

Chapter 13 – Environmental protection

13.1 Introductory text

No objections have been specifically coded against the introductory text, but 2 of those coded to policy EPS clearly relate to one of the introductory paragraphs. I therefore deal with them in this section.

13.1.1 Objections

*RD/7835/0065/369/EP1/*F - Stoke Gabriel Parish Council
D/2828/4128/7160/EP1/0 - RSPB*

13.1.2 Issue

Whether paragraph 13.7 should be expanded and retained in the Plan.

13.1.3 Conclusions

1. Both the RSPB (2828) and Stoke Gabriel Parish Council (7835) lodged objections relating to DV introductory paragraph 13.7. The RSPB sought an extra criteria to cover energy saving, whilst the Parish Council object to the complete deletion of this paragraph (which gave details of the objectives of the Council's Green Charter), at RDV stage.

2. However, it seems to me that the RSPB objection is met, insofar as new development is concerned, by RDV policy EP1 which seeks to encourage energy efficiency. In addition, the Council have explained that paragraph 13.7 was only included in the DV to provide contextual background information, and did not itself constitute the Green Charter. The Council chose to delete it because it was considered to be at too great a level of detail and could potentially cause confusion with the Local Plan's Strategic Statement (particularly Aims 1 and 6). I agree. In any case I understand that matters have moved on since the DV with the emergence of the Council's Best Value Performance Plan, Local Agenda 21 and a Community Plan for Torbay. Further details are given in RD paragraph 13.8 which I consider adequately demonstrates the Council's commitment to the principles of sustainable development.

13.1.4 Recommendation

13.01 Make no modifications to the Plan with regard to re-introducing DV paragraph 13.7.

13.2 Policy EPS (D EP1) – Environmental protection strategy

Note that this policy was wrongly named 'ES' in the RDV. The objection from the Environment Agency preceded by an asterisk has been coded against DV policy EP1 but seeks the introduction of a new policy. I have therefore dealt with it at the end of this chapter of my report.

13.2.1 Objections

<i>RD/7652/0001/10117/EPS/*</i>	-	<i>Government Office for the South West</i>
<i>D/7652/4048/9490/EP1/0</i>	-	<i>Government Office for the South West</i>
<i>D/7674/3349/4824/EP1/0</i>	-	<i>The House Builders Federation</i>
<i>* D/2838/4138/7495/EP1/0</i>	-	<i>The Environment Agency</i>
<i>D/2828/4128/7161/EP1/0</i>	-	<i>RSPB</i>
<i>D/2847/4144/7567/EP1/0</i>	-	<i>South West Water</i>

13.2.2 Issue

The appropriateness of the current policy wording.

13.2.3 Conclusions

1. GOSW (7652) objected to the wording of the policy on the grounds that 'requiring developers' does not appear to be a strategic objective, although they acknowledged that the 'achievement of environmental repair and enhancement' may be. The Council's response is that the achievement of mitigation measures is of strategic importance and that the requirement to carry out such measures is therefore an appropriate objective for the Environmental Protection Strategy. However, whilst I agree that this is an appropriate objective, I consider that a re-wording of the policy would address GOSW's concerns and would also emphasise the strategic nature and purpose of the policy. Furthermore, as the exact meaning of 'enhancement' is somewhat unclear in this context, I consider that the policy should simply refer to 'environmental mitigation', as this appears to be the Council's principal concern as expressed in Topic Paper 13.

2. South West Water's (2847) objection, that the DV policy attempts unsuccessfully to reflect the requirements of Environmental Impact Assessment has, in my opinion, been satisfactorily addressed by the RDV wording. This no longer refers to Environmental Impact Assessment in upper case policy, as this is covered by separate legislation, but instead provides details about EIA within the written explanation, for information purposes. These changes to the policy and the supporting text have also addressed the objection from the House Builders Federation (7674). This contended that the DV policy wording was misleading, as it suggested that an Environmental Impact Assessment should accompany all development proposals.

3. RSPB's objection that development proposals should be assessed against DV policy NC1 is noted, but does not require any modification to policy EPS as the Local Plan needs to be read as a whole. Proposals likely to have a nature conservation impact must, by their very nature, be assessed against the relevant nature conservation policies.

