

Meeting: Cabinet

Date: Cabinet 12 July

Wards affected: All

Report Title: Torbay Local Plan Update

When does the decision need to be implemented? September 2022

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1. Purpose of Report.

- 1.1 This report summarises feedback on the Growth Options Consultation that took place January 10th – February 28th 2022, and recommends the next steps of an updated Local Plan. Officers are aware of the sensitivities of the sites involved. Because of the extent of issues under consideration, it is recommended that a consultation is carried out under Regulation 18 “Issue and Options”. This allows greater latitude to consider options than a “Regulation 19” Preferred Option consultation. The consultation will seek views on which of the sites or clusters of sites are acceptable to bring forward.
- 1.2 For the reasons set out in the report below, it is recommended that the Local Plan Update focusses on brownfield regeneration sites and promotes development in town centre and waterfront locations. Those brownfield sites also need to maximise their contribution with higher yields arising from taller buildings and a focus on delivery of housing at every opportunity on those sites. There is a case to provide modular affordable homes on some key town centre brownfield sites to provide homes until longer term regeneration schemes are implemented.
- 1.3 However, to do everything we can to try to meet the need for affordable housing some greenfield sites should also be considered. Options for limited additional greenfield development is therefore proposed, subject to detailed assessment of sustainability and their in-combination effects upon important environmental assets. Officers recognise that Torbay has very few developable greenfield opportunities left, and these sites have environmental and/or infrastructure constraints. We are therefore seeking views on their suitability.

- 1.4 In order to achieve urban regeneration, a longer Plan period of 2040 “and beyond” is recommended, with a more detailed trajectory for the first 15 years. This approach recognises the time it takes to deliver regeneration sites and is based in the hybrid option coupled with a scenario between Option 2 and Option 3 in the scenarios consulted on in January 2022. The strategy highlights the emphasis on promoting brownfield regeneration whilst also providing for the needs of the community by addressing the housing crisis locally.
- 1.5 Members’ attention is drawn to representations relating to development in the south of Torbay, particularly within the South Devon AONB. Whilst this is the environmentally most constrained area, it is the location where the greatest amount of deliverable development land is being actively promoted and could boost numbers, albeit at an environmental cost, and contrary to the expressed wishes of the neighbourhood planning bodies in the area and the vast majority of representations received at the previous consultation. For the reasons set out in this report and based on initial discussions with Members, it is recommended that the policy of restraint towards the south of Torbay (i.e. the Broadsands Churston Galpmtton Villages and Brixham) is continued into the updated Plan. It is recommended that development in the AONB should be resisted due to the sensitive landscape and ecology and poor connectivity in this area.
- 1.6 A headline level of growth of 300 dwellings a year is recommended, scaling up as follows: 250 dwellings a year for years 1-5; 300 for years 6-10 and 250 for years 11-15, reverting to 300 dpa for the last 3 years of an 18 year Plan period. This figure is considered to be deliverable over the Plan period, but will necessitate a concerted effort to regenerate town centres and achieve optimal densities within them. Some limited additional greenfield development is also required, but this growth rate is likely to preserve the most environmentally sensitive areas. The figure is, therefore, consistent with seeking to achieve biodiversity net gain and address the Climate Emergency.
- 1.7 Because the proposed level of housing falls below the likely need, it will be necessary to ask neighbouring authorities to seek to accommodate unmet need. However, Torbay’s population growth is entirely driven by domestic inwards migration, and there is concern that the government’s “standard method” which currently relies on 2014 based demographic data is seriously flawed.
- 1.8 Many representations to the recent consultation pointed out that housing does not operate in a vacuum, and that other policies relating to employment, infrastructure, the natural environment and addressing the Climate Emergency will also need to be updated in concert with housing policies. There is also a need to identify two transit pitches for travellers. Accordingly, it is recommended that the Local Plan updates other strategic and County matter policies on matters such as affordable housing, employment, climate change and environmental protection. Because most of the time at Local Plan examinations tends to be

taken up with housing growth levels and locations, this will not significantly lengthen the plan making process.

2. Reason for Proposal and its benefits

- 2.1 The proposals in this report help us to deliver the council's ambitions by seeking to boost delivery and quality of affordable housing, help reduce deprivation, regenerate, and reinvent the town centres and support new economic investment in them. The proposed level of growth will seek to balance environmental impact with the need for housing, and to avoid the most environmentally sensitive areas of Torbay. As a tourist resort, the protection of Torbay's environment is of paramount economic importance. This relates to both Torbay's green and "blue" (i.e. maritime and marine) environments. The proposals will also raise environmental standards and resilience to climate change.
- 2.2 The proposal would not fully meet Torbay's housing need, and accordingly discussions need to take place with neighbours about how unachievable need can be met. This will be a difficult "ask" of neighbours and they reasonably want further evidence that Torbay faces substantial environmental constraints. In their representations to the January consultation, several nearby authorities expressed dissatisfaction with the government's "Standard Method". Neighbour authorities have also asked for more evidence of who the unmet housing need most affects. Torbay does have a pressing need for affordable housing, and it will be important to maximise the delivery of this, and to ensure that urban areas are genuinely regenerated to create high quality living environments.
- 2.3 In order to support the rejuvenation and provision of housing in town centres emphasised by the "Hybrid Option", it is recommended that developer contributions are collected towards town centre regeneration. Under the current legal framework, this would require a change to Torbay's approach to Community Infrastructure Levy (CIL), S106 priorities and Local Plan Policy SS7 "Infrastructure, Phasing and Delivery of development"¹.

3. Recommendation(s) / Proposed Decision

- 3.1. That, based on Torbay's exceptional circumstances, an alternative approach to the Government's "standard method" calculation of housing need should be carried out based on current and future demographic trends and market signals.
- 3.2 That members approve a draft "Regulation 18" consultation on site options to commence in September 2022 based on the contents of this report.

¹ "Town Centre Regeneration" contributions would probably be a CIL item in most instances. The Levelling Up and regeneration Bill proposes changing CIL to a broader "Infrastructure Levy" and the progress of the Bill will need to be kept under review.

- 3.3. That the scope of the Local Plan Update also be expanded to update policies on Climate Emergency, infrastructure, employment and the Strategic (“SS”) policies in the Local Plan.
- 3.4 That the plan period is extended to 2040 “and beyond” in recognition of the urban regeneration opportunities and requirements of national planning policy to have a minimum of 15 years for strategic policies.
- 3.5 That the Local Development Scheme is updated according to the content of this report and be published accordingly.
- 3.6 That the Divisional Director of Planning, Housing & Climate Emergency Place Directorate, in liaison with the Cabinet Member for Infrastructure, Environment and Culture continues “Duty to Cooperate” discussions with neighbouring authorities, based on Officers’ current advice that Torbay does not have the environmental capacity and there is insufficient viability to deliver the Government’s “Standard Method” local housing need figure, despite the pressing need for affordable housing.

Appendices

Appendix 1: Assessment of Representations made on the Regulation 18 Local Plan Update Growth Options (January 2022)

Appendix 2 Sustainability Appraisal of Local Plan Growth Options (i.e., the January 2022 consultation options).

Appendix 3: Recommended development sites.

Background Documents

- Adopted Torbay Local Plan 2012-30
- Housing and Economic Land Availability Assessment 2021 (HELAA)
- Housing and Economic Needs Assessment 2022 (HENA)
- Torbay Housing Delivery Test Action Plan 2021
- National Planning Policy Framework 2021 (NPPF) and online Planning Practice Guidance (PPG)

Supporting Information

1. Introduction

Summary

- 1.1 Following assessment of the Local Plan Regulation 18 Growth Options consultation responses that took place between January 10th – February 28th 2022, this note outlines recommended next steps.
- 1.2 The growth options consultation sought views on five possible housing growth scenarios. These sought to test how far Torbay is able to achieve the Government's "Standard Method" growth rate of at least 600 dwellings per year. In summary the Growth Options consultation focussed on five options:

- **Option 1: No further greenfield allocation beyond already allocated or approved sites.** This is estimated to provide between 190-250 dwellings a year.
- **Option 2: Limited further greenfield development.** As per option 1 plus a limited number of greenfield sites deemed as having relatively minor constraints. This is estimated to provide between 250/300 dwellings a year.
- **Option 3: One or two further urban extensions.** As per option 2 plus one or two further urban extensions. Several possible "sub-options" for the location of the potential urban extension exist. However, further expansion at the west of Paignton appears to be the most likely area. This option is estimated to provide between 320-380 dwellings a year.
- **Option 4: All sites that have not been ruled out in principle.** This includes sites which have significant environmental constraints. This option could provide between 470-500 dwellings a year.
- **Option 5: Meeting full needs (as required by Government).** To achieve a growth rate of around 600 dwellings per year, all sites including many rejected by the HELAA as unsuitable for development, would need to be allocated.

The Options Consultation also asked whether there is scope for a **hybrid option** that would allow us to set a minimum housing requirement, but also have a more ambitious target for urban regeneration sites.

- 1.3 A full summary of representations received is included at Appendix 1. The consultation received over 1,400 responses, the majority of which were opposed to additional greenfield expansion. However, responses from neighbouring authorities, government guidance and evidence of significant affordable housing need in Torbay all point to the need for Torbay to do all it can to boost housing supply, consistent with this being sustainable development as defined by the NPPF.
- 1.4 Whilst a good level of response was received from homeowners, there was very little response from people in housing need or younger people. Future consultation rounds need to try to engage younger people more actively. New engagement platforms will be utilised going forward.
- 1.5 A number of additional developers/agents promoted sites to the Local Plan. These were most significantly in the south of the area within the South Devon AONB.

Should Torbay Challenge the Government's Standard Method Local Housing Need?

