



**Minutes of the Extraordinary Meeting of the Council  
(Council decisions shown in bold text)**

**15 November 2018**

**-: Present :-**

**Chairman of the Council (Councillor Doggett) (In the Chair)  
Vice-Chairwoman of the Council (Councillor Barnby)**

The Elected Mayor of Torbay (Elected Mayor Oliver)

Councillors Amil, Bent, Brooks, Bye, Carter, Darling (M), Darling (S), Ellery, Excell, Haddock, Hill, Kingscote, Lewis (B), Lewis (C), Long, Manning, Mills, Morey, Morris, O'Dwyer, Parrott, Robson, Sanders, Stockman, Stocks, Stubley, Thomas (J), Tolchard and Tyerman

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**105 Opening of meeting**

The Chairman gave apologies from his Chaplain and opened the meeting with a minute's silence to allow for personal reflection.

**106 Apologies for absence**

Apologies for absence were received from Councillors King, Morris, Pentney, Sykes, Thomas (D) and Winfield.

**107 Declarations of interests**

Councillor Stockman declared a non-pecuniary interest in respect of Minute 111 as she was the Chair of the Brixham Peninsula Neighbourhood Forum in her role as a Brixham Town Councillor.

**108 Public question time**

The Chairman advised that he had allowed late submissions for public question time in respect of Neighbourhood Plans for Torquay, Paignton and Brixham. Members noted that the Council had received five statements each relating to individual plans. Therefore, the Chairman advised that he had exercised his discretion to enable each statement to be heard prior to the consideration of the relevant Neighbourhood Plan on the agenda.

**109 Paignton Neighbourhood Plan - Determination of Independent Examination**

Prior to consideration of this item and in accordance with Standing Order A24, the Council heard from Mr David Watts, Chairman of the Paignton Neighbourhood Forum, who had submitted a statement in relation to the Paignton Neighbourhood Plan. The Deputy Mayor and Executive Lead for Planning and Waste responded to the statement that had been put forward advising that the matter was to be considered at this meeting.

The Council then received the Paignton Neighbourhood Plan, which had been submitted by the Paignton Neighbourhood Forum, along with the Independent Examiner's report on the Plan. It was noted that the Localism Act 2011 enabled communities to become involved directly in planning for their areas and communities were able to produce neighbourhood plans. Once adopted Neighbourhood Plans formed part of the statutory development plan to inform the determination of planning applications.

In determining the Paignton Neighbourhood Plan, Members noted the Independent Examiner had recommended that, subject to modifications, the Plan met the basic conditions required to proceed to a referendum. It was further noted that Officers had considered the Examiner's recommendations and made a number of further prescribed modifications to meet the legal basic conditions, as set out in the submitted report. The Paignton Neighbourhood Forum had indicated that they were in agreement with the Officer recommendations to Council.

Councillor Mills proposed and Councillor Haddock seconded a motion as set out below, which was determined by recorded vote and agreed unanimously. The voting was taken by roll call as follows: For: Elected Mayor Oliver, Councillors Amil, Barnby, Bent, Brooks, Bye, Carter, Darling (M), Darling (S), Doggett, Ellery, Excell, Haddock, Hill, Kingscote, Lewis (B), Lewis (C), Long, Manning, Mills, Morey, O'Dwyer, Parrott, Robson, Sanders, Stockman, Stocks, Stubley, Thomas (J), Tolchard and Tyerman (31); and Absent: Councillors King, Morris, Pentney, Sykes, Thomas (D) and Winfield (6).

**It is recommended that the Council:**

- (i) Agrees the decision statement in Appendix 2 to the submitted report and attached to these minutes, which shall be adopted and published accordingly, and that the Paignton Neighbourhood Plan as modified in Appendix 3 to the submitted report, is submitted to a referendum in accordance with the Neighbourhood Planning (General) Regulations 2012 (as amended) and the Neighbourhood Planning (Referendums) Regulations 2012 (as amended);**
- (ii) Delegate to the Assistant Director of Transport and Planning to ensure that the Policy maps are finalised for inclusion in the Plan prior to the referendum, reflecting all modifications set out in the decision statement in Appendix 2 to the submitted report; and**

- (iii) Accepts the Examiner's recommendation that it is not necessary to extend the referendum area and that the most appropriate area for the referendum will be that of the Paignton Neighbourhood Area.**

**110 Torquay Neighbourhood Plan - Determination of Independent Examination**

Prior to consideration of this item and in accordance with Standing Order A24, the Council heard from Mr Leon Butler, Chairman of the Torquay Neighbourhood Forum, who had submitted a statement in relation to the Torquay Neighbourhood Plan. The Deputy Mayor and Executive Lead for Planning and Waste responded to the statement that had been put forward advising that the matter was to be considered at this meeting.

The Council then received the Torquay Neighbourhood Plan, which had been submitted by the Torquay Neighbourhood Forum, along with the Independent Examiner's report on the Plan. It was noted that the Localism Act 2011 enabled communities to become involved directly in planning for their areas and communities were able to produce neighbourhood plans. Once adopted Neighbourhood Plans formed part of the statutory development plan to inform the determination of planning applications.

In determining the Torquay Neighbourhood Plan, Members noted the Independent Examiner had recommended that, subject to modifications, the Plan met the basic conditions required to proceed to a referendum. It was further noted that Officers had considered the Examiner's recommendations and did not concur with a large number of his recommendations. Therefore, Officers proposed a number of changes, particularly the rewording and retention of a considerable number of policies, which the Examiner had recommended be deleted from the Plan. The modifications recommended by Officers were considered to better meet the legal basic conditions, as set out in the submitted report. The Torquay Neighbourhood Forum had indicated that they were in agreement with the Officer recommendations to Council.

The Chairman advised that an updated Appendix 3 had been circulated prior to the meeting.

Councillor Mills proposed and Councillor Haddock seconded a motion as set out below, which was determined by recorded vote and agreed unanimously. The voting was taken by roll call as follows: For: Elected Mayor Oliver, Councillors Amil, Barnby, Bent, Brooks, Bye, Carter, Darling (M), Darling (S), Doggett, Ellery, Excell, Haddock, Hill, Kingscote, Lewis (B), Lewis (C), Long, Manning, Mills, Morey, O'Dwyer, Parrott, Robson, Sanders, Stockman, Stocks, Stubbley, Thomas (J), Tolchard and Tyerman (31); and Absent: Councillors King, Morris, Pentney, Sykes, Thomas (D) and Winfield (6).

**It is recommended that the Council:**

- (i) Agrees the decision statement in Appendix 2 to the submitted report and attached to these minutes, which shall be adopted and**

published accordingly, and that the Torquay Neighbourhood Plan as modified in updated Appendix 3 circulated on 14 November 2018, is submitted to a referendum in accordance with the Neighbourhood Planning (General) Regulations 2012 (as amended) and the Neighbourhood Planning (Referendums) Regulations 2012 (as amended);

- (ii) Delegate to the Assistant Director of Transport and Planning to ensure that the Policy maps are finalised for inclusion in the Plan prior to the referendum, reflecting all modifications set out in the decision statement in Appendix 2 to the submitted report; and
- (iii) Accepts the Examiner's recommendation that it is not necessary to extend the referendum area and that the most appropriate area for the referendum will be that of the Torquay Neighbourhood Area.

(Note: Councillor Bye left the meeting after consideration of this item.)

**111 Brixham Peninsula Brixham Peninsula Neighbourhood Plan - Determination of Independent Examination**

Prior to consideration of this item and in accordance with Standing Order A24, the Council heard from the following, who had submitted statements in relation to the Brixham Peninsula Neighbourhood Plan:

Mr James Mitchell, on behalf of the Waterside Area Residents' Association;

Mr Mike Harris of Stride Treglown, on behalf of Abacus Projects Limited;  
and

Brixham Town Councillor Jackie Stockman, Chair of Brixham Peninsula Neighbourhood Forum.

The Deputy Mayor and Executive Lead for Planning and Waste responded to the statements that had been put forward advising that the matter was to be considered at this meeting and that the Council's Monitoring Officer had published a briefing in respect of the legal issues raised on behalf of Abacus Projects.

The Council then received the Brixham Peninsula Neighbourhood Plan, which had been submitted by the Brixham Town Council (prepared by the Brixham Peninsula Neighbourhood Forum as subsidiary of the Town Council), along with the Independent Examiner's report on the Plan. It was noted that the Localism Act 2011 enabled communities to become involved directly in planning for their areas and communities were able to produce neighbourhood plans. Once adopted Neighbourhood Plans formed part of the statutory development plan to inform the determination of planning applications.

In determining the Brixham Peninsula Neighbourhood Plan, Members noted the Independent Examiner had recommended that, subject to modifications, the Plan met the basic conditions required to proceed to a referendum. It was further noted

that Officers had accepted many of the Examiner's recommendations and made a number of modifications not recommended by the Examiner. The proposed additional modifications recommended by Officers were considered to better meet legal basic conditions, whilst maintaining the original intent of the community. The Officers recommendations were set out in the submitted report.

The Chairman advised updated Appendices 2 and 3 had been circulated prior to the meeting, along with a briefing note and revised officer recommendation prepared by the Monitoring Officer.

Councillor Mills proposed and Councillor Haddock seconded a motion as set out below, which was determined by recorded vote and agreed unanimously. The voting was taken by roll call as follows: For: Elected Mayor Oliver, Councillors Amil, Barnby, Bent, Brooks, Carter, Darling (M), Darling (S), Doggett, Ellery, Excell, Haddock, Hill, Kingscote, Lewis (B), Lewis (C), Long, Manning, Mills, Morey, O'Dwyer, Parrott, Robson, Sanders, Stockman, Stocks, Stubbley, Thomas (J), Tolchard and Tyerman (30); and Absent: Councillors Bye, King, Morris, Pentney, Sykes, Thomas (D) and Winfield (7).

**It is recommended that the Council:**

- (i) That the decisions of the Council in respect of the designation of the Neighbourhood Forum for Brixham be rescinded (minutes 93/12/12 and 135/12/17 refer) in recognition that an application in respect of forum status was not required, given that the Town Council is considered to be the 'relevant body' in accordance with sections 61F and 61G of the Town and Country Planning Act 1990;**
- (ii) Agrees the decision statement in updated Appendix 2 circulated on 14 November 2018 and attached to these minutes, which shall be adopted and published accordingly, and that the Brixham Peninsula Neighbourhood Plan as modified in updated Appendix 3 circulated on 14 November 2018, is submitted to a referendum in accordance with the Neighbourhood Planning (General) Regulations 2012 (as amended) and the Neighbourhood Planning (Referendums) Regulations 2012 (as amended);**
- (iii) Delegate to the Assistant Director of Transport and Planning to ensure that the Policy maps are finalised for inclusion in the Plan prior to the referendum, reflecting all modifications set out in the decision statement in updated Appendix 2 circulated on 14 November 2018; and**
- (iv) Accepts the Examiner's recommendation that it is not necessary to extend the referendum area and that the most appropriate area for the referendum will be that of the Brixham Peninsula Neighbourhood Area.**

(Note: Prior to consideration of Minute 111, Councillor Stockman declared her non-pecuniary interest as Chair of Brixham Peninsula Neighbourhood Forum in her role as a Brixham Town Councillor.)

Chairman

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## **Appendix 2:**

### **Decision Statement Table: Paignton Neighbourhood Plan**

#### **Assessment of Examiner's Report**

##### **Background**

This Appendix provides a more detailed officer assessment of the Examiner's Modifications and the LPA's Decision Statement.

Mrs Deborah McCann was appointed through the National Planning Independent Examiner Referral Service (NPIERS) as the Independent Examiner in March 2018. This appointment was consented to by the Neighbourhood Forum. Mrs McCann, an experienced examiner, is independent of the Council and Neighbourhood Forum, possesses appropriate qualifications and has no interest in any land within the Torquay area. Whilst she had previously been employed by Torbay Council in the 1990s, this was considered by the Monitoring Officer not to represent a conflict of interest because of the significant passage of time.

All written representations were provided to the Examiner along with the submitted plan and associated documents. As part of the examination, Mrs McCann held an exploratory meeting public hearing at Paignton Library on 10 May 2018. The final report was received by the Council on 18<sup>th</sup> July 2018. The report was published on the Council's website on 19<sup>th</sup> July 2018.

The conclusion of the report was that the Plan should proceed to referendum, with modifications recommended by the Examiner.

##### **Examiner Recommendations.**

The Examiner recommend a number of modifications needed to meet the Basic Conditions. Their general thrust of the modifications is to make the Plan more supportive of development in order to meet the Torbay Local Plan's strategic requirements. The LPA has agreed with the bulk of these modifications. However, it is considered that in some instances the basic conditions can be effectively met with different wording, which bring the Plan into overall closer alignment to the Local Plan and NPPF. This wording has been developed in close discussion with the Neighbourhood Forum. The modified policy wording is available in Table A2(1) and (2) below.

**Table A2(1) Assessment of Examiner's Report and LPA Response.**

<b>Submitted Plan Reference</b> (Policy / supporting text paragraph)	<b>Examiner's Recommended Modification</b> (Note: only summarised below, see Examiner's report for more information)	<b>Examiner's Reason(s)</b> (Note: only summarised below, see Examiner's report for more information)	<b>Council Decision and Reason</b> (Required action to take in respect of Examiner's recommended modification and reason)	<b>Outcome to Submitted Plan</b> (Note: only summarised below, all outcomes are incorporated in full into the post examination plan with modifications in Appendix 3)
<b>General and procedural matters</b>				
Section 2 P3	<p><b>Summary Recommendations</b></p> <ol style="list-style-type: none"> <li>1. The Paignton Neighbourhood Plan and the policies within it, subject to the recommended modifications does meet the Basic Conditions.</li> <li>2. Satisfied that the Referendum Area should be the same as the Plan Area,</li> <li>3. Having read the Paignton Consultation Statement and the representations made in connection with this subject the examiner considers that the consultation process was robust and that the Neighbourhood Development Plan and its policies reflect the outcome of the consultation process including recording representations and tracking the changes made as a result of those representations.</li> <li>4. Find that the Paignton Neighbourhood Plan can, subject to the recommended modifications proceed to Referendum.</li> </ol>	Reasons set out in main report, plus see below.	<p>Accept recommendations with the exceptions of further modifications noted below.</p> <p>The LPA concur that the Plan proposal has been prepared in accordance with the legal requirements.</p> <p>No significant cross boundary issues have arisen in relation to the Paignton Neighbourhood Plan which would suggest that the referendum area should be extended.</p>	The Paignton Neighbourhood Plan as modified by the examiner, with the LPA's further modifications, may proceed to referendum.



<b>Submitted Plan Reference</b> (Policy / supporting text paragraph)	<b>Examiner's Recommended Modification</b> (Note: only summarised below, see Examiner's report for more information)	<b>Examiner's Reason(s)</b> (Note: only summarised below, see Examiner's report for more information)	<b>Council Decision and Reason</b> (Required action to take in respect of Examiner's recommended modification and reason)	<b>Outcome to Submitted Plan</b> (Note: only summarised below, all outcomes are incorporated in full into the post examination plan with modifications in Appendix 3)
Section 4.2 P8	I am satisfied that the Paignton Neighbourhood Forum meets the necessary requirements and is the Qualifying Body.	P8	The LPA is satisfied that Paignton Neighbourhood Forum is the appropriate qualifying body, as its forum status was approved by Council in December 2012 and 2017.	
Section 4.3	Confirms the neighbourhood Plan area		Noted – see above.	
Section 4.4	Confirms the Plan period 2012-30		Agree This corresponds to the Torbay Local Plan 2012-30 period	
Section 6.3 PP13-15	Conclusions from Exploratory meeting. There is no mechanism in the law, or NPPF, for a Local Plan to require a Neighbourhood Plan to allocate sites. My conclusion on this point is that the Paignton Neighbourhood Plan is not in conflict with this element of Torbay Local Plan strategic policy SS1.	Rationale set out in section 6.3 of Inspectors report. PP13-15	As noted in the main report, the LPA accepts the LPA and a number of developers made representations on this issue.  The Examiner's recommendation on this matter is accepted for the reasons set out in the main Council report.	

<b>Submitted Plan Reference</b> (Policy / supporting text paragraph)	<b>Examiner's Recommended Modification</b> (Note: only summarised below, see Examiner's report for more information)	<b>Examiner's Reason(s)</b> (Note: only summarised below, see Examiner's report for more information)	<b>Council Decision and Reason</b> (Required action to take in respect of Examiner's recommended modification and reason)	<b>Outcome to Submitted Plan</b> (Note: only summarised below, all outcomes are incorporated in full into the post examination plan with modifications in Appendix 3)
Section 6.3.9-10 PP13-15	There are a number of policies within the Paignton Neighbourhood Plan that, as currently worded would have a negative impact on the plan's ability to support the strategic development needs set out in the Torbay Local Plan.  With modifications (set out in section 4 of the report) the Plan would be in general conformity with the strategic policies of Torbay Local Plan 2012-2030 and have regard to National Policy and thus meet the Basic Conditions in this context.	Rationale set out in section 6.3 of Inspectors report.  Pp13-15 and section 4	The LPA noted that the examiner's Modifications have brought the Plan into general conformity with the basic conditions.  There are some instances where the LPA, in discussion with the Forum, considers that alternative wording of policies can achieve the same outcome.	The Paignton Neighbourhood Plan as modified by the examiner, with the LPA's further modifications, may proceed to referendum.
Section 7 P15	Consultation Process: Satisfied that the consultation process leading to Submission meets the requirements off the Neighbourhood Planning (General) Regulations 2012.	See explanation on p15.	The LPA agrees with the Examiner's conclusion.	
Section 8 P15	Post Submission consultation (Regulation 16) Examiner notes that she considered the representations resulting from the Regulation 16 Consultation which ran from 1 November 2017 to 18 December 2017 as well as late representation.	P15 11.6.6	Noted.	
Section 9.4	Satisfied having regard to these documents and other relevant documents, policies and	Detailed explanation is	Noted. See detailed comments below.	

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	legislation that the Paignton Neighbourhood Plan does, subject to the recommended modifications, meet the Basic Conditions. (These are described on p16 of the Examiner's Report)	provided through the report (see below). 10.1 NPPF (2012) 10.2 Strategic policies of the Torbay Local Plan 2012-30		
Section 11 P19	<p><b>11.1 European Convention on Human Rights (ECHR) and other European Union Obligations</b></p> <p>Examiner satisfied that ECHR and other EU obligations have been met.</p> <p>A voluntary Sustainability Appraisal (SA) incorporating a Strategic Environmental Assessment (SEA) that demonstrates how the Neighbourhood Plan would contribute to the achievement of sustainable development has been submitted with the Plan</p> <p>The appraisal did not find any likely significant effects arising from the Neighbourhood Plan policy proposals that would need mitigation.</p>		The LPA agree that a Sustainability Appraisal, incorporating an SEA has been carried out and consulted on with the statutory bodies as required.	

