

Spatial Planning Performance Report

Quarters 1 and 2, 2014/15 (01 April to 30 September 2015)

Executive Summary

This report provides information on the performance of the Spatial Planning Team in Quarters 1 and 2, 2015. It gives members of the Development Management Committee the opportunity to oversee performance against a number of indicators.

The Council's performance against the statutory function of determining planning applications and producing a local plan is vital to investment in the Bay. A strong well functioning planning service is vital for long term, sustainable economic growth. Investors look at, for example, the degree to which Members follow officer advice, the percentage of approvals on major applications, how quickly those decisions are made and how robust the policy framework is against which these decisions are made.

The Council has performed well in some areas such as the determination rate for major applications being well above target and the new Local Plan being close to adoption. However there are some areas that require attention such as meeting targets on the determination rate for 'other' and 'minor' applications, and production of neighbourhood plans.

Headlines

The following areas of performance are highlighted given their importance in national measures of Local Planning Authority's; these indicate a good picture for Torbay in the national context:

- Major planning applications - 80% in quarter 1 and 75% in quarter 2 were determined in time (either within 13 weeks or within the time agreed with the developer). This is well above the Government's special measures threshold of 40%.
- The Inspector's final report, dated 12 October 2015, on the new Local Plan concluded that the Plan is sound and can be adopted by the Council, subject to a small number of modifications. The Local Plan has also been found satisfactory in the three specified areas of compliance with the duty to cooperate, soundness (positively prepared, justified, effective and consistent with national policy) and compliant with legal requirements.
- 15 appeals have been determined, of which 66.6% were dismissed and 33.3% were allowed.

Performance against 8 week time period:

The combined performance for quarters 1 and 2 is:

Major applications – 77.5%

Minor applications (includes applications for less than 10 dwellings, small office, light industrial development and retail development) – 50.6%

Other applications (includes change of use, householder, listed building and certificate of lawfulness applications) – 67.8%

Performance

The following areas of performance are set out in this report:

- (1) Local and Neighbourhood Plans
- (2) Planning appeal decisions
- (3) Performance on Major planning applications
- (4) Performance on Minor and Other planning applications
- (5) Committee decisions and officer recommendations, and
- (6) Forthcoming applications.

1. Local and Neighbourhood Plans

A new statutory Local Plan has been prepared for Torbay. This document, the 'Torbay Local Plan (A landscape for success: The Plan for Torbay - 2012 to 2030 and beyond)' is the Council's key development plan document and will form the basis for decisions on spatial planning matters within the Bay over the next fifteen years or so. The Plan sets out a balanced strategy for change in Torbay, which embraces growth but puts protection and enhancement of Torbay's unique environment at its heart.

Following earlier draft stages of Plan preparation, the new Torbay Local Plan was formally submitted to the Secretary of State for Independent Examination in July 2014, heralding the start of the Examination. Hearing Sessions were conducted in November 2014 by the Inspector appointed by PINS, after which the Council received his Initial and Further Findings. As a consequence, a series of Proposed Modifications to the Plan were published for consultation. Following consideration of responses, these were later substituted by the publication of a set of Proposed Replacement Modifications. All representations received and the Council's responses were published and passed to the Inspector for his consideration.

The Council has now received the Inspector's Report of the Examination into the soundness of the Torbay Local Plan, dated 12 October 2015. This has been published in accordance with the Local Planning Regulations.

In compliance with the relevant legislation, the Inspector has been required to indicate that the Plan as originally submitted had a number of initial deficiencies relating to soundness. However, the Inspector has concluded that the Local Plan can be found sound subject to a series of Modifications requested by the Council. These are binding on the Local Planning Authority. Without these Modifications, the Plan as submitted would not be considered sound by the Inspector and could not be adopted. Receipt of the Report marks the end of the Examination process and allows the Council to proceed to the formal Adoption of the Local Plan, as modified.

The Local Plan has been found satisfactory in all three specified areas, namely compliance with the duty to cooperate, soundness (positively prepared, justified, effective and consistent with national policy) and compliant with legal requirements. It should be recognised that this is a major achievement for Members and Officers of the Council and provides the Authority with a very effective and positive basis for future planning in the Bay.

