



Meeting: Council

Date: 6 December 2012

Wards Affected: All

Report Title: Neighbourhood Planning in Torbay – Applications for Neighbourhood Forums and Plan Areas.

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1. Key points and summary

- 1.1 Neighbourhood plans are an important part of the Localism Act 2011. They are intended to be a powerful tool for shaping the development and growth of a local area. When adopted, neighbourhood plans will be part of the development plan, along with the local plan, with formal weight in determining planning applications.
- 1.2 Neighbourhood Plans are being 'parallel tracked' with the new Local Plan, ensuring that the Plans are mutually compatible and empowering local communities, through the identification in Neighbourhood Plans of sites for development, for example. Whilst this approach has considerable benefits, there are also risks. For example, if Neighbourhood Plans fail to identify sufficient development sites this could seriously undermine the new Local Plan.
- 1.3 Torbay Council has received applications for neighbourhood planning areas for each of its three towns, and has advertised these applications and the Forums' constitutions. There can be only one forum in an area. Torbay's Community Partnerships have opted for three Forums, one for each town, with Churston being part of the Brixham Forum.
- 1.4 There were no objections to the Torquay and Brixham Forum applications or their constitution. There were three objections to Paignton Neighbourhood Forum's operation. Whilst these are not "in principle" objections to the neighbourhood planning area or constitution, they highlight problems that could, if not addressed quickly, jeopardise the production and successful adoption of a neighbourhood plan and, as such, successful adoption of the new Local Plan. A further update on issues in Paignton will be provided at the Full Council meeting, by the Executive Lead for Spatial Planning, Housing Waste and Energy.

2. Proposed Decision (Recommendation)

- 2.1 The Neighbourhood Plan areas of Torquay, Paignton and Brixham, and their constitutions, be approved subject to the Executive Head, Spatial Planning (in consultation with the Executive Lead for Strategic Planning, Housing and Energy) being able to withdraw this approval with immediate effect in respect of any Forum in the event of any of the following applying to that Forum;**
- (i) the Forum is not able to demonstrate that they have at least 21 members who live or work in the area, or are elected councillors;**
 - (ii) the Forum is not acting inclusively in accordance with its constitution;**
 - (iii) any of the Community Partnerships within the Neighbourhood Plan Area of the Forum are not involved in their relevant Forum during the Neighbourhood Plan making process;**
 - (iv) the Forum has failed to comply with a reasonable direction of the Executive Head, Spatial Planning within a reasonable period from such direction being made;**
- 2.2 Paignton Neighbourhood Forum be instructed that the Council may choose not to advertise a submitted plan or put it forward for examination, if the matters referred to in paragraphs 3.9 below and 2.2.1 – 2.2.4 above are not addressed to the satisfaction of the Executive Head, Spatial Planning in consultation with the Executive Lead for Strategic Planning Housing and Energy.**
- 2.3 Local Councillors should take a lead role in ensuring each Neighbourhood Forum meets the terms of its constitution, the requirements of the Localism Act and National Planning Policy Framework and meets or exceeds the requirements of the new Local Plan.**

3 Action Needed

- 3.1 As recommendation above.

2. Summary

- 2.1 See above

Supporting Information

3. Position

- 3.1 Neighbourhood plans were introduced by the Localism Act 2011. They are an important part of the Government's programme of localism: the removal of regional planning targets and empowering local communities to take an active part in shaping their local area. Neighbourhood Plans are regulated by the Localism Act 2011 (especially Chapter 3, and Schedules 9 and 10). They have to go through several prescribed stages of adoption, including consultation, independent examination and local referendum.
- 3.2 A "basic condition" (Schedule 10, section 8(2)) of the Localism Act is that neighbourhood plans must be in general conformity with the local plan and have regard to national policy (i.e. the NPPF). The Secretary of State, Eric Pickles set out his expectation of local and neighbourhood planning in a Statement of 6 September 2012:
"The Localism Act has put the power to plan back in the hands of communities, but with

this power comes responsibility: a responsibility to meet their needs for development and growth, and to deal quickly and effectively with proposals that will deliver homes, jobs and facilities”.

