

TORBAY LOCAL PLAN - A landscape for success: The Plan for Torbay – 2012 to 2032 and beyond

PROPOSED SUBMISSION PLAN (FEBRUARY 2014)

PROPOSED REPLACEMENT MAIN MODIFICATIONS TO THE SUBMISSION LOCAL PLAN

LIST OF REPRESENTATIONS BY PERSON/ORGANISATION IN TOPIC & ALPHABETICAL ORDER

Consultee ID	File No.	Person /Organisation Consultee
Business Sector/Organisations/Social Enterprise Sector		
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Date: 27 July 2015
Our Ref: SL M6/0209-14
Your Ref:

By email only: strategic.planning@torbay.gov.uk

Dear Sir or Madam

RE: **CONSULTATION ON THE PROPOSED REPLACEMENT MAIN MODIFICATIONS TO THE TORBAY LOCAL PLAN**

We represent the **South West HARP Planning Consortium** which includes all the leading Housing Association Registered Providers (HARPs) across the South West. Our clients' principal concern is to optimise the provision of affordable housing and to ensure the evolution and preparation of consistent policies that help deliver the wider economic and social outcomes needed throughout the region. As significant developers and investors in local people, HARPs are well placed to contribute to local plan objectives and act as long term partners in the community.

Plan Period

The Inspector's letter (dated 14th May 2015) identifies "given that the evidence required under the Habitats Regulations at White Rock cannot be produced until towards the end of the year and may possibly require further work in April 2016, it is unlikely that the examination could re-commence until the late spring or summer of 2016". Assuming that the relevant issues are deemed satisfactory by the Planning Inspector at the reconvened examination, it is envisaged that the Local Plan will be adopted at the end of 2016, or possibly 2017.

This would make the plan incompatible with bullet point two of NPPF paragraph 157, which states:

"Crucially, Local Plans should be drawn up over an appropriate time scale, preferably 15-year time horizon, take account of longer term requirements and be kept up to date." (Our emphasis)

The reduction of the Plan period from 2032 to 2030 means that the Local Plan, once adopted, will only be planned for a "time horizon" of 13 or 14 years. This point was also emphasised by the Inspector at the Lichfield Local Plan Examination where, in his Initial Findings to the Council he stated that:

"...the plan, which runs to 2028, would only have a 14 year life - rather than the 15 year time horizon which the NPPF indicates would be preferable. The Council should, therefore, consider extending the end date of the Plan to 2029 and making the necessary adjustment to housing number" (paragraph 39).

We strongly recommend that the Council considers this modification to ensure that the Plan is sufficiently forward-looking to enable delivery over the longer term.

Objectively Assessed Housing Need

Evidence Base

We have concerns with regard to the credibility of the Plan's evidence base surrounding its Objectively Assessed Need (OAN) for housing. We have repeatedly made this known in our

representations on the Local Plan in April 2014 and March 2015 (references M6/0209-10 and M6/0209-12).

A Strategic Housing Market Assessment from 2007 is clearly out of date and of little use in forward planning in the post-recession years. We make reference to the Inspector's comments for Hearing 3 of the examination of the new East Devon Local Plan 2006-26 in which he stated: "*The 2007 Strategic Housing Market Assessment (SHMA) is 6 years old and cannot be considered to be up to date*". If the examination is to reconvene in 2016, this would mean that the Plan would be based on a nine year old SHMA.

A subsequent "*Update*" to the SHMA followed in 2011. The 2011 SHMA was based on outdated data, and unfortunately does not reflect release of the 2012-based household projections from February 2015, which is continually referred to throughout the Local Plan. The last full assessment of the Council's OAN was undertaken in 2007. This is clearly out of date, and represents a clear failure to positively prepare the Plan, which should be based at the outset on a full objectively assessed need. It would be useful if the Council commissioned a further review based on the new household projections which will provide better trend data. This would be in accordance with the latest PPG advice:

"The examination of Local Plans is intended to ensure that up-to-date housing requirements and the deliverability of sites to meet a five year supply will have been thoroughly considered and examined prior to adoption, in a way that cannot be replicated in the course of determining individual applications and appeals" (Paragraph: 033 Reference ID: 3-033-20150327, our emphasis).

Following this, Replacement Additional (Minor) Modification RAM9 adds : "*...having regard to the most up to date evidence of objectively assessed need (see paragraph 7.5.14 below) evidence about each site and if the constraints originally remain valid*" to Paragraph 2.2.11. Given that the most up to date housing evidence including a full assessment of the Council's OAN from 2007, this is a contradictory modification.

