Recreation). In particular it is noted that the third bullet point of Paragraph 74 relates only to sports and recreational provision (as opposed to 'open space').

9.61 Whilst DEV29 does not reiterate Paragraph 74 (noting that the NPPG says: 'There should be no need to reiterate policies that are already set out in the National Planning Policy Framework'), with respect to 'open spaces' DEV29.2 sets out a requirement to take account of 'greenspace and play accessibility standards' and DEV29.3 requires an improvement in quality and quantity of accessible green space and play space in line with local targets and standards.

9.62 These standards are set out in the PPA within the Plymouth Policy Area Open Space Assessment (EN34 Section 7) Plymouth Play Assessment (EN26), and in the TTV within WDBC Open Space, Sport and Recreation Study (EN25, section 3.3.3) and SHDC Open Space, Sport and Recreation Study(EN24, section 3.3.3.

9.63 DEV29.2 and DEV29.3 and the standards within the respective assessments and studies give the basis for assessing whether there is a surplus of open space within a locality and the basis for requiring equivalent or better provision in terms of accessibility, quality and quantity as required by the first 2 bullet points of Paragraph 74.

Are the allocations/designations based on robust evidence and are they justified and consistent with national policy?

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- 9.64 The designations that are identified on the policies map relating to DEV29 (Strategic Green Spaces and Local Green Spaces) fall entirely within the PPA. Strategic Green Spaces have a specific role which is particularly applicable to the PPA, as explained in Plymouth Greenspace Policy Development (EN31, Section 2). Local Green Spaces are applicable throughout the plan area, but for the TTV area their designation is left to neighbourhood plans.
- 9.65 The Framework para 114 sets out that Local Planning Authorities should 'set out a strategic approach on their local plans planning positively for the creation, protection, enhancement and management of a network of biodiversity and green infrastructure'. Greenspace form the Green Infrastructure within the PPA and in developing the plan the Councils have ensured a network of sites have been identified.
- 9.66 Each of the greenspace allocation and designations within the PPA are based on robust and up to date evidence as follows.
- All greenspace within the PPA have been assessed and form part of the Plymouth Policy Area Open Space Assessment (EN34 and 34A)
  - Strategic Green Space Allocation are also based on Green Infrastructure Delivery Plan (EN5) and each site has further evidence i.e. masterplans /studies. The details of additional evidence bases relating to each site can be found in table 1 of document EN31.
  - Local Green Space designation have been through a robust identification, assessment and recommendation process that fully aligns with Framework para 77 and the NPPG. The process is fully documented within EN31 section 3.
  - Neighbourhood greenspaces within the PPA have been identified through our POSA assessment (EN34).
- 9.67 EN31 – Plymouth Greenspace Policy Development Process provides further detail on how each of the allocations and designations proposed under DEV29 have been robustly assessed utilising up to date evidence and are fully justified and consistent with the Framework and NPPG.
- 9.68 No Strategic Green Spaces or Local Green Spaces have been designated within the TTV Policy Area. Local Green Spaces will
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however be identified and allocated through the Neighbourhood Plan process (reflecting the recognition in Framework Paragraph 76 of Neighbourhood Plans as a mechanism for local communities to identify for special protection those green areas of particular importance to them). Guidance has been given to Neighbourhood Plan groups within the TTV area elaborating upon Paragraph 77 of the Framework with respect to identifying appropriate green spaces. For consistency within the TTV, this guidance was based upon that used previously in the PPA when inviting nominations for Local Green Spaces from local communities.

- 9.69 With respect to undesignated green spaces in the TTV area, the scope of green and play spaces covered by the policy are identified within the South Hams Open Space, Sport and Recreation Study (EN24 – namely section 3.3.3, the Greenspace Audit Summary in Appendix 1, and Play Spaces Audit in Appendix 4) and West Devon Open Space, Sport and Recreation Studies (EN25 – namely section 3.3.3, the Greenspace Audit Summary in Appendix 1 and Play Spaces Audit in Appendix 3). Recognition of these green and play spaces is consistent with the Framework Paragraph 73 which requires policies to be based on assessments of open space, sports and recreational facilities.

