

TORBAY LOCAL PLAN

A landscape for success

The Plan for Torbay – 2012 to 2032 and beyond

SUBMISSION PLAN

COUNCIL RESPONSE TO REPRESENTATIONS MADE BY NATURAL ENGLAND

Torbay Council - July 2014

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14. Email from Torbay Council to Natural England dated 22 July 2014, plus attachment (Amended Suggested Torbay Council modifications to HRA and SA)
15. Email from Natural England to Torbay Council dated 23 July 2014

16. Email from Torbay Council to Natural England dated 23 July 2014

17. Email from Natural England to Torbay Council dated 23 July 2014

NOTE:

The final views of Natural England on the extent to which Torbay Council's suggested amendments to HRA, SA and Torbay Local Plan policies and supporting text have addressed all of NE's concerns satisfactorily had not been received at the time of printing of the Council's formal submission documents on 30 July 2014.

APPENDIX 1

Recreational Impacts on Berry Head: Additional HRA Work for the Local Plan (Footprint Ecology, July 2014)

APPENDIX 2

HRA Site Appraisal Report of Torbay Local Plan Strategic Delivery Areas (Proposed Submission Plan) - Kestrel Wildlife Ltd, July 2014 [received by Torbay Council on 28 July 2014]

Turner, Steve

From: Planning, Strategic
Sent: 10 April 2014 13:34
To: 'Horner, Laura (NE)'
Cc: Shimin, Ashwag; Turner, Steve
Subject: RE: Torbay Local Plan - Publication of the Proposed Submission Plan (Mon 24 Feb - Mon 7 April) FAO Mr Steve Turner

Laura

Further to your comments on the Torbay Local plan-proposed Submission Version, I am posting a CD version of Torbay's SHLAA, (Due to the Council's data security policy, this has to be password protected, the password is "Shlaa2013").

It would be useful to talk to natural England about how we have addressed the SHLAA in the Local Plan and the assumptions made. My colleague Ashwag Shimin will be contacting you about this and SA/HRA matters.

Please contact me or Ashwag if you have any queries

Regards
David

David Pickhaver
Senior Strategic Planner,
Strategic Planning and Group,
Spatial Planning
Environment and Place
Torbay Council
Postal address: Electric House, Castle Circus, Torquay, TQ1 3DR
Tel: 01803 208814
Fax: 01803 208882
E mail: David.Pickhaver@torbay.gov.uk
Web site: www.torbay.gov.uk/ldf

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From: Horner, Laura (NE) [<mailto:Laura.Horner@naturalengland.org.uk>]
Sent: 04 April 2014 15:50
To: Planning, Strategic
Subject: FW: Torbay Local Plan - Publication of the Proposed Submission Plan (Mon 24 Feb - Mon 7 April) FAO Mr Steve Turner
Importance: High

Dear Mr Turner

Please find enclosed the response from Natural England on the Torbay Pre-submission Local Plan. You will note from our response that Natural England does have some significant concerns about the methodology of the Plan and aspects of it affecting soundness; including the soundness of the Habitat Regulation Assessment. We would be very happy to meet with you to discuss our concerns further and solutions to the issues.

Regards
Laura Horner

Mrs Laura Horner
Lead Advisor Forward Planning Network

Exeter - Level 9 and 10,
Renslade House,
Bonhay Road,
Exeter,
EX4 3AW
Tel 0300 060 2018
Mobile 0777 589 2929

www.naturalengland.org.uk

We are here to secure a healthy natural environment for people to enjoy, where wildlife is protected and England's traditional landscapes are safeguarded for future generations.

In an effort to reduce Natural England's carbon footprint, I will, wherever possible, avoid travelling to meetings and attend via audio, video or web conferencing.

Natural England is accredited to the Cabinet Office Customer Service Excellence Standard

From: Planning, Strategic [mailto:Strategic.Planning@torbay.gov.uk]

Sent: 31 March 2014 14:18

To: Consultations (NE)

Cc: Planning, Strategic

Subject: FW: Torbay Local Plan - Publication of the Proposed Submission Plan (Mon 24 Feb - Mon 7 April)

Please read the Council's email disclaimer notification which is located at the end of the email message.

Dear Natural England Consultation Service,

The above consultation is coming to an end at 9:00 am on Monday 7 April 2014. As the statutory nature conservation body, I would like to remind you to send through any comments you may have on the Local Plan Sustainability Appraisal Report and Habitat Regulation Assessment before the end of the consultation period. The two documents can be accessed as stated in the consultation letter below.

Yours sincerely

*Ashwag Shimin
Strategic Appraisal Officer
Strategic Planning Team
Spatial Planning
Environment
Torbay Council*

✉ Electric House, 2nd Floor, Torquay, TQ1 3DR

☎ 01803 208857

✉ ashwag.shimin@torbay.gov.uk

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From: Planning, Strategic
Sent: 21 February 2014 10:46
To: 'consultations@naturalengland.org.uk'
Subject: Torbay Local Plan - Publication of the Proposed Submission Plan (Mon 24 Feb - Mon 7 April)

Dear Natural England Consultation Service,

**Torbay Local Plan - A Landscape for Success: The Plan for Torbay - 2012 to 2032 and beyond
Publication of the Proposed Submission Plan**

Your consultee identification number is - **400188**

In accordance with Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012, the Council wishes to notify you that it is publishing the above Development Plan Document prior to submission to the Secretary of State for Independent Examination.

Views are invited specifically on matters concerning legal compliance, soundness and the duty to co-operate relating to the Proposed Submission Plan (the Plan), which will be published for a six week period from **9.00am Monday 24 February to 9:00am Monday 7 April 2014**. A Sustainability Appraisal (incorporating Strategic Environmental Assessment requirements) and a Habitats Regulations Assessment (HRA) have also been published and are available for comments.

The Plan is a revised version of the Local Plan Consultation Draft consulted on in September 2012. The Plan and accompanying documents, including a **Statement of Representations Procedure**, can be viewed from Monday 24 February online at www.torbay.gov.uk/newlocalplan, at the Council's planning offices and in all Torbay libraries and Connections Offices during normal opening hours.

Torbay Council will be using an **online consultation portal** and **we would strongly encourage you to use this system** to make representations as it the most efficient way in which to comment on the Local Plan. Alternatively, you should submit comments in writing via letter or e-mail preferably using a representation form (available to download via the website) which will ensure you provide all the information necessary for your response to be valid. Copies of the response form can be posted to you on request. It would be helpful if you could include your Consultee ID in your response

Please note that comments cannot be treated as confidential. Your comments will be published with your name as part of a public document and made publicly available on the Council's website.

Limited complementary hard copies of these documents are available on request. There may be a charge for additional copies of documents – please see details on the website. Please contact the Strategic Planning Team if you have any queries.

Yours sincerely

Steve Turner
Team Leader - Strategic Planning

Strategic Planning Team
Spatial Planning
Place and Resources
Torbay Council
Electric House (2nd Floor)
Castle Circus
Torquay TQ1 3DR

Tel: 01803 208812

Email: steve.turner@torbay.gov.uk

www.torbay.gov.uk/strategicplanning

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Turner, Steve

From: Shimin, Ashwag
Sent: 02 May 2014 09:56
To: 'Laura.Horner@naturalengland.org.uk'
Cc: Turner, Steve
Subject: RE: Torbay Local Plan - Publication of the Proposed Submission Plan (Mon 24 Feb - Mon 7 April)

Dear Laura,

I would like to thank you and Tom for coming see us yesterday, it has been a useful meeting. We will digest the outcome of the meeting and put together a list actions to agree on.

Can you please apologies to Sarah Fraser on our behave for cutting her off halfway through. I trust she will get a feedback from yourself and Tom.

Kind regards

*Ashwag Shimin
Strategic Appraisal Officer
Strategic Planning Team
Spatial Planning
Environment
Torbay Council*

✉ Electric House, 2nd Floor, Torquay, TQ1 3DR

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Turner, Steve

From: Shimin, Ashwag
Sent: 07 May 2014 17:44
To: 'Laura.Horner@naturalengland.org.uk'
Cc: Turner, Steve
Subject: RE: Torbay Local Plan - Publication of the Proposed Submission Plan (Mon 24 Feb - Mon 7 April)
Attachments: List of Actions.docx

Dear Laura,

Further to my email on Friday last week, I attached a list of actions that reflect our understanding to the outcome of the 1st May 2014 meeting.

Can you please confirm that the suggested actions are satisfactory and will address all the issues raised by Natural England?

Kind regards

*Ashwag Shimin
Strategic Appraisal Officer
Strategic Planning Team
Spatial Planning
Environment
Torbay Council*

✉ Electric House, 2nd Floor, Torquay, TQ1 3DR

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List of Actions Following Natural England Meeting (1st May 2014)

In order to seek resolution to the range of matters raised by Natural England in its representation on the Proposed Submission Local Plan dated 4 April 2014, Torbay Council will provide the following:

Background information

1. Clear explanation of evidence behind local plan – i.e. starting point is environmental evidence.
2. Explanation of SHLAA process, including environmental information available to PBA, and our interpretation of SHLAA (i.e. discarding of sites in very environmentally sensitive areas)
3. Explanation of allocation / identification of sites in Local Plan and role of Neighbourhood Plans.
4. A clear statement that the Local Plan SA and HRA have followed a strategic approach rather than project specific assessment.
5. A clear statement of the Council's position re Wall Park, Brixham especially that development of the site will achieve a drawing back from the coast and mitigation for bats (agreed by all key partners).
6. Clarification of the references to 8,000-10,000 and 9,200 new homes.

Additional evidence

7. Greater Horseshoe Bat Mitigation Strategy for the Strategic Delivery Area policies (SDT, SDP, and SDB) including potential housing and employment sites and any significant large sites outside these areas: use of traffic light system coupled with green infrastructure. Work to be undertaken by Kestrel before 13 June.
8. Berry Head Recreational Pressure Study: evidence to identify whether there will be a 'Likely Significant Effect' (LSE). If a LSE is identified, provision of further information regarding mitigation measures and funding mechanism.
9. AECOM Paignton West Sewerage Capacity Study: provide information with regard to the capacity post 2020.

Local Plan Policies revision

10. Policy TO3: change the wording to "The following schemes will be investigated and delivered if they meet the requirements of this policy:"
11. Policy SS6: include reference to Sea Torbay Code of Practice, and LTP3 HRA in the supporting text.
12. Policy SDB3: include the following wording: support a draw back from the coast; and indicate that brownfield sites are not always developable.
13. Policy SS8: Minor amendments

14. The outcome of the additional evidence required could lead to further editorial changes in wording of some of the policies.

HRA revision

15. Appropriate Assessment: add more information to section 7.2 (Lyme Bay and Torbay Marine cSAC) to cover the anticipated risk from development and mitigation/avoidance measures following the Sewerage Capacity Study.
16. The outcome of the additional evidence required could provide further support for the HRA recommendations.

SA revision

17. Include the new Marine Conservation zone in the assessment as appropriate.

Turner, Steve

From: Huggins, Alexis
Sent: 19 May 2014 16:41
To: 'laura.horner@naturalengland.org.uk'
Cc: Shimin, Ashwag; Brooks, Tracy; Turner, Steve; Steward, Pat
Subject: Torbay Council - evidence regarding recreational impacts on South Hams SAC

Laura,

Further to the meeting on 1st May regarding the emerging Torbay Local Plan, we intend to commission Footprint Ecology to undertake a study regarding recreational impacts on the South Hams SAC.

The proposed scope of work is set out in the attached and I would appreciate it if you could confirm that you think this work will help to address the comments made in your letter of 4th April relating to recreational impacts on the SAC.

If you would like to discuss this in further detail please give me a call on one of the numbers below.

Regards,

Alexis

Alexis Huggins
Green Infrastructure Coordinator

Spatial Planning
Torbay Council
Electric House (2nd Floor)
Castle Circus
Torquay TQ1 3DR

Tel: 01803 208816
Mob: 07788 200436
Email: alexis.huggins@torbay.gov.uk

Please note I work at Torbay Council Monday and Tuesday and South Hams District Council Wednesday to Friday (01803 861406).

Background Information

The Habitats Regulations Assessment/Appropriate Assessment of the emerging Torbay Local Plan identifies the potential for increased recreational pressure on the Berry Head to Sharkham Point component of the South Hams SAC as a result of the proposed 8,000 – 10,000 new houses identified within the Plan.

The proposed submission version of the emerging Local Plan acknowledges that *“Developer contributions to fund the mitigation measures needed to manage the increased recreational pressure on the SAC resulting from increased housing numbers will be sought.”*

In their response to consultation on the proposed submission version of the emerging Local Plan, Natural England has asked for more evidence regarding recreational pressure on the SAC. Specifically they have requested sufficient evidence to demonstrate that there is a ‘Likely Significant Effect (LSE)’ and if the evidence shows that there is a LSE further detail regarding management measures required to mitigate the effects and the proposed funding mechanism.

Torbay Council is seeking advice from specialist consultants to establish whether there would be a LSE (based on existing evidence and professional judgement) on the SAC as a result of the proposed housing numbers identified within the Plan. Should a LSE be identified Torbay Council will likely seek advice regarding:

- Management measures required to mitigate the impact;
- Potential funding mechanisms; and
- Scope of work required to inform the above.

Torbay Council aims to submit the Local Plan, along with representations made on it, to the Secretary of State in July 2014. The Local Plan will then be subject to independent examination by the Planning Inspectorate, most likely during Autumn 2014.

Available evidence to inform the work includes:

- Recreation and Access Assessment 2004, including visitor surveys.
- Berry Head Conservation Management Plan 2007 – 2017.
- ‘Loving Our Limestones’ Vegetation Surveys 2008 covering:
 - Berry Head;
 - Sharkham Point; and
 - Durl Head.
- Visitor Surveys 2009 and 2011.
- Natural England Conservation Objectives and Definitions of Favourable Condition for Designated Features of Interest: Berry Head to Sharkham Point SSSI.

Turner, Steve

From: Shimin, Ashwag
Sent: 22 May 2014 15:13
To: Shimin, Ashwag; 'Laura.Horner@naturalengland.org.uk'
Cc: Turner, Steve
Subject: RE: Torbay Local Plan - Publication of the Proposed Submission Plan (Mon 24 Feb - Mon 7 April)
Attachments: List of Actions.docx

Dear Laura,

Due to the short time we have to put together the recommended changes to the Local Plan, SA and HRA. Can you please look at the attached list actions and confirm they would address the issues raised by Natural England?

Look forward to hearing from you soon

*Ashwag Shimin
Strategic Appraisal Officer
Strategic Planning Team
Spatial Planning
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Sent: 07 May 2014 17:44
To: 'Laura.Horner@naturalengland.org.uk'
Cc: Turner, Steve
Subject: RE: Torbay Local Plan - Publication of the Proposed Submission Plan (Mon 24 Feb - Mon 7 April)

Dear Laura,

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*Ashwag Shimin
Strategic Appraisal Officer*


*Strategic Planning Team
Spatial Planning
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Turner, Steve

From: Horner, Laura (NE) [Laura.Horner@naturalengland.org.uk]
Sent: 30 May 2014 15:53
To: Shimin, Ashwag
Cc: Turner, Steve
Subject: RE: Torbay Local Plan - Publication of the Proposed Submission Plan (Mon 24 Feb - Mon 7 April)

Dear Ashwag,

Sorry for the delay in replying regarding your actions on the Torbay Plan.

We had a useful meeting with Mike Oxford on Monday. I still have some concerns on whether the evidence he can provide in the time scale. This is particularly in regard to evidenced based mitigation measures for neighbourhood plan areas esp as some of these adjoin masterplan areas. This is due to both the stops introduced by the 2012 regulations to neighbourhood plans and the quality of the evidence and mitigation that can reduce likely significant effects to insignificant without a significant risk to delivery of the Plan particularly given the uncertainties in the Plan. However, we are meeting again on 9th June and will assess that evidence and mitigation then.

I am still waiting to hear back from my principal marine advisors regarding the marine economy. Unfortunately holidays have delayed replies.

I also spoke to Alexis on Monday. I understand you are appointing Footprint to do an initial assessment in regard to more screening for Likely Significant Effects of trampling and nutrient enrichment due to visitors to Berry Head. One issue will be gathering evidence which shows that

- Visitors are causing damage
- More visitors will cause more damage
- How often and from where can we expect additional visitors to come from.

This is because the current condition survey from 2009 shows that the calcareous grasslands are in favourable condition.

Visitor information may begin to assess the third point but to be good evidence will need to be both through the seasons and recent.

I am still awaiting the signposting to the additional environmental evidence as we talked about in the meeting and referenced in your action points.

I look forward to receipt of this and will forward our further consideration of the LSE screening for the marine economy and waste water next week.

Regards
Laura

Mrs Laura Horner
Lead Advisor Forward Planning Network

Exeter - Level 9 and 10,
Renslade House,
Bonhay Road,
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EX4 3AW
Tel 0300 060 2018
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Sent: 22 May 2014 15:13
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Cc: Turner, Steve
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*Ashwag Shimin
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Strategic Planning Team*

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Cc: Turner, Steve
Subject: RE: Torbay Local Plan - Publication of the Proposed Submission Plan (Mon 24 Feb - Mon 7 April)

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Kind regards

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Spatial Planning
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Turner, Steve

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Sent: 16 June 2014 11:26
To: Shimin, Ashwag
Cc: Turner, Steve
Subject: RE: Torbay Local Plan - Publication of the Proposed Submission Plan (Mon 24 Feb - Mon 7 April)
Attachments: Torbay Plan assessment of Marine LSE NE consideration.pdf

Dear Ashwag,

Further to my email 30th May 2014, Natural England has looked further at the Habitat Regulations Assessment in respect of the marine economy. I enclose a copy of our consideration.

You will see that we do not consider that there will be Likely Significant Effects arising from policy TO3 in respect of marine economy proposals. We therefore advise that the current wording below in policy TO3 **is removed**

"Any proposal that may lead to likely significant effects on sites protected under European legislation will only be permitted where no adverse effect on the integrity of the site can be shown".

This is, because in the absence of Likely Significant Effects (LSE), the wording is not required but its inclusion in the policy implies the existence of LSE. The removal of the wording is in accordance with recent case law (Champion v. North Norfolk DC and Natural England (2013)).

