

TORBAY COUNCIL

Report No: **WP/1/04**

Title: **Torbay Local Plan (1995 – 2011): Representations received on Proposed Modifications and progress towards Adoption of Local Plan.**

To: Overview and Scrutiny Board on 18 February 2004
Council on 26 February 2004

1. Purpose

- 1.1 This Report outlines the responses received following consultation on the Proposed Modifications to policies and proposals of the Revised Deposit Version of the Torbay Local Plan. It make recommendations regarding the need or otherwise for a second local plan inquiry and ‘further proposed modifications’, and outlines details of the final stages required to secure adoption of the Plan.

2. Relationship to Corporate Priorities

- 2.1 The Local Plan will provide a comprehensive planning policy framework for sustainable development that will assist the Council in addressing each of its corporate priorities.

3. Recommendations

- 3.1 That the responses and recommendations relating to objections made to Proposed Modifications to the Plan, as set out in columns 11 and 12 of Appendix 2 to this Report be noted.
- 3.2 That having considered the responses and recommendations it be agreed that:
- a) a second Local Plan Inquiry is not required; and
 - b) no further modifications to the Local Plan are required.
- 3.3 That a ‘Notice of intention to adopt a Local Plan without proposing further modifications’ be published, in accordance with the Development Plan Regulations.

4. Reason for Recommendation

- 4.1 It is necessary to keep Members informed of progress made on preparation of the Torbay Local Plan (1995 – 2011) and to set out the views of the Local Plan Working Party following detailed consideration of the responses to publication of the Proposed Modifications document.
- 4.2 To ensure that a sustainable land use planning policy framework is in place to provide a robust basis for the Council’s decision-making process, it is important to ensure that the Local Plan is progressed to adoption as soon as possible.
- 4.3 Good progress in Local Plan preparation should assist the Council in maximising its share of the government Planning Delivery Grant. It will be important to secure early adoption of the Local Plan prior to the introduction of the emerging Planning and Compulsory Purchase Bill, scheduled for mid-2004. This will allow the Council to focus on preparation of the new Local Development Framework, which is due to replace the current Local Plan system, at an early stage.

5. Background

- 5.1 The role of the Working Party is to consider the detailed content of the Torbay Local Plan (1995 – 2011) during its different stages of preparation, and to progress the Plan through to adoption.
- 5.2 Members will be aware of the importance of progressing the Plan to adoption as quickly as possible, to ensure that the community has an up-to-date sustainable development framework for the period to 2011. This will help to secure consistent development control decisions, to achieve economic and social regeneration, environmental enhancement and to meet Torbay's development requirements for housing, employment land and other community needs. It will also be a framework for the Local Transport Plan and other strategies such as the emerging Waste Strategy. Speed of preparation towards adoption is also expected to determine the level of Planning Delivery Grant awarded to the Authority for this part of the planning service.
- 5.3 The Local Plan has been prepared in formal stages in accordance with the Development Plan Regulations. The Deposit Version was published in July 1999 and the Revised Deposit in October 2000. A Local Plan Inquiry was required in order to consider unresolved objections to policies and proposals in the Deposit Version, and also to consider objections to changes subsequently made in the Revised Deposit Version. The Local Plan Inquiry took place between November 2001 and September 2002. The 'Inspector's Report into objections to the Plan' was published in April 2003.
- 5.4 The Working Party met on six separate occasions during June, July and August 2003 to consider the recommendations set out in the Inspector's Report, and to agree a set of Proposed Modifications to the Local Plan based on the Inspector's recommendations.
- 5.5 At its meeting on 4 September 2003 (Minute 158/9/03), the Council approved with amendments the Proposed Modifications to the Plan as set out in Report WP/7/03. It also agreed the publication of that document for formal consultation, together with the "Notice of intention to adopt and of proposed modifications to a local plan".

