

Independent Examiner's
Report of the Paignton
Neighbourhood Plan

Author

Deborah McCann BSc MRICS MRTPI Dip Arch Con Dip LD

Planning Consultant

NPIERS Examiner

CEDR accredited mediator

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SECTION 2

Summary

As the Independent Examiner appointed by Torbay Council to examine the Paignton Neighbourhood Plan, I can summarise my findings as follows:

- 1. I find the Paignton Neighbourhood Plan and the policies within it, subject to the recommended modifications does meet the Basic Conditions.*
- 2. I am satisfied that the Referendum Area should be the same as the Plan Area, should the Paignton Neighbourhood Plan go to Referendum.*
- 3. I have read the Paignton Consultation Statement and the representations made in connection with this subject I consider that the consultation process was robust and that the Neighbourhood Development Plan and its policies reflect the outcome of the consultation process including recording representations and tracking the changes made as a result of those representations.*
- 4. I find that the Paignton Neighbourhood Plan can, subject to the recommended modifications proceed to Referendum.*
- 5. At the time of my examination the Development Plan was the Torbay Local Plan adopted in 2015*

SECTION 3

Introduction

1. Neighbourhood Plan Examination.

1.1 My name is Deborah McCann and I am the Independent Examiner appointed to examine the Paignton Neighbourhood Plan.

1.2 I am independent of the qualifying body, I do not have any interest in the land in the plan area, and I have appropriate qualifications and experience, including experience in public, private and community sectors.

1.3 My role is to consider whether the submitted Paignton Neighbourhood Plan meets the Basic Conditions and has taken into account human rights; and to recommend whether the Paignton Neighbourhood Plan should proceed to Referendum. My role is as set out in more detail below under the section covering the Examiner's Role. My recommendation is given in summary in Section 2 and in full under Section 5 of this document.

1.4 The Paignton Neighbourhood Plan has to be independently examined following processes set out in the Town and County Planning Act 1990 (as amended by the Localism Act 2011) and the subsequent Neighbourhood Planning (General) Regulations 2012.

1.5 The expectation is that the examination of the issues by the examiner is to take the form of the consideration of the written representations. However, there are two circumstances when an examiner may consider it necessary to hold a hearing. These are where the examiner considers that it is necessary to ensure adequate examination of an issue or to ensure a person has a fair chance to put a case. Having read the plan and considered the representations I concluded that it was not necessary to hold a Hearing. However, the Neighbourhood Plan NPIERS Guidance for examiners has introduced the opportunity for examiners to hold "exploratory meetings".

1.6 Like a Hearing, an Exploratory Meeting is called at the discretion of the examiner; with the examiner determining who should be invited to speak and which areas of the plan should be covered. Where it differs from a Hearing is that the purpose of the meeting is to help the examiner establish whether or not there is a fundamental issue that potentially may jeopardise the success of the plan at examination.

1.7 In contrast to a hearing, an exploratory meeting provides the flexibility for the examiner to convene a discussion with identified participants about the plan, where this may not fall necessarily within the very special statutory reasons for convening a hearing session.

1.8 An exploratory meeting will provide an opportunity to consider an issue and scope whether there is any viable remedy, exploring all the options.

1.9 The exploratory meeting, in the best-case scenario, may in itself provide the necessary clarification and lead to resolution of the issue. Alternatively, it may reveal that nothing further can reasonably be done that will prevent the plan failing the basic conditions or other legal requirements. In certain circumstances, it may be that further remedial work can be undertaken, subject to the examiner, qualifying body and local planning authority agreeing that there is a reasonable prospect of remedying the plan's shortcomings by placing the examination on hold i.e. suspending the examination.

1.10 Suspension of the examination. This may occur after the exchange of correspondence, or after the exploratory meeting, where one has been held. Suspension is likely to be most relevant to rectifying a procedural failing rather than a basic condition compliance issue. However, even a procedural failing may be better dealt with by withdrawing the plan and going back to the point of the plan's preparation (including consultation or submission to the local planning authority) where the failure occurred. If the suspension relates to a policy's basic condition compliance, it will be clear what the purpose of the suspension is e.g. to gather more evidence, propose a different approach etc. The length of suspension is at the examiner's discretion. Following the suspension period, the aim is to be in a position to make the necessary modifications to the plan and recommend it proceeds to a referendum. However, there can be no guarantee.

2. The Role of Examiner including the examination process and legislative background.

2.1 The examiner is required to check whether the neighbourhood plan:

- Has been prepared and submitted for examination by a qualifying body
- Has been prepared for an area that has been properly designated for such plan preparation
- Meets the requirements to i) specify the period to which it has effect; ii) not include provision about excluded development; and iii) not relate to more than one neighbourhood area and that
- Its policies relate to the development and use of land for a designated neighbourhood area.

The examiner must assess whether a neighbourhood plan meets the basic conditions and other matters set out in paragraph 8 of Schedule 4B of the Town and Country Planning Act 1990 (as amended).

2.2 As an independent Examiner, having examined the Plan, I am required to make one of the following recommendations:

1. The Plan can proceed to a Referendum.
2. The Plan with recommended modifications can proceed to a Referendum.

Where a policy does not meet the Basic Conditions or other legal requirement I may, on occasion, need to delete wording, including potentially an entire plan policy and/or section of text, although I will first consider modifying the policy rather than deleting it. Where a policy concerns a non-land use matter, advice in the Planning Practice Guidance states, "Wider community aspirations than those relating to development and use of land can be included in a neighbourhood plan, but actions dealing with non-land use matters should be clearly identifiable. For example, set out in a companion document or annex." As such, when considering the deletion of any non-land use matters from the plan, I will consider if I can make a modification to place the relevant proposed actions in a non-statutory annex to the plan, dealing with 'Wider Community Aspirations'. I will not generally refer back to parties on these detailed revisions. I will make modification either in order to meet the Basic Conditions, to correct errors or provide clarification. However, the focus of my examination, as set out in legislation is relatively narrow, I must focus on compliance with the Basic Conditions. The main purpose of a neighbourhood plan is to provide a framework for the determination of planning applications, policies in a plan which have elements which either seek to control things which fall outside the scope of the planning system or introduce requirements which are indiscriminate in terms of the size of development or overly onerous and would not meet the Basic Conditions. In these circumstances it will be necessary to make modifications to the plan. In making any modifications I have a duty to ensure that the Basic Conditions are met however I will also be very careful to ensure, where possible that the intention and spirit of the plan is retained so that the plan, when modified still reflects the community's intent in producing their neighbourhood plan.

3. The Plan does not meet the legal requirements and cannot proceed to a Referendum

3.1 I am also required to recommend whether the Referendum Area should be different from the Plan Area, should the Paignton Neighbourhood Plan go to Referendum.

3.2 In examining the Plan, I am required to check, under Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990, whether:

- the policies in the Plan relate to the development and use of land for a designated Neighbourhood Area are in line with the requirements of Section 38A of the Planning and Compulsory Purchase Act 2004
- the Plan meets the requirements of Section 38B of the Planning and Compulsory

Purchase Act 2004 to specify the period for which it has effect

- *the Plan has been prepared for an area designated under the Localism Act 2011 and has been developed and submitted for examination by a qualifying body.*

3.3 I am also required to determine whether the Plan complies with the Basic Conditions, which are that the proposed Neighbourhood Plan:

- *Has regard to national policies and advice contained in guidance issued by the Secretary of State;*
- *Contributes to the achievement of sustainable development; and*
- *Is in general conformity with the strategic policies contained in the Development Plan for the area.*

The Plan must also not breach, and otherwise be compatible with EU obligations and Human Rights requirements.

3.4 Torbay Council will consider my report and decide whether it is satisfied with my recommendations. The Council will publicise its decision on whether or not the plan will be submitted to a referendum, with or without modifications. If the Neighbourhood Plan is submitted to a referendum, then 28 working days' notice will be given of the referendum procedure and Neighbourhood Plan details. If the referendum results in more than half those voting (i.e. greater than 50%), voting in favour of the plan, then the Local Planning Authority must "make" the Neighbourhood Plan a part of its Development Plan as soon as possible. If approved by a referendum and then "made" by the local planning authority, the Neighbourhood Plan then forms part of the Development Plan.

SECTION 4

The Report

1. Appointment of the Independent examiner

Torbay Council appointed me as the Independent Examiner for the Paignton Neighbourhood Plan with the agreement of Paignton Neighbourhood Forum.

2. Qualifying body

I am satisfied that the Paignton Neighbourhood Forum meets the necessary requirements and is the Qualifying Body.

Where there is no parish or town council who can lead on the creation of a neighbourhood plan, members of the community can form a neighbourhood forum to take forward the development of a neighbourhood plan or Order. A group or organisation must apply to the local planning authority to be designated as a neighbourhood forum (a forum application). Those making a forum application must show how they have sought to comply with the conditions for neighbourhood forum designation. These are set out in section 61F (5) of the Town and Country Planning Act 1990 as applied to Neighbourhood plans by section 38A of the Planning and Compulsory Purchase Act 2004.