You will note from the consideration that we still conclude that the Likely Significant Effect on the Reef at Hope's Nose part of the Lyme Bay and Torbay Special Area of Conservation is uncertain. Applying the precautionary principle, there is a need to consider this effect further through Appropriate Assessment. The proposed caveat which prevents development should it effect the SAC is not appropriate since there would be a significant risk to the delivery objectives of the Plan. Such a caveat is not appropriate as it circumvents the proper Appropriate Assessment that is needed.

The reason for the conclusion of uncertain LSE is regarding the continuation of the use of Hope's Nose sewer as an additional Combined Sewage Outfall (CSO) for emergency and flood occasions. Whilst its use as an emergency CSO, cannot be objectively assessed in regard to the increased development, its use in times of flood must be considered in the light of changed weather patterns increasing the likelihood of flood events and increased development within the existing urban area which may also increase surface water discharge in flood events.

It is unclear in the present Habitat Regulation Assessment whether the present sewage system and capacity would need to rely on the Hope's Nose CSO more often as a result of the development and what measures, if any, need to be put in place to mitigate against this happening. We therefore look forward to hearing from you in this regard.

I am meeting with Mike again today in respect of the work he is doing regarding development which may effect the South Hams SAC. This has been proving difficult in the absnce of real evidence to set out the mitigation required for particular areas.

Regards
Laura

Mrs Laura Horner
Lead Advisor Forward Planning Network

Exeter - Level 9 and 10,
Renslade House,
Bonhay Road,
Exeter,
EX4 3AW
Tel 0300 060 2018
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From: Shimin, Ashwag [mailto:Ashwag.Shimin@torbay.gov.uk]
Sent: 22 May 2014 15:13
To: Shimin, Ashwag; Horner, Laura (NE)
Cc: Turner, Steve
Subject: RE: Torbay Local Plan - Publication of the Proposed Submission Plan (Mon 24 Feb - Mon 7 April)

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Dear Laura,

Due to the short time we have to put together the recommended changes to the Local Plan, SA and HRA. Can you please look at the attached list actions and confirm they would address the issues raised by Natural England?

Look forward to hearing from you soon

*Ashwag Shimin
Strategic Appraisal Officer
Strategic Planning Team
Spatial Planning
Environment
Torbay Council*

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From: Shimin, Ashwag
Sent: 07 May 2014 17:44
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Cc: Turner, Steve
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Can you please confirm that the suggested actions are satisfactory and will address all the issues raised by Natural England?

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*Ashwag Shimin
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Cc: Turner, Steve
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European Site Title	Lyme Bay and Torbay candidate Special Area of Conservation			
Site Interest Feature	Sea Caves			
Plan title:	Torbay Plan			
What is the vulnerability of the relevant interest features from activities resulting from the Plan?	Pressure	Reg 35 Advice Vulnerability Assessment	Our Comments	LSE
	Physical loss	The sea cave communities are highly sensitive to physical loss, both through removal via harvesting or coastal development and to smothering. There is no exposure of the sea caves to either of these pressures, so the vulnerability of the sea caves within Lyme Bay and Torbay cSAC to physical loss is considered to be none.	The proposed development of harbour facilities will not result in the 'physical loss' of Annex 1 features due to the location of infrastructure with reference to existing Sea Caves ie. distance, non-overlap of pressures & sensitive features . It is considered that any potential physical loss impacts due to 'smothering' from sediment mobilised during construction phases could be mitigated at project level.	No
	Physical damage	<p>Physical damage to caves can either occur in the form of siltation or abrasion. Whilst the communities are highly sensitive to abrasion, exposure to an activity which would cause abrasion is considered to be low. A few instances of vandalism to accessible caves have been reported, and recently a potential heightened awareness of the caves through new publications detailing their locations has increased the risk of light abrasion through coasteering and kayaking. A precautionary approach gives a vulnerability of the sea caves to abrasion as moderate.</p> <p>Due to the proximity of the caves to the coast, some siltation will occur, which may cause some smothering of the communities. The communities are considered not sensitive to siltation and exposure is considered to be low.</p> <p>The sea cave communities are highly sensitive to selective extraction, but the exposure to this pressure is none, so they are not considered vulnerable to selective extraction.</p> <p>Overall the vulnerability of the sea caves within the Lyme Bay and Torbay cSAC to physical damage is considered to be none - moderate.</p>	It is our conclusion that the projected increased level of waterborne transport as a result of additional mooring facilities & ferry operation is unlikely to have a significant effect on Sea Caves of the Lyme Bay and Torbay cSAC. Proctor, 2009 refers to two categories of potential visitor pressure ie. where the sea caves are freely accessible by 'coasteering or caving' and recreational diving activities. While there may be some potential for increased visitor access by kayak or small vessels as a result of the provision of additional mooring facilities, the exposure of features to potential pressures of physical damage is low. The sensitivity of Sea Cave features to 'abrasion' has been identified as resulting in 'moderate' vulnerability, but in our opinion exposure to waterborne visitors such as kayakers is unlikely to cause abrasion pressures on the site features in a way that would result in significant effects on the feature. However, as with all activities within Marine Protected Areas we encourage education on the sensitivity of protected features to local sea users as beneficial to the preservation of the special interest.	No
Non- physical	The Lyme Bay & Torbay sea caves are not considered to	See above comments	No	

	disturbance	<p>be sensitive to non-physical disturbance and are not exposed to this pressure. Overall the vulnerability of the sea caves within the Lyme Bay and Torbay cSAC to non-physical contamination is considered to be none.</p>		
	Toxic contamination	<p>Sea Cave communities are exposed to some toxic contamination (e.g. from pollution incidents or chronic inputs), but there is currently insufficient information regarding their sensitivity to this pressure (Hiscock & Tyler-Walters, 2006). The sensitivity of the communities to some forms of toxic contamination is not well characterised, and there is therefore insufficient information to determine the sea caves overall vulnerability.</p>	<p>Marine pollution prevention measures and pollution incidents are covered under separate regulatory provisions. The vulnerability of Sea Caves to pressures of 'toxic contamination' is assessed in relation to the likelihood of 'exposure' to those pressures, notwithstanding that there is likely to be uncertainty around feature 'sensitivity' to some toxic emissions.</p> <p>The likelihood of exposure of Sea Caves to 'toxic contamination' from the surface drain outfalls is considered 'low' due to the location of the Sea Caves and their proximity to development areas identified in plan policy provisions. It is also not likely that there would be significant additional 'vulnerability' of Sea Caves in Torbay to this pressure due the dilution effects of the marine environment & the types of ordinary, low level inputs of surface pollutants expected from cars, people and animals on nearby hard surfaces and grass.</p> <p>In addition, project level mitigation of pollutants being released into the marine environment would be required during design and construction phases of new developments.</p>	No
	Non-toxic contamination	<p>Due to the proximity of the sea caves to the coast, they are currently exposed to low levels of non-toxic contamination from land based discharges. Some of the filter feeding organisms present in the sea cave communities are intolerant of reduced oxygenation due to organic enrichment and are therefore considered highly sensitive to non-toxic contamination.</p> <p>Many sea caves in the Mackerel Cove to Dartmouth area</p>	<p>The 'Regulation 35' advice states that due to the proximity of the sea caves to the coast, they are currently exposed to low levels of non-toxic contamination from land based discharges. It is not likely that there would be an increased 'exposure' of Sea Caves to non-toxic contamination pressures as a result of coastal development. This is due to the relative distance of surface outfalls from the protected features and the likelihood of water</p>	No

		<p>have specific and varied salinities and have a high level of sensitivity to changes in salinity. However, their exposure to such changes is not currently well defined.</p> <p>Overall the vulnerability of the sea caves within the Lyme Bay and Torbay cSAC to non-toxic contamination is considered to be none - moderate.</p>	<p>treatment infrastructure to maintain high standards of water quality in the bay.</p>	
	Biological disturbance	<p>Biological disturbance includes the introduction of pathogens or non-native species as well as selective extraction of species from the ecosystem. Exposure to the introduction of non-native species (through ballast discharge etc) is considered to be low for sea caves, and there is also a low level of sensitivity to this. The sensitivity to selective extraction of species is high within sea caves, however there is currently no exposure to this. At present, there is insufficient information to determine the sensitivity of sea cave communities to the introduction of microbial pathogens.</p> <p>Overall the vulnerability of sea caves within the Lyme Bay & Torbay cSAC to biological disturbance is considered to be none - low.</p>	<p>See above comments. The predicted increase in mooring facilities does not suggest that exposure to selective extraction of species, pathogens or not natives would increase as a result of the Torbay Plan policies such that likely significant effects could occur.</p> <p>There is also little evidence in the published material to indicate a likelihood of potential pressures on population connectivity between Sea Caves arising from coastal development or marine activities. There is some indication that caves 'support self-sustaining communities, which would indicate that the functioning of the features is in good condition' (Proctor, 2009). It is unlikely that the location of proposed additional harbour infrastructure would act as a 'barrier' to population connectivity or to cause a significant impact on local coastal processes in such a way that would affect the population structure of individual notable species and their contribution to the functioning of the ecosystem.</p>	No
Site Interest feature	Annex 1 'Reefs'			
	Physical Loss	<p>The loss of any of the reef communities would be of concern due to their ecological importance within the reef habitat and their long recovery times to this form of disturbance. It is also important that indirect or smothering effects are assessed. Overall the vulnerability of reef sub-features within the Lyme Bay and Torbay cSAC to physical loss is considered to be none - moderate.</p>	<p>It is unlikely that physical loss impacts could occur as a result of harbour infrastructure development due to non-overlap with Annex 1 Reef features. It is considered that mitigation of potential impacts, for example smothering could occur during design and construction phases at project level.</p>	No
	Physical damage	<p>The Lyme Bay and Torbay cSAC bedrock and stony reefs are considered highly sensitive to physical damage as a result of siltation, abrasion and selective extraction. Physical damage can result in the degradation of the physical and ecological structure of reef habitat (Cork et</p>	<p>Commercial fishing activity has been highlighted as an activity likely to give rise to physical damage pressures and as such restrictions are placed on the use of towed gear within the site. It is unlikely that the development of harbour infrastructure would give rise</p>	No

		al., 2008; Natural England 2010).	to significant additional pressures of physical damage on reef features that could affect the ecological integrity of the site.	
	Non physical disturbance	The Lyme Bay & Torbay reefs are not considered to be sensitive to non-physical disturbance and are exposed to low levels of this pressure. Overall the vulnerability of the reefs (bedrock, stony & biogenic) within the Lyme Bay and Torbay cSAC to non-physical contamination is considered to be none.	It is unlikely that the provisions of the plan could give rise to additional pressures of non-physical disturbance.	No
	Toxic contamination	The dominant reef biotopes are likely to be of intermediate intolerance to chemical contamination and recover relatively quickly once the contamination is removed. Shipping accidents still occur leading to pollution and physical wreckage. Given the amount of shipping in the site, potential exposure to toxic contamination from shipping is considered to be moderate, as there are known to be large ships anchoring adjacent to the Mackerel Cove to Dartmouth part of the cSAC, and both sections of the cSAC contain busy fishing harbours. Overall the vulnerability of the reefs (bedrock, stony & biogenic) within the Lyme Bay and Torbay cSAC to toxic contamination is considered to be low - moderate.	There could be additional shipping activity as a result of plan policy, however shipping accidents and marine pollution prevention measures are covered under separate regulatory provisions and would be beyond the control of planning policy.	No
	Non toxic contamination	Discharges of pollution from the land could potentially impact on interest features in the site by causing changes in physico-chemical conditions of the overlying water, such as changes in temperature, turbidity, salinity, and increases in nutrient and organic matter. The dominant biotopes are likely to be of low sensitivity to nutrient enrichment but The sensitivity of the bedrock and stony reefs to organic enrichment (causing deoxygenation) is considered to be high. Some biotopes within the sub-features are sensitive to increases in turbidity (loss of light) caused by inputs from land, or agitation of sediment. The long-lived, fragile species of the bedrock reef are intolerant of reduced oxygenation due to organic enrichment and are therefore considered highly sensitive to non-toxic contamination (Hiscock & Tyler-Walters 2006). Due to the proximity of the reef sub-features to the coast,	Improvement works to the previous continuous outfall at Hope's Nose are likely to result in discharges only during storm or emergency conditions through the existing outfall. There is however uncertainty if the 'exposure' of rocky reefs at Hope's Nose to non-toxic contamination from the 'combined sewer outfall' is likely to be at a level or frequency that could affect reef function at this location should such an 'emergency' or frequent flooding take place. The potential pressures from 'non-toxic contamination' on areas of rocky reef could include potential alterations in oxygen levels, turbidity or changes in salinity. We do not currently have sufficient information to address this uncertainty and therefore cannot make an assessment of 'no likely significant effect'. With regard to the population equivalent scenarios projected by the Torbay plan, it is understood that general sewage treatment capacity and details of	Uncertain

		<p>they are currently exposed to low levels of non-toxic contamination from land based discharges, and therefore the overall vulnerability of reef sub-features within the Lyme Bay and Torbay cSAC to non-toxic contamination is considered to be none - moderate.</p> <p>N.B. the function of the Annex I reef habitats at Torbay is considered to be 'good' due to the general lack of anthropogenic threats, however localised impacts from the discharge of sewage around Hopes Nose 'have been reported'</p>	<p>infrastructural plans will be provided at plan level with South West Water and the Environment Agency as the competent authorities and that no development will take place prior to the wastewater treatment capacity and appropriate physical infrastructure being in place to maintain high water quality of the bay.</p>	
	Biological disturbance	<p>Biological disturbance includes the introduction of pathogens or non-native species as well as selective extraction of species from the ecosystem. For many reef communities, insufficient information is available to determine their sensitivity to microbial pathogens. A precautionary sensitivity of low has been suggested for the introduction of microbial pathogens, with a low exposure to this factor. Vulnerability is therefore considered to be low for all three subfeatures.</p> <p>Selective extraction refers to the removal of the species or community. This includes either the removal of a specific species/community/keystone species in a biotope, or the removal of a required host or prey for the species under consideration. Any effects of the extraction process on the habitat itself are addressed under other factors, e.g. displacement, abrasion and physical disturbance, and substratum loss. <i>Eunicella verrucosa</i> (present in both areas of the cSAC) is considered highly sensitive to selective extraction, due to its slow growth and low recovery rates (Hiscock & Tyler-Walters 2006). This species is not known to be specifically targeted for extraction in the site.</p> <p>Removal of fish species and larger molluscs and crustaceans can have significant impacts on the structure and functioning of benthic communities over and above the physical effects of fishing methods. The cSAC is actively used for fishing with moderate- high levels of static gear fishing occurring throughout the year and seasonal mobile gear operating within parts of the Mackerel Cove to Dartmouth area. Exposure to biological disturbance through selective extraction of species is</p>	<p>It is unlikely that specific policy provisions of the Torbay plan would give rise to further pressures of biological disturbance of the Annex 1 reef features due to selective extraction of species.</p>	No

	<p>considered to be moderate. The vulnerability of bedrock reefs, stony reefs and biogenic reefs to biological disturbance from selective extraction is assessed as low-moderate.</p> <p>Overall the vulnerability of reef sub-features within the Lyme Bay and Torbay cSAC to biological disturbance is considered to be low- moderate.</p>		
<p>Is the potential scale or magnitude of any effect likely to be significant alone or in combination on a European site?</p>	<p>The plan predicts an increase in recreational activity over the next 15 years as a result of infrastructural development & population growth. It is important to assess whether these could have significant impacts on marine features of the Lyme Bay and Tor Bay cSAC. Our analysis is based on an assessment of the likely exposure levels of site features to pressures associated with activities to which they are sensitive, in combination with potential pressures associated with water quality. Notwithstanding our general assessment that the written provisions of the Torbay plan are not likely to give rise to significant adverse effects on the Annex 1 features of the cSAC, we are inconclusive in relation to the outfall at Hope's Nose as currently there is insufficient certainty to make an assessment of likely significant effect.</p>		

References:

Lyme Bay & Torbay cSAC_ NE Reg 35 conservation advice_Version 2.2

Proctor C J, 2009. The Coastal Caves of Torbay. Report to Torbay Coast and Countryside Trust and Natural England. Volumes I and II.

VANSTAEN, K. & EGGLETON J., 2011. Mapping Annex 1 reef habitat present in specific areas within the Lyme Bay and Torbay cSAC. CEFAS

Weir J & Bessell A, 2012. Sea Caves in the Lyme Bay and Torbay cSAC. Field Report. Report for Natural England.

Turner, Steve

From: Shimin, Ashwag
Sent: 19 June 2014 10:33
To: 'Horner, Laura (NE)'
Cc: Turner, Steve
Subject: RE: Torbay Local Plan - Publication of the Proposed Submission Plan (Mon 24 Feb - Mon 7 April)

Dear Laura,

Thank you for your for the advice with regard to the Marine Economy Policy. The ongoing sewerage capacity study will further clarify the effect of the proposed development on Hope's Nose CSO. Accordingly, I will add a new section to the AA including possible mitigations.

Kind regards

*Ashwag Shimin
Strategic Appraisal Officer
Strategic Planning Team
Spatial Planning
Environment
Torbay Council*

✉ Electric House, 2nd Floor, Torquay, TQ1 3DR

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From: Horner, Laura (NE) [mailto:Laura.Horner@naturalengland.org.uk]
Sent: 16 June 2014 11:26
To: Shimin, Ashwag
Cc: Turner, Steve
Subject: RE: Torbay Local Plan - Publication of the Proposed Submission Plan (Mon 24 Feb - Mon 7 April)

Dear Ashwag,

Further to my email 30th May 2014, Natural England has looked further at the Habitat Regulations Assessment in respect of the marine economy. I enclose a copy of our consideration.

You will see that we do not consider that there will be Likely Significant Effects arising from policy TO3 in respect of marine economy proposals. We therefore advise that the current wording below in policy TO3 **is removed**

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You will note from the consideration that we still conclude that the Likely Significant Effect on the Reef at Hope's Nose part of the Lyme Bay and Torbay Special Area of Conservation is uncertain. Applying the precautionary principle, there is a need to consider this effect further through Appropriate Assessment. The proposed caveat which prevents development should it effect the SAC is not appropriate since there would be a significant risk to the delivery objectives of the Plan. Such a caveat is not appropriate as it circumvents the proper Appropriate Assessment that is needed.

