

Wednesday, 27 October 2021

## **Extraordinary Meeting of the Council**

Dear Member

I am pleased to invite you to attend a extraordinary meeting of Torbay Council which will be held in **The Forum, Riviera International Conference Centre, Chestnut Avenue, Torquay, TQ2 5LZ** on **Thursday, 4 November 2021** commencing at **5.30 pm**

The items to be discussed at this meeting are attached.

Yours sincerely,



Anne-Marie Bond  
Chief Executive

(All members are summoned to attend the meeting of the Council in accordance with the requirements of the Local Government Act 1972 and Standing Orders A5.)

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**Together Torbay will thrive**

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**June Gurry, Town Hall, Castle Circus, Torquay, TQ1 3DR**

Email: [governance.support@torbay.gov.uk](mailto:governance.support@torbay.gov.uk) - [www.torbay.gov.uk](http://www.torbay.gov.uk)

# Extraordinary Meeting of the Council Agenda

1. **Opening of meeting**

2. **Apologies for absence**

3. **Minutes**

To confirm as a correct record the minutes of the meeting of the Council held on 30 September 2021.

(Pages 4 - 8)

4. **Declarations of interests**

- (a) To receive declarations of non pecuniary interests in respect of items on this agenda

**For reference:** Having declared their non pecuniary interest members may remain in the meeting and speak and, vote on the matter in question. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.

- (b) To receive declarations of disclosable pecuniary interests in respect of items on this agenda

**For reference:** Where a Member has a disclosable pecuniary interest he/she must leave the meeting during consideration of the item. However, the Member may remain in the meeting to make representations, answer questions or give evidence if the public have a right to do so, but having done so the Member must then immediately leave the meeting, may not vote and must not improperly seek to influence the outcome of the matter. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.

**(Please Note:** If Members and Officers wish to seek advice on any potential interests they may have, they should contact Governance Support or Legal Services prior to the meeting.)

5. **Application to Form a New Neighbourhood Forum and Area for Broadsands, Churston and Galmpton**

(Pages 9 - 40)

To consider a report on the application to form a new Neighbourhood Forum and Area for Broadsands, Churston and Galmpton.

**Meeting Attendance**

Whilst national Covid-19 restrictions were lifted on 19 July 2021, Torbay Council has taken the decision to continue operating in a Covid-19 secure manner in order to protect staff and visitors entering Council buildings and to help reduce the spread of Covid-19 in Torbay. This includes social distancing and other protective

measures (e.g. wearing a face covering (unless exempt), signing in and using hand sanitiser). Our public meetings will continue to operate with social distancing measures in place and as such there are limited numbers that can access our meeting rooms. Also, to help prevent the spread of the virus, anyone attending meetings is asked to take Covid lateral flow test the evening before - if you have a positive test result please follow the Government's guidelines and do not attend the meeting.

If you wish to attend a public meeting please contact us to confirm arrangements for your attendance.

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

**30 September 2021**

**-: Present :-**

**The Worshipful The Mayor of Torbay (Councillor Manning) (In the Chair)**  
**Deputy Civic Mayor of Torbay (Councillor Mandy Darling)**

Councillors Amil, Atiya-Alla, Barrand, Barnby, Brooks, Brown, Bye, Carter, Cowell, Steve Darling, Douglas-Dunbar, Dudley, Ellery, Foster, Hill, Howgate, Johns, Kavanagh, Kennedy, Law, Barbara Lewis, Chris Lewis, Long, Loxton, Mills, Morey, O'Dwyer, Pentney, Stockman, David Thomas and Jacqueline Thomas

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**228 Opening of meeting**

The meeting was opened with a prayer.

**229 Apologies for absence**

Apologies for absence were received from Councillors Dart, Sykes and John Thomas.

The Chief Executive advised that Councillor Barbara Lewis had indicated she would be leaving the meeting early.

**230 Minutes**

The Worshipful the Mayor of Torbay proposed and Councillor Mandy Darling seconded a motion, which was agreed (unanimously) by the Council as set out below:

**Subject to Minute 221 being amended to reference Councillor Stockman, not Councillor Stockton, the Minutes of the meeting of the Council held on 29 July 2021 be signed as a correct record by the Worshipful the Mayor of Torbay.**

**231 Declarations of interests**

No interests were declared.

**232 Communications**

The Worshipful the Mayor of Torbay welcomed the High Sheriff of Devon and Mr Brendon Prince to the Council Meeting. Members were advised that Mr Prince, the founder of the Above Water Charity and a sea safety campaigner, was the first person to complete a round trip of mainland Britain on a paddleboard in 141 days – The Long Paddle 2021. On behalf of the Council, the Worshipful the Mayor of Torbay thanked Mr Prince for his achievement and the High Sheriff of Devon presented Mr Prince with the High Sheriff of Devon's award in recognition of his achievement and for raising the profile of the importance of sea safety.

The Worshipful the Mayor of Torbay advised members of the recent passing of Mr Tony Key, who was a former Leader of the Council and Freeman of Torbay and offered condolences to Mr Key's family on behalf of the Council.

The Chief Executive advised members of a serving member of staff, Rob Wills, who had also sadly passed away. The Chief Executive then led a minute's silence in memory of both Mr Key and Mr Wills.

The Leader of the Council updated members on:

- a) a joint letter from Torbay, Teignbridge and North Devon's Council Leaders, sent to the Home Office Secretary of State, highlighting the challenges faced from the shortage of HGV drivers to deliver essential Council Services and requested more flexibility for the recruitment of HGV drivers and to allow for European drivers. Members were also advised of the Council's approach to train its own drivers for refuse and recycling collections;
- b) a letter from the Leader and Deputy Leader of the Council, sent to Torbay's MP, on the impact the Government's changes to Universal Credit would have on those in need Torbay's communities; and
- c) a visit to Torbay by colleagues from North Somerset Council which was hosted by Cabinet members and senior officers. The visit provided an opportunity to share the Council's best practice in respect of managing the summer season's pressures and the Council's investment in regeneration.

**233 Members' questions**

Members received a paper detailing questions, notice of which had been given in accordance with Standing Order A13. The paper also contained the answers to the questions which had been prepared by Councillors Cowell, Steve Darling, Law, Long, Morey and Stockman and was circulated prior to the meeting.

Supplementary questions were put and answered by Councillors Cowell, Steve Darling, Long and Morey arising from their responses to the questions in respect of questions 1, 2, 3, 5, 7, 9, 10, 12, 13, 14, 15, 16, 21, 22, 23 and 24.

During the members' questions session, the Chief Executive advised, that due to an administrative error, question 22 would be taken in the first round and not the second round as published.

#### **234 Corporate Parenting Strategy to be added to list of Policy Framework Documents**

The Council considered the recommendation of the Cabinet, together with the submitted report, which sought the approval for the Corporate Parenting Strategy to be added to the Council's list of Policy Framework Documents.

Councillor Law proposed and Councillor Morey seconded a motion that was agreed (unanimously) by the Council as set out below:

**that the list of Policy Framework documents in the Constitution be updated to include the Corporate Parenting Strategy.**

#### **235 Equality Objectives 2021-2025**

The Council considered the recommendation of the Cabinet and the submitted report on refreshed Equality Objectives for 2021-2025.

Councillor Carter proposed and Councillor Stockman seconded a motion, which was agreed (unanimously) by the Council as set out below:

**that the Council be recommended to agree the following Equality Objectives for 2021-2025:**

- 1. Ensure a wide range of voices are reached and heard in decision making and designing and delivering services.**
  - **Ensure all relevant groups are included in consultations, providing support as appropriate.**
  - **Improve the accessibility of our events, meetings, information and communications.**
  - **Strengthen our relationship with our communities and encourage participation.**
  - **Ensure equality considerations are appropriately addressed within our procurement processes and contract management arrangements.**
  
- 2. Reduce inequalities so Torbay and its residents thrive.**
  - **Deliver on our Community and Corporate Plan ambition we will work to:**
    - **Ensure that all children are given the best start in life and families are supported.**
    - **Tackle lifestyle and economic issues which lead to inequality and poor health.**
    - **Ensure that older people age well and are physically, mentally and socially active.**

3. **Consider and if approved implement the recommendations from the Torbay Racism Review Panel.**
  - **Maintain a legacy of the review.**
  - **Strengthen engagement networks.**
  
4. **Support the diverse needs of our workforce. Our staff are one of our biggest assets and our employees come from a wide range of backgrounds with a variety of skills and knowledge. We are committed to supporting our staff and enabling them to provide the best possible service to our customers.**
  - **Demonstrating our Core Values, we will always be approachable, calm and respectful.**
  - **Create an environment where we act professionally and treat everyone with respect.**
  - **Ensure that policies and initiatives are in place so our staff can feel safe at work and carry out their duties without feeling bullied or discriminated against.**
  - **Support staff to continue to improve their cultural competence and confidence to improve workforce inclusivity and engage with our diverse population and communities.**

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

### **236 Torquay Town Dock Infrastructure Improvements**

The Council considered the recommendations of the Harbour Committee and the Cabinet (as set out in the submitted report), which sought approval of capital funding in order to carry out urgent and essential pontoon replacement and repair works to the Torquay Town Dock, Torquay Harbour.

Councillor Amil proposed and Councillor Carter seconded a motion, which was agreed (unanimously) by the Council as set out below:

1. **that borrowing is approved for up to £1.2m for the Torquay Town Dock infrastructure improvements, as set out in the submitted report, and that the Harbour budget will meet the additional borrowing costs, expected to be £115,500 per annum, from increased revenue, commencing in 2024/25; and**
  
2. **that the Torquay Town Dock Infrastructure Improvements Project be added to the Council's Capital Programme.**

**237 Renumeration for Audit Committee Independent Person**

The Council considered the submitted report on a proposal for financial renumeration for the post of Independent Person for the Audit Committee.

Councillor Loxton proposed and Councillor Long seconded the motion, as set out below:

1. that an allowance of £500 per annum be offered as renumeration to the Independent Person for Audit Committee and that the Monitoring Officer be instructed to update the Members Allowance Scheme accordingly; and
2. that the Head of Governance readvertise the post, in light of, the decision set out in 1. above.

During the debate, Councillor O'Dwyer recommended an increase in the allowance of up to £1,000 and for the Chief Executive to approve the actual amount paid. Councillor Loxton and Councillor Long accepted Councillor O'Dwyer's recommendation, which was then incorporated in the original motion and was agreed by the Council (unanimously) as set out below:

1. **that an allowance of up to £1000 per annum (with the actual amount to be approved by the Chief Executive) be offered as renumeration to the Independent Person for Audit Committee and that the Monitoring Officer be instructed to update the Members Allowance Scheme accordingly; and**
2. **that the Head of Governance readvertise the post, in light of, the decision set out in 1. above.**

**238 Standing Order D11 (in relation to Overview and Scrutiny) - Call-in and Urgency**

Members noted the submitted report setting out the Cabinet's decision taken (namely: Contract Award Key Worker and Temporary Accommodation – Richmond Hotel, Torquay) to which the call-in procedure did not apply.

