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10<sup>th</sup> February 2003

Mr Paul Lucas  
Interim Head of Paid Service  
Torbay Borough Council  
Town Hall  
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Dear Sir

**PUBLIC INQUIRY INTO OBJECTIONS TO THE DRAFT TORBAY LOCAL PLAN (1995-2011) including minerals and waste policies**

1. I am pleased to present my report into objections to the draft Torbay Local Plan (1995-2011), hereinafter called 'the Plan'.
2. I was appointed by the Secretary of State for the Environment, Transport and the Regions (now the First Secretary of State) to hold a public local inquiry into the Plan. With the agreement of the Council an assistant Inspector, Mr David Wildsmith, was appointed to provide assistance at the Inquiry and in the preparation of this report.
3. A pre-inquiry meeting was held on 30<sup>th</sup> August 2001 and the inquiry opened on 25<sup>th</sup> November 2001 with 29 sitting days up to and including 25<sup>th</sup> September 2002 when the inquiry closed. I also carried out a series of visits, both accompanied and unaccompanied, to all of the sites which are the subject of objection, before, during and after the Inquiry.
4. The Local Plan was prepared under the provisions of the Town and Country Planning Act 1990 (as amended) and, initially, in accordance with the Town and Country Planning (Development Plan) Regulations 1991 (the '1991 Regulations'). The Plan was placed on deposit under the 1991 Regulations for 6 weeks from 5<sup>th</sup> July to 16<sup>th</sup> August 1999 for objections to be made. This version of the Plan is referred to throughout my report as 'the deposit plan' or the 'deposit version' (DV). Objections to the deposit plan were not considered by the Council's Strategic Services Committee until June and September 2000 by which time new Regulations, the Town and Country Planning (Development Plan) (England) Regulations 1999 (the '1999 Regulations') had come into force. The Council chose to invoke the 1999 Regulations which require a deposit of a revised plan 'the revised deposit plan' or 'revised deposit version' (RDV). The deposit of the RDV took place between 30<sup>th</sup> October and 11<sup>th</sup> December 2000. The Council have produced a Topic Paper, No. 1, TP/1, *Procedural matters*, in which it is confirmed that all of the necessary statutory procedures have been completed.

## **The objections**

5. At the opening of the Inquiry, Mr Andrew Tait of Counsel, indicated that 6959 objections and 935 supporting representations were made to the deposit plan. 3405 DV objections had been withdrawn leaving 3554 extant objections, although 93 of those had been withdrawn 'conditionally' upon the RDV change which had met the objection not being re-instated. However, Mr Tait also explained that where a suggestion had been made for an alternative site this had been counted as two objections, totalling 1682 objections. At the RDV stage a further 922 objections and 727 supporting representations had been made. 279 had been withdrawn, leaving 643 objections of which 39 had been conditionally withdrawn. This left a total of 4197 objections for my consideration. Mr Tait also stated that the Council had resolved not to consider any late objections and did not wish me to consider any objections other than those submitted in accordance with the Regulations.

6. A very large number of the objections made to the deposit plan related to a relatively small number of sites which were proposed for housing in the DV. Even though most of these proposals have not been carried forward to the RDV the original objections to the DV have not been withdrawn. As I explained at the pre-Inquiry meeting it is not open to me to recommend the re-instatement of such deleted proposals unless there is an objection at the RD stage to the deletion. Despite this, and various attempts by the Council and the Programme Officer to encourage objectors to withdraw their objections they have chosen not to do so.

7. As a response to some of the objections received the Council had produced a set of 'Proposed Further Changes' (PFC's) which had not been published or placed on public deposit and so were not open to objection but these had been notified to all objectors concerned who had had an opportunity to make further representations. They were made available as an Inquiry document, Core Document (CD) 2/13. Some objections had been conditionally withdrawn as a result. Furthermore, changes agreed during the Inquiry itself have been termed 'Proposed Changes at Inquiry' (PCI's) to distinguish them from the PFCs. They are set out in full in CD 2/15. The PCI's were also subject to consultation with interested objectors and observations invited but, acting upon my advice, proposals for an expanded housing site at the Dolphin Holiday Centre, St. Mary's, Brixham; housing at Primley Dairies/Waterleat and for the withdrawal of the Western Corridor road scheme were given wider publicity and placed on deposit for 6 weeks for objection. The deposit of the PCI's gave rise to 41 'counter objections'.

8. A number of adjustments have been made to the database and the corrected position at the close of the Inquiry is that there is a total of 5100 extant objections (4338 deposit, 721 revised deposit and 41 counter-objections. Of these, 235 were considered at the Inquiry, the remainder (4865 or 95.4%) in writing.