<b>Submitted Plan Reference</b> (Policy / supporting text paragraph)	<b>Examiner's Recommended Modification</b> (Note: only summarised below, see Examiner's report for more information)	<b>Examiner's Reason(s)</b> (Note: only summarised below, see Examiner's report for more information)	<b>Council Decision and Reason</b> (Required action to take in respect of Examiner's recommended modification and reason)	<b>Outcome to Submitted Plan</b> (Note: only summarised below, all outcomes are incorporated in full into the post examination plan with modifications in Appendix 3)
Section 11.2-11.6 Pp19-21	<p>Habitats Regulations Screening  The examiner is satisfied that the HRA "Screening stage" does substantively meet the requirements.</p> <p>11.4.4 The Neighbourhood Plan does not add to or substitute any of the identified development sites that the Local Plan HRA has already considered and the policy proposals of the Neighbourhood Plan add further protection to the natural environment and biodiversity of the Plan area. Appraisal of the Neighbourhood Plan has therefore drawn first upon the conclusions of the Local Plan HRA in this Screening assessment.</p> <p>11.6.1 Having regard to the Local Plan HRA outcome, screening of the Neighbourhood Plan has taken into account the assessment of development sites identified in the Local Plan alongside the policy proposals of the Neighbourhood Plan to ensure a comprehensive screening of individual proposals and "in- combination" effect is achieved.</p> <p>The Examiner's report has considered the effect of the Judgment of the European Court of Justice, case C-323/17 ("People over</p>		<p>The Council has drafted an HRA Appropriate Assessment of the Post Examination Version of the Neighbourhood Plan (September 2018) No sites are allocated for development by the Plan and the Paignton Neighbourhood Plan policies will not affect the integrity of any of the European sites identified and the conservation objectives of these sites would be sustained. Natural England has been consulted and have not objected to the Council proceeding on this basis as the competent authority.</p> <p>In response to the AA's recommendations, Policy PNP1 (Area wide) at element f) has been introduced and paragraph 8.16 and 8.17 have been added to the Plan to confirm the position and the words agreed with the Forum.</p>	<p>The Plan may proceed to Referendum.</p> <p>An additional criteria has been added to Policy PNP1 in response to the HRA Appropriate Assessment.</p>

<b>Submitted Plan Reference</b> (Policy / supporting text paragraph)	<b>Examiner's Recommended Modification</b> (Note: only summarised below, see Examiner's report for more information)	<b>Examiner's Reason(s)</b> (Note: only summarised below, see Examiner's report for more information)	<b>Council Decision and Reason</b> (Required action to take in respect of Examiner's recommended modification and reason)	<b>Outcome to Submitted Plan</b> (Note: only summarised below, all outcomes are incorporated in full into the post examination plan with modifications in Appendix 3)
	Wind").			
11.8 P24	Satisfied that the Paignton Neighbourhood Plan does not cover County matters (mineral extraction and waste development), nationally significant infrastructure.		Noted and agreed.	
11.9 P24	Satisfied that the Paignton Neighbourhood Plan, subject to modification covers development and land use matters.	11.9.1	Noted and agreed.	
11.10 P24	Satisfied that the themes for the Neighbourhood Plan have developed as a result of the community consultation carried out and that the policies of the plan respond to those themes.	11.10.1	Noted and agreed.	
12.9 p25	<p>General Comments</p> <p>A number of overarching modifications are recommended for all Policies in order to meet the Basic Conditions:</p> <ul style="list-style-type: none"> <li>Where the word "permitted "has been used I have replaced it with "supported" as the decision to permit or refuse a planning application lies with the Local Planning</li> </ul>	<p>Recommendations are self-explanatory and an additional rationales provided elsewhere in the report P25. ...</p>	<p>The LPA agrees with these revisions, Where the Forum and the Council prefer a different wording that meets the Basic Conditions it is set out below.</p>	

<b>Submitted Plan Reference</b> (Policy / supporting text paragraph)	<b>Examiner's Recommended Modification</b> (Note: only summarised below, see Examiner's report for more information)	<b>Examiner's Reason(s)</b> (Note: only summarised below, see Examiner's report for more information)	<b>Council Decision and Reason</b> (Required action to take in respect of Examiner's recommended modification and reason)	<b>Outcome to Submitted Plan</b> (Note: only summarised below, all outcomes are incorporated in full into the post examination plan with modifications in Appendix 3)
	<p>Authority.</p> <ul style="list-style-type: none"> <li>• Some policies have sought to introduce controls outside the scope of the planning system or where existing policy already sets out the scope of control.</li> <li>• As the National Planning Policy Framework is in the process of revision I have removed reference to paragraph numbers, as these are likely to change when the new Framework is published.</li> <li>• A number of policies refer to the requirement to provide financial contributions. Neighbourhood Plans can include a list of priorities for spending Neighbourhood Plan apportioned CIL payments (though not within the policy section) however the imposition of financial obligations is subject to administration by the Local Planning authority and set out in other policy which cannot be revised by the Neighbourhood Plan.</li> </ul>			
<b>Policies</b>				

<b>Submitted Plan Reference</b> (Policy / supporting text paragraph)	<b>Examiner's Recommended Modification</b> (Note: only summarised below, see Examiner's report for more information)	<b>Examiner's Reason(s)</b> (Note: only summarised below, see Examiner's report for more information)	<b>Council Decision and Reason</b> (Required action to take in respect of Examiner's recommended modification and reason)	<b>Outcome to Submitted Plan</b> (Note: only summarised below, all outcomes are incorporated in full into the post examination plan with modifications in Appendix 3)
PNP1 Area Wide (p26-8)	Modify policy PNP1 and revised policy subsections within umbrella of PNP1.	Changes made to make the policy clear and unambiguous (p28 of report)	<p>The Policy's objective has been retained but the policy has been reduced in length or refer to types of development proposals that will, and will not, be supported</p> <p>Officers agree that the Modified PNP1 meets the basic conditions. For clarity it is recommended that a further heading entitled "Achieving "Sustainable Development" is inserted directly above the final five criteria following: "Sustainable development will be achieved by ensuring..."</p> <p>The LPA has added an additional criteria to the Policy in response to the Habitats Regulations Appropriate Assessment.</p>	Policy Modified as per Examiner's wording (PP28-9), with minor additional LPA modification to add heading to aid clarity and in response to the HRA Appropriate Assessment (See above).
Annex 1 to Policy PNP1 P29	Policy sub-divided into separate sub-policies as below.	To reduce confusion and separate out the wide range of issues, and relate policies to land use matters. (P27-8 of report)	Noted and agreed.	

Submitted Plan Reference (Policy / supporting text paragraph)	Examiner's Recommended Modification (Note: only summarised below, see Examiner's report for more information)	Examiner's Reason(s) (Note: only summarised below, see Examiner's report for more information)	Council Decision and Reason (Required action to take in respect of Examiner's recommended modification and reason)	Outcome to Submitted Plan (Note: only summarised below, all outcomes are incorporated in full into the post examination plan with modifications in Appendix 3)
Policy PNP1(a) Rural Character Area pp29-31 and 36	Former Annex 1 policy becomes PNP1(a) <b>Rural Character Area</b>  Policy Modified	As per general comments above.	Policy re-worded to make less restrictive, but the thrust of the policy criteria are retained. Annex 1 as submitted also contains elements relating to Local Food (with some text being recommended for deletion as a policy and moved to form a "community aspiration").  The LPA considers that the modified wording meets the basic conditions.	Policy PNP1(a) retained as per Examiner's recommendation.
PNP1 (b) pp31-34	<b>Local Green Spaces.</b> The Policy wording is recommended for revision to protect Local Green Spaces from harm other than in "very special circumstances".  Fifty one LGS's confirmed as meeting the required criteria: Eight LGS's are recommended for deletion, these being: PLGS 30. Primley Woods PLGS 32. Clennon Valley PLGS 54. Great Parks PLGS 57. Westerland Valley PLGS 58. Yalberton Valley PLGS 60. Little Blagdon, Sunday Car Boot Field	The examiner has assessed the LGS against all of the tests in NPPF paragraphs 76-77  She notes the Council's/TDA's objection to PLGS.14 Parkfield and PLGS.20 Oldway but considers that the designation is clearly defined and meets the required	<b>PLGS 14 Parkfield.</b> It is noted that the LGS does not cover the buildings at Parkfield, but the open space to the south and west of the main building. The Examiner has assessed the area against the NPPF tests (76 -77) and finds it in accordance with the Basic Conditions.  <b>PLGS20: Oldway Mansion Gardens.</b> The LPA and TDA objected to this designation. However the Examiner has considered it against the NPPF tests/Basic Conditions and has found it meets the required criterion (p32). It is noted that this could affect the future development potential of Oldway	Plan Modified as recommended by examiner (with minor amendments as agreed with the Forum for the purpose of mapping clarity.



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	<p>PLGS 61 Brake Copse, Collaton St Mary PLGS 62. Collaton Heath/ Saturday car boot sale field.</p> <p>PLGS21 Shorton Valley Woods and PLGS 55 Snowdonia Close , Collaton St Mary should be amended to remove the areas in private ownership.</p>	<p>NPPF tests (p32)</p> <p>The Examiner notes the TDA's objection that some LGSs may have development potential, but did not consider this to be a valid objection in terms of the NPPF tests (she did note that some LGSs could have had an element of protection under NPPF74 but the proposal must be considered as submitted).</p> <p>The deleted LGSs 24,30,32,54,57 and 58 are all considered to be extensive tracts of land (p33).</p>	<p>Mansion. However this is not part of the "Basic Conditions". Application P/2011/0925 for Oldway Mansion has expired and there is no extant proposal which would be obviously jeopardised by the LGS designation.</p> <p>Should the LPA revise the boundary of PLGS20, this would be tantamount to "a different view as to a particular fact" which would require consultation. It would result in very probable objection from the community and need for a second Examination (with associated cost and time implications).</p> <p><b>PLGS 60. Little Blagdon, Sunday Car Boot Field</b> The area is indicated in the Adopted Masterplan as food production area and will therefore have a level of protection under PolicyPNP24/NPPF 91C and 97 (formerly 74). Therefore the examiner's recommendation is considered proportionate.</p> <p><b>PLGS 61 Brake Copse, Collaton St Mary.</b> The copse would need to be protected as part of a development's</p>	

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		<p>PLGS60 Little Blagdon "Sunday Car Boot Sale Field", PLGS 61 Brake Copse, and PLGS62 Collaton Heath "Saturday Car Boot sale field" are deleted on the grounds that insufficient evidence has been provided to persuade the Examiner that the site is demonstrably special.</p>	<p>landscaping scheme and for biodiversity reasons and therefore the Examiner's assessment is accepted.</p> <p><b>PLGS 62. Collaton Heath/ Saturday car boot sale field.</b> The area would be outside the development area in SS2/SDP3/PNP24 and would therefore enjoy a limited protection as countryside area. The Examiner's conclusion that it should not be LGS is accepted.</p> <p><b>Revised LGS Boundaries.</b> The LPA agree that it is appropriate to remove the areas which are private gardens/ownership from LGS. However the determining factor is an area's performance against the NPPF tests not ownership per se, and some of the land that it is agreed meets the criteria is not publicly owned.</p> <p>It is not clear whether the land identified as being in "private ownership" at Snowdonia Close, Yalberton, is legally in separate ownership from the bulk of the LGS. However the land recommended</p>	

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			<p>for removal appears to be physically separated from the main LGS by trees and accordingly fulfils a different role from the bulk of the land shown as LGS.</p> <p>Because of the scale of mapping in the Neighbourhood Plan, minor boundary adjustments are necessary in producing the Policies map to ensure that the boundaries correspond to natural features and do not include private drives etc. This is a minor editorial matter and has been worked up with the Forum.</p>	
PNP1 (Local Food) P34	<p><b>Local Food. Modify the Policy:</b> Delete and restate as a community aspiration.</p> <p>Note that elements of the submitted Local Food Production have been retained by the Examiner in PNP1(v), PNP1(a )and PNP1(c ) 4</p>	Increase clarity and certainty (p36)	<p>The LPA agree with the Examiner that some of the criteria on local food are in part better treated as community aspirations.</p> <p>Elements of the submitted Policy are not therefore contained in PNP1(a) and PNP1(c)4 but notes the overarching policy has been retained by the Examiner in the main PNP1 – Area Wide policy at (v).</p>	Plan modified as recommended by Examiner and as modified further as shown in Appendix 3 in agreement with Paignton Neighbourhood Forum Note that some text has been moved to other Policies (PNP1(c))

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			The LPA however agrees with the Forum that some elements of the wording recommended for deletion (protection of hedgerows and dual purpose edible hedgerows) are land use considerations and can be referred to in Policy PNP1(c) below in accordance with the intent of the policy as submitted. The examiner's modifications elsewhere are considered by the LPA to be sufficient to ensure that these criteria are afforded proportionate weight in the Policy and likely decisions based on it. The modified policy wording and addition of 'aspiration' text to supporting text at paragraph 6.43 have been agreed with the Forum that meet the requirements of the Basic Conditions.	
Annex 2 to PNP1: Design Guide pp36-45	Annex 2: Design Guide subdivided into separate policies (following on from PNP1 (b) above).	Reduce length and scope for confusion (p36)	The LPA agrees with the modified wording	Plan modified as recommended by Examiner
PNP1(c) Design Principles	<b>Design Principles.</b> Policy retained with modifications. Some parts of the policy are reduced in length (e.g. biodiversity). The	The re-numbering is intended to reduce length and	The LPA agrees with the modified wording.	Plan modified as recommended by Examiner, with

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	modified policy PNP1(c) now covers: 1. Strengthen Local Identity, 2. Biodiversity and geodiversity, 3. Treescape, 4. Local food production.	scope for confusion (p36)	<p>The agrees that it is appropriate to expand PNP1(c) criteria 4. to refer to the need to protect orchards and promote the biodiversity/recreational value of dual use "edible hedgerows" which are land use matters that meet the Basic Condition requirement to meet the intent of the submitted Plan wherever it is possible to do so. The wording supports Policy SC4 of the Local Plan.</p> <p>The LPA is satisfied that the examiner's other modifications to the Plan are sufficient to ensure that these considerations are given appropriate weight in the use of the policy as a development management tool.</p>	additional text as shown in Appendix 3 as agreed with the Forum as the Qualifying Body that submitted the Plan.
PNP1(d) Residential Development.	<b>Residential Development.</b> Policy modified but the principles are retained.	As above	The LPA agrees with the modified wording	Plan modified as recommended by Examiner
PNP1 (e) Commercial Facilities.	<b>Commercial Facilities.</b> Policy modified but the principles of this part of PNP1 are retained	As above	The LPA agrees with the modified wording	Plan modified as recommended by Examiner
PNP1 (f)	<b>Towards a sustainable, low carbon, energy</b>	As above	The LPA agrees with the modified	Plan modified as

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Towards a sustainable, low carbon, energy efficient economy	<b>efficient economy.</b> . Policy modified but the principles of this part of PNP1 are retained.		wording	recommended by Examiner
PNP1(g) Designing Out Crime.	<b>Designing Out Crime.</b> The policy is reduced in length with detailed measures (formerly points 29-35) moved to become community aspirations	Reduce unnecessary level of detail (page 43)	The LPA disagrees with the examiner that the designing out crime criteria (29-35) are unnecessary detail. In the LPAs view they are useful criteria which are in accordance with Local Plan Policy DE1.4 and NPPF 69. Whilst the 2018 NPPF does not form part of the tests of soundness, paragraph 95 requires plans to promote public safety and take into account wider security threats.	Further modify Policy PNP1(g) by retaining criteria 29-35 of Submission Policy for the clarity it provides. (See text in table below).
PNP1(h) Sustainable Transport	<b>Sustainable transport.</b> The principles of this part of PNP1 are largely retained.	pp43-44	The LPA agrees with the modified wording	Plan modified as recommended by Examiner
Former Annex 3 to Policy PNP1. Now PNP1(i) Surface water	<b>Surface water.</b> The Annex is modified to become PNP1(i). The principles of the annex/policy are largely retained.	p44-45	The LPA agrees with the modified wording together with a further modification to the criteria sub-references to ensure clarity of their application when making decisions. This	Plan modified as recommended by Examiner with the further clarification as shown in Appendix 3

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			is considered to be a minor editorial matter for the purpose of correcting a formatting error.	and agreed with the Forum as the Qualifying Body that submitted the Plan.
PNP2 Town Centre	<b>Town Centre.</b> Modify the Policy to refer to the Torbay Local Plan town centre boundary, (which is less extensive than the PNP boundary in Figure 6.3). Reference to "All development" has been replaced by "Development", Point (c) "achieve bold but sensitive change" has been deleted but the other criteria in the policy have been retained.	The modification is intended to improve clarity and reduce ambiguity (p46).	The LPA agrees with the modified wording.	Plan modified as recommended by Examiner
PNP3 Paignton Harbour.	<b>Paignton Harbour.</b> Modify policy to remove "restrictive wording": The principles of the policy remain otherwise unchanged.	p48	No clearly defined boundary for the harbour is indicated, which could in officers' view lead to confusion.  Define the extent of Paignton Harbour (following the line in Fig 6.3 (p32) of the PNP and including the northern breakwater to the Esplanade on the Polices map.	Plan modified as recommended by Examiner with a minor additional modification to define the Harbour area.
PNP4 Seafront.	<b>Seafront.</b> Modify Policy. The principles of the Policy are retained, with the exception of the references to Local Green Spaces.	Reference to LGSS is considered by the Examiner to be	The LPA agrees with the modified wording	Plan modified as recommended by Examiner

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		unnecessary duplication of modified policy PNP1(b)(LGS) (p49)		
PNP5 Torbay Road	<b>Torbay Road</b> Modify policy to remove restrictive wording. The policy is largely unchanged.	pp50-51	The LPA agrees with the modified wording.	Plan modified as recommended by Examiner
PNP6 Station Square "Gateway"	<b>Station Square "Gateway"</b> Modify to remove restrictive wording in last paragraph (as per general comment). The policy is otherwise unchanged.	pp51-2	The LPA agrees with the modified wording	Plan modified as recommended by Examiner
PNP7 Victoria Square	<b>Victoria Square.</b> Modify policy to make it more supportive of development. For example requirements such as the requirement for like-for-like replacement of lost car parking have been made more flexible but must still meet the adopted standards.	To ensure that deliverability of development has not been unduly burdened. (p52)	The LPA agrees with the modified wording	Plan modified as recommended by Examiner
PNP8 Crossways, Hyde Road, and Torquay	<b>Crossways</b> Modify to remove restrictive wording (as per general comment). The policy is otherwise unchanged.	Only general comments are made (p53)	The examiner has retained reference to the pedestrian walkway through Crossways, despite the LPA's and TDA representation that the walkway is nor a	Plan modified as recommended by Examiner with the following minor



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Road			<p>public right of way and could adversely affect redevelopment proposals. The examiner's report does not specifically address this matter. Discussion with the Forum has agreed that the objection can be overcome by referring to retaining "a" pedestrian link rather than "the" pedestrian link. This removes unintended level of policy prescription.</p> <p>Both Hyde Road and Torquay Road Frontages are designated secondary frontages in the Adopted Torbay Local Plan. The PNP does not show retail frontages but Policy PNP18 shows Crossways (and its Torquay Road and Hyde Road frontages) as being within the Secondary Retail Area. Reference to secondary shopping frontages can be made as a minor factual correction for consistency and has been agreed with the Forum.</p>	<p>additional modifications:</p> <p>a) retain the <del>primary</del> and secondary retail frontages along Hyde Road and Torquay Road...</p> <p>c) retain <del>the</del> a pedestrian link between Torquay Road and Hyde Road</p>
PNP9 Victoria Park	<b>Victoria Park</b> Modify Policy to reflect its Local Green Space status, but the thrust of the policy and its objectives have been retained.	p54	The LPA agrees with the modified wording	Plan modified as recommended by Examiner

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PNP10 Queens Park	<b>Queens Park</b> Modify Policy to reflect its Local Green Space status, but the thrust of the policy and its objectives have been retained.	p55	The LPA agrees with the modified wording. Note that the site is shown as a potential housing site (PNPH17 in Appendix C of the Local Plan); but the LPA did not object to its LGS status.	Plan modified as recommended by Examiner

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PNP11 Old Town	<b>Old Town</b> PNP11 is not a policy but a list of community aspirations and should be modified and moved to a separate section of the Plan. it could be rephrased and included in a CIL priority list.	PNP11 not considered to be a land use policy (p57 of report).	<p>The LPA considers that PNP11 "Old Town" contains useful considerations to assist in the regeneration of Paignton Old Town and realising its special characteristics. It is therefore supportive of, and adds to the principles in SDP2 of the Local Plan and has regard to the NPPF.</p> <p>The LPA and Forum consider that the policy is capable of re-wording to meet the basic conditions, and accordingly should be retained.</p> <p>The policy has accordingly be revised in collaboration and agreement with the Forum. As a template Policy PNP6 (Station Square 'Gateway') has been used as this was approach endorsed by the Examiner.</p>	Policy PNP11 retained and modified as shown in table 2A (below) and Appendix 3 and agreed with the Paignton Neighbourhood as the Qualifying Body that submitted the Plan.

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PNP12 Getting Around	<b>Getting Around:</b> Policy PNP12 is not a policy but a list of community aspirations/ projects and should be modified and moved to a separate section of the plan. It could be rephrased and included in a CIL priority list.	PNP11 not considered to be a land use policy. p58 of Report.	The LPA supported the aims of Policy PNP12 to improve movement in the town centre. It assists with delivering the objectives set out in Policies SDP2 and TA1 of the Local Plan and has regard to the NPPF.  The LPA and Forum consider that it should be revised to meet the Basic Conditions using the policy structure and wording using the approach endorsed by the Examiner at Policy PNP6 (Station Square 'Gateway') (see PNP11 above)	Policy PNP12 retained and modified as shown in Table 2A below and Appendix 3 and agreed with the Paignton Neighbourhood as the Qualifying Body that submitted the Plan.
PNP13 Housing Opportunities in the Town Centre	<b>Housing Opportunities in the Town Centre:</b> Policy modified as follows: The examiner has deleted the local occupancy condition (point C).  More minor modification to wording of criteria "a", "b", and "d".  The Examiner has modified the Policy to refer to the Torbay Local Plan town centre boundary, which does not include the harbour area. However this appears to be an editorial oversight since the Policy as recommended by the Examiner retains a reference to the	To provide clarity;  Adequate evidence has not been provided to support an occupancy restriction (pp58-59 and 76)  Absence of a Policies Map (overall) will make application of the policy difficult.	As an editorial modification, it is recommended that that Policy PNP13 be revised to "Housing Opportunities in the Town Centre <u>and harbour area</u> " and that the first line of the policy states: "...homes within the Torbay Local Plan town centre boundary <u>and harbour area</u> , the following will apply  <u>Reason</u> – the Town Centre boundary in the Local Plan does not include the harbour area which the submitted Plan and Examiner Report both indicate is intended to be included.	Policy PNP13 amended as shown in Appendix 3 to include the Examiner's modifications together with the additional wording to include the harbour area as agreed with the Paignton Neighbourhood as the Qualifying Body that submitted the Plan.

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	harbour at criteria b)(i)			
PNP14 Core Tourism Investment Area (PCTIA/CTIA)	<b>Core Tourism Investment Area. Policy Modified by</b> prefixing the policy with "Paignton", so that the PCTIA is distinguished from the CTIAs in the Torbay Local Plan. Policy modified to add flexibility but the thrust of the policy has been retained  The PCTIA covers a wider area than the Local Plan.	pp59-60 (general comments)	The Policy seeks to protect a wider area than the Torbay Local Plan (including include some of the streets behind The Esplanade which are outside the CTIA), however the Policy as modified allows changes of use where there is no reasonable prospect of tourist use, and is accordingly considered to be in general conformity with the Local Plan (specifically Policies TO1-3).	Plan modified as recommended by Examiner
PNP15 Flood and Sea Defences	<b>Flood and Sea Defences.</b> Modify to remove restrictive wording (as per general comment). The policy is otherwise substantially unchanged.	pp 61-62	The LPA agrees with the modified wording	Plan modified as recommended by Examiner
PNP16 Victoria Street	<b>Victoria Square</b> Modify to remove restrictive wording (as per general comment). The policy is otherwise substantially unchanged.	P62-63	The LPA agrees with the modified wording. See Policy PNP18 below which is relevant to this policy.	Plan modified as recommended by Examiner
PNP17 Transport Gateway	<b>Transport Gateway.</b> No changes are recommended to this policy	P63 (No specific comment)	The LPA does not object to this policy which is land use based. It is noted that all year opening of toilet and tourist facilities may be unenforceable through planning: but as a land use policy meets Basic Condition requirements as worded	No change to policy.