To be designated a neighbourhood forum must have a membership that includes a minimum of 21 individuals who either:

- live in the neighbourhood area*
- work there; and/or*
- are elected members for a local authority that includes all or part of the neighbourhood area*

The original application for Neighbourhood Area and Neighbourhood Forum status in Paignton was approved in December 2012. The Forum status expired after 5 years (December 2017). The Paignton Neighbourhood Forum was re-designated by Torbay Council on 7 December 2017. The designation lasts, in accordance with the regulations, for 5 years.

3. Neighbourhood Plan Area

The neighbourhood plan area covers the Torbay Community Partnership areas of Blatchcombe, Clifton with Maidenway, Goodrington Roselands and Hookhills, Paignton Town, and Preston. All are in the Paignton area of Torbay and have community identities that bond them together through a shared town centre as well as agreed development, infrastructure and access challenges.

No part of the Neighbourhood Area overlaps any part of any other Neighbourhood Area (Section 61G (7) of the Act). The boundary is the same as the Paignton Neighbourhood Area defined in the Torbay Local Plan adopted by the Council on 10 December 2015.

4. Plan Period

It is intended that the Paignton Neighbourhood Plan will cover the period 2012-2030, to align with the Torbay Local Plan.

5. Torbay Council Regulation 15 Assessment of the Plan.

Paignton Neighbourhood Forum, the qualifying body for preparing the Paignton Neighbourhood Plan, submitted it to Torbay Council for consideration. Torbay Council has made an initial assessment of the submitted Paignton Neighbourhood Plan and the supporting documents and is satisfied that these comply with the specified Regulation 15 criteria.

6. Site Visit and Exploratory Meeting

6.1 *I carried out an unaccompanied site visit to familiarise myself with the Neighbourhood Plan Area on Thursday 10th of May 2018.*

6.2 Exploratory Meeting

6.2.1 *An Exploratory Meeting was held on Thursday 10th of May 2018. This is a new process introduced in the Guidance for Examiners produced by NPIERS. The structure and process of the Exploratory Meeting is detailed in paragraph 1 of this report.*

6.2.2 *I called the Exploratory Meeting in order to explore the issue of site allocations and housing delivery for the neighbourhood plan area, across the plan period and establish whether or not the Paignton Neighbourhood Plan could meet the Basic Conditions with or without modification in this respect. To establish whether or not there was a fundamental issue that could jeopardise the success of the plan at examination.*

A full transcript and audio file of the proceedings is available on the Torbay Council website.

6.2.3 *The meeting began with an explanation of the current position of the Torbay Local Plan adopted in 2015 and covering the period 2012 to 2030. The Local Plan takes a fairly unusual approach to meeting its land supply requirements in that it allocates larger sites, Strategic Future Growth Areas but relies on the Paignton, Brixham and Torquay neighbourhood plans to make site allocations to for housing and employment to meet the overall requirement. This*

approach is set out in policies SS1, SS5, SS12, SS13, policy H1 of the Local Plan and the strategic development SDP policies for Paignton. The overall Local Plan target is for 8900 dwellings across the plan period with a target for Paignton of 4,285 dwellings. The Paignton Neighbourhood Plans hasn't been asked to allocate the entire quantum of 4,285 but to allocate sites (which could be a combination of the sites in appendix d of the Local Plan) to accommodate approximately 900 homes across the plan period.

6.2.4 The general approach in the Local Plan is that for the first five years, 2012 to 2017 would be sites that had permission at that time. The middle period of the plan period, so starting from 2017 to 2022 would be the Neighbourhood Plan sites and then the longer term would be the more strategic sites. What has actually happened in practice is that there have been applications on some of the strategic sites and a lot of the growth that has happened in Paignton over the last five years along the Western Corridor.

6.2.5 Torbay Council clarified that in Paignton most of the longer term strategic sites have already come forward. The Council's position is that there is a 4.19 years' land supply for 2016/17, the detailed figures for 17/18 aren't yet available figures but they are likely to be roughly the same, more than a 3 year but less than 5 year land supply. At the meeting Torbay Council was unable to break that down into the exact figure for Paignton as it does not currently calculate the five year supply on a town by town or Neighbourhood Plan basis.

6.2.6 Torbay Council acknowledged that that two of the objectives of the Local Plan are to provide 5,500 jobs from the base of 59,000 in tandem with 8,900 homes. The Neighbourhood Forum's position is that this is not a target; Torbay Local Plan is not predict and provide but plan, monitor and manage. The Neighbourhood Plan Forum felt that this goes to the heart of the issue of general conformity with the strategic policies of the Development Plan for the purposes of the examination of the neighbourhood plan. The Forum's position is that at the core of the local plan is a reliance on the return to net inward migration and that's why the issue of plan monitor and manage is important. The first five year major review of the Local Plan will be in 2020, with a second major review in 2025. The Forum drew my attention to the Local Plan, which recognises that the assessed rate of which the land supply will be taken up by the market during that each 5 Year period is dependent upon the assumptions made about the net job growth and migration.

6.2.7 The Neighbourhood Plan Forums for Paignton, Brixham and Torquay (who have all developed Neighbourhood Plans simultaneously) have challenged Torbay Council on their 5 year land supply figures for the period 2017 to 2022. Their conclusion was that there is currently not less than 6.1 years of supply now. The Forum doesn't accept the Torbay Council position that it's currently 4.19 years.

6.2.8 Torbay Council explained that there are three main areas of difference between the Council and the Neighbourhood Forum about the calculation of five year land supply:

i) *The Neighbourhood Forum are looking for a slower pace of growth than in the Local Plan because jobs haven't come forward.*

ii) *The assumptions made about the yield from windfalls. Initially Torbay Council counted 130 windfalls a year but the number of windfalls coming forwards over the last 5 years has been 100 dwellings a year so the current calculation has been based on 100 dwellings a year. The Neighbourhood Forum do not agree; however, Torbay Council contend that even if you counted windfalls at 130 dwellings per year there would still be a shortfall against five year supply.*

iii) *The third area of difference, which requires an element of planning judgment, is whether sites are deliverable within the definition of the National Planning Policy Framework.*

Torbay Council is satisfied that the 4.19 figure is robust.

6.2.9 To summarise, the Forum's position is that Paignton Neighbourhood Plan delivery figure is 3080 for Local Plan period 2015-2030, excluding windfalls (defined as undefined sites of 5 net dwellings or less in the Local Plan), whilst the figure identified by Torbay Council is 4,285 for Local Plan period 2012- 2030 including windfalls. Additionally, at the time the neighbourhood plan was produced there were 1,215 dwellings from sites already with planning consent or that have been treated in the Local Plan as committed. These, combined with other sources of housing identified by the Forum, (see Table A4.2.10 of the Basic Conditions Statement and Table 8.1 of the Neighbourhood Plan) come to 3,080 dwellings, compared with the Forum's assessment of 2,985 to meet the Local Plan requirement (see Basic Conditions Statement Table A4.2.8 and Table 8.1 of the Neighbourhood Plan). The conclusion of the Forum was that there was no need to allocate further sites and no requirement legally for a Neighbourhood Plan to do so.

6.2.10 Torbay Council's concerns relate to the failure of the Neighbourhood Plan to clearly allocate the sites and the methodology used by the Forum to assess delivery across the appropriate period.

6.2.11 The Forum disagreed stating that the word "identify" is actually the Local Plan policy. The Forum's position was that they have identified sites beyond the years 6 to 10, beyond the requirement of the Local Plan.

6.2.12 The process of how the Forum "identified" the sites were explored. When asked what process for the identification of sites in the Neighbourhood Plan was followed the Forum's representative stated:

"We didn't need to do that..... all the sites in this schedule have either been identified on the Local Plan map as committed or they have been identified as for consideration by the Neighbourhood Plan, I use the word consideration, or actually got planning consent so when

we came to do our bit we found in actual fact there were no judgments to be made on individual sites because they'd all been made.”

6.2.13 Torbay Council's position is that the Local Plan does seek to ask the Forums to allocate sites but conceded that it would have been better if the policy actually said they should come forward as part of a site specific proposal on a policies map but it does clearly say in policy SS1, SS5, SS12, SS13 and the SDP policies that the Local Plan looks to the Neighbourhood Forums to allocate sites. The Council's view is that the sites identified are likely to be developable but without them being site specific proposals it is harder to say that they are deliverable.

6.2.14 The Council took the approach of wanting the Neighbourhood Plans to allocate sites because it wanted to provide as much autonomy as possible within the strategic framework for the Neighbourhood Forums to identify the smaller sites.

6.2.15 The Council's position is that the failure to make site allocations will make it increasingly difficult for the Council to maintain a 5 year land supply. Paignton Neighbourhood Plan doesn't allocate sites and therefore can't take comfort from the written ministerial statement where there is no 5 year supply a Neighbourhood Plans which makes site allocations can have weight if they have 3 year's supply.

