

## neighbourhood plans

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**From:** Katie Priest [REDACTED]  
**Sent:** 15 December 2017 10:39  
**To:** neighbourhood plans  
**Cc:** Richard Ford; Jim Tarzey  
**Subject:** Torquay Neighbourhood Plan Representations  
**Attachments:** P17-2098 KP Let 12.09.17.pdf

Dear Sir/Madam

Please find attached a copy of our representations with regard to the Torquay Neighbourhood Plan on behalf of Mr and Mrs Ford. Please find this electronic submission in advance of the closing date for representations.

I would be grateful if you could confirm receipt.

Kind regards

**Katie Priest**

Associate

**Pegasus Group**

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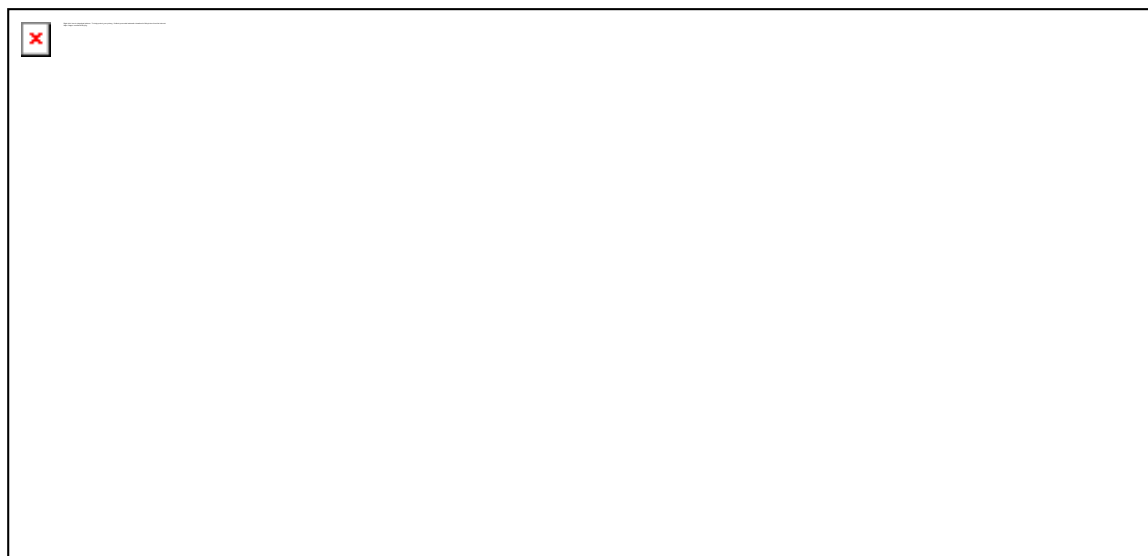
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KP/JT/P17-2098

Spatial Planning  
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**BY EMAIL**

14 December 2017

Dear Sir or Madam

**Torquay Neighbourhood Plan**  
**Representations to the Torquay Neighbourhood Plan**

Pegasus Group is writing on behalf of Mr and Mrs R Ford, to set out our representations to the Torquay Neighbourhood Plan (Submission Version) (hereinafter referred to simply as "NP").

We welcome the opportunity to comment on the NP and acknowledge the work of the community in preparing the NP consultation document. We are however concerned that, without significant modification the NP should not and cannot progress further.

We have previously made the majority of the following comments in response to earlier rounds of consultation to the draft NP. These comments were made in response to the second Regulation 14 Consultation in September 2017. However, we have not seen any evidence that these comments have been given due consideration or incorporated into the draft NP; they appear to have been dismissed in their consideration within the Consultation Statement, without due regard to the relevant requirements of the Act and national policy. As such, these points are reiterated as they remain valid.

These representations have been prepared having regard to the basic requirements set out by Paragraph 8 of Schedule 4B of the Town & Country Planning Act (T&CPA) 1990 that any Neighbourhood Plan is required to meet. The conditions require that the plan must:

- a) have regard to national planning policy;
- b) contribute to the achievement of sustainable development;
- c) be in general conformity with strategic policies in the development plan for the local area; and
- d) be compatible with EU obligations and human rights requirements.

