

Representations on Reg 19(b) Consultation – Policy SP02 Policy SD10 and Brownfield Land East Devon Local Plan – January 2026

The following representations are made on behalf of Mr and Mrs S. Anthony in relation to:

Policy SP02 – Levels of future Housing Development
SD10 – Development Allocations Policy

Issue - Unsustainable and unacceptable failure to address the matter of Brownfield land in the Plan. The consequent approach to designation of housing sites is thereby over-reliant on greenfield open space and farmland to the detriment of the natural environment and the rural character of the district.

Following examination of the Council's website in February 2025, it was apparent that the East Devon District Council published register of Brownfield Land, an annual statutory requirement pursuant to The Town and County Planning (Brownfield Land Register) Regulations 2017, was stated as having most recently been reviewed in '**December 2021**'.

Having received no response to two separate requests for inclusion of sites on the register, a Freedom of information Request to the Council dated 3rd March 2025 posed the following questions and received the perfunctory responses appended in bold:

- "1. How many requests have been received since December 2021 to include land on the register? - **1 but not progressed further than enquiry stage***
- 2. On which dates has the yearly review referred to on the Council's website taken place, since December 2021? - **Yearly, end of April***
- 3. Why does an up to date register not appear on the Council's website? - **Due to technical issues***
- 4. When will an up-to-date register be published? - **End of April 2025***
- 5. Where in the Regulation. 18 and Regulation 19. Consultation drafts of the EDDC Local Plan 2020-2042 is account taken or reference made to housing sites included on the register? -*

Please refer to the below:

The Regulation 18 plan - commonplace-reg-18-final-071122.pdf includes reference at para 17.12 onward and in chapter 19 – Glossary of terms.

<https://eastdevon.gov.uk/media/3724891/commonplace-reg-18-final-071122.pdf>

The Regulation 19 plan - regulation-19-plan.pdf – includes reference in Chapter 17.

Implementation and Monitoring.

<https://eastdevon.gov.uk/media/gtimzhle/regulation-19-plan.pdf..>

As the replies to questions 2. 3. 4. and 5. Were cursory and appeared to be untrue, a formal complaint was submitted to the Council on 30th April 2025 stating the following:

"With regard to these responses, no sites have been added to the register in the last four and a half years. No evidence has been forthcoming to demonstrate that the register has

received any attention whatsoever in the last four years; The failure to publish it 'Due to Technical Issues' is not explained and is an unsatisfactory response. It does not take four years to update a web page or publish a register; It is now the end of April 2025 and no updated register has been published (Ref a screenshot of the webpage in question taken today 30th April); The references to Brownfield Land in the Regulation 18 and 19 Local Plan consultations merely refer to completions on Brownfield sites forming part of the HMU process and include the term Brownfield land and the criteria for registration in the glossary of terms. Brownfield land does not feature until page 302 of the Reg 18 document and page 264 of the Reg 19 consultation draft which states:

"...To achieve this, the council will monitor and publish the following reports, fulfilling the need for an Annual Monitoring Report. Housing Monitoring Update (HMU): Tracks housing completions, projections, and land supply. This includes: • Total net and gross completions by district, parish, settlement, and Built-up Area. • Breakdown of completions on brownfield and greenfield sites.

and

Brownfield Land Register: Lists suitable brownfield sites for development. To be included, sites must be: • Suitable for residential development according to Local Plan and NPPF policies. East Devon Local Plan 2020 to 2042 –Regulation 19 Plan – February 2025 265 • Free from adverse impacts on the natural environment, habitats, or built heritage. • Viable and deliverable within 5 years. • At least 0.25 hectares in size or capable of supporting five or more dwellings. • Available for residential development without ownership or legal constraints.

Nowhere else in the emerging local plan is the matter of Brownfield Land engaged with, incorporated or acknowledged as a means of delivering sustainable housing development and contributing towards the preservation of greenfield sites and the natural environment.

- First it therefore appears prima facie that the Local Planning Authority has failed to discharge its statutory responsibility under The Town and County Planning (Brownfield Land Register) Regulations 2017.
- Secondly the Local Planning Authority has completely failed to include and promote development of Brownfield land as an important and environmentally sustainable alternative to housing development on greenfield and agricultural land in preparing its emerging local plan. There has been no attempt to assess, update, analyse and include the potential contribution to housing delivery of brownfield land within the district."

It was therefore requested that the Council should revisit the emerging local plan and include the contribution that brownfield sites can make to the sustainable delivery of housing in East Devon District

A response to this Stage 1 Formal Complaint was received on 16th June 2025 from the Assistant Director – Planning Strategy and Development Management (Appended to this submission in full).

This response advanced reasons why the inclusion of the objectors' land on the register of brownfield sites was declined but upheld the complaint, apologised and acknowledged that the authority had *"...failed to undertake the annual review of the register.."*

On the matter of the Local Plan Process the responses stated:

"In respect of the local plan there are references in the plan itself to brownfield land but more importantly site allocation assessment work considered the brownfield status of sites alongside a wide range of other considerations in drawing up recommendations and conclusions on site choices for allocation for development...."

And

"In terms of the local plan the Council is planning an amended version to form a second round of Regulation 19 consultation later this year. It is important to note that the Inspector undertaking Examination into the local plan will consider all representations received in his/her deliberations and as such matters raised in responses will be up for consideration and will inform final recommendations of the inspector. Concerns regarding the Local Plan should be pursued through this route..."