*In relation to Local Green Space, paragraph 77 of the Framework states that this form of designation will not be appropriate for most green areas or open space and should only be used in certain circumstances. Do the designations meet the circumstances set out in the Framework?*

- 9.70 The identification of Local Green Spaces (LGS) for designation within the Plan is consistent with Framework para 77 and the NPPG.
- 9.71 In the PPA a robust designation process was followed that utilised the requirements detailed in para 77. The process included public consultation to enable people to nominate sites or object to any of the proposals. The assessment criteria when assessing the sites at each stage was fully in line with the requirements of Framework para 77 and the NPPG. Full details of the LGS identification, assessment and designation process is detailed in EN31 Plymouth Greenspace Policy Development Process 2017 (Section 3).

9.72 The LGS assessment process resulted in 169 sites recommended for designation and 72 rejected sites. Also when compared to the number of neighbourhood sites identified in the PPA, 458, it is clear that the assessment process robustly identified and recommended for designation only those sites that met the circumstances set out in the Framework.

9.73 The JLP does not designate any LGS within the TTV Policy Area but they will subsequently be designated through Neighbourhood Plans. Guidance has been given to Neighbourhood Plan groups within the TTV area elaborating upon the Framework (Para 77) with respect to identifying appropriate green spaces. For consistency within the TTV, this guidance was based upon that used previously in the PPA when inviting nominations for Local Green Spaces from local communities. Any Local Green Space policies within forthcoming Neighbourhood Plans will need to be consistent with DEV29 and Framework para 77.

*The supporting text refers to the allocation of strategic greenspaces, the designation of Local Green Spaces and the mapping of all other neighbourhood greenspaces in the PPA. It also states that Local Green Spaces will be proposed for designation through neighbourhood plans in the TTVPA. Is such reference in the supporting text effective in allocating/ designating such greenspaces or should reference be made to this in the policy?*

9.74 This was an oversight. We are happy to propose Minor Modification M284 (EXC10A) which removes the reference in Policy DEV29.1 to Local Green Spaces in the 'Plymouth Policy Area' in recognition that the policy needs to also protect Local Green Spaces subsequently designated through Neighbourhood Plans in the TTV policy area equally. Accordingly any Local Green Spaces subsequently designated through Neighbourhood Plans in the TTV policy area would receive the same protection as those designated through the JLP in the PPA.

*Point 4 of DEV29 seeks to address local deficiencies in the accessibility and quality of green space and play space. Is it clear that this only relates to the additional needs of new residents from development?*

9.75 We are happy to propose Minor Modification M285 (EXC10A) to clarify that where there are identified local deficiencies in the accessibility, quantity and quality of green space and play space that in line with local standards, new development should provide appropriate mitigation to meet the needs of sustainable development.

9.76 Point 4 of DEV29 (taking account of M285) recognises that there will be instances where the capacity of existing green space or play spaces need to be increased to meet the pressures of new residents, or where new green space or play spaces will need to be provided. That is not to say that development should address existing deficiencies rather that it is the additional pressure from development on existing local deficiencies (where they exist) which should be appropriately mitigated. The existing evidence base (EN24, EN25 and EN34) provides the basis for identifying local deficiencies and where these will be exacerbated by new development and will require mitigation.

*Have the requirements of the policy been included in the viability assessment?*

9.77 Consideration has been given to the requirements of the policy in the JLP Viability Study (O5).

9.78 Section 3.2 of O5 summarises where policies were considered to have a cost/testing implication and this identified (in Table 3.1) that DEV29 was not considered to have a significant bearing on the viability of sites. This in part reflects the primary role of the policy as being about the principle of development on green space sites and the designations that are in place to protect those sites.

9.79 However, it is also acknowledged that the policy will have the potential to affect specific schemes in order to meet the requirements of points 3 and 4. These provisions will only come into play where there is an issue that needs to be addressed.

9.80 Where larger greenspaces are required and identified up-front, such as the community park at Woolwell, i.e. where the gross 'developable' area of a site is reduced, it is normal practice for

this to be reflected in the land value (O5, PBA Report section 5.5).

- 9.81 Additionally, on-site provision of green and play space is normally accounted for within the development costs of a site, often as 'site externals', 'opening up costs' or 'public open space'. This has been included within the 'build cost' and the 'other development costs' assessed as part of the JLP viability assessment (O5, PBA Report section 5.3).
- 9.82 Where there is an off-site requirement this has been allowed for within the PBA viability report as part of either the £2000 average S106 allowance per dwelling, and / or the CIL allowance (O5, PBA Report section 5.4. See paras 3.2.2, 5.4.2, 5.4.14, 6.1.3, 6.3.10, 7.3.4).