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Planning Policy Context

**Paragraph 14** of the National Planning Policy Framework (NPPF) states:

*“14. At the heart of the National Planning Policy Framework is a **presumption on favour of sustainable development**, which should be seen as a golden thread running through both plan-making and decision-taking.”*

**Paragraphs 15 and 16** of the NPPF make clear that the ‘presumption in favour of sustainable development’ applies to neighbourhood planning. As explained by NPPF paragraph 16, critically this means neighbourhoods should:

- develop plans that support the strategic development needs set out in Local Plans, including policies for housing and economic development; and
- plan positively to support local development, shaping and directing development in their area that is outside the strategic elements of the Local Plan;

**Paragraphs 183 to 185** cover Neighbourhood Plans. Para. 183 states:

*“Neighbourhood planning provides a powerful set of tools for local people to ensure that they get the right types of development for their community. The ambition of the neighbourhood should be aligned with the strategic needs and priorities of the wider local area. Neighbourhood plans must be in general conformity with the strategic policies of the Local Plan. To facilitate this, local planning authorities should set out clearly their strategic policies for the area and ensure that an up-to-date Local Plan is in place as quickly as possible. Neighbourhood plans should reflect these policies and neighbourhoods should plan positively to support them. Neighbourhood plans and orders should not promote less development than set out in the Local Plan or undermine its strategic policies.” [Our emphasis]*

The National Planning Practice Guidance also confirms the basic conditions that a draft Plan must meet in order for it to progress to referendum. These include being in general conformity with the strategic policies contained in the development plan for the area (Reference ID: 41-065-20140306 and as referenced above). It continues to explain what is meant by ‘general conformity’ and identifies the following tests:

- whether the neighbourhood plan policy or development proposal supports and upholds the general principle that the strategic policy is concerned with;
- the degree, if any, of conflict between the draft neighbourhood plan policy or development proposal and the strategic policy;
- whether the draft neighbourhood plan policy or development proposal provides an additional level of detail and/or a distinct local approach to that set out in the strategic policy without undermining that policy;
- the rationale for the approach taken in the draft neighbourhood plan or Order and the evidence to justify that approach (Reference ID: 41-074-20140306).

**Paragraph 156** of the NPPF identifies that these strategic policies should deliver, amongst other things, the homes and jobs needed in the area. **Paragraph 2** of the NPPF also confirms that the NPPF must be taken into account in the preparation of neighbourhood plans and that it is a material consideration in the determination of planning applications.

The comments below are therefore made in order to identify what we consider to be flaws of the NP. These comments also refer to the Basic Conditions that must be met in order for the NP to be 'made'.

### General Comments

We find the Neighbourhood Plan to be confusing as a result of the inclusion of Community Partnership Statements provided towards the end of the plan. The role and status of these Statements is unclear. They are set out as 'community aspirations' and we therefore understand that they are not policies of the NP. However, they read as policy. Indeed page 46 states:

*"The statements also provide additional Planning Policies for the purposes of managing development specifically in those areas".*

The structure and role of the Statements is therefore confusing. The NP must clarify that the Community Partnership Statements do not form policies of the NP. We also recommend that the wording of many of the aspirations should be revised so that they read as aspirations and not policy.

We are aware that the Healthcheck Report undertaken for an earlier draft version of the NP made similar recommendations on this issue, which we support. Many of the recommendations made do not appear to have been incorporated into the Submission version.

### Comments on Specific Policies

#### Draft Planning Policy H17

Draft Planning **Policy H17** sets out rural village buffer zones around both Maidencombe and Cockington villages, unless otherwise allocated as housing. The draft policy states:

*"Planning permission shall be refused for new residential or commercial development on any green field site or undeveloped areas within a buffer zone around Maidencombe and Cockington villages unless it is allocated as a housing site within this plan...  
...the buffer zone around Maidencombe is defined as within 500m of the defined Village Envelope."*

This draft policy sets out a 500m exclusion zone around the Village Envelope of Maidencombe where there is effectively a moratorium on any form of development. The reason for this buffer zone and moratorium are not fully justified within the draft Neighbourhood Plan, and it is considered that not only is it an unnecessary policy, it is also not compliant with the National Planning Policy Framework (NPPF). Accordingly, this policy should be removed.

Page 19 of the draft Neighbourhood Plan sets out the rationale for this policy, stating it makes special provision to restrict potential development for the only two rural villages in the Torquay. It is unclear why this special provision is required for these two villages

and why they should not be subject to normal policy protection or development control considerations.