6.2.16 On the basis that the Paignton Neighbourhood Plan has not made site allocations in accordance with Policy SS1 it was accepted that it falls to Torbay Council to produce a Site Allocations DPD to address any shortfall. Due to resource implications and an approaching Local Plan review, it seems unlikely that a Site Allocations DPD will be produced at this stage.

6.2.17 Torbay Council considered that the consequences of not having a five year land supply would be that for a number of sites within Torbay, the presumption in favour of sustainable development would need to be applied when determining planning applications. The Council considered that an appeal inspector would look at 5 year supply in a fairly blunt way and would determine an application before them on the basis of the presumption in favour of sustainable development assuming there weren't other reasons why the presumption didn't apply to that site.

6.2.18 The Forum stressed the link in the Local Plan between the delivery of jobs and housing. The policy in the Local Plan is to achieve net growth in jobs of at least 275 a year. The forum stated that on that basis there should be 60,000 plus jobs at the moment but in fact there are 57,000. This is the number of people who have jobs in the bay, not the people who are employed or unemployed because you can be living in the bay and employed but you actually work outside the bay and this is fundamental strategic issue that's now coming up that we are becoming a dormitory Town.

6.2.19 Torbay Council accepted there has been a loss of jobs but against that the demographic projection, which are based on inward net migration have also gone up. Torbay Council consider that it would be wholly exceptional if the full objectively assessed need (or Local housing need figure”) could be assessed as being less than the demographic projections. The LPA also stated that there is a significant push by the government to boost housing supply in the draft National Planning Policy Framework from the Housing White Paper and that this is a pressure that is being applied to local planning authorities.

6.3 Conclusion

6.3.1 In conclusion, the main issue covered at the Exploratory Meeting was whether or not the “identification” of sites in the Paignton Neighbourhood Plan rather than “allocation” of sites results in the Paignton Neighbourhood Plan failing to be in general conformity with the strategic policies of the Torbay Local Plan 2012-2030, particularly SS1:

“Policy SS1 Growth Strategy for a prosperous Torbay

Identified Sites

In years 6-10 of the Plan (2017/18-2021/22), development will come from completion of committed sites identified in Neighbourhood Plans. The pool of developable housing sites is included in Appendix C (Table 26) to this Plan. If Neighbourhood Plans do not identify sufficient sites to provide the housing requirements of the Local Plan, the Council will bring forward sites through site allocations development plan documents.”

6.3.2 The policy explicitly refers to “identified” sites rather than “allocated”. It is clear from Torbay Council’s submissions that they consider that the “allocation” of sites rather than the “identification” of sites is fundamental to ensuring that the Council can maintain its 5 year land supply.

6.3.3 The policy is also explicit in that in circumstances where the Neighbourhood Plan does not “identify” sites the Council will bring forward sites through site allocations documents. However, it was made clear at the Exploratory Meeting that it is unlikely that this will happen.

6.3.4 On the point of “identified” or “allocated” in this context I am clear:

- *there is no requirement in Law, the National Planning Policy Framework or Local Plan for neighbourhood plans to allocate sites.*
- *Local Plan Policy SS1 refers to the “identified” rather than allocated sites*
- *where a Neighbourhood plan does not “identify” sufficient sites Torbay Council state that they will prepare a site allocations development plan document.*

To be clear, there is no mechanism for a Local Plan to require a Neighbourhood Plan to

allocate sites. My conclusion on this point is that the Paignton Neighbourhood Plan is not in conflict with this element of Torbay Local Plan strategic policy SS1.

6.3.5 The second issue is whether or not the Paignton Neighbourhood Plan policies support the strategic development needs set out in the Torbay Local Plan, plan positively to support local development and does not promote less development than set out in the Torbay Local Plan or undermine its strategic policies (see paragraph 16 and paragraph 184 of the National Planning Policy Framework), nor be used to constrain the delivery of a strategic site allocated for development in the Local Plan.

6.3.6 Torbay Council's position is clear, considerable information has been put forward from both sides regarding housing targets and potential delivery for the Paignton Neighbourhood plan area across the the Local Plan period. There is a difference of opinion between the Forum and Torbay Council on the number of houses needed and the methodology for calculating those numbers.

6.3.7 The Forum's position is that Paignton Neighbourhood Plan delivery figure is 3080 for Local Plan period 2015-2030, excluding windfalls, whilst the figure identified by Torbay Council is 4,285 for Local Plan period 2012- 2030 including windfalls. On balance I minded to accept the overall target figure for housing for across the plan period is 4,285.

6.3.8 Torbay Council's position is that:

i) The Neighbourhood Forum are looking for a slower pace of growth than in the Local Plan because jobs haven't come forward.

ii) The assumptions made about the yield from windfalls. Initially Torbay Council counted 130 windfalls a year but the number of windfalls coming forwards over the last 5 years has been 100 dwellings a year so the current calculation has been based on 100 dwellings a year. The Neighbourhood Forum do not agree; however, Torbay Council contend that even if you counted windfalls at 130 dwellings per year there would still be a shortfall against five year supply.

iii) The third area of difference, which requires an element of planning judgment, is whether sites are deliverable within the definition of the National Planning Policy Framework.

6.3.9 From the evidence before me I have concluded that in my planning judgment there is a degree of uncertainty around the delivery of sites and the yield from those sites. Contributing to my conclusion is the fact that there are a number of policies within the Paignton Neighbourhood Plan that would have a further negative impact on the plan's ability to support the strategic development needs set out in the Torbay Local Plan.

6.3.10 As currently worded I do not consider the Paignton Neighbourhood Plan does meet the Basic Conditions. The Council set out a long list of those policies it considered to be strategic in the context of the Paignton Neighbourhood Plan, having considered those policies carefully and taken as a whole I am satisfied that subject to modification the Plan would be in general conformity with the strategic policies of Torbay Local Plan 2012-2030 and have regard to National Policy and thus meet the Basic Conditions in this context. The policy modifications are set out in detail for each policy in section 4 of my report.

7. The Consultation Process

7.1 The Paignton Neighbourhood Plan has been submitted for examination with a Consultation Statement which sets out the consultation process that has led to the production of the plan, as set out in the regulations in the Neighbourhood Planning (General) Regulations 2012.

7.2 The Statement describes the approach to consultation, the stages undertaken and explains how the Plan has been amended in relation to comments received. It is set out according to the requirements in Regulation 15.1.b of the Neighbourhood Planning (General) Regulations 2012):

(a) It contains details of the persons and bodies who were consulted about the proposed neighbourhood development plan;

(b) It explains how they were consulted; (c) It summarises the main issues and concerns raised by the persons consulted; and

(d) It describes how these issues and concerns were considered and, where relevant, addressed in the proposed neighbourhood development plan.

Having examined the documents and considered the focus of the Neighbourhood Plan I conclude that the consultation process was robust, well conducted and recorded.

A list of statutory bodies consulted is included in the Consultation Statement.

8.Regulation 16 consultation by Torbay Council and record of responses.

8.1 Torbay Council placed the Paignton Neighbourhood Plan out for consultation under Regulation 16 from Wednesday 1 November 2017 to Monday 18 December 2017

8.2 A large number of detailed representations were received during the consultation period and these were supplied by Torbay Council as part of the supporting information for the examination process. I considered the representations, have taken them into account in my examination of the plan and made reference to them where appropriate.

9. Compliance with the Basic Conditions

9.1 *The Paignton Neighbourhood Forum has produced a Basic Conditions Statement. The purpose of this statement is for the Neighbourhood Plan Forum to set out in some detail why they believe the Neighbourhood Plan as submitted does meet the Basic Conditions. It is the Examiner's Role to take this document into consideration but also make take an independent view as to whether or not the assessment as submitted is correct.*

9.2 *I have to determine whether the Paignton Neighbourhood Plan:*

1. *Has regard to national policies and advice*
2. *Contributes to sustainable development*
3. *Is in general conformity with the strategic policies in the appropriate Development Plan*
4. *Is not in breach and is otherwise compatible with EU obligations and Human Rights requirements.*

9.3 *Documents brought to my attention by Torbay Council for my examination include:*

(i) The Paignton Neighbourhood Plan - the main document that includes policies developed in consultation with the community at various engagement events and workshops.

(ii) Community Involvement and Consultation Statement – sets out how the community, and other stakeholders, have been involved in preparing the Plan.

(iii) Basic Conditions Statement - An appraisal of the Plan policies against European Union (EU) and national policies, as well as the strategic policies of the Torbay Local Plan and any other policies and guidance.

iv) Supporting Evidence

v) Sustainability Appraisal, Habitats Regulations Assessment Screening and Non Technical Summary

v) Sustainability Appraisal Scoping Report

9.4 Comment on Documents submitted

I am satisfied having regard to these documents and other relevant documents, policies and legislation that the Paignton Neighbourhood Plan does, subject to the recommended modifications, meet the Basic Conditions.

10.Planning Policy

10.1. National Planning Policy

10.1.1 National Policy guidance is in the National Planning Policy Framework (National Planning Policy Framework) 2012.

10.1.2 To meet the Basic Conditions, the Plan must have “regard to national policy and advice”. In addition, the National Planning Policy Framework requires that a Neighbourhood Plan “must be in general conformity with the strategic policies of the local plan”. Paragraph 16 states that neighbourhoods should “develop plans that support the strategic development needs set out in Local Plans, including policies for housing and economic development; plan positively to support local development, shaping and directing development in their area that is outside the strategic elements of the Local Plan”.