- 1.6 Some consultation responses (including from neighbour LPAs) argued that Torbay should challenge the government's "standard method" formula. Housing need has been established by the Courts as being different from environmental capacity and represents a "policy off" assessment of how many homes are needed (sic) in an area². It is also a different concept from effective demand for housing, which relates to how many homes could be bought and sold at market prices.
- 1.7 Challenging the Government's Standard Method requires councils to demonstrate that "*exceptional circumstances justify an alternative approach which also reflect current and future demographic trends and market signals*"³. In addition to the local housing need figure, any needs that cannot be met in neighbouring areas should also be taken into account in establishing the amount of housing to be planned for. It therefore benefits our conversation with neighbours if Torbay demonstrates and evidences a reduced headline rate of need, as it reduces the figure we need our neighbours to accommodate.
- 1.8 The Government's Standard Method relies on 2014 based demographic projections⁴, which are themselves based on trends dating from 2009. which are seen as increasingly unreliable and do not reflect the huge changes that have taken place since 2014, including Brexit. Some authorities are now challenging the Government's Standard method, including Bournemouth, but it remains to be seen whether they are successful.
- 1.9 Initial indications are that the 2020 based population projections forecast a lower rate of national population increase than previous projections. This is driven by lower fertility and lower life expectancy, and international migration will be an increasingly important element in the UK's population. This may be lower than pre-Brexit forecasts. It remains to be seen how this plays out locally, and particularly what the 2021 Census results say about Torbay's

² The landmark ruling on this is [Hunston Properties Ltd v St Albans City and District Council \[2013\] EWCA Civ 161](#) [St Albans v Hunston Properties Ltd, R \(On the Application Of\) & Anor | \[2013\] EWCA Civ 1610 | England and Wales Court of Appeal \(Civil Division\) | Judgment | Law | CaseMine](#)

The Appeal Court Judge, Sir David Keene ruled that environmental constraints could not reduce need. He also stated that: "*29. But there may be other factors as well (in addition to a housing supply shortfall) . One of those is the planning context in which that shortfall is to be seen. The context may be that the district in question is subject on a considerable scale to policies protecting much or most of the undeveloped land from development except in exceptional or very special circumstances, whether because such land is an Area of Outstanding Natural Beauty, National Park or Green Belt. If that is the case, then it may be wholly unsurprising that there is not a five year supply of housing land when measured simply against the unvarnished figures of household projections. A decision-maker would then be entitled to conclude, if such were the planning judgment, that some degree of shortfall in housing land supply, as measured simply by household formation rates, was inevitable. That may well affect the weight to be attached to the shortfall*".

The principle of need being a "policy off" assessment has been somewhat eroded by the government's attempts to reform the Government's Standard Method, and further possible changes to government policy may affect it further. These will need to be kept under review.

³ NPPF (2021) paragraph 61

⁴ Sub National Population Projections (SNPP) and Sub-National Household Projections (SNHP). Subsequent projections based on 2016 and 2018 data have been published; and the 2020 based Projections are forthcoming. Headline Census results are due in late June 2022.

population growth since 2011. Torbay's population increase is entirely driven by net domestic inwards migration, with deaths outweighing births by 4,239 between 2011-21. Net inward domestic migration is also a significant driver of population growth throughout Devon. Therefore, migration assumptions are the key driver of population growth.

- 1.10 It is recommended that a final view is taken on this when the results of the 2021 Census and 2020 based population and household projections are available. However, it is noted that other authorities are now seeking to challenge the Government's Standard Method formula. Members' concern about the assumptions made by the formula and the unsustainably high numbers it produces for Torbay is recognised.
- 1.11 However, there is evidence within Torbay of pressing affordable housing need. The Council's 2022 Housing and Economic Needs Assessment (HENA)⁵ indicates that there is a need for 721 affordable homes a year in Torbay between 2021-31, of which 387 are for rent and 334 for sale. It is noted that a significant element of the need for affordable homes for sale arises from people already housed in the private rented sector, who "need" a different tenure rather than a net new dwelling. This specific need would not be met by just setting a figure in line with the Government's standard method, neither the number nor type of homes would be sufficient.
- 1.12 An alternative assessment of housing need must also be "objective" and there is a possibility that an alternative objective assessment of need may actually be higher than the Government's Standard Method. However, prior to the introduction of the Government's "Standard Method" (in the 2018 NPPF), assessments of Full Objectively Assessed Need (FOAN) were not expected to automatically add the need for affordable housing (assessed through a Housing Needs Survey) to the FOAN figure. There was a tacit acceptance that affordable housing need may be greater than FOAN; and that although they both use the word "need" they referred to subtly different concepts.
- 1.13 As well as the demographic aspect of development, the financial impact of development must also be taken into account. Most significantly providing new homes reduces the cost (and social impact) of temporary accommodation. More family housing is likely to allay somewhat the ageing population structure, maintain workforce numbers, and the viability of facilities such as schools. Conversely, additional population places additional demands on physical and social infrastructure that developer contributions (S106, CIL etc) are unlikely to cover in full.
- 1.14 Taking the above into account, and recognising the methodological problems with the Government's Standard Method, and concerns that its findings if implemented would cause severe environmental harm, this report recommends that the Council challenges the Government's Standard Method. Additional assessment of demographic trends will need to be carried out.

Environmental Constraints

- 1.15 As noted, "housing need" is different to environmental capacity, and Torbay has substantial environmental constraints that make achieving the Government's Standard Method figure extremely difficult. The consultation pointed to a need for more detailed assessment of environmental capacity, landscape impact, flooding etc. However, nothing indicates that Torbay has the environmental capacity to deliver a growth trajectory of 600-720 dwellings a

⁵ [Local Plan Update - Torbay Council](#)

year. There is also a problem with viability with urban regeneration sites and limited market capacity to deliver the number of homes needed – particularly without public subsidy. Whilst building upwards may avoid some of the environmental impact, there is limited demand for apartments and Torbay’s town centres contain significant heritage assets (Conservation Areas, Listed Buildings, Scheduled Monuments). Town centre sites also tend to deliver apartments rather than family housing and a lack of varied housing approaches could worsen existing deprivation levels if not managed effectively.

- 1.16 Responses from neighbours and planning agents also pointed out that housing is a strategic matter that cannot be divorced from other issues such as infrastructure or the Climate Emergency, and that many of the regeneration proposals in the Plan will take beyond 2030 to achieve.
- 1.17 In terms of sites that were promoted for development, the strongest and most active developer/land promotion interest is in the AONB in and around Brixham, which is the most environmentally and infrastructurally constrained part of Torbay. Appendix 1 sets out the sites that have been promoted for development.

Historic Completions

- 1.18 Torbay’s monitoring data goes back to 1981. Between 1981-2021 the long term average of homes built is 429 dwellings a year, but this includes significant areas of urban expansion including The Willows, and some of Veille Park in Torquay, Great Parks, some of Roselands and Hookhills, Yalberton Road and White Rock in Paignton and former holiday parks in Brixham. Over the decade 2011-21 average completions were 343 dwellings a year, but have fallen off in the last two years. Therefore, whilst future build-out rates are not certain, the historic rate of growth in Torbay has been significantly lower than the Government’s “Standard Method” even when large urban extension areas were available. This raises a concern over market capacity in the area to deliver a higher number of homes but also questions the ‘need’ as the market demand does not appear to match the Government’s standard method or interest from house builders.

2 Recommended Growth Option

- 2.1 Whilst the high level of opposition to greenfield expansion is noted, Officers recommend that some limited additional greenfield expansion is necessary to help address the very pressing need for affordable and family housing. In addition, although there was strong in principle support for a “hybrid” option that prioritises brownfield development, proposals and consultations in the town centres have not revealed an appetite for high rise buildings on key waterfront sites that could make a significant boost to housing numbers.
- 2.2 Accordingly, Officers recommend that a Local Plan growth strategy of between Option 2 and 3 is pursued, but maintaining an emphasis on urban regeneration. Key elements of this strategy would be:
- A growth target of at least 300 dwellings a year over the Plan period. It is proposed to set a stepped trajectory, which would give time for regeneration sites to be unlocked and implemented. The proposed trajectory is:
 - 250 dwellings a year 2022/3 to 2026/27 (equal to 1250 dwellings over 5 years)
 - 300 dwellings a year 2027/28 to 2031/32 (equal to 1500 dwellings over 5 years)
 - 350 dwellings a year 2032/33-2036/37 (equal to 1750 dwellings over 5 years).
 - 300 dwellings per year for the 3 remaining years 2037/8-2039/40
 - This will need to be kept under review to assess its deliverability.

- That there is a Plan period of 2022-2040 with an overall target of at least 5400 dwellings.
- This is a minimum figure that can be exceeded particularly on urban regeneration sites.

2.3 Whilst the difference between housing need and the 300 dwellings a year average requirement will have to be assessed, it is highly likely that Torbay will not be meeting its needs in full. It will be necessary to ask neighbouring authorities to seek to accommodate unachievable need. Torbay needs to demonstrate that it has done all that it can to meet its own needs, and that there are sound reasons why it cannot meet these in full.

2.4 The following sections set out officers' recommendations for sites that should be considered for development. The extremely difficult nature of many of these is acknowledged, particularly in the context of Torbay's strong support for neighbourhood planning and the tireless work of the neighbourhood planning bodies in preparing plans that have largely sought to protect these areas. The recommendation does seek to protect Torbay's most sensitive areas and in particular resist major development in the AONB and its rural setting.