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			in PNP17.	
PNP18 Supporting the Retention of Retail Uses (formerly) Supporting Independent Traders/.	<b>Supporting the Retention of Retail Uses. Formerly Supporting Independent Traders.</b> The Policy has been re-titled to ensure it relates to land use (i.e. retail) rather than local traders. Policy significantly modified by the Examiner to require changes of use away from Class A1 (shop) in primary and secondary areas to meet a viability test or demonstrate support for wider regeneration.	Add clarity about the uses to which the policy refers and acknowledge permitted development rights. pp63-64	This is a more restrictive approach than Local Plan Policies TC1-3. However because the Examiner's modifications allow exceptions on viability or regeneration grounds, it is considered, meets the basic conditions.	Plan modified as recommended by Examiner
PNP19 Safeguarding open countryside	<b>Safeguarding open Countryside.</b> Modify Policy to refer to the NPPF and Policy C1 of the Local Plan. This creates more flexibility in the policy, but its overall thrust is largely retained.	To provide clarity and set out criteria for determining planning applications. pp 64-65.	The LPA agrees with the modified wording which refers to the NPPF and Policy C1 of the Local Plan.	Plan modified as recommended by Examiner
PNP20 Great Parks	<b>Great Parks.</b> Modify Policy to remove "restrictive" wording in the second paragraph.	p65 (general comment)	The LPA note that reference is made to the Masterplan supplementary advice.	Plan modified as recommended by Examiner
PNP21 White Rock	<b>White Rock.</b> Modify policy. The reference to encouraging major organisations (criteria b) has been removed. Similarly the penultimate	pp66-67 (general comments)	The LPA agrees the modified wording meets the Basic Conditions.	Plan modified as recommended by Examiner

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	point restricting expansion southwards (i.e out side of the plan area into the Brixham Peninsula NP area) has been removed. The final "restrictive" paragraph has been removed. The remainder of the Policy is retained.			
PNP22 Western Corridor	<p><b>Western Corridor.</b> Modify Policy. . The Policy is reworded to relate to planning applications. It is otherwise substantially unchanged apart from the removal of the final "restrictive" sentence.</p> <p>The Examiner has also referred to the Western Corridor Area (as shown on Figure 1.3 page 8 of the PNP) to provide clarity about the extent of Western Corridor.</p>	Show policy area on a map and increase clarity (pp67-68)	The LPA agrees with the modified wording	Plan modified as recommended by Examiner
PNP23 Yalberton to Blagdon Valley	<b>Yalberton to Blagdon Valley</b> The Examiner recommended that the Policy should be deleted and moved to a section on Community Aspirations.	Mostly not policy – but a list of community aspirations/projects (Report pages 25-26 and 68-69)	<p>Paignton Neighbourhood Forum has argued land use matters would be lost and that the Policy should be retained in modified form.</p> <p>Whilst the Policy contains "restrictive elements", it is in general conformity with the Local plan and has regard to the NPPF. As reworded it contributes to the achievement of sustainable development and is able to be applied to planning</p>	Policy PNP23 modified as shown in Table 2A (below) Appendix 3 and agreed with the Paignton Neighbourhood as the Qualifying Body that submitted the Plan.

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			<p>decisions.</p> <p>The policy structure and wording have been modified using the approach endorsed by the Examiner at Policy PNP6 (Station Square 'Gateway'). This also removes reference to designation of a conservation area.</p>	
PNP24 Collaton St Mary	<b>Collaton St Mary.</b> Modify the Policy. This policy has been significantly modified to reflect the Local Plan Future Growth Area (Policies SS2 and SDP3) and the adopted Supplementary Planning Document. These Modifications render the policy less restrictive of development. However, the list of matters that development should seek to achieve has been largely retained.	Make policy less restrictive and bring into general conformity with the Local Plan (pp70-71)	The modified policy requires regard to be had to the Adopted Masterplan Supplementary Planning Document. The list of considerations, as modified are in general conformity with the Local Plan. It is noted that there are other representations to the policy from the development industry. However the examiner indicates that these have been considered carefully.	Plan modified as recommended by Examiner
PNP25 Clennon Valley	<b>Clennon Valley.</b> Modify Policy: This Policy is retained unchanged except for the final (restrictive) sentence.	pp72 (general comment)	The LPA agrees with the modified wording	Plan modified as recommended by Examiner
PNP26 Clifton with Maidenway	<b>Clifton with Maidenway.</b> Modify Policy: This Policy is retained unchanged except for the final (restrictive) sentence.	pp72-3	The LPA agrees with the modified wording. It is noted that the policy recognises the tourism value of Clennon Valley and that the "restrictive" sentence	Plan modified as recommended by Examiner



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			has been removed.	
PNP27 Preston	<b>Preston.</b> The Examiner recommended that this is not a policy but a list of community aspirations and should be moved to a separate section of the Plan	Policy not a policy but a list of community aspirations (pp 73-74)	<p>The Neighbourhood Forum has made representations that a modified version of the Policy should be retained.</p> <p>The policy contains contentious sites including Oldway Mansion, Parkfield and (two sites at) Preston Down Road, which the LPA and TDA have made representations on. However the key issue likely to restrict development of Oldway Gardens and Parkfield is the Local green Space designation (see discussion above).</p> <p>The Policy has been revised in collaboration with the Forum using the policy structure and wording endorsed by the Examiner at Policy PNP6 (Station Square 'Gateway')</p> <p>It has been further modified to include a reference to the need for a viable use for Oldway Mansion. In the LPA's view this brings the modified Policy PNP28 into general conformity with the Basic Conditions .i.e. has regard to the NPPF,</p>	Policy PNP27 modified as shown in Appendix 3 and agreed with the Paignton Neighbourhood as the Qualifying Body that submitted the Plan.

<b>Submitted Plan Reference</b> (Policy / supporting text paragraph)	<b>Examiner's Recommended Modification</b> (Note: only summarised below, see Examiner's report for more information)	<b>Examiner's Reason(s)</b> (Note: only summarised below, see Examiner's report for more information)	<b>Council Decision and Reason</b> (Required action to take in respect of Examiner's recommended modification and reason)	<b>Outcome to Submitted Plan</b> (Note: only summarised below, all outcomes are incorporated in full into the post examination plan with modifications in Appendix 3)
			is in general conformity with the strategic policies of the Local Plan, contributes to the achievement of sustainable development and able (as modified) to be applied to planning decisions).	
<b>Section 5: Conclusions and recommendations</b>	Pages 75-76 (N.B These issues have been addressed elsewhere but are repeated her for completeness).			
5.1	The Paignton Neighbourhood Plan has been prepared in accordance with the statutory requirements and processes.	P75	Noted and agreed.	As above.
5.2	The Neighbourhood Plan does not deal with County matters, nationally significant infrastructure etc.	Page 75	Noted and agreed.	Noted.
5.3	The Paignton Neighbourhood Plan does not relate to more than one Neighbourhood Area and there are no other Neighbourhood Development Plans in place within the Neighbourhood Area	Page 75	Noted and agreed.	Noted
5.4	The Sustainability Appraisal meets the EU	Detailed rationale	The Council, as competent authority	LPA concurs that SA

Submitted Plan Reference (Policy / supporting text paragraph)	Examiner's Recommended Modification (Note: only summarised below, see Examiner's report for more information)	Examiner's Reason(s) (Note: only summarised below, see Examiner's report for more information)	Council Decision and Reason (Required action to take in respect of Examiner's recommended modification and reason)	Outcome to Submitted Plan (Note: only summarised below, all outcomes are incorporated in full into the post examination plan with modifications in Appendix 3)
	<p>obligations regarding Strategic Environmental Assessment.</p> <p>The Examiner is satisfied that the Plan meets the Basic Conditions in respect of Habitats Regulations Assessment, including the implications of the "People over Wind" decision</p>	<p>set out on Page 75 The Paignton Neighbourhood Plan does not make any site allocations and the examiner concurs with Torbay Council's statement of 4<sup>th</sup> May 2018.</p>	<p>under the Habitats Regulations is empowered to require the Qualifying Bodies to provide sufficient information to enable it to be satisfied in HRA terms. It has therefore reviewed the associated Neighbourhood Plan HRAs, and in the context of the above (notwithstanding any other representations on sites/specific elements) considers that the Assessment and Mitigation Measures set out in all three NP HRA 'Screening Stages' substantively meet the requirements.</p> <p>For absolute clarity, the LPA considers this could be made clearer through a minor re-formatting to set out the same in an 'Appropriate Assessment' Stage. The LPA (as competent authority), has accordingly drafted this amended Appropriate Assessment work to meet the HRA regulations."</p>	<p>SEA and HRA requirements have been met.</p>
5.5	<p>The Paignton Neighbourhood Plan is supported by a Sustainability Appraisal. Examiner is satisfied that the policies and plans in the Paignton Neighbourhood Plan, subject to the recommended modifications</p>	<p>pp75 and see 7.4 above</p>	<p>Noted and agreed. Detailed comments are contained above.</p>	<p>LPA concurs that SA/SEA requirements have been met</p>

<b>Submitted Plan Reference</b> (Policy / supporting text paragraph)	<b>Examiner's Recommended Modification</b> (Note: only summarised below, see Examiner's report for more information)	<b>Examiner's Reason(s)</b> (Note: only summarised below, see Examiner's report for more information)	<b>Council Decision and Reason</b> (Required action to take in respect of Examiner's recommended modification and reason)	<b>Outcome to Submitted Plan</b> (Note: only summarised below, all outcomes are incorporated in full into the post examination plan with modifications in Appendix 3)
	would contribute to achieving sustainable development. Subject to modification they have regard to national policy and to guidance, and generally conform to the strategic policies of the Torbay Local Plan adopted in 2015			
<b>5.6</b>	Due to the number of modifications made to the policies within the plan, Torbay Council should make any necessary modifications (including to plans and supporting text) to ensure that there is consistency of numbering etc.	To ensure there is consistency of numbering etc.	Update of the following: <ul style="list-style-type: none"> <li>• Cover page wording;</li> <li>• Preface wording</li> <li>• Footer title;</li> <li>• Contents page listings;</li> <li>• Diagrams and boundary maps where amended;</li> <li>• Paragraphs 2.4, and 6.126 (2nd bullet point);</li> <li>• NPPF references clarified to be the 2012 edition;</li> <li>• Include an overall Policies Map as an Appendix 4.</li> </ul> <u>Reason</u> – to ensure clarity, consistency and ease of use.	All updates shown in Appendix 3 have been agreed with the Paignton Neighbourhood Forum as the Qualifying Body that submitted the Plan.
<b>5.7</b>	Recommend that the plan submitted for referendum includes a Policies Map.	For ease of interpretation and clarity.	The LPA support this recommendation. the format and content of the policies map have been agreed with Paignton Neighbourhood Forum as qualifying	Plan submitted for referendum to include a Policies Map.

<b>Submitted Plan Reference</b> (Policy / supporting text paragraph)	<b>Examiner's Recommended Modification</b> (Note: only summarised below, see Examiner's report for more information)	<b>Examiner's Reason(s)</b> (Note: only summarised below, see Examiner's report for more information)	<b>Council Decision and Reason</b> (Required action to take in respect of Examiner's recommended modification and reason)	<b>Outcome to Submitted Plan</b> (Note: only summarised below, all outcomes are incorporated in full into the post examination plan with modifications in Appendix 3)
			body.	
5.8	The Paignton Neighbourhood Plan subject to the recommended modifications can proceed to Referendum		Noted and accepted.	Agree.

**Annex 2A Revised Policy Wording where significantly different to examiner’s recommendation (Note that minor changes/additions are indicated in schedule 2A and the track change Plan at Appendix 3).**

<b>Preface</b>	<p>Insert at end of Preface:</p> <p><u>The Plan has been through several stages of formal consultation and has been examined by an Independent Examiner appointed by Torbay Council.</u></p> <p><u>If approved by those eligible to vote at the Referendum, it will then become part of the statutory development plan which the Council has a legal duty to have regard to when deciding planning applications.</u></p>
<b>PNP1</b>	<p>Area Wide .... Development will not be supported where:</p> <p><u>f) The proposal would result in an adverse impact on a European protected site.</u></p> <p><del>f)g)</del> the provision of houses in multiple occupation....</p>
<b>PNP1(c)</b>	<p>Design Principles</p> <p>4 Local Food Production Capacity</p> <p>xii) protect and increase food growing spaces to reflect the orchard and food production heritage of the area. <u>The protection and enhancement of orchards will be supported, and consideration should be given to creating edible hedgerows which serve a biodiversity and recreational function”.</u></p>
<b>PNP1 (g)</b>	<p>Designing out Crime</p> <p>All developments will be expected to show how crime and the fear of crime <u>and wider security threats</u> have been taken into account in the proposals submitted having regard “Designing out Crime” Guidance. <u>In particular they should have regard to:</u></p>

	<p><u>1) Access and movement - places with well-defined and well used routes with spaces and entrances that provide convenient movement without compromising security;</u></p> <p><u>2) Structure - places that are structured so that different uses do not cause conflict;</u></p> <p><u>3) Surveillance - places where all publically accessible spaces are overlooked;</u></p> <p><u>4) Ownership - places that promote a sense of ownership, respect, territorial responsibility and community;</u></p> <p><u>5) Physical protection - places that include necessary, well designed security features;</u></p> <p><u>6) Activity - places where the level of human activity is appropriate to the location and creates a reduced risk of crime and a sense of safety at all times; and</u></p> <p><u>7) Management and maintenance - places that are designed with management and maintenance in mind, to discourage crime.</u></p>
<p><b>PNP11</b></p>	<p><u>Old Town</u></p> <p><u>Improvement of the Old Town area shown on the inset plan (Fig. 6.7 page 42) will be encouraged and proposals supported where they will:</u></p> <p><u>a) enhance the public realm;</u></p> <p><u>b) encourage regeneration where sympathetic to heritage features and uses in the area;</u></p> <p><u>c) provide financial contributions where appropriate that enable implementation to be achieved.</u></p> <p><u>Subject to other policies of the plan, improvement of the area will be supported that better the function, amenity and public enjoyment by design detail that will:</u></p> <p><u>d) retain shop and building fronts of importance to the area. Replacement frontages should conserve or enhance the character and</u></p>

	<p><u>appearance of the area having regard to Policy PNP1(c). Where possible, historic features such as building lines, window patterns and material should be reinstated;</u></p> <p><u>e) enable 'Old Town' signage and historic information at key interchanges for tourists and other users of the area to make it easier to find and enjoy;</u></p> <p><u>f) improve pedestrian, cycle and public transport connections and access from the transport hub and seafront;</u></p> <p><u>g) support use of the highway and Palace Avenue Gardens for local markets and events;</u></p> <p><u>h) encourage specialty shops in Winner Street and improvement of residential amenity in Well Street;</u></p> <p><u>i) support provision of a Heritage Centre use within the area;</u></p> <p><u>j) support use of the Palace Theatre and Palace Avenue Garden as key facilities.</u></p>
<p><b>PNP12</b></p>	<p><u>Getting Around</u></p> <p><u>Improvement of the Town Centre and seafront area shown on the inset plan (Fig. 6.3 page 42) will be encouraged and proposals supported where they will:</u></p> <p><u>a) make it easier to use sustainable transport;</u></p> <p><u>b) provide financial contributions where appropriate that enable implementation to be achieved.</u></p> <p><u>Subject to other policies of the plan, improvement of the area will be supported that better the function, amenity and public enjoyment by design detail that will:</u></p> <p><u>c) improve integrated transport connections having regard to the hierarchy of sustainability;</u></p> <p><u>d) improve pedestrians connections and the way that traffic uses in the area interact with pedestrians;</u></p>



	<p><u>e) provide safe, continuous, separated cycling and pedestrian pathways to schools, employment and tourist sites;</u></p> <p><u>f) complete Paignton’s missing links in the National Cycle Route Network in support of Local Plan Policy SS6;</u></p> <p><u>g) help public transport better meet user needs;</u></p> <p><u>h) de-clutter the town centre to make it easier to move around;</u></p> <p><u>i) improve surfaces for pedestrians, including disabled people;</u></p> <p><u>j) ensure that town centre parking for cycles, motorcycles and cars supports town centre viability;</u></p> <p><u>k) bring different forms of transport closer together wherever possible.</u></p>
<b>PNP23</b>	<p><u>Yalberton to Blagdon Valley</u></p> <p><u>Improvement of the Yalberton to Blagdon Valley area shown on the inset plan (Fig. 6.12 page 59) will be encouraged and proposals supported where they will:</u></p> <p><u>a) enhance tourism and attraction of the area to visitors;</u></p> <p><u>b) provide financial contributions where appropriate that enable implementation of the following measures to be achieved.</u></p> <p><u>Subject to other policies of the plan, improvement of the area will be supported that betters the function, amenity and public enjoyment by design detail that will:</u></p> <p><u>c) enhance the landscape character in accordance with PNP19;</u></p> <p><u>d) enhance biodiversity and safeguard the Valley’s caves, lime kilns and underground karst system in support of Torbay Local Plan Policy NC1;</u></p> <p><u>e) protect the unspoilt ‘Devon Green Lane’ known as Lidstone Lane or Whitehill Lane that runs from Lower Yalberton to Byter Mill, Stoke Gabriel, to the south;</u></p> <p><u>f) enhance buildings, orchards, and structures of heritage importance in the area;</u></p>

	<p><u>g) encourage small scale food growing, rearing and horticulture and protection of the Valley's extensive network of species-rich mature traditional hedges and large number of mature and veteran trees;</u></p> <p><u>h) enable separated cycling facilities through and into the area with 'pinch points' where possible at either end of Long Road to discourage vehicles of more than 3.5 tonnes in total weight.</u></p>
<p><b>PNP27</b></p>	<p><u>Preston</u></p> <p><u>Improvement of the Preston area shown on the inset plan (Fig. 1.2 page 9) will be encouraged and proposals supported where they will:</u></p> <p><u>a) enhance the public realm;</u></p> <p><u>b) enhance tourism facilities and community uses;</u></p> <p><u>Subject to other policies of the plan, improvement of the area will be supported that betters the function, amenity and public enjoyment by design detail that will:</u></p> <p><u>c) support appropriate and viable reuse of Oldway Mansion (including the Rotunda) and Parkfield House (including the Stables;</u></p> <p><u>d) improve the seafront area shown on the inset plan (Fig.6.8 page 46) with uses that support:</u></p> <p><u>i) public toilet facilities at Seaway Lane;</u></p> <p><u>ii) a barbeque area on the seafront;</u></p> <p><u>iii) creation of surfing opportunities where possible</u></p> <p><u>e) enable mixed use café, hotel and other tourist facilities where appropriate at Hollicombe;</u></p> <p><u>f) support provision of a community café, allotments and orchard space for community use where appropriate in the top part of Preston.</u></p>



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## **Appendix 2:**

### **Decision Statement Table: Torquay Neighbourhood Plan**

#### **Assessment of Examiner's Report**

##### **Background**

This Appendix provides a more detailed officer assessment of the Examiner's Modifications and the LPA's Decision Statement.

All written representations were provided to the Examiner along with the submitted plan and associated documents. As part of the examination, Mr McGurk held a public hearing at the Imperial Hotel, Parkhill Road, Torquay on 14<sup>th</sup> May 2018. The final report was received by the Council on 10<sup>th</sup> July 2018. The report was published on the Council's website.

The conclusion of the report was that the Plan should proceed to referendum, with modifications recommended by the Examiner.

<b>Submitted Plan Reference</b>  (i.e. policy, supporting text, paragraph, section or other matter contained within the plan)	<b>Examiner's Recommended Modification</b>  (Note: only summarised below, see Examiner's report for more information)	<b>Examiner's Reason(s)</b>  (Note: only summarised below, see Examiner's report for more information)	<b>Council Decision and Reason</b>  (Required action to take in respect of Examiner's recommended modification and reason)	<b>Outcome to Submitted Plan</b>  (Note: only summarised below, all outcomes are incorporated in full into the post examination plan with modifications in Appendix 3)
Neighbourhood Plan period	Throughout the Plan, change any references to the time period to take account that it should reflect 2012-2030, in common with the Local Plan.  (See Report page 6)	For clarity and precision.	<u>Decision</u> – As per the Examiner's recommended modification. Change time period references to reflect the period of the plan throughout the document, including but not limited to the front cover and the introductory section.  <u>Reason</u> – As per the Examiner's stated reason.	All time period references within the Plan now reflect and/or take account of the period covered by the plan, which is the same as the Local Plan (2012-2030).
Neighbourhood Area boundary	Provide the Appendix 1 plan (Neighbourhood Area boundary) contained in the Basic Conditions Statement within the Neighbourhood Plan.  (See Report page 15)	To satisfy Section 61G(1) of the Town & Country Planning Act 1990 (as amended).	<u>Decision</u> – As per the Examiner's recommended modification, add boundary map of designated area.  <u>Reason</u> – As per the Examiner's stated reasoning.	Neighbourhood Area boundary map now shown within the Introduction section on page 4 of the modified Plan.
Introductory Section	Amend wording of 'Foreword' and page 4;  Delete page 7 'Glossary';	For clarity and precision and to have regard to recommendations elsewhere in the report.	<u>Decision</u> – As per the Examiner's recommended modifications except for: - para 74 of the Examiner's Report, the recommended modification has been substituted for an alternative	All amendments included in the 'post examination Plan with modifications'.