13.2.4 Recommendation

13.02 Modify policy EPS to read:

‘Development should respect environmental limits, be implemented in a sustainable manner and, where possible, be accompanied by environmental mitigation.’

13.3 Policy EP1 (D EP2) – Energy efficient design

13.3.1 Objections

<i>RD/7652/0001/10118/EP1/*</i>	-	<i>Government Office for the South West</i>
<i>RD/7674/0150/219/EP1/*</i>	-	<i>The House Builders Federation</i>
<i>RD/7674/0151/220/EP1/*</i>	-	<i>The House Builders Federation</i>
<i>D/7652/4048/9491/EP2/0</i>	-	<i>Government Office for the South West</i>
<i>D/2808/5000/6669/EP2/0</i>	-	<i>Friends of the Earth, Torbay</i>
<i>D/2808/5000/6671/EP2/0</i>	-	<i>Friends of the Earth, Torbay</i>
<i>D/2808/5000/6673/EP2/0</i>	-	<i>Friends of the Earth, Torbay</i>

13.3.2 Issues

- a) Whether the policy adequately addresses the matter of energy efficiency;
- b) whether the policy unnecessarily duplicates Building Regulation controls.

13.3.3 Conclusions

Issue a

1. Friends of the Earth (*FotE - 2808*) objected to DV policy E2 as they considered that it did not provide a sustainable framework for the development of energy efficiency measures. However, this policy has been substantially revised and simplified at RDV stage to require all new development to minimise direct and indirect energy consumption. In addition the explanatory paragraphs have been substantially amended to refer to Part L of the Building Regulations and to indicate sources of information about energy efficient design. Moreover I have noted that more detailed information is set out in the Environmental Guide (Section 7) which has also been significantly amended at the RDV stage. As Objective 4 of Aim 6 (*Energy conservation and global warming*) also promotes energy efficient design I consider that the Plan deals with this topic in a satisfactory way. I therefore do not intend to recommend any modifications to the policy to address these objections.

Issue b

2. GOSW's DV objection that the reference to 'Best Practical Environmental Option' was unclear has been addressed by the RDV re-wording. But a further concern of GOSW, that the Plan should not seek to duplicate the provisions of the Building Regulations, which are the appropriate legislative regime for promoting energy conservation through building design, has not been taken on board by the Council. However, on this point I share the Council's view that as the policy deals with some energy efficiency matters not addressed in the Building Regulations, such as effective landscaping and the siting and orientation of buildings, it complements rather than simply duplicates Building Regulation controls. I therefore consider

that the re-worded RDV policy is appropriate for a Local Plan and will assist the Council in their pursuit of sustainable development.

3. The House Builders Federation was concerned that the requirement to minimise direct and indirect energy consumption must be balanced against other planning considerations and objectives, and sought a reference to this within policy EP1. This comment could, however, be applied to many individual policies in the Plan. The important point is that the Plan should be read as a whole. It is for the decision maker to determine the weight which should be given to each of the material planning considerations in any particular case. Accordingly I shall not recommend any modification to the policy in this regard.

4. The second matter raised by the HBF is that the wording 'better insulation and more efficient heating and cooling systems' in RD paragraph 13.41 does not relate to land use and is, in any case, covered under the Building Regulations. Although the Council have commented that the supporting text specifically refers to the role of the Building Regulations, and does not seek to replicate controls which are dealt with by other legislation, I agree with the HBF that the wording of paragraph 3.41 is somewhat unclear. I shall therefore recommend a re-ordering of the points covered in paragraphs 13.41 and 13.42 to address this matter.

13.3.4 Recommendations

13.03 Make no modification to the text of policy EP1.

13.04 Delete the text after 'little extra cost' in line 7 of paragraph 13.41, and add the following new sentence after 'sustainable' in line 5 of paragraph 13.42:

'For example better insulation and more efficient heating and cooling systems can significantly reduce heating costs.'