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The Worshipful the Mayor of Torbay

**Meeting:** Council **Date:** 4<sup>th</sup> November 2021.

**Wards affected:** Mainly Churston with Galmpton, but also Goodrington with Roselands, St Marys with Summercombe and Berry Head with Furzeham. Indirect effect upon all Wards (see report).

**Report Title:** Application to Form a New Neighbourhood Forum and Area for Broadsands, Churston and Galmpton (BCG).

**When does the decision need to be implemented?** By 6<sup>th</sup> December 2021 (13 weeks from receipt of application).

**Cabinet Member Contact Details:** Mike Morey, Cabinet Member for Infrastructure, Environment and Culture

**Director/Assistant Director Contact Details:** David Edmondson Divisional Director, Planning, Housing and Climate Emergency.

## 1. Purpose of Report

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- 1.1 An application has been submitted to Torbay Council as the Local Planning Authority, to create a new Neighbourhood Area and Forum comprising the villages of Broadsands, Churston and Galmpton and surrounding areas (referred to below as BCG Area and Forum). The proposed new Neighbourhood Area consists of all parts of the current Brixham Peninsula Neighbourhood Plan Area which are not within the administrative boundaries of Brixham Town Council.
- 1.2 If the application is agreed, a new Neighbourhood Area and Neighbourhood Forum would be created covering Broadsands, Churston and Galmpton and surrounding areas. Brixham Town Council would remain the neighbourhood planning body ('qualifying body') for the Brixham Town Council administrative area.
- 1.3 A copy of the application and proposed neighbourhood area boundary are included at Appendix 1.

## 2. Reason for Proposal and its benefits

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We want Torbay and its residents to thrive.

*We want Torbay to be a place where we have turned the tide on poverty and tackled inequalities; where our children and older people will have high aspirations and where there are quality jobs, good pay and affordable housing for our residents.*

*We want Torbay to be the premier resort in the UK, with a vibrant arts and cultural offer for our residents and visitors to enjoy; where our built and natural environment is celebrated and where we play our part in addressing the climate change emergency.*

- 2.1 The proposals in this report help us to deliver this ambition by giving the residents of Broadsands, Churston and Galmpton a greater say in planning proposals in their area. At present the Neighbourhood Planning body for the area is Brixham Town Council, however local residents wish to be separate from the Town Council. Many volunteers have worked tirelessly on the preparation of Neighbourhood Plans.
- 2.2 As set out in the main report below, the Bay-wide housing shortage means that planning decisions will still need to be determined on the basis of the Presumption in Favour of Sustainable Development. The neighbourhood planning framework does not have the power to set a strategic housing level for the area or establish a five- or three-year supply outside of the Local Plan's strategic framework. This situation will endure until the Local Plan is updated. This could lead to community frustration, particularly given the determination and endeavour of many involved with neighbourhood planning.

### 3. Recommendation(s) / Proposed Decision.

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- 3.1 That a new Neighbourhood Area is created covering Broadsands, Churston and Galmpton.
- 3.2 That the area is amended in accordance with Option B in Appendix 2 that, amends the northern boundary of the proposed new Neighbourhood Area to be contiguous with the 2019 Ward Boundary amendments for Churston with Galmpton, to the east of Dartmouth Road (i.e. to exclude Saltern Road, which is now in Goodrington with Roselands Ward).
- 3.3 That the Broadsands Churston and Galmpton (BCG) Neighbourhood Forum be designated as the Neighbourhood Planning body ("Qualifying Body") for the Neighbourhood Area approved in 3.1 and 3.2 of this report.
- 3.4. That, as a result of 3.1, Brixham Town Council becomes the Qualifying Body for the "parished" area of the town of Brixham only and no longer covers the remaining area of the previously approved Brixham Peninsula Area, with the amended boundary to the area approved as shown in Appendix 2 as "Furzeham with Summercombe" and "St Peter's with St Mary's".
- 3.5 That, as a result of 3.2, the Paignton Neighbourhood Area be amended as shown in Appendix 2 to include the area of Saltern Road up to the boundary between the Goodrington with Roselands ward and the Churston and Galmpton ward
- 3.6 That the Council request that the Forum's Constitution be amended as follows;
  - i) to ensure that Forum executive committee members follow the same Code of Conduct as elected Torbay Council Members,

- ii) to undertake to publish Minutes of forum meetings within a reasonable period,
- iii) that Section 7.1 be amended to an absolute minimum of 8 members in attendance for quorum, with the amended text reading

“7.1 For Forum meetings held in public a quorum shall be an absolute minimum of 8 members or 5% of the membership where that would be higher, meeting together at a properly convened and constituted meeting or replying to a properly authorised circular to, or ballot of members.”

- 3.7 That the Council request for clarity that paragraph 3.1.1. of the Forum’s constitution be amended to read: “To **prepare** the Neighbourhood Plan for the Broadsands, Churston and Galmpton Neighbourhood area and to decide how it will be monitored and reviewed, including frequency of review.”

## **Appendices**

Appendix 1: Application including submitted Neighbourhood Area boundary.

Appendix 2: Alternative Neighbourhood Area boundaries considered (see main report).

Appendix 3: Summary of consultation representations received.

Appendix 4: Neighbourhood Development Plan “Road Map”.

## **Background Documents**

Consolidated version of the Neighbourhood Planning Regulations 2012 (as amended).  
Regulations 5 and 8 are the most relevant sections.

National Planning Policy Framework.

Online Planning Practice Guidance.

Brixham Peninsula Neighbourhood Plan

# Supporting Information

## 1. Introduction

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- 1.1 Torbay has placed great emphasis on Neighbourhood Planning and has bay wide Neighbourhood Plan coverage. Neighbourhood Plans, along with the Torbay Local Plan form the legal starting point for determining planning applications. Neighbourhood Plans are prepared by Neighbourhood Forums and a great deal of voluntary work goes into their preparation.
- 1.2 The area subject to the BCG application is currently within the Brixham Peninsula Neighbourhood Plan Area. Brixham Town Council is currently the neighbourhood planning body (The “Qualifying Body”) for the whole of the Brixham Peninsula area, including the villages of Broadsands, Churston and Galmpton. The Neighbourhood Plan Area was approved by Torbay Council in December 2012 and renewed for a further five years in December 2017 and therefore remains active until December 2022. The Brixham Peninsula Neighbourhood Plan was “made” by Torbay Council in June 2019, following referendum in May 2019.
- 1.3 Torbay Council has received an application to split the Brixham Peninsula into a new Broadsands, Churston and Galmpton (BCG) area and forum; with Brixham Town Council remaining the qualifying body for the Brixham Town Council’s administrative area.
- 1.4 When considering an application for a neighbourhood area, the LPA must take into account the desirability of: “Designating the whole of the area of a parish council as a neighbourhood area; and Maintaining the boundaries of existing neighbourhood areas” (Section 61G(4), of the Town and Country Planning Act 1990). The LPA also must consider whether the proposed area is appropriate (section 61G(5), TCPA 1990).
- 1.5 Paragraph 035 Reference ID: 41-035-20161116 of the online Planning Practice Guidance (PPG) says that
  - The LPA should take into account the relevant body’s statement explaining why the area applied for is considered appropriate to be designated as such.
  - Except in parished areas, where they are required to designate the whole area applied for, an LPA can refuse to designate the specific area applied for if that area is not considered appropriate. Where it does so, the LPA must give reasons. Some or all of the area applied for must form part of one or more designated neighbourhood areas.
  - When a neighbourhood area is designated, the LPA should avoid pre-judging what a qualifying body may subsequently decide to put in its draft neighbourhood plan or Order. It should not make assumptions about the neighbourhood plan or Order that

will emerge from developing, testing and consulting on the draft neighbourhood plan or Order when designating a neighbourhood area.

- 1.6 As set out in the supporting application for a new BCG Area and Forum, members of the proposed Forum feel that their interests would be better represented by a separate Forum, rather than by Brixham Town Council. They argue that the three villages and their environs have a distinct and more rural character to the other towns within Torbay, including Brixham. As residents of the BCG Villages do not come under the Town Council's jurisdiction there is a strong democratic argument for them to be able to form their own Neighbourhood Plan area and Forum.
- 1.7 A new Forum will be a consultee on planning applications. There will be cross boundary issues where it is appropriate to seek the views of more than one Neighbourhood Planning body e.g. for applications close to an area's border. This situation already exists elsewhere and is not a reason to resist designation.
- 1.8 The Neighbourhood Forum has also indicated that it will prepare a new Neighbourhood Plan to replace the Brixham Peninsula Neighbourhood Plan for the BCG area. Whilst the Neighbourhood Plan for the BCG may well draw heavily upon the existing Brixham Peninsula Neighbourhood Plan, it will need to be considered as a new plan. A key and understandable concern of Forum Members is to achieve a five year housing land supply, and therefore regain local control over planning decisions. This will not be easily achievable, for reasons set out below.
- 1.9 The existing Brixham Peninsula Neighbourhood Plan would remain in place for the whole of the former Brixham Peninsula, but would in time be superseded by new Neighbourhood Plans for the BCG area and Brixham Town.

## **Consultation**

- 1.10 Torbay Council consulted on the proposed Area and Forum in accordance with the legal requirements under the Neighbourhood Planning Regulations. Consultation ran between 6<sup>th</sup> September and 18<sup>th</sup> October 2021. The consultation received 31 representations, of which 25 expressed support for the creation of the BCG Forum. In addition, broadly supportive comments were received from Brixham Town Council and Natural England. Brixham Town Council, as the current Neighbourhood Planning Body made a formal response on 14<sup>th</sup> October 2021. This states that: *"While the Town Council is saddened at the villages actions, it acknowledges the importance of the democratic rights of the communities....The Town Council does not wish to present any objection to the villages request for designation. It is our duty to openly work with all stakeholders and neighbouring villages while representing the residents of Brixham to ensure a robust neighbourhood plan is maintained"*
- 1.11 The Town Council also expressed its desire to carry on as the Neighbourhood Planning Body for the town of Brixham. This matter was covered as part of the BCG Forum advertisement and does not need to be repeated.