	<p>Amend and delete wording on pages 8 &amp; 9;</p> <p>Add suffix "T" to all Policy numbers (as in this Statement).</p> <p>(Report pages 19-21)</p>	<p>To distinguish the Torquay Neighbourhood Plan policy numbering from the adopted Torbay Local Plan numbering.</p>	<p>minor change to have regard to modifications made elsewhere in the Plan as set out in this Decision Statement.</p> <ul style="list-style-type: none"> <li>- Para 78 of the Examiner's Report, the recommended modification is made plus with further minor alterations to account for modifications made elsewhere in the Plan as set out in this Decision Statement with regards to the retention of Community Partnership Statements within an Appendix.</li> </ul> <p><u>Reason</u> – To meet the Basic Conditions requirement for there to be clarity and precision.</p>	
<p>Policy TS1: The Presumption in Favour of Development</p>	<p>Delete policy and supporting text.</p> <p>(Report pages 22-23)</p>	<p>Vague and inappropriate wording that seeks to direct the LPA and does not have regard to NPPF154. Incorrect information contained within supporting text.</p>	<p><u>Decision</u> - It is agreed that the submitted plan, in this regard, does not meet the Basic Conditions and it is understood that deleting this policy and the associated supporting text, as recommended by the Examiner, would allow the plan to meet the Basic Conditions. However, it is considered that a modified policy and associated supporting text, retaining the policies general intent, could be introduced and that this would enable the policy, as modified, to meet the Basic Conditions. It is considered that the proposed modification would meet the requirements of Section 61E of the Town and Country Planning Act 1990 (as amended). For this reason, amend policy wording and supporting text to meet Basic Condition requirements.</p>	<p>Modified policy title, wording and supporting text included in the 'post examination Plan with modifications'.</p> <p>Now appears as TS1 – Sustainable Development</p>

			<p><u>Reason</u> – In order to overcome conflict with the Basic Conditions and correct errors, including as identified by the Examiner. This includes providing clarity on how a decision maker should react to a development proposal within the Neighbourhood Area and setting a positive framework for sustainable development, having regard to national guidance.</p> <p>Note that NPPF154 specifically applies to Local Plans, not Neighbourhood Plans. However, the principles also apply to Neighbourhood Plans as set out in Para 041 (PPG ID 41-041) of the Planning Practice Guidance (PPG).</p>	
<p>Policy TS2: Definitions of Greenfield and Brownfield land</p>	<p>Delete policy, supporting text and Glossary heading.  (Report page 24)</p>	<p>Definition proposed, conflicts with national policy without justification and no substantive evidence to test impact would not harm delivery of sustainable development</p>	<p><u>Decision</u> - It is agreed that the submitted plan, in this regard, does not meet the Basic Conditions and it is understood that deleting this policy and the associated supporting text, as recommended by the Examiner, would allow the plan to meet the Basic Conditions. However, it is considered that a modified policy and associated supporting text, retaining the policies general intent, could be introduced and that this would enable the policy, as modified, to meet the Basic Conditions. It is considered that the proposed modification would meet the requirements of Section 61E of the Town and Country Planning Act 1990 (as amended). For this reason, amend policy wording and supporting text to meet Basic Condition requirements.</p> <p>Specifically, relate definition of brownfield</p>	<p>Policy and associated text deleted and does not appear in the 'post Examination Plan with modifications'</p> <p>Modified policy appears as TS4 Support for Brownfield and Greenfield Development</p>



			<p>land in the supporting text to that which is directly specified in the NPPF. Provide modified policy which retains the intent of the policy that brownfield development should be supported in preference to greenfield development,</p> <p><u>Reason</u> – In order to overcome conflict with the Basic Conditions, as identified by the Examiner.</p>	
<p>Policy TS3: Master Plans</p>	<p>Delete policy and supporting text.  (Report page 25)</p>	<p>Confusing when considered against the supporting text and contains unlawful elements.</p>	<p><u>Decision</u> - Retain the policy with modified wording and supporting text to provide clarity. It is agreed that the submitted plan, in this regard, does not meet the Basic Conditions and it is understood that deleting this policy and the associated supporting text, as recommended by the Examiner, would allow the plan to meet the Basic Conditions. However, it is considered that a modified policy and associated supporting text, retaining the policies general intent, could be introduced and that this would enable the policy, as modified, to meet the Basic Conditions. It is considered that the proposed modification would meet the requirements of Section 61E of the Town and Country Planning Act 1990 (as amended). For this reason, amend policy wording and supporting text to meet Basic Condition requirements.</p> <p><u>Reason</u> – In order to overcome conflict with the Basic Conditions and correct errors, including as identified by the Examiner.</p>	<p>Modified policy wording and supporting text included in the 'post examination Plan with modifications'</p> <p>Modified policy appears as Policy TS2 – Master Plans</p>

Policy TS4: Community led planning	Amend policy title, number and wording.  Amend supporting text.  (Report page 26)	To accord with a consultation approach that has regard to national guidance and law.	<u>Decision</u> - As per the Examiner's recommended modification.  <u>Reason</u> - As per the Examiner's stated reasoning.	Modified policy wording and supporting text included in the 'post examination Plan with modifications'  Modified policy appears as Policy TS4 - Community led planning
Policy TH1: Allocation of housing sites and revisions to the Local Plan	Amend policy wording; delete one housing site  Provide a new Table and plan of sites allocated by the Neighbourhood Plan. Amend page 12 supporting text.  (Report pages 27-29)	The policy is confusing and not wholly consistent with national policy and guidance  Not the role of a Neighbourhood Plan to allocate land already allocated.  Delete 'Kwik Fit' site as it is unavailable for development.	<u>Decision</u> – As per the Examiner's recommended modification plus further minor amendments of policy title, supporting text and table to reflect those changes, wider plan modifications and correct minor errors in numbering and site name classifications within table. Decision was taken not to provide a further map within the written document of the housing sites as these are already shown with clarity on the Policies Maps.  <u>Reason</u> - to provide clarity and precision having regard to national guidance (PPG ID 41-042)	All amendments included in the 'post examination Plan with modifications'.  Modified policy appears as TH1 - Housing Allocations
Policy TH2: Designing out crime	Amend policy wording.  (Report page 30)	As worded the policy appears vague and ambiguous.	<u>Decision</u> - As per the Examiner's recommended modification.  <u>Reason</u> - As per the Examiner's stated reasoning plus to provide clarity having regard to national guidance (PPG ID41-042)	Policy retained with amended policy wording in the 'post examination Plan with modifications'.  Modified policy appears as Policy TH2 – Designing out crime
Policy TH3:	Delete policy and related text.	Wording conflicts with NPPF173 and Local Plan Policy H2 in regard to viability and also does	<u>Decision</u> - It is agreed that the submitted plan, in this regard, does not meet the Basic Conditions and it is understood that deleting	Modified policy title, wording and supporting text included in the 'post

Future Growth Area viability exclusions	(Report page 31)	not contribute to the achievement of sustainable development.	<p>this policy and the associated supporting text, as recommended by the Examiner, would allow the plan to meet the Basic Conditions. However, it is considered that a modified policy and associated supporting text, retaining the policies general intent, could be introduced and that this would enable the policy, as modified, to meet the Basic Conditions. It is considered that the proposed modification would meet the requirements of Section 61E of the Town and Country Planning Act 1990 (as amended). For this reason, amend policy wording and supporting text to meet Basic Condition requirements.</p> <p><u>Reason</u> – In order to overcome conflict with the Basic Conditions, as identified by the Examiner. Including to contribute to the achievement of sustainable development and be consistent with national policy and be in general conformity with the Local Plan.</p> <p>NPPF173 relates to deliverability in terms of viability of a Local Plan but PPG ID41-005 makes it clear that this also applies to neighbourhood planning</p>	<p>examination Plan with modifications’.</p> <p>Modified policy appears as TH3 – Future Growth Area viability priorities</p>
Policy TH4: Affordable homes from Greenfield developments	Delete policy; Amend supporting text.  (Report page 32)	Lack of substantive evidence to justify approach. Less clear than Local Plan and not in general conformity with Policy H2, Does not have full regard to national guidance	<u>Decision</u> - It is agreed that the submitted plan, in this regard, does not meet the Basic Conditions and it is understood that deleting this policy and amending the associated supporting text, as recommended by the Examiner, would allow the plan to meet the Basic Conditions. However, it is considered that a modified policy and associated	<p>Modified policy wording and supporting text included in the ‘post examination Plan with modifications’.</p> <p>Modified policy appears as TH4 – Affordable</p>

			<p>supporting text, retaining the policies general intent, could be introduced and that this would enable the policy, as modified, to meet the Basic Conditions. It is considered that the proposed modification would meet the requirements of Section 61E of the Town and Country Planning Act 1990 (as amended). For this reason, amend policy wording and supporting text to meet Basic Condition requirements.</p> <p><u>Reason</u> – In order to overcome conflict with the Basic Conditions, as identified by the Examiner.</p>	homes from greenfield developments
Policy TH5: Affordable housing occupancy restrictions	<p>Delete policy and supporting text;</p> <p>Delete ‘Community Aspiration’.</p> <p>(Report page 33)</p>	Fails to contribute to achievement of sustainable development.	<p><u>Decision</u> - As per the Examiner’s recommendation.</p> <p><u>Reason</u> - As per the Examiner’s stated reasoning.</p>	Policy and associated text deleted and does not appear in the ‘post Examination Plan with modifications’
Policy TH6: Sustainable later life homes	<p>Delete policy.</p> <p>(Report page 34)</p>	Appears restrictive and a risk to achieving sustainable development.	<p><u>Decision</u> - It is agreed that the submitted plan, in this regard, does not meet the Basic Conditions and it is understood that deleting this policy, as recommended by the Examiner, would allow the plan to meet the Basic Conditions. However, it is considered that a modified policy and associated supporting text, retaining the policies general intent, could be introduced and that this would enable the policy, as modified, to meet the Basic Conditions. It is considered that the proposed modification would meet the requirements of Section 61E of the Town and Country Planning Act 1990 (as</p>	<p>Modified policy, wording and supporting text included in the ‘post examination Plan with modifications’.</p> <p>Modified policy appears as TH5 – Sustainable later life homes</p>

			<p>amended). For this reason, amend policy wording and supporting text to meet Basic Condition requirements.</p> <p><u>Reason</u> – In order to overcome conflict with the Basic Conditions, as identified by the Examiner.</p> <p>Encouraging sustainable locations for accommodation designed for needs of the elderly or who are frail has regard to national policy, contributes to achievement of sustainable development and is in general conformity with the strategic policies of the Local Plan.</p>	
Policy TH7: Retirement and assisted living	Delete policy and supporting text; (Report page 35)	As worded it creates a presumption in favour of potentially inappropriate development that would not contribute to achievement of sustainable development and is not in general conformity with the Local Plan	<p><u>Decision</u> - As per the Examiner's recommended modification but some supporting text retained.</p> <p><u>Reason</u> – As per the Examiner's recommended modification. Some supporting text retained to support the retained Policy TH6 Sustainable later life homes</p>	Policy and some associated supporting text deleted and does not appear in the 'post Examination Plan with modifications'.
Community Infrastructure Levy (Page 16)	Amend presentation and wording of these stated 'Community Aspirations'. (Report page 36)	Could be confused with Policies.	<p><u>Decision</u> - As per the Examiner's recommended modification.</p> <p><u>Reason</u> – As per the Examiner's stated reasoning.</p>	All amendments included in the 'post examination Plan with modifications'.
Policy TH8:	Delete policy.	Not in general conformity with the Local Plan, lacks substantive	<u>Decision</u> - As per the Examiner's recommended modification.	Policy and associated text deleted and does

Prioritisation of Town Centre redevelopment and Brownfield sites	(Report page 37)	evidence, and without due regard to the NPPF,	<u>Reason</u> - As per the Examiner's stated reasoning.	not appear in the 'post Examination Plan with modifications'
Policy TH9: Homes for Torbay residents	Delete policy. (Report page 38)	Lack of evidence provided to support such restrictive requirements which would exceed national and local policy requirements. Fails to contribute to the achievement of sustainable development.	<u>Decision</u> - As per the Examiner's recommended modification. <u>Reason</u> - As per the Examiner's stated reasoning.	Policy and associated text deleted and does not appear in the 'post Examination Plan with modifications'
Policy TH10: Gateway sustainable community planning	Delete policy and amend text. (Report page 39)	As worded, fails to contribute towards achieving sustainable development and is not in general conformity with the Local Plan	<u>Decision</u> - It is agreed that the submitted plan, in this regard, does not meet the Basic Conditions and it is understood that deleting this policy and the associated supporting text, as recommended by the Examiner, would allow the plan to meet the Basic Conditions. However, it is considered that a modified policy and associated supporting text, retaining the policies general intent, could be introduced and that this would enable the policy, as modified, to meet the Basic Conditions. It is considered that the proposed modification would meet the requirements of Section 61E of the Town and Country Planning Act 1990 (as amended). For this reason, amend policy wording and supporting text to meet Basic Condition requirements. <u>Reason</u> – In order to overcome conflict with the Basic Conditions, as identified by the Examiner.  Positively encouraging consideration of the	Modified policy title, wording and supporting text included in the 'post examination Plan with modifications'.  Modified policy appears as TH10 – Gateway sustainable community planning

			wider area has regard to national policy, contributes to achieving sustainable development and is in general conformity with the strategic policies of the Local Plan.	
Homes from former Tourism properties (page 18)	Delete heading and policy list.  (Report page 40)	Detracts from clarity.	<u>Decision</u> - As per the Examiner's recommended modification.  <u>Reason</u> – As per the Examiner's stated reasoning.	Section deleted and does not appear in the 'post Examination Plan with modifications'
Policy TH11: Minimum bedrooms	Delete policy.  (Report page 41)	Imprecise and ambiguous. Lacks due regard to national policy.	<u>Decision</u> - As per the Examiner's recommended modification.  <u>Reason</u> – As per the Examiner's stated reasoning.	Policy deleted and does not appear in the 'post Examination Plan with modifications'.
Policy TH12: HMO's	Delete policy and supporting text.  (Report page 42)	Not compliant with NPPF173 regarding viability. No substantive evidence.	<u>Decision</u> - It is agreed that the submitted plan, in this regard, does not meet the Basic Conditions and it is understood that deleting this policy and the associated supporting text, as recommended by the Examiner, would allow the plan to meet the Basic Conditions. However, it is considered that a modified policy and associated supporting text, retaining the policies general intent, could be introduced and that this would enable the policy, as modified, to meet the Basic Conditions. It is considered that the proposed modification would meet the requirements of Section 61E of the Town and Country Planning Act 1990 (as amended). For this reason, amend policy wording and supporting text to meet Basic Condition requirements.	Policy deleted and does not appear in the plan in Appendix 3  Modified policy appears as TH7 - HMOs

			<p><u>Reason</u> – In order to overcome conflict with the Basic Conditions, as identified by the Examiner. NPPF173 relates to deliverability in terms of viability of a Local Plan but PPG ID41-005 makes it clear that this also applies to neighbourhood planning.</p>	
<p>Policy TH13: Established Architecture</p>	<p>Modify the policy wording.  (Report page 43)</p>	<p>To provide for a more balanced consideration and to avoid ambiguity.</p>	<p><u>Decision</u> - It is agreed that the submitted plan, in this regard, does not meet the Basic Conditions and it is understood that modifying this policy, as recommended by the Examiner, would allow the plan to meet the Basic Conditions. However, it is considered that a further modification to the policy, better retaining the policies general intent, could be introduced and that this would enable the policy, as modified, to meet the Basic Conditions. It is considered that the proposed modification would meet the requirements of Section 61E of the Town and Country Planning Act 1990 (as amended). For this reason, amend policy wording and supporting text to meet Basic Condition requirements.</p> <p><u>Reason</u> - In order to overcome conflict with the Basic Conditions, as identified by the Examiner. The policy as modified has the required due regard to NPPF58, is in general conformity with the Local Plan and better contributes to the achievement of sustainable development.</p>	<p>Policy amended and contained within the 'post Examination Plan with modifications'.</p> <p>Modified policy appears as TH8 – Established architecture</p>
<p>Policy TH14 Parking facilities</p>	<p>Delete policy and supporting text.  (Report page 44)</p>	<p>Lack of evidence to support policy, and would not have due regard to national policy (NPPF173 and NPPF204). Not in general conformity with the</p>	<p><u>Decision</u> - It is agreed that the submitted plan, in this regard, does not meet the Basic Conditions and it is understood that deleting this policy and the associated supporting text, as recommended by the Examiner,</p>	<p>Modified policy wording and supporting text included in the 'post examination Plan with modifications'.</p>



		Local Plan.	<p>would allow the plan to meet the Basic Conditions. However, it is considered that a modified policy and associated supporting text, retaining the policies general intent, could be introduced and that this would enable the policy, as modified, to meet the Basic Conditions. It is considered that the proposed modification would meet the requirements of Section 61E of the Town and Country Planning Act 1990 (as amended). For this reason, amend policy wording and supporting text to meet Basic Condition requirements.</p> <p><u>Reason</u> – In order to overcome conflict with the Basic Conditions, as identified by the Examiner. Ensuring an appropriate provision of parking for residential development has regard to national guidance, contributes to the achievement of sustainable development and is in general conformity with the strategic policies of the Local Plan.</p>	Modified policy appears as TH9 – Parking facilities
Policy TH15: Sites excluded from development	Delete policy and supporting text.  (Report page 45)	Unduly restrictive.	<p><u>Decision</u> - As per the Examiner's recommended modification but move some modified supporting text to the support text section of TH1.</p> <p><u>Reason</u> – As per the Examiner's stated reasoning. Text moved to TH1 in order to reflect that the Neighbourhood Plan chose not to allocate two potential housing sites contained in the Local Plan. Adds clarity to the plan.</p>	All amendments included in the 'post examination Plan with modifications'.