10.1.3 The Paignton Neighbourhood Plan does not need to repeat these national policies, but to demonstrate it has taken them into account.

10.1.4 I have examined the Paignton Neighbourhood Plan and consider that, subject to modification, the plan does have “regard for National Policy and Advice” and therefore the Plan, subject to modification does meet the Basic Conditions in this respect.

10.2. Local Planning Policy- The Development Plan

10.2.1 Paignton is within the area covered by Torbay Council. Currently the relevant development plan is the Torbay Local Plan 2012-30

10.2.2 To meet the Basic Conditions, the Paignton Neighbourhood Plan must be in “general conformity” with the strategic policies of the development plan.

10.2.3 The distinction between strategic and non strategic policies is important because of the relationship with Neighbourhood Plans. Neighbourhood Plans only have to be in general conformity with the strategic policies of the development plan (Localism Act 2011, Schedule 4B, s7 (2)(e) and National Planning Policy Framework 184). When made, neighbourhood plan policies take precedence over existing non-strategic policies in the local plan, where they are in conflict.

10.2.4 Paragraph 156 of the National Planning Policy Framework states that strategic policies are those designed to deliver

- the homes and jobs needed in the area;
- the provision of retail, leisure and other commercial development;

- the provision of infrastructure for transport, telecommunications, waste management, water supply, wastewater, flood risk and coastal change management, and the provision of minerals and energy (including heat);
- the provision of health, security, community and cultural infrastructure and other local facilities; and
- climate change mitigation and adaptation, conservation and enhancement of the natural and historic environment, including landscape.

Planning Policy Guidance paragraph 41-076-20140306 sets out that:

“Strategic policies will be different in each local planning authority area. When reaching a view on whether a policy is a strategic policy the following are useful considerations:

- whether the policy sets out an overarching direction or objective
- whether the policy seeks to shape the broad characteristics of development
- the scale at which the policy is intended to operate
- whether the policy sets a framework for decisions on how competing priorities should be balanced
- whether the policy sets a standard or other requirement that is essential to achieving the wider vision and aspirations in the Local Plan
- in the case of site allocations, whether bringing the site forward is central to achieving the vision and aspirations of the Local Plan
- whether the Local Plan identifies the policy as being strategic”

Torbay Council have provided the following information on their strategic policies, as required:

“As a minimum the following Policies in the Local Plan are strategic:

- All spatial strategy and policies for strategic direction (Part 4, Policies SS1-14).
- Strategic Delivery Area Policies (Part 5, SD Policies).
- Some of the policies in “Part 6 Policies for managing change” which contain strategic elements, as assessed against National Planning Policy Framework 156 and the PPG (Part 41-2014).

11. Other Relevant Policy Considerations

11.1 European Convention on Human Rights (ECMR) and other European Union Obligations

11.1.1 As a 'local plan', the Neighbourhood Development Plan is required to take cognisance of the EU Strategic Environmental Assessment (SEA) Directive 2001/42/EC.

11.1.2 In accordance with the relevant legislation the Forum, jointly with the Council, produced a 'Screening Opinion' Consultation Draft in March 2016 for consideration by the three statutory bodies (the Environment Agency, Historic England and Natural England) to determine if an SEA would be required for the Neighbourhood Plan. The 'Screening Opinion' consultation took place over the 5-week period from 5 April to 11 May 2016.

11.1.3 The response received was inconclusive. The Environment Agency and Historic England agreed that no SEA was required. Natural England's response was inconclusive because of uncertainty around the issue of the intended content of the Neighbourhood Plan regarding land allocations and the new Torbay Local Plan adopted on 10 December 2015, which at the time (April/May 2016) had not been published in its finalised form.

The Forum therefore decided to undertake a voluntary Sustainability Appraisal (SA) incorporating a Strategic Environmental Assessment (SEA) that would also demonstrate how the Neighbourhood Plan would contribute to the achievement of sustainable development.

11.2 Scoping Consultation

11.2.1 In accordance with the formal requirement, all three statutory bodies (Environment Agency, Historic England and Natural England) were consulted on the proposed method of assessing the Neighbourhood Plan via a 'Scoping Report' produced by the Forum jointly with Torbay Council. The consultation took place over a 5 week period from 19 September to 25 October 2016.

The appraisal did not find any likely significant effects that would need mitigation.

11.3 'In combination' and Other Plans

11.3.1 No 'in-combination' negative effects were found. The HRA Screening found that there would not be a likely significant negative effect between the Neighbourhood Plan and Other Plans identified in the Scoping Report.

11.3.2 Some of the sites, notably 460 homes at Collaton St. Mary, are subject to further Habitats Regulations Assessment and prior approval of bespoke mitigation plans and resolution of major foul sewer flooding constraint as confirmed in a Masterplan for Collaton St. Mary subsequently prepared and adopted by the Council in 2016 as a Supplementary Report on the independent examination of the Paignton Neighbourhood Plan

11.4 Habitats Regulations Assessment Screening Conclusions

11.4.1 *The SA process enables consideration to be given to the need, or not, for other important assessments, in particular Habitat Regulations Assessment (HRA).*

11.4.2 *An HRA is required by the Habitats Directive (92/43/EEC) in appropriate circumstances. Land use plans may require the undertaking of an HRA to assess their implications for European sites. The purpose of HRA is to assess the impacts of a land use plan against the conservation objectives of a European site and to ascertain whether it would have a likely significant effect on the integrity of that site, whether alone or in combination with other plans and projects.*

11.4.3 *In accordance with the Scoping Report, the Neighbourhood Plan voluntary appraisal considered two European sites present within Torbay's boundaries (South Hams SAC and Lyme Bay and Torbay Marine SAC) and four further European sites within a 20km buffer zone from Torbay's boundaries:*

1. *Lyme Bay and Torbay Marine SAC*
2. *South Hams SAC*
3. *Dartmoor SAC*
4. *South Dartmoor Woods SAC*
5. *Dawlish Warren SAC*
6. *Exe Estuary SPA & Ramsar*

11.4.4 *The Neighbourhood Plan does not add to or substitute any of the identified development sites that the Local Plan HRA has already considered and the policy proposals of the Neighbourhood Plan add further protection to the natural environment and biodiversity of the Plan area. Appraisal of the Neighbourhood Plan has therefore drawn first upon the conclusions of the Local Plan HRA in this Screening assessment.*

11.5 Torbay Local Plan HRA

11.5.1 *The adopted Local Plan identifies a number of committed development sites, potential development sites (subject to consideration in the proposed Neighbourhood Plans) and future growth areas (LP Appendix C and Policy SS2). All were included in the HRA appraisal of the Local Plan to determine any likely significant effects on the six European sites situated within 20 km of Torbay (LP HRA December 2015).*

11.5.2 The HRA concluded that the Local Plan is not considered to have a significant impact on South Dartmoor Woods SAC, Dawlish Warren SAC and Exe Estuary SPA and Ramsar because of the distances involved (13.23 km, 9.75km and 10km, respectively) and were “screened out” of any further assessment.

11.5.3 Of the remaining three European sites, because likely significant effect could not be ruled out, a Stage 2 HRA “Appropriate Assessment” was undertaken and considered the likely significant effects of the Local Plan and made recommendations where necessary of specific mitigation required.

11.5.4 The HRA concluded that if the mitigation actions proposed are implemented, the impacts of additional development would be reduced to an insignificant level. With the proposed mitigation, the Local Plan policies will have no adverse effect upon the integrity of any of the European sites and the conservation objectives would be sustained.

11.5.5 The HRA further concluded that the Local Plan should make it clear (as the adopted version does) that its policies and proposals do not provide support to any proposal which would have an adverse effect on the integrity of any European site. The HRA recommended that the Local Plan HRA outcomes feed into the Neighbourhood Plans together with the imperative that project based HRA is undertaken for each planning application and makes it clear that permission should only ever be granted where it is categorically proven that there will be no adverse impacts on European sites (Torbay Local Plan HRA December 2015 para. 9.1.6).

11.6 Screening of the Neighbourhood Plan

11.6.1 Having regard to the Local Plan HRA outcome, screening of the Neighbourhood Plan has taken into account the assessment of development sites identified in the Local Plan alongside the policy proposals of the Neighbourhood Plan to ensure a comprehensive screening of individual proposals and “in- combination” effect is achieved.

11.6.2 Likely significant effects

Screening of the identified sites and Neighbourhood Plan policy proposals result in the following conclusions:

There has been no change in the European sites requiring consideration since the Local Plan HRA of December 2015 (para. 4.3 above). Similarly, the conclusion reached is that there are no proposals within the Neighbourhood Plan, which are likely to have significant effect on the European sites “screened out” in the Local Plan HRA assessment because of their distance away (para. 4.7 above).