9. The scope for objections at the revised deposit stage is limited by the 1999 Regulations to those objections which relate to matters which are identified in the RDV as having been changed compared to the DV. This is very clear in the Torbay revised deposit Plan in which new text is shown by grey highlighting and deleted text is lined through. For example, it is not open to objectors to suggest alternative sites at this stage in the process. It transpired during the course of the Inquiry that many objections to the RDV initially registered by the Council because they were received within the 6 week deposit period did not properly relate to the changes from the RDV. These objections were deemed to be 'not duly made' and they are listed in Appendix 1 to CD2/18 produced in April 2002. I am not aware of the steps taken by the Council to notify those objectors of this decision but I have been requested not to consider such objections in my report and have not done so. It will be a matter for the Council to explain the position to any objectors who question this procedure.

10. In my consideration of the extant duly-made objections I have had regard to the submissions made by or on behalf of the various objectors and the Council and to all other material considerations including current Planning Policy Guidance and Circulars where appropriate. I have also had regard to those representations made in support of the proposals in the Plan. In their consideration of the recommendations I make on the objections the Council will need to take account of any change in national planning policy or guidance which may occur after the completion of this report.

### **The report**

11. The report is divided into chapters which are generally the same as those of the plan itself. The exception is Chapter 1 which covers objections to the format of the plan; general objections to the approach to plan-making and a few specific objections to the introductory Chapter 1 of the Plan. The few objections to Chapter 16 of the Plan, *Achieving Local Plan objectives*, are also considered in this first chapter of my report.

12. Each chapter is divided into sections under which I deal with objections to each policy in turn, listing all extant objections. I deal with objections to the policies themselves, including wording, before considering objections to site-specific proposals under the policy. In some cases, particularly the more controversial proposals, there are many hundreds of objections and these are listed in appendices at the end of each chapter in order not to break the flow of the report. I also list in appendices those deposit stage objections which the Council met by not carrying forward the proposal to the RDV.

13. In some instances the Council have identified a number of different points on an objection form or letter, perhaps building up an argument, and ‘coded’ them as separate objections when, in practice, they are not. In these cases I have looked to see what was the prime purpose of the objection and I have covered all aspects of the objection in the relevant section of my report. This has required a re-ordering of some objections bringing them together on a site-specific basis, for example, housing or employment objections with landscape. Unfortunately, the ‘skeleton’ report produced by the Council did not lend itself to re-ordering in this way and it could not be used directly for that reason.

### **Summary of main conclusions and recommendations**

14. In this section I summarise the conclusions I have reached on the more controversial aspects of the plan. Overall I consider that this is a good plan which properly reflects Government policy guidance. I have recognised and support the main thrust of the strategy which seeks to balance housing and employment growth and to protect the sensitive environment of Torbay which is so important to its continued success as a premier British holiday resort.

#### *Housing*

15. I have accepted, in broad terms, the Council’s calculations of the likely yield of housing from the sites with permission and allocated in the plan although I recommend a strengthening of the phasing policy for housing, clarifying that it does not apply to brown field sites, at least not on the same basis. I have agreed with most of the housing allocations although I recommend the deletion of the site at Grange Road, Paignton (H1.18) mainly because it is a green field site and it is not necessary to bring it forward at this time. Some smaller sites are recommended for deletion simply on the basis that they already have planning permissions which have been implemented. I have not agreed to the allocation of any additional housing sites including Scott’s Meadow, Barton (although I do not consider it should be an ULPA either) and Collaton St. Mary. I have accepted the revised allocation at the Dolphin Holiday Camp, Brixham. I

recognise the need for affordable housing in the Borough but I have not been able to accept the Council's case that no minimum size threshold should be set for sites from which such housing is sought. I recommend that this should be 15 dwellings or 0.5 hectare.

### *Employment*

16. The proposals in the plan for sites to meet the Devon Structure Plan requirement for 70 hectares of land for employment purposes, including a prestige business park at Long Road South (E1.19), proved to be the most controversial in the plan. There were 5 sitting days considering the Long Road South proposal alone. I have recommended in favour of this site but on a modified, phased basis, and with the inclusion of a very much more detailed policy in the plan setting out the principles upon which any development of the area should be based. This goes into significantly more detail than might normally be expected in a Local Plan but I consider it to be necessary in order to properly protect the environmental sensitivity of the site which I also recommend remains in the AGLV. For consistency, I have also recommended the inclusion of more detailed policies for the other employment sites at Kerswell Gardens, Riviera Way and Yalberton Road. Otherwise, I have recommended modifications to the wording of employment policies, including the treatment of town centre mixed-use sites, see below.

