

Spatial Planning

Annual Performance Report 2014/15

Summary of success April 2013 – March 2015

- Almost 85% of major planning applications have been determined in time, showing a marked improvement on previous years, and 85% of all major applications are approved ;
- Only one appeal against the Council's decisions on major applications (39 no.) was not dismissed at appeal, representing 2.6% of decisions on major applications and confirming the Council makes robust, high quality decisions;
- Major developments approved by the Council include the award winning Abbey Sands; Devonshire Park; Wall Park; Torwood St (former Garage site); The Arboretum; Riviera Bay; and Torbay Hospital's new critical care unit. These all provide good outcomes for Torbay;
- The Council won three major appeals – Morrisons, Babbacombe; Churston Golf Clubhouse and Tesco, Edginswell;
- Over 65% of smaller planning applications are determined in time, with almost 90% approved;
- Almost 90% of Development Management Committee decisions follow officer advice;
- There has been good progress on the new Local Plan and masterplans;
- This excellent performance was achieved in the context of major changes within the Council and to national policy and guidance;
- The Spatial Planning team is not complacent and continues to find ways to improve its operation as a business unit.

1.0 Executive Summary and headlines of success

- 1.1 This report provides a summary of the performance of the Strategic Planning & Implementation Team (Spatial Planning). The team's performance is assessed against Government targets, against other Local Planning Authorities and in relation to outcomes on the ground. It is also assessed over a two year period (1 April 2013 – 31 March 2015), but particularly the last 12 months (from 1 April 2014 to 31 March 2015).
- 1.2 It has been a year of significant changes. The Local Plan has moved quickly towards adoption and has received a very positive interim response from the Country's most eminent Planning Inspector. In addition, four masterplans have been produced, with a significant amount of community engagement, and the three Neighbourhood Plans continue to be developed. There have been significant changes in national legislation and guidance, really focused on reducing red tape and increasing speed of delivery of new development. There have been significant changes within Spatial Planning, resulting in the merger of Strategic Planning, Development Management, Strategic Transport and Environment, which will be implemented from 1st April 2015, and are part of changes across the Council.
- 1.3 Within this context, the Council's good performance in relation to producing new strategy and determining planning applications remains vital to securing investment in the Bay and complement other activities, such as business support provided by the TDA. Investors look ,

for example, at the strategic planning framework (Local Plan, master plans, neighbourhood plans) to provide clarity and certainty; they look at the Council's speed of decision making and the extent to which officer advice on planning applications is agreed by Members. This allows them to judge the level of risk of investment at an early stage in the development process.

1.4 The Council's planning performance is assessed, by Government, against two key criteria:

- The % of major planning applications determined within 13 weeks, with Councils expected to determine at least 40% of applications within 13 weeks. This is an assessment of speed.
- The % of major planning decisions overturned at appeal, with the Council expected to ensure that no more than 20% of decisions on major developments are overturned on appeal. This is an assessment of quality of decision making.

1.5 The Council is performing well against these criteria.

- Almost 85% of major planning applications are determined in time, up from 71% in 2013/14 and 63% over the previous two year (2012-2014) rolling reporting period;
- Only one appeal against the Council's decisions on major applications (39 no.) was not dismissed at appeal, representing 2.6% of decisions on major applications.

1.6 The Spatial Planning team is outcome driven. It wants to ensure the right development happens in the right place, at the right time and secures benefits (social, environmental, economic) for the Bay as a whole. The examples cited in this report show that the Council continues to deliver high quality outcomes. Abbey Sands has become a symbol of top quality development in the Bay, winning the 'Best Mixed-Use Development UK' category of the UK Property Awards 2014-15 and now occupied by Le Bistrot Pierre, Costa Coffee and the Visto Lounge. The former Garage site on Torwood Street has secured planning approval and development will start this summer. The Council has supported comprehensive redevelopment of difficult brownfield sites such as Devonshire Park (formerly Bookhams), the former Jewsons site in Torquay and the Lansdowne Hotel. It has also supported improvements in the quality of Torbay's tourism offer, in the form of proposals at the Aboretum, Riviera Bay, Torwood Street and Corbyn Apartments. It has supported development in environmentally sensitive locations, such as Wall Park and Riviera Bay, and secured significant investment in the Bay's environment as a consequence.

1.7 In order to achieve that, Spatial Planning has a 'one team' approach, including a total of ten Development Management officers leading on handling planning applications. This one team approach ensures there is a consistent approach in handling applications and policy; it provides greater flexibility, for example in dealing with variations in workload, and includes valuable dialogue with Members. This will continue from 1 April 2015 with the creation of a new Spatial Planning team, bringing together spatial planning (policy and development management) with transport and environment. In addition, the Council's Planning Investigations Officer (Tim Wills) will be joining the Development Management Team from 1 April 2015, allowing more support to be provided to planning enforcement activities.

2.0 Major developments

- 2.1 Major developments are those for 10 houses or more, for 1000 sq metres or more of floorspace or for 1 hectare (0.5 ha's for residential development) or more of land. Major applications requiring an Environmental Impact Assessment (EIA) are excluded from this performance monitoring. Similarly, major applications for which there has been a formally agreed extension of time (e.g. via a Planning Performance Agreement) are also excluded.
- 2.2 Councils are expected to determine at least 40% of major planning applications within 13 weeks. Councils that fail to achieve this target could be placed in special measures. For the previous two year (2012 – 2014) rolling reporting period the Council's performance was at 63% and for the 2013/14 financial year was 71%. The target is likely to be raised by Government to 50% in the near future (see page 23 of this report).
- 2.3 Table 1 below shows the Council's performance, on a quarter by quarter basis between April 2013 and March 2015, on major development proposals. The Council has received around 20 major planning applications per annum over the last 2 years, although there has been a slight fall in numbers in the last 12 months. This is a lower number than has been the case in previous years, but the number is expected to increase as the national economy recovers and there is greater confidence in investing in Torbay. Table 1 and Diagram A below show that the Council determines almost 85% of major planning applications within agreed timescales and has not, over the last 2 years, fallen below 60% of decisions made within agreed timescales. This is an extremely good performance, especially given the context set out in paragraph 1.2 above, and shows continued improvement from 2012, when the Council was at risk of being placed in special measures.