- 1.12 There were, however, four objections to the proposed Forum. These raise the issue of cross-boundary relations between the Forum areas, some of the Broadsands community identify as being part of Paignton (i.e. questioning the appropriateness of the area covered). Some representations expressed a lack of confidence in the proposed members of the Forum.
- 1.13 These issues are dealt with below. Officers consider that they are not a reason for refusing Forum status, but there is a case to request amendments to the draft constitution to address objectors' concerns.

## **Housing Supply**

- 1.14 Government planning guidance is that LPAs should avoid prejudging the content of neighbourhood plans orders when considering Forum and Area applications. Having been "made" in June 2019, all of the Neighbourhood Planning bodies are looking to update their Neighbourhood Plans. The BCG Forum has expressed a wish to take an updated Neighbourhood Plan to referendum in 2022. This is not considered by Officers to be realistic, as neighbourhood Plans have to be written, undertake two rounds of consultation, independent examination and (if necessary) modification prior to referendum. The preparation of a new Neighbourhood Plan could take several years to achieve. A diagram showing the stages of preparing a neighbourhood plan is included at Appendix 4 for information.
- 1.15 Neighbourhood plans are not the strategic plan for the area and cannot set a housing requirement. Nor can they propose less development than is set out in the Local Plan or undermine strategic priorities. Despite the government's vaunted localism agenda, the planning system in the UK is very top down and driven by non-statutory and secondary legislation mechanisms aimed at boosting housing supply, even if this is against the wishes of local communities as expressed in recently made neighbourhood Plans. It remains to be seen whether changes to the former MHCLG, now the Department for Levelling Up Housing and Communities (DLUHC) presage a change to this approach.
- 1.16 The Torbay Local Plan is deemed "out of date" by the tests set in the National Planning Policy Framework (NPPF), due to the housing shortfall (of 813 dwellings since 2012), the lack of five-year land supply and failure against the Housing Delivery Test. Until the Local Plan is updated, it will not be possible for Neighbourhood Plans to demonstrate that they contain policies and allocations to meet its identified housing requirement.
- 1.17 In the absence of an agreed Bay-wide housing requirement, it will not be practical to provide a clear housing target to the neighbourhood plan areas. The starting point for a minimum Bay-wide requirement is the government's Standard Method local housing need figure. At October 2021 this stands at 559 dwellings a year, but is likely to rise in 2022 due to house price inflation. Torbay has to add a 20% buffer to this when calculating its five-year supply figure, making a requirement for 671 dwellings a year. The Brixham Peninsula

Neighbourhood Plan area is the most constrained area of Torbay, due to the proximity of the South Hams SAC and Greater Horseshoe Bat sustenance zone, AONB and road capacity issues at Windy Corner. For this reason, the Torbay Local Plan 2012-30 sets out a constrained level of growth for the south of Torbay. Officers have expressed concern about the achievability of the standard method level of housing growth in Torbay, and there are sound planning reasons for pursuing a constrained level of growth in the south of Torbay. However, the level of requirement for neighbourhood planning areas cannot be set prior to the Local Plan Update being found sound at Examination

- 1.18 The current Brixham Peninsula Neighbourhood Plan makes provision for 685 dwellings between 2012-30, of which 373 have been completed (at April 2021). The bulk of these came from Sharkham Village and Wall Park Holiday Park in Brixham. The approval at appeal of 373 dwellings at Inglewood (P2017/1133), which is within the proposed BCG area is likely to mean that the Brixham Peninsula's housing target in the Torbay Local Plan 2012-30 is comfortably met. However, it cannot follow that no other housing sites will be required in either the BGC Area or Brixham Town Centre. As a minimum it would be expected that existing allocated sites in the BPNP will be rolled forward; but overreliance on brownfield sites may open the door for greenfield proposals if the brownfield sites do not deliver, resulting in a shortfall. As noted there is a Bay wide housing shortfall. Additional greenfield sites are being actively promoted for development both in the BCG Area and Brixham Town Council Area (with a current application at St Marys Campsite). Development pressure is also expected to arise in the Brixham urban fringe around Monksbridge, which is part of the BCG area.
- 1.19 On this basis Neighbourhood Plans will not be able to enjoy full protection (as afforded by paragraph 14 of the NPPF), until the Local Plan is updated. Even if an independent examiner were persuaded to recommend approval and the Council made neighbourhood plans following referendum; they are unlikely to be accorded full weight by the Planning Inspectorate until the Bay wide housing issue is resolved.
- 1.20 Planning proposals will still be subject to the application of the Presumption in Favour of Sustainable Development. The development plan (i.e. local and neighbourhood plan) will remain the starting point for decision making, but the Presumption will be a material consideration operating a "tilted balance" in favour of granting housing applications.
- 1.21 This issue is important but is not in itself a reason to refuse Forum or Area status.

### **Neighbourhood Area Boundaries and area identity.**

- 1.22 Any area, however drawn, may result in cross-boundary issues where it is legitimate to take the views of the adjacent neighbourhood planning body. This could arise, for example if areas on the Brixham Urban Fringe within the BCG Area were to be proposed for development; in such cases it would be reasonable to seek the views of both the Forum and Town Council.

- 1.23 Several other boundaries have been considered by officers as set out in Appendix 2. Option (A) is to keep the submitted boundary, which adheres to the existing neighbourhood Area boundary with Paignton to the North, but simply splits the existing Brixham Peninsula. However, due to Ward boundary changes in 2019, a small amount of the Goodrington with Roselands Ward at Saltern Road, is in the BCG area. It is recommended that this should become part of Paignton Neighbourhood Plan area in order to avoid a very small part of Goodrington with Roselands Ward being included in the otherwise wholly Churston with Galmpton Neighbourhood Plan area. This is shown as Option (B) and is recommended by officers as a minor amendment to the proposed area. Whilst this would mean that a small number of homes will fall under the BPNP despite being within the Paignton Neighbourhood Area in the short term; this small anomaly will be rectified as the areas update their Neighbourhood Plans. The area in question is not expected to be subject to major planning applications.
- 1.24 Another option, shown as Option (C), would be to reduce the size of the area to cover the discrete villages of Galmpton and Churston and to move the Broadsands area into Paignton Neighbourhood Forum area. This could be achieved by placing the boundary between Paignton and BGC Neighbourhood Area along the rear of Tor Close around the edge of the Common, behind Brunel Road and Lower Fowden. There may also be a case to remove the Inglewood area from the Forum boundary, since this area has outline planning permission and when developed it will relate to White Rock phase 1. However, the Inglewood developers have supported the creation of a BCG Forum.
- 1.25 As noted, some representations have indicated that the residents in the north of the proposed BCG area consider themselves as living in Paignton, and the objections to the BCG designation appear to come from this area (see below). Reducing the area would therefore resolve a main area of contention. However, this option would represent a significant change in NP boundaries in this area, and it may be necessary to create a fairly arbitrary line between Broadsands and Churston. Conversely, the current boundary on Dartmouth Road between Hookhills and Broadsands, does represent a clear demarcation between the more built up area to the West of Dartmouth Road and the distinct settlements to the east (albeit one not reflected by ward boundaries). On this basis, option (C) is not recommended by officers.
- 1.26 Finally, the new Forum boundary could be extended to cover the entire Ward of Churston with Galmpton, as per the 2019 boundaries. This is shown as Option (D). This would include the Hookhills and White Rock areas within an enlarged BCG Neighbourhood Forum Area. Although designating along electoral Ward lines would be consistent with other Neighbourhood Areas in Torbay, there has been no consultation response suggesting this scenario from Paignton Neighbourhood Forum or residents of Hookhills. Moreover, this proposal would not necessarily reflect the villages' view of themselves as a separate identity to the built-up area of Paignton. Hookhills relates to Paignton and the boundary

between it and Goodrington with Roselands is not distinct. Option (D) is not recommended by officers.

### **Confidence issues and alleged behaviour of the predecessor “Forum” representatives.**

- 1.27 A small number of representations express a lack of confidence in the new Forum and raise a concern as to a lack of transparency. These appear to relate primarily, though not solely, to a planning dispute, however officers are clear that this is a separate matter to this Forum and Area applications. The BCG application is being led by the two Torbay Council Ward Members, who have a natural role in their capacity as Councillors to promote the interests of neighbourhood planning in their area.
- 1.28 It is noted that there are no published Brixham Neighbourhood Plan minutes posted online after August 2018, despite the period 2018-19 coinciding with busy neighbourhood planning activity. Officers will follow up on this matter with Brixham Town Council separately as it does not concern these applications other than ensuring that this forum is transparent as the community expects.
- 1.29 Whilst these concerns are taken seriously, they can be addressed by requesting that Forum post-holders or those representing the Forum at meetings etc. agree to the same Code of Conduct governing council Members and officers and ensuring there is a sufficient quorum attendance. The submitted constitution states for instance “8 members or 5% whichever is less” but that could give rise to 1 member being quorum if there were 21 members. The reference to ‘whichever is less’ suggests that was not the intention and clarity is proposed with an amendment to 7.1 of constitution. Agreeing to the code of conduct would also ensure that Forum representatives took equalities matters fully into account. Note that this would not preclude them from promoting land which they have an interest in, so long as that interest is properly declared; as indeed it was in the aforementioned case. In addition, it is recommended that the Forum’s Constitution undertakes to publish minutes of public meetings online within a reasonable period. The Government has proscribed neighbourhood forums’ roles and powers. The Neighbourhood Plan, when published, will be subject to independent examination, referendum and consideration by Torbay Council as the Local Planning Authority. Accordingly, it is considered proportionate to request that the Forum considers these suggestions, rather than seeking to require them.
- 1.30 Officers emphasise that the above is suggested as a response to the objections received and are not intended to impugn the good faith, or strenuous efforts for the community, of those involved in Neighbourhood Planning or promoting the BCG Forum.

## **2. Options under consideration**

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- 2.1 Different options are set out in Section 1 above, along with a discussion of detailed boundary issues. In summary, Officers have considered four boundary options:

(A) The boundary as submitted.

(B) A minor amendment to the northern boundary to move Saltern Road, which is in Goodrington with Roselands, into the Paignton Neighbourhood Area. This is Officers' recommendation.

(C) A more tightly drawn boundary around the villages of Galmpton and Churston. This is not recommended by Officers.

(D) To make the Neighbourhood Area the same as Churston with Galmpton Ward. This is not recommended by officers.

2.2 Separate to the boundary matters, there is an option for the LPA to refuse to agree to the creation of a new Forum and Area on the grounds that it will not help Torbay meet its housing requirements, and may delay preparation of the Local Plan update due to resources. However, Torbay Council has committed to empowering the community through Neighbourhood Planning and there is a strongly supported wish for the BCG community to form a separate Forum and Area from Brixham Town Council and therefore this is not recommended.