The Basis for Accepting or Rejecting Sites/Broad Locations

2.5 The Local Plan will, when it goes to Examination, be tested on the Tests of Soundness in paragraph 35 of the NPPF (2021) and upon the Presumption in Favour of Sustainable Development as it pertains to Plan making. This sets out:

11. Plans and decisions should apply a presumption in favour of sustainable development.

*For **plan-making** this means that:*

(a) all plans should promote a sustainable pattern of development that seeks to: meet the development needs of their area; align growth and infrastructure; improve the environment; mitigate climate change (including by making effective use of land in urban areas) and adapt to its effects;

(b) strategic policies should, as a minimum, provide for objectively assessed needs for housing and other uses, as well as any needs that cannot be met within neighbouring areas [6](#), unless:

(i) the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for restricting the overall scale, type or distribution of development in the plan area [7](#); or

(ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

The NPPF sets out in Footnote 7 a close list of NPPF policies that can provide a strong reason for restricting the overall scale of development:

(7) The policies referred to are those in this Framework (rather than those in development plans) relating to: habitats sites (and those sites listed in [paragraph 181](#)) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, a National Park (or within the Broads Authority) or defined as Heritage Coast; irreplaceable habitats; designated heritage assets (and other

heritage assets of archaeological interest referred to in [footnote 68 in chapter 16](#)); and areas at risk of flooding or coastal change. ↵

- 2.6 The operation of the Presumption at plan making is similar to its operation in Development Management, although the NPPF indicates that there must be a “**strong reason**” not to allocate sites, rather than a “**clear reason**” in relation to development management considerations at 11D)i) of the Framework.
- 2.7 The Local Plan will be tested on this basis, and whilst Neighbouring Authorities reasonably expect that Torbay does all it can to meet needs, it would be inappropriate for Torbay to breach the above tests when allocating land or broad locations. Accordingly, if Members wish to remove or reject any of the sites or broad locations below, officers ask that they are satisfied that they do so taking into account these tests, viz that:
- There are “strong NPPF Footnote 7” reasons to restrict development or;
 - The adverse effects of allocating the site would significantly and demonstrably outweigh the benefits.
 - The SA and HRA findings will inform this decision. Preliminary findings indicate that development in the AONB and close to the South Hams SAC raises significant concerns. From a social point of view there is a benefit in providing additional development in clusters where they can benefit from infrastructure investment. For this reason, a version of “Option 3” scored best overall. Options 4 and 5 raised significant environmental concerns, whilst Options 1 and 2 do not meet social objectives.
- 2.8 The converse holds true if Members wish to allocate sites that officers have not included.

Components of the recommended Growth Option

- 2.9 It is recommended that the Local Plan Growth Strategy should focus on urban regeneration in the town centres and waterfront areas. This may entail significant remodelling on the urban area and will take into the medium term to accomplish. Such development is likely to require funding to help support it, hence a Plan period 2022-2040 is recommended. The following areas are already largely allocated for redevelopment in the Local Plan or Neighbourhood Plan, and Torquay and Paignton are supported by Masterplans. These areas will need to maximise their delivery, for example with the use of taller and more dense development.
- Torquay Town Centre
 - Torquay Harbourside and Waterfront (Pavilions, Debenhams, Living Coasts)
 - Paignton Town Centre (Crossways, Victoria Square, Station Lane, Paignton Harbour).
 - Brixham (Middle Street).
- 2.10 Because of the length of time it will take to achieve comprehensive regeneration of some of these areas, it is likely to be feasible to provide temporary solutions such as modular housing in the short to medium term on some of the most sustainable and easy to redevelop sites, such as Temperance Street/ Lower Union Lane. This would be a quick way to boost affordable housing delivery and meet some of the most acute needs.
- 2.11 It is recommended that all of the Local Plan 2012-30’s Future Growth Areas and allocated sites should remain designated (“proposed”) for development. However, a more realistic assessment of their achievable numbers will need to be taken, on review of deliverability for some sites. The sites/ areas to remain allocated for development are:
- Torquay Gateway/Edginswell
 - Hollicombe

- Great Parks Phase 2
- Totnes Road/Collaton St Mary
- Brixham Road/Yalberton Road (Berry Acres)
- White Rock
- Inglewood

2.12 The above sites would equate to Option 1 in the January 2022 Growth Options Consultation. Whilst numbers are approximate, the HELAA and Growth Options Consultation suggests that they would deliver a housing trajectory of around 190 dwellings a year (based on a 15 year trajectory). A slightly higher number of (say) 250 dwellings a year may be achieved in the longer term if significant regeneration projects come to fruition.

“Option 2” Sites Assessed in the HELAA as having relatively minor constraints

2.13 The Growth Options consultation (based on the HELAA) identified a number of sites which were assessed as having relatively minor environmental constraints, although it is acknowledged that there will be significant local concerns about these sites. These sites are in addition to those above. Due to the pressing need for housing, it is recommended that all of the sites identified below should be proposed for development.

HELAA Reference	Sites to be allocated (Formerly included under Option 2).	Likely number of dwellings (Subject to further assessment)
Torquay		
21T050	Land adjacent to Broadley Drive, Livermead, Torquay	50
21T064	Sladnor Park, Maidencombe. Due to a High Court decision the principle of development has been established through the High Court, see application P/2020/0315	120
21T072	Babbacombe Business Park, Babbacombe Rd, Torquay	12 (could be increased with higher density)
21T125	Kingsland, Maldon Road (part of existing Future Growth Area but currently designated for employment use).	70 subject to achieving an acceptable level of industrial development and satisfactory buffering to protect amenity.
21T030	Land at Viewpoint, Kingskerswell Road	6
21T055	Watcombe Beach Car Park, Watcombe Beach Rd, Torquay	6
21T056	Kingskerswell Fields A & B, Kingskerswell Rd, Torquay	10
21T118	Rear of Farmhouse Tavern, Newton Road, Torquay or elsewhere on Torquay Hospital campus (Key workers)	50
21T145	Land North of Bottompark Lane, Torquay	20
21T148	Brunel Manor, Conversion of buildings only	15

	Torquay Sub Total	(359)
Paignton - Some of these are "indicated" in Table 8.1 of the Paignton Neighbourhood Plan.		
21P009	Sandringham Gardens West of Preston Down Road, Paignton	20
21P017	Land at Preston Down Road North, Paignton	50
21P018	Land at Preston Down Road South, Paignton	50
21P034	Land North of Wilkins Drive/PMU, Paignton	30
21P051	Hilltop Nursery, Great Parks.	10
21P053	Land rear of Local Centre, Waddeton Close, White Rock Paignton	60
21P079	Land off Limekiln Close, White Rock, Paignton	20
21P081	Land off Fishacre Close, Great Parks, Paignton	10
21P087	Land at James Avenue and east of Reservoir, Paignton	10
21P039	Land R/O 24 Grange Rd, Paignton	25
	Paignton Sub Total	(285)
Brixham and BGC Villages		
21B001	Gliddon Ford Filling Station, Dartmouth Road, Churston Ferrers	6
21B026	Wall Park Extensions (R/O Wall Park Farm, 39 Wall Park Rd), Brixham	20
	Brixham Sub total	(26)
	Total	670

- 2.14 Assuming all the sites are developed in the Plan period, this would achieve around an additional 670 dwellings or roughly 37 per year over an 18 year Plan period. In practice there will be some non-delivery.
- 2.15 If the "option 1 sites" provide 250 dwellings a year, these sites would provide an additional circa 37, making a trajectory of about 287 dwellings a year. This is similar to Option 2 in the previously consulted on options. This gap will fall further if any of these sites are removed (and not replaced). There is still a shortfall below likely need and therefore additional ways of boosting housing supply should be considered.

What about windfalls?

- 2.16 Torbay has recently achieved about 91 dwellings a year on small windfall sites of 1-5 dwellings and 32 on unallocated sites of 6-9 dwellings ("larger non-major sites"), i.e. 123

dwellings per year⁶. The NPPF supports the development of windfall sites (paragraph 69 c). Paragraph 71 indicates that “*where an allowance is to be made for windfalls as part of anticipated supply, there should be compelling evidence that they will continue to provide a reliance source of supply. An allowance should be realistic having regard to the HELAA, historic delivery rates⁷ and expected future trends*”. The Neighbourhood Plans have allocated smaller sites, and a great many of the urban regeneration sites and developments in the built up area (which are needed to provide at least 250 dwellings a year) will be from smaller sites. The above figures assume that all of the relatively small sites will be built out, which may not be the case; but other urban sites may come forward as windfall development. Moreover, overreliance on conversions of existing houses into apartments can have negative impacts on regeneration and deprivation in Torbay’s “inner urban” Wards. On this basis an additional windfall allowance is not recommended as it could result in double-counting and an overly optimistic assessment of urban capacity. However, this will be kept under review.

Local Green Spaces

- 2.17 The Housing and Employment Land Availability Assessment (HELAA) “scoped out” Local Green Spaces identified in Neighbourhood Plans. They were assessed by Independent Examiners in 2018 as meeting the relevant tests for adoption⁸, and this assessment was unanimously approved by full Council in 2019 when the Plans were “Made”. The LGSs are designated in Neighbourhood Plans and rule out most development other than in “very special circumstances”. In planning terms LGSs are akin to Green Belts in their level of protection.
- 2.18 The provision of limited affordable housing for community needs is classed in the NPPF as a potential exception to green belt policy (NPPF paragraph 49). Given the need for affordable housing and difficulty of finding sites, it may be appropriate to ask the Neighbourhood Forums to consider whether any of them provide opportunities for limited local-needs affordable housing development. However, following discussions with Members, and in recognition of the very high local value afforded to them, it is recommended that any proposals would need to come forward through Neighbourhood Plans. On this basis, it is recommended that LGSs remain a matter for Neighbourhood Plan designation, and no Local Plan expectation or number is placed on them.

Further Broad Locations and sites with significant constraints

- 2.19 As noted above, the likely trajectory provides about 287 dwellings a year and is dependent upon brownfield regeneration sites delivering development, as well as allocated “Future Growth Areas” delivering. Even if the Government’s Standard Method can be successfully challenged, there is still a likely need to allocate additional greenfield development in order

⁶ [Evidence Base and Monitoring - Torbay Council](#)

⁷ Note the reference to delivery rates, rather than permissions granted. The council considers that numbers of permissions granted should count: but the NPPF states “delivery”.

⁸ Set of in Paragraph 102 of the NPPF. They should be a) in reasonably close proximity to the community they serve; b) demonstrably special to the local community and hold a particular local significance, for example because of their beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of wildlife; and c) be local in character and not an extensive tract of land. Policies for managing development in a Local Green Space should be consistent with those for a Green Belt.

LGS designations also need to be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services.

to boost housing supply and to provide affordable housing. Moreover, some greenfield development is needed to provide family homes rather than apartments.