**Question 9.2(viii)**

*Should reference be made to orchards in Policy DEV30?*

- 9.83 We are happy to propose Minor Modification M287 (EXC10A) which recognises the useful addition of both 'hedgerow trees' and 'orchards' within DEV30 in terms of their protection from loss or deterioration of their quality.

## **Issue 9.3: Climate change, flooding and coastal change (Policies DEV34-DEV38)**

### **Question 9.3(i)**

*Does Policy DEV34 provide a positive strategy for delivering low carbon development? Is the policy, including points 5 and 6, justified and consistent with national policy? Is there justification for it to refer to a specific carbon reduction target? Is the policy consistent with the Plymouth Plan in this respect?*

*Does Policy DEV34 provide a positive strategy for delivering low carbon development?*

- 9.84 Yes, DEV34 provides a positive strategy for delivering low carbon development, including a range of approaches in line with the Framework and the PPG, including:
- Resource use (Framework paragraphs 7, 17 and 143 and PPG paragraphs 006 (Reference ID: 26-006-20140306) and 013 (Reference ID: 26-013-20140306))
  - Climate resilience development (Framework paragraphs 94 and 99-108)
  - Energy hierarchy and energy efficiency (Framework paragraphs 93, 95, 96 and 97)
  - Layout of development to reduce energy use (Framework paragraph 94, 96 and PPG paragraph: 013 Reference ID: 26-013-20140306 and paragraph: 003 Reference ID: 6-003-20140612)
  - Promoting the use of renewable and low carbon energy generation (Framework paragraphs 93, 94, 95, 96 and 97 and Chapter 10 and PPG paragraphs: 003 Reference ID: 6-003-20140612 and 001 Reference ID: 5-001-20140306)
  - Connection/ future-proofed for connection to a District Heating network where appropriate (Framework paragraphs 93, 94, 95, 96 and 97 and PPG paragraph: 009 Reference ID: 5-009-20140306).
- 9.85 Evidence base to justify the approach is set out in Analysis of Carbon Targets for Plymouth City Council (EN12, section 6) and Baseline Trajectories for CO2 Omissions (EN38, section 4).

Is the policy, including points 5 and 6, justified and consistent with national policy?

- 9.86 DEV34 is consistent with Framework paragraphs 7, 17, 93- 97, 99- 108 and PPG.
- 9.87 DEV34.1 is consistent with Framework paragraphs 7 which sets out the role of the planning system to 'use natural resources prudently, minimise waste and pollution', and paragraph 17, under the core planning principles, sets out 'encourage the reuse of existing resources, including conversion of existing buildings' , and in paragraph 143 to 'take account of the contribution that substitute or secondary and recycled materials and minerals waste would make to the supply of materials, before considering extraction of primary materials' and PPG paragraphs 006 (Reference ID: 26-006-20140306) and 013 (Reference ID: 26-013-20140306).
- 9.88 DEV34.2 is consistent with Framework paragraphs 94 and 99-108 - evidence base: F1- F12 and EN8. . With regard to flooding and coastal change the sequential test process set out in national planning guidance has been followed, and the Local flood risk management strategies clearly identify the projected effects of climate change so that they can be taken into account in development planning. With regard to mitigating climate change, other sections in DEV34 set out a suite of policy responses.
- 9.89 DEV34.3 is consistent with the Framework paragraph 93 in supporting approaches to reduce greenhouse gas emissions, paragraph 95 in 'actively supporting energy efficiency improvements to existing buildings', paragraph 96 where local planning authorities should expect new development to: 'take account of landform, layout, building orientation, massing and landscaping to minimise energy consumption' and paragraph 97, to 'increase the use and supply of renewable and low carbon energy'.
- 9.90 DEV34.4 is consistent with Framework paragraphs 94 and 96 and in particular 'in determining planning applications, local planning authorities should expect new development to: take account of
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landform, layout, building orientation, massing and landscaping to minimise energy consumption'. In addition the PPG paragraph: 013 Reference ID: 26-013-20140306 and paragraph: 003 reference ID: 6-003-20140612 support this and uses examples of approaches of mitigating climate change through lowering emissions, such as 'promoting [low carbon design approaches](#) to reduce energy consumption in buildings, such as [passive solar design](#)'. The evidence base tests the approach in the context of a number of Plymouth sites, reviews its alignment with the Framework and recommends how this could be applied to local policies: see Solar Optimisation Report (EN15, section 4).