Specifically, the draft Neighbourhood Plan acknowledges at page 19 that the area around Maidencombe is already afforded protection by the adopted Local Plan via Countryside Policy C1 and Policy C2 Undeveloped Coast. As such, any development within this area would already be subject to detailed scrutiny in relation to these policies. These policies already consider that development is only acceptable where it would not harm the special landscape character in the area, integrity of landscape character, sense of remoteness and scenic beauty. These policies should be sufficient to protect against insensitive development, and therefore it is unclear why an additional level of restrictive policy is required. The text on page 19 attempts to explain that *"...our Plan provides additional clarification to what development will be supported."* However, the draft Policy then goes on to state that any new permission on this buffer zone will be refused, therefore implementing a presumption against any form of development.

The policy in itself is considered to be contrary to the NPPF. By subjecting the buffer zone to a moratorium on any development, draft Neighbourhood Plan Policy H17 is not giving any consideration to the presumption in favour of sustainable development, or the individual merits of any proposals coming forward. By simply restricting development based purely on an unjustified geographical limit, this is clearly contrary to the "heart" of the NPPF, which places great weight on sustainable development. As such, this policy is unjustified and contrary to the NPPF.

It is also considered that the suggested 500m buffer zone from the edge of the village envelope is unjustified and unsustainable as a boundary for the moratorium for development. There is no reasoning set out as to why this buffer zone should be in a 500m radius as opposed to any other radius that could be suggested. There is no clear rationale and justification as to why this distance of buffer zone is required (apart from the fact already detailed that there is no requirement for a buffer zone in the first place). Accordingly, this 500m zone should not be included as part of the policy.

Furthermore and importantly, it should also be noted that due to the discrepancies in the definition of the Village Envelope as noted below, this buffer zone would lead to further conflicting policies between district and neighbourhood level. Whereas adopted Local Plan Policy C1 allows modest development within the Village Envelope, much of the land in this Envelope would fall into the buffer zone in the draft Neighbourhood Plan due to the discrepancy in definition of the Village Envelope. As such, the Local Plan would allow development, whereas the draft Neighbourhood Plan would exclude it. This is contrary to Para 183 of the NPPF.

The Consultation Statement provides the following text in regard to our previous representations on this issue:

*"These villages are the only rural settlements in Torquay. See 6.3.1.2 in LP which concentrates building in urban areas and prevents unnecessary spread of inappropriate uses into the countryside. See also 6.3.1.4 which presumes against development in undeveloped countryside. The buffer zone is intended to fulfil the requirement in LP C1 to prevent loss of open countryside and creation of urban sprawl to the detriment of Maidencombe's special rural characteristics and setting."*

With regard to the justification of the arbitrary 500m buffer zone, the Consultation Statement provides the following in response to our previous representations on this issue:

*"H17 BUFFER ZONES AROUND RURAL SETTLEMENTS WITHIN AN URBAN ENVIRONMENT HAVE BEEN JUSTIFIED IN TERMS OF PRESERVING THEIR UNIQUE CHARACTERISTICS WITHIN THE SURROUNDING ENVIRONMENT. OUR PLAN SEEKS TO DIRECT DEVELOPMENT IN AREAS THAT ARE SUSTAINABLE AND MINIMISE THEIR ENVIRONMENTAL IMPACT."*

We would reiterate that this is an arbitrary 500m exclusion zone, and is not justified and is contradictory with other adopted Local Plan policies. The reasoning and rationale for the 500m geographical limit is absent and there is no regard to material considerations. As such, this policy is inconsistent with the NPPF and is unjustified.

#### Draft Planning Policy H19

Mr and Mrs Ford are not supportive of the text of draft Planning Policy H19, in the context of the Village Envelope as set out in the draft Neighbourhood Plan.

Draft Planning Policy H19 is worded to permit limited infill development.

It is noted that at point 1 of this draft policy, any development is excluded from within the Conservation Area. There is no justification for the moratorium of development within the Conservation Area. Conservation Areas can be capable of change and development in itself will not necessarily harm their character and appearance. There is no reason to prevent development of a high quality and design from this area by virtue of the Conservation Area designation alone, and this should be removed from the draft policy.