13.4 Policy EP2 (D EP3) – Renewable energy

13.4.1 Objections

<i>RD/7651/0123/151/EP2/*</i>	- <i>British Wind Energy Association</i>
<i>RD/7651/0123/10976/EP2/*</i>	- <i>British Wind Energy Association</i>
<i>RD/7657/0017/9977/EP2/*</i>	- <i>ETSU (Dept Of Trade & Industry)</i>
<i>RD/7652/0001/10119/EP2/*</i>	- <i>Government Office for the South West</i>
<i>D/7651/4369/8223/EP3/0</i>	- <i>British Wind Energy Association</i>
<i>D/7652/4048/9492/EP3/0</i>	- <i>Government Office for the South West</i>
<i>D/2944/4360/8429/EP3/0</i>	- <i>Mr D Kelly</i>
<i>D/2808/5000/6670/EP3/0</i>	- <i>Friends of the Earth, Torbay</i>

13.4.2 Issues

- Whether the policy strikes the correct balance between the development of renewable energy and the protection of environmental and residential amenity;
- whether the policy adequately promotes sustainable development.

13.4.3 Conclusions

Issue a

1. The British Wind Energy Association (*BWEA – 7651*) welcomes the inclusion of policy EP2, but points out that modern wind turbines have distinctive features of planning relevance including the need for them to be sited in exposed locations, often in attractive rural areas. It therefore seeks a re-wording which will enable a balance to be struck between the need for and benefits of renewable energy development, and any effect this may have on the landscape or on residential amenities. To this end it suggests that the tests in criteria 1 and 3 should be whether any 'unacceptable adverse effect' is caused. A similar view is taken by GOSW (*7652*), which considers that the policy fails to strike an adequate balance between the benefits of renewable energy and other interests such as amenity. In this regard they refer to paragraph 26 of PPG 22 (*CD/8/18*) which states that Authorities will need to consider both the immediate impact of renewable energy projects on the local environment and their wider contribution to reducing emissions of greenhouse gasses.

2. In addition I have had regard to paragraph 21 of this guidance which points out that sites proposed for the development of renewable energy sources will often be in rural or coastal areas and that such development will almost always have some local environmental effects. It further explains that the Government's policies for developing renewable energy sources must be weighed carefully with its continuing commitment to policies for protecting the environment and goes on to advise that it will always be important that a particular proposal should cause the minimum harm to the countryside or the coast.

3. However, notwithstanding these points I share the Council's view that the policy's criteria are appropriately worded and provide a satisfactory framework for decision making. It remains the duty of the decision maker to carefully weigh any development proposal against all relevant Plan policies, and also have regard to other material considerations. In view of this I consider that no modification of the criteria is warranted. But the Council should note that the wording 'will be supported', in the introductory sentence, is covered by Recommendation 1.02 and will require some re-wording.

Issue b

4. Friends of the Earth considered that the DV policy should be more robust in promoting energy efficiency and should promote a range of energy efficiency measures. However, the Council have commented that the scope for large scale power generation (from any source) in Torbay is unlikely to be viable due to the area's built-up nature and landscape protection of the coastal and rural areas. I generally agree with this view, and consider that the smaller scale installations identified by FotE, such as small wind turbines, micro hydro power projects and the digestion of organic wastes to produce gas would, in principle, be supported by policy EP2. In addition I have noted that the RDV expanded the Explanation to policy EP2 so as to refer to the Government's policy on reducing use of fossil fuels. This is covered in PFC 13/3, which would amend explanatory paragraph 13.45 in order to provide updated targets for UK electricity requirements to be met from renewable sources. This PFC, which I recommend, also addresses the objection of ETSU (for the Department of Trade and Industry) (*7657*).

5. Mr Kelly (*2944*) contended that the policy is too weak and that the Council should be given more powers to insist on sustainable building practices, such as the inclusion of solar panels on buildings. However, the Council rightly points out that Local Plan is limited in the extent to which it can promote energy efficiency and sustainable building practices. In these

circumstances I consider that both this policy and EP1 go as far as they are able in setting out an acceptable and pro-active framework for the encouragement of energy efficient design and the use of renewable energy.

13.4.4 Recommendations

13.05 Make no modifications in respect of the objections to policy EP2.

13.06 Modify explanatory paragraph 13.45 by adding the following sentence after 'fossil fuels' in line 4:

'The Department of Trade and Industry's publication "New and Renewable Energy Prospects for the 21st century – conclusions in response to public consultation", sets a target of 5% of UK electricity requirements being met from renewable sources by the end of 2003; and 10% being achieved by 2010, subject to the cost on consumers being acceptable.'

