

TORBAY COUNCIL

LOCAL GOVERNMENT AND RATING ACT 1997

PROPOSALS FOR A TOWN COUNCIL IN BRIXHAM

1. INTRODUCTION

- 1.1 Torbay Council has carried out a parish review under sections 9 and 10 of the Local Government and Rating Act 1997 ("the Act") and has decided to submit recommendations to the Office of the Deputy Prime Minister (ODPM) and the Electoral Commission in relation to the establishment of a town Council in Brixham. The Council would hope that if its proposals are accepted, the necessary Orders will be made so that the elections to a newly established town Council can take place concurrently with the local government elections in 2007.

2. LOCATION AND BRIEF HISTORY OF THE TOWN

- 2.1 The Town of Brixham is situated at the southern end of Torbay and forms part of the Borough of Torbay which also includes the towns of Torquay and Paignton. The three towns are very different in terms of their present character and history. Paignton and Brixham are older than Torquay, in fact the settlements date back to saxon times.
- 2.2 The 1801 census revealed that Brixham was the largest town in Torbay, with a population of 3,500, while Paignton had only 1,575 inhabitants and Torquay a mere 838. Despite more than doubling in size to 8,092, by 1901 Brixham was the smallest of the three towns, and remains so with a population growing to 17,457 by 2001.
- 2.3 Brixham originally developed as two separate areas of settlement, one around St Mary's Church and one around the harbour, but has since expanded to become one area, largely as the result of the fishing industry. The two areas of Brixham were under separate local government control until 1894 when they were united to become the Brixham Urban District Council. The harbour passed to the new Council as a result of the Brixham Harbour & Market Act 1896. Brixham ceased to be an independent local authority when it became part of the new Torbay County Borough in 1968.
- 2.4 The Local Government Act 1972 which reorganised local government in England and Wales, provided for the complete area of Torbay County Borough Council to form the new second tier Borough Council of Torbay with effect from 1st April 1974. Following a further review of local government, Torbay became a unitary authority in 1998.

- 2.5 Brixham is known as “The Mother of Trawling”, and fishing has been a major industry for hundreds of years. In 1850 the town was said to have the largest fishery in England, employing 1,600 seaman on 270 vessels. The industry declined between the First and Second World Wars. However, the industry recovered during the post-war period, and peaked with 139 vessels operating in 1992.
- 2.6 In recent years there has been some growth in manufacturing in the Brixham area, however the town is still very dependent on the fishing industry for both employment (either directly or indirectly) and tourism. The fishing industry in Brixham in common with other fisheries is facing many challenges, but Brixham remains one of the most important fishing ports in England.
- 2.7 A considerable amount of work has been carried out into the development potential of key sites in the Brixham harbour area. In November 2004, the Council gave its support to the Brixham regeneration programme and work is under way on an implementation strategy for the phased development of new commercial, fishing, leisure and tourism amenities in Brixham.

3. REVIEW BACKGROUND AND STAGE I CONSULTATION

- 3.1 On 24th November 2004, a petition was submitted to Torbay Council in relation to the creation of town councils in Torquay, Paignton and Brixham. The petition stated:
- “We the undersigned, being local government electors for the area of Torbay seek a Torbay Council with fewer Councillors and separate town councils for Brixham-Paignton-Torquay.”*
- 3.2 At the meeting of Council held on 16th December 2004, the Council resolved to authorise the Director of Community to determine the validity of the petition under section 11 of the Act.
- 3.3 In determining the validity of the petition the Director, as the Proper Officer, took into account the relevant provisions of the Act together with the advice that had been obtained from leading counsel. He was particularly mindful that the local authority was required by the Act to submit to the Secretary of State any petition for a town council if it was signed by 10% of the population. This threshold, however was only met in relation to the proposal for Brixham.
- 3.4 The petitioners had failed to identify clear boundaries between the three urban boundaries in the borough. Therefore the signatories to the petition would not have been aware of the extent of the prospective town council areas. Whilst the petition organiser had submitted a map defining the boundaries of the proposed Brixham town council area at the time of the submission of the petition, it was not possible for the position to be remedied retrospectively. It was concluded that the town councils petition did not, in any respect, comply with the Act and was accordingly declared invalid.