- 9.91 DEV34.5 is consistent with Framework paragraphs 93-97 and Chapter 10. It meets the twin Framework objectives of reducing carbon emissions and maximising the amount of energy generated from decentralised and renewable energy. It is also consistent with PPG paragraphs: 003 Reference ID: 6-003-20140612 and 001 Reference ID: 5-001-20140306.
- 9.92 DEV34.5 is consistent with the Planning and Energy Act 2008 (as amended by the Deregulation Bill 2013-14 / 2014-15) which allows local planning authorities to set renewable / low carbon energy standards; 'A local planning authority in England may in their development plan documents, and a local planning authority in Wales may in their local development plan, include policies imposing reasonable requirements for—
- (a) a proportion of energy used in development in their area to be energy from renewable sources in the locality of the development;
  - (b) a proportion of energy used in development in their area to be low carbon energy from sources in the locality of the development'
- 9.93 DEV34.5 is consistent with Section 19 of the Planning and Compulsory Purchase Act 2004, as amended by Section 182 of the Planning Act 2008, in which LPAs have a legal duty in to ensure that, taken as a whole, plan policy contributes to the mitigation of, and adaptation to, climate change.
- 9.94 DEV34.5 is also consistent with the 2015 Ministerial statement <https://www.gov.uk/government/speeches/planning-update-jlp-councils-pswdjlp-examination-hearing-statement-matter-9>

[march-2015](#) , which states that 'local planning authorities will continue to be able to set and apply policies in their Local Plans which require compliance with energy performance standards that exceed the energy requirements of Building Regulations'.

- 9.95 The Ministerial statement refers to policies which set a fabric energy efficiency standard in excess of Building Regulations but this is not relevant to the JLP policy DEV34.5, which is designed to '...increase the use and supply of renewable and low carbon energy' and therefore consistent with Framework paragraph 97.
- 9.96 This principle was upheld at appeal recently in relation to adopted policy CS20: APP/N1160/W/15/3103268. (see Appendix 2).
- 9.97 We believe that DEV34.5 is justified by the successful implementation over the past 10 years of the current adopted Plymouth Local Development Framework policy CS20. The current LDF policy has been achieving increases in renewable / decentralised energy that deliver a 15% reduction in total carbon emissions from the development. To be consistent with the governments' change in definition of zero carbon, DEV34.5 is based solely on regulated emissions. To ensure the policy retains the same level of effectiveness the exclusion of unregulated emissions from the percentage calculations has led to the target being increased from 15% to 20%.
- 9.98 DEV34.6 is consistent with Framework paragraphs 93-97 and PPG paragraph: 009 Reference ID: 5-009-20140306. The Framework specifically supports the role of heat networks as part of the approach to decentralised energy, and specifically sets out in paragraph 96 sets out that 'local planning authorities should expect new development to: comply with adopted Local Plan policies on local requirements for decentralised energy supply unless it can be demonstrated by the applicant, having regard to the type of development involved and its design, that this is not feasible or viable'; and paragraph 97 sets out 'To help increase the use and supply of renewable and low carbon energy, local planning authorities should recognise the responsibility on all communities to contribute to energy generation from renewable or low carbon sources. They should: identify opportunities where development can

draw its energy supply from decentralised, renewable or low carbon energy supply systems and for co-locating potential heat customers and suppliers.'

9.99 The Government's continued commitment to Heat networks is set out in its recently published Clean Growth Strategy (<https://www.gov.uk/government/publications/clean-growth-strategy>), which includes under Key Policies and Proposals; 'Rolling out low carbon heating: Build and extend heat networks across the country, underpinned with public funding (allocated in the Spending Review 2015) out to 2021'. The Governments' Heat Networks Delivery Unit are actively supporting local authorities in the roll out of heat networks, including provision of funding through the Heat Networks Investment Project.

9.100 Evidence base: Plymouth City Wide District Energy Strategy (EN39). This strategy pulls together significant existing detailed feasibility work completed in various locations but also explores the feasibility of other opportunities across the city (sections 2.7 & 7.4). It sets out the longer term approach to grow the network both to the south and west of the city and to the north of Plymouth at Derriford (section 10.7) and therefore justifies DEV34.6. The strategy identifies both 'district heating opportunity areas' and generic development characteristics, where district heating should be considered (section 3.3.2).