### *Tourism*

17. Although the policies dealing with Beacon Quay, Torquay, generated significant interest at the inquiry, much of this centred on a major re-development scheme which had already been granted planning permission, prior to the Inquiry opening. As this scheme is now under construction I have recommended the deletion of proposal 1 of policy TU2. In recognition of the crucial rôle which the tourism industry has in Torbay, I have recommended that all the PHAAs be retained without modification. However I have not recommended the re-introduction of the proposal for a themed tourist attraction in the Claylands/Paignton Zoo/Goodrington area of Paignton, despite several counter-objections to its deletion at DV stage. I have taken this view because in my opinion the policy as originally put forward was too general to provide much certainty or clarity for readers of the Plan. But if firm proposals for a themed tourist attraction come forward they can be considered against the back-cloth of policies TUS and TU3.

### *Shopping and town centres*

18. I have recommended a number of important modifications to the policies in Chapter 6. Firstly, I consider that the treatment of town centre mixed-use sites would benefit should they all be brought together in one part of the Plan and specifically identified with a 'TM' prefix under policy S2. In the RDV the 'TM' is indicated only on the proposals map and the policies and supporting text are scattered between housing, employment, shopping and transport. I also consider that town centres ought to be identified on the proposals map by a boundary rather than simply referring only to primary and secondary shopping frontages, which is not strictly correct.

19. Although I have not accepted the objection that a bulky-goods warehouse should be allocated on the frontage of the Yalberton Road employment site I have recommended that the adjacent Sainsbury's should be recognised as a local shopping centre (but not district). I draw particular attention to my recommendation that policy S7, which deals specifically with bulky-goods durable retailing, should be deleted with no specific allocations made in the plan for this purpose.

### *Recreation and leisure policies*

20. A particular point to note with regard to these policies is the fact that a revised PPG 17 and its Companion Guide were published during the course of the Inquiry. These make it clear that achieving the Government's policy objectives for open space, sport and recreation will be dependent on local planning authorities first undertaking robust assessments of the existing and future needs of their communities. The Council will need to bear this in mind, as the survey work which formed the basis for the RDV policies dates back to around 1994 and is therefore unlikely to cover all the matters now required of local authorities

### *Landscape policies*

21. I have expressed a number of reservations about the complex and over-lapping nature of the many policies in Chapter 11 of the Plan. I have suggested that the Council should be more selective in their identification of areas for protection from development, especially within the AGLV and as ULPA's and should regard them as longer-term policy measures rather than freely 'rolling-back' boundaries to accommodate development upon plan review. Where an area has landscape value, that value does not change when a plan allocation is made; only when development takes place. Although I do not agree with objections that the Riviera Way South area should be included in the AGLV, I take the opposite view for Long Road South. I recommend an extension of the AGLV at Collaton St. Mary above Higher Ridge. I have accepted the GOSW objection that the Urban Green Spaces, subject to policy L7, should be shown on the proposals map.

22. There is no evidence that the Countryside Agency support the proposal that the coast from Hope's Nose northwards to the Teignbridge boundary should be recognised as a Heritage Coast. As I consider that such support is essential for what is primarily a management tool to be effective I recommend the deletion of policy L4.

### *Transport policies*

23. I have given general support to the transport and accessibility policies, which aim to bring about a more sustainable transport system for the Bay area by the encouragement of modes of travel other than the private car. I have, however, made it clear that the success of this strategy requires a strong lead from the Council and the winning round of local businesses and Torbay's residents at large. This is particularly so with regard to the Western corridor at Paignton, where I have supported the deletion of the proposal for a new road between Churscombe Cross and the bottom of Kings Ash Hill, whilst recommending those policies which seek to provide improvements to key junctions for non-car travellers. The successful implementation of these improvements, and of Company Transport Plans, is the key to controlling the increase of congestion on this route.

24. Another important element in the move towards a more integrated and sustainable transport system is the control of parking. In this regard I have recommended parking standards which are in line with Government guidance and, importantly, should be treated as maximum values.

## **Acknowledgements**

25. I wish to express my appreciation of the hard work put into the Inquiry by the team of planning officers; the Council's main witnesses – Mike Fox, Steve Turner, Tracey Brookes and David Pickhaver and their back-up staff. I know that the Programme Officer, Mr Brian Hagelstein, has moved on to pastures new but my thanks go to him and his assistants for ensuring the smooth running of the Inquiry and I am also much obliged to Mr. Philip Taylor for assisting me after the close of the Inquiry in running many checks on the Inquiry database and endeavouring to ensure that my report deals with all of the outstanding objections.

26. Finally, I thank by Assistant Inspector, Mr David Wildsmith, who shouldered the burden of several of the Inquiry sessions and has provided much support through his expertise, especially on Highways and Transport matters for which he is particularly qualified. I am also thankful for the hard work put in by Miss Helen Dike, a Planning Officer from the Planning Inspectorate who has provided a most helpful back-up throughout. Without this support it would not have been possible to complete this report in what is a relatively short timescale since the close of the Inquiry.

Yours faithfully,

**JOHN R MATTOCKS, BSc DIPTP MRTPI**

Planning Inspector