- 3.5 At the meeting of Council held on 3rd March 2005, Members were advised of the outcome of the verification process and were asked to consider whether or not to initiate a parish review given that the petition had demonstrated that there was a significant number of electors who favoured the idea of establishing a town council. Although the petition did not comply with the provisions of the Act, it was resolved that arrangements be made to undertake a formal consultation, by way of a referendum, involving electors of the Berry Head with Furzeham and St Marys with Summercombe wards to assist the Council in determining whether it should draw up proposals for the creation of a town council based on those wards (see Appendix A)
- 3.6 The Council launched the parish review on 14th June 2005 giving public notice in the local newspaper inviting those with an interest to make their comments known to the Council by 14th July 2005 (see appendix B). At the same time, the Council wrote to the local member of Parliament, ward councillors, local bodies and other interested parties seeking their comments on the draft proposals.
- 3.7 As the Council had agreed to hold a referendum on the issue, advice was sought from the Electoral Reform Society on the draft of the ballot paper and the content of an explanatory leaflet which was distributed to all local government electors in Brixham (see appendix C).
- 3.8 All the electors in the two wards were sent a ballot paper asking the following question: "Are you in favour of the creation of a town council for Brixham based on the Berry Head with Furzeham and St Marys with Summercombe wards?" The total number of "yes" votes was 3,496 (representing 73% of the votes cast) and the total number of "no" votes was 1,296 (representing 27% of the votes cast). The overall turnout was 35.1 %. The result of the referendum provided a clear indication by the electorate that they would like to see a town council for Brixham.
- 3.9 In addition, four letters of representation were received. Two letters of support were submitted, one by the petition organiser, David Scott and the other from the local Member of Parliament for the area, Anthony Steen. The other two letters were received from Brixham Amenity Society and Residents Association and Brixham Chamber of Trade and Commerce who both declined to express a view on the matter. No written representations were received from any member of the public nor any local organisation expressing opposition to the principle of creating a town council for the Brixham area.
- 3.10 The conclusion drawn from the first stage of the review was that there was significant support for the creation of a town council in Brixham.

4. DRAFT PROPOSALS AND STAGE II CONSULTATION

- 4.1 Environment Circular 11/97 states that "In making its assessment of the need for new or changed parish arrangements, a district council must observe the requirements of the Act to have regard to the need to reflect the identities and interests of local communities and to secure effective and convenient local

government.” It is considered that the establishment of a town council in Brixham would satisfy both the tests identified in the Circular.

4.2 **Local Administration.** Since the introduction of the Act, over 150 parish and town councils have been established. Increasingly more urban areas are deciding to develop parish councils as an effective means of community democracy, often with the lead of the local district, county or unitary authority. In recent years parish councils have been established in Milton Keynes, Bradford and Leeds to name a few. Therefore the Council is not unique in putting forward a proposal for the establishment of a town council.

4.3 The Council considers that it is desirable for Brixham to have a town council for the following reasons:

- The result of the referendum provides evidence that there is strong support in the community for a town council.
- Brixham was served by a local authority for over 70 years (between 1894 and 1968) which demonstrates that a town council could be a viable unit of local administration. As the local population is less than a sixth of the total population of the Torbay Council area, the town council would not be overly dominant in relation to the rest of the borough.
- The results of research undertaken has revealed that population size is an important determinant of the capacity of local councils to serve their communities. In comparison with the majority of parish/town councils, the proposed town council would, by virtue of the population size, be able to devote a greater level of resources to support a wider range of services.
- As the tier of local government closest to the electorate, a town council could assist Torbay Council by contributing to the process of revitalisation through their own powers and resources and their additional capacity for community engagement.
- It would offer a long-term focus for representing the residents of Brixham.
- It would help foster community spirit and community identity in the area.
- It would add strength to Brixham’s Torbay councillors when they speak on Brixham matters at meetings of that authority.
- It would contribute to the enhancement of local democracy.
- The local Council would be consulted on all planning applications affecting Brixham.
- It would be consistent with one of the main priorities of Torbay Council of “creating sustainable communities” and the development of the concept of ward partnerships which have been established across the borough.