### 3. Financial Opportunities and Implications

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3.1 As a new Forum and Area, funding from Locality is available directly to the forum to support preparation of the Neighbourhood Plan. The costs of preparing a neighbourhood plan including council support and the required referendum on the plan will have a financial impact, although some of this cost maybe be offset from central government funding. Once the value and timing of these costs can be estimated the council will need to identify the funding.

3.2 The LPA has a duty to provide support to the new Forum. To support that Duty the Government do provide fixed levels of grant funding to the LPA. The previous period of extensive planning work with the Neighbourhood Forums coincided with a period where less development plan work was underway. Spatial Planning is not resourced to support neighbourhood planning to that same extent alongside the Local Plan update, and taking resources from one will necessarily impact upon the other. The support provided by the LPA to the forums can vary and previously this included regular attendance at forum meetings and advice on the development of planning policies, but with all areas updating their plans the minimum requirements will be to respond to forum consultations, arrange the LPA consultation, prepare committee/council reports, organisation of examinations including procurement of examiners as appropriate and managing any modifications process that follows, and arranging referendums.

3.3 Neighbourhood Plans are subject to independent examination and referendum. There is expense involved with appointing an Examiner. There is the cost of a referendum on a plan

proposal, if the referendum is not carried out in conjunction with an existing election it will cost in the region of £15K-£20K. Costs can be reduced by combining with an existing election. The Forum have indicated that they intend to go to referendum in 2022, but officers advice is that this timescale is too ambitious. However, the additional costs of Neighbourhood Plan examination etc. are not reasons to refuse the creation of an Area or Forum.

## 4. Legal Implications

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- 4.1 Neighbourhood Areas and Forums are governed by the Localism Act 2011 and Neighbourhood Planning Regulations (2012 as amended). The process of advertising and considering forum and area applications are set out in Regulations 6 and 9 of the Regulations, and considered in more detail above.
- 4.2 A key role of the Forum will be to carry out an update of the Brixham Peninsula Neighbourhood Plan insofar as it relates to the BCG villages. Neighbourhood Planning legislation governs the preparation and examination of neighbourhood plans and the various steps required in that process. Appendix 4 sets out this roadmap.

## 5. Engagement and Consultation

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- 5.1 As noted, the council consulted on the proposed area and Forum status between 6<sup>th</sup> September and 18<sup>th</sup> October 2021, in accordance with the requirements of Sections 61F and G of the Town and Country Planning Act 1990 (as amended) and Regulations 5 to 11 of the Neighbourhood Planning (General) Regulations 2012 (as amended).
- 5.2 People who had previously made representations to the Neighbourhood Plan in 2017 and 2019 were emailed directly, and the council also sent out a general newsflash and press release. The council also sent out messages and reminders on its social media platforms. A summary of representations received formally by the Council is set out at Appendix 3.
- 5.3 The proposed Forum has also carried out its own consultation prior to applying for area and forum status, and a consultation statement setting out their reasons for applying is contained at Appendix 1.

## 6. Purchasing or Hiring of Goods and/or Services

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- 6.1 No direct impact. The LPA may commission individual or joint research to support neighbourhood planning, but this is a separate matter from the current proposal.
- 6.2 The Council will be required to procure an examiner for the Neighbourhood Plan. For this area alone it would not be at the same scale as the previous round of examinations and an appropriate process will be determined in due course ahead of the submission of a plan from the forum.

## 7. Tackling Climate Change

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- 7.1 The application for a Neighbourhood Area and Forum status does not directly affect the Climate Emergency. However, the Forum through its work can promote a range of sustainability objectives. For example policies in the existing Neighbourhood Plan promote the reuse of urban brownfield sites and encourage sustainable design and construction.

## 8. Associated Risks

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- 8.1 The main risks are outlined in the main report. The key risk is of community disillusionment about the powers of neighbourhood plan, and the time it takes to prepare them, in the face of the government's desire to boost housing supply. Officers have responded to the forum seeking a 2022 referendum to say that it is not considered possible due to the time needed to draft a compliant plan, undertake the appropriate consultations and make appropriate modifications, and to organise the examination and referendum.
- 8.2 Officers have considered the objections raised to the Forum designation, and possible remedies in terms of amending the area boundary. For the reasons set out in the main report, Officers consider that the creation of an Area and Forum with the slight boundary change and constitutional amendment requested would reasonably address the concerns raised in the objections.

## 9. Equality Impacts - Identify the potential positive and negative impacts on specific groups

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- 9.1 The purpose of the Forum is stated to be "To continue to promote and improve the social, economic and environmental wellbeing of the Broadsands, Churston and Galmpton Neighbourhood area" (paragraph 3.19). The impact of the Forum depends upon the policies it pursues in practice, particularly in relation to the preparation of a Neighbourhood Plan. These cannot be pre-judged at this stage. Requesting the Forum members to be subject to Torbay Council Member Code of Conduct would require them to have regard to equalities duties.

## 10. Cumulative Council Impact

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- 10.1 As outlined above. These would include legal, procurement and governance services.

## 11. Cumulative Community Impacts

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- 11.1 As outlined above.

### **BROADSANDS, CHURSTON AND GALMPTON NEIGHBOURHOOD FORUM**

This consultation statement has been prepared to fulfil the legal obligations of the Neighbourhood Planning Regulations 2012 (as amended) in respect of the Broadsands, Churston and Galmpton Neighbourhood Area and Forum.

The legal basis of this Statement is provided by Section 15 (2) of part 5 of the 2012 Neighbourhood Planning Regulations.

#### **Consultation**

The formation of the previous Brixham Peninsula Neighbourhood Forum occurred following extensive consultation carried out over an extended period commencing in 2008. Details of this consultation are comprehensively evidenced in the Brixham Neighbourhood Plan Consultation Statement (second version).

The villages of Churston, Galmpton and Broadsands are not parished but have well established community groups. The Churston, Galmpton and Broadsands Community Partnership was an active group holding regular meetings until March 2020 and the onset of Covid-19. The Brixham Peninsula Neighbourhood Forum steering group also met regularly until March 2020, reporting back to the Community and Forum on a regular basis, a number of residents being members of both groups. Key members and former members of these groups were members of the Churston, Galmpton and Broadsands Community Partnership steering group and directly involved in the Neighbourhood Plan representing these areas.

Since March 2020, much of the community engagement is now done through social media such as a Facebook page for the Churston with Galmpton Ward, run by Ward Councillors, with in excess of 365 members, or through a regular Ward Councillor newsletter with a distribution of over 200 residents. In addition, the Galmpton Residents Association is an active group with about 300 members.

#### **The Villages**

The villages of Broadsands, Churston and Galmpton feel a strong, collective, and more rural identity as separate from the three towns of Torbay. This was recently indicated very clearly in a consultation carried out by Torbay Council in early 2019 regarding town councils. Although this was not directly related to Neighbourhood Planning, the results of that consultation showed a strong feeling of separate identity in the Churston with Galmpton Ward from Brixham and Paignton. This consultation included roadshows, events and live social media question and answer sessions; the distribution of posters and comment postcards at key locations across the Bay as well as social media notices; all local residents, businesses and organisations were invited to complete online questionnaires; over 400 Viewpoint panel members were e-mailed and about 6000 randomly selected Torbay householders were sent letters inviting them to take part in the consultation.

The Brixham Peninsula Neighbourhood Plan contains, and it is intended that the new Broadsands, Churston and Galmpton Neighbourhood Plan will also contain, individual design statements for each of the village areas.

#### **Raison D'etre**

Within the BPNP documents, the Basic Conditions Statement sets out in detail how the Brixham Town Council, as the primary authority having responsibility for neighbourhood planning, set up the Neighbourhood Forum as a wholly independent sub-committee. At the inaugural meeting of the Forum in June 2011 it was agreed that the Forum would be community led.

In July 2021 Brixham Town Council resolved to dissolve the Forum which was prescribed in the Constitution. In its place they offered a Task and Finish group but the democratic involvement of the villages was substantially curtailed. Specifically, all substantive decisions would now need approval by Brixham Town Councillors and not a wider body which would include representation from the entire neighbourhood area. This has created a perceived unfair imbalance between the parished and unparished areas of the BPNP area.

The communities within the unparished area have made it known through communications with their Ward Councillors, former Brixham Peninsula Neighbourhood Forum steering group members, and community social media sites that they wish to have a direct say in their neighbourhood in the same way they did prior to July 2021 and in the same way both Paignton and Torquay Neighbourhood Forums continue to do. For this reason, it has been decided to divide the Brixham Peninsula Neighbourhood Plan area into two plans consisting of the parished and non-parished areas. The non-parished area has now formed the Broadsands, Churston and Galmpton Neighbourhood Forum.

### **The Forum**

The majority of members of the Broadsands, Churston and Galmpton Neighbourhood Forum are residents from each of the three village areas with a small number of representatives from local businesses. However, the three villages are largely residential with few businesses in the area. The age demographic of the membership is largely retirees but, again, this reflects the general demographic of the area. We also have a small number of associate members who live on the border of our new plan area, a small number in the North Boundary Road area of Brixham and a small number in the Hookhills and Goodrington area of Paignton. There is a good spread of membership from all three village areas.

Both Ward Councillors are members of the Forum and their details are:

Karen Kennedy tel: 07464201149 Town Hall, Castle Circus, Torquay TQ1 3DR  
Judith Mills tel: 07865677400 Town Hall, Castle Circus, Torquay TQ1 3DR

Members of the previous Brixham Peninsula Neighbourhood Forum steering group have indicated they are available in a consultative capacity and have joined as full or associate members of the new Forum.

The Forum website address is [www.bcgvillages.org.uk](http://www.bcgvillages.org.uk).

### **The Plan**

The Broadsands, Churston and Galmpton Neighbourhood Forum acknowledge that the Brixham Peninsula Neighbourhood Forum (which was “made” in June 2019) is a good plan in which the policies are in general conformity with the Torbay Local Plan. It should therefore continue to be given great weight in decision taking until superseded by new plans.

### CONSTITUTION

#### 1.0 Name

1.1 The name of the Forum shall be the Broadsands, Churston and Galmpton Neighbourhood Forum (hereinafter referred to as “the Forum”).

#### 2.0 Area of Benefit

2.1 The area in which the Forum will pursue its objects is the Broadsands, Churston and Galmpton Neighbourhood Area, which is the area designated by Torbay Council for which the Forum has produced a Neighbourhood Plan.

#### 3.0 Purpose (Object)

3.1 The purpose of the Broadsands, Churston and Galmpton Neighbourhood Forum is:

3.1.1 To monitor the Neighbourhood Plan for the Broadsands, Churston and Galmpton Neighbourhood area and to decide how it will be monitored and reviewed, including frequency of review.