Table 1: Major Applications performance 2013 – 2015 (Q1 – Q12)

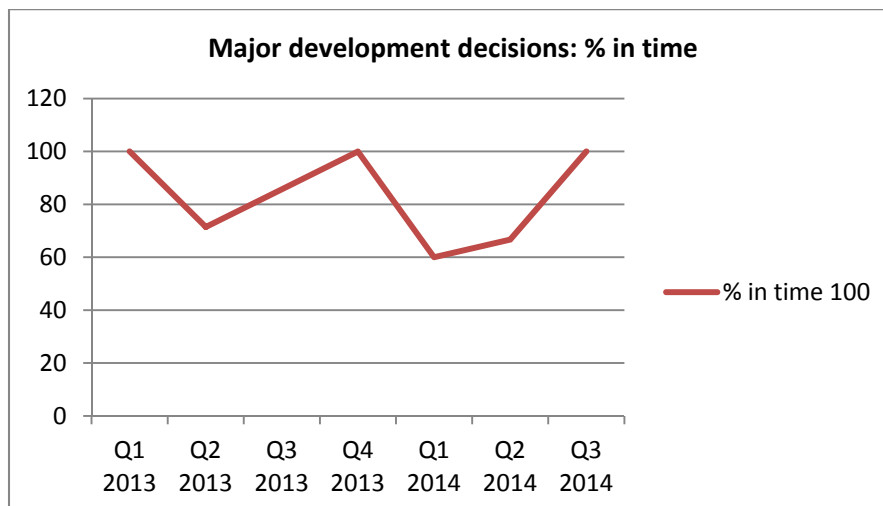
Year / quarter	Nos	Grant	Refuse	In time
Q1 2013/14	2	2	0	2
Q2 2013/14	5	3	2	5
Q3 2013/14	7	5	2	5
Q4 2013/14	7	7	0	6
Q1 2014/15	6	6	0	6
Q2 2014/15	5	4	1	3
Q3 2014/15	3	3	0	2
Q4 2014/15	4	3	1	4
Total	39	33	6	33
%		84.6	15.4	84.6

- 2.4 It is also highly commendable that the Council approves almost 85% of all major planning applications. This not only underlines the Council's positive approach to new development, especially if that development provides benefits for the Bay, but also supports the time and

effort spent on working with applicants to negotiate high quality outcomes for new development.

- 2.5 Torbay has also performed well in relation to other Councils. A review of DCLG statistics, based on quarterly returns from every Council, shows that in December 2014 Torbay determined 75% of major applications in time and was ranked 140th out of 337 Councils. Using the same statistics South Hams were 56th (on 85%); Plymouth 60th (on 84.8%); Dartmoor National Park 80th (with 80%); Teignbridge 105th (with 78.7%); Exeter 318th (on 52.6%); and East Devon 324th (with 50.8%). On the assumption that other Councils remain at the December '14 levels of performance, Torbay's 84.6% determination rate could place it in the top 60 in the Country.
- 2.6 The Council's good performance in determining major applications is as a result of a team effort, between applicants, Councillors (particular Development Management Committee Members) and officers – from a range of different services, but particularly the Development Management and Technical Support teams. However, there is no room for complacency, especially as the numbers of major applications Torbay determines is relatively small and if a few more applications are determined 'out of time' this would have a dramatic effect on our performance against Government targets. Consequently, even more effort will be placed on productive pre-application work, including Member briefings; Planning Performance Agreements will be used more frequently; evidently poor planning applications will be refused quickly, rather than time spent on trying to negotiate acceptable outcomes; DMC Members will be encouraged not to defer too many decisions; and quicker means to complete S106 Agreements will be explored.

Diagram A



3.0 'Other' developments

- 3.1 Other developments are defined as relatively small scale commercial development (under 1000 sq mts floorspace or 1 ha of land) and for residential schemes of less than 10 homes (or under 0.5 ha's of land). There are no penalties for failure to achieve the Government's target of achieving 65% of decisions within 8 weeks for 'other' applications, although this too is likely to change in the near future. Performance in relation to smaller developments is

important, not least because planning application fees, business expansion and new homes bonus all provide valuable income for the Council.

- 3.2 The 65% target has, historically, been difficult to meet due to competing priorities, reductions in staff and restructuring, and because of the time needed to complete Section 106 Agreements within the 8 week period. In the previous two year (2012-2014) rolling review period the Council's performance was often below 60%, although there were signs of improvement in the last quarter of 2013/14.
- 3.3 Table 2 below illustrates the number of planning applications received by the Council for smaller development proposals between 1 April 2013 and 31 March 2015. It shows that the Council determines more than 65% of these applications within 8 weeks, which is a commendable performance. It also shows that almost 90% of these applications are approved which, again, is extremely positive. Most decisions are made under delegated powers (to officers).

Table 2: Other (non-major) planning application performance 2013 – 2015 (Q13 – Q25)

Year / Quarter	Nos	Grant	Refuse	In time
Q1 2013/14	223	190	33	113
Q2 2013/14	249	219	30	150
Q3 2013/14	259	229	30	186
Q4 2013/14	211	198	13	163
Q1 2014/15	248	229	19	180
Q2 2014/15	203	178	25	141
Q3 2014/15	201	177	24	135
Q4 2014/15	203	185	18	108
Total	1797	1605	192	1176
%		89.3	10.7	65.4

- 3.4 Consequently determining more than 65% of these applications within 8 weeks, over the last two years, is an excellent outcome. This is partly as a result of securing upfront payments for S106 Agreements, securing S106 information before validation, and seeking withdrawal and resubmission of applications where significant revisions are needed.
- 3.5 'Other' applications contribute a significant percentage of the overall income (around £675,000) from planning application fees. As such, there is some concern that the numbers of these applications has dropped in the last three quarters. Spatial Planning will be investigating and implementing ways of incentivising the submission of more small planning applications. In addition, it's important to continue to improve the service and other ways of doing so (in addition to those covered in para 3.4) will be investigated and implemented.
- 3.6 In relation to 'other' applications Torbay doesn't perform well against other Councils. According to DCLG statistics at Dec 2014, with a determination rate of 66%, Torbay is ranked

303rd. Plymouth is ranked 18th (93.7%); Dartmoor National Park 163rd (with 79.7%); Teignbridge 233rd (with 75.2%).

3.7 Applications for minor residential development (less than 10 homes) are a subset of ‘other’ planning applications. Torbay has, historically, relied on small scale developments such as these to deliver new homes and to make a significant contribution to Torbay’s 5 year housing supply. It is also extremely important to support local and regional developers, who generally promote smaller, less viable sites than volume home builders for example.

3.8 Table 3 below shows that we continue to receive a reasonable number of these types of application and continue to approve more than 76% of proposed developments. However, less than 30% of decisions are made within agreed timescales (usually 8 weeks). Spatial Planning will investigate and implement ways to incentivise the submission of more planning applications and ways in which the development management process can be improved to support quicker, high quality decisions. This is likely to mean ‘front loading’ the process, for example providing design advice at a pre-application stage, and spending less time negotiating during the post-application process. This is likely to mean changes to the Site Review Meeting process.