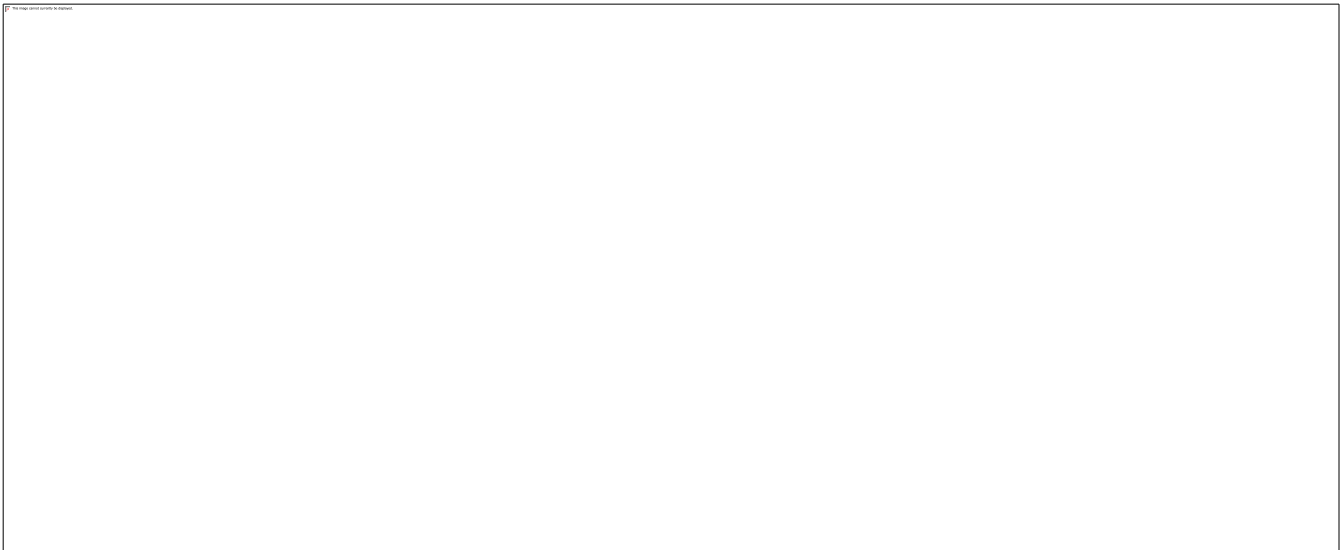
- 2.20 The HELAA has sought to identify sites and broad locations for development. Some sites were identified as “amber” in the HELAA which indicated that they had significant constraints. The HELAA did not consider the in-combination effects of sites, or whether a particular combination of sites represented a sustainable growth strategy. That is partly the purpose of this report and Member deliberations around it. The Sustainability Appraisal and accompanying assessments are also important in the plan making process.
- 2.21 The following options to boost numbers have been identified by officers as warranting further consideration. In order to meet a 300 dwelling per year requirement, a minimum of 234 additional homes would need to be found on sites that are not already identified above (i.e. $300-287=13$ dwellings a year $\times 18$ years = 234). This is not an upper limit if more sustainable locations can be identified; but as clearly stated above officers are aware of the very significant environmental challenges Torbay faces. It is recommended that this be rounded up to at least 300 to allow for an element of non-completion.
- 2.22 The following sites and broad locations have been identified by officers as being worth further consideration. The views of the community, Forums and other stakeholders are particularly sought. Most areas have significant constraints or difficulties, but have not been rejected in principle by officers when compiling the HELAA. Other options that were coloured “amber” in the HELAA are recommended not to be proceeded with, due to their environmental impact and the harm this would do to Torbay’s limited remaining countryside. In particular, despite deliverable sites being promoted in the AONB, it is recommended that a policy of restraint in the Brixham area and its urban fringe is maintained. This has endured for the three previous Torbay Local Plans (Adopted in 1991, 2004 and 2015) and the Brixham Peninsula Neighbourhood Plan. The policy reflects the high level constraints in the area and is considered to remain sound, and should be persevered with.
- 2.25 The sites and areas recommended for consideration are:
- Extension to the Collaton St Mary masterplan Area, Paignton
 - West of Long Road/Yalberton, Paignton
 - Archery Field Kennels Lane, Churston
- 2.26 If allocated, it is recommended that all of these areas would need to be subject to detailed masterplans and design codes, drawn up as far as possible in agreement with Neighbourhood Forums and local communities. The local plan will need to set out key infrastructure requirements, and how it can be funded. Not all of the areas shown on the maps could be built on- there would need to be strategic landscaping and ecological mitigation.
- 2.27 Given that there is a need to identify two transit pitches for travellers, the consultation will seek views on a potential site. Stantor Barton has previously been considered, although this may require further negotiations with the land owner. Another approach would be to locate them close to one of the broad locations for development as part of the overall master planning of the selected area.

Collaton St Mary, Paignton

- 2.28 Land at Collaton St Mary is already allocated as a Future Growth Area and has an adopted Masterplan, which is expected to deliver about 460 dwellings. The Local Plan consultation considers whether there is scope to expand the proposed development areas, including

further westwards towards South Hams. These sites are within the existing Future Growth Area (with the exception of the sites further to the west along Totnes Road) but are not shown on the Masterplan, and are Rural Character Area in the Paignton Neighbourhood Plan (PNP1(a) and PNP19).

- 2.29 Further development in this area would increase pressure on the A385 and landscape impact towards South Hams. However, it is in an area already identified for growth and may provide opportunities to rethink infrastructure delivery in the area. An updated masterplan showing how transport and drainage infrastructure will be delivered safely will be required. Extending beyond this area appear capable of achieving around 150 additional dwellings, which would be reasonably achievable within 15 years, as sites have been promoted by developers or understood to be controlled by housebuilders. It is acknowledged that there would be additional biodiversity and landscape impacts arising from this, but the most prominent sites to the south of St Marys Park have been rejected as unsuitable. There would need to be additional funding for drainage and transport infrastructure.



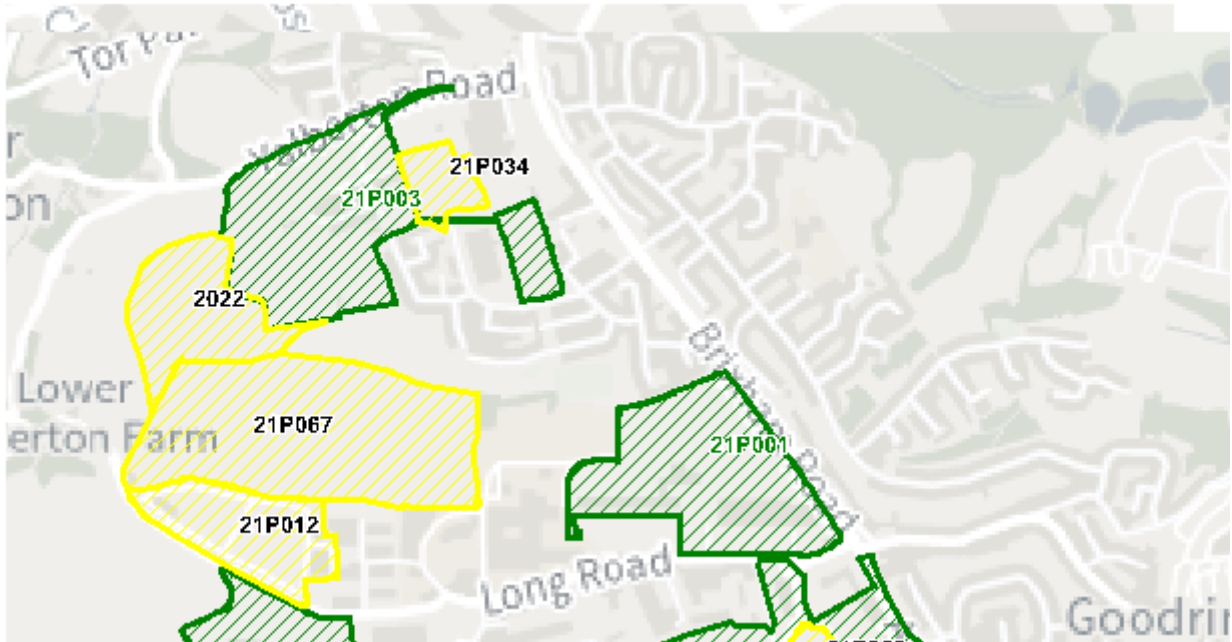
Key: Green= sites already in the Masterplan

Yellow= Sites that have significant constraints but are recommended for consideration.

Red= Rejected sites not recommended for inclusion.