11.6.3 The Neighbourhood Plan makes no proposals that affect the level of growth in relation

to Dartmoor SAC which is any different to that considered by the Local Plan HRA and similarly has been “screened out” of any further assessment. The two remaining European sites have been considered further.

11.6.4 The Local Plan HRA has provided the necessary safeguards in the Local Plan (as finally adopted) that make it unnecessary and disproportionate for a Stage 2 “Appropriate Assessment” of the Neighbourhood Plan to be undertaken.

11.6.5 The Forum and the Council jointly agreed that the Neighbourhood Plan can be “screened out” of the need for any further assessment required under the Habitats Regulations. It was noted that this still leaves in place the Local Plan HRA requirement for a Stage 2 ‘Appropriate Assessment’ to be undertaken at project level (planning application stage) on those sites identified where a likely significant effect requires further assessment.

11.6.6 I have received numerous detailed representations regarding the issue of the Habitats Regulation Assessment and whether or not in the light of the Court of Justice of the European Union (“CJEU”) People Over Wind and Sweetman v Coillte Teoranta (C-323/17) decision dated 12 April 2018- referred to as People over Wind or PoW the HRA Screening stage was adequate for assessment of the Paignton Neighbourhood Plan.

11.6.7 The decision means that measures intended to avoid or reduce the harmful effects of a proposed project on a European site may no longer be taken into account by competent authorities at the Habitat Regulations Assessment (“HRA”) “screening stage” when judging whether a proposed plan or project is likely to have a significant effect on the integrity of a European designated site.

11.6.8 Concern has been expressed that there has been a reliance on protective policies in the Local Plan to screen out the need for appropriate assessment of the PNP, paragraph 4.22 that “the package of measures and mitigations that resulted from the Local Plan HRA have provided the necessary safeguards in the Local Plan (as finally adopted) that make it unnecessary and disproportionate for a Stage 2 “Appropriate Assessment” of the Neighbourhood Plan to be undertaken.”

11.6.9 During the course of my examination I received the following submission from Torbay Council:

“The Council has been made aware of the following “European Court (Seventh Chamber)” decision dated 12 April 2018:

Article 6(3) of Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora must be interpreted as meaning that, in order to determine whether it is necessary to carry out, subsequently, an appropriate assessment of the implications, for a site concerned, of a plan or project, it is not appropriate, at the

screening stage, to take account of the measures intended to avoid or reduce the harmful effects of the plan or project on that site.

Our current understanding is that proposed mitigation measures are not to be taken into account when determining whether a plan or project will have a likely significant effect. The argument behind the judgment is that, if mitigation measures are included in a proposal it is likely that the protected site will be affected significantly and that, as a result, an assessment should be carried out (para 35).

The Council, as competent authority under the Habitats Regulations is empowered to require the Qualifying Bodies to provide sufficient information to enable it to be satisfied in HRA terms. We have therefore reviewed the associated Neighbourhood Plan HRAs, and in the context of the above (not withstanding any other representations on sites/specific elements) consider that the Assessment and Mitigation Measures set out in all three Neighbourhood Plan HRA 'Screening Stages' substantively meet the requirements. For absolute clarity, this could be made clearer through a minor re-formatting to set out the same in an 'Appropriate Assessment' Stage. Given that the information provided is sufficient to make the assessment, the LPA is prepared to make the minor amendments to formatting before making the plan. This would, in terms of the Council, (as competent authority), meet the HRA regulations.

However, you may wish to amend your associated HRA's in order for the Examiner to see that they comply with the HRA Regulations."

11.6.10 On the basis that the Paignton Neighbourhood Plan does not make any site allocations I am satisfied that the HRA 'Screening Stage' does substantively meet the requirements.

11.7 Sustainable development

11.7.1 The Government's Internet based Planning Practice Guidance (PPG) states that

"There is no legal requirement for a neighbourhood plan to have a sustainability appraisal as set out in section 19 of the Planning and Compulsory Purchase Act 2004."

11.7.2 However, a qualifying body must demonstrate how its plan or order will contribute to achieving sustainable development. A sustainability appraisal may be a useful approach for doing this and the guidance on sustainability appraisal of Local Plans should be referred to".

11.7.8 The Paignton Neighbourhood Plan has addressed the issue of sustainable development through a Sustainability Appraisal. My conclusion is that the principles of Sustainable Development required in the National Planning Policy Framework have been taken into account in the development of the plan and its policies and where issues have

been identified they were addressed by revisions to the document prior to submission. I am satisfied that the Paignton Neighbourhood Plan subject to the recommended modifications addresses the sustainability issues adequately.

11.7.9 The Neighbourhood Development Plan is required to take cognisance of the European Convention of Human Rights and to comply with the Human Rights Act 1998.

11.7.10 I am satisfied that the Paignton Neighbourhood Plan has done so.

11.7.11 I am therefore satisfied that the Paignton Neighbourhood Plan subject to modification, meets the basic conditions on EU obligations.

11.8 Excluded development

11.8.1 I am satisfied that the Paignton Neighbourhood Plan does not cover County matters (mineral extraction and waste development), nationally significant infrastructure such as highways and railways or other matters set out in Section 61K of the Town and Country Planning Act 1990.

11.9 Development and use of land

11.9.1 I am satisfied that the Paignton Neighbourhood Plan, subject to modification covers development and land use matters.

11.10 The Neighbourhood Plan Vision, Strategic Aims and Policies

11.10.1 I am satisfied that the themes for the Neighbourhood Plan have developed as a result of the community consultation carried out and that the policies of the plan respond to those themes.

12. Paignton Neighbourhood Plan Policies

12.1 A neighbourhood plan should support the strategic development needs set out in the Local Plan and plan positively to support local development (as outlined in paragraph 16 of the National Planning Policy Framework).

12.2 A neighbourhood plan can be used to address the development and use of land. This is because if successful at examination and referendum the neighbourhood plan comes into force as part of the statutory development plan. Applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise (see section 38(6) of the Planning and Compulsory Purchase Act 2004).

12.3 Neighbourhood planning can inspire local people and businesses to consider other ways to improve their neighbourhood than through the development and use of land. They may

identify specific action or policies to deliver these improvements. Wider community aspirations than those relating to development and use of land can be included in a neighbourhood plan, but actions dealing with non land use matters should be clearly identifiable. For example, set out in a companion document or annex.

12.4 If the policies and proposals are to be implemented as the community intended a neighbourhood plan needs to be deliverable. The National Planning Policy Framework requires that the sites and the scale of development identified in a plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened.

12.5 A policy in a neighbourhood plan should be clear and unambiguous. It should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. It should be concise, precise and supported by appropriate evidence. It should be distinct to reflect and respond to the unique characteristics and planning context of the specific neighbourhood area for which it has been prepared.

12.6 The resulting draft neighbourhood plan must meet the basic conditions if it is to proceed. National planning policy states that it should support the strategic development needs set out in the Local Plan, plan positively to support local development and should not promote less development than set out in the Local Plan or undermine its strategic policies (see paragraph 16 and paragraph 184 of the National Planning Policy Framework). Nor should it be used to constrain the delivery of a strategic site allocated for development in the Local Plan.

12.7 Should there be a conflict between a policy in a neighbourhood plan and a policy in a Local Plan, section 38(5) of the Planning and Compulsory Purchase Act 2004 requires that the conflict must be resolved in favour of the policy, which is contained in the last document to become part of the development plan.

12.8 For ease of reference, in this section the proposed Paignton Neighbourhood Plan policies are in black, my comments and any proposed modifications are in blue.

12.9 General Comments

In order to provide clarity and to ensure that the policies in the Paignton Neighbourhood Plan meet the Basic Conditions it has been necessary for me to make modifications to a number of policies. In a number of the policies the same modification has been made, as there is a repetition of certain wording in a number of policies. In these circumstances rather than repeat the reason for the modification I set out the reasoning here:

- *Where the word “permitted” has been used I have replaced it with “supported” as the decision to permit or refuse a planning application lies with the Local Planning Authority.*
- *Some policies have sought to introduce controls outside the scope of the planning system or where existing policy already sets out the scope of control.*
- *As the National Planning Policy Framework is in the process of revision I have removed reference to paragraph numbers, as these are likely to change when the new Framework is published.*
- *A number of policies refer to the requirement to provide financial contributions. Neighbourhood Plans can include a list of priorities for spending Neighbourhood Plan apportioned CIL payments (though not within the policy section) however the imposition of financial obligations is subject to administration by the Local Planning authority and set out in other policy which cannot be revised by the Neighbourhood Plan.*

Policy PNP1– Area Wide Policy

In all parts of the Paignton Neighbourhood Plan Area a balanced delivery of growth, biodiversity enhancement and more sustainable means of travel will be supported by:

More jobs:

Priority will be given to securing job led growth by supporting a net increase in permanent full time well paid jobs through:

- a) more intensive use of existing employment locations to achieve ‘spaceless’ growth;***
- b) new employment development on sites able to meet infrastructure needs and biodiversity enhancement;***
- c) taking particular advantage of the scope for jobs engaged in decentralised locations that reduce travel needs, involve new technologies, and will assist moving towards a low carbon economy.***

More homes:

Housing growth appropriate to meet local needs and biodiversity enhancement, including affordable housing, will be supported through:

- d) bringing back into use existing homes that have been vacant for 6 months or more;***
- e) a provision of net additional homes achieved by a wide variety of supply that***

includes conversions, more efficient use of vacant buildings in all use classes, self build, and encouraging community-led housing enterprises wherever possible;

f) discouraging the provision of houses in multiple occupation (HMOs) where they would adversely affect the tourism offer, worsen concentrations of deprivation, create conditions of community conflict, or conflict with the Article 4 Direction produced by the Council.