Table 3: Minor residential development (< 10 units) performance 2013-2015 (Q13)

Year / Quarter	Nos	Grant	Refuse	In time
Q1 2013/14	30	18	12	6
Q2 2013/14	20	18	2	4
Q3 2013/14	27	19	8	7
Q4 2013/14	30	26	3	13
Q1 2014/15	40	31	9	11
Q2 2014/15	18	16	2	7
Q3 2014/15	20	13	7	10
Q4 2014/15	27	21	6	2
Total	212	162	49	60
%		76.4	23.1	28.3

3.9 Householder applications (for extensions to existing homes, new garages etc) also provide a significant amount of work for the Development Management team. Table 4 below shows that almost 90% of these applications are approved and almost 74% of decisions are made within 8 weeks. These are very commendable results and show that the Council provides a good service to the Bay’s residents. The quantity of applications generates around £75,000 per annum in planning application fees and significant amounts of work for local businesses. Consequently Spatial Planning will be investigating and implementing ways to increase the numbers of planning applications and continue to improve its service. Once again, this may mean changes to the Site Review Meeting process.

Table 4: Household applications performance 2013 - 2015 (Q21)

Year / Quarter	Nos	Grant	Refuse	In time
Q1 2013/14	98	82	16	58
Q2 2013/14	124	108	16	78
Q3 2013/14	131	116	15	113
Q4 2013/14	106	97	9	93
Q1 2014/15	116	111	5	95
Q2 2014/15	108	91	17	78
Q3 2014/15	103	90	13	76
Q4 2014/15	105	97	8	67
Total	891	792	99	658
%		88.9	11.1	73.8

4.0 Appeals

- 4.1 Councils are expected to be able to successfully defend, at appeal, at least 80% of decisions made on all major planning applications. Councils that fail to achieve this target could be placed in special measures.
- 4.2 Only one appeal against the Council’s decisions on major applications (39 no.) was not dismissed at appeal, representing 2.6% of decisions on major applications. The Council also defended another appeal, at Public Inquiry, relating to Redstones, Cockington Lane – where enforcement action is being taken. A repeat application has also been appealed.
- 4.3 In relation to major applications, the Council successfully defended 75% (3 no.) of appeals (4 no.). These cases related to Tesco, Edginswell; Churston Golf Course and Morrisons, Babbacombe Rd. Another appeal, from Taylor Wimpey (Car Boot Sale site, Collaton St Mary), was withdrawn by the appellants after Statements of Common Ground were exchanged – which could be considered as a success for the Council. In 2014/15 – the second half of the rolling review period - the Council successfully defended 100% of major development appeals, indicating that our performance continues to improve. These statistics show the Council continues to make robust, high quality decisions on major planning applications.
- 4.4 The successes in relation to Morrisons, Churston Golf Club and Tesco deserve particular mention. In all three instances the Council faced very tough, skilled and well resourced appellants. In the Tesco and Churston cases, in particular, community representatives provided valuable input, adding weight to the Council’s case. All three appeals took significant staff resource, particularly the Churston Golf Course appeal, with each appeal taking staff ‘off line’ for 6 – 8 weeks. The financial cost of Public Inquiries, during which the



Council utilises barristers and consultants, is also substantial. The Tesco and Churston cases, at just over and just under £150,000 respectively, cost the Council £300,000 to defend.

- 4.5 Table 5 below shows that over the two year review period (April 2013 – March 2015) there were 64 appeals in total that were taken through to decision, with three appeals being withdrawn. The Council won just under 70% of those appeals. Summaries of the appeals determined in the last two quarters (Sept 2014 – end March 2015) of the rolling review period are attached as Appendix A to this report, as Members have not seen them previously.
- 4.6 The outcomes of appeals provide a steer on the robustness of Local Plan policies and provide Development Management Committee with a good indication of issues to consider in determining planning applications. For example, the Tesco and Morrison’s appeals showed the national and local policy of ‘town centre first’ for retail is working well, but it will be important – over the next 2 – 3 years – to develop key sites in the town centre, such as the Town Hall Car Park site. One of the reasons for the Churston appeal being dismissed was down to the rural nature of roads leading to and from the site, rather than just volume of traffic. The Churston appeal also underlined the importance of being clear and certain about the significance of ecological impacts / in combination effects, and the amount of information required to secure clarity and certainty. The Tesco decision showed the need for good design in prominent locations and, similarly, a number of the decisions on smaller developments have underlined the importance of maintaining and improving the street scene.

Table 5: Appeals performance 2013 - 2015

Year / Quarter	Major	Dismissed	Minor	Dismissed	Total Appeals	Total dismissed
Q1 2013/14	0	0	5	4	5	4
Q2 2013/14	0	0	7	6	7	6
Q3 2013/14	0	0	14	8	14	8
Q4 2013/14	1	0	6	5	7	5
Q1 2014/15	1	1	10	8	11	9
Q2 2014/15	0	0	5	5	5	5
Q3 2014/15	0	0	4	4	4	4
Q4 2014/15	2	2	9	5	11	7
Total	4	3	60	41	64	44
% Dismissed		75		68.3		68.8

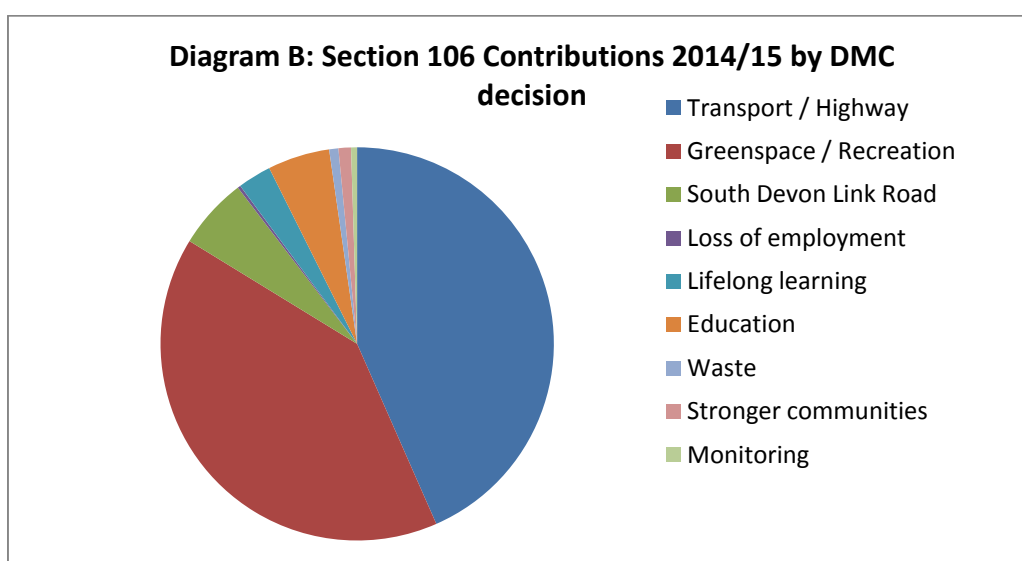
* Withdrawn appeals not counted (incl. Taylor Wimpey @ Collaton St Mary)

5.0 Section 106 Contributions

- 5.1 Section 106 Agreements continue to be a key mechanism for the Council to secure necessary on and off site mitigation, to deal with the impacts of development and to provide social, economic and environmental enhancement. The Council has in place Supplementary

Planning Guidance which sets out the Council’s policy position on Section 106 and affordable housing. That guidance includes flexibility to allow, for example, for assessment of development viability in line with NPPF requirements.