- 4.4 **Electoral Arrangements.** A review of the electoral arrangements in Torbay took place in 2001. The purpose of the review was to rectify the electoral imbalances that had developed and secure, as far as reasonably practicable, equality of representation across the whole of the local authority area.
- 4.5 At the time of the review there were 12 wards with 3 councillors. Whilst this arrangement was a simple configuration that could easily be understood by the community, the advice from the Local Government Commission (now the Electoral Commission) was that this format would not give the Council the flexibility to address the issue of community identity. In taking this factor into account, the Council felt that a mixture of two and three councillor wards should be introduced.
- 4.6 The former Furzeham with Churston and St Peters with St Marys wards were each represented by three councillors to form the Brixham town area of the district. The Council considered that the boundary between the towns of Brixham and Paignton should be revised so that the Brixham boundary would more closely reflect the built up area of the town. Based on this modification, the Council put forward two new wards for the revised Brixham area. It proposed the creation of a new three member Berry Head with Furzeham ward and a two member St Marys with Summercombe ward.
- 4.7 The Commission concurred with the Council's view that the boundary between the towns of Brixham and Paignton should be amended to more closely reflect the built-up area of Brixham. The Commission, however, felt that one minor amendment to the scheme should be made which would result in the modification of the boundary between the Berry Head with Furzeham and St Marys with Summercombe wards.
- 4.8 The Order, giving effect to the new electoral arrangements for Torbay, was confirmed by the Electoral Commission on 11th July 2002.
- 4.9 The outcome of the comprehensive review that had been undertaken was that an electoral arrangement had been put into place in Brixham that had greater regard to community identity than had previously been the case. The arrangement recognised that Brixham as a distinct community which is physically separated from the rest of Torbay by an area of open countryside.
- 4.10 As a considerable amount of work has been undertaken to create district wards to reflect the interests and identity of the local community, there is a strong argument for establishing a town council based on those wards. This would be the simplest solution and one which would cause least confusion amongst the electorate. The Council therefore proposes that the parish should be divided into two wards (Berry Head with Furzeham and St Marys with Summercombe wards) with the parish boundaries being wholly coterminous with the district ward boundaries (see appendix D for a map showing the area to be covered by the town council together with the ward boundaries).

- 4.11 It would also be the intention that the town council would be served by 12 town councillors. In suggesting this number of town councillors, the Council noted there was no guidance available on this matter other than that there must be at least five town councillors. The research undertaken revealed that there were significant variations in the councillor/elector ratio in relation to the town councils that had been established in Devon. Indeed the Devon scenario was found to be indicative of the variations of town council size throughout the country.
- 4.12 The National Association of Local Councils (NALC) were contacted for their views on the matter. Whilst NALC were not able to offer any specific guidance, they indicated that a suitable figure for a town council in Brixham would be within the range of 11-15 councillors. They made the point that the vast majority of town councils were established many years ago when it was the norm to create councils with a large number of councillors. Based on their knowledge on the operation of town councils, they recommended that the Council should put forward a proposal that would result in the election of no more than 15 councillors. It is intended that the total number of town councillors would be 12 which would give a councillor/elector a ratio of around 1,150. It is also intended that the number of councillors for the Berry Head with Furzeham ward (7,929 electors) and the St Marys with Summercombe ward (5,827 electors) should be 7 and 5 respectively.
- 4.13 The proposals were adopted for the purposes of public consultation at the meeting of Council held on 21st July 2005 (see appendix E)
- 4.14 On 23rd September 2005, the Council published its draft proposals in the local newspaper (see appendix F). The Council also wrote to the local member of Parliament, ward councillors, local bodies, and other interested parties seeking the views on the draft proposals.
- 4.15 The Leader of the Brixham Town Council Campaign Team and Brixham 21 have each submitted a letter in support of the draft proposals. An item of correspondence has been received from a resident supporting the proposed number of councillors for the town council, but expressing a preference for the two wards to be split into smaller parish areas. A letter has also been received from a resident suggesting that consideration should be given to a reduction in the total number of town councillors from 12 to 8. The division of the wards into smaller areas is achievable, however there are no compelling reasons to deviate from the proposals put forward which clearly reflect community identity. The suggestion for a reduction in the total number of town councillors does not accord with the advice obtained from NALC and would, based on the research undertaken, seem to be inconsistent with the electoral arrangements adopted by local councils elsewhere.

5. CONCLUSION

- 5.1 The Council's submission is based on the support of the electorate demonstrated through the local referendum on 25th July 2005. A significant majority of local electors signified their approval to the proposal as 73% of those voting in the referendum indicated their support for a town council.
- 5.2 The Council considers that the creation of a town council in Brixham, based on the district wards, would not only reflect the identity and interests of the town and its community but would also secure effective and convenient local government at "grass roots" level.
- 5.3 The Council's proposals in relation to the electoral arrangements are summarised as follows:

Ward name	Electorate	No of councillors	Cllr : elector ratio
Berry Head with Furzeham	7,929	7	1,133
St Mary's with Summercombe	5,827	5	1,165

- 5.4 It is hoped that the ODPM and the Electoral Commission support the proposals so that such a town council can be created so as to operate from May 2007.