6. Local Plan Working Party Meeting – 2nd February 2004

- 6.1 The Working Party met again on 2nd February 2004 to consider the response to the above consultation stage and the implications for the next stages of the local plan process. Officers presented a Briefing Paper entitled 'Torbay Local Plan (1995 – 2011): Representations received on Proposed Modifications and progress towards Adoption of Local Plan'. This document included three related Appendices, as follows:
 - Appendix 1 Summary of issues raised by representations to Torbay Local Plan (1995 – 2011) Proposed Modifications.
 - Appendix 2 Summary of representations received on Modifications, and officer response
 - Appendix 3 Minor editorial / technical changes

Consultation on the Proposed Modifications to the Local Plan

- 6.2 Members were reminded that the Proposed Modifications document was published on 6 October 2003 for a six-week consultation period. Its purpose was to indicate how the Council wished to modify the Plan in the light of the Inspector's consideration of all of the objections placed before him. In accordance with the Regulations, a formal notice was

published in local newspapers for two consecutive weeks giving details of the consultation exercise. All objectors involved in the Local Plan Inquiry received a copy of this Notice and an explanatory letter outlining details of the process. Copies of the document were made available for inspection and for purchase. It was also possible to view or download the text directly via the Council's local plan web-site.

Advice on consideration of responses

- 6.3 Officers urged caution during the Working Party Meetings held last summer regarding the drafting of modifications and the introduction of new policies and proposals. This was because of their potential repercussions for the final stages of the plan preparation process. The potential cost to the Council in terms of additional financial expenditure and delay in adopting the present Plan were considered to be significant.
- 6.4 The Working Party noted that the same cautionary principle applied equally at the present stage. The Council must consider all objections that are made during the Proposed Modifications consultation period and decide firstly whether it is necessary to hold a further Inquiry into any of those objections. The Local Authority has discretion whether to hold an Inquiry into all or any of the objections made to its proposed modifications or to any decision not to accept an inspector's recommendation. The Secretary of State advises Authorities to hold an Inquiry where objections raise matters that were not at issue in the earlier stage. Secondly, the Council must also decide if any 'further proposed modifications' are required and if so, deposit them for a further six-week consultation period.
- 6.5 If the Council decided, however, that no Inquiry was necessary and that no further Modifications materially affecting the Plan needed to be made, it would give notice of its intention to adopt the Plan after 28 days.

Summary of consultation response and key issues

- 6.6 The Working Party was informed that at the close of the consultation period on 14 November 2003, representations had been received from 100 different persons or organisations, which in turn generated 196 separate representations. Of these, 58 were objections, 111 were supporting representations, 26 were general observations and 1 was a new proposal (not 'duly made').
- 6.7 Appendix 1 to the Briefing Paper (Appendix 1 to this Working Party Report) outlined the nature of comments made by statutory consultees, organisations / amenity groups, house builders and other interested parties. This provided a broad picture of the range of comments received.
- 6.8 Members moved on to consider the main issues to arise from these representations, which were as follows:
- (i) Objection to Policy H1A (The management of housing provision through phasing) and the phasing of Phase 2 sites (i.e. objections to the delay in releasing Phase 2 housing sites until 2006, in particular at Great Parks, Paignton) [by developers];
 - (ii) Objections to affordable housing policy (site size threshold and exclusions of low cost market housing from definition of affordable housing) [by developers];
 - (iii) Objection to designation of land at Nut Bush Lane / Cockington Lane, Torquay as Area of Great Landscape Value / Countryside Zone [by landowner];
 - (iv) Objection to Urban Landscape Protection Area designation at Scotts Meadow and Barton Hall Farm [by developers and landowners]; and

- (v) Large amount of support for designation of Scotts Meadow as Urban Landscape Protection Area [by local residents].

6.9 Following discussion of the above summary, Members then addressed in detail a schedule that set out a comprehensive record of each representation received, including name and address, the type of representation made and a summary of objection or comment. This was accompanied by the Council's response (Column 11), together with a concluding column that indicated whether or not any further modification was considered appropriate (Column 12). This schedule is attached at Appendix 2 to the Working Party Report.

Conclusions

6.10 Members were advised that the representations put forward did not constitute objections to new issues that had not already been addressed. All points raised during consultation on the Proposed Modifications had been the subject of previous consultation or debate at the Inquiry. Since none of the objections raised matters that were not at issue in the earlier stage, it was therefore not considered necessary, or desirable, to hold a second Local Plan Inquiry.