- 5.2 A review of decisions made by the Development Management Committee, between 1 April 2014 and 31 March 2015 shows that S106 Agreements associated with those agreements as delivering just over £3.5M to mitigate development impacts. Clearly not all approved developments are implemented and, in some instances, S106 Agreements will be amended – so the figure of £3.5M should not be read as the amount the Council will receive. Of that amount, just under £1.5M (43%) is targeted at transport and highway improvements; around £1.4M (40%) is for greenspace and recreation improvements; just over £200,000 (6%) is targeted at the South Devon Link Road; and £175,000 (5%) at education provision. Diagram B, see below, shows additional targets for Section 106 payments.



- 5.2 In November 2014 the Government made changes to planning obligations (Section 106) for small scale developments (10 or less homes) and self-build development. Those changes took immediate effect, for those applications on which a decision had not yet been issued and on future applications. It meant that affordable housing and ‘tariff style’ contributions could not be sought from small developments. ‘Tariff-style’ contributions are defined as contributions which are sought to contribute to pooled funding ‘pots’ intended to fund the provision of general infrastructure in the wider area. In Torbay these include sustainable transport, South Devon Link Road, loss of employment, lifelong learning, greenspace and recreation, education and stronger communities. However, financial contributions can still be required where they will not be pooled and are needed to pay for specific items. Those contributions must still be compliant with the CIL Regulations.
- 5.3 This change in Government policy has significantly reduced the contributions provided by small scale development. This has been assessed by reviewing those planning applications (11 no.) for which a decision was pending at the time the new policy was introduced, including those cases considered by Development Management Committee on 8 December 2014. Had the policy not been introduced the S106 Agreements would have provided just over £176,000 in contributions. The new policy reduced that amount to £55,000, a

difference of just over £120,000. Consequently, for these 11 cases, the Government's policy resulted in a 68% reduction in the contributions the Council was able to secure. Government policy has been applied to small scale development proposals undecided before and received since November 2014. It will be reflected in the Council's emerging CIL Charging Schedule.

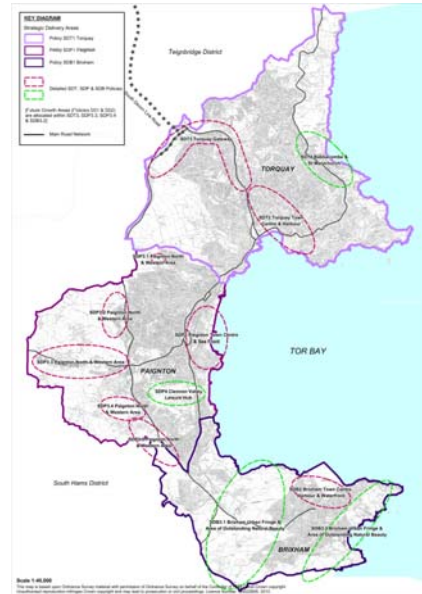
- 5.4 In addition, there are two reasons why the Council has had to stop collecting S106 contributions towards the South Devon Link Road (SDLR). Firstly legislation (the CIL regulations) and secondly the Inspector's decision regarding Tesco, Edginswell.
- 5.5 Under the terms of the CIL Regulations, from 6 April 2015, the Council cannot pool more than five financial contributions (via S106 or CIL) towards any one project e.g. the SDLR. The Council has already collected more than five contributions towards the SDLR, so cannot collect any more after 6 April.
- 5.6 The Inspector, in his decision letter on Tesco, Edginswell, made it very clear that the Council must make changes to its policy framework before it can collect S106 monies for the SDLR. The Council has relied on Local Plan Policy CF6 to collect these contributions, but must now comply with regulation 122 of the CIL Regulations. The Inspector said that the Council hadn't demonstrated that the requirement to pay over £1m towards the SDLR complied with Regulation 122 and that the 'interim policy' to collect SDLR contributions wasn't part of the adopted SPD.
- 5.7 The Council is addressing both these issues. Firstly, it is developing a CIL Charging Schedule, for small / medium sized developments. The Charging Schedule was published for formal consultation earlier this year. The final version will need to be examined by PINs. A Hearing is likely. The SDLR is included in the draft charging schedule. The final charging schedule will need to be adopted by Council, probably in late summer. Secondly, in mid April we will start work to refresh the S106 SPD, for larger developments. This will be presented to Council, for adoption, in July. The refreshed SPD will cover smaller developments until CIL is adopted.

6.0 Spatial Planning – a successful business unit

- 6.1 The Council has made substantial savings over the last few years and will need to make more over the next 2 -3 years. Spatial Planning has and will continue to play its part in that. In the last year significant financial savings have been made. In the last few months four existing members of staff have been promoted to fill vacancies, showing that the Council is 'growing its own'. However, in the last month two members of Spatial Planning staff have been made redundant. In 2015/16 further savings must be made.
- 6.2 Within that context, the newly formed Spatial Planning team (comprising three teams: Strategy & Project Delivery, Development Management and Technical Support) must increasingly be an efficient, effective business unit. The new team costs around £1.1M and has income, from planning applications for example, covering around 75% of those costs. Over the next 2 – 3 years costs will need to be reduced still further and income increased. Income is, however, heavily reliant on 3rd parties, on market confidence and on economic performance.