Modification Ref. Neighbourhood Plan-led Approach

We are supportive of the Council's approach to integrate neighbourhood planning within the preparation of the Local Plan which is in accordance with the Government's Localism agenda. However, much of the Inspector's letter to the Council in May 2015 raised concerns with the approach. These include: uncertainty regarding whether the proposed neighbourhood plans would deliver the scale of housing sought by the Council; a number of timing and delivery issues with identified sites; and environmental conservation issues. We echo those concerns here. Reliance on neighbourhood plans to allocate land for housing fails to provide certainty for those neighbourhoods, developers and HARPs alike.

The Inspector concluded that the Plan (at May 2015) would be found unsound, with incomplete evidence and uncertainty about the effectiveness of the Plan. As a result, the Plan would not meet the requirements of NPPF Paragraph 182, which states:

"A local planning authority should submit a plan for examination which it considers is "sound" – namely that it is:

- *Positively prepared – the plan should be prepared based on a strategy which seeks to meet objectively assessed development and infrastructure requirements, including unmet requirements from neighbouring authorities where it is reasonable to do so and consistent with achieving sustainable development;*
- *Justified – the plan should be the most appropriate strategy, when considered against the reasonable alternatives, based on proportionate evidence;*
- *Effective – the plan should be deliverable over its period and based on effective joint working on cross-boundary strategic priorities; and*
- *Consistent with national policy – the plan should enable the delivery of sustainable development in accordance with the policies in the Framework."*

Based upon the inadequacy of the Local Plan's evidence base – in which much of its assessment of housing predates the framework – it is considered that at this stage the Plan is still not positively prepared; justified; effective or consistent with national policy. In addition, the approach taken to prepare the Plan by the Council is one that may have knock on effects for the Steering Groups and Town Councils preparing their Neighbourhood Plans. If a further round of evidence gathering is commissioned by the Inspector, or major amendments (including these modifications) are made to the Local Plan, then significant changes would have to be made to the respective Neighbourhood Plans. These changes would then have to undergo further rounds of public consultation with local residents and statutory consultees. It only needs one of these consultees to strongly object to a single issue, which will add further delays to the preparation of the Local Plan, as well as the relevant Neighbourhood Plan.

Modification Ref. Policy H2 – Affordable Housing

We note that the Council has taken into account the change to the Planning Practice Guidance, introducing two national thresholds of 10-units and 5-units in designated rural areas. This will inevitably lead to a reduction in the overall numbers of affordable housing that may be delivered across Torbay. As a result, we consider it would be acceptable for the Council to maximise the delivery of affordable housing from larger sites that are viable and deliverable.

It must come to the Council's attention that this Policy has not been appropriately viability tested against updated national planning guidance. Given the Local Plan's Economic Viability Report was undertaken in February 2014, it is assumed that the 10-unit threshold has not been assessed in the Plan's evidence base. Although this is unfortunate timing for the Council, it is important that the Local Plan is tested against the most up to date planning guidance. The exemption from paying section 106 contributions towards affordable housing on smaller schemes (on 10 and fewer dwelling schemes) may mean that affordable housing sites across Torbay can no longer be delivered. As the Council should be planning proactively to meet its full affordable housing need we are concerned that full account be taken of the impact of this change in seeking out additional sites for delivery across Torbay.

Modification Ref. RAM138: Policy H6 – Housing for people in need of care

We note an amendment to the wording of Part (1) of Policy H6 incorporating an update to national planning guidance on improved building regulations for accessible and adaptable dwellings (modification reference: RAM138). We support the intention of this change. However, the Planning Practice Guidance states that Local Planning Authorities will need to demonstrate *"how they intend to approach demonstrating the need for Requirement M4(2) (accessible and adaptable dwellings) of the Building Regulations"* (our emphasis, Paragraph 007, Reference ID: 56-00-20150327). The guidance adds:

"There is a wide range of published official statistics and factors which local planning authorities can consider and take into account, including:

- *The likely future need for housing for older and disabled people (including wheelchair user dwellings).*
- *Size, location, type and quality of dwellings needed to meet specifically evidenced needs (for example retirement homes, sheltered homes or care homes).*
- *The accessibility and adaptability of existing housing stock.*
- *How needs vary across different housing tenures.*
- *The overall impact on viability".*

Before the Council can implement this policy it needs to demonstrate the need for this through all appropriate evidence as outlined above. The introduction of this policy without justification would make it an unsound policy, subject to further change at examination.

Modification Ref. RAM143: Policy DE3 – Development Amenity

Replacement Additional (Minor) Modification RAM143 makes provision for the Government's *Technical Housing Standards – Nationally Described Standard* (March 2015), by stating in supporting paragraph 6.4.2.14 that *"regard will be had to the Government's Nationally Described Space Standard when considering applications"*. The decision of Torbay Council to implement these space standards in its Local Plan does not appear to have been supported by the evidence required by the PPG. The indication that the introduction of these standards are *"minor"* by the Council is unacceptable. The implementation of the Standards is inappropriate within the supporting text of a policy; if the Council wishes to apply the Nationally Described Standards, it is recommended these standards be incorporated into a full planning policy.