Note, that this policy is also subject to Recommendation 1.02 which urges the Council to modify policies to avoid wording such as 'will be supported'.

13.5 Policy EP3 (D EP4) – Control of pollution

13.5.1 Objections

D/7652/4048/9493/EP4/0 - Government Office for the South West
 D/7652/4048/9494/EP4/3 - Government Office for the South West
 D/2828/4128/7202/EP4/0 - RSPB
 D/2828/4128/7164/EP4/0 - RSPB
 D/2808/5000/6655/EP4/0 - Friends of the Earth, Torbay
 D/2808/5000/6653/EP4/0 - Friends of the Earth, Torbay

13.5.2 Issue

Whether the policy provides clear and comprehensive guidance.

13.5.3 Conclusions

1. This policy has been substantially re-written at RDV stage, in order to clarify its content and offer more straightforward guidance to those seeking planning permission for developments which are likely to lead to pollution. This re-write has removed the criteria which the DV policy contained, but in my opinion it has resulted in a much clearer and succinct policy which is more robust in safeguarding health and the environment. In so doing it has satisfactorily addressed GOSW's concerns regarding its clarity and the relationship between hours of operation and any injurious effect on human health. It has also directly met RSPB's request by adding a reference to the need to minimise harm to the natural environment.

2. I consider that the revised version of the policy also addresses the points raised by FotE, primarily the view that because of the importance of the precautionary principle in any sustainability oriented approach to development, its status should be increased in this policy. Although not referred to directly in the policy itself, the precautionary principle underpins the policy's purpose – a point made in the RDV additions to explanatory paragraph 13.48.

Moreover, the Council point out that RD paragraph 2.9 has been specifically amended to explain that adopting a precautionary approach to development, where environmental impacts are uncertain, is an important aspect of sustainable development. In light of these points I share the Council's view that the RD changes have satisfactorily addressed the FotE objection.

3. A further point raised by FotE is the need for a cross-reference to criterion '3' of policy E9 (formerly criterion 4 of DV policy E8), dealing with layout, design and sustainability of commercial and industrial development. However it is my view that as the policies deal with different, albeit related, matters, it is not necessary to make a formal link between them. I shall therefore not recommend any modifications in this regard although I have noted that the Council consider it appropriate to cross-reference them as a factual editorial matter prior to publication of the Adopted Plan.

13.5.4 Recommendation

13.07 Make no modifications to policy EP3.

Note, however, that Topic Paper 13 refers to PFC 13/4 which proposes to add the words 'or mobilised' after the word 'generated' in the last line of the policy. This is stated as being in response to an objection from the Environment Agency, although this objection was subsequently withdrawn. I therefore make no comment on this PFC which is for the Council to decide whether to pursue.

13.6 Policy EP4 (D EP5) – Noise

13.6.1 Objection

D/7652/4048/9495/EP5/0 - Government Office for the South West

13.6.2 Issue

The clarity of the policy wording.

13.6.3 Conclusions

1. This policy received a single objection at DV stage, from GOSW who commented that the logic and wording of the policy appeared to be convoluted. The Council have taken these points on board by substantially re-writing the policy at RDV stage. These amendments have satisfied GOSW's concerns, and I see no reason to recommend any further modifications

13.6.4 Recommendation

13.08 Make no modifications to policy EP4.

13.7 Policy EP7 (D EP9) – Contaminated land

13.7.1 Objection

D/2808/5000/6662/EP9/0 - Friends of the Earth, Torbay

13.7.2 Issue

Whether the policy provides a satisfactory basis for considering development proposals on contaminated land.

13.7.3 Conclusions

1. FotE objected that the DV policy did not provide a meaningful framework for the identification, monitoring and clean up of contaminated land. Furthermore they took the view that the removal of contaminants is not always the best option, contending that it is sometimes better to leave contaminated material where it is, even though this may mean that the site in question is unsuitable for development. To satisfy these points FotE sought a much re-worded policy.