- 6.3 In 2014/15 the Development Management Team had an income target of £678,700 from planning and pre-application fees, with approximately £330,000 of that coming from 'one off' applications (those with an application fee in excess of £4000). At the end of the financial year there was a shortfall of around £130,000 against the £678K target, of which 'one off' fees were around £90,000 short and smaller application fees were around £40,000 short. Nonetheless, in the expectation of continued economic recovery and more investor confidence, Development Management has an income target of just under £800,000 for 2015/16. There are a number of ways in which this income target can be achieved, namely:
- 6.4 The team continues to work hard on 'pipe line' projects. These are development schemes that help deliver the Local Plan and Economic Strategy, but which need support to bring forward as planning applications. These projects include Hatchcombe, Torquay; Sladnor Park, Torquay; Hi Tech Centre, South Devon College; Claylands, West Paignton; Devonshire Park Reserved Matters; Innovation Centre, White Rock; Torbay Motel, Collaton St Mary; Town centre regeneration projects, such as Market Street, Torquay. At present, it is anticipated that 'one off' planning fees from these projects will generate around £375,000 income in 2015/16.
- 6.5 There is continued emphasis on pre-application work – to ensure planning applications are as good as possible when submitted. This pre-application work is expected to generate income of at least £35,000 in 2015/16.
- 6.6 For smaller applications, of less than 10 new homes for example, it is important to improve performance (from 28% determined in time) and increase income. As indicated above, this will require more 'front loading' of the process, for example providing design advice at a pre-application stage, and spending less time negotiating during the post-application process. Evidently poor quality applications will be refused quickly, rather than time spent on extensive negotiation.
- 6.7 The team will also investigate ways of incentivising household applications, to improve performance above 73%, provide an even better service to customers and increase income.
- 6.8 In addition, there is increased emphasis on efficient and effective working. This will include increased use of IT, operating within the fee for each planning application and reducing costs in areas such as printing, stationary, mileage and premises hire.
- 7.0 **Local and Neighbourhood Planning**
- 7.1 Progress continues to be made in moving the new Local Plan towards formal adoption. The submission version of the Local Plan was subject to a Hearing in November 2014, which lasted just 2.5 days, as part of the formal examination by the Planning Inspectorate. The Hearing provided an opportunity for the Inspector to hear views from a range of organisations and individuals, as well as for him to be able to ask questions of participants.

7.2 The Inspector has, since the Hearing, provided two interim reports – the first covering interim findings and the second providing further findings. These reports have confirmed that the Council has met its legal duty to cooperate; that the Plan’s strategy for growth is supported; the need for 5,000 – 6,000 jobs is also supported; and that the range for new homes, of 8 – 10,000 homes, is correct, but the Inspector wants to the Plan to achieve the top end of that range. Importantly, the Inspector has recognised the environmental quality and capacity within the Bay. He has acknowledged that the Local Plan cannot provide sufficient housing land within the Bay to meet an agreed housing need for around 12,600 homes. Consequently there is a need to continue to work with neighbouring Council’s to identify land for new homes, particularly after 2021.



7.3 The Inspector’s reports also provided a clear steer on a number of policy issues. The Council has, as a consequence, proposed a number of main and minor modifications to the submission version of the Local Plan. In response to the Inspector’s requirement for more housing land to be identified, the Council has modified the emerging Local Plan to show additional land at White Rock and a number of additional sites to be further assessed by Neighbourhood Forums and allocated in Neighbourhood Plans if necessary. The main modifications were subject to public consultation in February and March. The Inspector has been provided with copies of all responses to consultation and a summary of representations. The Council will, by April 15th, provide the Inspector with its comments and suggestions on those representations.

7.4 The Council’s advice to the Inspector, prior to and at the Hearing, was that identification of additional sites for development would breach the Bay’s environmental capacity to accommodate development. Nonetheless, the Council consider it important to look to meet the Inspector’s requirements. Responses to the Council’s proposed modifications show that the additional sites are sensitive – not only to the community but also in environmental terms.

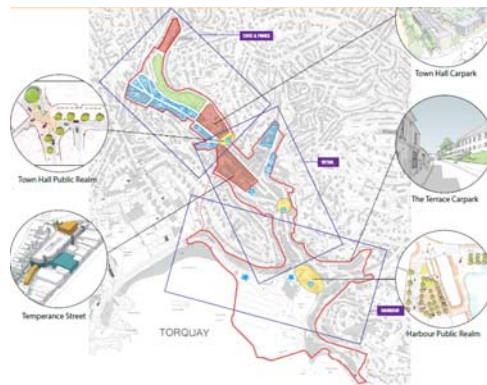
7.5 The Inspector will consider all representations received in relation to the proposed modifications to the Local Plan. He will then decide whether another Hearing is required, for example to deal with any new issues, or whether he can write a final report with binding recommendations. It is hoped to be able to present the Local Plan to Council in July or September 2015 for a decision on formal adoption of the Plan.

7.6 One of the Inspector’s requirements is for greater clarity in the Local Plan about the role and timing of Neighbourhood Plans. In essence, the Inspector is concerned that delays to, or lack of production of, Neighbourhood Plans will result in a lack of allocated land for housing development in the Bay particularly for the 6 – 10 year period of the Local Plan.

Consequently, a proposed modification to the Local Plan requires Draft Neighbourhood Plans to have been submitted to the Council (under Regulation 15 of the Neighbourhood Planning Regulations 2012) by October 2015, to allow the Council to assess general conformity with the Local Plan. If a Neighbourhood Plan has not been submitted by that deadline, the Council will commence production of site allocation development plan documents. As such, it is important for Neighbourhood Forums to make real progress on their Plans over the next 6 months.

8.0 Masterplans

8.1 The Council has, over the last 18 months, made considerable progress on production of masterplans for Torquay and Paignton Town Centres, Collaton St Mary and Torquay Gateway. The Council has worked closely with the TDA. The masterplans have involved a significant amount of community engagement; have supported production of the Local Plan and provide support for policy positions; have informed Neighbourhood Plan production and can be included within Neighbourhood Plans; and have been used to support appeals, for example Tesco, Edginswell. The masterplans are at the penultimate stage of production.



8.2 The Torquay and Paignton Town Centre Masterplans will be presented to Council in June 2015 for adoption as Supplementary Planning Documents. The masterplans can be 'appended' to the existing Local Plan and can, as such, be adopted ahead of adoption of the new Local Plan. That is not the case for the Collaton St Mary and Torquay Gateway masterplans, which have to wait for adoption of the new Local Plan. Consequently, those two masterplans will be presented to Council in July or September 2015, again for adoption as Supplementary Planning Documents.

9.0 Outcomes

9.1 This section of the report highlights some of the outcomes that have resulted from a positive strategic planning framework, plus a proactive and positive approach to securing development in Torbay (of the right sort, in the right place, at the right time and benefitting communities), in addition to a productive, professional relationship between officers, Members and applicants. On the latter point, of the 64 decisions made by DMC during 2014/15, a very commendable 57 decisions (89%) were in line with officer recommendations. This level of consistency shows a very good understanding between Members and officers, a good knowledge and use of planning policy by Members and shows the benefit of briefings on major development schemes.

9.2 Torbay's independent Design Review Panel has been influential in securing high quality outcomes in the Bay, with many of the schemes sited below having been Design Reviewed. The Panel remains close to cost neutral.

- 9.2 It remains the case that a huge amount of work is needed between approval of a development proposal, by Development Management Committee, and completion of development. It is the role of Development Management to help deliver development, so work on development proposals does not stop on issue of a decision notice. That work includes completion of S106 Agreements, submission and consideration of details of pre-commencement conditions and consideration of amended drawings. The Council continues to work with developers and agents to reduce the number of pre-commencement conditions and the time taken to comply with planning conditions.
- 9.3 Examples of projects that have been approved or delivered within the rolling review period are as follows:



Abbey Sands: This award winning scheme generates around 70 jobs, £10M investment and is an iconic development in the Bay.