Protecting Local Identity

Ensuring that key areas of rural landscape, Local Green Space, and food production are safeguarded and enhanced to ensure an uplift in tourist appeal, enhanced biodiversity and community wellbeing by:

g) applying the policies of Annex 1 to all development proposals that may affect these areas.

Sustainable balance and design ensuring a balanced provision of new development at all times through:

h) job led growth and housing provision being kept in balance by regular (annual) reviews;

i) population growth and food retail floorspace additions being kept in balance at all times;

j) enhancement of local identity, heritage features, renewable and low carbon energy and construction solutions, by all development being required to comply with the Design Guide in Annex 2; and,

k) details that accord with Annex 3 of proposed foul and surface water drainage and other key infrastructure being required when development applications are first submitted, and not being dealt with subsequently by conditions.

Proposals that achieve a) to k) will be supported and those that conflict will be treated as a departure that can expect to be refused.

COMMENT

Policy PNP1 and the accompanying annexes are long and confusing seeking to cover a wide range of issues, some that would be better dealt with in separate policies and other elements, which are aspirational. I have modified this policy by creating a structure that provides

separate policy subsections while keeping it under the umbrella of PNP1. It has also been necessary for me to modify elements of the policy to meet the Basic Conditions.

As currently worded the main section of PNP1 represents aims and objectives rather than a policy that can effectively be used in the determination of planning applications. It sets out aspiration but lacks specificity.

A policy in a neighbourhood plan should be clear and unambiguous. It should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. It should be concise, precise and supported by appropriate evidence. It should be distinct to reflect and respond to the unique characteristics and planning context of the specific neighbourhood area for which it has been prepared.

I consider that as currently worded Policy PNP1 and the accompanying annexes do not follow this guidance. For clarity and in order to meet the Basic Conditions the policy should be modified as follows:

Policy PNP1-Area wide

In all parts of the Paignton Neighbourhood Plan Area a balanced delivery of growth, biodiversity enhancement and more sustainable means of travel will be supported.

Development proposals will be supported which:

a) provide new employment on sites able to meet infrastructure needs and biodiversity enhancement;

b) provide new employment in decentralised locations that reduce travel needs, involve new technologies, and will assist moving towards a low carbon economy.

c) provide housing growth appropriate to meet local needs and the strategic needs set out in the Torbay Local Plan 2012-30, including affordable housing.

d) bring back into use existing homes that have been vacant for 6 months or more;

e) provide additional homes by the conversions of existing buildings, more efficient use of vacant buildings in all use classes, self build; and community-led housing enterprises wherever possible;

Development will not be supported where:

f) the provision of houses in multiple occupation (HMOs) would adversely affect the

tourism offer, worsen concentrations of deprivation, create conditions of community conflict

Protecting Local Identity

The plan seeks to ensure that safe key areas of rural landscape, Local Green Space, and food production are safeguarded and enhanced to ensure an improvement in tourist appeal, enhance biodiversity and community wellbeing. This will be achieved by applying Policy PNP1 (and its subsections) to all development proposals where appropriate.

Sustainable development will be achieved by ensuring a balanced provision of new development through supporting:

i)) job led growth and housing provision being kept in balance by regular (annual) reviews;

ii) balanced growth of food retail floorspace

iii) enhancement of local identity, heritage features, renewable and low carbon energy and construction solutions

iv) foul and surface water drainage and other key infrastructure being required when major development (as defined in the Town and Country Planning (Development Management Procedure) (England) Order 2015) applications are first submitted, and not being dealt with subsequently by conditions.

v) encouraging local food growing and production across the Plan area to increase and improve local food production assets and deliver community social and health benefits.

Annex 1 to Policy PNP1

Rural Character Area

Within the designated Rural Character Area (RCA) shown in Policy PNP19, development will not be supported unless it will demonstrably conserve and enhance:

(a) the value of the existing treescape, landscape, and scenic views;

(b) gains in biodiversity and coherent ecological networks by means other than offsetting;

(c) achievement of small scale food growing and rearing opportunities, improvement of soil quality and structure;

(d) the Torbay Green Infrastructure Delivery Plan proposals shown in Figure 6.1 (page 23); and

(e) the management strategy of Policy PNP19 (page 54).

In respect of (c), new and net additional employment opportunities using small- scale agro ecological methods will be strongly encouraged and will add great weight to applications.

Adverse social or environmental impacts from proposals involving intensive mega-farms will be material considerations where development is proposed that requires approval.

Proposals that do not provide positive benefit towards a) to e) will be treated as departures and can expect to be refused.

Policy PNP1 (a)

Rural Character Area

Within the designated Rural Character Area (RCA) shown in Policy PNP19, development proposals should have regard to policy C1 of the Torbay Local Plan 2015 and where appropriate, should be accompanied by supporting information, which demonstrates how the proposal will:

(a) value the existing treescape, landscape, and scenic views;

(b) increase biodiversity and coherent ecological networks by means other than off-setting;

(c) achieve small scale food growing and rearing opportunities including improvement of soil quality and structure;

(d) implement the Torbay Green Infrastructure Delivery Plan proposals shown in Figure 6.1 (page 23); and

(e) implement the management strategy of Policy PNP19.

f) support the provision of new allotments alongside new developments in White Rock,

Roselands, South Devon College, Great Parks and Collaton St. Mary where appropriate.

In respect of (c), new and net additional employment opportunities using small- scale agro ecological methods will be strongly encouraged.

Local Green Space

The areas designated as Local Green Space in this Neighbourhood Plan (Fig. 6.2 and Table 6.1 (pages 24/25) and shown in Part 7 of this Plan) will be safeguarded from any development that would threaten the retention or existing quality of the designated space unless:

(i) the space designated is no longer used by local residents or tourists; and

(ii) is no longer of local amenity value.

COMMENT

The Paignton Neighbourhood Plan area is fortunate in having many open spaces and parks, which are undoubtedly valued by the community. The list of areas put forward for designation as Local Green Spaces is extensive including 62 sites overall. Whilst I acknowledge the importance of these areas to the community, in order to be designated as Local Green Spaces each proposed site must meet all of the tests set out in paragraph 76/77 of the National Planning Policy Framework.

Local Green Space designation is a “restrictive and significant policy designation” equivalent to Green Belt designation. It is essential that, when allocating Local Green Space, plan-makers can clearly demonstrate that the requirements for its allocation are met in full. Paragraph 77 of the NPPF:

“The Local Green Space designation will not be appropriate for most green areas or open space. The designation should only be used:

- where the green space is in reasonably close proximity to the community it serves;*
- where the green area is demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquility or richness of its wildlife; and*
- where the green area concerned is local in character and is not an extensive tract of land.*

Given that the Framework is not ambiguous in stating that a Local Green Space designation is not appropriate for most green areas or open space, it is entirely reasonable to expect compelling evidence to demonstrate that any such allocation meets national policy requirements.

I have received objection to a number of the proposed designations and I have, where relevant taken these objections into consideration. In particular, I received objection to the inclusion of PLGS14 Parkfield and PLGS 20 Oldway from Torbay Council.

Torbay Council object to the inclusion of Parkfield on the grounds that the designation appears to sit “uneasily with the use of Parkfield”. I am unclear as to the meaning of this phrase but am satisfied that the site meets the criteria set for designation.

Whilst Torbay Council accepts that Oldway Mansion and its grounds are “of value to the community and are of wider historic interest” the Council is concerned that the designation of the whole of the site as a Local Green Space makes it an extensive area and includes the whole of the Oldway Complex. I have considered this matter carefully and my conclusion is that the boundary of the LGS designation is clearly defined and rationale and that the proposal meets the required criteria.

Torbay Development Corporation has objected to many of the Local Green Spaces in their ownership on the basis that they have development potential. I do not consider this to be a valid objection in terms of whether or not the proposed designations meet the required tests. I do however note in light of other policies which seek to promote development on some proposed Local Green Space designations in the plan, it may have been more appropriate to designate some of the areas as open spaces under paragraph 74 of the NPPF however it has been necessary for me to deal with the policies before me.