The Inspector's Report includes four main modifications, the first three of which were proposed by the Council and included in its Proposed Replacement Main Modifications document:

1. The Plan should cover the period to 2030, with regular reviews and assessment against the delivery of new jobs and homes;
2. Delivery of 8,900 homes in the Bay to 2030, which reflects Torbay's environmental quality and capacity;
3. A requirement for the Council to produce new site allocation plans, showing the location and type of development over the medium term, if Neighbourhood Forums fail to deliver formal draft Neighbourhood Plans by the end of March 2016; and
4. The inclusion of a site at Churston Golf Course (1st and 18th hole/clubhouse site) as a potential housing site over the medium to long term.

The Inspector rejected calls, by the housing industry, for much more development and for higher levels of affordable housing. He believes that quantum of development is unrealistic, in such an environmentally sensitive area, and that the level of demand from the market does not justify increased levels of growth. He also firmly rejected Neighbourhood Forums calls for less growth. He said it was right for the Local Plan to be ambitious for new jobs and homes.

The Inspector has confirmed that the Plan includes enough land for housing for the next 5 years.

The following additional commentary is relevant to the Inspector's modifications:

- Plan period: This starts in 2012. The National Planning Policy Framework (NPPF) requires a minimum Plan period of 15 years from adoption. It was considered prudent during the Examination to reduce the Plan period rather than seek to increase housing numbers, not least because to add in further housing sites would have greatly extended the Examination period.
- Number of new homes: The agreed level of 8900 new homes reflects both the environmental capacity of the Bay and the need for more homes, as driven by a number of factors, including jobs. This figure equates to almost 500 homes per annum across the Plan period. Delivery rates over the last 10 years have averaged around 480, although for the past three years this figure has averaged only around 300. This will require strong focus on ensuring a sufficient housing land supply;
- Neighbourhood Plan: The Inspector has confirmed the deadline for delivery of neighbourhood plans for Torquay, Paignton and Brixham. By the end of March 2016, the Council will need to receive proposed neighbourhood plans and related documentation in order to comply with Regulation 15 of the Neighbourhood Planning (General) Regulations 2012. In practice, this means that well before the end of March 2016, Forums will have to have consulted with various consultation bodies for at least 6 weeks on the pre-submission version of the neighbourhood plan. If the Council does not receive proposed neighbourhood plans by the end of March 2016 it will be necessary for the Council to begin the preparation of Site Allocations Development Plan Documents in order to deal with local spatial planning matters. The Council has written to the Chairs of all three Neighbourhood Forums to ensure this position is absolutely clear and to offer continued support in preparing neighbourhood plans.
- Churston Golf Course: The Inspector believes this site could be delivered. Such redevelopment is likely to require a new location for a club house and new holes to replace any lost as result of development. Both these have proved undeliverable to date, as a recent appeal decision has shown. It will be the role of the emerging neighbourhood plan to consider how this site might be promoted and tested further.

The Inspector's Report includes a number of implications for future work and working arrangements with neighbouring Councils:

- The Council would be required to undertake the rapid production of three Site Allocation Development Plan Documents if Neighbourhood Plans fail in one way or another
- Formal establishment of a South Devon Delivery Review Panel (or similar), with Teignbridge and South Hams District Councils, to monitor delivery of jobs and homes in the Bay
- 5 yearly reviews of the Plan, with evidence required to support those reviews
- Earlier review of the Plan, if land south of White Rock is shown to be capable of development

Given the support provided by the Inspector's final report, the new Local Plan already carries significant weight in the determination of planning applications. As the new Local Plan is up to date and based on the most recent evidence it carries more weight than the existing Local Plan. So, until the new Local Plan is formally adopted and the existing Local Plan is formally superseded, both policy documents must be considered in the determination of planning applications.

The Council will be asked to adopt the new Local Plan at its meeting on 10 December 2015.

2. Planning Appeal Decisions

Fifteen appeals have been determined in the last six months. Ten cases were dismissed and five were allowed. One application for costs against the Council was dismissed (34 Broadsands Road, Paignton). A summary of these cases is attached at Appendix A. All these appeals have been dealt with by the written representations process. There have been no public inquiries. One informal hearing has taken place into the redevelopment proposal at the Gleneagles Hotel. The result of this has not yet been received.