6.11 Since a number of objections generated suggestions that the Plan should be amended by inclusion of new or reinstated text, it had been necessary for the Working Party to consider carefully whether or not to recommend further modifications. It was noted that officers had sought advice from the Government Office for the South West, particularly where objections related to matters of government planning policy. In the context of this advice, Members were advised that none of the objections registered, and amendments suggested as a consequence, justified the introduction of further proposed modifications to the Local Plan. In other words, no further modifications materially affecting the Plan needed to be made.

6.12 Members were asked to note that in certain instances, however, representations did justify the introduction of minor editorial or technical changes. These were worthy of inclusion in order to correct factual errors or to improve clarity. However, such amendments had no material affect on the policy framework of the Plan and could thus be included without requiring a formal 'further proposed modifications' stage. Details of these minor changes were drawn to the attention of the Working Party in the interests of clarity in Appendix 3 of the Briefing Paper (reproduced as Appendix 3 to this Report).

6.13 A discussion took place regarding the proposed changes to the development planning process. These would arise from the impending introduction of the new Local Development Framework (LDF) system in the summer of 2004, following enactment of the Planning and Compensation Bill. Members noted the advice of officers to progress the current Local Plan to adoption as expeditiously as possible, and to defer the introduction of any substantive new policies and proposals until the new system unfolded. It would be at that stage that opportunities would arise to reconsider all relevant planning policy issues as part of the LDF, which in effect would also comprise a 'First Review' of the present Plan. Members were informed that in the near future they would be briefed by officers on the new LDF process, and its implications for Torbay.

Next stages and recommendations

6.14 The Working Party Meeting concluded by considering the next stages leading to the formal adoption of the Local Plan. Members noted that if they were minded to accept the recommendations contained in the Briefing Note, a further notice of the Council's intention to adopt the Local Plan would be published thereafter. This Notice would indicate that the Council intended to adopt the Plan without further modification after a period of 28 days.

Following a resolution at the next available meeting of the Council (currently 1 April 2004) the local authority would then publish a Notice indicating that it had formally adopted the Plan.

- 6.15 Members were made aware that in accordance with Section 287 of the Town & Country Planning Act 1990, any person aggrieved by the plan and who challenged its validity could apply (on certain grounds) to the High Court to have the plan or parts of the plan quashed. Such an application needed to be made within six weeks from the date of the first advertisement of the notice that that plan had been adopted.
- 6.16 *Having considered the Briefing Paper presented to them, Members of the Working Party agreed to make the following recommendations to Council, subject to the views of the Overview and Scrutiny Board:*
- (i) that they concurred with the view that a second Local Plan Inquiry was not required;*
 - (ii) that no further modifications to the Plan were required; and*
 - (iii) that in this context the Council should accordingly publish a 'notice of intention to adopt' the Torbay Local Plan.*

7. Alternative Options (if any)

- 7.1 Under the current legislation [The Town and Country Planning (Development Plan) (England) Regulations 1999] the Council does not have an alternative option with regard to the way in which it considers the response to consultation on the Proposed Modifications document, and subsequent steps towards adoption.

Torbay Local Plan Working Party

Councillor Charlwood (Chairman)

Councillor Browne

Councillor Dunn

Councillor Hytche (for Councillor Phillips)

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IMPLICATIONS, CONSULTATION AND OTHER INFORMATION

Part 1

These sections may be completed by the Report author but must be agreed by named officers in the Legal, Finance, Human Resources and Property Divisions. If these are not completed and agreed the Report will not be included on the agenda.

Does the proposal have implications for the following issues?

Insert name of
responsible officer

Legal (including Human Rights)	The broad requirements for preparation of the Torbay Local Plan are set out in the Town and Country Planning Act 1990 (as amended) and The Town and Country Planning (Development Plan) (England) Regulations 1999. Additional guidance is set out in 'Planning Policy Guidance Note 12 – Development Plans', and in the (former) DETR booklet 'Local Plans and Unitary Development Plans – A guide to procedure'	Stephen Pryor
Human Rights	The Torbay Local Plan aims to bring development proposals before the public and all interested parties. Public consultation provides the opportunity for everyone to comment at key stages of the Plan preparation process. Policies and proposals are incorporated in the plan to secure provision for the basic human needs of shelter, work and community facilities.	
Financial – Revenue	No immediate direct implications other than modest costs associated with publication of formal Notices, which fall within the Local Plan budget.	Adrian O'Rourke
Financial – Capital Plan	The policies and proposals of the Plan may amend asset values that could have implications for the Capital Plan.	Steve Warren
Human resources (including equal opportunities)	No immediate direct implications at this stage of the Local Plan preparation process.	Geoff Williams
Property	Policies and proposals of the Local Plan will have implications for all land and property owned by the Council. The Local Plan, as amended by the Proposed Modifications, will have an impact on the proposed uses and values of Council assets.	Sam Partridge

Part 2

These sections must be completed by the author of the Report.