*Is there justification for it to refer to a specific carbon reduction target?*

9.101 Yes, DEV34 is justified in stating the UK's legally binding target to reduce the UK's greenhouse gas emissions by at least 80% in 2050 from 1990 levels. However we are suggesting a modification in response to the consultation that expresses that Government's target in relation to the local plan area. It proposes changing this to; 'in support of a Plan Area target to halve 2005 levels of carbon emissions by 2034'. (EXC10A, reference M293). This is justified by the evidence base studies: EN12 (section 6) and EN38 (section 4) which demonstrates the ability of the plan area to achieve this target in line with national carbon budgets.

9.102 LPAs are bound by the legal duty in Section 19 of the Planning and Compulsory Purchase Act 2004, as amended by Section 182  
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of the Planning Act 2008, to ensure that, taken as a whole, plan policy contributes to the mitigation of, and adaptation to, climate change. The Climate Change Act 2008 introduced a statutory target for the UK to reduce carbon dioxide emissions by at least 80% below 1990 levels by 2050, and requires the government to identify how interim targets set by the Committee on Climate Change will be met. The government's response to the 3<sup>rd</sup> carbon budget acknowledges that regulation of carbon emissions from new development falls to Building Regulations and Local Plans.

9.103 National legislation and policy require a local plan to have a positive impact on reducing carbon within the area (Framework paragraph 94, and footnote 16 making explicit reference to the objectives of the Climate Change Act 2008). The setting of a carbon emissions reduction target is therefore consistent with the strategic aims of the Framework and with good practice.

9.104 The Climate Change Commission, in a report on local government's role in managing climate change (2012), recommends that local authorities develop Low-carbon Plans; 'All local authority areas should develop a low-carbon plan that includes a high level of ambition for emissions reductions and focuses on emissions drivers over which local authorities have influence in buildings, transport, waste, renewable power generation and their own estates.' Source: [https://www.theccc.org.uk/archive/aws/Local%20Authorites/LA%20Report\\_summary.pdf](https://www.theccc.org.uk/archive/aws/Local%20Authorites/LA%20Report_summary.pdf)

9.105 The Town and Country Planning Association in a recent report criticised local authorities' treatment of climate change in Local Plans, finding that 70% of local plans had no carbon reduction targets or any way of monitoring their progress with carbon reduction. The full report is 'Planning for the Climate Challenge? Understanding the performance of English Local Plans'. <https://www.tcpa.org.uk/planning-for-the-climate-challenge>

9.106 It follows therefore that Local Plans should have targets linked to national targets so that progress can be measured and followed,

which is the approach adopted in DEV34 and supported by evidence EN12 and EN38.

*Is the policy consistent with the Plymouth Plan in this respect?*

9.107 With the proposed minor modification M293, the policy is not only consistent with the Plymouth Plan but mirrors the target specified in the Plymouth Plan. Policy GRO7 of the Plymouth Plan Refresh (adopted by the Council in March 2017) says: 'The City will pursue the following approaches to deliver significant reductions in carbon emissions in Plymouth, aiming to halve 2005 levels of carbon emissions by 2034'.

**Question 9.3(ii)**

*Are suggested changes to the provisions set out in Policy DEV35, particularly points 2 and 6, necessary for reasons of effectiveness and consistency with national policy?*

9.108 The policy DEV35 is sound, and consistent with Framework paragraphs 93-98.

9.109 Although the suggested changes set out in DEV35 are not considered necessary for reasons for effectiveness and consistency with national policy, the JLP Councils consider that changes put forward in relation to points 2, 4, 5 and 6 generally provide helpful clarifications. Potential modifications are set out in EXC10A (references M297-M300).

9.110 The modification of Point 2 would clarify specific impacts that should be considered in order to inform the planning balance of benefits versus impacts. Framework paragraph 98 (bullet 2) requires an application to be approved if the impacts are (or can be made) acceptable. The amendments to point 2 clarify for the applicant and decision maker exactly which impacts should be considered before weighing against the benefits of a proposal. In doing so, the amendments improve the policy. The more explicit mention of landscape impact assessments is also helpful in the context of Framework paragraph 97 (bullet 2).