Policy TH16: Protection of the historic built environment	Delete policy and supporting text.  (Report page 46)	Does not have regard to national policy and fails to contribute to the achievement of sustainable development.	<p><u>Decision</u> - It is agreed that the submitted plan, in this regard, does not meet the Basic Conditions and it is understood that deleting this policy and the associated supporting text, as recommended by the Examiner, would allow the plan to meet the Basic Conditions. However, it is considered that a modified policy and associated supporting text, retaining the policies general intent, could be introduced and that this would enable the policy, as modified, to meet the Basic Conditions. It is considered that the proposed modification would meet the requirements of Section 61E of the Town and Country Planning Act 1990 (as amended). For this reason, amend policy wording and supporting text to meet Basic Condition requirements.</p> <p><u>Reason</u> – In order to overcome conflict with the Basic Conditions, as identified by the Examiner. Appropriate protection of heritage assets through plan policy has regard to national policy, contributes to achieving sustainable development and is in general conformity with the strategic policies of the Local Plan.</p>	<p>Modified policy wording and supporting text included in the 'post examination Plan with modifications'.</p> <p>Modified policy appears as TH10 Protection of the historic built environment</p>
Policy TH17: Rural village buffer zones	Delete policy.  (Report page 47)	Restrictive approach not justified by evidence, does not have regard to national policy, not in general conformity with the Local Plan and fails to contribute to the achievement of sustainable development.	<p><u>Decision</u> - As per the Examiner's recommended modification.</p> <p><u>Reason</u> – As per the Examiner's stated reasoning.</p>	Policy and associated text deleted and does not appear in the 'post Examination Plan with modifications'
Policy TH18:	Delete policy and	Wording does not have regard	<u>Decision</u> - It is agreed that the submitted	Modified policy wording

Rural Village Conservation areas	supporting text. (Report page 48)	to national policy.	<p>plan, in this regard, does not meet the Basic Conditions and it is understood that deleting this policy and the associated supporting text, as recommended by the Examiner, would allow the plan to meet the Basic Conditions. However, it is considered that a modified policy and associated supporting text, retaining the policies general intent, could be introduced and that this would enable the policy, as modified, to meet the Basic Conditions. It is considered that the proposed modification would meet the requirements of Section 61E of the Town and Country Planning Act 1990 (as amended). For this reason, amend policy wording and supporting text to meet Basic Condition requirements.</p> <p><u>Reason</u> – In order to overcome conflict with the Basic Conditions, as identified by the Examiner. Encouraging development proposals that would enhance a designated Conservation Area has regard to national policy, contributes to achievement of sustainable development and is in general conformity with the strategic policies of the Local Plan.</p>	<p>and supporting text included in the ‘post examination Plan with modifications’.</p> <p>Modified policy appears as TH11 – Rural village conservation areas</p>
Policy TH19: Maidencombe area	<p>Amend policy wording; Amend supporting text and title;</p> <p>Replace village envelope diagram on page 64.</p> <p>(Report pages 49-51)</p>	To avoid conflict with national policy, the Local Plan, contribute to sustainable development and provide clarity for decision making	<u>Decision</u> – Policy wording changed as per the Examiner’s recommended modification but further detail added to re-emphasise the unique landscape character and setting of Maidencombe, which better retains the intent of the submitted policy and better meets the requirements of Section 61E of the Town and Country Planning Act 1990 (as amended). This includes making	<p>All amendments included in the ‘post examination Plan with modifications’.</p> <p>Modified policy appears as TH12 – Maidencombe area</p>

			<p>reference to the context of the Local Plan (C1, C2 and SS2) with regards to the intent of the policy. Further information added in supporting text to link to Landscape Character Assessment evidence undertaken as part of the Local Plan evidence base and already referenced within the Torquay NP submission documents.</p> <p>The boundary of the Village Envelope which is retained as specified in the Plan. In addition, supporting text retained and amended to reflect modification002E</p> <p><u>Reason</u> – In order to overcome conflict with the Basic Conditions, as identified by the Examiner. Proposed amended village envelope boundary retained on the basis of being in general conformity with the Local Plan (including Policy C1) and evidence being sufficient to support proposed changes. Changes to supporting text add clarity to the plan.</p>	
Policy TH20: Cockington village and Country Park	Delete policy and supporting text.  (Report page 52)	Blanket presumption approach inappropriate.	<p><u>Decision</u> - Retain policy with modified wording to overcome the issue raised.</p> <p><u>Reason</u> – providing clear guidance for development in the historic area involved has regard to national policy, contributes to achieving sustainable development and is in general conformity with the strategic policies of the Local Plan.</p>	<p>Revised policy and text included in Appendix 3 and agreed with the Torquay neighbourhood Forum as the Qualifying Body that submitted the Plan.</p> <p>Modified policy appears as TH13 – Cockington Village and Country Park</p>
Policy TJ1:	Delete policy and	Content imprecise and unclear.	<u>Decision</u> - It is agreed that the submitted	Modified policy title

<p>Designated Employment Sites and minimum employment space</p>	<p>supporting text;  Delete all employment sites from policies maps,  (Report pages 53-54)</p>		<p>plan, in this regard, does not meet the Basic Conditions and it is understood that deleting this policy and the associated supporting text, as recommended by the Examiner, would allow the plan to meet the Basic Conditions. This applies not just to this employment policy but also to policies TJ2, TJ3, TJ5 and TJ6. It is considered that these policies perform related functions and have common aims. It is considered that a modified, single policy and associated supporting text can be introduced which would retain the policies general intent (TJ1, TJ2, TJ3, TJ5, TJ6) and that this would enable a single policy, as modified, to meet the Basic Conditions. It is considered that the proposed modification would meet the requirements of Section 61E of the Town and Country Planning Act 1990 (as amended). For this reason, provide a new policy to replace the employment policies already listed together with amended supporting text to meet Basic Condition requirements.</p> <p><u>Reason</u> – In order to overcome conflict with the Basic Conditions, as identified by the Examiner (also see reasons identified for Policy TJ2, TJ3, TJ5 and TJ6).</p>	<p>(TJ1), wording and supporting text included in the 'post examination Plan with modifications'.  Modified policy appears as TJ1 - Employment</p>
<p>Policy TJ2: Gateway Employment Sites</p>	<p>Delete policy and supporting text.  (Report page 55)</p>	<p>Highly restrictive, not in general conformity with the Local Plan.</p>	<p><u>Decision</u> - As per the Examiner's recommended modification (though note new Policy TJ1)</p> <p><u>Reason</u> – As per the Examiner's stated reasoning.</p>	<p>Policy and associated text deleted (though note new Policy TJ1 which seeks to retain some of its intent) and does not appear in this form within the 'post Examination Plan with</p>

				modifications'
Policy TJ3: Retention of existing purpose built B Class employment sites	Delete policy and supporting text.  (Report page 56)	Not clear or flexible, not in general conformity with the Local Plan.	<u>Decision</u> - As per the Examiner's recommended modification (though note new Policy TJ1)  <u>Reason</u> - As per the Examiner's stated reasoning.	Policy and associated text deleted (though note new Policy TJ1 which seeks to retain some of its intent) and does not appear in this form within the 'post Examination Plan with modifications'
Policy TJ4: Home Based Enterprises	Modify policy wording.  (Report page 57)	To remove ambiguity.	<u>Decision</u> - As per the Examiner's recommended modification.  <u>Reason</u> – As per the Examiner's stated reasoning.	All amendments included in the 'post examination Plan with modifications'.  Modified policy appears as TJ2 – Home based enterprises
Policy TJ5: Change of use for unsustainable businesses	Delete policy and supporting text.  (Report page 58)	Confusing and does not contribute to the achievement of sustainable development.	<u>Decision</u> - As per the Examiner's recommended modification (though note new Policy TJ1)  <u>Reason</u> - As per the Examiner's stated reasoning.	Policy and associated text deleted (though note new Policy TJ1 which seeks to retain some of its intent) and does not appear in this form within the 'post Examination Plan with modifications'
Policy TJ6: Support for certain existing Employment Sites	Delete policy and supporting text.  (Report page 59)	Policy cannot direct LA to grant or refuse planning permission	<u>Decision</u> - As per the Examiner's recommended modification (though note new Policy TJ1)  <u>Reason</u> – As per the Examiner's stated reasoning.	Policy and associated text deleted (though note new Policy TJ1 which seeks to retain some of its intent) and does not appear in this form within the 'post

				Examination Plan with modifications'
Policy TJ7: Commercial street scenes	Modify policy wording.  (Report page 60)	To have regard to national policy.	<u>Decision</u> - As per the Examiner's recommended modification.  <u>Reason</u> – As per the Examiner's stated reasoning.	All amendments included in the 'post examination Plan with modifications'.  Modified policy appears as TJ3 – Commercial street scenes
Policy TJ8	No policy or recommendation attributed to this number.	N/A	N/A	N/A
Policy TJ9: Prevention of crime through design	Delete policy and supporting text.  (Report page 61)	Repetitive of policy TH2.	<u>Decision</u> - As per the Examiner's recommended modification.  <u>Reason</u> – As per the Examiner's stated reasoning.	Policy and associated text deleted and does not appear within the 'post Examination Plan with modifications'
Tourism 'Community Aspiration' (page 25)	Delete 'Community Aspiration' and related text.  (Report page 62)	Reads as a Policy and detracts from clarity. Places obligations on the Council and is confusing.	<u>Decision</u> - Retain with modified wording to make it clear it is not a policy.  <u>Reason</u> – Community expression of aspirations in the Plan is allowed if they are not able to be confused with policy statements.	All amendments included in the 'post examination Plan with modifications'.
Policy TT1: Limited period for Change of Use of Tourism Properties within a CTIA	Delete policy and supporting text.  (Report page 63)	Fails to contribute to sustainable development and lacks evidence to justify.	<u>Decision</u> - As per the Examiner's recommended modification.  <u>Reason</u> – As per the Examiner's stated reasoning.	Policy and associated text deleted and does not appear in the 'post Examination Plan with modifications'

<p>Policy TT2: Change of Use constraints within an established tourism area or CTIA</p>	<p>Modify policy title and wording.  (Report page 64)</p>	<p>To avoid imprecision and be in general conformity with the Local Plan.</p>	<p><u>Decision</u> – It is agreed that the submitted plan, in this regard, does not meet the Basic Conditions and it is understood that modifying this policy, as recommended by the Examiner, would allow the plan to meet the Basic Conditions. However, it is considered that a further modification to the policy could be made could be introduced and that this would enable the policy, as modified, to meet the Basic Conditions whilst also better retaining the original intent. It is considered that the proposed modification would meet the requirements of Section 61E of the Town and Country Planning Act 1990 (as amended). For this reason, further amend policy wording to meet Basic Condition requirements. Specifically this includes the provision of change of use outside as well as inside CTIAs (capturing the intent of established tourism areas within the submitted policy).</p> <p>Also modify policy to incorporate some of the original intent of TT3 (see further below)</p> <p><u>Reason</u> – As per the Examiner’s stated reasoning plus better capture the full intent of the submitted policy in way which meets the Basic Conditions.</p>	<p>Modified policy title and wording included in the ‘post examination Plan with modifications’.</p> <p>Modified policy appears as TT1 – Change of use constraints within and outside a CTIA</p>
<p>Policy TT3: Permitted Change of Use of Tourism</p>	<p>Delete policy.  (Report page 65)</p>	<p>Restrictions are unduly placed on development without evidence to support an assessment of impact. Does not</p>	<p><u>Decision</u> – Agree partly with Examiner’s modification but some elements could be retained in a modified form and have been</p>	<p>Policy deleted but some elements incorporated into TT1.</p>



Properties outside CTIA's		contribute to the achievement of sustainable development.	incorporated within TT1 (see above). As per the Examiner's recommended modification.  <u>Reason</u> – Because the modified reasoning meets the basic conditions in terms of meeting the basic conditions and is in particular in general conformity with Local Plan tourism policies.	
Policy TT4: Change of Use in Conservation Areas and Listed Buildings	Delete policy and supporting text;  Amend 'Community Aspirations'.  (Report page 66)	The presumption in favour of change of use does not have regard to national policy. The policy lacks clarity and precision.  The 'Community Aspirations' read as requirements.	<u>Decision</u> - As per the Examiner's recommended modification.  <u>Reason</u> – As per the Examiner's stated reasoning.	Policy deleted and does not appear in the 'post Examination Plan with modifications'. Community aspirations amended in the modified plan.  Modified policy appears as TT2 – Change of Use in Conservation Areas and Listed Buildings.
Policy TT5: Change of use constraints on Babbacombe Downs CTIA	Delete policy.  (Report page 67)	Not in general conformity with Local Plan Policy TO1 and wording imprecise.	<u>Decision</u> - It is agreed that the submitted plan, in this regard, does not meet the Basic Conditions and it is understood that deleting this policy as recommended by the Examiner, would allow the plan to meet the Basic Conditions. However, it is considered that a modified policy, retaining the policies general intent, could be introduced and that this would enable the policy, as modified, to meet the Basic Conditions. It is considered that the proposed modification would meet the requirements of Section 61E of the Town and Country Planning Act 1990 (as amended). For this reason, amend policy wording to meet Basic Condition	Modified policy title, wording and supporting text included in the 'post examination Plan with modifications'.  Modified policy appears as TT3 – Change of use constraints on Babbacombe Downs CTIA

			requirements.  <u>Reason</u> - In order to overcome conflict with the Basic Conditions, as identified by the Examiner.	
Policy TT6: Oddicombe Beach	Delete policy and supporting text;  Delete and amend various 'Community Aspirations'.  (Report page 68)	Policy not sufficiently precise.  The 'Community Aspirations' exceed their remit.	<u>Decision</u> - As per the Examiner's recommended modification with regards to TT6. In relation to the Community Aspirations, retain all with appropriate introductory text to make to ensure they are aspirations and not requirements placed on the Council.  <u>Reason</u> – As per the Examiner's stated reasoning plus policy is not consistent with the Local Plan in terms of reflecting flood risk at Oddicombe Beach.	Policy deleted and does not appear in the 'post Examination Plan with modifications'. All other amendments to community aspirations included in the 'post examination Plan with modifications'.
Policy TE1: Protection of SSSI	Delete policy;  Amend supporting text.  (Report page 69)	Not in general conformity with the Local Plan and inflexible.	<u>Decision</u> - As per the Examiner's recommended modification.  <u>Reason</u> – As per the Examiner's stated reasoning.	Policy and associated text deleted and does not appear in the 'post Examination Plan with modifications'. All other amendments included in the 'post examination Plan with modifications'.
Policy TE2: Protection of the Countryside and Undeveloped Coastal Areas	Delete policy;  Delete supporting text.  (Report page 70)	Not in general conformity with the Local Plan and not supported by any substantive evidence.	<u>Decision</u> - As per the Examiner's recommended modification.  <u>Reason</u> – As per the Examiner's stated reasoning.	Policy and associated text deleted and does not appear in the 'post Examination Plan with modifications'.

<p>Policy TE3: Tourism Accommodation on Greenfield sites</p>	<p>Delete policy;  Delete supporting text.  (Report page 71)</p>	<p>Does not have regard to national policy and no evidence to indicate it would contribute to sustainable development.</p>	<p><u>Decision</u> - It is agreed that the submitted plan, in this regard, does not meet the Basic Conditions and it is understood that deleting this policy and the associated supporting text, as recommended by the Examiner, would allow the plan to meet the Basic Conditions. However, it is considered that a modified policy and associated supporting text, retaining the policies general intent, could be introduced and that this would enable the policy, as modified, to meet the Basic Conditions. It is considered that the proposed modification would meet the requirements of Section 61E of the Town and Country Planning Act 1990 (as amended). For this reason, amend policy wording and supporting text to meet Basic Condition requirements.</p> <p><u>Reason</u> – In order to overcome conflict with the Basic Conditions, as identified by the Examiner. As modified the policy has regard to national guidance, contributes to achievement of sustainable development and is in general conformity with the strategic policies of the Local Plan.</p>	<p>Modified policy title, wording and supporting text included in the 'post examination Plan with modifications'.</p> <p>Modified policy appears as TE1 – Tourism Accommodation on Brownfield Sites</p>
<p>Policy TE4: Local Green Spaces</p>	<p>Modify the policy wording:  Delete Nightingale Park as does not meet the required criteria;  Provide Table and Map of all other sites confirmed and reference as LGS1-99;</p>	<p>To accord with national guidance. To provide clarity and precision.</p>	<p><u>Decision</u> – As per the Examiner's recommended modifications except for amendments to table numbering/reference and the provision of an indicative plan to show location of each site. Further line added regarding allowing minor improvements to access and community facilities consistent with the intent of the policy and consistent with NPPF policy for managing Local Green Space (in accordance with Green Belt). Amendment</p>	<p>All amendments included in the 'post examination Plan with modifications'.</p> <p>Modified policy appears as TE2 – Local Green Spaces</p>

	<p>Amend boundary of LGS at Teignmouth Road.</p> <p>Amend supporting text on pages 31-32.</p> <p>(Report pages 72-75)</p>		<p>to table to correct error with name of TLGSM18 to reference King George playing Fields.</p> <p><u>Reason</u> – As per the Examiner’s stated reasoning but with regards to presentation modifications it is considered that this is unnecessary in terms of providing additional clarity. The policy, maps and table are sufficiently clear. To correct errors.</p>	
Policy TE5: Green Infrastructure Delivery Plan	<p>Replace the policy with a ‘Community Aspiration’</p> <p>(Report page 76)</p>	<p>The Green Infrastructure Delivery Plan is guidance (not planning policy or SPD) only and it is unclear and not supported by evidence why those requirements should be placed upon development.</p>	<p><u>Decision</u> - As per the Examiner’s recommended modification.</p> <p><u>Reason</u> – As per the Examiner’s stated reasoning.</p>	<p>The Policy (as revised to a Community Aspiration) has been incorporated into the ‘post examination Plan with modifications’.</p>
Policy TE6: Development on Established Woodland	<p>Modify policy wording;</p> <p>Delete 2 ‘Community Aspirations’ below Policy TE6 and single paragraph of supporting text.</p> <p>(Report page 77)</p>	<p>(No clear reason given for the policy wording change.)</p> <p>Both ‘Community Aspirations’ deleted because they read as Policy requirements.</p>	<p><u>Decision</u> - As per the Examiner’s recommended modification.</p> <p><u>Reason</u> – As per the Examiner’s stated reasoning.</p>	<p>All amendments included in the ‘post examination Plan with modifications’.</p> <p>Modified policy appears as TE3 – Development on Established Woodland</p>
Policy TE7: Green Corridors	<p>Modify policy wording;</p> <p>Amend supporting text.</p> <p>(Report page 78)</p>	<p>Confusingly worded and vague.</p>	<p><u>Decision</u> - As per the Examiner’s recommended modification.</p> <p><u>Reason</u> – As per the Examiner’s stated reasoning.</p>	<p>All amendments included in the ‘post examination Plan with modifications’.</p> <p>Modified policy appears as TE4 – Green</p>

				Corridors
Policy TE8: Protected species habitats and biodiversity – general	Delete policy.  Report page 79).	Conflicting wording that does not contribute to achievement of sustainable development.	<u>Decision</u> - It is agreed that the submitted plan, in this regard, does not meet the Basic Conditions and it is understood that deleting this policy and the associated supporting text, as recommended by the Examiner, would allow the plan to meet the Basic Conditions. However, it is considered that a modified policy and associated supporting text, retaining the policies general intent, could be introduced and that this would enable the policy, as modified, to meet the Basic Conditions. It is considered that the proposed modification would meet the requirements of Section 61E of the Town and Country Planning Act 1990 (as amended). For this reason, amend policy wording and supporting text to meet Basic Condition requirements.  <u>Reason</u> – In order to overcome conflict with the Basic Conditions, as identified by the Examiner.	Modified policy title, wording and supporting text included in the ‘post examination Plan with modifications’.  Modified policy appears as TE5 – Protected species habitats and biodiversity
Policy TE9: European Protected species	Replace policy wording;  Amend supporting text.  (Report page 80)	Taking account of European obligations.	<u>Decision</u> - As per the Examiner’s recommended modification but with additional line to reference all stages of construction process in order to retain original intent of submitted plan and also meet the basic conditions.  <u>Reason</u> – As per the Examiner’s stated reasoning and to meet the basic conditions.	All amendments included in the ‘post examination Plan with modifications’.  Modified policy appears as TE6 – European protected species
Policy TE10:	Delete policy and supporting text.	Not a land use planning matter.	<u>Decision</u> - It is agreed that the submitted plan, in this regard, does not meet the Basic	Modified policy title, wording and supporting

Marine Management Planning	(Report page 81)		<p>Conditions and it is understood that deleting this policy and the associated supporting text, as recommended by the Examiner, would allow the plan to meet the Basic Conditions. However, it is considered that a modified policy and associated supporting text, retaining the policies general intent, could be introduced and that this would enable the policy, as modified, to meet the Basic Conditions. It is considered that the proposed modification would meet the requirements of Section 61E of the Town and Country Planning Act 1990 (as amended). For this reason, amend policy wording and supporting text to meet Basic Condition requirements. In this instance the modification can ensure that only land use matters are included,</p> <p><u>Reason</u> – to ensure only land use matters are involved in the policy proposed in accordance with Basic Conditions.</p>	<p>text included in the ‘post examination Plan with modifications’.</p> <p>Modified policy appears as TE7 – Marine Management Planning</p>
Policy THW1: Travel Plans	<p>Delete policy.</p> <p>Amend ‘Community Aspirations’.</p> <p>(Report page 82)</p>	<p>The policy unduly imposes conditions and obligations on the local planning authority and its Councillors.</p> <p>‘Community Aspirations’ read as policies.</p>	<p><u>Decision</u> - It is agreed that the submitted plan, in this regard, does not meet the Basic Conditions and it is understood that deleting this policy and the associated supporting text, as recommended by the Examiner, would allow the plan to meet the Basic Conditions. However, it is considered that a modified policy and associated supporting text, retaining the policies general intent, could be introduced and that this would enable the policy, as modified, to meet the Basic Conditions. It is considered that the proposed modification would meet the requirements of Section 61E of the Town and Country Planning Act 1990 (as</p>	<p>All amendments included in the ‘post examination Plan with modifications’.</p> <p>Modified policy appears as THW1 – Travel Plans</p>

			<p>amended). For this reason, amend policy wording and supporting text to meet Basic Condition requirements. Some aspects of the policy which were deleted (e.g. Ward Councillors) retained in the form of a Community Aspiration.</p> <p><u>Reason</u> – In order to overcome conflict with the Basic Conditions, as identified by the Examiner.</p>	
<p>Policy THW2: Community Food Production and high quality agricultural land</p>	<p>Modify policy title and wording:  Amend supporting text.  (Report page 83)</p>	<p>Insufficient information provided for a blanket protection as proposed.</p>	<p><u>Decision</u> - Modify policy and associated 'Community Aspiration' wording to meet the Basic Conditions. It is noted that modifying this policy and the associated text, as recommended by the Examiner, would allow the plan to meet the Basic Conditions. However, it is considered that a further modified policy, retaining more of the policy's general intent, could be introduced to instead replace the submitted policy and that this would enable the policy, as modified, to meet the Basic Conditions.</p> <p><u>Reason</u> – preventing the loss of allotments has full regard to national guidance, supports achievement of sustainable development and is in general conformity with the strategic policies of the Local Plan.</p>	<p>Modified policy title, wording and supporting text included in the 'post examination Plan with modifications'.</p> <p>Modified policy appears as Policy THW2 – change of use of allotments and retention of food production areas</p>
<p>Policy THW3: Community Hub Facilities</p>	<p>Modify policy title and wording;  Amend supporting text;  Delete second 'Community Aspiration'.</p>	<p>To accord with national policy, in the absence of substantive evidence for a more onerous requirement.</p>	<p><u>Decision</u> - Retain submitted title with further revised policy wording, supporting text and amended wording of the 'Community Aspiration'</p> <p><u>Reason</u> – Encouraging the provision of new residential development that is served by supporting facilities has full regard to</p>	<p>Policy wording, supporting text and amendment of 'Community Aspiration' text as further modified is included in the 'post examination Plan with modifications'</p>