Does the proposal have implications for the following issues?		
Please give details as appropriate		
Sustainability	Yes	The policies and proposals of the Torbay Local Plan provide a framework for all aspects of sustainable development, i.e., the protection of the environment, resource conservation, social equality and cohesion, and the sustainable development of the local economy, housing transport and related issues
Crime and Disorder	Yes	The policies and proposals in the Local Plan, together with advice set out in the Environmental Guide, seek to ensure that development is designed to reduce crime by embracing crime prevention principles.
*OfSTED Post Inspection Action Plan	No	N/A
*Social Services Action Plan	Yes	The Local Plan contains policies and proposals which seek to achieve the provision of affordable housing, supported housing and other accommodation for people in need of care. These policies are operated in parallel with the Adopted Supplementary Planning Guidance relating to the provision of Affordable Housing in Torbay.
*Change Management Plan	Yes	Speedy progression of the Local Plan through the Modifications stage to adoption will provide the Council with a clear and up-to-date planning policy framework which will provide a sound basis for decision-making.

* not applicable to reports to Licensing, Development Control and Area Development Committees

Part 3

These sections must be completed by the author of the Report.

Does the proposal have implications for the following Directorates? If so, please inform the relevant Director.		
Please give details as appropriate		
All Directorates	Yes	All development undertaken by any Directorate of the Council should be in accordance with the policies and proposals of the Local Plan.
Chief Executive/Corporate Services		Implementation of development plan system and determination of planning applications.
Education Services	Yes	Provision of education facilities
Environment Services	Yes	Determination of planning applications in accordance with the Local Plan.
Social Services	Yes	Formulation of housing strategy and implementation of housing policies, including those relating to affordable housing

Part 4

Is the proposal contrary to or does it propose amendment to the Policy Framework or contrary to (or not wholly in accordance with) the Council's budget?	Yes ✓ Fill in Box 1	No Fill in Box 2
<p>1. Details of the nature and extent of consultation with stakeholders and relevant select committees.</p> <p>The Local Plan is a statutory document that is prepared in accordance with the relevant Regulations. The Plan has already been the subject of extensive formal public consultation with a wide range of individuals and organisations and has recently been scrutinised through the Local Plan Inquiry. The Proposed Modifications referred to in this Report have also been the subject of formal public consultation and associated publicity arrangements. There has been full involvement of Members throughout this process through the Torbay Local Plan Working Party and relevant Committee and Council meetings.</p>		
<p>2. Details and outcome of consultation, as appropriate.</p>		

Part 5

Is the proposal a Key Decision in relation to an Executive function?	Yes ✓ Reference Number X35/2003	No
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Part 6

Wards

All Torbay Wards

Appendices

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| Appendix 1 | Summary of issues raised by representations to Torbay Local Plan (1995 – 2011) Proposed Modifications. |
| Appendix 2 | Summary of representations received on Modifications, and officer response |
| Appendix 3 | Minor editorial / technical changes |

Documents available in Members' Room

See below

Background Papers:

The following documents/files were used to compile this report:

1. *Torbay Local Plan (1995 – 2011): Deposit Version (July 1999).
2. *Torbay Local Plan (1995 – 2011): Revised Deposit Version (October 2000).
3. *Torbay Local Plan (1995 – 2011): Inspector's Report into objections to the Plan (April

2003).

4. * Torbay Local Plan (1995 – 2011): Proposed Modifications (October 2003)
4. **Local Plan representations relating to the above documents.
5. **Briefing Papers / Working Papers referred to in the main body of this Report.
6. **Local Plans and Unitary Development Plans – A Guide to Procedures (DETR 1999).
7. **The Town and Country Planning (Development Plan) (England) Regulations 1999.

Footnotes:

* Copies already supplied to Members.

** Available for inspection on request.