APPENDICES – LIST OF CONTENTS

Appendix	Subject
A	Extract of the minutes of meeting of the Council held on 3rd March 2005 initiating the review
B	Advertisement of the commencement of the review dated 14th June 2005
C	Leaflet sent to all households in Brixham in July 2005
D	Map showing the area to be covered by the town council together with the boundaries of the two wards
E	Extract of the minutes of the meeting of Council held on 21st July 2005 setting out the draft proposals
F	Advertisement of the draft proposals dated 23rd September 2005

Appendix A

Extract of Minutes of meeting of Council held on 3rd March 2005

548. Establishment of Town Councils – Consultation.

The Council considered Report 29/2005 on the outcome of the verification process in relation to the Town Councils petition and requested that consideration be given to the options available to the Council.

It was proposed by Councillor Harris and seconded by Councillor Browne:-

(i) **THAT** it be noted that the Town Councils petition did not comply with the provisions of the Local Government and Rating Act 1997, because the organisers of the petition failed to sufficiently define the area to be parished and accordingly the petition was declared invalid;

(ii) that notwithstanding (i) above, arrangements be made to undertake formal consultation, by way of a referendum, involving electors of the Berry Head with Furzham and St Marys with Summercombe wards to assist the Council in determining whether it should draw up proposals for the creation a Town Council based on those wards;

(iii) that the referendum be conducted by way of an all-postal ballot which will end on 14th July 2005; and

(iv) that the Strategic Director for Community be authorised to determine all matters in relation to the consultation arrangements and the conduct of the referendum.

On being put to the vote, the motion was declared **CARRIED**.

Appendix B

TORBAY COUNCIL

LOCAL GOVERNMENT AND RATING ACT 1997

PARISH REVIEW

NOTICE IS HEREBY GIVEN that Torbay Council, in exercise of its powers under Section 9 of the Local Government and Rating Act 1997, is to conduct a parish review for the purpose of considering whether or not to make any recommendations to the Secretary of State on the creation of a town council for the area of Brixham based on the Berry Head with Furzeham and the St Marys with Summercombe wards.

Representations from local organisations and local residents in relation to the review are invited and should be submitted to the undersigned not later than Thursday, 14th July 2005.

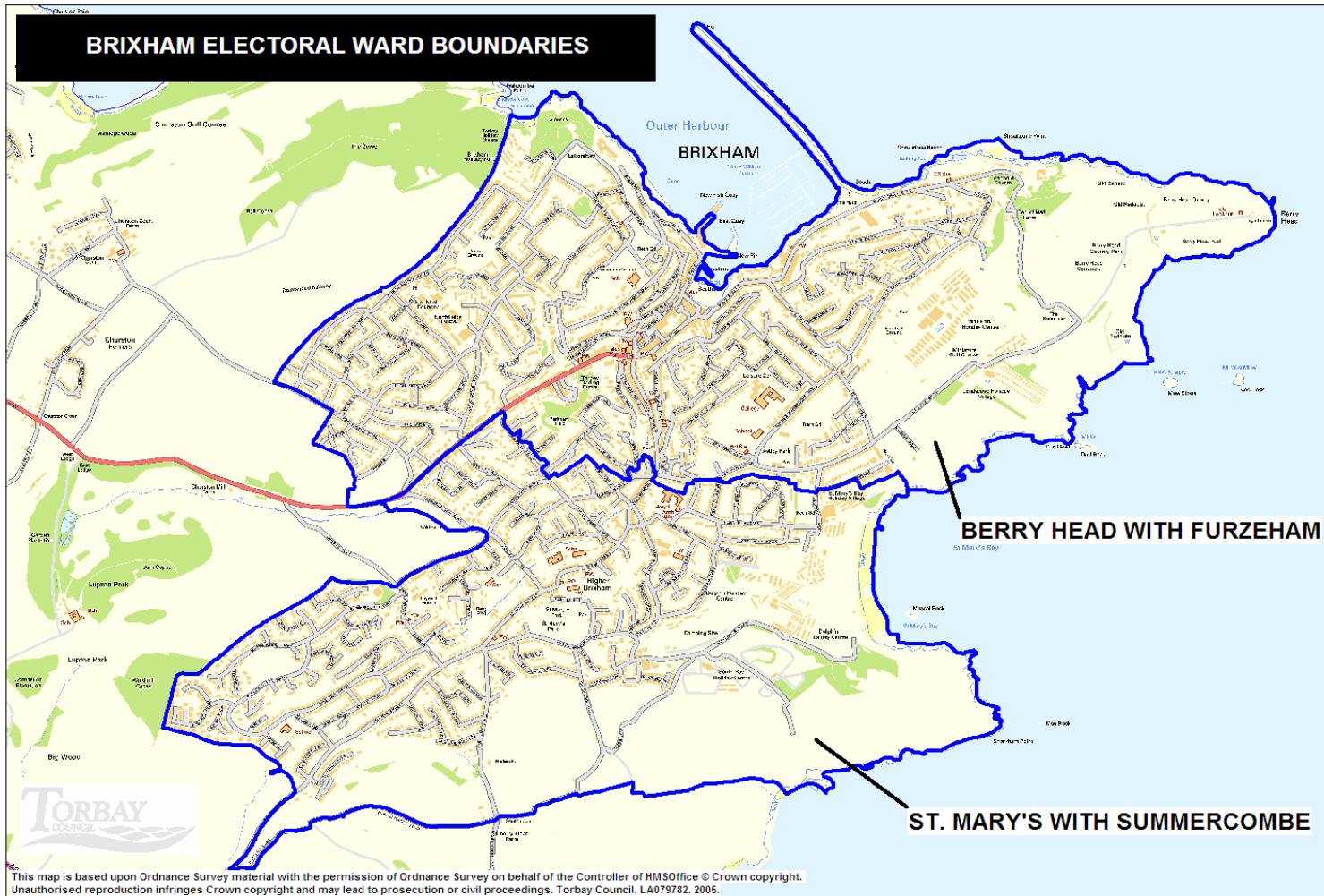
A referendum will be held in July to determine the level of support for a town council. All registered electors for the area that is the subject of the review will be able to take part in a referendum, which will be undertaken by way of a postal ballot, with the closing date for returned postal votes being 9.00 p.m. on Thursday, 14th July 2005