2. However, in my opinion the policy provides a clear approach to the treatment of development proposals for land which is known or suspected to be contaminated, in accordance with guidance on such matters in PPG 23 'Planning and Pollution Control' (CD/8/19). As the Council have noted in their written response to FotE, more detailed issues surrounding contaminated land may be the responsibility of the Environment Agency or HSE, as detailed in RD paragraph 13.66 and PFC 13/5. In addition, I have noted that the Environmental Health and Consumer Protection Division of the Council have a Contaminated Land Strategy, dealing with more detailed issues of implementation. PFC 13/6 refers to this strategy but as neither this PFC nor PFC 13/5 have arisen as a result of objections, I make no comment on them here, but leave the matters raised for the Council to consider themselves.

13.7.4 Recommendation

13.09 Make no modifications to policy EP7.

13.8 Policy EP8 (D EP10) – Land stability

13.8.1 Objection

D/2825/4434/8689/EP10/0 - The Cockington Valley Society

13.8.2 Issue

The appropriateness and content of the policy

13.8.3 Conclusions

1. There is a single objection to this policy, lodged by the Cockington Valley Society at DV stage. However, no details of what the Society consider objectionable in this policy have been given. In these circumstances, and as I consider the policy to provide clear guidance to prospective developers of land which may be unstable, I shall recommend no modifications be made.

13.8.4 Recommendation

13.10 Make no modifications to policy EP8.

13.9 Policy EP9 (D EP11) – Groundwater

13.9.1 Objection

D/2828/4128/7165/EP11/0 - RSPB

13.9.2 Issue

The appropriateness of the policy wording.

13.9.3 Conclusions

1. The RSPB were concerned that the DV policy gave no adequate definition of what is meant by 'unacceptable', in the context of risk to the quality and quantity of groundwater, or the quality of controlled waters. However, the matter of water quality does not fall within the remit of the land use planning system, but rather is the responsibility of the Environment Agency. As this body is a statutory consultee for certain kinds of development, but in practice tends to be consulted by local authorities on any relevant developments, I am satisfied that the current wording is appropriate and will be unlikely to cause problems in the application of the policy.

13.9.4 Recommendation

13.11 Make no modification to policy EP9.

13.10 Policy EP10 (D EP12) – Water supply

13.10.1 Objections

D/7652/4048/9496/EP12/0 - Government Office for the South West

D/2838/4138/7500/EP12/0 - The Environment Agency

D/2838/4138/7501/EP12/0 - The Environment Agency

13.10.2 Issues

- a) The appropriateness of the policy wording;
- b) whether the need to protect the quality and quantity of water resources should be dealt with in separate policies;
- c) other minor matters

13.10.3 Conclusions

Issue a

1. GOSW's objection to the DV policy was primarily on the grounds that the policy failed to adequately identify interests of acknowledged importance. The Council addressed this at RDV stage by a modest amendment to the policy wording. This satisfied GOSW and I, too, consider that the RD policy now provides the correct balance for the decision maker.

Issue b

2. The Environment Agency commented at DV stage that there may be some merit in altering this policy so that it is targeted specifically at protecting the quantity of water resources, with a separate policy to cover the protection of surface water quality. However, no detailed reasoning for such an amendment was given and I can see no need to have 2 policies where a single one can adequately cover the necessary matters.

Issue c

3. A second point raised by the Environment Agency is the fact that Impounding and Abstraction Licences may be required before certain actions are undertaken and that a reference to this should be included in the Plan. The Council have responded by adding paragraph 13.74 to the Explanation in the RDV which, in my opinion, satisfies this representation.

13.10.4 Recommendation

13.12 Make no modifications to policy EP10.

13.11 Policy EP11 (D EP13) – Flood control

13.11.1 Objections

D/2828/4128/7168/EP13/0 - RSPB
 D/2828/4128/7169/EP13/0 - RSPB
 D/2828/4128/7167/EP13/0 - RSPB
 D/2808/5000/6666/EP13/0 - Friends of the Earth, Torbay

13.11.2 Issues

- a) The adequacy of the policy's coverage;
- b) whether the need to protect nature conservation interests should be specifically included;
- c) whether modifications should be made to the explanatory paragraphs.