In response to our earlier representations, the Consultation Statement states:

*"H19 ALLOWS NEW BUILDINGS WITHIN THE REMAINING VILLAGE ENVELOPE OF MAIDENCOMBE. THIS IS A POLICY THAT SUPPORTS THE PROTECTION OF THE HISTORIC ENVIRONMENT OF ONLY 2 VERY SPECIAL RURAL VILLAGES THAT EXIST WITHIN A LARGELY URBAN AREA. IT IS THEREFORE IN COMPLIANCE WITH THE LOCAL PLAN AND NPPF AS IT DIRECTS DEVELOPMENT AND GIVES DETAILS TO SUPPORT STRATEGIC POLICIES WITHIN THE LOCAL PLAN.  
THE NEIGHBOURHOOD PLAN ALSO UPHOLDS THE MAIDENCOMBE AREA APPRAISAL 2005 BY TORBAY COUNCIL THAT DIRECTS AGAINST DEVELOPMENT WITHIN THE CONSERVATION AREA NO CHANGE REQUIRED."*

However, this should be seen in the context of existing legislation and planning policy which provides the correct policy context and basis for assessing the impact on Conservation Areas and preserving them as necessary.

It is not clear why, and on what basis, a different spatial approach toward controlling housing growth is required in Conservation Areas. This is not justified by national planning policy.

#### Community Partnership Statements

With regard to the Community Partnership Statements, our client's land interest falls within the St. Marychurch and District Community Partnership. It is our understanding that by making changes that appear to respond to the recommendations of a 'Healthcheck'

of an earlier version of the NP, that the Statements are not policy. Should that not be the case, we reserve the right to make further comments. However, on a without prejudice basis, we provide the below comments on the Community Partnership Statement.

Additionally, we are unclear why the St. Marychurch Statement has been divided to yet further smaller geographic areas, Part B being related to Maidencombe only. This raises further questions regarding the role and ability of all within the Neighbourhood Plan area having the opportunity to influence and comment upon the NP as a whole.

The draft NP includes maps, which show what is described as the “Village Envelope” around Maidencombe. A map showing the location of this “Village Envelope” is included with this submission (Drg. No. P17-0298\_01).

Within the Community Partnership Submissions for St Marychurch, and Maidencombe. are a series of maps, including one entitled “The defined Village Envelope”. The Village envelope shown on this map corresponds with the Map included with the draft NP.

Within the Community Partnership Submission St Marychurch and Maidencombe, reference is made to the village envelope in the context of the village. This states:

*“The area surrounding the Village Envelope of Maidencombe, is largely identified in the Torbay Local Plan as Countryside Area (Local Plan Policy C1) and/or Undeveloped Coast (Local Plan Policy C2).”*

However, upon comparing the draft Village Envelope to that shown in the adopted Torbay Local Plan 2012-2030 (adopted 2015), it appears that there is an error in the draft Neighbourhood Plan designation of the defined Village Envelope. The Village Envelope as set out on the adopted Policies Map of the 2015 Local Plan is significantly larger, stretching to the north of the village, as well as to the south. A plan is included which shows the adopted defined Village Envelope which has been defined by the District Council (Drg. No. P17-2098\_02).

Clearly there is a discrepancy between the Village Envelope in the adopted plan, as opposed to that shown in the draft Neighbourhood Plan. This discrepancy is quite considerable and is shown on the comparison plan also attached (Drg. No. P17-2098\_03).

As stated at Paragraph 183 of the NPPF:

*“Neighbourhood plans must be in general conformity with the strategic policies of the Local Plan. To facilitate this, local planning authorities should set out clearly their strategic policies for the area and ensure that an up-to-date Local Plan is in place as quickly as possible. Neighbourhood plans should reflect these policies and neighbourhoods should plan positively to support them. Neighbourhood plans and orders should not promote less development than set out in the Local Plan or undermine its strategic policies.”* [Our emphasis]

Adopted Torbay Local Plan 2012-2030 (adopted 2015) **Policy C1** Countryside and the rural economy states:

*“...Otherwise, development outside the main urban areas...will normally only be permitted within the established boundaries of villages and hamlets, provided that it is of an appropriate modest scale and consistent with relevant Local Plan Policies, including those relating to landscape, recreation, biodiversity, design and conservation. Suitable infill*



*development, refurbishments and conversions will be permitted within these settlements in order to meet the day-to-day needs of local communities, to promote the retention and development of local services and to help maintain their sustainability. Village Envelopes in Maidencombe and Churston/Galmpton are defined on the Policies Map."*

Clearly, this adopted policy permits a modest amount of suitable and appropriate development within the Village Envelope. The arbitrary redefining of the Village Envelope in the draft Neighbourhood Plan would preclude any development of this sort, in conflict with adopted Local Plan Policy C1.