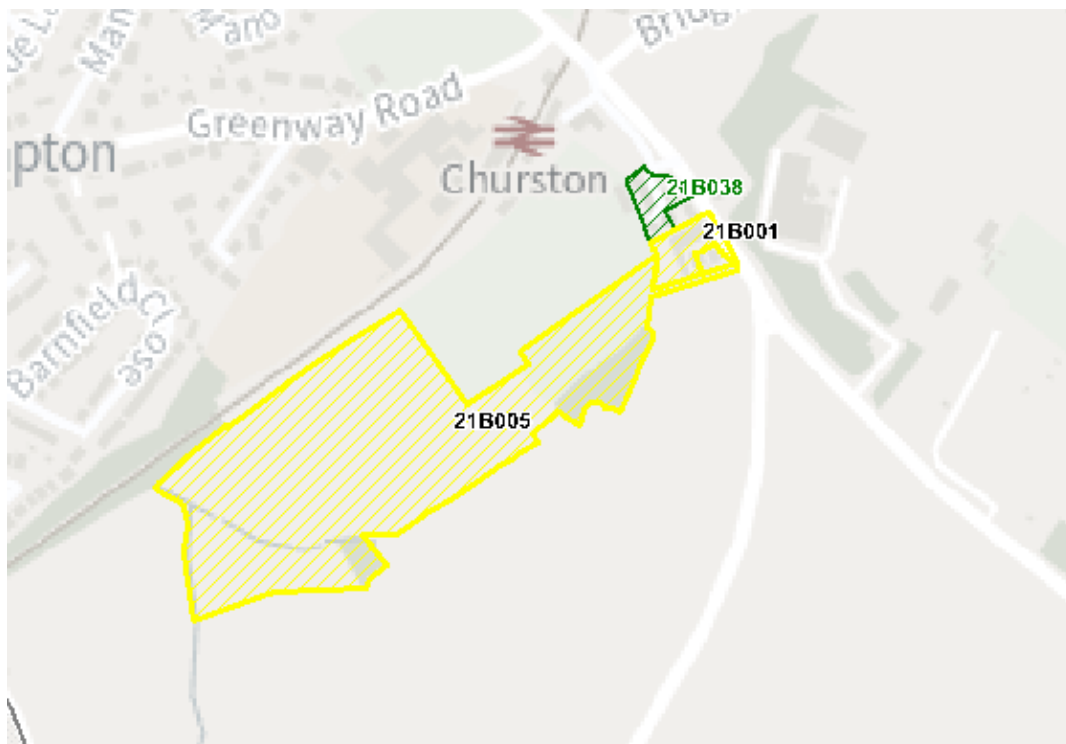
West of Yalberton/ Long Road and Berry Acres

- 2.30 Land to the west of Yalberton is already allocated as a Future Growth Area in the Local Plan and has provided a major source of Torbay's housing in the twenty-tens. Development of the existing allocated Future Growth Area is nearing completion, but sites to the West have been promoted for development. These appear to be deliverable, although they would need to be supported by detailed master planning. There would be some landscape impact into the South Hams and potentially to the setting of the South Devon AONB. As above, these are within the Rural Character Area of the Paignton Neighbourhood Plan. As with all development in Torbay the biodiversity impacts would need to be carefully assessed, including their in-combination effects alongside other proposals. The area could potentially achieve circa 200 additional dwellings as well as employment land. It appears that these would be developable within a 15 year timeframe.



“Archery Field” Land at Kennels Lane, Churston

2.31 Land to the SW of Brixham Archery Club (21B005). This site is within the setting of the AONB and outside of the Brixham Peninsula Neighbourhood Plan Boundary. It is located to the south of Windy Corner which is a recognised infrastructure constraint. However, the site is seen as the least harmful option in the South of Torbay and could provide local needs affordable housing. Although it does not allocate the site, the Neighbourhood Forum’s Housing Site Assessment (document 3) indicates that the land may be suitable for a specialist housing under Policy BH9 Rural Exception Sites PP94-96). The site could accommodate up to around 50 dwellings, although this would need to be the subject of further detailed assessment.



3. Summary of Likely Potential

- 3.1 The table below shows how a trajectory of 300 dwellings a year could be achieved. It is noted that the figures are close, and that even a 300pda target will be a challenge. If any of the sites identified are not proceeded with, and other alternative sites are not identified, then the achievable total is likely to fall.
- 3.2 It is reiterated that stating overoptimistic assumptions about urban sites or windfalls, may appear to allow controversial sites to be dropped, but will result in under-delivery and potential land supply or Housing Delivery Test problems.
- 3.3 A number of sites and broad locations have been considered by Officers, but not recommended to be included as potential consultation options. These are described and the reasons for rejection are set out in the “options under consideration” section below.

Option/Broad Location (Note that all numbers are provisional).	Total achievable over 18 years (2022-40)	Per annum
<p>“Option1 sites” – existing allocations and urban regeneration sites This number is approximate and assumes a very bold approach to providing dwellings through urban regeneration and maximising the potential of allocated sites. A more “trend based” figure is estimated to be around 190 dwellings a year).</p> <p>It is likely to take urban regeneration sites time to start yielding significant numbers.</p>	4500	250
<p>“Option 2” Sites with relatively minor constraints (option 1 plus 34 dwellings a year from sites with minor constraints).</p> <p>Major sites (10+ dwellings) should be allocated in the Local Plan, or remain allocated in the Neighbourhood Plan. Smaller sites can be delegated to Neighbourhood Plans.</p>	670 (in addition to “option 1” sites).	37
Further Sites/Broad Locations		
Collaton St Mary, Paignton	150	8

West of Yalberton/ Long Road and Berry Acres	200	11
Land adj. Archery Field, Kennels Lane, Churston	50	3
	5570	309

4. Consultation Stages, scope and timing.

- 4.1 It is recognised that the above options represent a significant decision and there will inevitably be significant controversy about sites, individually or as clusters. There would need to be more detailed assessment of landscape, biodiversity, agricultural land, highways, deliverability etc. before sites are formally allocated. We can also expect there to be objections from the promoters of non-allocated sites, particularly AONB sites where significant preparatory work has been carried out by promoters. On this basis it is recommended that the public consultation is carried out under “Regulation 18”⁹ informally known as an “Issues and Options” stage. The next stage “Regulation 19” pre-submission publication of the Plan, also known as the “Preferred Option” comes at a stage where the Local Planning Authority has a clearly worked up plan which it intends to submit to the Secretary of State for Examination. As such there is less scope at this stage for open consideration of options or stakeholders’ views. Due to the issues involved, it is recommended that a further regulation 18 Consultation would be appropriate.
- 4.2 The timescale for preparation of the Plan is as follows. This will need to be reflected in an updated local development scheme. Whilst it would be possible to begin a consultation in July, this will not provide an opportunity to “soft test” the proposals with Neighbourhood Forums, particularly relating to Local Green Spaces. Accordingly, a revised timescale is set out below to allow informal consultation with Neighbourhood Forums in July and August.
- Regulation 18(3) Proposed broad option consultation: September-October 2022 (6 weeks minimum).
 - Preparation of Preferred Option and completion of evidence base November 2022-May 2023
 - Consultation on Regulation 19 Preferred Option (post-election) June 2023-August 2023 (Needs Full Council approval).
 - Submission to Secretary of State: October 2023 (Needs Full Council approval).
- 4.3 It is recommended that the Plan period is rolled forward to provide detailed trajectory for 15 years and a longer term strategy to 2040 “and beyond” (to meet the requirements of paragraphs 22 and 68 of the NPPF). This makes an 18 year Plan period, although much of the town centre regeneration will take longer than this to achieve. Discussions will need to

⁹ [The Town and Country Planning \(Local Planning\) \(England\) Regulations 2012 \(legislation.gov.uk\)](https://www.legislation.gov.uk/uksi/2012/2700/contents/part-1/section-18)

take place with the Planning Inspectorate and DLUHC about this approach as it may raise soundness concerns due to Torbay's difficulty in meeting its needs.

- 4.4 Extending the plan period will provide an opportunity to update other strategic policies (broadly the "SS" and SD-1 policies in the Local Plan) to provide a broader strategic framework and address the concerns raised during the last consultation. More detailed policies will need to be the subject of later development plan documents or neighbourhood plans. The Levelling Up and Regeneration Bill and the gist of the (2021) NPPF is that local plans should focus on strategic policies. The Levelling Up Bill proposes that binding national development management policies will replace local policies.

Duty to Cooperate with Neighbours.

- 4.5 Torbay needs to keep a constructive dialogue going with neighbouring authorities to inform them that Torbay is unlikely to be able to meet its housing need. Informal discussions have taken place at officer level as part of the Duty to Cooperate. Whilst Teignbridge and South Hams are Torbay's nearest neighbours, both of these areas are also constrained. It seems more sensible to consider the issues on a wider housing market area (HMA). Torbay abuts the Greater Exeter HMA to the north and Plymouth Joint Local Plan HMA to the west. The nature of population/ household growth in both Torbay and Devon is driven by net domestic inwards migration. Moreover, there is a sub-regional aspect to homelessness in Torbay due to the size of the lower quartile private rented sector, and number of hotel/hostel bedspaces and relatively low prices in Torbay compared to other parts of the adjoining housing market areas. It may therefore no longer be accurate to see Torbay as a self-contained housing market area.
- 4.6 Members have indicated that they believe there to be "exceptional circumstances" to justify challenging the Government's Standard Method. It is therefore too early to say exactly what the likely shortfall will be. However, based on the 2022 Standard Method of 600 dwellings a year and a housing trajectory of 300 dwellings per year, there will be an unmet need of 300 dwellings a year, which is a "worst case" ask from our neighbours. Dividing Torbay's shortfall equally between the 7 LPAs in the adjoining housing market areas¹⁰ would equate to 43 dwellings a year per LPA; although the nature of the division is more likely to be based on factors such as land availability, employment and transport links. This is a significant ask on neighbouring councils and is another justification for Torbay seeking to challenge the Government's Standard Method.
- 4.7 Neighbouring Authorities have indicated that they remain unconvinced that Torbay is unable to meet their needs. Additional landscape work is needed to provide evidence that Torbay is doing all it can to meet its needs. It will also be necessary to do additional work to identify who the "unmet need" are and from where they come. As noted above, Torbay's population increase (which is a major component in the SM) is entirely driven by net inwards domestic migration, even though there is a pressing need for "local" affordable housing. Both Devon and the neighbouring HMAs have significantly exceeding their housing targets in recent years. Based on recent Housing Delivery Test results, Torbay's shortfall would be more than compensated by oversupply elsewhere in the Greater Exeter and Plymouth Joint Local Plan areas. However, neighbour authorities have expressed concern that the HDT is backwards looking and an ongoing supply of housing land in these areas cannot be guaranteed.

¹⁰ Teignbridge, Exeter City Council, East Devon and Mid Devon in the Greater Exeter HMA, and Plymouth City Council, South Hams and West Devon in the Joint Local Plan area.