The Written Ministerial Statement on 25th March 2015, introducing the Standard, states:

"The optional new national technical standards should only be required through any new Local Plan policies if they address a clearly evidenced need, and where their impact on viability has been considered, in accordance with the [NPPF and PPG]." (Our emphasis)

The PPG sets three tests for the introduction of the Standards:

"Where a need for internal space standards is identified, local planning authorities should provide justification for requiring internal space policies. Local planning authorities should take account of the following areas:

- Need – evidence should be provided on the size and type of dwellings currently being built in the area, to ensure the impacts of adopting space standards can be properly assessed, for example, to considers any potential impact on meeting demand for starter homes.*
- Viability – the impact of adopting the space standard should be considered as part of a plan's viability assessment with account taken of the impact of potentially larger dwellings on land supply. Local planning authorities will also need to consider impacts on affordability where a space standard is to be adopted.*
- Timing – there may need to be a reasonable transitional period following adoption of a new policy on space standards to enable developers to factor the cost of space standards into future land acquisitions."* (Paragraph: 020 Reference ID: 56-020-20150327).

The PPG sets a requirement for the Council to provide evidence for the introduction of the new national standard before the Local Plan can adopt such a policy. If the Council does not set out full, clear evidence and demonstrate the viability of this then it would not be possible for such a policy to achieve sound status through examination. We ask the Council to set out its justification for applying the new minimum space standards, and its impacts on viability across the Plan period on affordable housing delivery. We suggest that the Strategic Housing Market Assessment (2007 and 2011 Update) and Economic Viability Assessment from February 2014 require updating to provide up to date evidence of need.

As already noted, it is not appropriate for the Council to introduce the new Nationally Described Space Standards through supporting text of a policy. The Council should look to the three tests set out in the PPG on the introduction of these Standards, before seeking feedback from its Registered Provider partners, as well as other developers. Feedback from HARPs across the country suggests that its introduction will affect the total number of affordable dwellings that will be delivered due to a significant impact on viability, in particular on 100% affordable schemes. The larger standard will impact on site density, making sites more expensive to build out per unit and reducing the number of dwellings achievable per site. The introduction of the Standard will also make RPs less competitive in securing land against market purchasers as market dwellings will not be subject to the same standard, introducing a greater difference between the prices that can be paid. The larger unit size will also not entitle RPs to any higher level of rent, making sites more expensive not just at construction stage but across the lifetime of that property. We provide an example, below, to illustrate this issue:

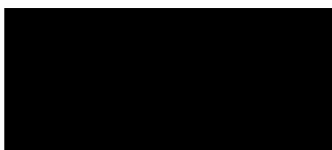
House Type	Current Standard m ²	New National Standard m ²	Difference
1b 2p flat	46	50	4
2b 4p house (2-storey)	77	79	2
3b 5p house (2-storey)	87	93	6

The construction costs on the above example currently run to over £1,500m². The cost of the additional floorspace would add £87,000 of build cost to the scheme, as well as reducing the overall number of units that could be delivered on the site. This would effectively reduce the overall provision of affordable housing across Torbay, which is clearly not the Council's intention. We cannot therefore support the introduction of the Standard in its current form, without appropriate justification as required by the PPG – this policy will fail the tests of soundness at examination without this evidence. We ask that the Council set out its justification for introducing the policy locally, and commission a full assessment of the impact of the Standard on viability across all tenures and across the Plan period.

Paragraph 6.4.2.17 should be removed from the Plan as the Lifetime Homes standard has been fully superseded by the new national technical standard. We also note that the introduction of the standard will lower housing densities, which should be taken into consideration as part of this policy and the supporting text at paragraph 6.4.2.19 (and Modification RAM145).

The above comments are intended to be constructive. We would like to be consulted on further stages of the Plan and other publications by Torbay Council by email only. Please ensure that the **South West HARP Planning Consortium** is retained on the LDF database, with **Tetlow King Planning** listed as their agents.

Yours faithfully



SEAN LEWIS MPlan
ASSISTANT PLANNER
 For and On Behalf Of
TETLOW KING PLANNING



cc: Aster Group
 DCH Group
 Guinness Partnership
 Sovereign Housing Association
 Spectrum Housing Group
 Westward Housing Group

Susanne Lang, Housing Department

Pickhaver, David

From: Planning, Strategic
To: Caroline Parsley
Subject: RE: Consultation on the Proposed Replacement Main Modifications to the Torbay Local Plan

From: Caroline Parsley [<mailto:all@tetlow-king.co.uk>]
Sent: 27 July 2015 11:03
To: Planning, Strategic



Dear Sir/Madam

Please find attached a letter from Sean Lewis, sent on behalf of our client the South West HARP Planning Consortium.

Kind regards

Caroline Parsley
Secretary
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