As such, it is clear that this discrepancy should be rectified and the adopted Village Envelope boundary should be applied to the draft Neighbourhood Plan to ensure conformity. It is noted that this discrepancy between the Village Envelopes would result in less development being permitted in Maidencombe, contrary to the Local Plan, and the NPPF.

We note that in the Consultation Statement, they respond to our previous comments on this as follows:

*"THE VILLAGE ENVELOPE IS DEFINED IN THE NEIGHBOURHOOD PLAN IS IN AGREEMENT WITH TORBAY COUNCIL. WE BELIEVE THE LOCAL PLAN MAPPING IS IN ERROR. THE VILLAGE ENVELOPE IS NOT A STRATEGIC POLICY AND THEREFORE THE NEIGHBOURHOOD PLAN CAN REDEFINE THIS TO BETTER REFLECT THE COMMUNITY WISHES AND WHAT WAS AGREED WITH TORBAY COUNCIL."*

My client would like clear clarification of the supposed "error" in Torbay Council's adopted Local Plan. An adopted local plan should take primacy on this issue and it is unclear how this error has arisen.

We note the subsequent comments in the Consultation Statement:

*"Local Plan 6.3.1.12 does allow for amendment of VE boundaries in the NP, although we believe these to be in error in the LP. The VE was instigated by Ruth Robinson and Andrew Gunther (Torbay Planning) and a proposal developed in a walk around the village with Rodney Horder. This proposal was shown at a meeting to which all residents were invited in January 2015, and the boundaries were agreed, unchanged. There has been subsequent discussion and consultation with residents who have agreed what appears in the NP, with the overall boundary being unchanged."*

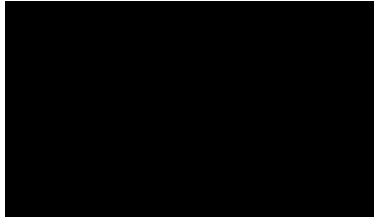
Whilst this may be as reported, the discrepancy between the adopted Local Plan proposals map and the village envelope as proposed within the Community Partnership Statement is significant and the difference between the two does not appear to be clearly evidenced and the reasons for this set out. As such, this is considered to be an error and should be revisited in consideration of these consultations.

In summary, our view is that the NP can not be 'made' in its current form. Many of the policies are unclear and repeat other policies. Other policies are contrary to the Local Plan and/or national planning guidance.

It is our opinion that the policies would restrict development and the NP is therefore contrary to the Local Plan. Therefore, the NP does not meet the Basic Conditions.

I trust that the above comments will be taken into consideration.

Yours faithfully



**Jim Tarzey**  
**Executive Director**  
e-mail: 

Encs.

cc. Mr & Mrs Ford (including Encs.)

# neighbourhood plans

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**From:** Katie Priest [REDACTED]  
**Sent:** 18 December 2017 08:59  
**To:** neighbourhood plans  
**Subject:** RE: Torquay Neighbourhood Plan Representations  
**Attachments:** P17-2098\_01 NP Plan.pdf; P17-2098\_02 LP Plan.pdf; P17-2098\_03 Comparison Plan.pdf

Apologies, please find attached the plans that should have been sent on Friday.