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Regards
Laura

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Lead Advisor Forward Planning Network

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Sent: 22 May 2014 15:13

To: Shimin, Ashwag; Horner, Laura (NE)

Cc: Turner, Steve

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Kind regards

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Strategic Planning Team
Spatial Planning
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Turner, Steve

From: Pickhaver, David
Sent: 03 July 2014 17:22
To: Pickhaver, David; 'Horner, Laura (NE)'
Cc: 'Michael Oxford'; Shimin, Ashwag; Turner, Steve; Steward, Pat; Brooks, Tracy
Subject: RE: Torbay Local Plan- response to Natural England -updated



Explanation of the
Local Plan ...

Hi Laura

Please see revised document on the evolution of the Local Plan policies and site selection (which replaces the version sent last week) . Further to discussions with Mike Oxford, I have added a paragraph on Yalberton Industrial Estate that isn't in the first version.

Best regards
David

David Pickhaver
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From: Pickhaver, David
Sent: 27 June 2014 16:52
To: 'Horner, Laura (NE)'
Cc: 'Michael Oxford'; Shimin, Ashwag; Turner, Steve; Steward, Pat; Brooks, Tracy
Subject: Torbay Local Plan- response to Natural England

<< File: Explanation of the Local Plan Evidence Base on Housing Land Availability27_06_14.docx >>

Dear Laura

You will recall that at our meeting on 1st May, we agreed to produce a paper setting out the evolution of the Local Plan's evidence, SHLAA process and SA/HRA. Please see attached paper which covers items 1-6 of the meeting notes.

We are also working with Mike Oxford to work up suggested modifications to Local Plan Policies SS2, SS8, NC1 and C1. I believe Mike has spoken to you about the wording of these? If not, I'm happy to run them past you. In particular a lot of detail on the bat corridors is suggested for Policy NC1

Mike is also preparing a supplementary report on the South Hams SAC. Fortunately Policy NC1 (and para 6.3.2.1) already refers to Natural England advice and guidance by Kestrel Wildlife. This is helpful because it's a hook we can use to hang additional guidance/requirements on without them being a major change to the Local Plan .

Please contact me if you have any comments on the attached Paper, etc.

Kind regards

David

David Pickhaver
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Spatial Planning
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Production of the new Torbay Local Plan and the approach to site allocation.

Introduction

This paper sets out the genesis of the development of the new Torbay Local Plan and, in particular, the approach to site allocation. The protection of Torbay's environmental assets is central to the Plan. The Plan has been informed by Sustainability Appraisal and Habitats Regulations Assessment throughout its genesis.

Natural England has been involved in production of the new Local Plan and has influenced the content of the Plan.

The Paper provides clarification requested by Natural England to matters raised in its comments on the Proposed Submission Local Plan dated 4th April 2014, and subsequently discussed at a meeting between Natural England and Council Officers on 1st May 2014. In particular, it addresses points 1-6 of the 'Background Information' section of the List of Actions agreed with Natural England following that meeting.

Torbay's environment at the heart of the Plan

Torbay's environment sits at the heart of the new Local Plan. This is not only because of its quality and sensitivity to change, but also because it is a key driver of the Bay's economy and has huge social value (e.g. to health). Our understanding of the environment has been reinforced by a significant number of studies and information, including – The Nature of Torbay: Torbay Biodiversity and Geodiversity Action Plan, Greater Horseshoe Bat Consultation Zone Planning Guidance, Landscape Character Assessment; Brixham Urban Fringe Study and Green Infrastructure Delivery Plan, as well as information from Natural England and other partners.

This information provides the basis of, and the starting point for, the Local Plan. The Plan has evolved through rigorous testing, including options appraisal and consultation, sustainability appraisal, HRA work etc. Natural England has been involved in much of that work and through engagement on previous versions of the Local Plan.

With that as context, the Council then sought – under the over-arching requirements of the NPPF – to assess how housing needs in the Bay could be accommodated.

National Planning Policy Framework

The NPPF indicates that Local Plans should meet the full objectively assessed needs for market and affordable housing, as far as consistent with other policies in the NPPF. The Courts have held that meeting housing need is a requirement of particular standing (*Gallagher Homes LTD+anor V Solihull Met BC* 2014). Paragraph 159 (bullet 2) of the NPPF requires councils to prepare a Strategic Housing Land Availability Assessment (SHLAA) to establish realistic assumptions about the availability, suitability and likely economic viability of land to meet the identified need for housing over the plan period. Clearly matters relating to biodiversity also pertain to the "suitability" of sites.

The evidence of housing need is set out in a number of documents, including the Torbay Housing Requirement Report (PBA 2013). This indicates a full objectively assessed need of up to 12,300 dwellings between 2012-32. However, more recent (2012 based, released 2014) population projections indicate a reduced demographically implied provision.

The Localism Act – a paradigm shift in planning and site allocation.

The Localism Act (2011) introduced a major shift in the way land is allocated within planning documents. Under the previous (2004) system, regional spatial strategies (RSSs) set overall housing etc figures and specified broad locations or areas of search for development. Local development frameworks (LDFs) made detailed site allocations that had to be in general conformity with RSS. The Localism Act shifted everything downwards to a more local level. Regional strategies were abolished and local plans became the "high level plan". Neighbourhood plans are expected to reflect communities' aspirations for development and provide a finer grain of detail.

Torbay is highly unusual in having neighbourhood forums for each town, and will when adopted have Bay-wide coverage of neighbourhood plans. Advice from the Planning Inspectorate (July and October 2013) is that the Local Plan needs to provide site allocations to give a degree of certainty to developers. On this basis the emerging Torbay Local Plan identifies broad locations for development ("future growth areas"). These have been the subject of Sustainability Appraisal and Habitats Regulations Assessment at an appropriate level (as explained later in this paper). The Local Plan is very clear that not all of the Future Growth Areas are expected to be built on and that they need to provide areas for biodiversity etc.

The Local Plan either allocates development sites (specifically land needed for at least the first 5 years of the Plan period) or identifies sites that could be developed. These identified sites will be considered in more detail by Neighbourhood Forums, using the Local Plan as context, and will be allocated in neighbourhood plans.

Details such as mitigation for wildlife- in particular the maintenance of greater horseshoe bat dark corridors are covered in the new Local Plan and are also being addressed in masterplans (see below).

The emerging Torbay Local Plan and its evidence base have been prepared against this backdrop of changing planning legislation, and have sought to adapt to reflect emerging best practice. This is set out in more detail below.

The 2008 Strategic Housing Land Availability Assessment.

Torbay's SHLAA was prepared by Baker Associates in 2008 and refreshed in 2013 by Peter Brett Associates.

The 2008 SHLAA was prepared against the background of housing targets set by the Regional Spatial Strategy, which in its Secretary of State's Proposed Changes version required the provision of 15,000 dwellings in Torbay between 2006-26. It was against this windmill that the 2008 SHLAA tilted. Volume 1 of the SHLAA considered urban capacity and identified around 6700 dwelling potential on brownfield sites. There was clearly a shortfall against the RSS, which Volume 2 of the SHLAA sought to address.

Volume 2 of the 2008 SHLAA considered broad locations for additional development. It assessed all areas of Torbay against a range of criteria, including a landscape assessment and environmental designations. Areas of clear cut designation (including SAC, SSSIs, country parks) were excluded from broad locations. Local environmental designations (such as county and local wildlife sites) were also assessed although these weren't taken as preventing all development. Volume 2 of the SHLAA recommended Edginswell Torquay and west of Paignton including Collation St Mary as broad locations for future growth. It suggested that Edginswell could accommodate about 750 dwellings and Collaton St Mary 3000. The SHLAA indicated that further assessment of infrastructure and other constraints should take place (see table 14.1.2). It is reiterated that this was in the context of meeting a top-down requirement for 15,000 new dwellings.

The Draft Torbay Local Plan- A Landscape For Success (2012)

The (then) Core Strategy consulted on future growth options in 2009 based on the 2008 SHLAA's findings.

These options were subject to sustainability appraisal and Habitats Regulations Assessment (see below).

The findings of this consultation were taken forward into the Draft Torbay Local Plan "A Landscape for Success" which was published for consultation in September 2012. The draft Local Plan promoted a broadly brownfield first approach with some limited greenfield development (broadly Option 2: "Constrained Balanced Approach" of the 2009 options). The Draft Local Plan set out future growth areas in a Key Diagram (p44) and in Strategic Delivery Policies, illustrated on a 1:40,000 map on p47.

The Draft Local Plan was the subject of Sustainability Appraisal, and the scope of the SA was widened to consider the sustainability of the level of growth proposed, commensurate with the changed nature of the Local Plan due to RSS abolition.

The Draft Local Plan was supported by a range of stakeholders, including Natural England which stated that *"overall we are satisfied that the drafty Plan provides a generally positive policy framework for accommodating the development requirements for Torbay...The preferred option and the proposed quantum, type and broad locations for development appear to be based on sound evidence and able to be accommodated without resulting in significant adverse effects on the natural environment"*.

SHLAA Update (2013)

The SHLAA was refreshed in 2013, by Peter Brett Associates (the successor company to Baker Associates). The purpose of this refresh was to assess the suitability of sites against changed circumstances, including the recession, publication of the NPPF and abolition of top down RSS targets. The SHLAA refresh also sought to zoom in on the broad locations identified in the 2008 SHLAA and draft Local Plan to identify more specific sites within the previous broad locations.

The 2013 SHLAA Update still focused on the identification of urban/brownfield sites. It identified around 6,000 dwelling capacity on sites with planning permission or suitable urban locations (see table 6.1 section 6). It then considered additional sources of housing land to bridge the gap between the 6,000 dwelling urban capacity and objectively assessed need. Avenues considered included the redevelopment of holiday camps, reuse of hotels, increasing density on former Mayor's Vision sites and developing Council owned car parks.

Broad greenfield locations were considered after the above in order to minimise greenfield land take, although potential biodiversity impacts of urban sites and holiday parks were also taken into account in the SHLAA.

Both clear cut and localised constraints were provided to PBA to assist their assessment of site suitability.

In considering broad locations, the 2013 SHLAA Update excluded clear cut designations, such as SSSI, SAC, Special Protection Areas, Scheduled Monuments etc from assessment (para 7.72). However, more localised designations such as County and local wildlife sites, whilst being material considerations, were not taken to render sites unsuitable for development per se.

Appendix J of the SHLAA Update assesses in more detail the greenfield sites considered by PBA to be potentially suitable for development. The locations were visited by PBA's planners, so the assessment of sites was not purely a desk-top exercise. PBA's draft findings were also scrutinized by Torbay Council planners.

Biodiversity was considered as part of site suitability and mentioned in the proformas at Appendix J of the SHLAA (and Appendix F for holiday parks). For example, sites within the Collaton St Mary area (T720, 13219 etc) note that they are within the greater horseshoe bat sustenance zone and strategic bat flyway corridor. In addition the possibility of cirl buntings being present is noted.

Wall Park (T700) is assessed as a former holiday park (Appendix F) and is noted as being within a tracked greater horseshoe bat sustenance zone (and suggests 150 dwellings may be achievable). Part of the adjacent site (T703) is rejected by the SHLAA because of its effect on the AONB.

The SHLAA is necessarily a high level (but not desk-top) study and it recommends that more detailed masterplanning of sites either through plan making or when detailed scheme design takes place. For example at Collaton St Mary it is noted that that the 2013 SHLAA suggests a significantly lower capacity of around 830 dwellings, compared to 3,000 in the 2008 SHLAA, and recommends a comprehensive masterplanning of the area to ensure that appropriate infrastructure and phasing are provided (see below).

The SHLAA update was published in July 2013 and identified a total housing capacity of 11,550 dwellings in Torbay between 2012-32, made up as follows:

- Sites with planning permission 2615
- Developable urban sites 2652

- Sites with some policy constraints (mainly tourism) 906
- Windfalls (5 or fewer) 2210
- Car parks 600
- Greenfield broad locations 2658

Although the emphasis is inevitably on greenfield broad locations (particularly when considering biodiversity impacts), the bulk of the SHLAA Update considered the suitability and achievability of brownfield and urban development.

The SHLAA represents an independent assessment of the likely suitability, availability and achievability of lands within Torbay. Whilst used to inform the Local Plan, it is not Council policy.

Torbay Scrutiny of the SHLAA and Proposed Submission version of the Torbay Local Plan.

The SHLAA update was considered by Torbay officers in preparing the strategic delivery policies in the proposed Submission Version of the Local Plan. Several sites were considered by officers to have significant suitability-constraints. These included South West of White Rock, Goodrington and Galmpton which were not carried forward into the Local Plan because of potential impacts on open countryside, AONB and biodiversity. Similar land at Copythorne Road and Mathill Road, Brixham was not carried through to the Local Plan because of impact on AONB. Nutbush Lane, Torquay and Sandringham Gardens, Paignton were not pursued because of more localised (but still significant) issues about loss of greenspace.

The Council consider that this revised assessment of the SHLAA takes Torbay's capacity to be around 9,240 dwellings over 20 years (as per table 4.3 of the proposed Submission Version of the Local Plan). Whilst other sites may come forward, the 9,240 dwelling is a best-guess of the total capacity for development that can be achieved within the environmental capacity of the area. Moreover, detailed Masterplanning of Edginswell Valley and Collaton St Mary is currently underway and will indicate in more detail whether the yields identified in the SHLAA are achievable and what biodiversity measures are required which could affect overall numbers. For example, the need to provide and maintain a belt of darkened hedgerows or other features to maintain corridors between greater horseshoe bats habitats is being considered as an integral part of the emerging Masterplan at Collaton St Mary.

The Plan needs to set a broad figure that is approximately right - a "Goldilocks" range of growth that is broadly sustainable and achievable. However, this figure is an approximation subject to detailed Masterplanning etc. This is a better approach than specifying an exact figure which is highly likely to be inaccurate.

On this basis full Council on the 15th May 2013 resolved that the Local Plan should promote a range of between 8,000-10,000 new homes and 5,000-6,000 new jobs, between 2012-32. This was informed by comments made on the Draft Local Plan as well as the emerging findings of the SHLAA (which was then in draft form). The 9,200 dwelling capacity identified in the

Council's assessment of the SHLAA is within the "bandwidth" of the Local Plan target, although as explained above, it is impractical to set out an exact figure.

Proposed Submission Local Plan (February 2014) and Masterplans

The Proposed Submission Version (Regulation 19) of the Local Plan was published for consultation in February 2014. Policy SS1 reflects the bandwidth approach to growth outlined above.

Torbay is highly unusual as a Unitary Authority with bay-wide coverage of Neighbourhood Plans, which are intended to put forward detailed site allocations, within an overall strategy set by the Local Plan. On this basis the Local Plan indicates:

- **Committed and other deliverable** sites required to demonstrate five years supply of deliverable sites.
- **Urban and brownfield sites** in the SHLAA, largely expected to be deliverable within years 6-10 of the housing trajectory. These are expected to be brought forward through Neighbourhood Plans.
- **Future Growth Areas**. These are the greenfield areas identified in the SHLAA, principally for delivery in years 11+ of the housing trajectory. They are expected to be allocated either through Neighbourhood Plans or site allocation development plan documents.

The Future Growth Areas are drawn from the opportunity sites identified in the SHLAA, and are the same as identified in the Draft Local Plan Key Diagram and Strategic Development ("SD") policies. Policy SS2 of the Local Plan sets out broad considerations for bringing them forward, and emphasizes the need for greater horseshoe bat mitigation plan and maintenance of flyways. The centrality of protecting the environment is amplified in the Strategic Development policies, as well as Policy NC1 "Biodiversity and Geodiversity" and Policies C1-C5 on the countryside and coastal landscape. In particular Policy C1 "Countryside and Rural Economy" sets out a close relationship between landscape protection and maintaining the integrity of the archipelago South Hams SAC. Specifically the need to refer to Natural England bat Consultation Zone Guidance is described in paragraph 6.3.2.3 of the Proposed Submission Version of the Local Plan.

Paragraph 4.1.3.22 of the Explanation to Policy SS2 indicates that not all of the areas identified within the Future Growth Areas will be developed. Rather they are a broad canvass on which Masterplans and Neighbourhood Plans will work up detailed proposals.

The growth areas are as follows:

1. Edginswell, Torquay
2. Land around Collaton St Mary, Paignton
3. Brixham Road, Paignton
4. Wall Park, Brixham

It is worth noting that Policy SS8 and NC1 of the Local Plan cover all proposals, not just those within Future Growth Areas. Concern from Natural England is noted about the Yalberton Industrial Estate, which is a well established employment area, where proposals for comprehensive redevelopment are considered unlikely to arise. Table 4.2(P39) "Sources of Employment Land" of the Local Plan indicates that this area is expected to provide refurbishment and environmental improvements to existing employment area. Paragraph 5.2.2.5 of the Explanation to Policy SDP3 indicates that developments in the area should achieve better access, ecological links etc to the countryside.

Following consultation on the Proposed Submission Version of the Local Plan, the Council and Torbay Development Agency commissioned Masterplans to flesh out Future Growth Areas at Edginswell (Torquay Gateway) and Collaton St Mary, as well as Torquay and Paignton Town centres. These are (currently) ongoing and have involved stakeholder and public consultation, including with Natural England. The Masterplans will address biodiversity and green infrastructure, including wildlife corridors and flyways at a greater level of detail than is feasible in a Local Plan. Initial indications on Collaton St Mary are that the need to provide bat flight paths may mean that capacity of the area may be less than the full 820 dwellings anticipated in Policy SDP3 of the Local Plan. As noted above, the Masterplans are taking an ecology led approach to creating sustainable communities in these areas.

Wall Park and Berry Head

Masterplans have not been commissioned for Brixham Road, Paignton and Wall Park Brixham because there are active planning applications for these areas. White Rock, Paignton has permission (P2011.0197) for a mixed use development, which is subject to an Ecological Impact Assessment and off site mitigation.