The Arboretum, Blagdon: This high quality residential and tourism scheme helps deliver the 'Turning the Tide' ambition for a higher quality tourism offer in Torbay.



The Lansdowne Hotel: This villa style redevelopment of a former hotel site provides 14 high quality apartments.



Churston Court Barns: This development, completed in 2014/15, shows how sensitive redevelopment can bring new life to old buildings.



Jewsons' former site, Torquay: This mixed use scheme includes 24 flats and office / storage space for a local construction company, helping secure 18 FTE jobs.



Wall Park, Brixham: This residential led (165 homes), mixed use scheme will help support tourism and recreation facilities as well as significant investment in the South Devon AONB.



Torbay Hospital: The development at Torbay Hospital provides additional critical care facilities and a new main reception area, helping safeguard 3500 jobs on the site.

Devonshire Park: This residential and commercial scheme will result in development of a long-term brownfield site, including 5,500 sq mts business space, 8,500 sq mts bulky goods retail space, 255 homes and 140 - 170 FTE jobs.



Torwood Street: This hotel led, mixed use scheme provides between 300-410 jobs, £14M construction investment, £40M of total economic activity and a minimum of £2.8M hotel visitor spend.

10. Changes to policy and legislation

- 10.1 There have, over the past 12 months or so, been a substantial number of changes to national policy, guidance and legislation – and there are more to come. This ranges from guidance on housing for an ageing population to policy on vacant buildings credit. It has been, and remains, difficult to keep pace with the range of changes and their implications.
- 10.2 Appendix B of this report provides a summary of key changes that have already taken place, some that are about to take place and others that may take place. Hyperlinks to key pieces of advice, guidance and policy are included.

Pat Steward

Head of Planning & Transport, Spatial Planning, April 2015

Appendix A: Summary of Appeal Decisions Sept 14 to March 15

Appeals dismissed – 12 cases

1. Site -Rear of 250 Teignmouth Road

Case Officer-Robert Pierce

LPA ref- P/2013/1370PA

Date of decision- 29.9.14

Proposals- change of use from two existing garages with pitched roof and storage to the side into one dwelling

Issues- whether financial contributions are necessary, parking, provision of adequate living and amenity space and effect on the living conditions of occupiers of adjoining properties

2. Site – 108 Goodrington Road, Paignton

Case Officer- Alexis Moran

LPA ref- P/2014/0606

Date of decision- 6.10.14

Proposals- two storey extension to accommodate bedroom and additional lounge/utility room

Issues- effect on the character and appearance of the host property and its surroundings

3. Site – Land adjacent to 79 Glebeland Road, Torquay

Case Officer-Alexis Moran

LPA ref- P/2014/0304PA

Date of decision- 10.10.14

Proposals- construction of detached dwelling with parking

Issues- the effect on the character and appearance of the area and whether financial contributions are necessary.

4. Site – 1 Cedar Road, Paignton

Case Officer- Robert Pierce

LPA ref- P/2013/1338PA

Date of decision- 22.10.14

Proposals- change of use from commercial to residential. Demolition of existing hire shop unit and offices to replace with two residential units.

Issues- effect on character and appearance of the area, on the living conditions of neighbouring residents and whether it makes satisfactory provision to mitigate the impact of the development on local infrastructure.

5. Site – Pine Lodge, Sladnor Park Road, Maidencombe, Torquay

Case Officer- Ruth Robinson

LPA ref- P/2014/0095PA

Date of decision- 3.12.14

Proposals- Provision of a dwelling

Issues- effect of the proposed dwelling on the character and appearance of the surrounding countryside and whether appropriate contributions are required to mitigate the effects of the scheme upon local infrastructure.

6. Site – Land at Churston Golf Club, Churston

Case Officer- Helen Addison

LPA ref- P/2013/0019MPA

Date of decision- 3.2.15

Proposals- Site 1- Development of golf club house, coach facility, buggy store, car park, vehicular access, works to Bridge Road and Bascombe Road

Site 2 - Change of Use and regrading of 7.7 hectares of agricultural land for use as golf course; change of use of 1.3 hectares of land from equine use to use for cattle grazing and all associated infrastructure, engineering works and landscaping.

Issues - impact on traffic flow and highway safety, effect on the character and appearance of the area, and whether the development, either alone or in combination with other development, is likely to have significant environmental effects, including on protected species and habitats.

7. Site – Land at Edginswell Business Park, Torquay

Case Officer- Alistair Wagstaff

LPA ref- P/2013/0677MPA

Date of decision- 3.2.15

Proposals- Formation of an (A1) Tesco store (inc. customer cafe) and approximately 977 sq.m. B1 office development on plots Vesta and Edesia at Edginswell Business Park associated infrastructure, retaining structures, access, parking and landscaping and outline planning application for the development of a B1 office building of 2090 sq.m on the Sarritor plot , A3/A5 unit with associated access and parking

- Issues- whether there would be an unacceptable loss of employment land,
- whether or not the sequentially preferable town hall car park site is suitable for the retail store,
- whether the retail store would have a significant adverse impact on investment in Torquay Town Centre and on the vitality and viability of the town centre and nearby local centres at Cadewell Lane, Barton Hill Road and Hele

- The effect on the character and appearance of the area having regard to the gateway location of the site, the business park setting and the need to secure high quality design
- Impact on the safe the effective operation of the highway network

8. Site – Parkholm Hotel, 5 Garfield Road, Paignton

Case Officer- Alexis Moran

LPA ref- P/2014/0149PA

Date of decision- 9.2.15

Proposals-extension to first and second floor at rear of building

Issues- effect on the living conditions of neighbouring residents and on the character and appearance of the area.

9. Site – 45 Manscombe Road, Torquay

Case Officer- Robert Pierce

LPA ref- P/2014/0734HA

Date of decision- 5.3.15

Proposals- first floor extension with dormer roof

Issues- effect on the living conditions of the neighbouring property with particular regard to privacy and outlook and effect on the character and appearance of the area.

10. Site – 21 Lower Rea Road, Brixham

Case Officer- Alexis Moran

LPA ref- P/2014/0724HA

Date of decision- 9.3.15

Proposals-extension and alterations replacing hipped roof with gables- raising ridge level by 300mm

Issues- effect on the character and appearance of the original property and the wider street scene.

11. Site – Sawyers, 189 Union Street Torquay

Case Officer- Robert Pierce

LPA ref- P/2014/0439PA

Date of decision- 11.3.15

Proposals-refurbishing shop front using PVC products

Issues- whether the development would preserve or enhance the character or appearance of the Tormohun Conservation Area, including the property at 189 Union Street.

12. Site – 112 Barton Avenue, Paignton

Case Officer- Carly Perkins

LPA ref- P/2014/0502PA

Date of decision- 19.3.15

Proposals- erection of dwelling

Issues- effect on character and appearance of the area, whether the proposal would afford adequate living conditions for future occupiers, with particular regard to privacy and outdoor amenity space and the effect of the proposed parking arrangements on highway safety.

