



## **Draft Meeting Housing Needs Supplementary Planning Document**

## **Habitat Regulations Assessment Screening Report**

**January 2023**

## **1.0 Mid Devon Design Guide**

### *Purpose, scope and content*

- 1.1 Mid Devon District Council has prepared a new Meeting Housing Needs SPD for Mid Devon District. This is currently in a Draft form, intended for public consultation.
- 1.2 The purpose of the Meeting Housing Needs SPD is to provide detailed guidance on the type and tenure of housing being provided across the district to ensure the timely delivery of open market, affordable, gypsy and traveller accommodation, community led housing and custom and self-build. The SPD can be used to help assist consideration of proposals submitted to the Council for determination and inform the decisions made on these.
- 1.4 The Meeting Housing Needs SPD comprises a number of key sections including affordable housing, homes for older people and people with disabilities, homes for gypsies and travellers, homes for travelling showpeople, custom and self-build, community-led housing and Modern Methods of Construction.

### *Relationship with the National Planning Policy Framework*

- 1.6 The National Planning Policy Framework (2019) paragraph 60 makes clear that ‘to support the government’s objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay. Paragraph 62 adds that ‘within this context, the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies (including, but not limited to, those who require affordable housing, families with children, older people, students, people with disabilities, service families, travellers, people who rent their homes and people wishing to commission or build their own homes.

### *Relationship with the Mid Devon Local Plan*

- 1.8 The Mid Devon Local Plan 2013 2033 contains a number of planning policies related to housing, all contributing to the delivery of a vision that ‘Mid Devon will be a prosperous and sustainable rural district, where individuals, families and communities can flourish as a result of access to good quality local employment, housing and services and a clean, green safe environment.’
- 1.9 The Local Plan Review Policy S3 ‘Meeting housing needs’ provides the principal policy baseline for the more detailed guidance included in the Meeting Housing Needs Supplementary Planning Document:

#### ***Policy S3 Meeting housing needs***

- a) *The diverse housing needs of Mid Devon will be met through the provision of a minimum of 7,860 dwellings between 1<sup>st</sup> April 2013 and 31<sup>st</sup> March 2033. In line with the predicted continuing need for new housing the expected annual rate of new housing development will be 393 dwellings per annum;*
- b) *Unless otherwise stated in a site allocation policy, on open market housing sites (i.e. excluding exception sites provided under Rural Exceptions Sites under Policy*

*DM6) of 11 dwellings or more in Tiverton, Cullompton and Crediton a target of 28% affordable dwellings, and on sites elsewhere of 6 dwellings or more a target of 30% affordable dwellings will be applied to the total number of dwellings, depending on viability and providing a mix of dwelling sizes and types appropriate to the evolving needs of Mid Devon's population. Sites of between 6 – 10 dwellings outside Tiverton, Cullompton and Crediton will be permitted to make a financial contribution sufficient to provide the affordable dwellings in another location;*

- c) To support self-build and custom dwellings meeting the needs of local communities, such dwellings will be permitted as affordable housing in locations outside settlement limits in accordance with Policy DM6;*
- d) To support self-build and custom housing on sites of 20 dwellings or more developers will supply at least 5% of serviced dwelling plots for sale to self-builders for a period of 12 months per plot and any plots subsequently developed for self-build must be completed within 3 years of purchase by a self-builder; and*
- e) A five year supply of gypsy and traveller pitches will be allocated on deliverable sites within Mid Devon to ensure that the predicted need for traveller sites will be met. A further supply of developable sites or broad locations for growth will be identified equivalent to a further ten years of predicted growth. The Housing Authority will seek to provide a public site for gypsy and traveller pitches within Mid Devon, subject to the availability of funding.*

#### *Status of the Mid Devon Design Guide SPD*

- 1.12 The Meeting Housing Needs SPD will be adopted by the Council as a Supplementary Planning Document (SPD). The SPD will not be part of the development plan and does not introduce new planning policies into the development plan. However, it will be capable of being a material consideration in determining planning applications.