Whilst the Berry Head peninsula is not subject of a Masterplan, it is the subject of the Brixham Urban Fringe Study (September 2011), which sets out measures for the conservation of the area's special landscape and ecological importance, and includes a section on Natural England's advice on greater horseshoe bats.

Wall Park, Brixham is also the subject of a current application (P/2013/0785) for 165 dwellings, touring caravan park and sports pitch/overflow car park. This is accompanied by landscape and ecological enhancement works. The application is still being considered and it is noted that Natural England have made detailed comments on the proposal, including the desirability of drawing back from the coastline in accordance with the Brixham Urban Fringe Study.

Natural England raised several objections to the Proposed Submission Local Plan, including Policy SDB3 which includes Wall Park. In response to these objections it was agreed to propose modifications to Policy SDB3, and C1 or C2-3 to the Planning Inspector to indicate that development of the area should achieve a drawing back from the coast and mitigation for bats.

Proposed Editorial Modifications and Landscape Site Assessment

Following receipt of Natural England's objection to the Local Plan, Torbay Council has been working with Natural England and has appointed Kestrel Consulting to provide professional

advice and assessment of Future Growth Areas to overcome the concerns raised. These modifications are principally to Policies SS8 "Natural Environment" and NC1 "Nature Conservation" of the Local Plan. They seek to make explicit the guidance in Policy NC1 (Para 6.3.2.3) of the Proposed Submission Local Plan with regard to maintaining a greater horseshoe bat corridor and maintaining the integrity of the SAC.

Kestrel Consulting are also carrying out landscape site assessment of the Future Growth Areas to further inform the on-going Masterplanning.

Sustainability Appraisal and Habitats Regulations Assessments

The Local Plan has been informed by SA and HRA at each stage of its preparation. These have assessed the overall strategy of the Plan rather than being project specific assessments. The SA has also considered the sustainability of lower rates of growth of 3,000 and 6,000 dwellings. Whilst these options had environmental benefits, they also fail to meet the area's social and economic needs.

The SA/HRA is considered to be a proportionate approach to assess high level plans at a strategic level and for more detailed site assessments to be provided through Masterplans and planning applications. Assessment of plans involves adapting to and dealing with higher degree of uncertainty than traditional project level assessment.

Although the overall effects of the Local Plan have been assessed, there may be a degree of uncertainty as to the anticipated effects of specific projects. It is neither possible nor reasonable for the Local Plan to examine mitigation at the level of individual projects and sites. Nor could it reasonably be expected to foresee all eventualities; although as outlined above, the SA/HRA have sought to identify the key impacts. As such, the application of some mitigation measures may only be possible when more detailed information is available. Therefore, in some circumstances, a mitigation approach might specify the need to conduct further assessments at the project level.

As noted above, the Local Plan seeks to deal with such uncertainty by setting a broad "bandwidth" of growth which Masterplans and Neighbourhood Plans will flesh out. The Council considers that the Local Plan proposals (with mitigation as outlined in the Plan) can reasonably be expected to avoid adverse effects on the integrity of European sites (specifically the South Hams SAC).

It is possible that unforeseen adverse effects could arise from proposals arising out of the Local Plan. Where these are not so significant as to invalidate the designation (i.e. they are the most appropriate option considered against reasonable alternatives *and* impacts can be mitigated), the mitigation will be negotiated as part of the detailed project EIA and HRA. These can inevitably go into a higher level of detail than a local plan level SA and HRA.

In the event that other proposals have harmful effects that cannot be mitigated, the Local Plan sets out that they will be refused.

Turner, Steve

From: Shimin, Ashwag
Sent: 04 July 2014 10:19
To: 'Laura.Horner@naturalengland.org.uk'
Cc: Turner, Steve; Steward, Pat; Pickhaver, David; Brooks, Tracy
Subject: FW: Torbay Local Plan - Publication of the Proposed Submission Plan (Mon 24 Feb - Mon 7 April)
Attachments: ModifiedHopesNoseCSO.docx

Here is the attached paper


*Ashwag Shimin
Strategic Appraisal Officer
Strategic Planning Team
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From: Shimin, Ashwag
Sent: 04 July 2014 10:09
To: 'Horner, Laura (NE)'
Cc: Turner, Steve; Steward, Pat; Pickhaver, David; Brooks, Tracy
Subject: RE: Torbay Local Plan - Publication of the Proposed Submission Plan (Mon 24 Feb - Mon 7 April)

Dear Laura,

The attached paper is prepared to address point 10 of the list of actions Torbay Council has compiled as a response to Natural England's objection to the Proposed Submission Torbay Local Plan (February 2014) and following the Natural England and Torbay Council meeting on 1st May 2014. In particular, it provides clarification requested by Natural England on 16th June 2014 in relation to the impact of new development on Hope's Nose Combined Sewer Overflow (CSO).

Please do not hesitate to contact me if you have any comments on the attached paper.
Kind regards

Ashwag Shimin


Strategic Appraisal Officer
Strategic Planning Team
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From: Horner, Laura (NE) [<mailto:Laura.Horner@naturalengland.org.uk>]

Sent: 16 June 2014 11:26

To: Shimin, Ashwag

Cc: Turner, Steve

Subject: RE: Torbay Local Plan - Publication of the Proposed Submission Plan (Mon 24 Feb - Mon 7 April)

Dear Ashwag,

Further to my email 30th May 2014, Natural England has looked further at the Habitat Regulations Assessment in respect of the marine economy. I enclose a copy of our consideration.

You will see that we do not consider that there will be Likely Significant Effects arising from policy TO3 in respect of marine economy proposals. We therefore advise that the current wording below in policy TO3 **is removed**

“Any proposal that may lead to likely significant effects on sites protected under European legislation will only be permitted where no adverse effect on the integrity of the site can be shown”.

This is, because in the absence of Likely Significant Effects (LSE), the wording is not required but its inclusion in the policy implies the existence of LSE. The removal of the wording is in accordance with recent case law (Champion v. North Norfolk DC and Natural England (2013)).

You will note from the consideration that we still conclude that the Likely Significant Effect on the Reef at Hope's Nose part of the Lyme Bay and Torbay Special Area of Conservation is uncertain. Applying the precautionary principle, there is a need to consider this effect further through Appropriate Assessment. The proposed caveat which prevents development should it effect the SAC is not appropriate since there would be a significant risk to the delivery objectives of the Plan. Such a caveat is not appropriate as it circumvents the proper Appropriate Assessment that is needed.

The reason for the conclusion of uncertain LSE is regarding the continuation of the use of Hope's Nose sewer as an additional Combined Sewage Outfall (CSO) for emergency and flood occasions. Whilst its use as an emergency CSO, cannot be objectively assessed in regard to the increased development, its use in times of flood must be considered in the light of changed weather patterns increasing the likelihood of flood events and increased development within the existing urban area which may also increase surface water discharge in flood events.

It is unclear in the present Habitat Regulation Assessment whether the present sewage system and capacity would need to rely on the Hope's Nose CSO more often as a result of the development and what measures, if any, need to be put in place to mitigate against this happening. We therefore look forward to hearing from you in this regard.

I am meeting with Mike again today in respect of the work he is doing regarding development which may effect the South Hams SAC. This has been proving difficult in the absnce of real evidence to set out the mitigation required for particular areas.

Regards
Laura

Mrs Laura Horner
Lead Advisor Forward Planning Network

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We are here to secure a healthy natural environment for people to enjoy, where wildlife is protected and England's traditional landscapes are safeguarded for future generations.

In an effort to reduce Natural England's carbon footprint, I will, wherever possible, avoid travelling to meetings and attend via audio, video or web conferencing.

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From: Shimin, Ashwag [<mailto:Ashwag.Shimin@torbay.gov.uk>]

Sent: 22 May 2014 15:13

To: Shimin, Ashwag; Horner, Laura (NE)

Cc: Turner, Steve

Subject: RE: Torbay Local Plan - Publication of the Proposed Submission Plan (Mon 24 Feb - Mon 7 April)

Please read the Council's email disclaimer notification which is located at the end of the email message.

Dear Laura,

Due to the short time we have to put together the recommended changes to the Local Plan, SA and HRA. Can you please look at the attached list actions and confirm they would address the issues raised by Natural England?

Look forward to hearing from you soon

*Ashwag Shimin
Strategic Appraisal Officer
Strategic Planning Team
Spatial Planning
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From: Shimin, Ashwag
Sent: 07 May 2014 17:44
To: 'Laura.Horner@naturalengland.org.uk'
Cc: Turner, Steve
Subject: RE: Torbay Local Plan - Publication of the Proposed Submission Plan (Mon 24 Feb - Mon 7 April)

Dear Laura,

Further to my email on Friday last week, I attached a list of actions that reflect our understanding to the outcome of the 1st May 2014 meeting.

Can you please confirm that the suggested actions are satisfactory and will address all the issues raised by Natural England?

Kind regards

*Ashwag Shimin
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Strategic Planning Team
Spatial Planning
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From: Shimin, Ashwag
Sent: 02 May 2014 09:56
To: 'Laura.Horner@naturalengland.org.uk'
Cc: Turner, Steve
Subject: RE: Torbay Local Plan - Publication of the Proposed Submission Plan (Mon 24 Feb - Mon 7 April)

Dear Laura,

I would like to thank you and Tom for coming see us yesterday, it has been a useful meeting. We will digest the outcome of the meeting and put together a list actions to agree on.

Can you please apologies to Sarah Fraser on our behave for cutting her off halfway through. I trust she will get a feedback from yourself and Tom.

Kind regards

*Ashwag Shimin
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Strategic Planning Team
Spatial Planning
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Combined Sewer Overflow at Hope's Nose

Introduction

This paper provides background information in relation to the history of the sewage capacity in Torbay, explains the current situation including South West Water's future plans for the sewage capacity in Torbay and outlines the measures that will be introduced by the Council to prevent coastal waters contamination.

The paper is prepared to address point 10 of the list of actions Torbay Council has compiled as a response to Natural England's objection to the Proposed Submission Torbay Local Plan (February 2014) and following the Natural England and Torbay Council meeting on 1st May 2014. In particular, it provides clarification requested by Natural England on 16th June 2014 in relation to the impact of new development on Hope's Nose Combined Sewer Overflow (CSO).

Background

Around Torbay there are 19 Combined Sewer and Emergency overflows that discharge to coastal waters during heavy rainfall. All of these overflows are the responsibility of South West Water (SWW) and are consented by the Environment Agency.

In the past the main effects on coastal waters were the continuous untreated outfall at Hope's Nose and the combined sewer overflow at Ilsham Road, in Torquay. The Hope's Nose discharge was removed as part of South West Water's sewage treatment scheme for Torbay which was commissioned in May 2002. The scheme consisted of extensive re sewerage and improvements to unsatisfactory CSOs and pumping stations. The area is served by combined sewers, which drain by gravity to Ilsham Valley pumping station from where flows are pumped to Brokenbury (Churston, near Brixham) for treatment. Flows from the untreated outfall at Hope's Nose were transferred to Brokenbury by June 2003, and this outfall was retained as a CSO.

The sewage treatment works at Brokenbury is the one main facility in the Bay. The sewerage leading to this facility is now close to its design capacity. This takes account of the local population and peak flows adding in tourism. However, much of this flow is due to surface water connections into the combined sewer system that serves the majority of Torbay. Therefore, the

Council has already sought to remove surface water from entering the combined sewer system and redirect the surface water flows to Sustainable Drainage Systems (SUDs). In this way it will free up space in the network for foul drainage discharge and provide capacity at Brokenbury.

The Edginswell area of Torquay is the only part of the Bay which does not drain to Brokenbury. Instead, this area feeds Buckland Sewage Treatment Works (STW), which is located on the south bank of the Teign close to Newton Abbot. Buckland STW may need upgrading during the latter part of the Plan period, though the timing of these consented works will be determined by the rate of development across both the Edginswell and the Teignbridge area (specifically Newton Abbot, Kingsteignton, Teignmouth, Kingskerswell and Ogwell).

Sewage Capacity and Development in Torbay

Sewer flooding arises when the capacity of a sewer system is exceeded either as a result of a rainfall event which generates more flows than can be accommodated within the sewer system or there is a blockage within the sewer system which prevents the sewage effluent from flowing. Both situations can result in the sewer system overflowing or surcharging. Modern sewer systems are normally designed to cater for rainfall events with a 1 in 30 year return period. However, older systems were often constructed without consideration of a design standard and therefore some areas may be served by sewers with an effective design standard of less than 1 in 30 years. As a result rainfall events with a return period greater than 1 in 30 years would be expected to result on flooding to some parts of the sewer system.

New housing can increase the risk of diffuse pollution getting into surface water sewers. The pollution can come from a range of sources, such as waste water from houses or industry that should go to the foul drain, or oil and sediment collected on hard surfaces that are washed into these drains during rain. Sustainable Drainage Systems should be used wherever possible to mitigate the impact of this type of diffuse pollution. Surface Water Management Plans (SWMP) should focus on managing flood risk, making efficient use of SUDs and safeguarding existing features of the water environment.

In 1991, the European Urban Waste Water Treatment Directive (91/271/ EEC) was introduced to ensure that sewage was properly treated before discharge. The directive has been applied to all communities of more than 2,000 people in the UK and, as a result, 95% of the sewage passed to treatment plants is now treated to secondary standard or better. Combined sewer

overflows are restricted in use, by the Urban Waste Water Treatment Directive, to periods of unusually heavy rain.

The Directive requires Member States to carry out surveys of their waters to determine where they are adversely impacted by secondary treated discharges and potentially in need of tertiary treatment protection for the purposes of the Directive and/or other water quality directives.

Waters are to be designated as sensitive areas where they are:

- a) Eutrophic or could become so in the near future without tertiary protection;
- b) Abstraction sources that have or could have high nitrate levels without tertiary protection;
- c) Other directives' water in need of or already receiving tertiary protection.

For new development, SWW can recover contributions from developers for a range of works, as set out in the Water Industry Act 1991. In some cases companies have allocated asset improvements attributable to new development, which is recoverable from developers. Developers bear the costs of utilities as part of construction costs rather than alongside other community infrastructure secured through s106 agreements.

South West Water is planning for future population growth and at this strategic stage it is considered that suitable infrastructure will be provided. SWW do not anticipate any major barriers in terms of funding to providing the necessary infrastructure/supply for water or sewerage to at least 2021 based on their current Asset Management Plan (AMP). While they do not consider that post 2021 capacity will pose an absolute barrier to growth, SWW do identify the possibility of a need to upgrade infrastructure (particularly in the west of Paignton). This may need to be identified as a charge on future developers and/or future public funding in the next Asset Management Plan.

To assess these post 2021 impacts the Council has appointed AECOM to carry out hydraulic modelling of sewer capacity in Torbay. This report will be available in summer 2014 and will advise on likely capacity, constraints and practical solutions to sewerage issues in Torbay. The consultants' brief is to have regard to the Water framework directive's requirement that there should be no deterioration to water basins including bathing water quality.

A particular problem is managing the disposal of waste from buildings which impacts on the local water quality. Torbay Council is currently involved in a series of tests to identify domestic and commercial properties which are incorrectly connected to the surface water system rather than the sewerage system. It is anticipated that in time all foul discharge will be properly directed to the STW whilst surface water is dealt with through SUDs.

South West Water is currently constructing a 2,000 cubic meter underground storm storage tank in the south-east corner of Abbey Park, on Torquay Seafront, to provide extra capacity in the sewerage system and reduce discharges from the network in extremely wet weather. The work is part of a £5million investment designed to improve bathing water quality in Torbay ahead of the European Union's revised Bathing Water Directive which comes into effect in 2015. These might include increasing storm water storage capacity in the sewerage network and improving combined sewer capacity at key locations including Cockington Lane, Abbey Park, Cary Parade, Old Mill Road, Roundham Road and Beacon Hill in Torquay and Littlegate Road in Paignton.

In future, where development is being considered at an early stage as part of a wider plan, the Community Infrastructure Levy may be an appropriate funding tool to pay for wider flood risk infrastructure, strategic surface water management opportunities, such as water storage or large-scale sustainable drainage systems needs. This would only be appropriate where it would fund infrastructure needs across a wider area and benefit more than one development. However, localised flood issues and urban areas already affected by flood risk zones could potentially require mitigation. The number of these dwellings cannot be identified at a strategic level.

Torbay Local Plan Context

There are a number of measures contained within the Local Plan Policies and Evidence Base that would reduce the impact of development proposed by the Local Plan on coastal waters. The Strategic Flood Risk Assessment Level 2 (SFRA2) recommends considering the potential benefits that an appropriately designed sustainable drainage system could have on the biodiversity, amenity value, water quality and resource value of development and/or surrounding area. It also recommends considering the vulnerability and importance of ecological resources when determining the suitability of drainage strategies / sustainable drainage systems.

Policy W5 states that development proposed by the Local Plan may be required to provide financial contribution towards the enhancement of the waste water treatment works (WWTW) at Brokenbury. Policy ER2 states that the Council will require development proposals to provide appropriate sewerage systems and support measures to reduce the amount of storm water and grey water going into the shared sewer. The Council will also consider the use of natural sewage treatment methods and sustainable urban drainage measure as promoted in the Torbay Green Infrastructure Delivery Plan, which has informed Local Plan Policies.

In response to Natural England's and the Environment Agency's comments on the Local Plan, the Council intend to recommend a number of editorial modifications to the Planning Inspector on Policy W5 and the Explanation to Policy ER2. These strengthen advice on safeguarding bathing water quality, maintaining the integrity of the candidate special Area of Conservation (cSAC) and Natural England's role as an advisory body on such matters.

References

1. Bathing Water Briefing Note 72/2010.
2. Bathing Water Profile – Environment Agency (2011).
3. South West Water <http://www.southwestwater.co.uk/index.cfm?articleid=11411>
accessed on 30/06/2014
4. Torbay Council Infrastructure Delivery Study (Volume 1) (2012).
5. Torbay Green Infrastructure Delivery Plan (2011).
6. Torbay Strategic Flood Risk Assessment Level 2 (2010).
7. Torbay Water Cycle Study (2011).
8. Waste water treatment in the United Kingdom (2012) - Waste Water Treatment Directive 91/271/EEC.