The Council has successfully defended 66.6% of appeals against a target of 60%. This should be seen as a good level of performance that reflects good quality decision making on planning applications. It is worth noting that a 100% success rate at appeal would indicate that the Council is not being tough enough on applications for poor quality development, by refusing them, and therefore would not be performing at the most effective level.

As none of the appeal decisions in the last two quarters has related to a major development, the Government's target for Council's appeal performance does not apply.

3. Performance on Major Planning Applications

Determinations within 13 weeks

Councils are expected by the Government to determine at least 40% of major planning applications within 13 weeks although this rate will increase to 50% in November 2015. Quarter 1's performance on Major Planning Applications was 80 % determined in time. Quarter 2's performance was 75% determined in time.

This reflects a strong performance on determining the larger applications at a rate well above the national target. These applications generally relate to major investment and regeneration proposals and performing well above target is a reflection of good performance.

Early collaboration with applicants and consultees is actively encouraged through the pre application process. The majority of major applications go through the pre application

process prior to the submission of an application. This provides an effective opportunity for issues to be addressed at an early stage in the process, for value to be added to the scheme through consultation and provides a basis for a swifter determination of subsequent applications.

A number of Design Review Panel meetings have been held throughout the year which make an important and positive contribution to the quality of development schemes that are submitted for planning permission. The Design Review Panel has proved to be an effective tool in the planning process, with a number of schemes that have been influenced by the Panel now completed or under construction (Abbey Sands, Lansdowne Hotel). Feedback from developers about the Design Review Panel is nearly always positive. Torbay is fairly unique in the South West in running its own DRP however there are a number of advantages of this such as being able to provide a lower cost service and having flexibility over timing and of tailoring a panel meeting to the type of development that is being considered.

A customer satisfaction survey is sent out with every decision on a planning application. The most recent results show a 90% satisfaction level for determination of planning applications.

4. Performance on 'Minor' and 'Other' Planning Applications

The Council's performance overall for quarters 1 and 2 for Minor applications was 50.6% and for Other applications 67.8% against targets of 65% and 80%. Performance for both development types is below target.

The Government has announced that it intends to extend performance measures to non-major development. No relevant criteria have been announced or timescales for this measure, although it is likely to apply to performance levels below 50%. If the threshold is set at this level Torbay's performance is very close to the target. Close monitoring of performance of these development types is needed to ensure that it does not decline.

The principle reasons behind this level of performance were that the Development Management team were short of one FTE officer during quarters one and two due to a delay in replacing a former member of staff. This post was filled in August. In addition delays in the determination of applications also occurred due to the time taken to complete S106 agreements. Following a change to legislation in April 2015 whereby S106 contributions towards infrastructure can no longer be pooled, the number of applications subject to S106 agreements has reduced, which will make a positive contribution towards improving performance.

5. Committee Decisions and Officer Recommendations

As has previously been reported decisions made at Development Management Committee are, in the majority of cases, consistent with the officer's recommendation (approx 95% over a 2 year period). This demonstrates a strong consistency between the officers and the members of the committee in making planning decisions.

This level of consistency in decision making provides applicants with a high level of certainty that the eventual decision will be likely to tally with the advice they have received through the negotiation process.

6. Forthcoming applications

The following is a list of forthcoming Major projects and their current status:

Site Address	Summary proposal	Target DMC
Pavillion, Torquay	Hotel, Flats, Car Parking	Jan 15
Yalberton Road	Residential and Commercial	Dec 2015
South Devon College	LDO for comprehensive redevelopment	Jan 2015
White Rock	Residential	May 16
Edginswell Rail Halt	rail halt	Feb 16

It is proposed to put in place a Local Development Order for education development at South Devon College which will cover a 15 year period. This will effectively provide a blanket consent for all future education development on the site subject to an agreed set of criteria. This will mean that the college will not need to submit individual planning applications for each new development proposal. The advantage of this is it will provide the college with a greater level of certainty on whether a proposed development would be acceptable and reduce the timescales for agreeing such a proposal with the Council. This will help the college with bidding for funds for new development.

Conclusion

The Spatial planning team remains successful and performs well in relation to key indicators. In addition, the Council continues to perform well at appeal and the relationship between officer advice and the decisions of the committee are consistently in line with one another.

However, the changes to the thresholds for assessing performance mean that the Council needs to maintain and, if possible, improve its performance. There is no room for complacency.