Appeals allowed – 4 cases

1. Site – Coach House, Villa Rosa, St Lukes Road South, Torquay

Case Officer- Verity Clark

LPA ref- P/2014/0653HA

Date of decision- 15.1.15

Proposals-extension to provide larger porch

Issues- whether the proposed development would preserve or enhance the character or appearance of the Belgravia Conservation Area

2. Site – 2 Cavern Road, Torquay

Case Officer-

LPA ref- P/2013/0091PA

Date of decision- 26.1.15

Proposals-conversion of a HMO arranged as 7 bedsits and basement flat into 5 self contained flats as per previously (expired) permission.

Issues- whether contributions are required to mitigate the effects of the proposed development on local infrastructure.

3. Site – Land adjacent to 130 Teignmouth Road, Torquay

Case Officer- Alexis Moran

LPA ref- P/2014/0227PA

Date of decision- 26.1.15

Proposals- replacement of the existing planning approval (detached cottage P2012/0595) with a detached cottage accommodating an integral garage

Issues- effect on the character and appearance of the area, whether contributions are required to mitigate the effects of the proposed development on local infrastructure.

4. Site – 87 Wheatlands Road, Paignton

Case Officer- Alexis Moran

LPA ref- P/2014/0932HA

Date of decision- 26.2.15

Proposals- rear dormer loft extension

Issues- effect on the character and appearance of the existing building and the area.

Appendix B: Summary of Government Reform of the Planning System

IMPLEMENTED

Affordable Housing

Small Sites

The NPPG states that on-site provision of affordable housing or off-site contribution cannot be sought from developments of 10 units or less, and which have a maximum combined gross floorspace of no more than 1000sqm. For further information, see:

<http://planningguidance.planningportal.gov.uk/blog/guidance/planning-obligations/planning-obligations-guidance/> (para. 013)

Note: tariff-style obligations, such as commuted sums for recreation provision, cannot be secured on these sites either.

Vacant Building Credit

The NPPG states that where a vacant building is brought back into any lawful use, or is demolished to be replaced by a new building, the developer can claim a financial credit equivalent to the existing gross floorspace of relevant vacant buildings when the LPA calculates any affordable housing contribution. Basically, affordable housing contributions can only be secured for any increase in floorspace. For further information, see:

<http://planningguidance.planningportal.gov.uk/blog/guidance/planning-obligations/planning-obligations-guidance/> (paras 021 – 023)

Starter Homes Exceptions Site Policy

This new policy (contained in the NPPG guidance) enables applications for development of Starter Homes on “*under-used or unviable industrial and commercial land that has not been currently identified for housing*”. LPAs cannot seek affordable housing and tariff-style contributions that would otherwise apply. It states that LPAs should require by S106 that the developer offers Starter Homes to a first time buyer under the age of 40 for a discount of at least 20% below the open market value of the property, and for there to be appropriate restrictions to ensure that Starter Homes are not resold or let at their open market value for 5 years following the initial sale. It further states that LPAs can use their discretion to include a “small” proportion of market homes on starter homes exception sites where it is necessary for the financial viability of the site. The market homes would attract section 106 contributions in the usual way. For further information, see:

<http://planningguidance.planningportal.gov.uk/blog/guidance/starter-homes/starter-homes-guidance/>

Housing for an Ageing Population

The NPPG has been updated to stress the importance of planning in helping to provide or accommodation that suits older people. Further information is available at:

<http://planningguidance.planningportal.gov.uk/revisions/2a/021/>

The ‘Strategic Housing for Older People’, published by the Housing and Learning Improvement Network, is a useful resource and available at: <http://www.housinglin.org.uk/library/Resources/Housing/SHOP/SHOPResourcePack.pdf>

Housing Standards

The Government has published new nationally described space standard for residential properties. The relationship of internal space to the number of bedspaces is a means of classification for

assessment purposes only when designing new homes and seeking planning approval (if a local authority has adopted the space standard in its Local Plan). Standards are available at:

[https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/416451/150324 -
Nationally Described Space Standard Final Web version.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/416451/150324_-_Nationally_Described_Space_Standard_Final_Web_version.pdf)

Role of Planning in Preventing Major-Accident Hazards Involving Hazardous Substances

The Government has published its response to this consultation and NPPG will be updated to reflect new legislation coming into effect on 1st June 2015. This will apply to proposals for new or existing establishments where there are dangerous (explosive/flammable) substances present. Health & Safety Executive and Environment Agency remain the key advisors to LPAs. The response can be viewed online at:

[https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/412700/150310
Hazardous Substances Gov Response to Cons doc.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/412700/150310_Hazardous_Substances_Gov_Response_to_Cons_doc.pdf)

Planning Policy Statement: Eco-Towns - A Supplement to Planning Policy Statement 1

This has been cancelled!

Application Performance

The Government has announced that the threshold for poorly performance authorities on major applications will be raised to 50% (currently 40%). They are also publishing LPA performance on minor and other applications. 'Live' data is available on CLG's website, tables P151 & P152 relate to the speed and quality of major decisions and tables P153 & P154 relate to the speed and quality of minor and other decisions.

<https://www.gov.uk/government/statistical-data-sets/live-tables-on-planning-application-statistics>

IMMINENT (FROM 6TH APRIL)

Environmental Impact Assessment Regulations – Screening

Only industrial development projects of more than 5 hectares, or residential development of 150 homes or sites more than 5 hectares, will need to be screened. For further information, see:

http://www.legislation.gov.uk/uksi/2015/660/pdfs/uksi_20150660_en.pdf

Changes to Permitted Development Rights

Public Houses

Under the New Part 3 of the GPDO 2015, there are no PD rights for the change of use of public houses in Class A5 which have either been nominated or designated as an asset of community value (ACV). Furthermore, any proposed permitted change from a public house in Class A5 to a use within a different Class is subject to the developer submitting a written request to the LPA to establish whether the building has been nominated or registered as an AVC. Part 3 of the GPDO 2015 is available at: <http://www.legislation.gov.uk/uksi/2015/596/schedule/2/part/3/made>

Note: There are further changes to permitted development rights but they do not come into force until 15th April (see below)

S106 / CIL – Pooling of Contributions

In accordance with Regulation 123 of the Town & Country Planning (Community Infrastructure Levy) Regulations 2010 (as amended by 2014 Regulations), the LPA cannot secure a planning obligation that provides for the funding or provision of infrastructure (e.g. open space or education) where five

or more separate planning obligations for funding or provision of that type of infrastructure have been entered into since 6th April 2010. The relevant part of the 2014 CIL Regs is available at: <http://www.legislation.gov.uk/ukdsi/2014/9780111106761/regulation/12>

IMMINENT (FROM 15TH APRIL)

Fee Refund for Failing to Discharge Conditions

An LPA will be obliged to refund the application fee if it fails to determine an application for approval of details reserved by condition within 8 weeks, or an extended period agreed (currently 12 weeks or extended period).