Turner, Steve

From: Shimin, Ashwag
Sent: 14 July 2014 09:38
To: 'Laura.Horner@naturalengland.org.uk'
Cc: Turner, Steve; Huggins, Alexis
Subject: RE: Torbay Local Plan - Publication of the Proposed Submission Plan (Mon 24 Feb - Mon 7 April)
Attachments: Recreational impacts on Berry Head - Footprint Ecology report 110714.pdf

Dear Laura,

Please find attached the Recreational Impact on Berry Head Report. The Report was prepared to address point 8 of the list of actions Torbay Council has compiled as a response to Natural England's objection to the Proposed Submission Torbay Local Plan (February 2014) and following the Natural England and Torbay Council meeting on 1st May 2014.

The findings of the report have resulted in a number of amendments to the to the HRA and the Local Plan. The list of amendments made to the Local Plan, SA and HRA will be sent to you shortly.

Please do not hesitate to contact me if you have any comments on the report.
Kind regards

*Ashwag Shimin
Strategic Appraisal Officer
Strategic Planning Team
Spatial Planning
Environment
Torbay Council*

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Turner, Steve

From: Horner, Laura (NE) [Laura.Horner@naturalengland.org.uk]
Sent: 21 July 2014 11:13
To: Shimin, Ashwag
Cc: Turner, Steve
Subject: RE: Torbay Local Plan - Publication of the Proposed Submission Plan (Mon 24 Feb - Mon 7 April)
Attachments: NE CIL Position to TBH LPAs 311012.pdf

Dear Ashwag

Thank you for these documents and the telephone call from Steve late last week. I have also received a "first Draft" report from Mike Oxford regarding the Greater Horseshoe Bats and a report from you in relation to the impact of new development on Hope's Nose Combined Sewer Overflow.

I note that in all cases the findings of the reports have resulted in a number of amendments to the to the HRA and the Local Plan and that the list of amendments made to the Local Plan, SA and HRA would be sent shortly.

Whilst I appreciate that the LPA are going to submit on 31 July, Natural England will need sufficient time to consider the amendments and advise you on whether our previous consideration of the Plan has altered.

I therefore look forward to receiving these amendments from you.

In regard to the recreational impacts highlighted in the report regarding Berry Head, I enclose a letter which whilst is in regard to the Thames Basin Heaths, sets out the NE position regarding mitigation for these sites and the expectation on how these will be addressed through Plan policy which you may find helpful.

Regards
Laura

Mrs Laura Horner
Lead Advisor Forward Planning Network

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From: Shimin, Ashwag [mailto:Ashwag.Shimin@torbay.gov.uk]
Sent: 14 July 2014 09:38
To: Horner, Laura (NE)
Cc: Turner, Steve; Huggins, Alexis
Subject: RE: Torbay Local Plan - Publication of the Proposed Submission Plan (Mon 24 Feb - Mon 7 April)

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Dear Laura,

Please find attached the Recreational Impact on Berry Head Report. The Report was prepared to address point 8 of the list of actions Torbay Council has compiled as a response to Natural England's objection to the Proposed Submission Torbay Local Plan (February 2014) and following the Natural England and Torbay Council meeting on 1st May 2014.

The findings of the report have resulted in a number of amendments to the to the HRA and the Local Plan. The list of amendments made to the Local Plan, SA and HRA will be sent to you shortly.

Please do not hesitate to contact me if you have any comments on the report.
Kind regards

*Ashwag Shimin
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Strategic Planning Team
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Turner, Steve

From: Turner, Steve
Sent: 22 July 2014 11:19
To: 'Horner, Laura (NE)'
Cc: Shimin, Ashwag; Steward, Pat
Subject: Submission of Torbay Local Plan - resolution of NE representations
Attachments: Modification in response to NE objection2.docx; response to NatEng22July14.docx

Importance: High

Dear Laura,

Thank you for the helpful update during our telephone conversation last week on the various issues relating to the resolution of NE's objections to the Proposed Submission Torbay Local Plan and HRA.

Further to your email of 21 July, I now attach a schedule of suggested Torbay Council changes to the HRA that embraces and reflects all available new information received. This work is almost complete but as we are still awaiting the final version of Mike Oxford's study, we have yet to see one outstanding section of Mike's report relating to Wall Park in Brixham. We are acutely aware of the timescales associated with Submission on 31 July and the Site Appraisal Report of Torbay Local Plan Strategic Delivery Areas will be sent to you as soon as possible. In the meantime, it is helpful that you have had sight of a draft of his work, so I hope that by the time you receive it you will already be familiar with his findings and recommendations.

In addition, I have attached a document containing the related suggested amendments to relevant Local Plan supporting text, explanatory text and upper case policies. These changes reflect the advice and results of recent research that has been undertaken, which I hope will meet your approval, subject to any remaining changes arising from the final version of Mike's study. Torbay believes very strongly that its locally and internationally important assets need appropriate protection and believe that the suggestions put forward provide a reasonable and considered interpretation of the recently obtained additional advice.

We are now finalising our work on the compilation of a comprehensive schedule of suggested changes to Local Plan policies and supporting text, including those affecting your areas of interest set out in the attached document. These will be submitted alongside the published Proposed Submission Plan and the Council will be inviting the Inspector to consider these suggestions during the course of the Examination. This schedule, which comprises a series of amendments that are being put forward to overcome objections received, will hopefully be of help to the Inspector during the Examination.

As I know you appreciate, not least from our discussions when we first met on 1 May 2014, the Council has committed to Submit the Plan to PINS on 31 July, and there was mutual agreement to try to overcome a number of specific objections prior to Submission on that date. We are therefore extremely concerned to ensure that we have resolved any outstanding objections to your satisfaction by that date, and in particular your concerns about the HRA.

We have as you know gone to considerable lengths to provide you with the reassurance you have requested, as set out in the list of agreed actions that we sent to you, by preparing or commissioning additional evidence to try to meet your requirements. I hope that you will be able to devote the necessary resources to work through the additional information provided and I wish to assure you that we will continue to do as much as we can to help you progress your work.

Please get in touch with me if you need any further information, or have any queries. Ashwag will obviously be pleased to help in relation to detailed HRA matters. In the meantime, in the run up to submission, I would be grateful if you could keep me informed of progress on your assessment of the changes we are suggesting to the Plan and HRA.

Kind regards,

Steve.

Steve Turner
Team Leader - Strategic Planning

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Torbay Local Plan - Proposed Submission Plan Modification in Response to Natural England Objection (February 2014)

Habitats Regulations Assessment

Page No.	Section	Paragraph / Policy	Editorial modification suggested to address objection	Reason for modification
21	7	7.1.3	Add to the end of the paragraph: <i>"The HRA has been informed by additional evidence¹ in relation to the potential recreational impact on the Berry Head component of South Hams SAC arising from the new growth."</i>	Editorial clarification
21	7	7.1.5	Delete <i>"this guidance will eventually be replaced by"</i> and add instead <i>"this guidance will be supplemented with"</i> .	Editorial clarification
22	7	7.1.8	Delete "does not" in the first line and add a reference to the HRA Site Appraisal Report of Torbay Local Plan Strategic Delivery Areas (Proposed Submission Plan) 2014. Replace <i>"Devon County Council"</i> with <i>"Torbay Council"</i> in the second bullet point.	Editorial clarification
22	7	New paragraph 7.1.10	The summary of the HRA Site Appraisal of the Strategic Delivery Areas.	Additional information to reflect the outcome of the HRA Site Appraisal Report
22	7	7.2.4 & 7.2.5	Add new text following the NE marine advice: <i>"There are a number of measures contained within the Local Plan Policies and Evidence Base that would reduce the impact of development proposed by the Local Plan on coastal waters. The Strategic Flood Risk Assessment</i>	Additional information in response to NE request with

¹ Recreational Impacts on Berry Head: Additional HRA Work for the Torbay Local Plan Footprint Ecology (2014)

Page No.	Section	Paragraph / Policy	Editorial modification suggested to address objection	Reason for modification
			<p><i>Level 2 (SFRA2) recommends considering the potential benefits that an appropriately designed sustainable drainage system could have on the biodiversity, amenity value, water quality and resource value of development and/or surrounding area. It also recommends considering the vulnerability and importance of ecological resources when determining the suitability of drainage strategies / sustainable drainage systems."</i></p> <p><i>"Policy W5 states that development proposed by the Local Plan may be required to provide financial contribution towards the enhancement of the waste water treatment works (WWTW). Policy ER2 states that the Council will require development proposals to provide appropriate sewerage systems and support measures to reduce the amount of storm water and grey water going into the shared sewer. The Council will also consider the use of natural sewage treatment methods and sustainable urban drainage measure as promoted in the Torbay Green Infrastructure Delivery Plan, which have informed Local Plan Policies."</i></p>	regard to Hope's Nose CSO.
25	8	8.1.1	Delete "i.e. by providing Suitable Alternative Natural Greenspace" from the first bullet point.	Editorial clarification
26	8	8.2.5	Delete PolicyTO3 from the list.	Editorial clarification in response to NE objection.
26	8	8.2.7	Add the following Policies to the list: SDT3, SDP3, SDP4, SDB1 and SDB3.	Editorial clarification in response to NE objection.
27	8	New paragraph	<p>Add a new paragraph that reflect the findings of the Recreational Impact on Berry Head Report:</p> <p><i>"The Recreational Impacts on Berry Head - additional HRA work for the Torbay Local Plan by Footprint Ecology (2014), has confirmed that the level of growth proposed by the Local Plan would increase the recreational pressure on Berry Head component of South Hams SAC. The evidence has</i></p>	Additional information to reflect the outcome of the Recreational Impact on Berry

Page No.	Section	Paragraph / Policy	Editorial modification suggested to address objection	Reason for modification
			<p><i>also recommended a number of mitigation measures. These measures need to be implemented to ensure the integrity of the SAC is not compromised as a result of increases in recreational pressure.</i></p> <ul style="list-style-type: none"> <i>(i) the development of a detailed management plan addressing habitat management and visitor use;</i> <i>(ii) habitat management required to increase the resilience of the site over and above that already required to maintain the interest features of the site;</i> <i>(iii) increased visitor engagement work;</i> <i>(iv) management work at Sharkham Point to provide an alternative location for dog-walkers if visitor work suggests this may be effective."</i> 	Head Report
28	9	9.0.4	<p>Replace the paragraph with the following text:</p> <p><i>"Further work will be undertaken by the Council, and associated stakeholders, to further develop and provide estimated costs for the proposed mitigation measures identified by The additional HRA work on Recreational Impacts on Berry Head, to mitigate increased recreational pressure on the South Hams SAC. The Council will develop a strategy for securing developer contributions (through either Community Infrastructure Levy or Section 106 obligations) to fund the specific measures identified as being necessary to mitigate increased recreational pressure on the SAC."</i></p>	Additional information to reflect the outcome of the Recreational Impact on Berry Head Report
30	10	References	<p>Include the following in the list of references:</p> <p>Footprint Ecology (2014) - The Recreational Impacts on Berry Head - Additional HRA Work for the Torbay Local Plan by Footprint Ecology (2014);</p> <p>M. Oxford/ Kestrel Wildlife Consultants Ltd. (2014) HRA Site Appraisal of</p>	Editorial clarification

Page No.	Section	Paragraph / Policy	Editorial modification suggested to address objection	Reason for modification
			the Strategic Delivery Areas.	
xxxix	Appendix 5	Policy SS2	Add the following sentence to column 4: <i>"The level of growth suggested by the Local Plan could cause an unacceptable recreational pressure on the calcareous grassland and European dry heath at berry Head component of South Hams SAC."</i>	Additional information to reflect the outcome of the HRA Site Appraisal Report
xl	Appendix 5	Policy SS11	Add the following sentence to column 4: <i>"The level of growth suggested by Local Plan could cause an unacceptable recreational pressure on the calcareous grassland and European dry heath at berry Head component of South Hams SAC."</i>	Editorial clarification
xlii	Appendix 6	SDT3	Add Edginswell mitigation objectives to column 5 as follows: <ul style="list-style-type: none"> 1. Any detailed proposals for development in the area should first be informed by appropriate bat surveys undertaken during a suitable time of year. 2. If the site is developed, consideration should be given to seeking a biodiversity offset for loss of grassland (foraging) habitat and internal hedgerows. 3. The provision of a western buffer would be consistent with the four principles set out in the proposed modified Local Plan NC1 Policy. 	Additional information to reflect the outcome of the HRA Site Appraisal Report
xliii	Appendix 6	Policy SDP3	Add mitigation objectives to column 5 as follows: <i>"Greater horseshoe bat Mitigation objectives for Great Parks, Totnes Road FGA, Yalberton Industrial Estate and Claylands and Brixham Road GFA should be implemented as recommended by the HRA Site Appraisal Report of Torbay Local Plan Strategic Delivery Areas (Proposed Submission Plan) 2014"</i>	Additional information to reflect the outcome of the HRA Site Appraisal Report
xliii	Appendix 6	Policy SDP4	Add Clennon Valley mitigation objectives to column 5 as follows:	Additional information to

Page No.	Section	Paragraph / Policy	Editorial modification suggested to address objection	Reason for modification
			<ol style="list-style-type: none"> 1. <i>Leisure related development within the valley and tourism related development along its margins should provide appropriate mitigation measures based upon all of the principles set out in modified NC1 Policy.</i> 2. <i>Provision of landscape buffers between development and areas of semi-natural vegetation in the valley; control of light spill; mitigation for the loss of potential foraging and commuting habitat to ensure retention of connectivity along the valley; retention, where appropriate, of features through development that are likely to be used by GHBs; and developer contributions towards the provision of bespoke purpose-built roosts in appropriate locations along the valley.</i> 	reflect the outcome of the HRA Site Appraisal Report
xlili	Appendix 6	Policy SDB1	<p>Replace category A5 with C4 in column 2.</p> <p>Replace "N/A" in column 3 with "South Hams SAC."</p> <p>Replace the text in column 4 with the following text: <i>"The strategic area lies within the sustenance zone for GHBs and, without appropriate design and mitigation, is likely to have a significant effect on the integrity of the South Hams SAC both alone and in combination with other projects."</i></p> <p><i>"The level of growth suggested by Local Plan could cause an unacceptable recreational pressure on the calcareous grassland and European dry heath at berry Head component of South Hams SAC."</i></p> <p><i>The level of growth suggested in this area could potentially have negative impacts on water quality from contaminated run-off."</i></p> <p>Delete "N/A" in column 5 and add the following text: <i>"Greater horseshoe bat mitigation objectives for Fishcombe Cove and Wall Park Future Growth Area should be implemented as recommended by the HRA Site Appraisal Report of Torbay Local Plan Strategic Delivery Areas</i></p>	Policy re-assessment in response to Natural England objection

Page No.	Section	Paragraph / Policy	Editorial modification suggested to address objection	Reason for modification
			<i>(Proposed Submission Plan) 2014"</i>	
xliv	Appendix 6	Policy SDB3	Add Wall Park mitigation objectives to column 5 as follows: Wall Park mitigation objectives	Additional information to reflect the outcome of the HRA Site Appraisal Report
xliv	Appendix 7	Policy TO3	Replace category C2 with B in column 2. Replace the text in column 4 with the following: <i>"The proposed improvements and/or extension of the three harbours are not likely to have significant negative impact on the site."</i> Remove the Policy restriction in column 5: <i>"Any proposal that may lead to likely significant effects on sites protected under European legislation will only be permitted where no adverse effect on the integrity of the site can be shown"</i> . And Replace "YES" with "N/A"	Revision in response to Natural England marine advice
xlvi	Appendix 7	Policy C1	Add the following sentence to column 4: <i>"The level of growth suggested by the Local Plan could cause an unacceptable recreational pressure on the calcareous grassland and European dry heath at Berry Head component of South Hams SAC."</i>	Editorial clarification
xlvi	Appendix 7	Policy NC1	Add the following sentence to column 4: <i>"The level of growth suggested by the Local Plan could cause an unacceptable recreational pressure on the calcareous grassland and European dry heath at Berry Head component of South Hams SAC."</i> Add the following to column 5: <i>"Development around the edge of the built up area of Torbay will be</i>	Additional information to reflect the outcome of the HRA Site Appraisal Report

Page No.	Section	Paragraph / Policy	Editorial modification suggested to address objection	Reason for modification
			<p><i>required to provide:</i></p> <ol style="list-style-type: none"> 1. A belt of 'linear features' and 'stepping stones' necessary to maintain the Torbay population of greater horseshoe bats in 'favourable conservation status'. 2. To do this, development likely to have a significant effect on the integrity of the South Hams SAC will be required to provide biodiversity conservation measures that contribute to the overall enhancement of this 'favourable buffer' for GHBs in Torbay (see Figure 6.X). Such measures should be based on the following principles: <ul style="list-style-type: none"> • The maintenance of GHB dark and unlit habitat connectivity across the landscape; • The provision of adequate foraging habitat; • The provision, where appropriate, of adequate permeability through built development following existing and new flight paths; • The provision of new bespoke roosts where they will provide 'stepping stones' across the landscape." 	