9.111 The modification of Point 6, removing the need for renewable energy to 'be used on site', addresses an unnecessary restriction and so would improve the policy. Being able to use energy on site, and then export the surplus, creates more favourable conditions for reducing carbon emissions than limiting the scale of a renewable energy scheme to only what could be consumed onsite. In doing so, the policy is more likely to contribute to wider carbon reduction aspirations of the Framework (paragraphs 95, 96 and 98), but this is not a necessary requirement.

**Question 9.3(iii)**

*Are the provisions set out in Policy DEV36 on community energy justified and consistent with national policy?*

9.112 Yes, the provisions set out in DEV36 are justified and consistent with Framework paragraph 97, in particular: 'support community-led initiatives Framework renewable and low carbon energy, including developments outside such areas being taken forward through neighbourhood planning' and PPG paragraph: 004 Reference ID: 5-004-20140306.

9.113 The provisions are also supported through the Governments Community Energy Strategy Ref: 14D/019 <https://www.gov.uk/government/publications/community-energy-strategy>, which set out the Government's support and ambition for the community energy sector, outlined in section 2.4 but also the role of local authorities, including in para 84-86, referencing planning guidance '*local planning authorities may wish to establish policies which give positive weight to renewable and low carbon energy initiatives which have clear evidence of local community involvement and leadership.*' From: Planning Practice Guidance for renewable and low carbon energy. [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/225689/Planning\\_Practice\\_Guidance\\_for\\_Renewable\\_and\\_Low\\_Carbon\\_Energy.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/225689/Planning_Practice_Guidance_for_Renewable_and_Low_Carbon_Energy.pdf).

9.114 It is justified through strong demand from a well-established community energy sector operating in the plan area, as demonstrated by the Community Energy England publication

'State of the Sector Report' and the RegenSW publication 'South West Renewable Energy Progress Report 2015' page 13 (info-graphic) highlighting 7.4Gwh of electricity generated from community energy projects in the southwest, by 250 community energy groups.

**Question 9.3(iv)**

*Would wording changes to Policy DEV37, as suggested by representors, improve its effectiveness and are they justified? Is the policy consistent with Policy DEV2 and national policy?*

9.115 DEV37 is consistent with Framework para 99-108, the sequential test having been followed for site selection, supported by strategic flood risk assessments and resulting in the identification of opportunities to mitigate impacts where appropriate.

9.116 DEV2 is a strategic policy regarding general environmental quality. It makes specific reference to water quality but not to flooding, that being dealt with in detail in DEV37. There are no inconsistencies between the policies in this respect, and as flooding (especially sewer flooding or storm overflow caused by excess surface water) can cause water quality deterioration DEV2 and DEV37 are complementary.

9.117 Wording changes suggested by representors provide useful clarifications in relation to DEV37 (3), although the addition suggested to DEV37 3iv (reference to vulnerability of users) is already contained in DEV37 2ii.

9.118 Regarding DEV37 4, the changes proposed reconcile the inconsistency noted by representors regarding the drainage hierarchies in the Plymouth and Devon Local Flood Risk Management Strategies respectively (ref. F9, F9A, F9B, F12). In the former the hierarchy has been adapted to suit local conditions, as explained in the proposed modification M306 (see EXC10A).

9.119 Further clarification has been proposed regarding the respective roles and responsibilities of the different agencies involved in

flood management, which are complex. See proposed modification M307.

9.120 Document EXC10A (references M301-304) set out all of the modifications that we are content to recommend in relation to DEV37 and its narrative.

**Question 9.3(v)**

*Is Policy DEV38 on coastal change management areas effective and consistent with national policy? Would the application of point 5 to all buildings and structures, rather than just dwellings be necessary for the policy's effectiveness?*

9.121 The policy, together with Policy DEV37 responds to the provisions of paragraphs 93 to 108 of the Framework.

9.122 The Councils agree that the policy would be clarified by a minor modification to cover all buildings and structures. This is proposed as M308 in EXC10A.

9.123 The Councils also recognise that further guidance could be provided with respect to what might constitute inappropriate development the nature and scope of appropriate development in the CCA might be and the nature and scope of vulnerability assessment. This would draw on the advice in the PPG (notably Ref ID: 7-073-20140306). This could be accommodated in the proposed TTV SPD.