	(Report page 84)		national guidance, contributes towards the achievement of sustainable development and is in general accordance with the strategic policies of the Local Plan.	Modified policy appears as THW3 – Community facilities
Policy THW4: Outside Space Provision	Modify policy wording; Amend supporting text.  (Report page 85)	Insufficient justification for exempting flats from the requirement where they are near green space or the coastline and does not contribute to sustainable development.	<u>Decision</u> - Modify policy and associated supporting text to meet the Basic Conditions. It is noted that modifying this policy and the associated text, as recommended by the Examiner, would allow the plan to meet the Basic Conditions. However, it is considered that a further modified policy, retaining more of the policy's general intent, could be introduced to instead replace the submitted policy and that this would enable the policy, as modified, to meet the Basic Conditions.  <u>Reason</u> – to ensure development contributes to achievement of sustainable development having regard to national policy.	Policy wording and amendment of text as further modified is included in the 'post examination Plan with modifications'.  Modified policy appears as THW4 – Outside Space Provision
Policy THW5: Access to sustainable transport	Delete policy.  (Report page 86).	As worded would prevent sustainable growth and development.	<u>Decision</u> - Amend policy wording to meet the Basic Conditions. It is noted that deleting this policy and the associated text, as recommended by the Examiner, would allow the plan to meet the Basic Conditions. However, it is considered that a modified policy, retaining the policies general intent, could be introduced to instead replace the submitted policy and that this would enable the policy, as modified, to meet the Basic Conditions.  <u>Reason</u> – In order to overcome conflict with the Basic Conditions, as identified by the Examiner. Encouraging sustainable	Policy wording and amendment of text as further modified is included in the 'post examination Plan with modifications'.  Modified policy appears as THW5 – Access to Sustainable Transport



			transport has full regard to national guidance, contributes to achievement of sustainable development and is in general conformity with the strategic policies of the Local Plan.	
Policy THW6: Cycle Storage and Changing Facilities	Modify policy wording. (Report page 87)	Does not provide a decision maker with clarity.	<u>Decision</u> - As per the Examiner's recommended modification.  <u>Reason</u> – As per the Examiner's stated reasoning. To provide the decision maker with clarity having regard generally to national guidance.	Policy wording and amendment of text as modified is included in the 'post examination Plan with modifications'.  Modified policy appears as THW6 – Cycle storage and changing facilities
Policy TSL1: Alpine Ski Facility	Modify policy wording; Amend supporting text; Amend 'Community Aspirations' pages 39 and 40. (Report pages 88-89)	Imprecise and confusing.	<u>Decision</u> - As per the Examiner's recommended modifications.  <u>Reason</u> – As per the Examiner's stated reasoning, to improve clarity for application by the decision maker having regard to national guidance.	Policy wording and amendment of text as modified is included in the 'post examination Plan with modifications'.  All other amendments included in the 'post examination Plan with modifications'.
Policy TSL2: Sport and Leisure – Nightingale Park	Delete policy (Report page 90).	Confusing, lack of evidence provided to justify and not in conformity with Local Plan.	<u>Decision</u> - Modify to address concerns raised by Examiner in respect of meeting the Basic Conditions. It is noted that deleting this policy and the associated text, as recommended by the Examiner, would allow the plan to meet the Basic Conditions. However, it is considered that a modified policy, retaining the policies general intent, could be introduced to instead replace the submitted policy and that this would enable	Policy wording and amendment of text as modified is included in the 'post examination Plan with modifications'

			<p>the policy, as modified, to meet the Basic Conditions.</p> <p><u>Reason</u> – To be in conformity with the Local Plan, better contribute to the achievement of sustainable development and add clarity.</p>	
<p>Policy TSL3: Sport and Leisure</p>	<p>Combine with TSL4 (below) and modify policy wording;</p> <p>Provide a plan showing the facilities protected.</p> <p>(Report page 91)</p>	<p>Imprecise on areas intended to be protected and inflexible.</p>	<p><u>Decision</u> - As per the Examiner's recommended modification except show plan within Policies Maps not within written document.</p> <p><u>Reason</u> – As per the Examiner's stated reasoning. For clarity.</p>	<p>All amendments included in the 'post examination Plan with modifications'.</p> <p>Modified policy appears as TSL3 Sport and Leisure – Sports grounds and facilities</p>
<p>Policy TSL4: Sport and Leisure – Sports grounds and facilities</p>	<p>See TSL3 above.</p>	<p>See TSL3 above</p>	<p>See TSL3 above</p>	<p>See TSL3 above</p>
<p>Policy TTR1: Access to primary schools</p>	<p>Delete policy and supporting text.</p> <p>(Report page 92)</p>	<p>Does not have regard to national guidance and harms the delivery of sustainable development.</p>	<p><u>Decision</u> - It is agreed that the submitted plan, in this regard, does not meet the Basic Conditions and it is understood that deleting this policy and the associated supporting text, as recommended by the Examiner, would allow the plan to meet the Basic Conditions. However, it is considered that a modified policy and associated supporting text, retaining the policies general intent, could be introduced and that this would enable the policy, as modified, to meet the Basic Conditions. It is considered that the proposed modification would meet the</p>	<p>Modified policy wording and supporting text included in the 'post examination Plan with modifications'.</p> <p>Modified policy appears as TTR1 - Access to primary schools</p>

			<p>requirements of Section 61E of the Town and Country Planning Act 1990 (as amended). For this reason, amend policy wording and supporting text to meet Basic Condition requirements.</p> <p><u>Reason</u> - In order to overcome conflict with the Basic Conditions, as identified by the Examiner.</p>	
<p>Policy TTR2: Sustainable Communities</p>	<p>Delete policy and supporting text.  (Report page 93)</p>	<p>As worded, would prevent sustainable growth.</p>	<p><u>Decision</u> - It is agreed that the submitted plan, in this regard, does not meet the Basic Conditions and it is understood that deleting this policy and the associated supporting text, as recommended by the Examiner, would allow the plan to meet the Basic Conditions. However, it is considered that a modified policy and associated supporting text, retaining the policies general intent, could be introduced and that this would enable the policy, as modified, to meet the Basic Conditions. It is considered that the proposed modification would meet the requirements of Section 61E of the Town and Country Planning Act 1990 (as amended). For this reason, amend policy wording and supporting text to meet Basic Condition requirements.</p> <p><u>Reason</u> – In order to overcome conflict with the Basic Conditions, as identified by the Examiner. Encouraging sustainable transport has full regard to national guidance, contributes to achievement of sustainable development and is in general conformity with the strategic policies of the</p>	<p>Modified policy wording and supporting text included in the 'post examination Plan with modifications'.</p> <p>Modified policy appears as TTR2 - Sustainable Communities</p>

			Local Plan.	
Policy TTR3: Potential Park and Ride or Helipad facility	Delete policy.  (Report page 94)	Does not meet Basic Conditions including having regard to national guidance in respect of viability and deliverability and tests for planning conditions.	<p><u>Decision</u> - It is agreed that the submitted plan, in this regard, does not meet the Basic Conditions and it is understood that deleting this policy and the associated supporting text, as recommended by the Examiner, would allow the plan to meet the Basic Conditions. However, it is considered that a modified policy and associated supporting text, retaining the policies general intent, could be introduced and that this would enable the policy, as modified, to meet the Basic Conditions. It is considered that the proposed modification would meet the requirements of Section 61E of the Town and Country Planning Act 1990 (as amended). For this reason, amend policy wording and supporting text to meet Basic Condition requirements.</p> <p><u>Reason</u> – In order to overcome conflict with the Basic Conditions, as identified by the Examiner. Minimising the effect of development on landscape quality has regard to national guidance, contributes to achievement of sustainable development and is in general conformity with the strategic policies of the Local Plan (including SS6 and C1).</p>	Modified policy wording and supporting text included in the 'post examination Plan with modifications'.
'Community Aspirations' (pages 42-44)	Remove boxes;  Amend wording  (Report page 94-95)	To distinguish from being policies.	<p><u>Decision</u> - As per the Examiner's recommended modification.</p> <p><u>Reason</u> – As per the Examiner's stated reasoning.</p>	All amendments included in the 'post examination Plan with modifications'.

<p>Art Culture and Community Partnership Statements and all Appendices (pages 44-72)</p>	<p>Delete all pages 45-72.  (Report page 96)</p>	<p>The section detracts from the clarity and precision of the Plan. Moving the section to Appendices would transfer confusing and potentially misleading information from one place to another.</p>	<p><u>Decision</u> - Amend wording of these pages to enable their retention in a manner that meets the Basic Conditions and clearly identify them as an appendix separate but supplementary to the main plan. Add additional text to make clear that the appendix has no land use planning policy status.</p> <p><u>Reason</u> – To be consistent with national guidance as set out in PPG ID41-004</p>	<p>All amendments included in the ‘post examination Plan with modifications’.</p>
<p>Policies Maps</p>	<p>Provide within the Plan (currently in a separate document) and amend where indicated.  (Report pages 96-97)</p>	<p>Not expressly given but assumed for clarity and ease of use by decision makers.</p>	<p><u>Decision</u> - All recommendations agreed.</p> <p><u>Reason</u> – to meet the Basic Conditions requirements.</p>	<p>All amendments included in the ‘post examination Plan with modifications’.</p>
<p>Contents page, Tables, Plans, page/policy numbering.</p>	<p>Update taking into account the recommendations of the Report.  (Report page 97)</p>	<p>Not expressly given but assumed for clarity and ease of use by decision makers.</p>	<p><u>Decision</u> - All agreed. In addition, minor editorial changes associated with typos/grammar/presentation within the submitted Torquay Neighbourhood Plan have been made.</p> <p><u>Reason</u> – for clarity (consistent with national guidance) and to ease the practical application of the Plan as a legible, clear document</p>	<p>All amendments included in the ‘post examination Plan with modifications’.</p>

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## **Revised Appendix 2**

### **Decision Statement Table: Brixham Peninsula Neighbourhood Plan**

#### **Assessment of Examiner's Report**

##### **Background**

This Appendix provides a more detailed officer assessment of the Examiner's Modifications and the LPA's Decision Statement.

Mrs Deborah McCann was appointed through the National Planning Independent Examiner Referral Service (NPIERS) as the Independent Examiner in March 2018. This appointment was consented to by the Neighbourhood Forum. Mrs McCann, an experienced examiner, is independent of the Council and Neighbourhood Forum, possesses appropriate qualifications and has no interest in any land within the Torquay area. Whilst she had previously been employed by Torbay Council in the 1990s, this was considered by the Monitoring Officer not to represent a conflict of interest because of the significant passage of time.

All written representations were provided to the Examiner along with the submitted plan and associated documents. The final report was received by the Council on 26<sup>th</sup> July 2018 and is published on the Council's website.

The conclusion of the report was that the Plan should proceed to referendum, with modifications recommended by the Examiner.

Submitted Plan Reference (Policy / supporting text paragraph)	Examiner's Recommended Modification (Note: only summarised below, see Examiner's report for more information)	Examiner's Reason(s) (Note: only summarised below, see Examiner's report for more information)	Council Decision and Reason (Required action to take in respect of Examiner's recommended modification and reason)	Outcome to Submitted Plan (Note: only summarised below, all outcomes are incorporated in full into the post examination plan with modifications in Appendix 3)
Policy Document: - Front cover; and - page 8, para 1.8.	Modify wording by deleting reference to 'and beyond' regarding the period of the plan. (Report, page 8, top)	<i>"It is intended that the Brixham Peninsula Neighbourhood Development Plan will cover the period 2012-2030, to align with the Torbay Local Plan, reference to 'and beyond' should be removed to align with the Torbay Local Plan"</i> . (Report, page 8, top)	Modify wording by deleting reference to 'and beyond' as recommended. <u>Reason:</u> LPA would also add reasons that this will add clarity  Note: The Planning and Compulsory Purchase Act 2004, as amended by the Localism Act 2011, requires at Section 38B (1.) (a.) "A neighbourhood development plan... specify the period... it is to have effect". Accordingly, the reference to 'and beyond' requires deletion to comply with Basic Conditions.	Policy document modified as recommended by the Examiner where relevant and as shown in Appendix 3  Clarify Plan Period (2012-2030) and remove 'beyond'
<b>Employment policies to create jobs (J)</b>				
Policy J1: Employment land – proposed, retained and refurbished (BPNP pages 25 to 28)	Modify policy wording: - At J1.1 to clarify scope of support for employment development is that <i>'appropriate to meet the local and strategic needs set out in the Torbay Local Plan'</i> . (Report, page 27, middle);	For clarity and to meet Basic Conditions.  The Examiner's comments note a Habitats Regulations Assessment (HRA) issue She goes on to comment: <i>'However, the neighbourhood plan does not allocate these sites but identifies them'</i>  The Examiner also notes that <i>'the Council expresses concern that the employment sites are "identified" rather than allocated and therefore fail to be in general conformity with</i>	Agree: Modification meets BC  Additional LPA Modification to Examiner's Modification of J1.1 - add additional text to give clarity that 'need' relates to the Neighbourhood Plan Area only (i.e. SDB1 area in Torbay Local Plan) <u>Reason:</u> Employment sites are 'identified' and not 'allocated'.. Therefore, additional wording to be in general conformity with the strategic Local Plan SDB Polices (SS5) and for clarity.	Policy Modified as recommended by Examiner with additional change and additional glossary/footnote for clarity  <i>'..appropriate to meet the local and strategic needs set out in the Torbay Local Plan <b>SDB1 area'</b></i> .  <b>Footnote: 'identified' J1 employment sites: These are not allocated sites and do not have policy weight but recognise a potential development site for consideration through the development management process primarily for employment investment subject to other policies in the Development Plan</b>



Submitted Plan Reference (Policy / supporting text paragraph)	Examiner's Recommended Modification (Note: only summarised below, see Examiner's report for more information)	Examiner's Reason(s) (Note: only summarised below, see Examiner's report for more information)	Council Decision and Reason (Required action to take in respect of Examiner's recommended modification and reason)	Outcome to Submitted Plan (Note: only summarised below, all outcomes are incorporated in full into the post examination plan with modifications in Appendix 3)
		<p><i>Policy SS5 and SDB1 of the Torbay Local Plan.'</i></p> <p>(Report, page 27, middle and Section 12.7 page 21 in relation to J1.2 and HRA</p>	<p>LPA further Modification to add supporting text/glossary definition of BPNP 'identified sites' does not have the full force of a site allocation.</p> <p>Note: The LPA HRA Appropriate Assessment concludes J1 sites are acceptable with Mitigation Measures.</p>	<p><b><i>Committed J1 employment sites Have extant planning permission. If this planning permission expires, any proposal will be considered on the basis of the Development Plan unless material considerations indicate otherwise. A site's planning history is likely to be a material consideration.</i></b></p> <p><b><i>Footnotes also added to Policies Map Key.</i></b></p>
	<p>- At J1.2 Table 1 to references to Oxen Cove and Freshwater Quarry site <i>J11-2 Oxen Cove and Freshwater Quarry (<del>identified site</del>) 2,000</i></p> <p>(Report, page 28, top); and and Section 12.7 page 21</p>		<p>Re J1.2 do not modify policy. Reason: Modified references to reference Oxen Cove and Freshwater are errors by the Examiner.</p>	<p>This part of Policy not modified as recommended by Examiner.</p> <p>Reinstate J1.1 as submitted</p>
	<p>- At J1.3, to delete a 'viability' definition and refer to LP Policy SS5 "<i>on grounds of viability and in accordance with Policy SS5 of the Torbay Local Plan</i>".</p> <p>(Report, page 28, top).</p>		<p>Agree with some of the Modification but include part of original text as a further LPA modification :</p> <p>Re J1.3, modify policy to address issues raised, but retain core 'viability' definition within Policy rather than referring to Local Plan Policy SS5</p> <p>Reason: The LPA wording has been agreed in collaboration with the Forum (BTC) Retention of core viability definition provides</p>	<p>This part of Policy partially modified as recommended by Examiner LPA partially re-instated Policy as submitted Plan</p> <p><i>J1.3 ....A lack of viability is to be established by clear evidence from an active marketing effort that it would not be possible to achieve a lease or sale of the premises at a reasonable market rate.</i></p>

<b>Submitted Plan Reference</b> (Policy / supporting text paragraph)	<b>Examiner's Recommended Modification</b> (Note: only summarised below, see Examiner's report for more information)	<b>Examiner's Reason(s)</b> (Note: only summarised below, see Examiner's report for more information)	<b>Council Decision and Reason</b> (Required action to take in respect of Examiner's recommended modification and reason)	<b>Outcome to Submitted Plan</b> (Note: only summarised below, all outcomes are incorporated in full into the post examination plan with modifications in Appendix 3)
			clarity; reflects policy intent; and follows approach of Examiner at Modified Policy TO1.2 and as modified, policy meets Basic Conditions.	
Policy J2: Provision of information and communication technology (BPNP page14)	No comment made. (Report, page 28, bottom)	As submitted, policy meets Basic Conditions. (Report, page 5, para 2.4)	Agree: Retain as submitted policy. <u>Reason:</u> As submitted, policy meets Basic Conditions.	No change made to submitted Policy as recommended by Examiner.
Policy J3: Local employment – training and skills (BPNP pages15 and 16)	No comment made. (Report, page 28 and 29, top)	As submitted, policy meets Basic Conditions. (Report, page 5, para 2.4)	Agree: Retain as submitted policy. <u>Reason:</u> As submitted, policy meets Basic Conditions.	No change made to submitted Policy as recommended by Examiner.
Policy J4: Local employment – increased employment and local amenity (BPNP pages16 and 17)	No comment made. (Report, page 29, bottom)	As submitted, policy meets Basic Conditions. (Report, page 5, para 2.4)	Agree: Retain as submitted policy. <u>Reason:</u> As submitted, policy meets Basic Conditions.	No change made to submitted Policy as recommended by Examiner
Policy J5: Sustaining a vibrant harbour-side economy (BPNP pages 17 and 18)	Include a policies map. (Report, page 30, middle)	For clarity. (Report, page 30, middle)	Agree: Include the 'Brixham Harbour area' on the Policies Maps. <u>Reason</u> Inclusion of area referred to in policy maps adds clarity.	Policy Map modified as recommended by Examiner.  New Policy Map boundary provided covering Brixham Harbour and environs. Note: A small part of this area is outside the approved Neighbourhood Plan Area.
	Modify policy wording.	To meet Basic Conditions. (Report, page 30, middle)	Agree: Modify policy as recommended.	Policy Modified as recommended by Examiner.

Submitted Plan Reference (Policy / supporting text paragraph)	Examiner's Recommended Modification (Note: only summarised below, see Examiner's report for more information)	Examiner's Reason(s) (Note: only summarised below, see Examiner's report for more information)	Council Decision and Reason (Required action to take in respect of Examiner's recommended modification and reason)	Outcome to Submitted Plan (Note: only summarised below, all outcomes are incorporated in full into the post examination plan with modifications in Appendix 3)
	<p>J5.2 Second sentence <del>'will comply'</del> to 'should be in conformity' with Local Plan Policies T01 (Tourism, events and culture), ... (Report, page 30, middle)</p> <p>Modify last sentence relating to <del>maintenance</del>-preservation or enhancement of the Brixham Town Conservation Area in the development plan</p>		<p><u>Additional Reason</u> Modified language better reflects requirements and general conformity with Torbay Local Plan. As modified, policy meets Basic Conditions.</p>	<p>J5.2 <del>'will comply'</del> to 'should be in conformity' with Local Plan Policies T01 (Tourism, events and culture)</p> <p><del>maintenance</del>-preservation or enhancement of the Brixham Town Conservation Area in the development plan</p>
<p>Policy J6: Redevelopment of the Town Centre Car Park (BPNP pages 18 and 19)</p>	<p>Include a 'more detailed' policy map. (Report, page 30 and 31, top)</p>	<p>For clarity. (Report, page 31, top)</p>	<p>Disagree: Retain maps as submitted in the Policy Maps (i.e., site: J1.1 &amp; H3.1 Town Centre Map boundary) and the Employment Site Assessment. LPA add minor justification text to cross refer to Policy BH3 and BH3-11 for clarity. <u>Reason</u> Whilst the BPNP Planning Brief refers to a wider area than that shown by J1.1. In consultation with the Forum the Maps in submitted Neighbourhood Plan are considered sufficient and no additional modification is necessary. Officers consider that the extent of the Map boundary meets the Basic Conditions and is therefore lawful but will limit the Policy to the area shown.</p>	<p>Policy Map not modified as recommended by Examiner existing site boundaries retained as J1.1.</p> <p>Additional LPA change for clarity. Supporting text change to 3.2.4 <i>The development is to include a mix of retail premises, a hotel, affordable housing (see also Policy BH3-11 for 25 units), multi-level car parking....</i></p>