Levelling Up and Regeneration Bill 2022

- 4.8 The Government introduced the Levelling Up and Regeneration Bill to Parliament in May 2022. The scope of changes to local plans has been significantly scaled back from the Planning White Paper, for example proposals for a zonal system have been abandoned. Under the Bill's proposals, Local Plans will still be prepared, but are expected to set out a broad spatial development strategy. More detailed policies can be set out in Supplementary Plans (which are proposed to carry legal weight, unlike SPDs), Neighbourhood Plans (which have legal weight), and national development management policy. The "national development management policy" carries more weight than both local or neighbourhood plans (Clause 83) and can be introduced with minimal consultation by the Secretary of State (Clause 84). If this becomes law (and it is likely to run into opposition), the Levelling Up Bill would replace local development management policies with national ones, thereby removing the need for much of part 6 of the Local Plan (i.e. its DM policies). The clear direction of travel in the NPPF (paragraphs 17-23) and the Levelling Up Bill is that Local Plans should take a strategic approach and leave non-strategic policies to Neighbourhood Plans and generic detailed DM criteria based policies to national guidance.
- 4.9 Whilst the government has signalled an end to "Five Year Supply" considerations, these are set out in National Policy rather than Primary Legislation. The current proposals are that where a Plan has been adopted, there is a five year "break" from needing to demonstrate a deliverable five year supply. However, it appears that some other test such as the Housing Delivery Test will still be applied to monitor performance.
- 4.10 The police and NHS have continued to seek developer contributions from development. Officers also consider there is a case to seek brownfield regeneration contributions from greenfield sites, although CIL may be the best vehicle to achieve this. Consideration of these matters will need updated viability evidence, and the above timescale provides an opportunity to do this.

5. Next Steps

- 5.1 Following Members' advice, a refined draft consultation document will be prepared based on the options outlined above. This will seek views on which of the broad locations are acceptable, balancing the need to address the housing shortage and respect environmental constraints. The recommended consultation questions are:
1. Do you agree that Torbay has exceptional circumstances that justify challenging the government "standard method" for calculating housing need?
 2. Do you agree with sites from option 1 and 2 forming the baseline?
 3. Do you agree with the need to increase density and height of proposals in the urban area on brownfield sites?
 4. What are your views on each of the further sites/broad locations?
 5. Do you agree that the housing target of 300 dwellings a year, with a stepped trajectory (250dpa for the first 5 years, 300 in years 6-10 and 350 a year in years 11-15 (reverting to 300 for the three remaining years)?
 6. Do you agree with the need to update strategic policies on employment, climate, infrastructure and other matters?

6. Options under consideration

- 6.1 This document focusses on several growth options, based on the Issue Consultation that took place January- February 2022 (see above). It sets out further options for growth as outlined in the main report. It is noted that the overwhelming response from the public was opposed to additional greenfield development. It is noted that the current Torbay Local Plan 2012-30 makes significant greenfield allocations that have not been build out yet. Not-recommended options are set out below.

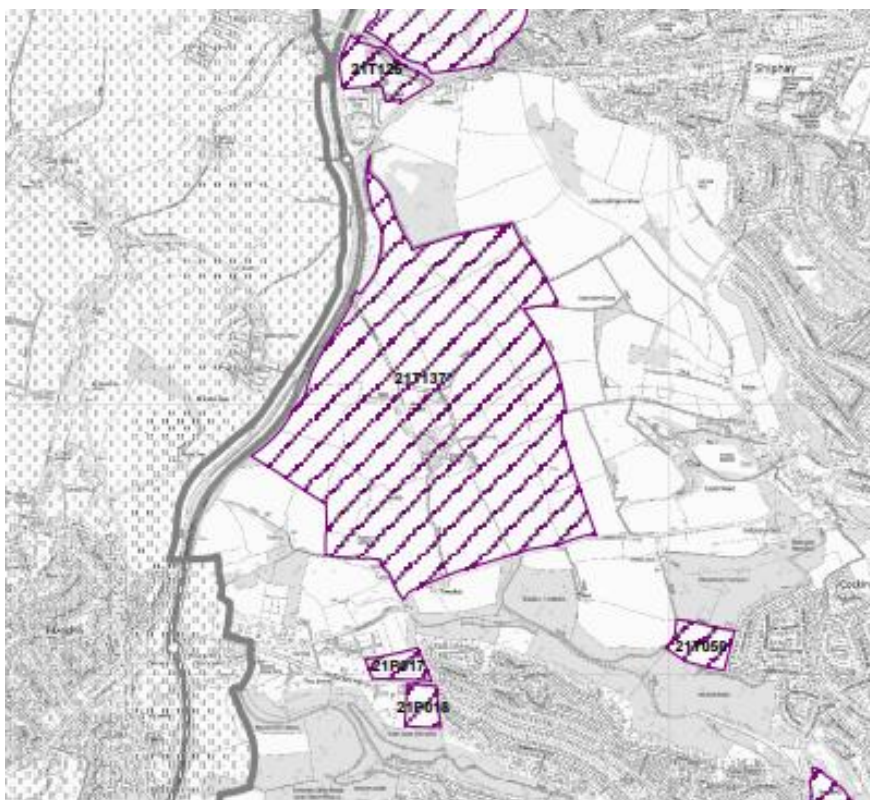
Not Updating the Local Plan or Postponing an Update

- 6.2 The council does have the option to postpone updating the Local Plan until the future of planning is clearer in relation to the Levelling Up and Regeneration Bill, standard method etc. This would allow more focus on neighbourhood planning. However, the Levelling Up Bill will take several years to come into force and much will need to be done through secondary legislation or guidance. Until the Local Plan is updated, planning applications will have to be determined on the basis of the Presumption in Favour of Sustainable Development, which reduces the ability of the council or neighbourhood planning bodies to influence the future of the area. There is good evidence that Torbay cannot meet the Government's "standard method" level of housing without causing severe environmental harm, but the only way to seek to establish a lower housing requirement is through an update to the Local Plan.

Rejected Sites and Options

- 6.3 The report considers the case to challenge the Government's Standard Method, due to Torbay's population being driven by inwards migration and the unreliability of 2014 based household projections. However, Torbay as a pressing need for affordable housing and needs to do all it can to boost housing supply, within its environmental limits. Officers' recommended options for consultation are set out in the main document. However, other sites and options have been promoted to the Local Plan Update, which are not recommended. These are assessed below, along with Officers' assessment that they would not be sustainable development as defined by the NPPF.
- 6.4 **Rejected Broad Location: Stantor Barton.** If land at Stantor Barton (21T136 and 21T137) were to become available for development, it would need to be carefully considered, as it is located in the north of Torbay away from the most significant environmental constraints. The site is not level and apart from the Ring Road running along its boundary is not especially well related to the built up area without significant additional sustainable transport infrastructure. There would be loss of agricultural land, and an impact on Local Green Spaces around the area. The area could perhaps provide 300 dwellings although this would need to be modelled in more detail. However, it is understood that the site is not available for development.

- 6.5 Conversely, the former Market Site adjoining Hellevoetsluis Way (21T136) has been promoted for development. Whilst the site may be suitable for other uses, and is ideally placed as a transport hub/park and ride¹¹; it is car dependent and there is a lot of vehicle noise. As a stand-alone site it would not be satisfactory for housing.
- 6.6 The Council may need to consider compulsory purchase if it wishes to pursue development at Stantor Barton. There are still matters such as agricultural land, topography, landscape, and accessibility (other than by car) that render it problematic as a potential development area. On this basis, without a willing landowner, compulsory purchase is not likely to be the best use of public money compared to other potential sites, particularly urban regeneration opportunities, particularly as the inherent suitability of the area has not been established.

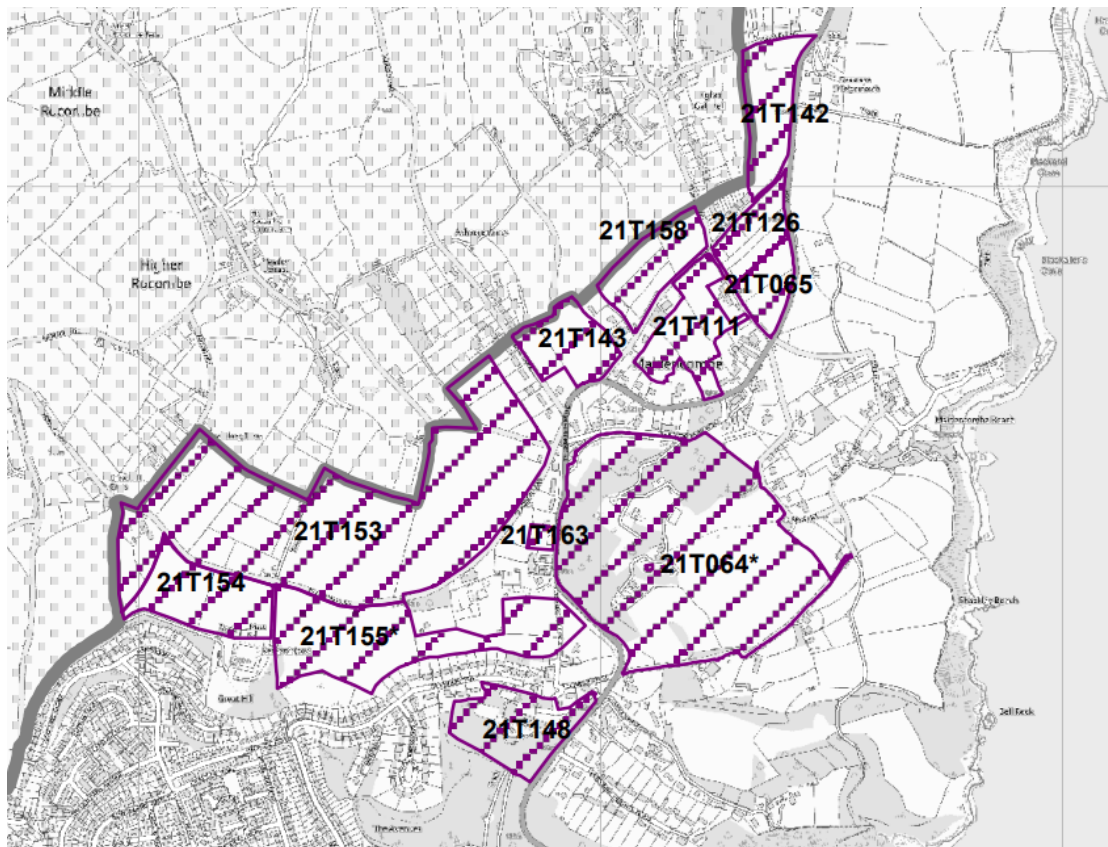


Rejected Broad Location: Great Hill/Maidencombe Cluster.