## **2.0 Habitat Regulations Assessment**

2.0 A Habitat Regulations Assessment (HRA) refers to the several distinct stages of Assessment. These must be undertaken in accordance with the Conservation of Habitats and Species Regulations 2017 (as amended) and the Conservation of Offshore Marine Habitats and Species Regulations 2017 (as amended) to determine whether a plan or project may affect the protected features of a European site ('habitats site') identified under these regulations before deciding whether to undertake, permit or authorise it.

2.1 All plans and projects which are not directly connected with, or necessary for, the conservation management of a habitat site, require consideration of whether the plan or project is likely to have significant effects on that site. This consideration is typically referred to as the 'Habitats Regulations Assessment screening' and should take into account the potential effects both of the plan/project itself and in combination with other plans or projects.

2.2 Where the potential for likely significant effects cannot be excluded, an appropriate assessment of the implications of the plan or project must be undertaken, in view the relevant Habitats Sites conservation objectives. A plan or project may be agreed to only after having ruled out adverse effects on the integrity of the habitats site. Where an adverse effect on the site's integrity cannot be ruled out, and where there are no alternative solutions, the plan or project can only

proceed if there are imperative reasons of over-riding public interest and if the necessary compensatory measures can be secured.

- 2.3 In April 2018, the Court of Justice of the European Union delivered its judgement in Case C-323/17 People Over Wind & Peter Sweetman v Coillte Teoranta ('People over Wind'). The judgment clarified that making screening decisions as part of the HRA and for the purposes of deciding whether an appropriate assessment is require, mitigation measures cannot be taken into account. Mitigation measures intended to avoid or reduce the harmful effects of a plan or project can only be taken into account at the appropriate assessment stage.

### 3.0 Habitats site

3.1 A Habitats site (or European Site) refers to any site which would be included within the definition at regulation 8 of the Conservation of Habitats and Species Regulations 2017 for the purpose of those regulations, including candidate Special Areas of Conservation, Sites of Community Importance, Special Areas of Conservation, Special Protection Areas and any relevant Marine Sites.

3.2 There are no Habitats sites within Mid Devon although there are 11 such sites within 10km (Table 1), the closest being the Culm Grasslands SAC which lies immediately adjacent to the north western boundary of Mid Devon District.

Special Areas of Conservation (SACs)	Special Protection Areas (SPAs)	Ramsar Sites
<ul style="list-style-type: none"> <li>• East Devon Pebblebed Heaths</li> <li>• Culm Grasslands</li> <li>• South Dartmoor Woods</li> <li>• Holme Moor and Clean Moore</li> <li>• Dartmoor</li> <li>• Exmoor Heaths</li> <li>• Quants</li> <li>• Exmoor and Quantock Oakwoods</li> </ul>	<ul style="list-style-type: none"> <li>• Exe Estuary</li> <li>• East Devon Heaths</li> </ul>	<ul style="list-style-type: none"> <li>• Exe Estuary</li> </ul>

Table 1: Habitats Sites within 10km of Mid Devon District

3.3 Small parts to the East of the Mid Devon District also fall within the Somerset Levels and Moor Ramsar Tone Catchment area, for which Natural England has set out advice explaining how plans or projects with the potential to have nutrient impacts on Habitats site should be considered when making decisions in relation to planning.

#### **Potential Impacts on Habitats Site**

3.4 There are a number of categories that can affect Habitats Sites which include:

- Physical Loss
- Physical Damage
- Non-physical disturbance
- Water table/availability
- Toxic contamination
- Non-toxic contamination
- Biological disturbance