3.1.2 To assess how effective the Neighbourhood Plan is in practice and how it is being used.

3.1.3 To produce an annual monitoring report.

3.1.4 To review how the policies are being applied to shape decisions on planning applications (development management).

3.1.5 To determine whether projects and/or actions identified are being achieved.

3.1.6 To monitor the level of money raised through the Community Infrastructure Levy (CIL) and how such monies are being used.

3.1.7 To ensure the Neighbourhood Plan aims/objectives are being achieved taking into account changes to national and local policy.

3.1.8 To monitor changes in the local area.

3.1.9 To continue to promote and improve the social, economic and environmental well-being of the Broadsands, Churston and Galmpton Neighbourhood area.

3.1.10 Any other appropriate purpose agreed by the Forum.

#### 4.0 Working Arrangements

4.1 The Forum will maintain a record of decisions made, including who is entitled to vote in the making of decisions.

4.2 The Forum will determine details of how decisions will be recorded (whether written or held on an electronic device) and how minutes of meetings will be approved.

4.3 The Forum will determine details of governance, including the duties of official positions (e.g. chair, vice-chair, secretary, treasurer) and agree procedures for election to positions as well as the means and duration of the notice given regarding elections to positions and other governance issues.

4.4 The Forum will determine the composition of any executive committee, working groups, or sub-groups, a definition of their roles, and the procedure for appointment or election to such groups.

4.5 The Forum will provide a statement of the powers to be delegated to the executive committee, working groups, and sub-groups.

4.6 The Forum will determine the frequency and pattern of meetings including an Annual General Meeting, executive committee and other sub-group meetings.

4.7 An Annual General Meeting of the Forum shall take place within the first three months of each year.

4.8 The Forum will determine the procedure for calling an extraordinary general meeting.

4.9 The Forum will determine the arrangements for financial management.

4.10 The Forum will determine details of how declarations of interest and potential conflicts of interest will be recorded and managed. (For example - Conflicts of interest could include where any Neighbourhood Plan policy would affect the business interests of a Forum member)

## 5.0 Membership

5.1 The Forum will comprise not less than 21 individuals. Membership of the Forum is open to individuals who live or work in the Broadsands, Churston and Galmpton Neighbourhood Area. It is also open to individuals who are elected members of Torbay Council Churston with Galmpton ward.

5.2 Membership shall be drawn from different parts of the Broadsands, Churston and Galmpton Neighbourhood Area and different sections of the community in that Neighbourhood Area.

5.3 Members shall be accepted by the Forum; resignations from membership shall be received by the Forum.

5.4 Associate membership may be granted to individuals who live outside the Neighbourhood area. An Associate member may be permitted to take part in Forum meetings at the discretion of the Chair but will have no voting rights.

## 6.0 Officers

6.1 Officers of the Forum shall be Chair, Vice-Chair, Secretary and Treasurer elected each year at an Annual General Meeting of the Forum.

6.2 Officers shall form the Executive of the Forum and any action or recommendation made by the Executive shall require approval of the Forum at a properly convened meeting before implementation.

6.3 The officers shall have the power to recommend co-option to their number for specific purposes. Such co-options must receive the approval of the Forum before appointment.

## 7.0 Quorum

7.1 For Forum meetings held in public a quorum shall be 8 members or 5% of the membership, whichever is the less, meeting together at a properly convened and constituted meeting or replying to a properly authorised circular to, or ballot of members.

7.2 A quorum of the executive committee shall be two (2) members of that committee.

## 8.0 Powers

8.1 In furtherance of its objectives the Forum may:

8.1.1 Invite and receive contributions and raise funds where appropriate, to finance the work of the Forum, and maintain a bank account in the name of the Forum to manage such funds;

8.1.2 Publicise and promote the work of the Forum and organise meetings, training courses, events or seminars.

8.1.3 Work with groups of a similar nature and exchange information, advice and knowledge with them, including cooperation with Brixham Town Council, Paignton Neighbourhood Forum and Torquay Neighbourhood Forum, other voluntary bodies, charities, statutory and non-statutory organisations.

8.1.4 Employ staff and volunteers as are necessary to conduct activities to meet the purposes/objects of the Forum.

8.1.5 Take any form of action that is lawful, which is necessary to achieve the purposes/objects of the Forum, including taking out any contracts which it may see fit.

## 9.0 Finance

9.1 The funds of the Forum shall be kept in the name of the "Broadsands, Churston and Galmpton Neighbourhood Forum" at a Bank or Building Society agreed by the Forum.

9.2 Payment from such funds shall only be made on the authority of the Forum.

9.3 All cheques, Bank Drafts etc. drawn on Forum funds shall be signed by the Treasurer and at least one other person as authorised by the Forum.

9.4 Cheques, Bank Drafts, etc. in respect of payments due to the Forum must be made payable to the "Broadsands, Churston and Galmpton Neighbourhood Forum".

9.5 Members may be entitled to reimbursement of reasonable expenses incurred on Forum business only if approved in advance by the Forum. Any claim for the payment of expenses must be endorsed by the Chair or Secretary and submitted in a timely manner.

9.6 The financial year of the Forum shall be 1 January to 31 December.

## 10.0 Review and Revision

10.1 The Forum will review and revise the Broadsands, Churston and Galmpton Neighbourhood Plan from time-to-time to reflect changing contexts and changing needs or issues around effectiveness.

10.2 Reviewing the Broadsands, Churston and Galmpton Neighbourhood Plan to assess any need for revision may be done as part of the monitoring process. The decision to revise the Neighbourhood Plan, and any subsequent actions to achieve this, can only be achieved by the Forum.

10.3 The Forum agrees that collective consideration of information gained through monitoring must support any decision to determine at what point revision becomes desirable. (For example, monitoring could identify inadequacies with the drafting of policies)

10.4 Monitoring and review should be a continuous process.

#### 11.0 Procedure for updating the Neighbourhood Plan

11.1 Updating the Neighbourhood Plan document will involve the following steps:

11.1.1 Update the sections of the Plan describing community and stakeholder engagement recognising changes that may have taken place.

11.1.2 Update the evidence section of the Plan to reflect the most recent data and update all references to national and local policy.

11.1.3 Review policies, revising them as necessary, including their supporting rationale and evidence.

11.1.4 Consider the need for site allocations and/or Local Green Space designations.

11.1.5 Undertake an overall edit of the plan to ensure it reflects current circumstances.

#### 12.0 Statutory process

12.1 Where the Neighbourhood Plan is proposed to be revised, there are certain options in terms of statutory process, depending on the extent of that revision.

12.2 Minor (non-material) updates that would not materially affect policies may be made by the Local Planning Authority, with the consent of the Forum. In these circumstances, there is no need to repeat Regulation 14 consultation, examination and the referendum. Similar provisions exist for correcting errors in a plan, though this will probably have been done already, as part of the examination process.

12.3 If the Forum wish to make modifications that do materially affect the policies in the Neighbourhood Plan, the Plan would need to go through the later stages of the statutory process, from pre-submission consultation (Regulation 14) onwards, although a referendum may not be required. (See Clause 12.5 and Clause 12.6 below)

12.4 If updates are proposed by the Forum that would materially affect policies, there are certain additional requirements. These are:

12.4.1 at the Regulation 14 consultation stage (pre-submission) the Forum must state whether it believes that the modifications are so significant or substantial as to change the nature of the Plan, giving reasons;

12.4.2 when sending the Plan to the independent examiner, the Local Planning Authority must state whether it believes that the modifications are so significant or substantial as to change the nature of the plan, giving reasons. A copy of the original plan must also be submitted to the independent examiner;

12.4.3 the independent examiner will then decide whether the modifications proposed change the nature of the Plan and the Forum must decide whether to proceed with the examination.

12.5 A referendum is not required if an independent examiner decides that the modifications are not so significant or substantial as to change the nature of the Plan and would meet the basic conditions (with modifications if necessary). In this circumstance, the Local Planning Authority must make the plan within five (5) weeks of receiving the independent examiner's report (or as agreed with the Forum).

12.6 However, if the independent examiner finds that proposed modifications do change the nature of the plan, the Local Planning Authority would need to publicise and consider the examiner's report in the same way as for a new neighbourhood plan and a referendum would be required.

### 13.0 Confidentiality

13.1 The Forum will endeavour to apply the relevant General Data Protection Regulation (GDPR) to all personal data held by the Forum. The Forum recognises that the GDPR is a legal framework that sets guidelines for the collection and processing of personal information from individuals.

### 14.0 Appendices and Standing Orders

14.1 Any Appendix to this Constitution and Standing Order shall both be treated as an integral part of this Constitution.

### 15.0 Alteration(s) to the Constitution

15.1 The procedure for altering or amending this Constitution.

15.1.1 Alterations to this Constitution can only be made by meetings of the Forum and agreed by a two thirds majority of members present and voting.

### 16.0 Duration

16.1 The duration of the Broadsands, Churston and Galmpton Neighbourhood Forum is five (5) years from August 2021. (Ends August 2026)

16.2 The procedure for dissolving the Broadsands, Churston and Galmpton Neighbourhood Forum, in the event that it is no longer required, is given at Clause 17 below.

### 17.0 Disbanding of Forum

17.1 The Forum can only be disbanded at a duly advertised Special Forum Meeting called for the purpose of deciding whether to disband, to which all Forum members shall be invited. The decision to disband the Forum shall be taken if supported by two thirds of members present and voting at the Special General Meeting.

17.2 If the vote is for the Forum to be disbanded, any assets held in the name of the Forum (after payment of all debts and liabilities) will be passed to other organisations having similar objectives to those of the Forum as agreed by a majority of remaining members.