<b>Submitted Plan Reference</b> (Policy / supporting text paragraph)	<b>Examiner's Recommended Modification</b> (Note: only summarised below, see Examiner's report for more information)	<b>Examiner's Reason(s)</b> (Note: only summarised below, see Examiner's report for more information)	<b>Council Decision and Reason</b> (Required action to take in respect of Examiner's recommended modification and reason)	<b>Outcome to Submitted Plan</b> (Note: only summarised below, all outcomes are incorporated in full into the post examination plan with modifications in Appendix 3)
Policy J7: Oxen Cove and Freshwater Quarry (BPNP pages 19 to 20)	Modify justification at 3.2.8 to emphasise development will be ' <i>Subject to any environmental constraints...</i> ' at project (i.e., planning permission) stage. (Report, page 31 and 32, top)	Examiner Considers Greater Horseshoe Bats (HRA) concerns unresolved. Examiner clear that sites have not been allocated, therefore ' <i>any potential shortfall in evidence in relation to the HRA can be adequately addressed should planning application come forward</i> '. i.e. at project stage.  (Report, page 31, bottom and Section 12.7 page 21 on HRA issue)	Agree: Modify justification at para 3.2.8 as recommended. <u>Reason</u> Justification needs to reflect policy and HRA Matters. Policy does not allocate employment land. Policy correctly provides that development can only come forward when planning application/project stage HRA 'safeguards' are met.  Note: BPNP AECOM HRA Report screened out Policy J7 and LPA HRA Appropriate Assessment of J1-2 and BH3-I6 sites concludes an allocation would be acceptable with mitigation measures.  <u>LPA Additional modification to supporting text.</u> LPA minor additional modification to cross reference to justification text to cross refer to Policy BH3-I6 for clarity in para 3.2.11 and in 3.2.8 cross reference to LPA modification footnote in Policy J1 'identified' definition/status for clarity. Notes that development to meet environmental constraints para 3.2.10 for clarity.	Supporting Policy Text amended in accordance with Examiner's Recommendation. Additional LPA modification minor cross reference to Policy BH3.I6):  New para <b>3.2.11 <i>The land at Freshwater Quarry and Oxen Cove is also allocated for residential development in Policy BH3-I6.</i></b>  Para 3.2.7 ' <i>An area of 2,000 sqm has been identified for employment at Oxen Cove,...</i> ( <b>see Policy J1 and footnote defining 'identified' status</b> ) primarily marine related,... <p><b>Para 3.2.10 <i>Proposals will be subject to any environmental constraints. More specific information and</i></b></p>

<b>Submitted Plan Reference</b> (Policy / supporting text paragraph)	<b>Examiner's Recommended Modification</b> (Note: only summarised below, see Examiner's report for more information)	<b>Examiner's Reason(s)</b> (Note: only summarised below, see Examiner's report for more information)	<b>Council Decision and Reason</b> (Required action to take in respect of Examiner's recommended modification and reason)	<b>Outcome to Submitted Plan</b> (Note: only summarised below, all outcomes are incorporated in full into the post examination plan with modifications in Appendix 3)
	Include a policies map. (Report, page 32, top)	For clarity. (Report, page 32, top)	Disagree: Retain maps as submitted in the Policy Maps (i.e., site J1.2 and BH3.I6 Town Centre Map) and the Employment Site Assessment.  <u>Reason</u> Whilst the BPNP Planning Brief refers to a wider area than shown by J1-I2. The Forum considers the maps in submitted Neighbourhood Plan are sufficient and that no additional modification is appropriate. Officers consider that the extent of the Map boundary meets the Basic Conditions and is therefore lawful but will limit the Policy to the area shown.	Policy Map not modified in accordance with Examiner's Recommendation. Existing site boundaries retained as per Policy J1-I2.
	Modify policy wording to delete reference to <i>'the evolving Town Centre Master Plan</i> at J7.2. (Report, page 32, top)	To meet Basic Conditions. (Report, page 32, top)	Disagree: Only modify policy wording to reflect issue raised by deleting word 'evolving' and adding 'Brixham'. <u>Reason</u> The 'Town Centre Master Plan' is referenced in related Policy J1 and this site covers the same area as J1-I2. The Masterplan forms a supporting document to the submitted Neighbourhood Plan and it is no longer 'evolving'. Modification reflects policy intention. As modified policy meets Basic Conditions.	Change made to Policy Document, This part of Policy has not modified as recommended by Examiner.  <i>J7.2 Design and development options should be informed by the Port Master Plan and the <b>evolving Brixham Town Centre Master Plan</b> and have regard to...</i>

Submitted Plan Reference (Policy / supporting text paragraph)	Examiner's Recommended Modification (Note: only summarised below, see Examiner's report for more information)	Examiner's Reason(s) (Note: only summarised below, see Examiner's report for more information)	Council Decision and Reason (Required action to take in respect of Examiner's recommended modification and reason)	Outcome to Submitted Plan (Note: only summarised below, all outcomes are incorporated in full into the post examination plan with modifications in Appendix 3)
Policy J8: Employment in Churston, Galmpton and Broadsands  (BPNP page 21)	No comment made. (Report, page 32, bottom)	As submitted, policy meets Basic Conditions. (Report, page 5, para 2.4)	Agree: Retain as submitted policy. <u>Reason:</u> As submitted, policy meets Basic Conditions.	No change made as recommended by the Examiner.
<b>Housing policies (BH)</b>				
Policy BH1: Affordable housing  (BPNP page 22 and 23)	Modify policy wording. BH1.2 to: <i>An off-site contribution will be considered where it would result in a larger number of affordable houses being delivered than through on-site provision...</i> (Report, pages 32 33, middle)	For clarity and to meet Basic Conditions. (Report, page 33, middle)	Agree: Modify policy as recommended. <u>Additional LPA modification</u> of policy title to ' <i>Policy BH1: Affordable housing site <b>allocations</b></i> '. <u>Reason</u> Modification adds clarity. Modified policy title adds further clarity relating to the allocation of affordable housing as distinct from affordable housing eligibility of occupation in Policy BH2. As modified, policy meets Basic Conditions.	Policy Modified as recommended by Examiner with additional LPA modification of title for clarity.  <i>BH1.2 to: An off-site contribution will be considered where it would result in a larger number of affordable houses being delivered than through on-site provision..</i>  <i>Title: Policy BH1: Affordable housing <b>site allocations</b></i>
Policy BH2: Allocation of new affordable homes  (BPNP page 23 and 24)	Modify policy wording to limit policy scope to <i>new affordable houses</i> only (BH1.1), delete 'key workers' from awarding criteria, and BH2.2 default to the Torbay Council waiting list if no local occupants can be found. (Report, page33 and 34, bottom)	For clarity and to meet Basic Conditions. <i>"I am satisfied that Neighbourhood Plans can introduce local occupancy conditions in relation to <u>new</u> (my emphasis) affordable housing units."</i>  <i>"...and that there is a default to the Torbay Council waiting list"</i> (Report, page 34, middle)	Agree in part: Modify policy to limit policy scope to <i>new</i> affordable homes only (BH2.1) as recommended and default to Torbay Housing Waiting list where persons cannot be found (Bh2.2)  LPA Disagree with the Examiner that that 'key workers' need to be deleted to meet the BC and therefore 'key workers' from within award criteria retained.	Policy partially modified as recommended by Examiner LPA partially retained submission Policy as submitted Plan with additional LPA minor modification to title change for clarity.  <i>'Title: Policy BH2: <b>Occupation</b> of new affordable homes.</i>  <i>BH2.1 <b>New</b> affordable homes in the (retain 'key worker' criterion)</i>  <i>BH2.2 Where persons cannot be found to meet these criteria, affordable housing may</i>

<b>Submitted Plan Reference</b> (Policy / supporting text paragraph)	<b>Examiner's Recommended Modification</b> (Note: only summarised below, see Examiner's report for more information)	<b>Examiner's Reason(s)</b> (Note: only summarised below, see Examiner's report for more information)	<b>Council Decision and Reason</b> (Required action to take in respect of Examiner's recommended modification and reason)	<b>Outcome to Submitted Plan</b> (Note: only summarised below, all outcomes are incorporated in full into the post examination plan with modifications in Appendix 3)
			<p>LPA additional Modification to policy title to '<i>Policy BH2: Allocation Occupation of new affordable homes.</i>'</p> <p><u>Reason:</u>            Modification to limit policy scope to <i>new</i> affordable homes only required to meet Basic Conditions.            Deletion of 'key workers' is not required to meet Basic Conditions, so no modification made.</p> <p>LPA additional Modification to policy title adds clarity and BH2.1...to <i>affordable 'homes'</i></p> <p>As modified, policy meets Basic Conditions.</p>	<p><i>be occupied by people and their dependents <b>whose housing needs are not met by the market identified on the Torbay Housing Waiting List...</b></i></p>

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<p>Policy BH3: Delivery of new homes (and Table 2 Allocated housing sites)</p> <p>(BPNP pages 25 to 26)</p>	<p>Modify policy wording to state support for ... <i>housing growth appropriate to meet local needs and the strategic needs set out in the Torbay Local Plan 2012-2030, including affordable housing.</i></p> <p>(Report, pages 35 and 36, bottom and 19 to 23 regarding HRA matters)</p>	<p>To ensure that the policy supports that strategic development needs of the Torbay Local Plan and in order to meet Basic Conditions.</p> <p>Examiner's comments considered "<i>potential of a shortfall in the overall numbers that will be delivered from the allocations in Table 2</i>". Modifications "<i>ensure that this policy supports that strategic development needs of the Torbay Local Plan and plan positively to support local development (as outlined in paragraph 16 of the National Planning Policy Framework)</i>".</p> <p>(Report, page 36, middle, 4th para)</p>	<p>Disagree: Retain this part of Policy as submitted.</p> <p><u>LPA additional modification</u> to include the Examiner's wording in justification with minor alterations</p> <p><u>Reason:</u> The identified 'expectation' of the neighbourhood area of 660 homes is met numerically by the (at least) housing sites allocated in Table 2.</p> <p>Examiner raises concerns regarding delivery of housing in BH3. However the LPA is now broadly satisfied that the BPNP is in general conformity with Policy SDB1 and that the level of housing allocation will meet the 660 target (Policy BH3).</p> <p>To ensure the plan meets the basic conditions the inclusion of the Examiner's text within the justification is necessary.</p>	<p>This part of Policy not modified as recommended by Examiner. Modified text as recommended by Examiner with additional LPA modification moved to justification para 4.7.</p> <p><b>4.7 The Brixham Neighbourhood Plan supports housing growth appropriate to meet local needs and the strategic needs set out in the Torbay Local Plan 2012-2030, Policy SDB1, including affordable housing.</b> Local Plan...</p>



	<p>Accept all sites in Table 2 as allocated for residential development, except for Waterside Quarry (Report, page 36, bottom, amendment of Policy BH3)</p> <p>(Report, pages 35 and 36, bottom and 19 to 23 regarding HRA matters in Section 12)</p>	<p>The Examiner Comments: <i>The adequacy or otherwise of the environmental assessment of the site in the light of the PoW case and whether or not the site as a result of this and other site constraints is developable.</i> <i>My conclusion is that I am not satisfied that the HRA assessment of the site as submitted is adequate.</i></p> <p>(Report, page 36, top, 1st para)</p> <p>Reasoning also provided on pages 19 to 23 regarding HRA matters)</p>	<p>Agree: Delete Waterside site in Table 2.</p> <p><u>LPA additional modification</u> Modify footnote 17 (affordable housing for Jewson BH3.I8) and 18 (assisted living St Kilda BH3.I3) by switching text around. Text at footnotes 17 and 18 needs rearranging to be consistent with Housing Site Assessment (at page 34 and page 50), as there is an error in the Submitted Plan.</p> <p><u>LPA additional modification for clarity</u> add footnote to define Housing ‘allocated’, ‘identified’, ‘committed’ and ‘windfall sites’ particularly as a different definition is used for ‘identified’ sites in Policy J1.</p> <p><u>Reason:</u> The LPA has no evidence to overturn the Examiner’s recommendation for Waterside site deletion. The LPA HRA (AA) confirms that the site cannot demonstrate there is no likely significant effect, either alone or in combination with other plans or projects on the integrity of the SH SAC; as required in accordance with the basic condition as prescribed in Schedule 2 Paragraph 1 of the Neighbourhood Planning Regulations 2012.</p>	<p>Policy Table 2 modified as recommended by Examiner (Waterside Quarry Site BH3.I10 deleted). Additional LPA modification to footnotes for clarity. (giving a Table 2 total allocation of <b>685</b>) and footnotes modified as shown in Appendix 3 with consequential numerical changes to figures in supporting text 4.7 and 4.8.</p> <p>LPA additional modifications: Modify footnote 17 (affordable housing for Jewson BH3.I8) and 18 (assisted living St Kilda BH3.I3) by switching text around.</p> <p>Add footnote to define ‘allocated’, ‘identified’, ‘committed’ and ‘windfall sites’</p> <p>Footnote to Table 2 : <b><i>‘Identified’ BH3 housing sites: These sites have been identified by the Forum (Brixham Town Council) and are allocated housing sites.</i></b></p> <p><b><i>Committed housing sites: These sites have extant planning permission. If this planning permission expires, any proposal will be considered on the basis of the Development Plan unless material considerations indicate otherwise. A site’s planning history is likely to be a material consideration.</i></b></p> <p><b><i>Windfall Sites” are sites which are usually not identified or allocated within the development plan but that are still required to be considered on the basis of the Development Plan unless material considerations indicate otherwise. The figure in table 2 refers specifically to windfall sites of 5 or fewer new dwellings.</i></b></p> <p>Footnotes also added to Policies Map Key.</p>
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<p>Policy BH3: Delivery of new homes (and Table 2 Allocated housing sites) continued...  (BPNP pages 25 to 26)</p>	<p>Modify policy wording to require <i>“Appropriate Ecology surveys as set out in the Plan’s accompanying HRA will need to be undertaken at the project stage for any planning application as set out in the HRA”</i></p> <p>(Report, page 36, bottom, amendment of Policy BH3)</p> <p>Detailed consideration 19-26 entitled 11.4 Habitats Regulations Assessment</p>	<p>‘Plan level’ HRA concerns also need resolution at ‘project stage’ as <i>“There are also concerns that some allocated sites have not demonstrated that the constraints can be overcome, and sites or number of units indicated can be delivered as set out in the Housing Assessment Document 3”</i></p> <p>(Report, page 35, top, 2nd para)</p> <p>Detailed consideration 19-26 entitled 11.4 Habitats Regulations Assessment.</p>	<p>Agree</p> <p>Modify policy to address issues raised using different wording to that proposed by Examiner. <u>LPA further modification</u> to clarify and meet BC explicit HRA concerns.</p> <p><u>Reason:</u> The Examiner's suggested modification supports the approach in the Torbay Local Plan and in the submitted Neighbourhood Plan Policy E8, by making it clear allocations are where appropriate, subject to analysis at the project level too.</p> <p>However, it is considered clarity can be added by additional and amended wording recommended. Policies should focus on the planning outcome and not the methodology to achieve that outcome. (For example, as drafted the policy does not state what happens if surveys highlight a problem). Hence the policy should refer to the Habitats Regulations requirement i.e. <i>“ Proposals either alone or in combination should not adversely affect the integrity of the SACs.. this wording is additional to that proposed by the Examiner to achieve this. As modified, the policy meets Basic Conditions.</i></p>	<p>This part of Policy partially modified as recommended by Examiner with additional LPA modification.</p> <p><i>The sites listed in Table 2 are allocated for residential development. <b>Proposals will need to demonstrate there is no likely significant effect, either alone or in combination with other plans or projects on the integrity of European sites; where appropriate ecology surveys will need to be undertaken at the project stage.</b></i></p>

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Policy BH4: Brownfield and greenfield sites (BPNP pages 26 and 27)	Modify policy title and wording (BH4.1) to limit policy scope to 'residential' development only and (BH4.3) to refer to Torbay Local Plan in criteria. ...greenfield sites <b>will be considered in the context of TLP Policy C1 and Exception Site development that may meet Local Need through self-build and local affordable housing Provision (BH9)</b>  (Report, page 37, middle)	Examiner states: <i>This policy does not directly refer to housing but as sits within the housing section it is assumed that it is only intended to relate to housing development. It is also assumed that BH4.3 is intended to refer to rural exception site development.</i> For clarity and to meet Basic Conditions.  (Report, page 37, middle)	Agree: Modify policy wording and title to address issues raised. Clarify policy scope relates 'residential' development only and include reference to Torbay Local Plan C1 in criteria.  <u>LPA additional further modification</u> to refer to BH9 Exception Sites Policy and modify reference to self-build within the scope of affordable housing Examiner's reference to self-build. <u>Reason:</u> Minor modification uses clearer language and as modified policy meets Basic Conditions Additional further modification to cross reference Policy BH9 exception site policy	Policy partially modified as recommended by Examiner with additional LPA modification  <i>Policy BH4:Housing Development - brownfield (previously developed) and greenfield (not previously developed) sites</i>  BH4.1... <b>residential</b> development on brownfield  BH4.3 ...greenfield sites <b>will be considered in the context of Torbay Local Plan Policy C1 and Exception Site development that may meet Local Need through local affordable housing (including self- build) provision (BH9)</b>
Policy BH5: Good design and the town and village Design Statements  (BPNP pages 27 to 29)	Modify Policy wording by deleting BH5.4 relating to 'not permitting' badly designed developments. (Report, pages37 to 39, middle)	'Paragraph BH5.4 lacks sufficient clarity to allow a decision maker can "apply it consistently and with confidence when determining planning applications". It repeats elements in other paragraphs in the policy and uses the word" permitted".... decision on any planning applications is made by the Local Planning Authority therefore delete BH5.4 (Report, page 39, top)  To meet Basic Conditions. (Report, page 39, middle)	Agree/Disagree: Deletion of BH5.4 as submitted however <u>LPA make further additional modification</u> by retaining BH5.4 but re-wording to address issues raised.  Add reference to Landscape Character Assessment, Urban Fringe Documents in supporting Text para4.11 and retain footnotes 22 and 23 as reference 'lost' in reworded Policy section BH5.4 <u>Reason:</u> Modified text accords with policy intention. Note: The	Policy modified but not as recommended by Examiner LPA modification  <b>BH5.4 Planning permission will not be granted for development of poor design that fails to take opportunities available for improving local character and quality of an area and the way it functions.</b>  .4.11 .favoured by our communities. <b>Further evidence on landscape character and appearance is also set out in the Landscape Character Assessment of Torbay<sup>22</sup> and the Brixham Urban Fringe Landscape Study<sup>23</sup>.</b>

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			Further Modified text is in Exeter St James Neighbourhood Plan Policy D1: Good Quality Design, was a Locality 'model policy' example. As modified, policy meets Basic Conditions.	
Policy BH6: Roofscape and dormer management  (BPNP pages 29 to 30)	Modify Policy wording to limit policy scope to <i>To protect local amenity, where planning permission is required, dormers will only be approved where they will only be approved where they:</i> (Report, 39 to 40 ;Recommendation page 40, top)	Policy should reference that in certain circumstances planning permission will not be required by the development this policy seeks to control. (Report, page 40, top)	Agree: intention of modification however <u>LPA propose further modification</u> to address issues raised. <u>Reason:</u> Intent of modification adds clarity, and further modification to Examiner's modification adds further clarity all roofscape alterations that require planning permission. As modified, policy meets Basic Conditions.	Policy modified but not as recommended by Examiner LPA modification  <i>Policy BH6 Roofscape and dormer management</i> <b>To protect local amenity, where planning permission is required: BH6.1 dormers will only be approved where they:...</b>
Policy BH7: Sustainable construction (BPNP page 30)	No comment made. (Report, page 40, bottom)	As submitted, policy meets Basic Conditions. (Report, page 5, para 2.4)	Agree: Retain as submitted policy. <u>Reason:</u> As submitted, policy meets Basic Conditions.	No change made to submitted Policy as recommended by Examiner
Policy BH8: Access to new dwellings (BPNP Pages 31 and 32)	Modify Policy wording to refer to existing ' <i>adopted standards</i> ' and make compliance with standards a requirement. (Report, pages 40 to 41; recommendation on page 41, top)	Examiner not been provided with any evidence to support a variance the standards (in Manual for Street and Torbay Highway Design Guide). For clarity and to meet Basic Conditions. (Report, pages 40 and 41; Reason page 41, top)	Agree: Modify policy wording as recommended. Set out what the 'adopted standards' are and where they can be found. and supporting text 4.16 to 18 to accord with Policy change. <u>Reason:</u> Modifications add clarity. As modified policy meets Basic Conditions.	Policy modified as recommended by Examiner additional supporting text amendment to 4.17 and delete paragraph 4.18  <b>BH8 Access to new developments should comply with the relevant adopted standards.</b>  <i>4.17 ...bring it up to the standard required for adoption by the Local Highways Authority (see Torbay Highways design guide</i>

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				for new developments and Torbay Council Highways development control standing advice) 4.18 DELETE
Policy BH9: Exception sites (BPNP page 33 to 34)	Modify justification wording at 4.19. (Report, 41 to 43; recommendation on page 42, middle)	To reflect NPPF definition of rural exception sites exception sites and the modification of the policy. (Report, page 42, middle)	Agree Modify justification wording at para 4.9 as recommended, except regarding inserting extraneous words at end of paragraph. <u>Reason:</u> Modification adds clarity. Inserting extraneous words at end of paragraph would introduce errors.  <u>LPA Additional Modification</u> to BH3 supporting text para 4.9 for consistency with policy modifications to BH9	Policy supporting text modified partially as recommended by Examiner partially LPA modification minor deletion of text.  <i>Para 4.19 Policy BH9 (Exception Sites) is intended to deliver affordable, <del>elder person, and disabled person</del> housing on "small " sites that otherwise could not come forward including houses for older person, and disabled persons. It is for the Local planning Authority to determine what constitutes a "small" site however a proposal for 20 homes could not be considered small. In the Regulation 14 consultation a proposal was brought to attention which it appears could deliver on a <del>policy compliant basis 20 homes, or more</del> <b>a rural exception site</b>, subject to community consultation. Accordingly, through Policy BH9 it is expected that more homes than set out above will come forward.</i>  BH3 supporting text 4.9 Policy BH9 (Exception Sites) is intended to deliver affordable ( <b>including older person, and disabled person</b> ) housing on sites that otherwise could not come forward.