#### **4.0 Mid Devon Local Plan 2013 – 2033 HRA**

- 4.1 As the competent authority under The Conservation of Habitats and Species Regulations (2010) (now 2017 as amended) Mid Devon District Council was required to assess its Local Plan 2013-2033 as part of the HRA process. A full HRA Report for the Mid Devon Local Plan 2013-2033 was undertaken March 2015 and related to the Publication Draft version of the Local Plan. This concluded that adverse effects on the integrity of European sites (referred to in this report as Habitats sites) around Mid Devon from policy and site options in the new Local Plan, either alone or in combination with other plans, will not occur.
- 4.2 Two HRA Addenda were prepared in 2016. The first (dated August 2016) was prepared in order to update the findings of the March 2015 HRA Report in light of changes to the supply of housing and employment land that were made in the Submission version of the Local Plan. The HRA Addendum screened the changes to policies in the Local Plan and concluded that, for each change, the screening conclusions of the March 2015 HRA Report would have been the same and the same Appropriate Assessment work would therefore have been undertaken. The second HRA Addendum (December 2016) presented Appropriate Assessment work that was undertaken in relation to potential air pollution impacts on the Culm Grasslands SAC that could result from development at Junction 27 and the associated additional housing required.
- 4.3 A third HRA Addendum was prepared in October 2019 which presented an assessment of the proposed Main Modifications raised by the Planning Inspector appointed by the Secretary of State to undertake the independent examination of the Mid Devon Local Plan (2013-2033). This concluded that the HRA for the Mid Devon Local Plan remain that the Local Plan (taking into account the Proposed Main Modifications) is not likely to have adverse effects on the integrity of European sites (referred to in this report as Habitats sites), either alone or in-combination with other plans or projects.
- 4.4 Subsequent to this conclusion in the Local Plan 2013-2033 HRA, new advice on the potential to have nutrient impacts on Habitats sites was received in 2020 from Natural England in light of a court Judgement (known as Dutch N). Of relevance to Mid Devon District this identified the Somerset Levels and Moors Ramsar Tone Catchment, in which small areas to the East of the District falls within the 'area of risk' Tone Catchment. Development types that require a HRA to determine the impacts on this Habitat Site include:
- New residential units – including tourist accommodation, gypsy sites/pitches
  - Commercial developments – where overnight accommodation is provided
  - Agricultural Development – additional barns, slurry stores etc. where it is likely to lead to an increase in herd size
  - Prior Notifications of agricultural development where, as a result of development, the herd size may increase. Prior notifications for change of use of office to dwellings and agricultural buildings to dwellings
  - Anaerobic Digesters
  - Some tourism attractions
- 4.5 No relevant types of development that could affect the Somerset Levels and Moors Ramsar are allocated within the Mid Devon Local Plan and DM28 sets out that where development proposals are likely to have a significant effect on a European site an Appropriate Assessment will be required. In which case, 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.

## **5.0 Mid Devon Design Guide SPD HRA Screening**

- 5.1 The Meeting Housing Needs SPD expands upon policies within the Mid Devon Local Plan Review 2013-2033. The SPD does not introduce new policies or proposals outside the scope of the Local Plan Review. Policies in the Mid Devon Local Plan Review, including Policy S3 Meeting Housing Needs have already been subject to HRA with the conclusion that the Mid Devon Local Plan Review is not likely to have adverse effects on the integrity of European sites (referred to in this report as Habitats sites), either alone or in-combination with other plans or projects. The Meeting Housing Needs SPD does not result in development itself but seeks to guide development in providing good design. The Meeting Housing Needs SPD is therefore not likely to have significant adverse effects on the integrity of Habitats sites, either alone or in-combination with other plans or projects and further 'Appropriate Assessment' is not required.

## **6.0 Conclusion**

- 6.1 This screening report has identified that the draft Meeting Housing Needs SPD is not likely to have significant adverse effects on the integrity of Habitats sites, either alone or in-combination with other plans or projects and further 'Appropriate Assessment' is not required.

## **7.0 Next steps**

- 7.1 This screening opinion will be subject to consultation with the three designated consultation bodies – Historic England, Natural England, and the Environment Agency.
- 7.2 The screening opinion will be published alongside the Draft Meeting Housing Needs SPD and will also be subject to public consultation.