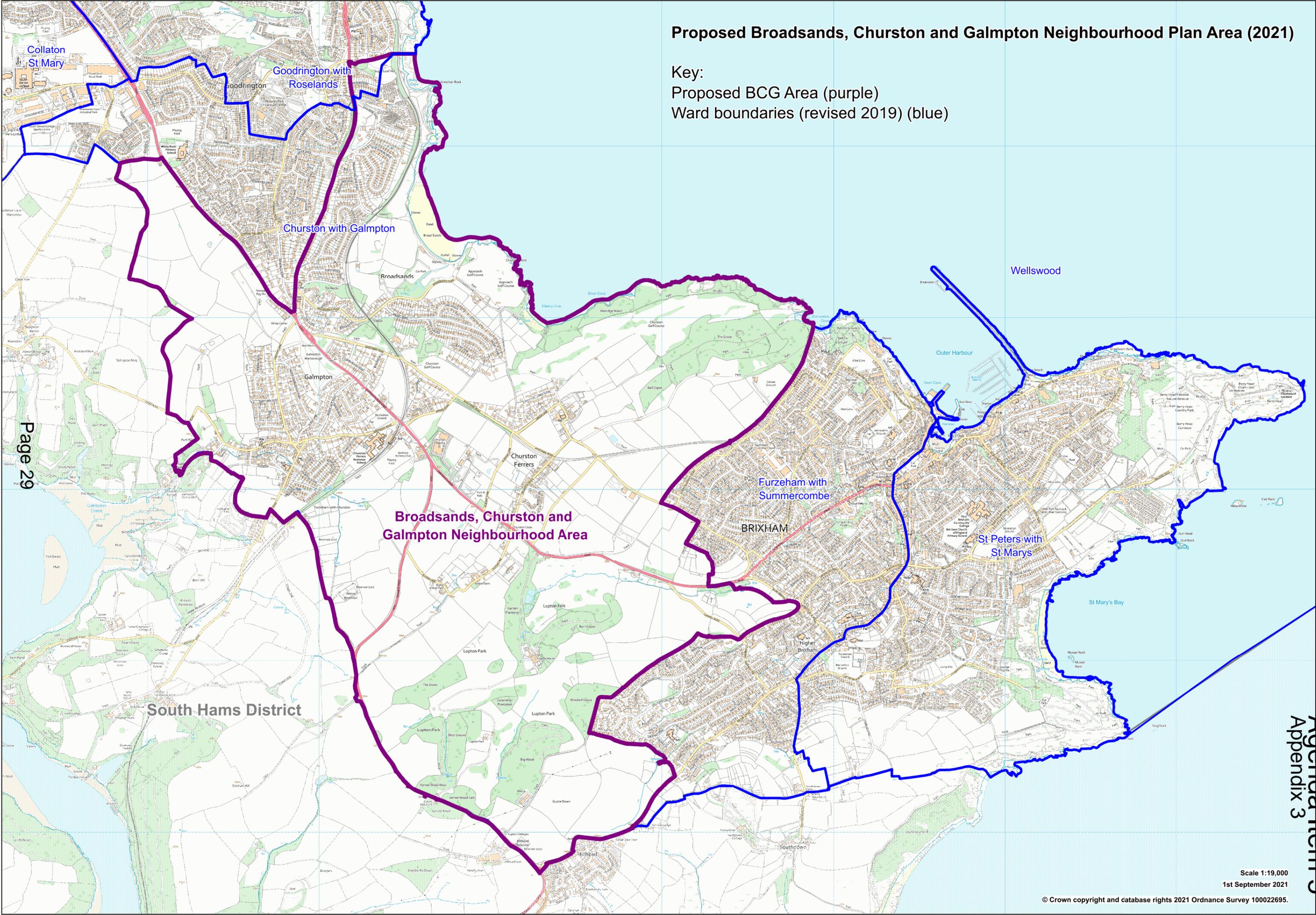
END

This Constitution of the Broadsands, Churston and Galmpton Neighbourhood Forum was approved by an Extra-Ordinary General meeting of the Forum held on Xxxxxday XX Xxxxx 20XX. [This Constitution replaces all previous Constitution(s) of the Broadsands, Churston and Galmpton

Neighbourhood Forum.] Constitution based on “After the Neighbourhood Plan is ‘Made’: Implementation, Monitoring and Review”

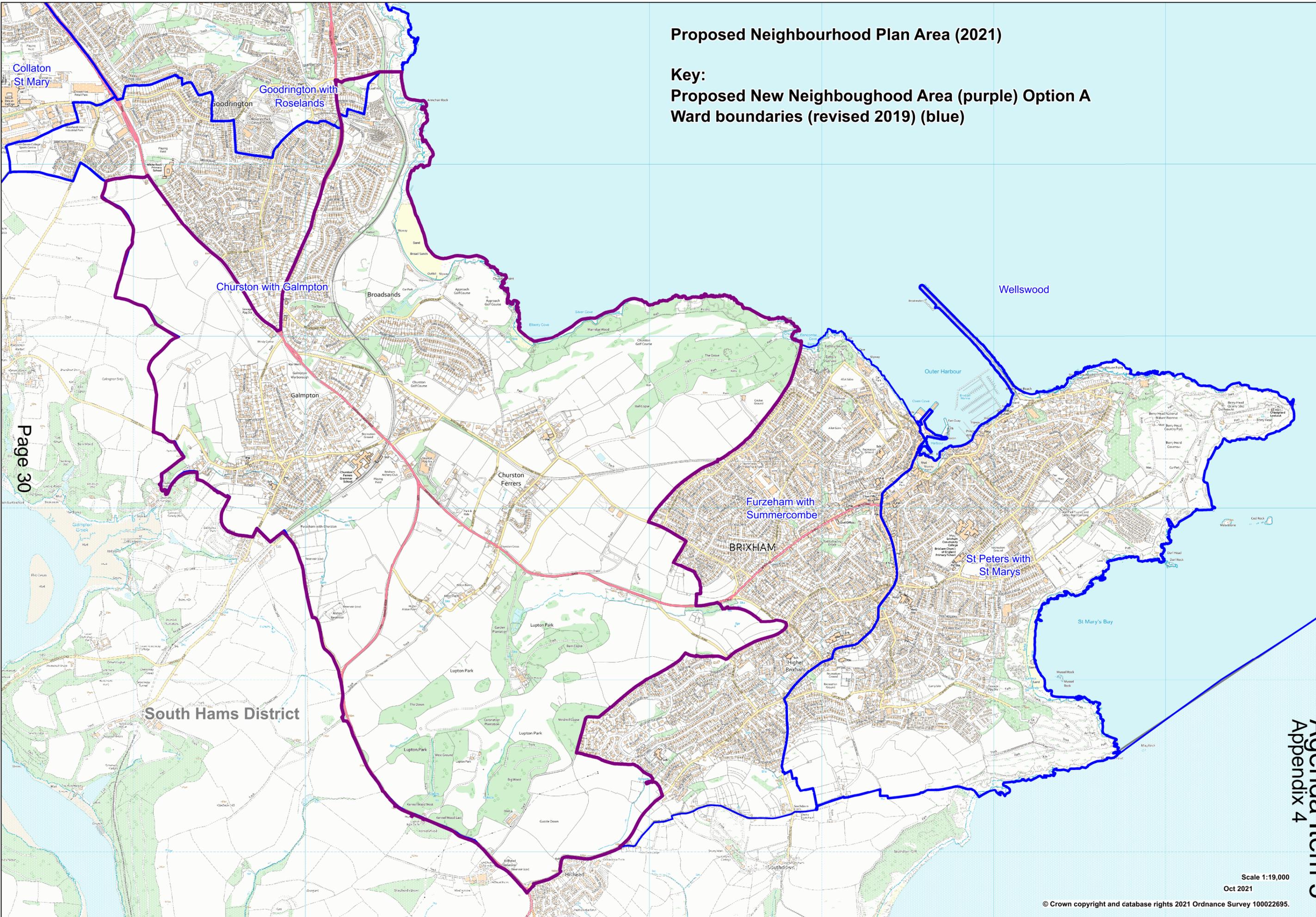
**Proposed Broadsands, Churston and Galmpton Neighbourhood Plan Area (2021)**

Key:  
Proposed BCG Area (purple)  
Ward boundaries (revised 2019) (blue)



**Proposed Neighbourhood Plan Area (2021)**

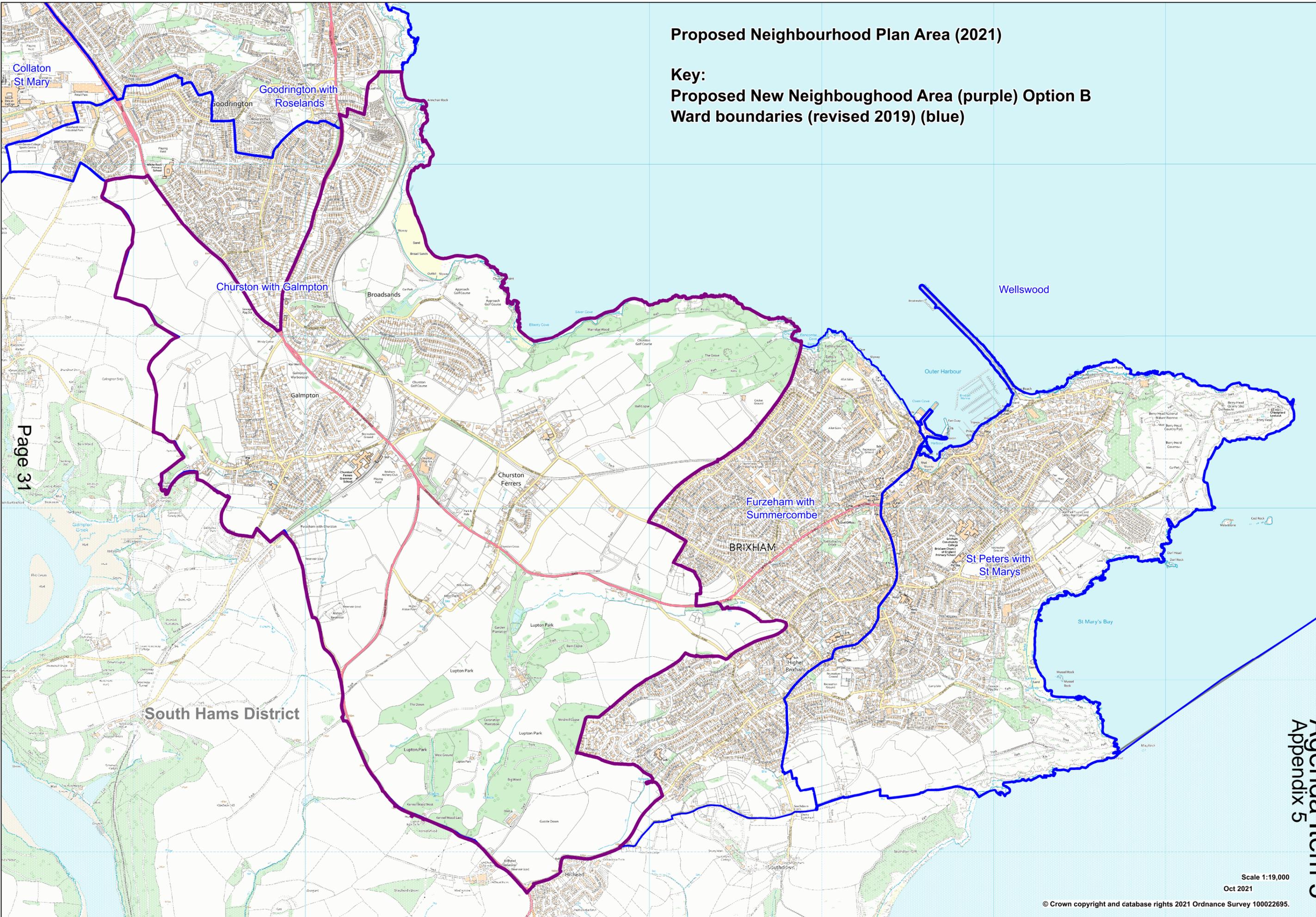
**Key:**  
**Proposed New Neighbourhood Area (purple) Option A**  
**Ward boundaries (revised 2019) (blue)**