Sustainability Appraisal

Page No.	Section/ Appendix	Paragraph	Policy	Editorial modification suggested to address objection
40	6	6.6.4	SS6	Add the following sentences: <i>"Transport proposals have been fully assessed in the LTP3 SEA and HRA². The ferry service also has been subject to a detailed environmental assessment hence mitigation measures have been identified and implemented³."</i>
57	8	8.2.8	TO3	Replace the existing text with the following paragraph: <i>"The proposed development is located within Torbay Harbours and outside the Marine cSAC (with exception of part of Torquay Harbour extension and small part of Paignton Harbour improvements). They are also within the newly designated Marine Conservation Zone. There are areas of seagrass adjacent to Torquay and Brixham Harbour; Seahorses (protected under the Wildlife and Countryside Act) have been observed in the three harbours; Cetaceans (whales, porpoises and dolphins) are European protected species; could be affected by noise emitted during piling. Other protected mammals such as seals known to present."</i>
57	8	8.2.9	TO3	Replace the existing text with the following: <i>"Development within Torbay Harbours should not adversely affect existing habitats and species. The MMO, NE and EA should be consulted on any work in the harbours."</i>
77	9	Table 9.1	TO3	Change the score for objective 5.1 to minor negative "-"
42	Appendix 2	See the Table below	N/A	Add the Marine and Coastal Access Act 2009 to the list of policies (see Page 11 below).
206	Appendix 8	Sub-objective 5.1	TO3	Change the score for objective 5.1 to minor negative "-"
206	Appendix 8	Sub-objective 5.1	TO3	Replace the text in column 4 with the following text: <i>"The proposed development is located within Torbay Harbours and mostly outside the Marine cSAC (with exception of part of Torquay Harbour extension and small part of</i>

² The LTP3 SEA and HRA are available at <http://www.torbay.gov.uk/transportpolicy/transportplan>

³ The Torbay Frequent Ferry Service Environmental Constraints Report

Page No.	Section/ Appendix	Paragraph	Policy	Editorial modification suggested to address objection
				<i>Paignton Harbour improvements). They are also within the newly designated Marine Conservation Zone. There are areas of seagrass adjacent to Torquay and Brixham Harbour; Seahorses (protected under the Wildlife and Countryside Act) have been observed in the three harbours; Cetaceans (whales, porpoises and dolphins) are European protected species; could be affected by noise emitted during piling. Other protected mammals such as seals known to present."</i>
206	Appendix 8	Sub-objective 5.1	TO3	Replace the existing text in column 5 with the following: <i>"Development within Torbay Harbours should not adversely affect existing habitats and species. The MMO, NE and EA should be consulted on any works in the harbours."</i>

Sustainability Appraisal Appendices

Appendix 2 - page 42: Add new text relating to the Marine and Coastal Access Act 2009

Marine and Coastal Access Act 2009		
Overall aim / purpose of the document	Objective / target	Implications for Local Plan and SA
<p>The Act introduces a new system of marine management. This includes a new marine planning system, which makes provision for a statement of the Government's general policies, and the general policies of each of the devolved administrations, for the marine environment, and also for marine plans which will set out in more detail what is to happen in the different parts of the areas to which they relate. The Act includes provision changing the system for licensing the carrying on of activities in the marine environment. It also provides for the designation of conservation zones. It changes the way marine fisheries are managed at a national and a local level and modifies the way licensing, conservation and fisheries rules are enforced. It allows for designation of an Exclusive Economic Zone for the UK, and for the creation of a Welsh Zone in the sea adjacent to Wales. The Act also amends the system for managing migratory and freshwater fish, and enables recreational</p>	<ol style="list-style-type: none"> 1. Establish a new Marine Management Organisation to produce marine plans, administer marine environmental licensing, manage marine fisheries and enforce environmental protection laws. The Marine Management Organisation will be an independent non-Departmental Public Body, and will deliver marine functions for the UK Government as a whole. 2. Introduce a new system of marine planning which will include setting out long-term objectives for the marine area around the UK in a Marine Policy Statement and more detailed marine plans setting spatial policy at a more local level. 3. Introduce a streamlined, transparent and consistent system for licensing marine developments providing, as far as possible, a one-stop shop for each project. The new system will replace existing controls under Part II of the Coast Protection Act 1949 and Part II of the Food and Environment Protection Act 1985. 4. Introduce a flexible new mechanism for the designation of Marine Conservation Zones which together with European Marine Sites will form a representative network of Marine Protected Areas. This will help fulfill the UK's European and International commitments for the establishment of coherent and representative network of Marine Protected Areas. 5. Strengthen the management of marine fisheries, including by replacing Sea Fisheries Committees with new bodies called Inshore Fisheries and Conservation Authorities and enhancing legislation underpinning sea fisheries conservation and shellfish management. 6. Reform and modernise powers for the licensing and management of migratory and freshwater fisheries. 7. Streamline and modernise enforcement powers including the 	<p>The Local Plan and the SA should take into account the aims and objectives of the Act.</p>

<p>access to the English and Welsh coast.</p>	<p>introduction of a common set of powers so that officers enforcing fisheries, nature conservation and licensing legislation will have access to a core set of enforcement powers.</p> <p>8. Introduce new powers to extend recreational access to the English coast and enable the creation of a continuous access route around the English coast.</p>	
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	Representation	Response and Modifications to Local Plan (As of 17/07/14) in Response to Natural England and Habitats Regulations Appraisal Site Appraisal Report 2014 (Kestrel Wildlife).
Natural England 400188	<p>Object to SS1, SS2, SDT1, SDT2, SDT3, SDP1-4, SDB1-3, SS2, Ss11, TO1, TO3, C1, NC1, SS8, SS6, W5, SA, HRA</p> <p>Object that Plan does not meet HRA requirements. Plan is too dependent on "down the line" assessments. Need to clarify what constraints considered by SHLAA and HRA.</p> <p>Waste water polices should safeguard bathing water quality. Marine economy policies should consider effect on marine conservation and cSAC/ Conservation</p>	<p>Discussions and additional habitats assessment work is going on to seek to resolve NE's objections. A Paper setting out the Local Plan's growth rationale and site selection process (based on the SHLAA etc) has been prepared.</p> <p>The Council commissioned Kestrel Wildlife to carry out an HRA Site Appraisal of the Torbay Local Plan Strategic Delivery Areas (Kestrel Wildlife 2014). A number of changes are recommended in response to this report.</p> <p>Policy SS1 After premier resort in paragraph 2, add: All development should safeguard the area's natural and built environment and in particular the safeguarding and mitigation of greater horseshoe bats and other protected species and their habitats.</p> <p>Delete existing 4.1.20 and replace with: Torbay has significant environmental constraints, including being within the flight paths and foraging zone of the South Hams Special Area of Conservation. The Habitats Regulations Site Appraisal Report of the Torbay Local Plan (Kestrel Wildlife 2014) identifies a number of mitigations measures for safeguarding the integrity of the SAC. The greater horseshoe bat mitigation strategy should be implemented within development areas. Further details are set out in Policy NC1 and the Strategic Delivery ("SD") policies of this Plan. This includes maintenance of darkened corridors to maintain flight paths, and the use of developer contributions to manage increased recreational pressures.</p> <p>Existing Commitments, second sentence "Most of this growth..."</p> <p>Amendments to SS1, SS2, SS8, NC1, C1 to reflect guidance on GHBs. Also minor amendments to SD policies</p> <p>Policy SS2: Amend third Paragraph: A bespoke Greater Horseshoe Bat (GHB) mitigation plan for all development within the Future Growth Areas must be submitted and approved before planning permission will be granted. The plan must demonstrate how the site will be developed in order to sustain an adequate area of non-developed land as a functional part of the local foraging area and flyway used by commuting GHBs associated with the South Hams SAC. The mitigation plan must demonstrate that development will have no adverse effect on the SAC alone or in combination with other plans or projects developments. Development should have regard to Policy NC1 concerning and the need-scope for developer contributions to mitigate the impact of increased recreational pressure on the South Hams SAC</p> <p>Fourth Paragraph, add point: (viii) Integrated Green Infrastructure rich in biodiversity to be enjoyed by local people</p> <p>Add to last paragraph: development plan document and has first been subject to Habitat Regulations Assessment that has concluded there will be no likely significant effect on the South Hams SAC. Such....</p>

<p>Zone. See More detailed summary/response on HRA/SA comments.</p>	<p>After paragraph 4.1.32 add: Greater horseshoe bat Mitigation strategy for the four Future Growth Areas should be implemented as recommended by the HRA Site Appraisal Report of Torbay Local Plan Strategic Delivery Areas (Proposed Submission Plan) 2014</p> <p>Policy SS8: Revise policy as follows -</p> <p>The Council will seek to safeguard, conserve and enhance the valued qualities, features and attributes of sites protected under European legislation and other important natural landscape, including tranquillity, dark night skies, bathing waters, biodiversity and geodiversity commensurate with their importance. It will ensure that:</p> <p>1 (new point) Sites, species and habitats protected under European, or equivalent, legislation will be protected from development. Development, around the edge of the built up area will be required to protect and manage wildlife and habitats, including corridors between them, in accordance with Policy NC1. Particular attention must be paid to greater horseshoe bat flight paths, and cirl buntings.</p> <p>2 (former 1) Delete "natural" before landscape in Line 2</p> <p>3 (former 2) add to end of point: or nearby AONB or other valued landscapes such as country parks.</p> <p>4 (former 3) amend: ...dark corridors and amenity open spaces,, developer contributions and mitigation measures will may be required to improve management or enhancement of the natural environment with a goal of achieving a net gain in biodiversity</p> <p>4.4.7 Add cross reference to Policy NC1</p> <p>4.3.23 (SS6): add ,such works should have regard to the requirements of the Habitats Regulations and be acceptable in terms of the Candidate SAC and Marine Conservation Zone.</p> <p>SS11, TO1, C1 Add "increased" before recreational pressure: Development should have regard to Policy NC1 concerning the need for developer contributions to mitigate the impact of increased recreational pressure on the South Hams SAC</p> <p>SDT1: at end of third paragraph add priority species such as bats and cirl buntings and their habitats will be safeguarded.</p> <p>SDT3: Paragraph 3 Amend: Any proposals that may lead to significant effects on sites protected under European</p>
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Legislation, **including bats and ciril buntings** will only be permitted where no adverse effects on the integrity of the site can be shown.

Add text after paragraph 3:

Any detailed proposals for development in the area should first be informed by appropriate bat surveys undertaken during a suitable time of year. Any biodiversity impact from development should be offset. Particular attention should be given to for loss of grassland (foraging) habitat and internal hedgerows. A buffer of darkened hedgerow should be provided and maintained, particularly along the western buffer, in accordance with Policy NC1.

SDP1: at end of paragraph 4 add **Priority species such as bats and ciril buntings and their habitats will be safeguarded and any impacts mitigated.**

Add text after 5.2.5: **A greater horseshoe bat mitigation objectives for SDP3 and SDP4 Strategic Delivery Areas should be implemented according to the recommendations of the HRA Site Appraisal Report of Torbay Local Plan Strategic Delivery Areas (Proposed Submission Plan) 2014.**

SDP3: Paragraph 4 After South Hams SAC add **as well as other species such as ciril buntings**

Paragraph 4 add to end of paragraph: **A greater horseshoe bat mitigation objectives for Great Parks, Collaton St Mary Future Growth Area, Yalberton Industrial Estate, Claylands and Brixham Road, should be implemented as recommended by the HRA Site Appraisal Report of Torbay Local Plan Strategic Delivery Areas (Proposed Submission Plan) 2014.**

5.3.2.2 (SDB3: refer to **maintaining flightpaths of GHBs and long term integrity of habitats** (see AONB Partnership's comments above).

Policy SDP4 add at end of paragraph 2: **Development of the area should:**

- 1) Provide and maintain landscape buffers between development and areas of semi-natural vegetation in the valley, in accordance with Policy NC1.**
- 2) Minimise light spill, particularly where this would interfere with greater horseshoe bat habitats or flight paths.**

3) Mitigate for the loss of potential foraging and commuting habitat to ensure retention of connectivity along the valley; retention, where appropriate, of features through development that are likely to be used by greater horseshoe bats. Developer contributions will be sought towards the provision of bespoke purpose-built roosts in appropriate locations along the valley.

SDB1: second paragraph after Greater Horseshoe Bat add **and cirl buntings can be addressed safeguarded.**

Add after "addressed" in penultimate line of Policy SDB1: **A Greater horseshoe bat mitigation objectives for Fishcombe Cove and Wall Park Future Growth Area should be implemented as recommended by the HRA Site Appraisal Report of Torbay Local Plan Strategic Delivery Areas (Proposed Submission Plan) 2014**

SDB3 Add after South Hams SAC in second paragraph: **"... and the recommendations of the HRA Site Appraisal Report of Torbay Local Plan Strategic Delivery Areas (Proposed Submission Plan) 2014 (May be expanded if recommended by Kestrel Wildlife)**

Add a new paragraph after 5.3.2.1:

"The Recreational Impacts on Berry Head - additional HRA work for the Torbay Local Plan by Footprint Ecology (2014), has confirmed that the level of growth proposed by the Local Plan would increase the recreational pressure on Berry Head component of South Hams SAC. The evidence has also recommended a number of mitigation measures. These measures need to be implemented to ensure the integrity of the SAC is not compromised as a result of increases in recreational pressure.

- (i) the development of a detailed management plan addressing habitat management and visitor use;
- (ii) habitat management required to increase the resilience of the site over and above that already required to maintain the interest features of the site;
- (iii) increased visitor engagement work;
- (iv) management work at Sharkham Point to provide an alternative location for dog-walkers if visitor work suggests this may be effective."

Policy C1: amend last paragraph as follows:

Where new development proposals come forward, the Council will also have regard to the need to protect, conserve or enhance the distinctive landscape characteristics and visual quality of a particular location, as identified in the Torbay Landscape Character Area Assessment, the suitability of development and the capacity of the countryside to accommodate change. Development in the countryside should not have adverse effect on the integrity of the South Hams SAC **or other important habitats**. It should also have regard to Policy NC1 **to assess the 'in combination' effects of multiple developments that could affect greater horseshoe bats and the integrity of the South Hams SAC** and the scope for developer contributions to mitigate the impact of recreational pressure on the South Hams SAC.

6.3.1.(C1): add after appropriate in penultimate line: **and reflected in the choice of lighting solutions to minimise the impact of light pollution, particularly on greater horseshoe bats (see policy SS8) and other wildlife**

Policy NC1: amend Policy as follows:
Para 1 and 2 no change.

Para 3 replace with: **Development around the edge of the built up area will be required to provide:**

1. **A belt of 'linear features' and 'stepping stones' necessary to maintain the Torbay population of greater horseshoe bats in 'favourable conservation status'.**
2. **To do this, development likely to have a significant effect on the integrity of the South Hams SAC will be required to provide biodiversity conservation measures that contribute to the overall enhancement of this 'favourable buffer' for GHBs in Torbay (see Figure 6.X). Such measures should be based on the following principles:**
 - **The maintenance of GHB habitat connectivity across the landscape;**
 - **The provision of adequate foraging habitat;**
 - **The provision, where appropriate, of adequate permeability through built development following existing and new flight paths;**
 - **The provision of new bespoke roosts where they will provide 'stepping stones' across the**

landscape.

Developer contributions will be sought **towards assessing in combination' effects of multiple developments that could affect the bats and the integrity of the South Hams SAC, and for mitigation** measures needed to manage increased recreational pressure on the South Hams SAC resulting from increased housing numbers.

Para 3 Amend as follows: Development likely to **cause** harm such sites or species **that cannot be mitigated as above** will therefore only be permitted where there is an overriding public interest considered to outweigh the impact(s) on nature conservation, where a thorough assessment of impacts (both individually and in combination with other developments) has been undertaken, and where consideration has been given to reasonable alternative sites for development.

In the circumstances where **there is an overriding public interest that renders development** acceptable, schemes should minimise damage to nature conservation interests and provide appropriate mitigation, compensation and/or enhancement to achieve a net gain for biodiversity. If significant harm cannot be avoided, planning permission will be refused.

Para 4 No change

Para 5 Development should not result in the loss or deterioration of irreplaceable habitats **or corridors**. Where development in sensitive locations cannot be located elsewhere, the biodiversity and geodiversity of areas will be conserved and enhanced through planning conditions or obligations. Development proposals should minimise fragmentation, and maximise opportunities for the restoration and enhancement of natural habitats, including trees and ancient woodlands. The integrity of wildlife corridors and important features shown in the Torbay Green Infrastructure Delivery Plan should be ~~preserved~~**conserved** and enhanced.

Para 6 All developments should positively incorporate and promote biodiversity features, proportionate to their scale. Where there is an identified residual impact on biodiversity, proposals will be expected to deliver a net gain in biodiversity through the creation **or provision** and management of new **or existing** habitats, in accordance with the Torbay Biodiversity and Geodiversity Action Plan and the Torbay Green Infrastructure Delivery Plan. If avoidance and mitigation are not sufficient, residual impacts must be **offset compensated** in a manner deemed acceptable by the Council.

Revise TO3 to state: The following schemes are ~~proposed~~ **will be investigated**

	<p>6.1.2.27 (TO3): after seabed add reefs and sea caves.</p> <p>6.1.2.28 (TO3): add at start of paragraph Projects are promoted subject to their acceptability in terms of environmental impact from physical impacts, contamination, and nontoxic changes (e.g. to salinity, turbulence nutrients, organic matter etc), as well as minimizing the impacts on main wildlife e.g. through piling, noise or other disturbance. Under the Conservation of Habitats and Species Regulations 2010 (as amended), a licence may be required to carry out works affecting marine mammals or their habitats.</p> <p>W5 paragraph 3: add "Natural England or Environment Agency"</p> <p>In criterion 1: Waste water treatment works or other sewerage infrastructure serving these developments have insufficient capacity to accommodate development without increasing the risk of overflows of untreated sewage into the environment; or</p> <p>6.5.3.27 (W5): add to end of para It is important that water quality of the Marine Candidate Special Area of Conservation is not harmed by pollutants or outfall in storm events. Natural England is the advisory body with responsibility for such matters.</p>
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Turner, Steve

From: Turner, Steve
Sent: 22 July 2014 17:48
To: 'Horner, Laura (NE)'
Cc: Shimin, Ashwag; Steward, Pat
Subject: RE: Submission of Torbay Local Plan - resolution of NE representations
Attachments: Modification in response to NE objection2.docx

Importance: High

Dear Laura,

Further to the email that I sent to you earlier today (below), please see the attached revised schedule of changes to the HRA. We have made one change from the previous version, which has been derived from the final version of Mike' report. This is shown on page 1 of the schedule, which now includes the text for the new Paragraph 7.1.10.

Details of the suggested concomitant policy amendments are set out below. These replace the relevant section of the schedule of suggested policy changes sent earlier. Thus, the following text

SDB3 Add after South Hams SAC in second paragraph: "... and the recommendations of the HRA Site Appraisal Report of Torbay Local Plan Strategic Delivery Areas (Proposed Submission Plan) 2014 (May be expanded if recommended by Kestrel Wildlife)

..... is now replaced by the following:

SDB3 Add after South Hams SAC in second paragraph: "...Adequate mitigations should be provided, in accordance with the HRA Site Appraisal Report (2014), that ensure:

- (i) there are no further restrictions on potential movement of GHBs along the strategic flyway through the future growth area; and**
- (ii) the retention and enhancement of foraging and on-site roosting opportunities.**

I understand that Mike has now delivered a CD version of his report to you today. Therefore, as far as I am aware, you now have all of the information that we agreed to supply to you in order to try to address NE's concerns. Please get in touch if you have any queries.