## **APPENDIX 1: CORNWALL LOCAL PLAN: RECREATIONAL IMPACTS POLICY AND EXTRACTS FROM INSPECTOR'S REPORT**

### **Extract from Cornwall Local Plan Strategic Policies 2010 – 2013. Pp 70**

<http://www.cornwall.gov.uk/media/22936789/adopted-local-plan-strategic-policies-2016.pdf>

Policy 22: European Protected Sites– mitigation of recreational impacts from development

For residential development and student and tourist accommodation, mitigation measures for recreational impacts on European Sites will be required where development is proposed within the identified zones of influence around those European Sites that are vulnerable to adverse recreational impacts. Residential development, student and tourist accommodation within these zones of influence will be required to provide for appropriate management, mitigation and monitoring on site, and/ or financial contributions towards off site mitigation and management. This will need to be agreed and secured prior to approval of the development.

Mitigation measures will include:

- On site access and management
- Off-site provision of suitable alternative recreational facilities

The required level of contributions will be set out in more detail in the European Sites Mitigation Strategy Supplementary Planning Document.

## **Extracts from the Cornwall Local Plan Strategic Policies, Inspector's Report September 2016.**

<http://www.cornwall.gov.uk/media/21914730/cornwall-inspectors-report-final-23-september.pdf>

Pp3.

### **Non-Technical Summary**

This report concludes that the Cornwall Local Plan Strategic Policies Plan provides an appropriate basis for the planning of the Cornwall, providing a number of modifications are made to the Plan. Cornwall Council has specifically requested me to recommend any modifications necessary to enable the Plan to be adopted.

With one exception, all of the necessary modifications were proposed by the Council and were largely accepted or agreed as required changes. The exception is the change to the threshold of the affordable housing policy to which the Council was specifically opposed, but where a change is required to be consistent with Government policy. Where necessary for clarity, I have edited the detailed wording from that published by the Council and I have recommended their inclusion after considering the representations from other parties on these issues.

The Main Modifications can be summarised as follows:

- An increase in the overall housing requirement from 47,500 to 52,500 dwellings and a revised apportionment of this figure to the main towns and Community Network Areas.
- A clearer explanation of this Plan's role in taking forward the Council's economic strategy and the identification of a jobs target of 38,000 new jobs.
- An increase in the proposed floorspace for B class employment development to give needed flexibility in delivery and a revised apportionment to the Community Network Areas.
- Updating future retail capacity for the main towns, resulting in much lower capacity estimates compared with the submitted Plan.
- Deletion of the place-policies for individual CNAs and related text referring to housing, employment and retail requirements which have become out of date given the above changes.
- Greater clarity on the role of the Council's Site Allocations Plan and of Neighbourhood Plans in delivering necessary allocations to take forward the requirements of this Plan.
- Amendment to the policy on affordable housing to ensure that the proportion of such housing sought from market developments is consistent with the evidence on viability and that the threshold for such requirements is consistent with Government policy.
- Introduction of a new policy to ensure that there is adequate mitigation of recreational pressures on European protected natural habitats arising from new residential development.
- The rewriting of policies for the natural and historic environment to ensure that they are comprehensive, clearly structured and consistent with national policy.
- Various changes to other policies to ensure consistency with national policy.

***Habitat Regulations Assessment***

19. Early in the Examination, I highlighted (ID.01) the concerns of Natural England (NE) with 2 inconsistencies between the assumptions and conclusions of the *Habitat Regulations Assessment* (HRA, at that time document A.6, October 2014) and the contents of the Plan. Firstly, with regard to measures necessary to protect the water quality of the River Camel Special Area of Conservation (SAC) and, secondly, with regard to recreational pressure on 7, mainly coastal, SACs/Special Protection Areas (SPAs). There needs to be transparent consistency between the mitigation measures set out in the HRA and what the Plan proposes. I give particular weight to the views of NE as it is the Government's principal adviser on the protection of European sites, with experience of such issues across the country
  
20. Prior to the hearings in May 2015, the Council proposed various changes to the Plan in agreement with NE to address these concerns (ID.01.CC.2.4.2). But matters have moved on since then. Over the summer of 2015, during the suspension of the Examination, recreational visitor surveys were undertaken for the relevant SACs/SPAs. The initial results have enabled the identification of precautionary zones of influence for 5 of the 7 designated sites, within which residential development has the potential to have significant effects on the SACs/SPAs in the absence of mitigation. At this stage, such zones have not been identified nor appear justified for Godrevy Head to St Agnes SAC or for Carrine Common SAC (HRA, April 2016, J25.2, section 3). I have amended the published change on this matter to make this clear (**MM119/2**) using text suggested by the Council in the pre-hearing version of related changes.
  