- 3.3 The current report relates to the principle of recognising the three Neighbourhood Planning Areas put forward in Torbay and their respective Forums’ constitutions, within the ambit of the Neighbourhood Planning (General) Regulations 2012, particularly Regulations 5-8. These Regulations do not stipulate criteria for agreeing to forums and do not (at this stage) relate to the substance of the plans. Nevertheless, the above matters are relevant, as the Council can refuse to submit a neighbourhood plan for examination if it considers it to fail the legal requirements.
- 3.4 Torbay is almost unique in promoting entire coverage of its area with neighbourhood plan areas, with a forum for each town. Brixham Neighbourhood Forum comprises the Town Council area as well as Churston, Galmpton and Broadsands. This ambitious programme of work is well underway in all three Forums. Torbay Council was successful in a bid (2011) to take part in the Neighbourhood Planning Front Runners Scheme to secure £20,000 in funding from central government to help create a neighbourhood plan for Brixham. Subsequent bids for the Torquay and Paignton Neighbourhood Forums have also been successful with the fifth wave of frontrunners announced in March 2012. All Torbay Forums, in partnership with the Council, have been working with the Prince’s Foundation, providing free (funded by DCLG) and impartial expertise, as part of the frontrunner work. The intention is for all four plans (1 x Local; 3 x neighbourhood plans) to be well advanced by March 2013, with the draft Local Plan submitted to Government.
- 3.5 The three Forums have submitted their proposals for agreement of Neighbourhood Plan areas and Forums’ constitutions. These were advertised by the Council between 26 July and 7 September 2012. The Council is now required to designate (or refuse) the Neighbourhood Plan areas and constitutions. As noted in 3.4 above, the Council has supported the creation of the three Neighbourhood Plans and worked with the Forums over a period of many months prior to receipt of these applications.
- 3.6 There were no objections to Torquay or Brixham Forums. Following legal advice, each Forum has been asked to clarify that its membership complies with the legal requirements (broadly, contain at least 21 members who live or work in the area, or are elected councillors). It is not anticipated that the Forums will have any difficulty in demonstrating this requirement and there is no reason not to approve the Torquay and Brixham neighbourhood planning areas.
- 3.7 Torbay Council received three objections to the Paignton Neighbourhood Forum: from the Town Centres and Beaches Sub Committee of the Forum, Paignton Town Centre Community Partnership and Preston Community Partnerships. These are not “in principle” objections but relate to the current operation of the Forum, which it is suggested falls short of its constitution. Specific concerns raised relate to the lack of influence from sub-groups and the lack of a separate steering group that meets separately from the main Forum. It is suggested that a vice chair who is able to take a more active role in the Forum should be appointed. Concern has also been raised that the Forum as currently operated is not aspirational enough and has limited involvement from the business sector. In particular Preston Community Partnership has asked for a greater input into the Plan. At the time of writing this report concerns continue to be raised, by business and resident community representatives, about the operation of the Paignton Forum and content of the emerging Neighbourhood Plan. If these concerns are not addressed quickly it may be that representative organisations decide not to be involved in Neighbourhood Planning. This could have a significant impact on the cohesiveness and robustness of the neighbourhood plan area.

- 3.8 As noted, the above are not “in principle” objections to the neighbourhood plan area, but coming as they do from constituent parts of the neighbourhood areas they are a cause for concern. The Forum chair has been written to on two occasions with suggestions to address these problems. A response from Paignton Neighbourhood Forum, dated 22 October 2012, is set out at Appendix 1.
- 3.9 Having taken legal advice, it is considered that the principle of a neighbourhood plan area covering Paignton and the constitution do meet legal requirements. Further advice is being sought about the ability of the Council to approve a neighbourhood plan area when there is a void of community partnership representation for part of that area. Subject to that advice, it is recommended that the Paignton Neighbourhood Plan area and Forum constitution be agreed. However it is recommended that the Council reserves the right to refuse to publicise a submitted plan, or put it forward for examination, if it considers that any Forum has not followed its constitution or the Plan is likely to fail at examination, particularly due to:
- Non-compliance with the NPPF;
 - Lack of compliance with the Torbay Local Plan, contrary to the provisions of the Localism Act; and
 - Lack of an inclusive approach to plan making.
- 3.10 The Local Planning Authority, having taken advice from the Department for Communities and Local Government, the Planning Advisory Service and the Planning Inspectorate, is putting in place ‘safety net’ measures to ensure the Local Plan is robust, even if one or more neighbourhood plans do not proceed. These measures will be discussed with Members as part of the review of the draft Local Plan, following examination of responses to recent consultation. However, such measures will still provide opportunity for Neighbourhood Plans to proceed as currently envisaged.

4. **Possibilities and Options**

- 4.1 The Council could refuse to accept the Paignton Forum unless specific assurances are received that it will operate in an inclusive fashion. This is not recommended at this stage because the principle of the neighbourhood plan areas and the forums’ wording are considered to be acceptable and within the stipulations of the Localism Act /Neighbourhood Planning Regulations. Moreover, a great deal of community and Officer time has been spent on the Paignton Neighbourhood Forum and it is in everyone’s interest to ensure that this is not wasted.

5. **Preferred Solution/Option**

- 5.1 To approve the Neighbourhood Forums as recommended in section 2, subject to the safeguards recommended.

6. **Consultation**

- 6.1 The three Neighbourhood Forums were the subject of public consultation between 26 July - 7 September 2012. This report is in response to representations made on this consultation.

7. **Risks**

- 7.1 The requirements of neighbourhood plans is set out in the main report. The Government has been clear that localism should not be a vehicle for stopping development. A plan that does not meet objectively assessed needs is unlikely to be supported by an independent examination.

- 7.2 If parts of the neighbourhood area pull out of the forum - as some of the Paignton areas could do if their objections are not met - this would seriously undermine the validity of a plan and significantly reduce its chance of being successfully adopted.
- 7.3 The three Neighbourhood Plans, following independent examination, need to be agreed by referendum. It remains to be seen whether any Neighbourhood Plan will be supported at referendum, and an alternative may be to finally adopt them as supplementary planning documents or area action plans.

Appendices

Letter from Paignton Neighbourhood Forum dated 22 October 2012.

Additional Information

See above