South Hams District

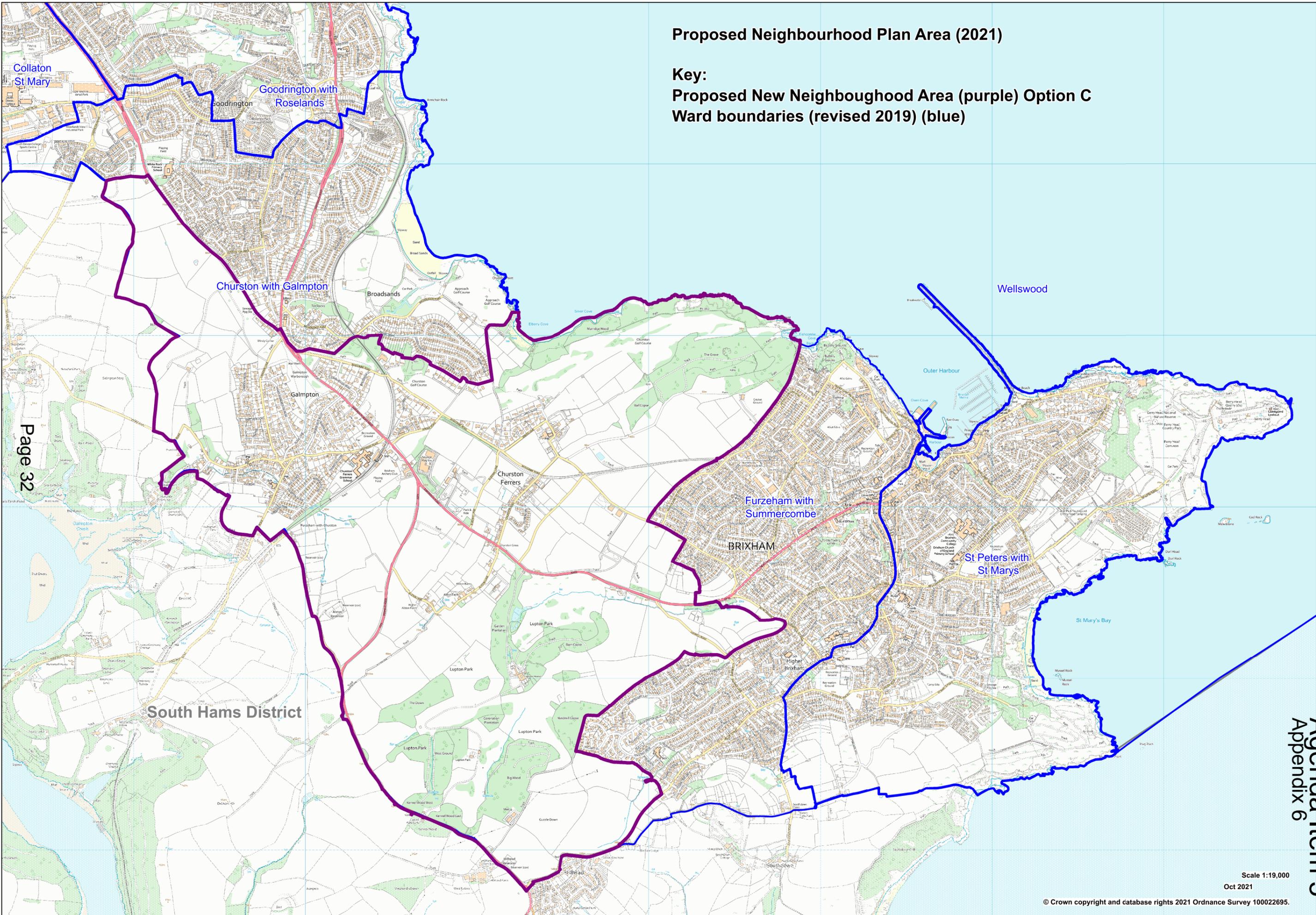
**Proposed Neighbourhood Plan Area (2021)**

**Key:**  
**Proposed New Neighbourhood Area (purple) Option B**  
**Ward boundaries (revised 2019) (blue)**



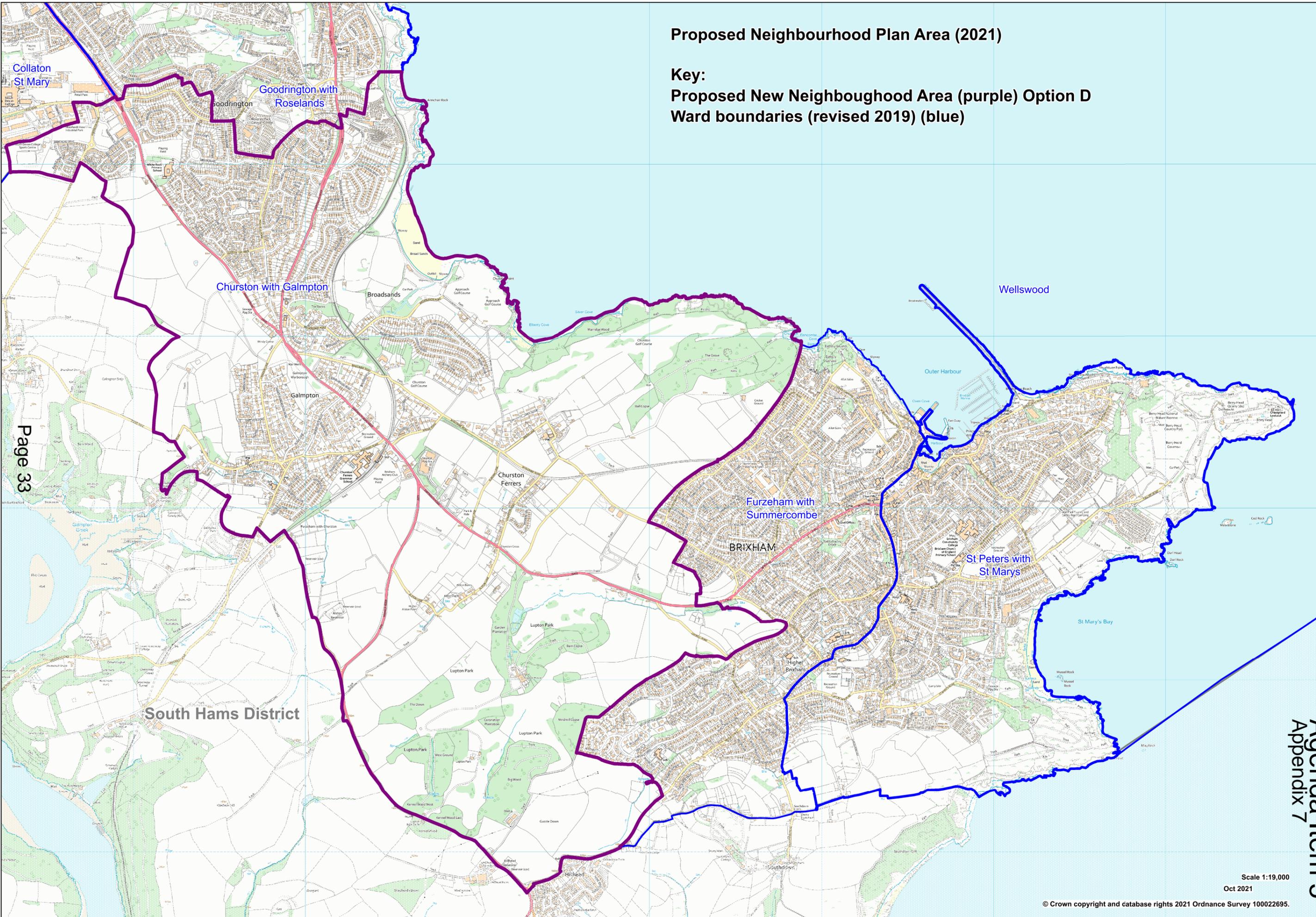
**Proposed Neighbourhood Plan Area (2021)**

**Key:**  
**Proposed New Neighbourhood Area (purple) Option C**  
**Ward boundaries (revised 2019) (blue)**



**Proposed Neighbourhood Plan Area (2021)**

**Key:**  
**Proposed New Neighbourhood Area (purple) Option D**  
**Ward boundaries (revised 2019) (blue)**



### Appendix 3: Summary of Representations Received to the proposed Creation of a BCG Neighbourhood Area and Forum

Torbay council consulted on the proposed Area and Forum in accordance with the legal requirements under the Neighbourhood Planning Regulations. Consultation ran between 6<sup>th</sup> September and 18<sup>th</sup> October 2021.

The consultation received 31 representations. Two made general but broadly supportive comments, 25 expressed support for the creation of the BCG Forum. Brixham Town Council raised no objection. There were 4 objections.

No	Name(s)	Comment	Response
	<b>General</b>		
1	Brixham Town Council (Currently the Qualifying Body for the Brixham Peninsula Neighbourhood Area).	While the Town Council is saddened at the villages actions, it acknowledges the importance of the democratic rights of the communities, who we understand have been canvassed in this matter, prior to a formal request being submitted to the Local Planning Authority. The Town Council does not wish to present any objection to the villages request for designation. It is our duty to openly work with all stakeholders and neighbouring villages while representing the residents of Brixham to ensure a robust neighbourhood plan is maintained. Subject to the successful designation of the Churston, Galmpton and Broadsands area and to expedite the refresh and modification of the existing plan, the Town Council requests designation of its parished area. It is understood that when a Parish or Town Council applies for designation of its area there is no requirement for the Local Planning Authority to undertake the 6 week publicity. It is also understood the existing plan remains in force until a new plan is made.	Noted.
2	Natural England	Neighbourhood plans present significant opportunities, but also potential risks, for the natural environment. Proposals should be in line with the National Planning Policy Framework. The key principles are set out in paragraph 109  The neighbourhood planning body should also consider the natural environment policies in the area's Local Plan. The neighbourhood plan should be consistent with these, and the neighbourhood planning body may decide that the emerging Neighbourhood Plan should provide more detail as to how some of these policies apply or are interpreted locally.	Noted. The Forum is likely to be supportive of the area's important natural environment.
	<b>Support</b>		
3	NW	Support BCG forum as it will democratically represent the BCG area.	Significant local support noted. It is noted that some supporters of the BCG area come from the
4	AL and JL	Support	
5	"Jtbl" email address	Support	
6	JW	Support an BCG Forum as giving greater autonomy to local residents. Feel let down by BTC over Inglewood	
7	MB	Support	
8	TK	Support- will give voice and improved representation to residents of the area.	