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	<p>Modify Policy wording.</p> <p>Modify criterion 'a.' to delete</p> <ul style="list-style-type: none"> <li>• <i>purpose-built accommodation for older people (with a minimum age of 60); or</i></li> <li>• <i>purpose built accommodation for the disabled;</i></li> </ul> <p>replace 'e.' with new criterion to read '<i>does not constitute major development in the AONB</i>'.</p> <p>delete 'f.'</p> <p>(Report, page 42 and 43)</p>	<p>Rural exception sites are defined in the NPPF: <i>Rural exception sites: Small sites used for affordable housing in perpetuity where sites would not normally be used for housing. Rural exception sites seek to address the needs of the local community.</i></p> <p>It may be that a development coming forward will include provision of older and disabled people, but Examiner considers this cannot be a requirement of the policy. Therefore, paragraph f) should be deleted</p> <p>For clarity and to meet Basic Conditions. Paragraph e is unnecessary. (Report, page 42, bottom)</p>	<p>Agree: Modify policy wording as recommended by Examiner.</p> <p><u>Further LPA modifications</u> To remove grammar errors introduced by Examiner at criterion 'a' and 'c'. To mirror justification wording 4.19 in policy wording after criterion 'e' by inserting criterion f is considered to be a small sites .</p> <p><u>Reason:</u> Modifications add clarity and remove errors. LPA further modification as criterion e. as modified by the Examiner would restrict 'major development' <i>in</i> the AONB but not <i>outside</i> the AONB. For clarity and to align with supporting text in 4.19 as amended by the Examiner.</p> <p>As modified policy meets Basic Conditions.</p>	<p>Policy text modified partially as recommended by Examiner partially LPA modification.</p> <p>Paragraph e amended to read <b><i>does not constitute major development if within the AONB; and</i></b></p> <p>Paragraph f added <b><i>is considered to be a small site; and</i></b></p>
<b>The natural environment (E)</b>				
<p>Policy E1: Landscape beauty and protected areas</p> <p>(BPNP pages 35 to 37)</p>	<p>Modify policy wording at E1.3 and E1.4. Delete E1.5. (Report, page 44, top)</p>	<p>Examiner notes existing statutory framework for the protection of AONBs that does not need to be repeated in a neighbourhood plan. There can be no requirement to comply with policies, objectives or</p>	<p>Agree Modify policy wording as recommended by Examiner in E1.4, <u>LPA recommended further modifications</u> at E1.1 to correct factual error as not all</p>	<p>Policy text modified partially as recommended by Examiner partially LPA modification.</p> <p><b><i>E1.2 The internationally designated... The English Riviera Global Geopark..</i></b></p>

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		guidance as stated. For clarity and to meet Basic Conditions policy to be modified and E1.5 deleted as it is duplicating protection covered under existing policy. (Report, page 44, top)	designations are landscape designations. E1.3 Partly as recommended by Examiner but retaining submitted text, explicit NPPF wording for clarity.  LPA re-instate E1.5 in re-worded form. <u>Reason:</u> LPA further modifications add clarity and further modifications add further clarity. Re-worded E1.5 reflects policy intention and uses wording from Torbay Local Plan policy SS8 and AONB Management Plan. As modified policy meets Basic Conditions.	E1.3 partly as recommended by Examiner and Partly retained text.  <i>E1.3 Development within or impacting on the AONB <b>must demonstrate that great weight has been given to conserving and enhancing landscape and scenic beauty</b> and must comply with the requirements of the National Planning Policy Framework and other statutory documents including the AONB Management Plan.</i>  E1.4 as per Examiner's Recommended modification.  <i>E1.5 Development should not harm protected landscape characteristics including dark night skies and tranquility.</i>
Policy E2: Settlement boundaries (BPNP page 38 to 41)	Modify justification wording at para 5.10. to reflect Policy Modification to E2.3 i.e. criteria for acceptable development in Local Plan Policy C1  (Report, pages 44 to 45; recommendation page 45, middle)	To reflect the policy modification. (Report, page 45, middle)	Agree: Modify justification wording as recommended by Examiner. <u>Reason:</u> Modification adds clarity.	Policy supporting text modified as recommended by Examiner  <i>5.10 Policy E2 is a development of the "village envelope" concept proposed by the Local Plan. This Neighbourhood Plan policy hence provides supporting detail to a Local Plan policy C1.</i>
	Modify wording at E2.3. i.e. criteria for acceptable development in Local Plan Policy C1 (Report pages 44 and 45; recommendation, page 45, middle)	For clarity and to meet Basic Conditions. E2.3 covers development already controlled by policy C1 of Torbay Local Plan. (Report, page 45, middle)	Agree: Modify policy wording as recommended by Examiner. <u>Reason:</u> E2.3 is similar too (but not the same as) Policy C1 of Torbay Local Plan. Modification adds clarity. As modified, policy meets Basic Conditions.	Policy Modified as recommended by Examiner  <i>E2.3. "Development outside settlement boundaries will need to meet the criteria in Torbay Local Plan Policy C1.</i>

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Policy E3 Settlement Gaps (BPNP pages 41 to 42)	Support all settlement gaps shown in ellipses, except "first ellipse of 2" (Report pages 45 to 17; recommendation, page 46, middle)	Ellipses provide adequate description of the area of the settlement gap. But not agreed "first ellipse of 2" is not located within what could reasonably be considered a settlement gap (Report, page 46, middle)	Agree: Support all settlement gaps shown in ellipses and remove first ellipse of 2 (i.e., Galmpton Common, area adjacent to view receptor shown) as recommended by Examiner. <u>LPA additional modification</u> to accord with Deletion of ellipse 2 where relevant. On Policy Map and supporting text.  <u>Reason:</u> Ellipses provide adequate description of the area of the settlement gap. First ellipse of 2 (i.e., Galmpton Common area adjacent to view receptor shown) has different characteristic to other areas shown	Policy and policies map modified as recommended by Examiner  Delete first ellipse of 2 (and arrow) at Galmpton add Policy Maps Note: For Policy E3: <b>Settlement Gaps, arrows show principle viewpoints as per photographs in the Policy Document, Appendix 3. add note to Map Key relating to E3 Photos</b>  Removal of Aerial Map in Appendix 3 added E3 reference to Photographs changed introductory text  <b>The following photographs show Settlement Gaps from principle viewpoints. The photograph numbers shown correspond to the numbers on the Policy Maps"</b>
	Modify policy wording  E3.1 and E3.2 (Report, page 47, top)	As currently worded a decision maker cannot apply it consistently and with confidence and addresses development covered by other policies. For clarity and to meet Basic Conditions. (Report 45 and 46; recommendation , page 46, bottom)	Agree Modify policy wording as recommended by Examiner. <u>Reason:</u> Modification adds clarity and as modified, policy meets Basic Conditions. Incorporation of all lengthy criteria in para E3.2 of submitted plan in single sentence of modified policy is clearer.	Policy Modified as recommended by Examiner
Policy E4: Local Green Spaces  (BPNP pages 41 to 55 and	Accept all 16 Local Green Space sites, except for the LGS which covers the 1st and 18th of Churston Golf Course, including the clubhouse as identified as BPNPH2 in the Torbay Local Plan.	Most of the Local Green Spaces do meet all of the tests set out in paragraphs 76/77 of the National Planning Policy Framework (2012)	Agree/Disagree: Modify the boundary of the Churston Golf Course LGS (E5-13)  <u>Additional LPA modification 1)</u>	Policy (and Policies Map) partly modified as recommended by Examiner.  Area of club house and car park are excluded from the Local Green Space designation on Policy Map.



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Galmpton-Brockenbury Policies Map)	(Report pages 47 to 49, recommendation page 49, middle, 4th para)	<p>Concerns relating to the proposed boundary of the proposed Churston Golf Course LGS and conclusions on the housing policies and their ability to deliver the level of housing growth identified. To overcome these and meet the basic conditions the boundary of the Churston Golf Course LGS (E5-13) should be modified to exclude the area which covers the 1<sup>st</sup> and 18<sup>th</sup> hole of Churston Golf Course, including the existing club house.</p> <p>(Report, page 49, middle, 4th para and page 48, bottom, final para).</p>	<p>Modify boundary to exclude only the club house and car park area, maintaining the 1<sup>st</sup> and 18<sup>th</sup> holes.</p> <p><u>Additional LPA modification 2)</u></p> <p>Modify second sentence of Policy: "<i>Having regard to the NPPF, these Local Greenspace Designations are considered to be capable of enduring beyond the end of the Plan period.</i>"</p> <p><u>Reason:</u>  The LPA considers the Examiner has correctly applied the tests in para 76 and 77 NPPF (2012) and that the area of concern meets the tests of para 77 but not 76 because it would constrain local planning of sustainable development.</p> <p>As modified it provides for some flexibility in the future, beyond the end of the plan period which would not otherwise have been explicitly possible, to consider the site through the plan making process as part of the local planning of sustainable development.</p> <p>For the avoidance of doubt the removed part of the site is not</p>	<p>Modify second sentence of Policy <b><i>Having regard to the NPPF, these Local Greenspace Designations are considered to be capable of enduring beyond the end of the Plan period.</i></b></p>

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			<p>allocated for housing development.</p> <p><u>Reason:</u> The LPA considers this Sentence does not correctly reflect para 76 NPPF (2012) 99 NPPF (2018)</p>	
<p>Policy E5: Public Open Spaces  (BPNP page 55)</p>	<p>Modify policy wording to incorporate specific criteria at NPPF para 74. in E5.1 (delete E5.2) (Report, page 50, bottom)</p>	<p>Incorporate NPPF Criteria. For clarity and to meet Basic Conditions. (Report, page 50, middle)</p>	<p>Agree: Modify policy wording as recommended by Examiner. (modify E5.1 and delete E5.2) <u>Reason:</u> Modification adds clarity and as modified, policy meets Basic Conditions. Use of specific criteria in NPPF para 74 accords with policy intention and gives greater regard to national guidance.</p> <p><u>LPA additional modification</u> to add list of E5 open spaces to supporting text para 5.25 for clarity.</p>	<p>Policy modified as recommended by Examiner. With additional LPA supporting text modification to add list of sites to para 5.25 E5.1 ....<i>identified as Open Spaces and should not be built on unless:</i></p> <ul style="list-style-type: none"> <li>● <i>an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or</i></li> <li>● <i>the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or</i></li> <li>● <i>the development is for alternative sports and recreational provision, the needs for which clearly outweigh the loss.</i></li> </ul> <p>Add list of sites from Appendix 4.</p>

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Policy E6: Views and vistas  (BPNP pages 56 to 57)	Modify policy wording.  (Report, page 51, middle)	For clarity and to meet Basic Conditions. (Report, page 51, middle)	Agree: Modify policy wording  <u>LPA additional modification</u> to further modify final sentence of policy.  <u>Reason:</u> Modification adds clarity and as modified, policy meets Basic Conditions. Modifications correctly focus policy on planning outcome not planning application documents using text from Torbay Local Plan Policy SS8.	Policy modified as recommended by Examiner with additional LPA modification.  ...Proposals for developments which affect these views and vistas should <b>demonstrate that landscapes are safeguarded with their importance and</b> be accompanied by...
Policy E7: Protecting semi-natural and other landscape features (BPNP pages 57 to59)	Modify policy wording. Delete first sentence of Policy.  (Report pages 51 to 52; recommendation, page 52, top)	For clarity and to meet Basic Conditions. (Report, page 52, top)	Agree: Modify policy wording both as recommended by Examiner. <u>Reason:</u> Modification adds clarity and as modified, policy meets Basic Conditions.	Policy modified as recommended by Examiner.  Delete first sentence of Policy
Policy E8: Internationally and nationally important ecological sites (BPNP 59 to 64)	Modify policy wording at E8.1 and at E8.2. Delete E8.3 (Report, page 54, top and Section 12.2 pages 16 to 23contextual HRA)	For clarity and to meet Basic Conditions. Existing regulatory regime. Other policies already exist and there is potential for confusion from " <i>policy which reflects but in part paraphrases this existing policy incorrectly</i> ". (Report, page 53, bottom)	Agree: Modify policy to address issues raised  <u>LPA additional modifications</u> using different wording to that proposed by Examiner.  <u>Reason:</u> Re E8.1, it is agreed a modification to the wording of the submitted plan adds clarity. However, the wording	Policy text modified as combination of Examiner and LPA modifications.  <b><i>E8.1 Internationally important sites and species will be protected. Development affecting internationally protected sites and species will only be approved where it can be demonstrated there is no likely significant effect, either alone or in combination with other plans or projects and regard has been given to National Planning Policy Framework and conforms with policy NC1 of the Torbay Local Plan (2012-2030). Internationally</i></b>

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			<p>recommended by the Examiner is not considered appropriate. LPA also note in E8.2 there is an error that the Conservation of Habitats and Species Regulations Habitats and Species Regulations 2017 replaced the as amended 2010 Habitats Regulations referred to in the policy. Where this factual error occurs, the LPA considers it appropriate to modify.</p> <p>Re E8.3 the submitted policy incorrectly focused on a planning methodology (i.e., submission of documents) not planning impacts and outcomes.</p> <p>E8 should reflect the policy intention, and outcome with being moved to the policy justification. As modified, policy E8 meets Basic Conditions.</p> <p><u>LPA additional Modification</u>            Policy justification modified to reflect policy modifications and for accuracy and clarity in 5.37 to 5.51</p>	<p><b><i>protected sites (designations within Torbay are shown on the Local Plan Policies Map) include the following:</i></b></p> <ul style="list-style-type: none"> <li>• <b><i>South Hams Special Area of Conservation (SAC)</i></b></li> <li>• <b><i>Lyme Bay and Torbay Marine SAC</i></b></li> </ul> <p><b><i>E8.2 Nationally important sites and species will be protected. Development on or likely to have an adverse effect on nationally important sites and species will not normally be permitted. Development proposals should have regard to the National Planning Policy Framework and be in conformity with policy NC1 of the Torbay Local Plan (2012-2030). Nationally protected sites (designations within Torbay are shown on the Local Plan Policies Map) and species include the following:</i></b></p> <ul style="list-style-type: none"> <li>• <b><i>Sites of Special Scientific Interest (SSSI), including Berry Head to Sharkham Point and Saltern Cove;</i></b></li> <li>• <b><i>National Nature Reserves, including Berry Head;</i></b></li> <li>• <b><i>Torbay Marine Conservation Zone (MCZ), which includes coastal waters around Torbay from Babbacombe to Sharkham Point;</i></b></li> <li>• <b><i>recommended Dart Estuary Marine Conservation Zone (MCZ), which includes the upper waters of the River Dart to below Dittisham; and</i></b></li> <li>• <b><i>the Cirl Bunting and its habitat and territories.</i></b></li> </ul>

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				Policy justification modified to reflect policy modifications and for accuracy and clarity in 5.37 to 5.51 see Appendix 3
<b>The built environment (BE)</b>				
Policy BE1: Heritage assets and their setting (BPNP page 67 )	Modify policy wording BE1.1 and BE1.2. (Report, page 55, top)  Note: typographical error deleted policy title also	For clarity and to meet Basic Conditions, by reflecting national planning policy and guidance. (Report, page 55, top)	Agree: Agree to modify policy wording as recommended modifying BE1.1 and deleting BE1.2  LPA additional modification to correct typographical error and reinstate policy title  <u>Reason:</u> Deletion of policy title is an error by the Examiner. Remaining modifications add clarity and as modified, policy meets Basic Conditions.	Policy text modified as recommended by Examiner and corrected by LPA.  <b>BE1 <i>Heritage Assets and their setting</i></b>
<b>Transport (T)</b>				
Policy T1: Linking of new developments to travel improvements (BPNP pages 70 to71)	Modify policy wording T1.2 and T1.3 (Report, page 55, bottom)	For clarity and to meet Basic Conditions. (Report, page 55, bottom)	Agree: Modify policy wording as recommended by Examiner. <u>Reason:</u> Modification adds clarity and as modified, policy meets Basic Conditions.	Policy text modified submitted Policy as recommended by Examiner.  Policy text T1.2 and T1.3 modified.
<b>The health and wellbeing (HW) of the community</b>				
Policy HW1: Retention of current health and social care estates (BPNP75 to 76)	No comment made (Report, page 56, middle)	Policy meets Basic Conditions. (Report, page 5, para 2.4)	Agree: Retain as submitted policy.  <u>Reason:</u> As submitted, policy meets Basic Conditions.	No change made to submitted Policy as recommended by Examiner
Policy HW2: Operational space for voluntary	Modify policy wording. (Report, page 56, bottom)	<i>Examiner Comments: ..."it is not drafted with sufficient clarity that a decision maker can apply it consistently and with</i>	Agree Modify policy wording both as recommended by Examiner.	Policy text modified as recommended by Examiner.

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support organisations (BPNP Page 76)		<i>confidence when determining planning applications and is in part community aspiration.</i> " .For clarity and to meet Basic Conditions. (Report, page 56, bottom)	<u>Reason:</u> Modification adds clarity and as modified, policy meets Basic Conditions.	
<b>Education and learning for all (L)</b>				
Education and learning for all (L) Introductory Text.	No comment made	N/A	LPA additional modification last sentence of introductory text 9.3.3.  <u>Reason:</u> Text goes beyond NPPF and legal requirements.	Introductory text last sentence 9.3.3. modified <i>9.3.3. education provision must be high on everybody's list of priorities. Hence there is a need for adequate provision of educational facilities for children of all ages to ensure that sufficient capacity has been provided in time for any extra demand created by new developments.</i>
Policy L1: Protection of existing educational facilities	No comment made (Report, page 57, top)	Policy meets Basic Conditions. (Report, page 5, para 2.4)	<u>Agree:</u> Retain as submitted policy. <u>Reason:</u> As submitted, policy meets Basic Conditions.	No change made to submitted Policy as recommended by Examiner
Policy L2: Matching educational provision to local need	No comment made (Report, page 57, middle)	Policy meets Basic Conditions. (Report, page 5, para 2.4)	<u>Agree:</u> Retain as submitted policy. <u>Reason:</u> As submitted, policy meets Basic Conditions.	No change made to submitted Policy as recommended by Examiner
Policy L3: Providing for 16–18 years and beyond	No comment made (Report, page 57, bottom)	Policy meets Basic Conditions. (Report, page 5, para 2.4)	<u>Agree:</u> Retain as submitted policy. <u>Reason:</u> As submitted, policy meets Basic Conditions.	No change made to submitted Policy as recommended by Examiner
<b>Tourism (TO)</b>				

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Policy TO1: Support for tourism	Modify policy wording.  (Report, page 58)	For clarity and to meet Basic Conditions. (Report, page 58)	Agree: Modify policy wording as recommended by Examiner.  <u>LPA additional modification</u> at para TO1.3 to reflect BH9 modification in cross reference  <u>Reason:</u> Modification adds clarity. As modified, policy meets Basic Conditions.	Policy text modified as recommended by Examiner and additional LPA modification to reflect modified BH9, i.e. removing "disabled or older person"
<b>Sport and leisure (S&amp;L)</b>				
Policy S&L1: Increase available space for outdoor sport and leisure (BPNP pages 88 to 89)	No comment made (Report, page 59)	Policy meets Basic Conditions. (Report, page 5, para 2.4)	Agree: Retain as submitted policy. LPA additional modification to correct typographical error to accord with Policy title of Policy E5 <i>S&amp;L 1.1 Notwithstanding areas already designated as Local Green Spaces or <b>Public Open Spaces of Public Value</b>,</i> <u>Reason:</u> As submitted, policy meets Basic Conditions.	No change made to submitted Policy as recommended by Examiner  <i>S&amp;L 1.1 Notwithstanding areas already designated as Local Green Spaces or <b>Public Open Spaces</b>,</i>

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Policy S&L2: Sport and recreational facilities in new developments (BPNP page 89)	Modify policy wording to refer to existing 'adopted standards' and make compliance with standards a requirement. (Report, page 60, top)	For clarity and to meet Basic Conditions. (Report, page 60, top)	Agree: Modify policy wording as recommended by Examiner.  <u>LPA Additional modification</u> to modify justification to highlight what the 'adopted standards' are and where they can be found (Torbay Council Planning Contributions SPD)  <u>Reason:</u> Modification adds clarity and as modified, policy meets Basic Conditions.	Policy modified as recommended by Examiner.  Justification text modified to provide link to adopted standards in para 11.5  <b>11.7 Public open space, sports and recreational standards are set out in the Torbay Council Planning Contributions and Affordable Housing Supplementary Planning Document (2017). Wherever possible Section 106 or CIL monies will be sought through the planning process to provide high-quality equipment or resources for such purposes.</b>
<b>Art and culture (A&amp;C)</b>				
Policy A&C1: Promotion and protection for the arts and local culture  (BPNP Page 91)	Modify policy wording where arts and local culture assets are defined. (Report, page 60, bottom)	For clarity. (Report, page 60, bottom)	Agree: Modify policy wording as recommended by Examiner. <u>Reason:</u> Modification adds clarity and as modified, policy meets Basic Conditions.	Policy modified as recommended by Examiner.
General comments 13.1.2 page 25	<i>Were modification has been made to a policy the supporting text/justification should be modified accordingly.</i>	General Recommendation to update supporting text/justification where relevant.	<u>LPA additional modifications</u> For clarity, accuracy and consistency	Footer Post Examination November 2018 Note NPPF 2012 and 2018 page 2 Note Torbay Local Plan page 2 Note on Policy Document and Policy Maps page 2 Updates to Policy Maps