13.11.3 Conclusions

Issue a

1. FotE supported the references to flooding in the Plan, but considered that this policy was rather vague on the issue of flood plains and their protection. They sought some clarity on what actually constitutes a flood plain and the frequency of flood which should be protected

against, and requested that the policy be amended to deal with flood plain protection and their maintenance. They also requested that seasonal and 10 year flood plains be marked on the Proposals Map.

2. However, I have had regard to the fact that the Environment Agency is a consultee on the Local Plan and the Council's comment that policies on flooding reflect negotiations with that body. In addition I am mindful of the Council's comments that Torbay is not affected by any major flood plains and that the flooding issues it faces are localised in association with small water courses. In these circumstances I consider that the approach adopted by the Council, of adding a footnote where proposals require care to prevent flooding (*see the Tables associated with policies H1 and E1*), is both appropriate and adequate. I also share the Council's view that illustrating areas prone to flooding on the Proposals Map would simply introduce clutter and would serve no useful purpose.

Issue b

3. The RSPB considered that the DV policy did not provide adequate safeguards for sites of nature conservation importance which might be adversely affected by flood alleviation work. To address this they sought a re-wording of the policy. However, as with other similar objections made by this organisation, reported elsewhere in this report, my view is that policies within the Nature Conservation chapter deal quite satisfactorily with such concerns. To repeat such provisions in this policy would simply add to the length of the plan without providing any greater clarity.

Issue c

4. The RSPB have also made representations against 2 of the explanatory paragraphs relating to policy EP12. Firstly they objected to the use of the word 'wasteland' in the 3rd line of DV paragraph 13.69. This has been amended to 'wetland' by the Council in the RDV version (now paragraph 13.76) and this clearly addresses the concerns raised. And secondly they were concerned that DV paragraph 13.70 gave the impression that there would be an emphasis on, or first consideration of, 'hard' engineering types of remedial measure at the expense of 'soft', more sustainable options such as reed-beds, pools and berms. Again this matter has been satisfactorily addressed by the Council in amended wording proposed for paragraph 13.77 at RDV stage.

5. In addition I have had regard to PFC 13/7 which introduces an additional sentence into policy EP11 to refer to the need for an environmentally sensitive approach to the provision of drainage systems as being required. Although the Council have indicated that this PFC has been put forward to address comments made by the Environment Agency, in my opinion it also relates to the representations made by the RSPB. For these reasons I shall recommend this PFC.

6. Finally, I have noted that other PFCs have been put forward to amend the explanatory paragraphs for this policy. However, as they do not arise in response to outstanding objections, I pass no comment on them.

13.11.4 Recommendation

13.13 Modify policy EP11 in accordance with PFC 13/7 by inserting the following sentence after 'regime' in line 4:

'An environmentally sensitive approach to the provision of drainage systems will be required.'

13.12 Policy EP12 (D EP15) – Coastal Protection Zone

13.12.1 Objections

<i>RD/7844/0084/41/EP12/*</i>	-	<i>Galampton Residents' Association</i>
<i>D/7844/4409/8577/EP15/0</i>	-	<i>Galampton Residents' Association</i>
<i>D/7652/4048/9498/EP15/0</i>	-	<i>Government Office for the South West</i>
<i>D/2828/4128/7172/EP15/0</i>	-	<i>RSPB</i>
<i>D/2808/5000/6668/EP15/0</i>	-	<i>Friends of the Earth, Torbay</i>
<i>D/7366/4204/7909/EP15/0</i>	-	<i>Palace Hotel</i>
<i>D/2847/4145/7568/EP15/0</i>	-	<i>South West Water</i>

13.12.2 Issues

- a) The appropriateness of the policy content;
- b) whether the explanatory text should be expanded;
- c) site specific issues;
- d) other minor matters.

13.12.3 Conclusions

Issue a

1. South West Water considered the DV policy to be unacceptably prescriptive, maintaining that it does not include the necessary balance and does not accord properly with the advice contained within PPG 20 'Coastal Planning' (CD/8/16). In particular they requested that criteria 1 and 2 be re-formulated to make it clear that proposals for which there is a proven and established local and national need will be acceptable within the coastal zone. They also wanted it made clear that in assessing such proposals all relevant factors, including the effect that the development in question would have on the local economy, would be taken into account.