No	Name(s)	Comment	Response	
9	JL	BCG Forum will have greater democratic say in the area's future of the villages.	Broadsands part of the proposed Neighbourhood Area.	
10	CP	Support		
11	PD	Support		
12	KM	Support- important that residents can organise to support and protect the area.		
13	SP and PC	Support		
14	MC and AC	Support – BTC is not best placed to make decisions in the best interests of Windy Corner.		
15	DS	Support		
16	PR	Support		
17	RR	Support a separate Forum from Brixham		
18	DP and MP			
19	SH and JH	Support a separate BCG Forum		
20	SC	Support the creation of a neighbourhood Forum including Broadsands and Churston.		
21	DE and LE	Support- will give residents a strong local voice.		
22	CS	Support – will give more control to residents, which is overdue.		
23	DrL	Support Given the recent decision of the Brixham Neighbourhood Forum to deprive the three villages of their democratic rights it is essential that there is a local group to focus on local priorities and needs within the framework of Torbay. As the supporting document identify, the area covered by the proposed Forum is distinctly different from the three urban area both in terms of demography and geography. It therefore requires its views to be articulated and heard.		
24	JW	Own land off century Road, Brixham. Will be pleased to be associated with the new Forum in whatever capacity is allowed.		
25	DrH,	Recent history clearly shows a need for the 'Villages' to separate from Brixham as they have different needs. The formation of the new Neighbourhood Forum for the 'Villages' will improve the general engagement between Torbay Council and its constituents.		Support from previous and current TNP Chair noted.
26	LB	Support. From experience as previous TNF Chair it is essential that any Forum is absolutely relevant to the area for which it represents and in my opinion the choice of this area is correct and reflects the guidance on an appropriate Forum Area and is more relevant than the current large area Forums we currently have in Torbay.		

No	Name(s)	Comment	Response
27	ST on behalf of Abacus Projects and Deeley Freed Estates. (Owners of the Inglewood development).	<p>Abacus Projects Limited and Deeley Freed Estates Limited wish to express support for the formation of the new Neighbourhood Forum and Area. The proposed Area as identified on the map submitted as part of the application is considered to be appropriate.</p> <p>Suggested amendment to paragraph 3.1.1 of the Constitution. The word 'monitor' should be replaced with 'prepare' so that the paragraph reads as follows, '<i>To <b>prepare</b> the Neighbourhood Plan for the Broadsands, Churston and Galmpton Neighbourhood area and to decide how it will be monitored and reviewed, including frequency of review.</i>'</p> <p>Would like to remain fully engaged in the neighbourhood planning process with the new Neighbourhood Forum assuming a designation is made.</p>	<p>Support noted.</p> <p>Minor amendment to constitution is sensible as the Forum clearly intend to prepare a new Neighbourhood Plan</p>
	<b>Objections</b>		
28	DW	<p>Please advise what safeguarding and oversight and scrutiny instruments will be in place to effectively monitor the actions of this new forum. There was considerable local dismay at the actions of some of the elected officers of the BPNP. When concerns were raised the message clearly received from BPNP was that even if allegations were proven there was no mechanism to sanction any member of the forum.</p> <p>As it is likely that some of the former members of BPNP will migrate to the proposed new forum the issue of their accountability is a matter of public concern.</p>	<p>Noted. The issues appear to relate to a specific site, which did not make it into the former BPNP. Officers have suggested that Forum post holders should sign up to Torbay Councillors' code of conduct. The two elected Ward Members are currently heavily involved with the Forum.</p>
29	AJ and BC	<p>Having previously attended various meetings leading up to the latest neighbourhood plan that was produced, we found that any comments we made were ignored. The committees appeared to be made up of unelected persons with self interest who just turned up at the meeting without a selection process. [removal of comments relating to an individual relating to a historic dispute which is not relevant to the consideration of these applications]</p> <p>We object to this Forum process as the majority of residents will not be aware of its existence and assume that Torbay Council are the ultimate decision makers and any input on future planning should be made to them. Also the residents in the proposed area will believe they live in Paignton, which is their postal address.</p> <p>We strongly object to these forums as these important matters on future planning should be left to the experienced Officers and elected members of Torbay Borough Council.</p>	<p>See above. This appears to relate to a historic dispute, and interests were declared at the time.</p> <p>The neighbourhood Plan will be subject to public examination and referendum and must be made (i.e. adopted by Torbay Council). Different boundaries have been considered to include parts of Broadsands in the Paignton Neighbourhood Area, but this would also result in</p>

No	Name(s)	Comment	Response
30	MD	<p>Not everyone in the Community has either the time and/or inclination to be a member of the Forum. However, the actions of a small select group will affect the Community as a whole.</p> <p>Having read the new proposed Constitution it is not clear to members of the Community as to what Codes of Practice the Forum will operate under and the complaints procedure available to residents if they believe there are issues. This is fundamental for transparency.</p> <p>I have great concern that the phrase ' The Forum will determine' is much used, and if so, there should be scrutiny.</p> <p>Please advise me therefore what safeguarding and oversight and scrutiny instruments will be in place to effectively monitor the actions of this new Forum.</p> <p>In relation to Finance there appears to be no easily published access for members of the Community to view and monitor or publicly be aware as to what is taking place and which funds are available and for what. Again, this seems to be down to the Forum to decide under the Constitution.</p>	<p>anomalies, and the majority of responses have supported the proposed boundary.</p> <p>Officers have suggested some minor amendments to the Constitution. However, this is not intended as questioning the bona fides of those promoting the BCG Forum.</p>
31	JB	<p>Lack of confidence in transparency. Proposed are contains most of the green areas Lack of public knowledge about Inglewood. Alleged issues relating to Waterside.</p> <p>Residents of Brixham should be involved with this planning due to any decisions in that area having a knock on effect for residents of Brixham. E.g. Inglewood development which will affect residents of Brixham, who should always be kept informed as well. I think this separation will cause even more divide within the community, caused by independent ward councillors causing even more distrust from Brixham residents.</p>	<p>See above., BTC will still be able to comment on matters that affect both areas. It is common for cross boundary planning issues arise in planning.</p>

### **Appendix 4: Key steps in neighbourhood planning before a neighbourhood plan/order can come into force.**

Steps for preparing a neighbourhood plan (general guidance applies to both neighbourhood plans and neighbourhood development orders).

#### **Step one: Define the neighbourhood**

Before neighbourhood planning can take place, the area of interest must be submitted, approved and designated. To do this:

An application must be submitted to LPA to designate the neighbourhood area. In the absence of a parish or town council, submit an application to set up a neighbourhood planning forum. This forum must be made up of a minimum of 21 unrelated people who live or run businesses in the area.

A neighbourhood area application must:

- contain a map clearly showing the boundaries of the proposed neighbourhood area
- clearly explain why this area is suitable for neighbourhood planning
- Depending on whether the designated area is a full parish boundary or not, the LPA will publicise the application for at least six weeks and invite comments from the local community.

After considering the application and any comments received, the LPA then publish the decision on the application.

#### **Step two: Prepare a draft neighbourhood plan**

What's involved in preparing the draft plan:

This involves:

- Gathering information about the neighbourhood area, considering the local plan for your area.
- Establishing the community's aspirations and priorities.
- Setting out a clear purpose for the plan including its goals and objectives.
- Drafting planning policies to help deliver the objectives of the plan.
- Understanding whether the plan is likely to have a significant environmental impact.

The plan should:

- Generally be in line with local and national planning policies.
- It must be in line with any other relevant legislation (including SA/SEA).
- Neighbourhood plans must contribute to achieving sustainable development.

#### **Step three: Publicity and consultation requirements before the plan is submitted to the council.**

- Before formally submitting a Plan to the Council for Examination, it must be publicised for **6 weeks**, inviting comments from people who live, work and carry out business in the area as well as the LPA and a number of specific regional and national organisations and agencies.
- The Forum have to consider responses received and may need to adjust proposals accordingly. The representations received and the NF responses to these will need to be set out in a Consultation Statement.

#### **Step four: Formally submitting a neighbourhood plan proposal to the LPA**

LPA check :

- Plan complies with all relevant legislation including the need for an SA/SEA
- All necessary processes and procedures have been carried out including consultation and the preparation of a consultation statement.
- If the Plan meets the legal requirements, then LPA will: Publicise the plan for a minimum of **6 weeks** and invite representations
- Notify specific regional and national organisations and agencies

#### **Step five: Independent examination**

- LPA send the plan and any consultation responses received during (Step 4) to the selected examiner.
- The examiner makes the relevant checks. They may recommend that the plan proceeds to the next change with or without changes or they may propose rejecting the plan.
- The examiner issues a report to LPA and the neighbourhood planning group.
- LPA publish the report.
- LPA consider the report and make the final decision on whether to send the plan to referendum.
- LPA to checks to see if it meets set tests known as 'basic conditions'<sup>1</sup>.

#### **Step six: Referendum**

Neighbourhood Plan must gain a majority in a local referendum before it can be brought into force.

- Everyone living in the area of coverage (unless the examiner has advised differently) of the neighbourhood plan, who is registered to vote in local elections, will be entitled to vote in the referendum.
- LA publish a notice of referendum and an information statement.
- Polling will take place and residents will vote on whether the plan should come into force.
- LA declare the referendum results (for the neighbourhood plan to proceed to 'Making' (adoption), more than 50% of the vote in the referendum must be in favour of the plan
- A neighbourhood plan attains the same legal status as a local plan once it has been approved at a referendum.

#### **Step seven: Bring the neighbourhood plan into force**

If more than 50% of people voting in the referendum support the neighbourhood plan, the Council must formally consider the plan for adoption as part of the planning policy framework.

See figure 1 below.

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<sup>1</sup> The basic conditions are set out in [paragraph 8\(2\) of Schedule 4B to the Town and Country Planning Act 1990](#) as applied to neighbourhood plans by section 38A of the Planning and Compulsory Purchase Act 2004.