After that date, the Council will either, prepare draft recommendations upon which interested persons will have the opportunity of making any further representations before they are finalised by the Council and submitted to the Secretary of State, or decide that no recommendations for change should be made.

Paul Lucas
Counting Officer and Strategic Director (Community)
Town Hall
Torquay
TQ1 3DR

Dated 14th June 2005

Appendix D



Appendix E

Extract of Minutes of meeting of Council held on 21st July 2005

328. Establishment of Town Council for Brixham. The Council considered Report 191/2005 setting out the result of the referendum on the establishment of a town council for Brixham together with details of the written representations received during the public consultation period. The report also set out draft recommendations on the electoral arrangements in connection with the formation of a town council.

It was proposed by Councillor Lomas and seconded by Councillor Browne:-

(i) **THAT** in the light of the result of the referendum, the creation of a town council for Brixham be supported;

(ii) that the Parish Review be continued and that the following proposals be approved for the purposes of public consultation:

(a) the establishment of a town council based on the Berry Head with Furzeham and St Marys with Summercombe wards;

(b) the whole parish area be divided into two wards (Berry Head with Furzeham and St Marys with Summercombe wards) with the parish boundaries being coterminous with the district ward boundaries; and

(c) the town council be represented by the following number of councillors:

Berry Head with Furzeham - 7 councillors
St Marys with Summercombe – 5 councillors

(iii) that the terms of reference of the Constitution Working Party be widened to enable all matters relating to the formation of the town council to be considered by the working party.

On being put to the vote, the motion was declared **CARRIED** (unanimously).

Appendix F

TORBAY COUNCIL

LOCAL GOVERNMENT AND RATING ACT 1997

PARISH REVIEW – PROPOSALS FOR A TOWN COUNCIL IN BRIXHAM

NOTICE IS HEREBY GIVEN that Torbay Council has undertaken a parish review under Section 9 of the Local Government and Rating Act 1997. Arising from this review the Council has prepared draft proposals on which comments are invited. The proposals are as follows:-

- (i) the establishment of a town council in Brixham based on the Berry Head with Furzeham and St Marys with Summercombe wards;
- (ii) the whole parish to be divided into two wards (Berry Head with Furzeham and St Marys with Summercombe wards) with the parish boundaries being coterminous with the district ward boundaries; and
- (iii) the town council to be represented by the following number of councillors:-

Berry Head with Furzeham – 7 Councillors
St Marys with Summercombe – 5 Councillors

The draft proposals may be inspected at the Connections Office at Brixham Town Hall and Brixham Library during normal opening hours.

Any person wishing to make comments to the Council on the draft proposals should submit them in writing to the Strategic Director (Community) at the undermentioned address on or before 4th November 2005.

Paul Lucas
Strategic Director (Community)
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Dated 23rd September 2005