2. However, the Council's response to these points is that the policy is appropriate in the light of PPG 20 and, as decisions on development proposals need to be taken in the light of all relevant Plan policies, I share that view. I consider that the policy as currently worded emphasises the importance which the Council place on the Coastal Protection Zone, whilst still allowing other factors such as possible economic benefits to be fully taken into account. Nevertheless it seems to me that a modest re-wording of criteria 3 and 4 would be useful in providing consistency within the policy. In addition the Council should note that the policy falls foul of GOSW's general objection regarding phrases such as 'will be supported', covered by Recommendation 1.02.

Issue b

3. The RSPB supported the DV policy and the reference to English Nature's 'Important areas for marine wildlife around England' in paragraph 13.82. But they also requested that reference be made to 'Important seabird sites' as detailed in the RSPB/English Nature publication 'Seabirds of South Western Waters' (1997). As I understand that Torbay is covered by both designations, and as the Council have provided no clear evidence why this additional reference should not be noted, I shall recommend its inclusion.

Issue c

4. The Galmpton Residents' Association, made objections at both DV and RDV stages that an area of land in the Broadsands Area should be re-designated from ULPA to Coastal Protection Zone. However, I share the Council's view that as the Coastal Protection Zone has been drawn up on the basis of a geological assessment rather than from a landscape protection standpoint, any such amendment to the zone would be inappropriate. (*See also my recommendation on L6.40 earlier in this report*).

5. The Palace Hotel were concerned that the alignment of the Coastal Protection Zone cuts across an existing car parking area for which there are extant planning permissions, important for the future development of the hotel business. This point has been accepted by the Council, and PCI 13/1 seeks to amend the boundary of the Coastal Protection Zone on the south eastern side of the indoor tennis courts. This change would meet the objection and seems to me to be a common-sense alteration (*see also PCIs 3/10, 11/5, 11/6, 11/7 and 11/8*). I therefore recommend it.

Issue d

6. FotE recommended that this policy should include a clause relating to the potential effects of sea-level rise due to climate change. However, this is unlikely to be a significant factor during the life-time of the Local Plan, and I therefore do not consider it necessary to lengthen the policy in this way. GOSW's objection regarding the scope of the policy has been addressed by the RDV re-wording.

13.12.4 Recommendations

13.14 Modify criteria 3 and 4 of policy EP12 to read as follows:

'3. development proposals do not create a need for significant further coastal protection and sea defence works in underdeveloped or developed coastal locations;

4. development does not adversely affect sites or areas at risk from flooding, erosion and land instability arising from maritime influences;'

13.15 Amend the boundary of the Coastal Protection Zone in the vicinity of the Palace Hotel, Babbacombe Road, Torquay, in accordance with the plan attached to PCI 13/1;

13.16 Modify the explanatory text in paragraph 13.82 by adding the words: ‘and its joint report with the RSPB ‘Seabirds of South Western Waters’ (1997)’ after ‘1993)’ in line 3 and, consequently, delete the ‘s’ from ‘underlines’.

Note also that this policy is subject to Recommendation 1.02 which urges the Council to modify policies to avoid wording such as ‘will be supported’.

13.13 New policy – Surface water pollution control

13.13.1 Objection

D/2838/4138/7495/EP1/0 - The Environment Agency

13.13.2 Issue

The need for a new policy dealing with the control of pollution of surface water.

13.13.3 Conclusions

1. The Environment Agency commented that the control of pollution of surface water is only covered in part by DV policies EP11 and EP12 and that the Council may wish to consider introducing a separate policy to cover this issue more fully. However, no further details of what the Environment Agency were seeking were provided, nor they did not pursue this particular objection at RDV stage. Nevertheless, although the Council have not introduced a new policy to address this point, I have noted that substantial additions have been made to the explanatory text for these policies, primarily to address matters raised by the Environment Agency. In these circumstances I consider that no new policy is warranted.

13.13.4 Recommendation

13.17 Make no modifications to the Plan in respect of introducing a new policy to deal with surface water pollution control.