Kind regards

**Katie Priest**

Associate


**Pegasus Group**

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**From:** Katie Priest  
**Sent:** 15 December 2017 10:39  
**To:** 'neighbourhood.plans@torbay.gov.uk' <neighbourhood.plans@torbay.gov.uk>  
**Cc:** [REDACTED]  
**Subject:** Torquay Neighbourhood Plan Representations

Dear Sir/Madam

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Kind regards

**Katie Priest**

Associate

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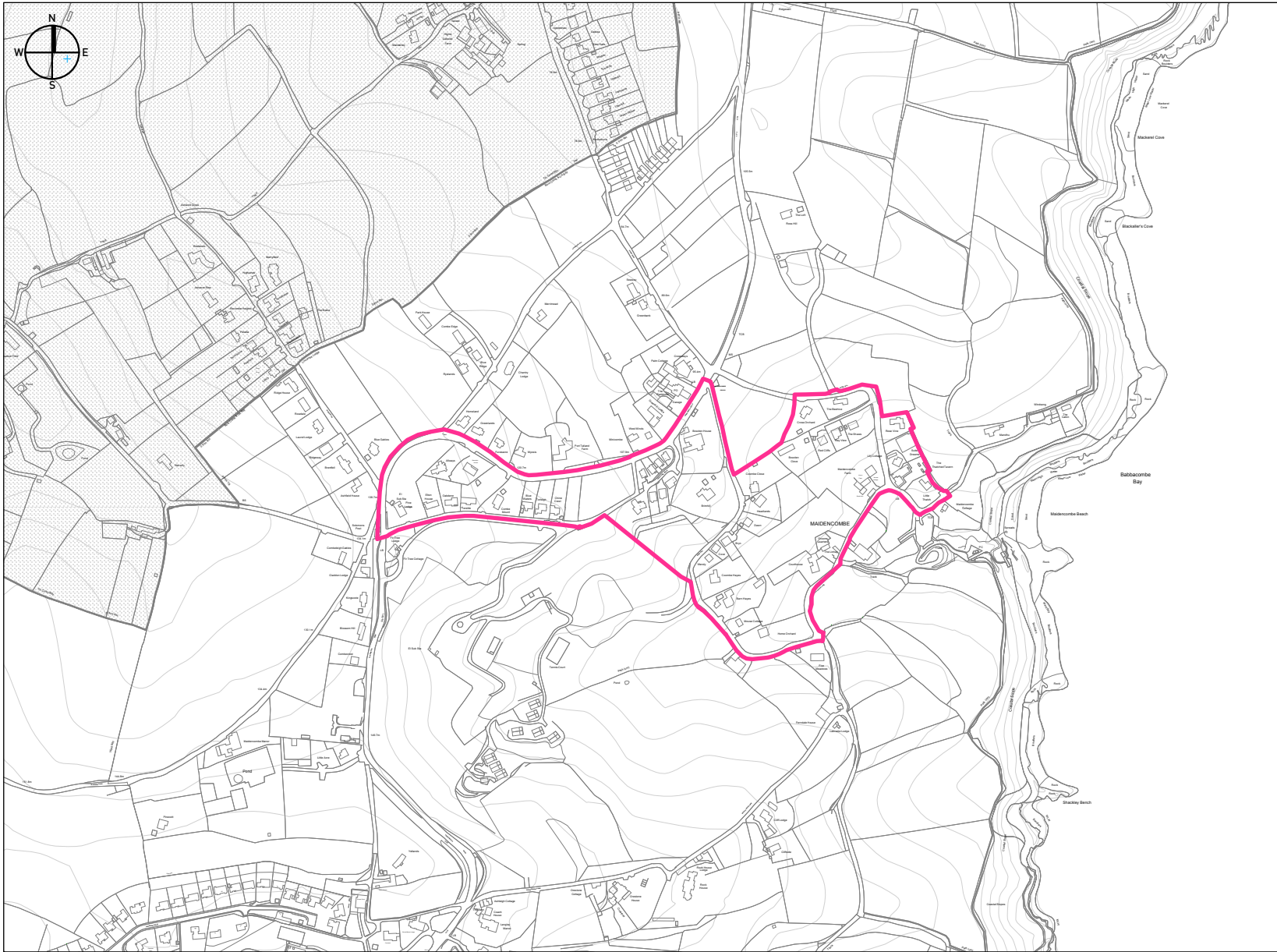
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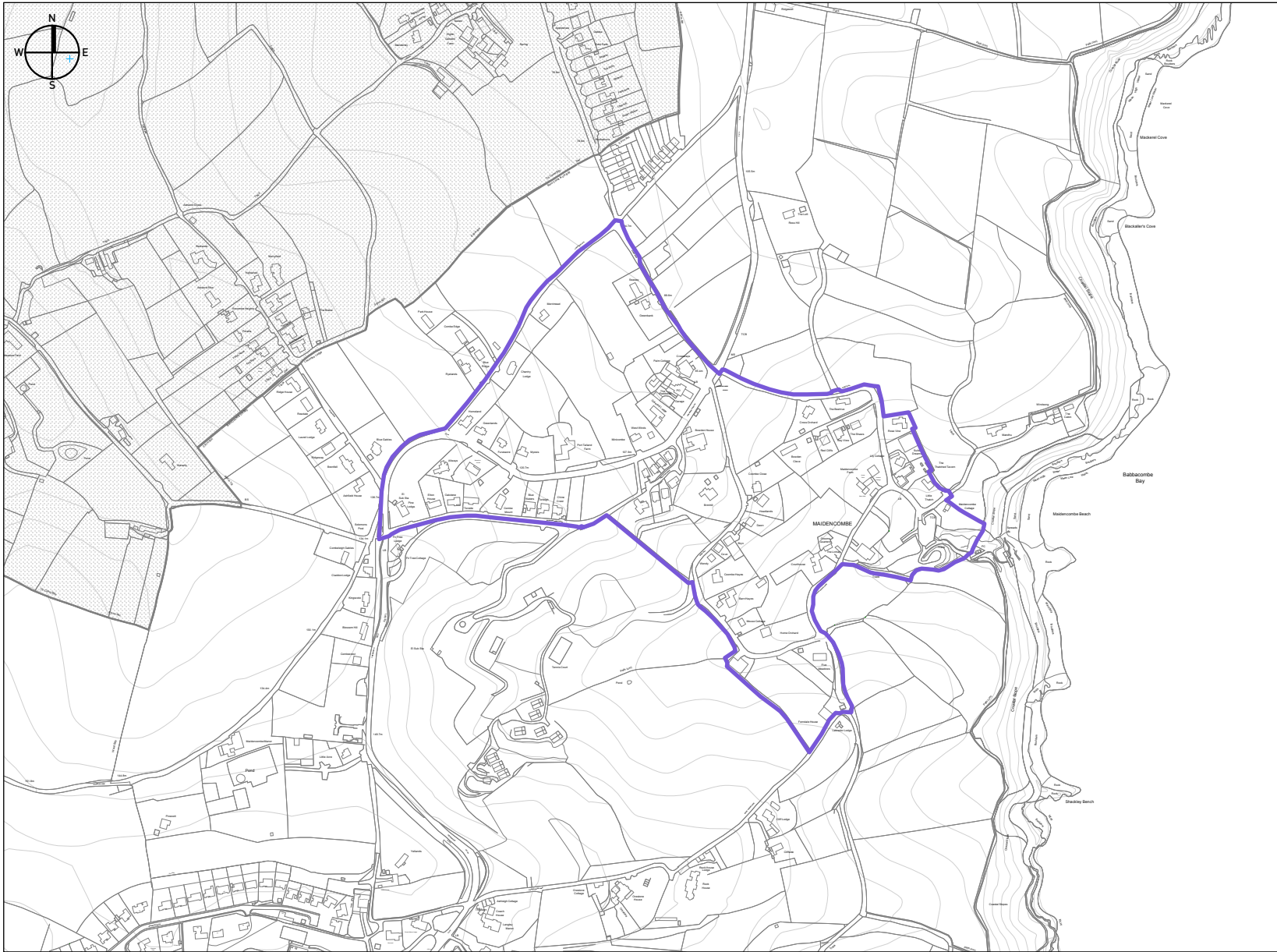
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**KEY**  
 THE DEFINED VILLAGE ENVELOPE FROM THE DRAFT TORQUAY NEIGHBORHOOD PLAN