- 6.7 This land is within the Countryside Area and rolling Devon farmland but is not AONB. The sites are to the west (landward) side of the A379 Teignmouth Road, which would reduce the impact upon the coastal landscape. However, most of the sites are very elevated and would be highly visible from land within Teignbridge. None of the land is particularly flat which will affect the viability, constructability and the landscape impact of development. Whilst located away from Berry Head, the Maidencombe Cluster is within the South Hams

Landscape Connectivity Zone for the protected greater horseshoe bats and the western part of the cluster is classified as best and most versatile agricultural land. The lack of sewerage infrastructure, if not addressed, could result in adverse impacts on the Marine Special Area of Conservation in the surrounding sea.

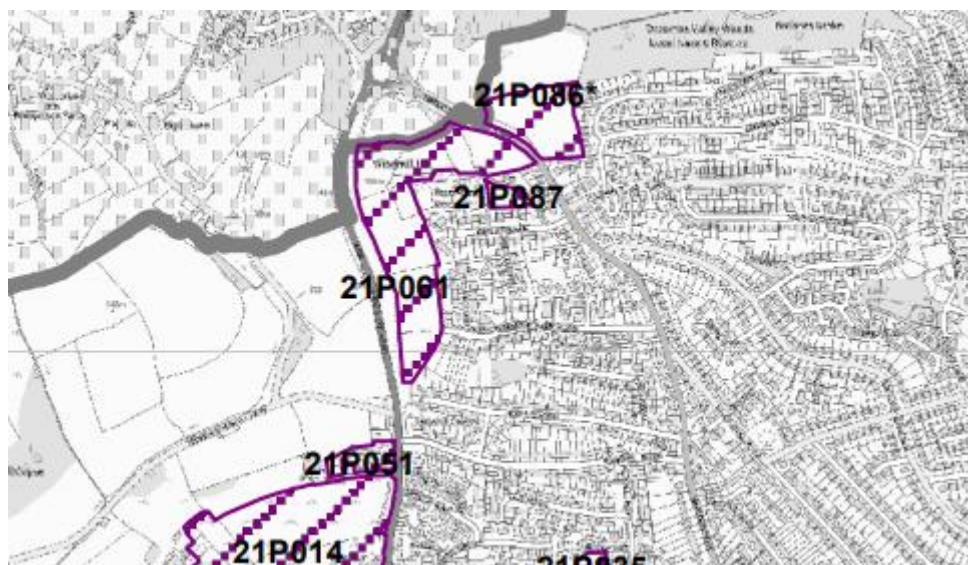
- 6.8 The site is not connected to the main sewer system, which would affect viability. Whilst on a main road (the A379) the area is poorly located to the main built up area and is distant from shops, schools and other facilities.
- 6.9 Some sites in the area appear to be available for development, but there are multiple ownerships which will lead to substantial site assembly problems. (Note that Sladnor Park, 21T064 is included earlier in this report, as the principle of development has been established through the High Court, see application P/2020/0315. Brunel Manor 21T148 recently became vacant. It has very significant heritage value, but a high quality conversion could achieve limited housing. Both these sites are physically separate from the rejected “broad location” options).



Rejected Broad Location: Land south of Churscombe Cross/Windmill Hill

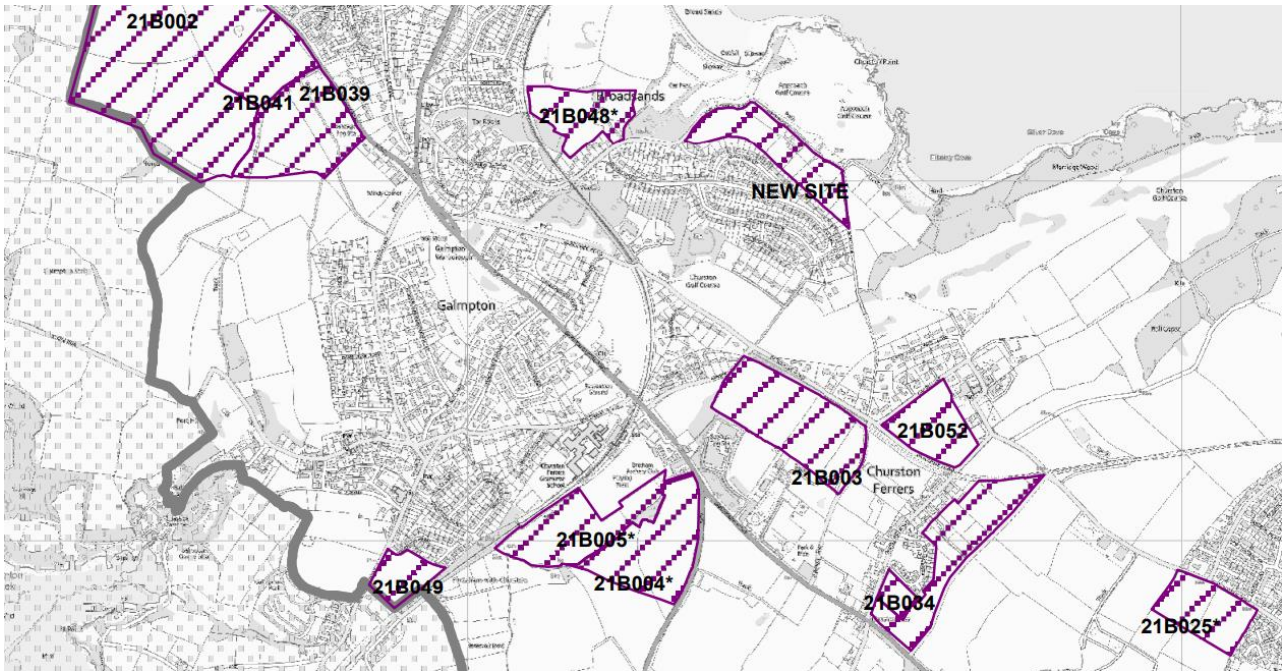
- 6.10 Land at Windmill Hill, to the south of Churscombe Cross., Paignton is very prominently located. And would adversely impact the Westerland Valley, as well as ecology. The land is not flat, which will affect viability. The area has not been actively promoted but considered through the HELAA as a potential option in order to demonstrate that a

proactive search for development land has taken place. However, it is considered unsuitable for development.



Rejected Broad Location: Broadsands, Churston and Galmpton Sites.

- 6.11 The bulk of sites within the Broadsands, Churston and Galmpton area are located to the south of Windy Corner and are therefore less accessible than sites located further north. The exceptions to this are land at the south of Inglewood (21B039 and 21B041) and land at Broadsands (21B048 and new site adjacent to Elberry Farm). Land in the BCG villages area is also within the setting of the South Hams AONB. Significant development in this area would cause additional harm to the AONB through urbanisation of its setting. The area is also within the sustenance zone for greater horseshoe bat roost at Berry Head and the in-combination effect of development is highly likely to have an adverse effect upon the South Hams SAC. Development of “Inglewood” was seen at the previous Local Plan as a possible southward limit to growth. This has now been approved at the expense of a significant erosion of the settlement gap between Paignton and Galmpton/Churston. Since the Inglewood decision, the NPPF has been amended to note the importance of minimising the impact on AONB from development in its setting (paragraph 176).
- 6.12 Whilst the area is likely to be viable for development, there are numerous land ownerships which would compromise effective site assembly and effective infrastructure planning. Development would come at a significant environmental cost in terms of urbanising the BCG Villages, and creating continuous urbanisation around Torbay with little gap between Paignton and the “Brixham Peninsula”. There would be further loss of best and most versatile agricultural land.
- 6.13 Note that a much more limited area (21B005 adjacent to Brixham Archery Club) is considered as a potential affordable housing site in the main report.



Rejected Broad Location: “Major” Development in the AONB

- 6.14 It has been noted that several sites and broad locations within the South Devon AONB have been promoted for development. Potential sites are 21B049 at Galampton and 21B025 Copythorne Road, Brixham (but in the BCG Forum Area). Land to the North of Mathill Road (21B015) has also been promoted and would be deliverable. Land at Upton Manor Farm Camp site, St Marys Road (21B037) is the subject of a current planning application (P/2021/0890). Such sites are likely to be viable and would help boost housing numbers. There would be an option of either developing standalone sites for housing, or alongside broader areas for mixed use development, including commercial uses. A significant amount of detail and assessment has been submitted with these proposals. They probably provide the most developed set of proposals promoted for development. Because of this, the economic and social benefits that they could provide need to be carefully considered. But also balanced against the environmental impact.
- 6.15. The AONB is nationally important and has a similar planning status to National Parks. The Countryside and Wildlife Act 2000 requires local authorities to have regard to impact on AONBs when carrying out their functions. Government policy on development in the AONB is set out in Chapter 15 of the NPPF. AONBs should be given the highest status of protection in relation to the conservation and enhancement of landscape and scenic beauty (NPPF176).
- 6.16 Paragraph 177 relates to planning applications for major development in the AONB, rather than allocations within the development plan. However, the paragraph 177 criteria are sensible measures when considering whether major development is appropriate in development plans too. Whilst some AONB sites could be seen as relatively standalone, they are likely to fall into the category of “major development” as defined by footnote 60 of the NPPF¹². Paragraph 177 of the NPPF states that major development in the AONB

¹² Footnote 60 of the (2021)NPPF states: (60) For the purposes of paragraphs 176 and 177, whether a proposal is ‘major development’ is a matter for the decision maker, taking into account its nature, scale and setting, and whether it could have a significant adverse impact on the purposes for which the area has been designated or defined.

should be refused, other than in exceptional circumstances and where development can be shown to be in the public interest considering:

(a) the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy;

(b) the cost of, and scope for, developing outside the designated area, or meeting the need for it in some other way; and

(c) any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated

6.17 The AONB Partnership has indicated that it would object to developments within the AONB. Whilst it would boost housing supply, the general approach of planning policy is that major development in the AONB should be a last resort. Proposals would significantly urbanise the area and erode the rural character of the area.