Justification for Pre-Commencement Conditions

Where the LPA grants planning permission subject to conditions, there must be a clear and precise reason to explain why each pre-commencement condition is a pre-commencement condition. To clarify, this is where any condition requires submission and approval of any details before any building or other operation has begun, or before a material change of use of land or buildings has begun.

Deemed Discharge of Conditions / Notice

A developer can give the LPA a Deemed Discharge Notice after 6 weeks which will state that a condition/s subject of an application for approval of details will be treated as having been approved/discharged if the LPA does not make a decision within a specified date. This must be no earlier than the 8-week determination period or 14 days after the LPA has received the Deemed Discharge Notice.

A Deemed Discharge Notice cannot be given to the LPA where the subject condition/s relates to:

- A planning permission for EIA development
- Managing the risk of flooding
- Development which forms part of a SSSI and is likely to have a significant effect if it were not for the condition.
- Assessment of whether land is contaminated or remediation of contaminated land
- Investigation of archaeological potential.
- Access between the development and the public highway.
- An outline planning permission which relates to reserved matters.

Requirement for Sustainable Urban Drainage Systems (SUDS)

Sustainable urban drainage systems to manage surface water run-off will need to be incorporated into major development unless it can be demonstrated that it would be inappropriate.

For further information, see:

<http://planningguidance.planningportal.gov.uk/blog/guidance/flood-risk-and-coastal-change/reducing-the-causes-and-impacts-of-flooding/why-are-sustainable-drainage-systems-important/>

Changes to Statutory Consultees

The following changes to statutory consultees are set out in Schedule 4 of the new consolidated Town & Country Planning (Development Management Procedures) Order 2015 which comes into force on 15th April and is available to view at:

http://www.legislation.gov.uk/uksi/2015/595/pdfs/uksi_20150595_en.pdf

Amendment - Environment Agency

EA will no longer be consulted on major development in Flood Zone 1 as that will now be the responsibility of the Local Lead Flood Authority (see below), but they will continue their role as flood risk management advisors.

Amendment – Natural England

No longer a statutory consultee for proposals outside a SSSI which could affect an SSSI

Amendment - English Heritage

English Heritage has now separated into two organisations. The organisation responsible for planning matters is now called Historic England. Other changes to consultation arrangements only affect London.

Amendment – Highways Agency

The LPA must consult Highways Agency (soon to be Highways England) on development, other than minor development, which is likely to result in an adverse impact on the safety of, or queuing on a trunk road, and for development which consists of or includes the construction, formation or laying out of access to or from a trunk road (only A36 in Mendip).

New Statutory Consultee – Railway Infrastructure Manager

The LPA must now consult the railway infrastructure manager for any development within 10 metres of railway land.

Permitted Development Rights, GPDO 2015

The following amendments have been included in the new consolidated Town & Country Planning (General Permitted Development) (England) Order 2015 which comes into force on 15th April and is available to view at:

http://www.legislation.gov.uk/uksi/2015/596/pdfs/uksi_20150596_en.pdf

Larger Rear House Extensions

This temporary permitted development right has been extended from May 2016 to May 2019.

Betting Offices and Pay Day Loan Shops

These uses have now been excluded from the Class A2 of the Town & Country Planning (Use Classes) Order 1987 (as amended) and are now 'sui generis'. Planning permission will therefore be required to create such establishments.

Extensions to non-residential premises (Part 7)

The previous time-limited rights have been made permanent.

Conversion of Shops to Restaurants/Cafes (Part 3, Class C)

The change of use from A1 to A3 is now permitted development, subject to limitations and conditions.

Conversion of Shops or Betting Offices to Financial/Professional Services (Part 3, Classes D & F)

The change of use from A1 to A2 is now permitted development, subject to limitations and conditions.

Conversion of Shops to Assembly and Leisure (Part 3, Class J)

The change of use from A1 to D2 is now permitted development, subject to limitations and conditions.

Conversion of Casinos or Amusement Arcades to Dwellinghouses (Part 3m Class N)

The change of use from these sui generis uses to C3 is now permitted development, subject to limitations and conditions.

Conversion of Storage/Distribution to Dwellinghouses (Part 3, Class P)

The change of use from these B8 to C3 is now permitted development, subject to limitations and conditions.

Use of buildings/land for commercial film making (Part 4)

This is now permitted development for a temporary period, subject to limitations and conditions.

Click-and-Collect Facilities, Loading Bays and Waste Facilities (Part 7, Classes C, D,L)

The provision of click-and-collect facilities within the cartilage of a shop, increasing the size of loading bays for shops and extensions/alterations of buildings used of waste facilities is now permitted development, subject to limitations and conditions.

Non-Domestic Solar PV Panels (Part 14, Class J(c))

Installation of solar PV panels with a generating capacity of up to 1 MW on the roofs of non-domestic buildings is now permitted development, subject to limitations and conditions

PENDING

S106 Agreement Process

The Government consulted on measures to speed up S106 process in February 2015, available at:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/405819/Section_106_Planning_Obligations_speeding_up_negotiations.pdf

The Government issued a response to this consultation in March 2015 and, at the same time, have issued a further consultation which is available at:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/417258/150325_Final_FINAL_Govt_response_speeding_up_section_106.pdf

There is talk of penalties for taking too long and to have an independent arbiter (not an appeal) where there is disagreement between parties.

Self-Build and Custom Build

Government Consultation

The Government published its response to a consultation on 27th March. The outcome is that the responses will be used by the Government to develop and implement the 'Right to Build' further in the next Parliament. This response is available at:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/418699/150317_Consultation_Response.pdf

Self-Build and Custom Build Housebuilding Act 2015

This legislation received Royal Assent on 26th March and provides the legislative framework for the first part of the Right to Build by making the following provisions:

- Relevant authorities to maintain a register of individuals and associations of individuals who are seeking to acquire plots of land in order to build houses for those individuals to occupy as homes; and
- Specified authorities to have regard to the demand for self build and custom housebuilding as evidenced by the register.

The Government intends to prepare regulations and guidance setting out the detailed operation of the local registers early in the next Parliament. This Act is available at: <http://www.legislation.gov.uk/ukpga/2015/17/contents/enacted/data.htm>

Building More Homes on Brownfield Land

A recent Government consultation has just concluded, proposing that local authorities should have Local Development Orders in place on more than 90% of brownfield land suitable for new homes by 2020. They have raised the possibility of interim targets being introduced and mooted a possible penalty for non-compliance (no demonstration of five year supply, LP out-of-date by default). The consultation is available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/398745/Brownfield_Consultation_Paper.pdf