## MAIDENCOMBE - THE DEFINED VILLAGE ENVELOPE FROM THE DRAFT TORQUAY NEIGHBORHOOD PLAN

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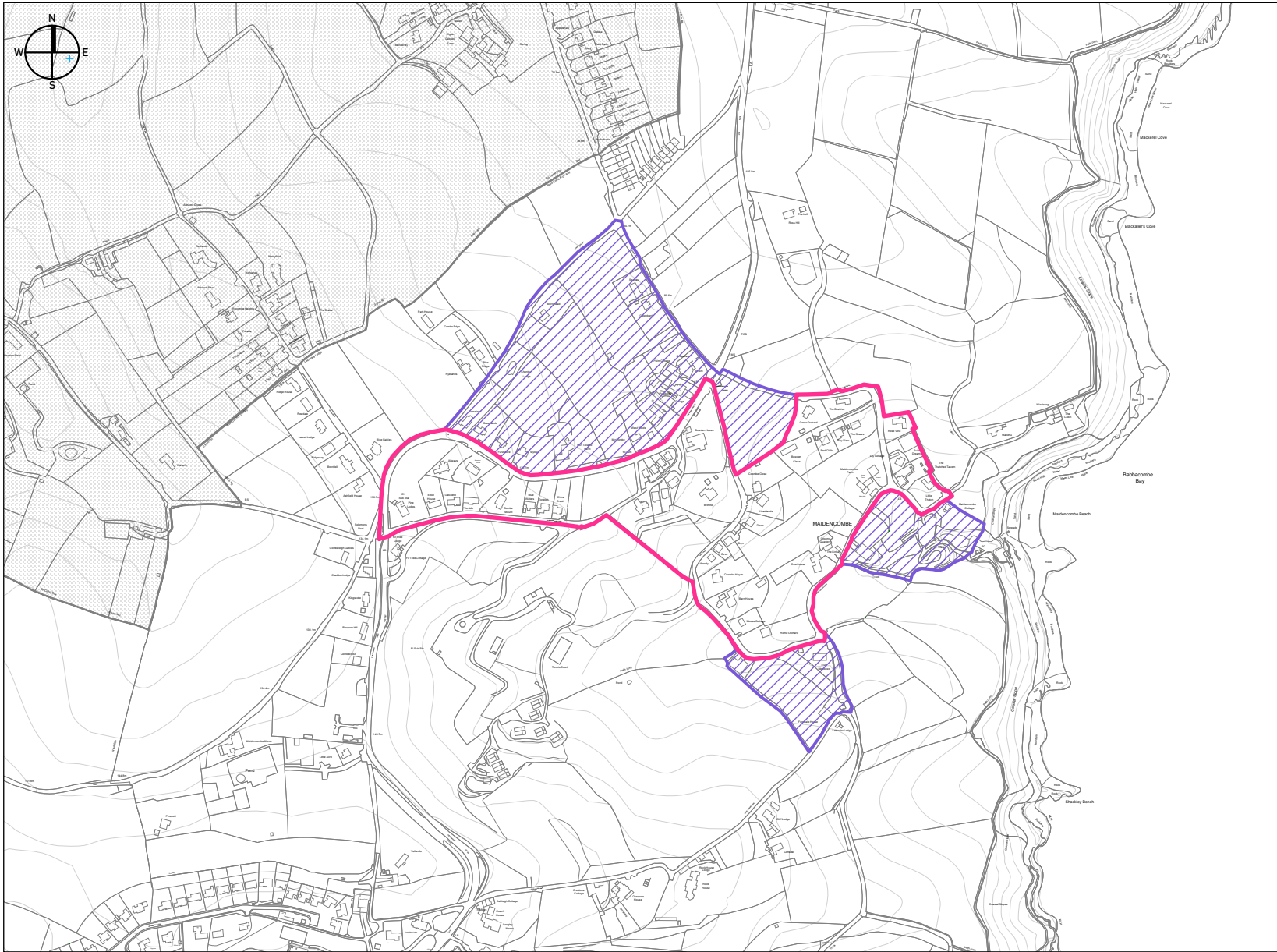


**KEY**  
 THE DEFINED VILLAGE ENVELOPE FROM THE ADOPTED TORQUAY LOCAL PLAN 2015


## MAIDENCOMBE - THE DEFINED VILLAGE ENVELOPE FROM THE ADOPTED TORQUAY LOCAL PLAN 2015




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**KEY**

 THE DEFINED VILLAGE ENVELOPE FROM THE DRAFT TORQUAY NEIGHBORHOOD PLAN

 AREA INCLUDED WITHIN THE ADOPTED LOCAL PLAN VILLAGE ENVELOPE BUT EXCLUDED BY THE DRAFT TORQUAY NEIGHBORHOOD PLAN

**MAIDENCOMBE - ADOPTED VILLAGE ENVELOPE & DRAFT VILLAGE ENVELOPE COMPARISON PLAN**