6.18 As noted, the south of Torbay is the most significantly constrained in terms of proximity to the South Hams SAC (where in-combination effects need to be considered). Development has already advanced close to the Berry Head SAC, and further urbanisation around Brixham could harm it further. The road network is dependent upon Windy Corner and Brixham is the least accessible of Torbay's three towns.

6.19 Whilst development could support Brixham as a viable town and provide economic benefits, there remain allocated sites within Brixham, including Middle Street, that would deliver local needs in a more sustainable fashion. The existing barns/dairy buildings on the west of the St Marys/Old Dairy are already allocated for 25 dwellings in the Brixham Peninsula Neighbourhood Plan (H3-I2), whilst a small area of land at Wall Park (21B026) is also recommended for development. Development beyond these areas is likely to go beyond purely local needs.

6.20 There is no "larger than local planning system" in the UK, and the Duty to Cooperate is widely seen as an inadequate tool to allocate housing based on sub-regional need and constraints. However, there is a case that less environmentally constrained areas (i.e. non-AONB and further from a SAC) sites outside of Torbay represent a more sustainable option than promoting major development in the AONB around Brixham, particularly if development is catering to inward migration. Torbay will need to prepare statements of common ground with neighbouring authorities and they will naturally expect Torbay to do all it can to meet its own needs.

6.21 On the basis of the above, it is not recommended that major development in the AONB be pursued.

7. Financial Opportunities and Implications.

7.1 The Local Plan Update will provide opportunities for S106 and CIL funding. The primary purpose of this is to support infrastructure provision needed by the development. It is noted that both the NHS and Police have made representations seeking contributions towards funding shortfalls in their services resulting from new development.

- 7.2 The Local Plan update will need to be supported by a Whole Plan Viability Assessment that considers all planning contributions and viability issues, and ensures that the overall ask does not undermine development viability.

8. Legal Implications

- 8.1 The Local Plan must be prepared according to legal requirements set out in the Town and Country Planning Act 1990 and the web of subsequent legislation, regulations, policy and guidance. The Localism Act 2011 sets the current framework for local plans and the Duty to Cooperate with Neighbours. The most relevant secondary legislation is The Town and Country Planning (Local Planning) (England) Regulations 2012¹³
- 8.2 The National Planning Policy Framework (NPPF), currently 2021 is not law but is a material consideration. However, it has de facto legal weight in plan making since it contains tests that will be applied by an Inspector at local plan examination. Most significantly these requirements are: Paragraph 11(a-b) Presumption in Favour of Sustainable Development, as it applies to plan making; Chapter 3 Plan Making, and particularly the test of Soundness at paragraph 35. Chapter 5 “delivering a sufficient supply of homes” sets out housing requirements including the need to follow the Government’s standard method “local housing need” to calculate Detailed the minimum number of homes needed (paragraph 60). Detailed guidance and methodology is set out in the (National) Planning Practice Guidance (PPG). Where specific NPPF and PPG sections are relevant, they are referred to the main report.
- 8.3 The Levelling Up and Regeneration Bill 2022 proposes changes to local plans, but has only received its first reading. The main details are likely to be in secondary legislation (“Regulations”) or the “National Development Management Policies”. There will need to be transitional arrangements for plans already under preparation. Therefore, the Levelling Up Bill will take several years to come into effect. Nevertheless , the above report recommends that the Local Plan Update seeks to be consistent with the likely thrust of the Bill, in that Local Plans are intended to be more precise and strategic, with more detailed matters left to neighbourhood plans or nationally set Development Management policies.
- 8.4 The Government’s “Standard Method” and the NPPF are not set down in statute, but have a great weight in Inspectors’ decisions and set out a quasi-legal framework for examining plans. If the council does opt to argue that the Government’s Standard Method figure is too high, it is likely that support from counsel would be needed leading up to and at the Local Plan Examination.

¹³ [The Town and Country Planning \(Local Planning\) \(England\) Regulations 2012 \(legislation.gov.uk\)](https://www.legislation.gov.uk/uksi/2012/2700/contents/made)

9. Engagement and Consultation

- 9.1 This report builds in the Regulation 18 Growth Options Consultation that took place between 10th January and 28th February 2022. Detailed responses to this are set out in Appendix 1.
- 9.2 A particular issue noted is the need to engage with a broader cross section of the community, particularly younger people and people who are in housing need.

10. Purchasing or Hiring of Goods and/or Services

- 10.1 No direct impact. However, the Local Plan needs to be supported by evidence base documents. The Housing and Economic Needs Assessment (HENA) and Housing and Economic Land Availability Assessment (HELAA) have been carried out in house. However, other specialist evidence, including on, landscape impact, biodiversity, Water cycle, flooding and viability will need to be commissioned from external consultants.

11. Tackling Climate Change

- 11.1 Housing development has an effect on the Climate Emergency. The existing Local Plan contains policies that seek to mitigate the impact of development upon climate, to promote low carbon development and provide resilience to the effects of climate change (Policies SS14, ES1 and ES2). The Local Plan and the NPPF also contain policies to locate development away from flood risk areas as far as possible (see Policies ER1, ER2 and W5). Other policies such as transport policies (SS6, TA1-3) also seek to reduce the climate impact of travel.
- 11.2 Several representations from neighbouring authorities, and the recommendation of the council's Climate Emergency Officer, argue that the Local Plan's policies should be updated to address more fully the Climate Emergency. The Local Plan Update provides an opportunity to do this. Particularly Policy SS14 (and incorporating/updating parts of ES1 into SS14 or making "ES1" a strategic policy).
- 11.3 Several, otherwise sustainably located sites are within areas of flood risk, and this will need to be taken into account in the location of development proposals.

12. Associated Risks

- 12.1 Until the Local Plan is updated, planning proposals will need to be subject to the Presumption in Favour of Sustainable Development (NPPF paragraph 11(c-d)). However, the Presumption also applies to Plan making and there is an expectation in the NPPF that councils should seek as a minimum to meet their identified housing need.

12.2 The main danger of promoting a Plan that contains less than the areas identified need (600-720 dwellings a year) is that the Plan could be found unsound at Examination or would fail the Duty to Cooperate with neighbours. However, the Plan is still at a consultation stage where such issues can be discussed further with neighbours and the Planning Inspectorate.

12.3 The report acknowledges that many of the sites/broad locations identified are highly contentious. Torbay is nearing the end of its environmental capacity to deliver new greenfield development and the sites are sensitive and environmentally constrained. A growth rate in excess of 300 dwellings a year would necessitate the allocation of sites that are likely to have a severe impact on the environment. Keeping development to a trajectory of 300 dwellings a year is assessed by Officers to avoid the most egregious impacts.

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

	Positive Impact	Negative Impact & Mitigating Actions	Neutral Impact
Older or younger people	Boosting the supply of housing will benefit younger people who are increasing unable to afford housing.	A shortfall below housing need will make housing less affordable.	
People with caring Responsibilities	Boosting housing numbers will provide opportunities for adapted housing and specialist housing to help those with care needs and responsibilities.	A shortfall below need will put additional pressure on the housing stock, which may impact people with care needs or responsibilities. .	
People with a disability	Boosting housing numbers will provide opportunities for adapted housing and specialist housing to help those with care needs and responsibilities.		
Women or men	There is evidence that a shortage of housing affects women disproportionately; although people of all genders will benefit from boosting housing supply.	There is evidence that a shortage of housing affects women disproportionately; although people of all genders will benefit	There is no differential impact

		from boosting housing supply.	
People who are black or from a minority ethnic background (BME) (Please note Gypsies / Roma are within this community)	The need to identify two transit pitches for Travellers has been identified. Nationally there is evidence that a shortage of housing impacts most severely on people from a BME background.		
Religion or belief (including lack of belief)			There is no direct differential impact'. The preservation of nature and meeting peoples' needs are both matters with a spiritual dimension.
People who are lesbian, gay or bisexual			There is no differential impact'
People who are transgendered			There is no differential impact'
People who are in a marriage or civil partnership	Increasing housing supply is likely to help people start a family and "get on with their lives"	A shortage of family housing (which is most easily provided on greenfield sites) will make it more difficult for young couples to find a home.	
Women who are pregnant / on maternity leave	Increasing housing supply is likely to help people start a family and get on with their lives		
Socio-economic impacts (Including impact on child poverty issues and deprivation)	The Local Plan provides an opportunity to seek to meet housing and economic needs. Maximising the provision of affordable housing one of the most significant ways in which child poverty can be reduced.		

<p>Public Health impacts (How will your proposal impact on the general health of the population of Torbay)</p>	<p>Providing decent housing has a significant impact on health. There are significant health differentials between the most and least affluent areas in Torbay. The Local plan requires the provision of public open space and opportunities for active travel.</p>	<p>Because Torbay is reaching its environmental limits development above 300 dpa would impact on the natural environment, which is a major source of people's wellbeing.</p>	
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14. Cumulative Council Impact

14.1 The Local Plan relates closely to the work of Tor Vista and the TDA and their development programmes. The Local Plan also has strong links to the Housing Strategy.

15. Cumulative Community Impacts

15.1 The Local Plan provides a strategic framework to the four neighbourhood planning bodies in Torbay, who are currently preparing refreshed Neighbourhood Plans. Until the local plan update passes Examination, it will be difficult for the Neighbourhood Plans to carry full weight unless they are able to fully meet the development needs of the area. Until and unless the Local Plan argues for a lower rate of growth than the Government's Standard Method, the Neighbourhood Plans will need to seek to achieve at least 600, and preferably 720 (i.e. a 20% buffer) dwellings a year.