A number of the proposed designations are already covered by various policy designations but this in itself is not a reason to exclude a proposed designation however if land is already protected by designation, then consideration should be given to whether any additional local benefit would be gained by designation as Local Green Space. My conclusion is that whilst most of the proposed Local Green Spaces do meet the required criteria set out in paragraph 77 of the National Planning Policy Framework there are a number, which do not. Therefore, in order to meet the Basic Condition, the following proposed Local Green Spaces should be deleted:

24. Occombe Valley Woods should be deleted on the following grounds:

- Covering 37 hectares I consider it to be an extensive tract of land therefore not meeting the required tests to be designated as a local Greenspace.*

- *It already has significant protection under policy SS9 of the Torbay Local Plan. And as a local nature reserve and county wildlife site.*

30. Primley Woods and Meadows should be deleted on the following grounds:

- *Covering 13 hectares I consider it to be an extensive tract of land therefore not meeting the required tests to be designated as a local Greenspace.*
- *It already has policy protection as an Urban Landscape Protection Area*

32. Clennon Valley should be deleted on the following grounds:

- *Covering 67 hectares I consider it to be an extensive tract of land therefore not meeting the required tests to be designated as a local Greenspace.*
- *It already has significant existing policy protection as an Urban Landscape Protection Area, a county wildlife site/s, and Local wildlife site.*

54. Great Parks Clennon Valley should be deleted on the following grounds:

- *Covering 27 hectares I consider it to be an extensive tract of land therefore not meeting the required tests to be designated as a local Greenspace.*
- *It already has significant protection under policies C1 and SS9 of the Torbay Local Plan. It is also a County Wildlife site.*

57. Westerland Valley should be deleted on the following grounds:

- *Covering 33 hectares I consider it to be an extensive tract of land therefore not meeting the required tests to be designated as a local Greenspace.*
- *It already has protection under policy C1 of the Torbay Local Plan. It is also a County Wildlife site.*

58. Yalberton Valley should be deleted on the following grounds:

- *Covering 36 hectares I consider it to be an extensive tract of land therefore not meeting the required tests to be designated as a local Greenspace.*
- *It already has protection under policy C1 of the Torbay Local Plan.*

60. Little Blagdon, Sunday Car Boot field should be deleted on the grounds that I have not been provided with sufficient evidence to persuade me that this site is: “demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquility or richness of its wildlife”.

61. Brake Copse should be deleted on the grounds that I have not been provided with sufficient evidence to persuade me that this site is: “demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquility or richness of its wildlife”.

62. Collaton Heath, Saturday Car Boot field should be deleted on the grounds that I have not been provided with sufficient evidence to persuade me that this site is “demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquility or richness of its wildlife”.

Revision to Local Green Space Boundaries

Whilst not proposing the deletion of PLGS.21. Shorton Valley Woods, Shorton Valley Road I have not been provided with adequate evidence to convince me that the area of land in private ownership indicated in Annex 3, page 11 of the letter from the Neighbourhood Forum on the 22nd of May 2018 should be included in the designation. The boundary should therefore be revised to exclude this area.

Whilst not proposing the deletion of PLGS.55. Snowdonia Close Collaton St Mary I have not been provided with adequate evidence to convince me that the area of land in private ownership indicated in Annex 3, page 15 of the letter from the Neighbourhood Forum on the 22nd of May 2018 should be included in the designation. The boundary should therefore be revised to exclude this area.

In addition, Fig.6.2 and Table 6.1 should be revised to remove the areas not accepted for designation and policy PNP1 (b) should be modified as follows:

PNP1 (b) Local Green Space

The areas designated as Local Green Space in this Neighbourhood Plan are shown on Fig. 6.2 and Table 6.1 (pages 24/25) and in Part 7 of this Plan. Proposals for new developments will only be supported in very special circumstances. ‘Very special circumstances’ will not exist unless the potential harm to these Local green spaces by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

Local Food

Local food growing and production will be safeguarded and encouraged across the Plan area to increase and improve local food production assets and deliver community

social and health benefits.

Financial contributions will be required, as appropriate, from developers to fund in full food production and growing infrastructure improvements.

Community priorities in terms of the preservation and addition of local food production facilities to be provided as a result of development within the Paignton Neighbourhood Plan Area are:

a) the establishment of community Local Food Hubs at Little Blagdon Farm (and farmhouse) and Great Parks delivered by a community scheme with the following structure at these sites:

i) Community Supported Agriculture; and/or

ii) a community social food enterprise;

b) the protection and restoration of existing orchards and the provision of increased orchard areas within the defined Rural Character Area of Policy PNP19;

c) the provision of new allotments alongside new developments in White Rock, Roselands, South Devon College, Great Parks and Collaton St. Mary in accord with Policies PNP19, PNP20, PNP21, PNP24 and PNP27;

d) making development sites that are unused for six months or more available to the local community for food growing until developed;

e) the creation of a network of dual- purpose edible hedgerows throughout new cycle and footpath networks to provide food and help minimise conflicts between traffic and cyclists or with pedestrians; and

f) support for:

i) local community groups that want to set up community food growing projects; and

ii) production of a Local Food Plan for Paignton aiming to deliver sustainable local food for residents throughout Paignton.

Proposals that achieve a) to f) will be supported and those that conflict will be treated as a departure that can expect to be refused

COMMENT

The Local Food element of annex 1 is long and is not a policy but contains community aspirations. This part of Annex1 should be moved to a separate part of the plan.

A policy in a neighbourhood plan should be clear and unambiguous. It should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. It should be concise, precise and supported by appropriate evidence.

Neighbourhood planning can inspire local people and businesses to consider other ways to improve their neighbourhood than through the development and use of land. They may identify specific action or policies to deliver these improvements. Wider community aspirations than those relating to development and use of land can be included in a neighbourhood plan, but actions dealing with non land use matters should be clearly identifiable. For example, set out in a companion document or annex.

Annex 2 to Policy PNP1

COMMENT

PNP1 Annex 2 is long and confusing seeking to cover a wide range of issues that would be better dealt with in separate policies. I have modified this policy by creating a structure that provides separate policy subsections while keeping it under the umbrella of PNP1. It has also been necessary for me to modify elements of the policy to meet the Basic Conditions.

A policy in a neighbourhood plan should be clear and unambiguous. It should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. It should be concise, precise and supported by appropriate evidence. It should be distinct to reflect and respond to the unique characteristics and planning context of the specific neighbourhood area for which it has been prepared.

This policy is long and confusing. It does not have any mechanism, which considers the appropriate level of information required in connection with an application based on the size and scale of the development proposal. It also covers elements which either fall outside the control of the planning system or ones for which an existing policy mechanism exists. This policy is seeking to introduce control in excess of existing policy without providing the necessary evidence to provide justification for the additional level of control.

I consider that, as currently worded Policy PNP1 Annex 2 does not follow this guidance. For clarity and in order to meet the Basic Conditions the policy should be modified. I have shown the original policy section with the modification below.

Design Guide

All development proposals within the Neighbourhood Plan Area will be expected to accord with the following design principles:

Strengthen local identity

- 1) retain all existing natural and manmade features that make the location distinctive and attractive;***
- 2) be in keeping with the surroundings in scale, design, height, density, landscaping, use and colour of local materials;***
- 3) important landscape or townscape vistas must not be adversely affected and accurate 'montage' photographic comparison information will be expected where such issues arise in development proposals received;***
- 4) avoid adverse effect on amenity in terms of noise, air, or light pollution. Non-complementary uses close to residential properties will not be permitted;***
- 5) Provide a concise 'Access and Design Statement' for development that will add 150 sq. metres or more of floorspace. The Statement to explain the rationale of site layout, access and provision for transport, building position, height, design style, material finishes and colours, any financial contribution for off site requirements, and how local building skills and suppliers will be used;***

Safeguard biodiversity and geodiversity

- 6) ensure layout and design will protect existing features of biodiversity value on site and biodiversity connections with related sites;***
- 7) provide hedgerow habitat on at least one development boundary to enhance biodiversity wherever possible;***
- 8) include features such as bat boxes, bricks or lofts and bird boxes on all new build developments, to increase species within the area;***
- 9) developments will not be permitted where it would adversely affect the ecologies of Sites of Special Scientific Interest (SSSIs), Special Areas of Conservation (SACs) or any protected or endangered species;***
- 10) ensure that features of geodiversity value are protected and wherever possible***

enhanced in their condition and future management;

11) include interpretation panels, signage, public art / sculpture or integration of design inspired by the Geopark into the public realm;

PNP 1(c) Design Principles

Development proposals, should where possible and appropriate to the scale and size of the proposal:

1. Strengthen local identity by:

i) retaining existing natural and manmade features that make the location distinctive and attractive;

ii) being in keeping with the surroundings respecting scale, design, height, density, landscaping, use and colour of local materials;

iii) respecting important landscape or townscape vistas. Applicants are encouraged to provide accurate 'montage' photographic comparison information where such issues arise in development proposals.

iv) protecting residential amenity in terms of noise, air, or light pollution. Non-complementary uses close to residential properties will not be supported;

v) providing an Access and Design Statement

2. Safeguard biodiversity and geodiversity:

vi) Safeguarding biodiversity and geodiversity by ensuring that layout and design will protect existing features of biodiversity value on site and biodiversity connections with related sites; ensure that features of geodiversity value are protected and wherever possible enhanced in their condition and future management;