21. Falmouth Bay to St Austell is a proposed SPA because of the presence of particular bird species in the winter. It is not very vulnerable to increases in recreational pressures. There is no evidence at present to indicate any potential harm from recreation and thus no mitigation is required. This needs to be made clear when reference is made to mitigation for European sites. But it is not unreasonable for the Plan to indicate that any recreational effects will be monitored. (I have amended the published changes in this regard - **MMs 119 and 119/2.**)
  
22. The Council and NE have agreed revised wording for a new policy (23a) and new text to put in place the necessary protection and headline mitigation strategy to ensure that residential and related development does not result in any significant adverse effects on these designated sites. The detailed mitigation measures will be set out in a forthcoming Supplementary Planning Document (SPD) - **MMs 117-120a and MM121** (part).

**APPENDIX 2: EXTRACT FROM APPEAL DECISION REF:  
APP/N1160/W/15/3103268**

12. I consider that the wording of part 3 of Policy CS20 of the CS is quite specific in terms of requiring new development above a certain scale to incorporate on-site renewable energy production equipment. Therefore it is clear that the measures as proposed in the Energy Statement, and which have been incorporated into the development, would not comply with part 3 of Policy CS20 of the CS and also that element of Policy CS34 of the CS that requires development to adequately consider the on and off-site impacts of the proposal in terms of natural resource use and climate change. It is not in dispute that the reduction in carbon emissions through the use of a fabric first approach combined with the PV cells that have been installed would give rise to reductions in carbon emissions in regard to the Building Regulations Part L compliant target emission rate that exceed the 15% offset target in part 4 of Policy CS20.

13. However, I consider that Policy CS20 differentiates between measures to reduce energy consumption and renewable energy generation, and in doing so it places an onus on new development above a certain scale to play its part in providing for renewable energy production on-site. Therefore as the proposal falls considerably short of the 15% target for offsetting predicted carbon emissions through on-site energy production by renewable sources it would, in my view, give rise to a material impact that would be unacceptable. As such, and despite its predicted reductions in carbon emissions through the 'fabric first' methodology, I conclude that the proposal would unacceptably conflict with Policy CS20 of the CS.

14. It is, however, also necessary to assess the extent to which Policy CS20 of the CS is consistent with the Framework. Paragraph 95 of the Framework advises that local planning authorities should plan for new development in locations and ways that reduce greenhouse gas emissions. Paragraph 95 of the Framework also advises that when setting any local requirement for a building's sustainability to do so in a way consistent with the Government's zero carbon buildings policy and adopt nationally described standards.

15. Paragraph 96 of the Framework advises that in determining planning applications local planning authorities should expect new development to comply with adopted Local Plan policies on local requirements for decentralised energy supply unless it can be demonstrated by the applicant, having regard to the type of development involved and its design, that this is not feasible or viable. At the Hearing the appellant confirmed that it would be technically feasible to retrofit PV cells if required. Also no evidence has been provided by the appellant to demonstrate that the installation of PV cells would not be viable.

16. Paragraph 97 of the Framework recognises that local planning authorities should recognise the responsibility of all communities to contribute to energy generation from renewable or low carbon sources and that they should have a positive strategy to promote energy from renewable and low carbon sources.

17. The Written Ministerial statement<sup>1</sup> (WMS) has advised that: 'For the specific issue of energy performance, local planning authorities will continue to be able to set and apply policies in their Local Plans which require compliance with energy performance standards that exceed the energy requirements of Building Regulations until commencement of amendments to the Planning and Energy Act 2008 in the Deregulation Bill 2015. This is expected to happen alongside the introduction of zero carbon homes policy in late 2016.'

18. Therefore, I consider that the proposal does not accord with the advice in paragraphs 96 and 97 of the Framework, that in turn chime with the objectives of Policy CS20 in terms of decentralised energy supply and a responsibility for communities all to contribute to energy generation from renewable or low carbon sources. Furthermore, the WMS adds weight to this approach as in effect it delays the need, as stated in paragraph 95 of the Framework, for local requirements for a building's sustainability to be consistent with the Government's zero carbon buildings policy and adopt nationally described standards. I therefore conclude that the Council is able to apply policies concerning the energy performance of buildings, including those that exceed the energy requirements of Building Regulations.