Kind regards,

Steve.

**Steve Turner
Team Leader - Strategic Planning**

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From: Turner, Steve
Sent: 22 July 2014 11:19
To: 'Horner, Laura (NE)'
Cc: Shimin, Ashwag; Steward, Pat
Subject: Submission of Torbay Local Plan - resolution of NE representations
Importance: High

Dear Laura,

Thank you for the helpful update during our telephone conversation last week on the various issues relating to the resolution of NE's objections to the Proposed Submission Torbay Local Plan and HRA.

Further to your email of 21 July, I now attach a schedule of suggested Torbay Council changes to the HRA that embraces and reflects all available new information received. This work is almost complete but as we are still awaiting the final version of Mike Oxford's study, we have yet to see one outstanding section of Mike's report relating to Wall Park in Brixham. We are acutely aware of the timescales associated with Submission on 31 July and the Site Appraisal Report of Torbay Local Plan Strategic Delivery Areas will be sent to you as soon as possible. In the meantime, it is helpful that you have had sight of a draft of his work, so I hope that by the time you receive it you will already be familiar with his findings and recommendations.

In addition, I have attached a document containing the related suggested amendments to relevant Local Plan supporting text, explanatory text and upper case policies. These changes reflect the advice and results of recent research that has been undertaken, which I hope will meet your approval, subject to any remaining changes arising from the final version of Mike's study. Torbay believes very strongly that its locally and internationally important assets need appropriate protection and believe that the suggestions put forward provide a reasonable and considered interpretation of the recently obtained additional advice.

We are now finalising our work on the compilation of a comprehensive schedule of suggested changes to Local Plan policies and supporting text, including those affecting your areas of interest set out in the attached document. These will be submitted alongside the published Proposed Submission Plan and the Council will be inviting the Inspector to consider these suggestions during the course of the Examination. This schedule, which comprises a series of amendments that are being put forward to overcome objections received, will hopefully be of help to the Inspector during the Examination.

As I know you appreciate, not least from our discussions when we first met on 1 May 2014, the Council has committed to Submit the Plan to PINS on 31 July, and there was mutual agreement to try to overcome a number of specific objections prior to Submission on that date. We are therefore extremely concerned to ensure that we have resolved any outstanding objections to your satisfaction by that date, and in particular your concerns about the HRA.

We have as you know gone to considerable lengths to provide you with the reassurance you have requested, as set out in the list of agreed actions that we sent to you, by preparing or commissioning additional evidence to try to meet your requirements. I hope that you will be able to devote the necessary resources to work through the additional information provided and I wish to assure you that we will continue to do as much as we can to help you progress your work.

Please get in touch with me if you need any further information, or have any queries. Ashwag will obviously be pleased to help in relation to detailed HRA matters. In the meantime, in the run up to submission, I would be grateful if you could keep me informed of progress on your assessment of the changes we are suggesting to the Plan and HRA.

Kind regards,

Steve.

Steve Turner
Team Leader - Strategic Planning

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Torbay Local Plan - Proposed Submission Plan Modification in Response to Natural England Objection (February 2014)

Habitats Regulations Assessment

Page No.	Section	Paragraph / Policy	Editorial modification suggested to address objection	Reason for modification
21	7	7.1.3	Add to the end of the paragraph: <i>"The HRA has been informed by additional evidence¹ in relation to the potential recreational impact on the Berry Head component of South Hams SAC arising from the new growth."</i>	Editorial clarification
21	7	7.1.5	Delete <i>"this guidance will eventually be replaced by"</i> and add instead <i>"this guidance will be supplemented with"</i> .	Editorial clarification
22	7	7.1.8	Delete "does not" in the first line and add a reference to the HRA Site Appraisal Report of Torbay Local Plan Strategic Delivery Areas (Proposed Submission Plan) 2014. Replace <i>"Devon County Council"</i> with <i>"Torbay Council"</i> in the second bullet point.	Editorial clarification
22	7	New paragraph 7.1.10	The HRA Site Appraisal Report of Torbay Local Plan Strategic Delivery Area (2014) ² has been prepared in support of the HRA of the Local Plan, and provides an appraisal of key site proposals within the Plan. It also identifies the likely effects arising from those proposals (e.g. their likely effect on the integrity of South Hams SAC in relation to greater horseshoe bats), and makes recommendations, where required, for appropriate mitigation measures (commensurate with levels of information and certainty available at the Plan Making stage of the planning process)	Additional information to reflect the outcome of the HRA Site Appraisal Report

¹ Footprint Ecology (2014) - Recreational Impacts on Berry Head: Additional HRA Work for the Torbay Local Plan

² M. Oxford/ Kestrel Wildlife Consultants Ltd. (2014) - HRA Site Appraisal of Torbay Local Plan Strategic Delivery Areas

Page No.	Section	Paragraph / Policy	Editorial modification suggested to address objection	Reason for modification
22	7	7.2.4 & 7.2.5	<p>Add new text following the NE marine advice:</p> <p><i>"There are a number of measures contained within the Local Plan Policies and Evidence Base that would reduce the impact of development proposed by the Local Plan on coastal waters. The Strategic Flood Risk Assessment Level 2 (SFRA2) recommends considering the potential benefits that an appropriately designed sustainable drainage system could have on the biodiversity, amenity value, water quality and resource value of development and/or surrounding area. It also recommends considering the vulnerability and importance of ecological resources when determining the suitability of drainage strategies / sustainable drainage systems."</i></p> <p><i>"Policy W5 states that development proposed by the Local Plan may be required to provide financial contribution towards the enhancement of the waste water treatment works (WWTW). Policy ER2 states that the Council will require development proposals to provide appropriate sewerage systems and support measures to reduce the amount of storm water and grey water going into the shared sewer. The Council will also consider the use of natural sewage treatment methods and sustainable urban drainage measure as promoted in the Torbay Green Infrastructure Delivery Plan, which have informed Local Plan Policies."</i></p>	Additional information in response to NE request with regard to Hope's Nose CSO.
25	8	8.1.1	Delete "i.e. by providing Suitable Alternative Natural Greenspace" from the first bullet point.	Editorial clarification
26	8	8.2.5	Delete PolicyTO3 from the list.	Editorial clarification in response to NE objection.
26	8	8.2.7	Add the following Policies to the list: SDT3, SDP3, SDP4, SDB1 and SDB3.	Editorial clarification in response to NE objection.
27	8	New paragraph	Add a new paragraph that reflect the findings of the Recreational Impact on Berry Head Report:	Additional information to

Page No.	Section	Paragraph / Policy	Editorial modification suggested to address objection	Reason for modification
			<p><i>"The Recreational Impacts on Berry Head - additional HRA work for the Torbay Local Plan by Footprint Ecology (2014), has confirmed that the level of growth proposed by the Local Plan would increase the recreational pressure on Berry Head component of South Hams SAC. The evidence has also recommended a number of mitigation measures. These measures need to be implemented to ensure the integrity of the SAC is not compromised as a result of increases in recreational pressure.</i></p> <ul style="list-style-type: none"> <i>(i) the development of a detailed management plan addressing habitat management and visitor use;</i> <i>(ii) habitat management required to increase the resilience of the site over and above that already required to maintain the interest features of the site;</i> <i>(iii) increased visitor engagement work;</i> <i>(iv) management work at Sharkham Point to provide an alternative location for dog-walkers if visitor work suggests this may be effective."</i> 	reflect the outcome of the Recreational Impact on Berry Head Report
28	9	9.0.4	<p>Replace the paragraph with the following text:</p> <p><i>"Further work will be undertaken by the Council, and associated stakeholders, to further develop and provide estimated costs for the proposed mitigation measures identified by The additional HRA work on Recreational Impacts on Berry Head, to mitigate increased recreational pressure on the South Hams SAC. The Council will develop a strategy for securing developer contributions (through either Community Infrastructure Levy or Section 106 obligations) to fund the specific measures identified as being necessary to mitigate increased recreational pressure on the SAC."</i></p>	Additional information to reflect the outcome of the Recreational Impact on Berry Head Report
30	10	References	Include the following in the list of references:	Editorial clarification

Page No.	Section	Paragraph / Policy	Editorial modification suggested to address objection	Reason for modification
			Footprint Ecology (2014) - The Recreational Impacts on Berry Head - Additional HRA Work for the Torbay Local Plan by Footprint Ecology ; M. Oxford/ Kestrel Wildlife Consultants Ltd. (2014) HRA Site Appraisal of Torbay Local Plan Strategic Delivery Areas.	
xxxix	Appendix 5	Policy SS2	Add the following sentence to column 4: <i>"The level of growth suggested by the Local Plan could cause an unacceptable recreational pressure on the calcareous grassland and European dry heath at berry Head component of South Hams SAC."</i>	Additional information to reflect the outcome of the HRA Site Appraisal Report
xl	Appendix 5	Policy SS11	Add the following sentence to column 4: <i>"The level of growth suggested by Local Plan could cause an unacceptable recreational pressure on the calcareous grassland and European dry heath at berry Head component of South Hams SAC."</i>	Editorial clarification
xlii	Appendix 6	SDT3	Add Edginswell mitigation objectives to column 5 as follows: <ol style="list-style-type: none"> 1. Any detailed proposals for development in the area should first be informed by appropriate bat surveys undertaken during a suitable time of year. 2. If the site is developed, consideration should be given to seeking a biodiversity offset for loss of grassland (foraging) habitat and internal hedgerows. 3. The provision of a western buffer would be consistent with the four principles set out in the proposed modified Local Plan NC1 Policy. 	Additional information to reflect the outcome of the HRA Site Appraisal Report
xliii	Appendix 6	Policy SDP3	Add mitigation objectives to column 5 as follows: <i>"Greater horseshoe bat Mitigation objectives for Great Parks, Totnes Road FGA, Yalberton Industrial Estate and Claylands and Brixham Road GFA should be implemented as recommended by the HRA Site Appraisal Report of Torbay Local Plan Strategic Delivery Areas (Proposed Submission Plan)</i>	Additional information to reflect the outcome of the HRA Site

Page No.	Section	Paragraph / Policy	Editorial modification suggested to address objection	Reason for modification
			2014"	Appraisal Report
xliii	Appendix 6	Policy SDP4	<p>Add Clennon Valley mitigation objectives to column 5 as follows:</p> <ol style="list-style-type: none"> 1. <i>Leisure related development within the valley and tourism related development along its margins should provide appropriate mitigation measures based upon all of the principles set out in modified NC1 Policy.</i> 2. <i>Provision of landscape buffers between development and areas of semi-natural vegetation in the valley; control of light spill; mitigation for the loss of potential foraging and commuting habitat to ensure retention of connectivity along the valley; retention, where appropriate, of features through development that are likely to be used by GHBs; and developer contributions towards the provision of bespoke purpose-built roosts in appropriate locations along the valley.</i> 	Additional information to reflect the outcome of the HRA Site Appraisal Report
xliii	Appendix 6	Policy SDB1	<p>Replace category A5 with C4 in column 2.</p> <p>Replace "N/A" in column 3 with "South Hams SAC."</p> <p>Replace the text in column 4 with the following text: <i>"The strategic area lies within the sustenance zone for GHBs and, without appropriate design and mitigation, is likely to have a significant effect on the integrity of the South Hams SAC both alone and in combination with other projects."</i></p> <p><i>"The level of growth suggested by Local Plan could cause an unacceptable recreational pressure on the calcareous grassland and European dry heath at berry Head component of South Hams SAC."</i></p> <p><i>The level of growth suggested in this area could potentially have negative impacts on water quality from contaminated run-off."</i></p>	Policy re-assessment in response to Natural England objection

Page No.	Section	Paragraph / Policy	Editorial modification suggested to address objection	Reason for modification
			Delete "N/A" in column 5 and add the following text: <i>"Greater horseshoe bat mitigation objectives for Fishcombe Cove and Wall Park Future Growth Area should be implemented as recommended by the HRA Site Appraisal Report of Torbay Local Plan Strategic Delivery Areas (Proposed Submission Plan) 2014"</i>	
xliv	Appendix 6	Policy SDB3	Add Wall Park mitigation objectives to column 5 as follows: Adequate mitigation should be provided, in accordance with the HRA Site Appraisal Report, that ensures: (i) there are no further restrictions on potential movement of GHBs along the strategic flyway through the future growth area; and (ii) the retention and enhancement of foraging and on-site roosting opportunities.	Additional information to reflect the outcome of the HRA Site Appraisal Report
xlv	Appendix 7	Policy TO3	Replace category C2 with B in column 2. Replace the text in column 4 with the following: <i>"The proposed improvements and/or extension of the three harbours are not likely to have significant negative impact on the site."</i> Remove the Policy restriction in column 5: <i>"Any proposal that may lead to likely significant effects on sites protected under European legislation will only be permitted where no adverse effect on the integrity of the site can be shown"</i> . And Replace "YES" with "N/A"	Revision in response to Natural England marine advice
xlvi	Appendix 7	Policy C1	Add the following sentence to column 4: <i>"The level of growth suggested by the Local Plan could cause an unacceptable recreational pressure on the calcareous grassland and European dry heath at Berry Head component of South Hams SAC."</i>	Editorial clarification
xlvi	Appendix 7	Policy NC1	Add the following sentence to column 4: <i>"The level of growth suggested by the Local Plan could cause an</i>	Additional information to

Page No.	Section	Paragraph / Policy	Editorial modification suggested to address objection	Reason for modification
			<p><i>unacceptable recreational pressure on the calcareous grassland and European dry heath at Berry Head component of South Hams SAC."</i></p> <p>Add the following to column 5: <i>"Development around the edge of the built up area of Torbay will be required to provide:</i></p> <ol style="list-style-type: none"> <i>1. A belt of 'linear features' and 'stepping stones' necessary to maintain the Torbay population of greater horseshoe bats in 'favourable conservation status'.</i> <i>2. To do this, development likely to have a significant effect on the integrity of the South Hams SAC will be required to provide biodiversity conservation measures that contribute to the overall enhancement of this 'favourable buffer' for GHBs in Torbay. Such measures should be based on the following principles:</i> <ul style="list-style-type: none"> <i>• The maintenance of GHB dark and unlit habitat connectivity across the landscape;</i> <i>• The provision of adequate foraging habitat;</i> <i>• The provision, where appropriate, of adequate permeability through built development following existing and new flight paths;</i> <i>• The provision of new bespoke roosts where they will provide 'stepping stones' across the landscape."</i> 	<p>reflect the outcome of the HRA Site Appraisal Report</p>

Sustainability Appraisal

Page No.	Section/ Appendix	Paragraph	Policy	Editorial modification suggested to address objection
40	6	6.6.4	SS6	Add the following sentences: <i>"Transport proposals have been fully assessed in the LTP3 SEA and HRA³. The ferry service also has been subject to a detailed environmental assessment hence mitigation measures have been identified and implemented⁴."</i>
57	8	8.2.8	TO3	Replace the existing text with the following paragraph: <i>"The proposed development is located within Torbay Harbours and outside the Marine cSAC (with exception of part of Torquay Harbour extension and small part of Paignton Harbour improvements). They are also within the newly designated Marine Conservation Zone. There are areas of seagrass adjacent to Torquay and Brixham Harbour; Seahorses (protected under the Wildlife and Countryside Act) have been observed in the three harbours; Cetaceans (whales, porpoises and dolphins) are European protected species; could be affected by noise emitted during piling. Other protected mammals such as seals known to present."</i>
57	8	8.2.9	TO3	Replace the existing text with the following: <i>"Development within Torbay Harbours should not adversely affect existing habitats and species. The MMO, NE and EA should be consulted on any work in the harbours."</i>
77	9	Table 9.1	TO3	Change the score for objective 5.1 to minor negative "-"
42	Appendix 2	See the Table below	N/A	Add the Marine and Coastal Access Act 2009 to the list of policies (see Page 11 below).
206	Appendix 8	Sub-objective 5.1	TO3	Change the score for objective 5.1 to minor negative "-"
206	Appendix 8	Sub-objective 5.1	TO3	Replace the text in column 4 with the following text: <i>"The proposed development is located within Torbay Harbours and mostly outside the Marine cSAC (with exception of part of Torquay Harbour extension and small part of</i>

³ The LTP3 SEA and HRA are available at <http://www.torbay.gov.uk/transportpolicy/transportplan>

⁴ The Torbay Frequent Ferry Service Environmental Constraints Report

Page No.	Section/ Appendix	Paragraph	Policy	Editorial modification suggested to address objection
				<i>Paignton Harbour improvements). They are also within the newly designated Marine Conservation Zone. There are areas of seagrass adjacent to Torquay and Brixham Harbour; Seahorses (protected under the Wildlife and Countryside Act) have been observed in the three harbours; Cetaceans (whales, porpoises and dolphins) are European protected species; could be affected by noise emitted during piling. Other protected mammals such as seals known to present."</i>
206	Appendix 8	Sub-objective 5.1	TO3	Replace the existing text in column 5 with the following: <i>"Development within Torbay Harbours should not adversely affect existing habitats and species. The MMO, NE and EA should be consulted on any works in the harbours."</i>

Sustainability Appraisal Appendices

Appendix 2 - page 42: Add new text relating to the Marine and Coastal Access Act 2009

Marine and Coastal Access Act 2009		
Overall aim / purpose of the document	Objective / target	Implications for Local Plan and SA
<p>The Act introduces a new system of marine management. This includes a new marine planning system, which makes provision for a statement of the Government's general policies, and the general policies of each of the devolved administrations, for the marine environment, and also for marine plans which will set out in more detail what is to happen in the different parts of the areas to which they relate. The Act includes provision changing the system for licensing the carrying on of activities in the marine environment. It also provides for the designation of conservation zones. It changes the way marine fisheries are managed at a national and a local level and modifies the way licensing, conservation and fisheries rules are enforced. It allows for designation of an Exclusive Economic Zone for the UK, and for the creation of a Welsh Zone in the sea adjacent to Wales. The Act also amends the system for managing migratory and freshwater fish, and enables recreational</p>	<ol style="list-style-type: none"> 1. Establish a new Marine Management Organisation to produce marine plans, administer marine environmental licensing, manage marine fisheries and enforce environmental protection laws. The Marine Management Organisation will be an independent non-Departmental Public Body, and will deliver marine functions for the UK Government as a whole. 2. Introduce a new system of marine planning which will include setting out long-term objectives for the marine area around the UK in a Marine Policy Statement and more detailed marine plans setting spatial policy at a more local level. 3. Introduce a streamlined, transparent and consistent system for licensing marine developments providing, as far as possible, a one-stop shop for each project. The new system will replace existing controls under Part II of the Coast Protection Act 1949 and Part II of the Food and Environment Protection Act 1985. 4. Introduce a flexible new mechanism for the designation of Marine Conservation Zones which together with European Marine Sites will form a representative network of Marine Protected Areas. This will help fulfill the UK's European and International commitments for the establishment of coherent and representative network of Marine Protected Areas. 5. Strengthen the management of marine fisheries, including by replacing Sea Fisheries Committees with new bodies called Inshore Fisheries and Conservation Authorities and enhancing legislation underpinning sea fisheries conservation and shellfish management. 6. Reform and modernise powers for the licensing and management of migratory and freshwater fisheries. 7. Streamline and modernise enforcement powers including the 	<p>The Local Plan and the SA should take into account the aims and objectives of the Act.</p>

<p>access to the English and Welsh coast.</p>	<p>introduction of a common set of powers so that officers enforcing fisheries, nature conservation and licensing legislation will have access to a core set of enforcement powers.</p> <p>8. Introduce new powers to extend recreational access to the English coast and enable the creation of a continuous access route around the English coast.</p>	
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Turner, Steve

From: Horner, Laura (NE) [Laura.Horner@naturalengland.org.uk]
Sent: 23 July 2014 13:11
To: Turner, Steve
Cc: Buddle, Zoe (NE)
Subject: RE: Submission of Torbay Local Plan - resolution of NE representations

Dear Steve,

Thank you for consulting us on the schedule of recent amendments to the HRA accompanying the Plan and the schedule of the subsequent amendments to the Plan.