With respect to the Assistant Director it is submitted that the two parts of the response quoted above do not add up. On the one hand between December 2021 and the complaint of March 2025 the Council, by its own admission, took no action whatsoever to identify or register brownfield land within the district, or to publish a register. It cannot therefore have been possible to have at the same time *"..considered the brownfield status of sites alongside a wide range of other considerations in drawing up recommendations and conclusions on site choices for allocation for development..."* as part of the Local Plan preparation process, because no work to identify, promote, or register such sites took place.

The perfunctory references to Brownfield Land appear on Pages 299 and 307 of the Regulation 19b draft and do not in any way advance or address the importance of this issue.

- On behalf of the objectors it is therefore submitted that, within the new Local Plan the Local Planning Authority must address its failure to include and promote development of Brownfield land as an important and environmentally sustainable alternative to housing development on greenfield and agricultural land. This should take the form of an amendment to Policy SP02 or an additional policy prioritising the identification, registration and development of brownfield sites and declaring them to be sequentially preferable to development of open space and agricultural land.

Subject: EDDC Response to your Stage 1 Complaint ref 710958732

Date: 16th June 2025

Direct email: complaints@eastdevon.gov.uk

Our ref: EF **Stage 1 ref 710958732**

Dear Mr Thorne,

Stage 1 ref 710958732 - Thorne - Planning proposals on brownfield land and outdated register

I write further to your formal complaint of the 30th April 2025 regarding the Council's Brownfield land register and consideration of brownfield sites in the new Local Plan. Apologies for the delay in responding to your complaint but I have now had the opportunity to fully review the matter.

What happened:

You wished to make a formal complaint about East Devon District Council's Planning Service with regard to the acknowledgement and processing of applications to include sites on the register of brownfield land, in respect of the Council's Statutory duty to maintain, update and publish a register, and in respect of the position of brownfield land within the housing and development policies of the emerging local plan.

Our Response:

I can confirm that as per our response to your FOI request there have been only a very limited number of submissions for inclusion in the Brownfield Register. Given other work pressures, primarily progressing the new Local Plan, updating the register was not prioritised. I appreciate, however, that we have slipped behind on this work, and failed to undertake the annual review of the register, for which I can only apologise.

I can advise that an update to the register has now taken place. You can view the updated register here: [Brownfield land - East Devon](#) The updated version now includes Nursery Garage, Courtlands Lane, Lympstone.

Regarding the other site you referenced — Land South of Underhill Close, Lympstone — this site does not meet the criteria for inclusion in the Brownfield Register. The site should be considered in two parts:

- The car park area is clearly previously developed and could be considered for inclusion.
- However, the paddock is likely greenfield, this is because it appears to be undeveloped land, possibly used for grazing or retained as open grassland, with no evidence of permanent structures or hardstanding. According to the *National Planning Policy Framework (NPPF)*, previously developed land (also known as brownfield land) is land that has been lawfully developed and is or was occupied by a permanent structure, including any associated fixed surface infrastructure and the curtilage of the developed land. Land that is or was used for agriculture or forestry, among other categories, is specifically excluded from this definition.

Excluding the paddock, the actual developed area is only around 0.2 hectares, which is below the 0.25-hectare threshold for automatic inclusion. Additionally, the site only has permission for a single dwelling, which does not meet the five-dwelling threshold required for inclusion.

If you have any further supporting information regarding the site, please feel free to send it to us, and we will be happy to review it.

In respect of the local plan there are references in the plan itself to brownfield land but more importantly site allocation assessment work considered the brownfield status of sites alongside a wide range of other considerations in drawing up recommendations and conclusions on site choices for allocation for development. Part of our work, however, screened out sites for consideration as allocations for development where they were being promoted for less than five dwellings. In respect of Land South of Underhill Close, Lymptone the site was promoted in calls for sites (part of the Housing and Employment Land Availability Assessment work) for less than this five threshold and for that reason it was not carried forward for further assessment - see para 5.3 of [Microsoft Word - HELAA Methodology - latest - April 2017](#) In respect of Nursery Garage, Courtlands Lane the site is not "located: within, or adjacent to, settlements in Tiers 1-4 of the settlement hierarchy" as referenced in [sal-001-site-selection-methodology v2-2020-2042.pdf](#). as such it was not considered further as an allocation for development.

In terms of the local plan the Council is planning an amended version to form a second round of Regulation 19 consultation later this year. It is important to note that the Inspector undertaking Examination into the local plan will consider all representations received in his/her deliberations and as such matters raised in responses will be up for consideration and will inform final recommendations of the inspector. Concerns regarding the Local Plan should be pursued through this route.

Your complaint is upheld.

I hope my comments and the actions that we have taken to review and update the Brownfield Land Register help to address your concerns.

Next steps:

I trust that the matter has now been resolved but, if you feel my response does not fully address the issues you have raised, you can request a Stage 2 review. You must submit a request to the Complaints Team and can only include concerns that you have raised at Stage 1. In your request you are asked to explain in detail what has not been addressed in my response. If we do not hear back from a complainant one month after the stage 1 response has been sent, we will mark the complaint as closed.

Please would you kindly include your case reference number in all responses.

Email: complaints@eastdevon.gov.uk

Yours sincerely,

Ed Freeman BSc (Hons) Dip TP MRTPI

Assistant Director – Planning Strategy and Development Management”