I am sure you will be aware that the standard response time for consultations is 21 days or in this case 12 August 2014. Whilst appreciating the authority's desire to submit the Plan as soon as possible, Natural England needs this time to be able to advise in a timely and meaningful manner.

We will endeavour to respond as close to the Authority's proposed submission date of 31 July as possible, whilst still considering our statutory duty. However, the addition of Tracked Change documents rather than schedules would be helpful in speeding up our response time.

Regards
Laura

Mrs Laura Horner
Lead Advisor Forward Planning Network

Exeter - Level 9 and 10,
Renslade House,
Bonhay Road,
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EX4 3AW
Tel 0300 060 2018
Mobile 0777 589 2929

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From: Turner, Steve [mailto:Steve.Turner@torbay.gov.uk]
Sent: 22 July 2014 17:48
To: Horner, Laura (NE)
Cc: Shimin, Ashwag; Steward, Pat
Subject: RE: Submission of Torbay Local Plan - resolution of NE representations
Importance: High

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Dear Laura,

Further to the email that I sent to you earlier today (below), please see the attached revised schedule of changes to the HRA. We have made one change from the previous version, which has been derived from the final version of Mike' report. This is shown on page 1 of the schedule, which now includes the text for the new Paragraph 7.1.10.

Details of the suggested concomitant policy amendments are set out below. These replace the relevant section of the schedule of suggested policy changes sent earlier. Thus, the following text

SDB3 Add after South Hams SAC in second paragraph: "... and the recommendations of the HRA Site Appraisal Report of Torbay Local Plan Strategic Delivery Areas (Proposed Submission Plan) 2014 (May be expanded if recommended by Kestrel Wildlife)

..... is now replaced by the following:

SDB3 Add after South Hams SAC in second paragraph: "...Adequate mitigations should be provided, in accordance with the HRA Site Appraisal Report (2014), that ensure:

- (i) there are no further restrictions on potential movement of GHBs along the strategic flyway through the future growth area; and
- (ii) the retention and enhancement of foraging and on-site roosting opportunities.

I understand that Mike has now delivered a CD version of his report to you today. Therefore, as far as I am aware, you now have all of the information that we agreed to supply to you in order to try to address NE's concerns. Please get in touch if you have any queries.

Kind regards,

Steve.

Steve Turner
Team Leader - Strategic Planning

Strategic Planning Team
Spatial Planning
Place and Resources
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Tel: 01803 208812
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www.torbay.gov.uk/strategicplanning

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From: Turner, Steve
Sent: 22 July 2014 11:19
To: 'Horner, Laura (NE)'
Cc: Shimin, Ashwag; Steward, Pat
Subject: Submission of Torbay Local Plan - resolution of NE representations
Importance: High

Dear Laura,

Thank you for the helpful update during our telephone conversation last week on the various issues relating to the resolution of NE's objections to the Proposed Submission Torbay Local Plan and HRA.

Further to your email of 21 July, I now attach a schedule of suggested Torbay Council changes to the HRA that embraces and reflects all available new information received. This work is almost complete but as we are still awaiting the final version of Mike Oxford's study, we have yet to see one outstanding section of Mike's report

relating to Wall Park in Brixham. We are acutely aware of the timescales associated with Submission on 31 July and the Site Appraisal Report of Torbay Local Plan Strategic Delivery Areas will be sent to you as soon as possible. In the meantime, it is helpful that you have had sight of a draft of his work, so I hope that by the time you receive it you will already be familiar with his findings and recommendations.

In addition, I have attached a document containing the related suggested amendments to relevant Local Plan supporting text, explanatory text and upper case policies. These changes reflect the advice and results of recent research that has been undertaken, which I hope will meet your approval, subject to any remaining changes arising from the final version of Mike's study. Torbay believes very strongly that its locally and internationally important assets need appropriate protection and believe that the suggestions put forward provide a reasonable and considered interpretation of the recently obtained additional advice.

We are now finalising our work on the compilation of a comprehensive schedule of suggested changes to Local Plan policies and supporting text, including those affecting your areas of interest set out in the attached document. These will be submitted alongside the published Proposed Submission Plan and the Council will be inviting the Inspector to consider these suggestions during the course of the Examination. This schedule, which comprises a series of amendments that are being put forward to overcome objections received, will hopefully be of help to the Inspector during the Examination.

As I know you appreciate, not least from our discussions when we first met on 1 May 2014, the Council has committed to Submit the Plan to PINS on 31 July, and there was mutual agreement to try to overcome a number of specific objections prior to Submission on that date. We are therefore extremely concerned to ensure that we have resolved any outstanding objections to your satisfaction by that date, and in particular your concerns about the HRA.

We have as you know gone to considerable lengths to provide you with the reassurance you have requested, as set out in the list of agreed actions that we sent to you, by preparing or commissioning additional evidence to try to meet your requirements. I hope that you will be able to devote the necessary resources to work through the additional information provided and I wish to assure you that we will continue to do as much as we can to help you progress your work.

Please get in touch with me if you need any further information, or have any queries. Ashwag will obviously be pleased to help in relation to detailed HRA matters. In the meantime, in the run up to submission, I would be grateful if you could keep me informed of progress on your assessment of the changes we are suggesting to the Plan and HRA.

Kind regards,

Steve.

Steve Turner
Team Leader - Strategic Planning

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Turner, Steve

From: Turner, Steve
Sent: 23 July 2014 17:05
To: 'Horner, Laura (NE)'
Cc: Buddle, Zoe (NE); Steward, Pat
Subject: RE: Submission of Torbay Local Plan - resolution of NE representations

Dear Laura,

Thank you for your email.

As you know, we have undertaken to deliver on a number of agreed action points stemming from our initial meeting on 1 May 2014 in order to try to address the concerns of NE on the proposed Submission Local Plan. The resultant additional Torbay Council and externally commissioned work has been fed through to NE on an incremental basis and discussed as appropriate, in many cases in draft, in order to obtain an initial reaction on compliance.

Whilst the pace of supply of some of this data has of necessity reflected the timescales of the related research, the objective has always been to give you early sight of requested work to enable you to consider suggested changes as they evolved. By adopting this approach, of supplying information as soon as it has become available, I have assumed that you would also have been developing your views on a similarly incremental basis. Torbay has taken this approach in order to make the whole exercise, which certainly appeared a little daunting to us on 1 May 2014, as manageable as possible for both NE and the Council in order to submit on 31 July.

In this context, it was both a great surprise and a considerable concern to me to read your comment that the start time for your standard 21 day response would be from yesterday (22 July) when we sent you the final versions of the outstanding information requested. I was completely unaware that you would be applying your standard response time in this way and in the circumstances do not consider this to be an appropriate stance.

Having expressed these concerns to you, I appreciate nevertheless that you have indicated that you "... will endeavour to respond as close to the Authority's proposed submission date of 31 July as possible..".

We have deliberately illustrated our suggested changes for consideration at the Examination through use of the 'schedule' format as we believe this allows such changes to be readily identified and easily understood. Because staff resources are totally committed to concluding other areas of work to ensure submission on 31 July, I regret that it will not be possible to prepare fresh documentation setting out these changes in a tracked change format.

I hope that you will appreciate the Council's position. In the meantime, we continue to look forward to helping you to achieve a resolution of your concerns before our intended submission date on 31 July.

Kind regards,

Steve.

Steve Turner
Team Leader - Strategic Planning

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Torquay TQ1 3DR

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Mrs Laura Horner
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From: Turner, Steve [mailto:Steve.Turner@torbay.gov.uk]
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Cc: Shimin, Ashwag; Steward, Pat
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Importance: High

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Steve.

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Turner, Steve

From: Horner, Laura (NE) [Laura.Horner@naturalengland.org.uk]
Sent: 23 July 2014 17:44
To: Turner, Steve
Cc: Buddle, Zoe (NE); Steward, Pat
Subject: RE: Submission of Torbay Local Plan - resolution of NE representations

Dear Steve,

Many thanks for your email. Natural England appreciates the Local Planning Authority's position and timescales with regard to submission on the 31st July 2014. Whilst we have worked to provide comments since our meeting in May, we now need to consider all proposed changes in the context of the final plan.

As outlined in the email below, we will endeavour to provide what comments we can by the 31st July, however we need to seek advice and comments from colleagues when drawing together our responses and therefore the deadline is extremely tight from our perspective, particularly in conjunction with other statutory deadlines.

Notwithstanding the above, we will keep you informed of progress over the next week and hope to have comments to you as close to the 31st July as possible.

Regards
Laura
Mrs Laura Horner
Lead Advisor Forward Planning Network

Exeter - Level 9 and 10,
Renslade House,
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Exeter,
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In an effort to reduce Natural England's carbon footprint, I will, wherever possible, avoid travelling to meetings and attend via audio, video or web conferencing.

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From: Turner, Steve [mailto:Steve.Turner@torbay.gov.uk]
Sent: 23 July 2014 17:05
To: Horner, Laura (NE)
Cc: Buddle, Zoe (NE); Steward, Pat
Subject: RE: Submission of Torbay Local Plan - resolution of NE representations

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Dear Laura,

Thank you for your email.

As you know, we have undertaken to deliver on a number of agreed action points stemming from our initial meeting on 1 May 2014 in order to try to address the concerns of NE on the proposed Submission Local Plan. The resultant additional Torbay Council and externally commissioned work has been fed through to NE on an incremental basis and discussed as appropriate, in many cases in draft, in order to obtain an initial reaction on compliance.

Whilst the pace of supply of some of this data has of necessity reflected the timescales of the related research, the objective has always been to give you early sight of requested work to enable you to consider suggested changes as they evolved. By adopting this approach, of supplying information as soon as it has become available, I have assumed that you would also have been developing your views on a similarly incremental basis. Torbay has taken this approach in order to make the whole exercise, which certainly appeared a little daunting to us on 1 May 2014, as manageable as possible for both NE and the Council in order to submit on 31 July.

In this context, it was both a great surprise and a considerable concern to me to read your comment that the start time for your standard 21 day response would be from yesterday (22 July) when we sent you the final versions of the outstanding information requested. I was completely unaware that you would be applying your standard response time in this way and in the circumstances do not consider this to be an appropriate stance.

Having expressed these concerns to you, I appreciate nevertheless that you have indicated that you "... will endeavour to respond as close to the Authority's proposed submission date of 31 July as possible..".

We have deliberately illustrated our suggested changes for consideration at the Examination through use of the 'schedule' format as we believe this allows such changes to be readily identified and easily understood. Because staff resources are totally committed to concluding other areas of work to ensure submission on 31 July, I regret that it will not be possible to prepare fresh documentation setting out these changes in a tracked change format.

I hope that you will appreciate the Council's position. In the meantime, we continue to look forward to helping you to achieve a resolution of your concerns before our intended submission date on 31 July.

Kind regards,

Steve.

Steve Turner
Team Leader - Strategic Planning

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Spatial Planning
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From: Horner, Laura (NE) [<mailto:Laura.Horner@naturalengland.org.uk>]
Sent: 23 July 2014 13:11
To: Turner, Steve
Cc: Buddle, Zoe (NE)
Subject: RE: Submission of Torbay Local Plan - resolution of NE representations

Dear Steve,

Thank you for consulting us on the schedule of recent amendments to the HRA accompanying the Plan and the schedule of the subsequent amendments to the Plan.

I am sure you will be aware that the standard response time for consultations is 21 days or in this case 12 August 2014. Whilst appreciating the authority's desire to submit the Plan as soon as possible, Natural England needs this time to be able to advise in a timely and meaningful manner.

We will endeavour to respond as close to the Authority's proposed submission date of 31 July as possible, whilst still considering our statutory duty. However, the addition of Tracked Change documents rather than schedules would be helpful in speeding up our response time.

Regards
Laura

Mrs Laura Horner
Lead Advisor Forward Planning Network

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From: Turner, Steve [<mailto:Steve.Turner@torbay.gov.uk>]
Sent: 22 July 2014 17:48
To: Horner, Laura (NE)
Cc: Shimin, Ashwag; Steward, Pat
Subject: RE: Submission of Torbay Local Plan - resolution of NE representations
Importance: High

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Dear Laura,

Further to the email that I sent to you earlier today (below), please see the attached revised schedule of changes to the HRA. We have made one change from the previous version, which has been derived from the final version of Mike' report. This is shown on page 1 of the schedule, which now includes the text for the new Paragraph 7.1.10.

Details of the suggested concomitant policy amendments are set out below. These replace the relevant section of the schedule of suggested policy changes sent earlier. Thus, the following text

SDB3 Add after South Hams SAC in second paragraph: "... and the recommendations of the HRA Site Appraisal Report of Torbay Local Plan Strategic Delivery Areas (Proposed Submission Plan) 2014 (May be expanded if recommended by Kestrel Wildlife)

..... is now replaced by the following:

SDB3 Add after South Hams SAC in second paragraph: "...Adequate mitigations should be provided, in accordance with the HRA Site Appraisal Report (2014), that ensure:

(i) there are no further restrictions on potential movement of GHBs along the strategic flyway through the future growth area; and

(ii) the retention and enhancement of foraging and on-site roosting opportunities.

I understand that Mike has now delivered a CD version of his report to you today. Therefore, as far as I am aware, you now have all of the information that we agreed to supply to you in order to try to address NE's concerns. Please get in touch if you have any queries.

Kind regards,

Steve.

Steve Turner
Team Leader - Strategic Planning

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From: Turner, Steve
Sent: 22 July 2014 11:19
To: 'Horner, Laura (NE)'
Cc: Shimin, Ashwag; Steward, Pat
Subject: Submission of Torbay Local Plan - resolution of NE representations
Importance: High

Dear Laura,

Thank you for the helpful update during our telephone conversation last week on the various issues relating to the resolution of NE's objections to the Proposed Submission Torbay Local Plan and HRA.

Further to your email of 21 July, I now attach a schedule of suggested Torbay Council changes to the HRA that embraces and reflects all available new information received. This work is almost complete but as we are still awaiting the final version of Mike Oxford's study, we have yet to see one outstanding section of Mike's report relating to Wall Park in Brixham. We are acutely aware of the timescales associated with Submission on 31 July and the Site Appraisal Report of Torbay Local Plan Strategic Delivery Areas will be sent to you as soon as possible. In the meantime, it is helpful that you have had sight of a draft of his work, so I hope that by the time you receive it you will already be familiar with his findings and recommendations.

In addition, I have attached a document containing the related suggested amendments to relevant Local Plan supporting text, explanatory text and upper case policies. These changes reflect the advice and results of recent research that has been undertaken, which I hope will meet your approval, subject to any remaining changes arising from the final version of Mike's study. Torbay believes very strongly that its locally and internationally important assets need appropriate protection and believe that the suggestions put forward provide a reasonable and considered interpretation of the recently obtained additional advice.

We are now finalising our work on the compilation of a comprehensive schedule of suggested changes to Local Plan policies and supporting text, including those affecting your areas of interest set out in the attached document.

These will be submitted alongside the published Proposed Submission Plan and the Council will be inviting the Inspector to consider these suggestions during the course of the Examination. This schedule, which comprises a series of amendments that are being put forward to overcome objections received, will hopefully be of help to the Inspector during the Examination.

As I know you appreciate, not least from our discussions when we first met on 1 May 2014, the Council has committed to Submit the Plan to PINS on 31 July, and there was mutual agreement to try to overcome a number of specific objections prior to Submission on that date. We are therefore extremely concerned to ensure that we have resolved any outstanding objections to your satisfaction by that date, and in particular your concerns about the HRA.

We have as you know gone to considerable lengths to provide you with the reassurance you have requested, as set out in the list of agreed actions that we sent to you, by preparing or commissioning additional evidence to try to meet your requirements. I hope that you will be able to devote the necessary resources to work through the additional information provided and I wish to assure you that we will continue to do as much as we can to help you progress your work.

Please get in touch with me if you need any further information, or have any queries. Ashwag will obviously be pleased to help in relation to detailed HRA matters. In the meantime, in the run up to submission, I would be grateful if you could keep me informed of progress on your assessment of the changes we are suggesting to the Plan and HRA.

Kind regards,

Steve.

Steve Turner
Team Leader - Strategic Planning

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