Treescape

12) include an independent survey of health and longevity of existing trees on site and protect existing trees from loss or damage where they have visual or ecological value;

13) replace trees that are unavoidably lost to the development with at least three replacements that will reach the same stature, or larger, and provide net biodiversity gains (National Planning Policy Framework 109) and additional ecosystem services in

the long term;

14) include three new trees for each new dwelling proposed (or in non- residential development one tree for each car parking space or 50m2 of gross floorspace). Such tree planting to be on site or close by, and be of demonstrable amenity and biodiversity net gain value;

15) for biodiversity enhancement, support in particular will be given to tree planting using species included in Appendix 3 of this Plan (page 109);

3. Treescape

vii) provide hedgerow habitat on at least one development boundary to enhance biodiversity wherever possible;

viii) include features such as bat boxes, bricks or lofts and bird boxes to increase species within the area;

ix) include a tree survey to the current British Standard and identify how trees to be retained will be protected during the course of construction.

x) include new tree planting. Developers are encouraged wherever possible to plant three new trees for each new dwelling proposed (or in non- residential development one tree for each car parking space or 50m2 of gross floorspace). Additional tree planting should be on site or close by, contributing to amenity and biodiversity.

xi) for biodiversity enhancement, support in particular will be given to tree planting using species included in Appendix 3 of this Plan (page 109);

Local food production capacity

16) protect and increase food growing spaces to reflect the orchard and food production heritage of the area;

4. Local food production capacity

xii) protect and increase food growing spaces to reflect the orchard and food production heritage of the area;

Residential facilities

17) support in particular will be given to residential development that will achieve

Passivhaus, EnerPHit, and Lifetime Homes standards, subject to meeting other policy and design considerations as defined;

18) include homezone design where on- street parking provision is proposed;

19) provide space for solid waste storage within each curtilage, in seagull proof structures sufficient to accommodate two wheelie bins of 240 litre size;

20) provide for each new dwelling, purpose designed cycle parking space that is covered, safe and convenient. Where cycle parking and bin storage are located within a garage, demonstrate the garage will be of sufficient size to house at least 2 cycles;

21) provide for wheelchair access and mobility scooter circulation throughout the site layout;

PNP 1(d) Residential Development

New residential development should aim to achieve where appropriate and subject to viability:

i) the highest standards of sustainable construction such as Passivhaus, EnerPHit), and Lifetime Homes standards, subject to meeting other policy and design considerations as defined;

ii) Homezone objectives should be followed where on- street parking provision is proposed;

iii) space for solid waste storage within each curtilage, in seagull proof structures sufficient to accommodate two wheelie bins of 240 litre size;

iv) for each new dwelling, purpose designed cycle parking space that is covered, safe and convenient. Where cycle parking and bin storage are located within a garage, demonstrate that the garage will be of sufficient size to house at least 2 cycles in addition to car parking;

v) safe wheelchair access and mobility scooter circulation throughout the site layout;

Commercial facilities

22) support in particular will be given to developments that achieve Passivhaus or EnerPHit standards; and

23) provision of out of sight waste storage in seagull proof structures for not less than two wheelie bins of 1100 litres in size for each commercial unit proposed;

PNP 1(e) Commercial Development

New commercial development should aim to achieve where appropriate and subject to viability:

i) the highest standards of sustainable construction such as Passivhaus or EnerPHit; and

ii) out of sight waste storage in seagull proof structures for not less than two wheelie bins of 1100 litres in size for each commercial unit proposed;

Towards a sustainable low carbon energy efficient economy

24) incorporate latest developments in sustainable construction and water management technologies that mitigate and adapt to climate change;

25) use reclaimed materials and natural finishes wherever possible;

26) include soft landscaped areas for natural drainage of rain water, and compensate fully for any existing soft area lost to development;

27) include on site renewable energy generation to achieve 20% of subsequent in-use requirement wherever possible. Wind turbines and solar arrays will be encouraged where they do not adversely affect residential amenity, a vista of landscape value, or designated conservation area;

28) include connecting cycleways and footpaths where development involves new road infrastructure;

COMMENT

The ministerial statement made by Secretary of State for communities and Local Government advises:

When determining planning applications for wind energy development involving one or more wind turbines, local planning authorities should only grant permission if:

1. The development site is in an area identified as suitable for wind energy development in a local or Neighbourhood Plan, and

2. Following consultation, it can be demonstrated that the planning impacts identified by affected local communities have been fully addressed and therefore the proposal has their backing.

The Paignton Neighbourhood Plan has not identified areas as suitable for wind energy development and I have modified this part of the policy accordingly.

PNP1 (f) Towards a sustainable low carbon energy efficient economy

New development should aim to achieve where appropriate and subject to viability:

i) the latest developments in sustainable construction and water management technologies that mitigate and adapt to climate change;

ii) the use of reclaimed materials and natural finishes;

iii) include soft landscaped areas for natural drainage of rain water, and compensate fully for any existing soft area lost to development;

iv) on site renewable energy generation to achieve 20% of subsequent in-use requirement wherever possible. Solar arrays will be encouraged where they do not adversely affect residential amenity, a vista of landscape value, or designated conservation area;

v) connecting cycleways and footpaths where development involves new road infrastructure;

Designing out crime

All developments will be expected to show how crime and the fear of crime have been taken into account in the proposals submitted having regard to:

29) Access and movement – places with well-defined and well used routes with spaces and entrances that provide convenient movement without compromising security;

30) Structure – places that are structured so that different uses do not cause conflict;

31) Surveillance – places where all publically accessible spaces are overlooked;

32) Ownership – places that promote a sense of ownership, respect, territorial responsibility and community;

33) Physical protection – places that include necessary, well designed security

features;

34) Activity – places where the level of human activity is appropriate to the location and creates a reduced risk of crime and a sense of safety at all times;

35) Management and maintenance – places that are designed with management and maintenance in mind, to discourage crime;

COMMENT

This section of policy is long and the level of detail unnecessary. For clarity and in order to meet the Basic Conditions the policy should be modified as follows. If there is a desire to retain the additional detail it should be placed in a community aspiration section of the plan

PNP1 (g) Designing out crime

All developments will be expected to show how crime and the fear of crime have been taken into account in the proposals submitted having regard to “Designing out Crime” Guidance.

Sustainable transport

36) wherever possible locate all car access at the periphery of the development with electric vehicle charging points;

37) provide comprehensive direct networks for walking, cycling and public transport within and beyond the development;

38) where on-site roads are planned, utilised or provided, schemes must include:

i) car free areas within the development;

ii) shared space streets and squares;

iii) on-street secure cycle storage; and

iv) dedicated space for car club transport.

Proposals that meet 1) to 38) above will be supported and those that fail to do so can expect not to be approved.

PNP1 (h) Sustainable transport

New development should aim to achieve where appropriate and subject to viability:

i) electric vehicle charging points;

ii) comprehensive direct networks for walking, cycling and public transport within and beyond the development;

Where on-site roads are planned schemes will be encouraged to include:

i) car free areas within the development;

ii) shared space streets and squares;

iii) on-street secure cycle storage; and

iv) dedicated space for car club transport.

Surface Water

Area wide

Developments will be required to achieve more than sustainable drainage improvements and move beyond Sustainable Urban Drainage systems (SUDs) by keeping surface water out of the combined sewer network at source:

a) developments must employ specific agro-hydrological measures using local topography and geology including bio- retention swales, leaky dams, tree-pit planting, attenuation wetlands and natural water infiltration areas as part of the scheme;

b) residential and other use schemes will be required to achieve more than sustainable drainage improvements with:

i) water sensitive scheme-wide redistribution of surface water runoff for non-potable uses including garden irrigation and, except in the case of d), toilet flushing; and

ii) strong architectural design in water management including permeable surfaces, raingardens, raingarden planters, micro-ponds, micro- wetlands, green roofs and walls, and rainwater harvesting and reuse;

c) all developments, before development can commence, will be subject to surface water sensitive planning conditions in accordance with Policy PNP1 (k); and

d) the provision of waterless toilet systems is encouraged in all developments within the Rural Character Area defined in Policy PNP19.

Proposals that prevent a) to d) from being achieved will not be approved.

PNP1 (l) Surface Water

Developments will be required to comply with all relevant drainage and flood risk policy. Proposals, which achieve more than sustainable drainage improvements and move beyond Sustainable Urban Drainage systems (SUDs) by keeping surface water out of the combined sewer network at source are encouraged.

Where appropriate, achievable and viable the following water management mechanisms should be included:

a) specific agro-hydrological measures using local topography and geology including bio-retention swales, leaky dams, tree-pit planting, attenuation wetlands and natural water infiltration areas as part of the scheme;

i) water sensitive scheme-wide redistribution of surface water runoff for non-potable uses including garden irrigation and, except in the case of d), toilet flushing; and

ii) strong architectural design in water management including permeable surfaces, raingardens, raingarden planters, micro-ponds, micro-wetlands, green roofs and walls, and rainwater harvesting and reuse;

The provision of waterless toilet systems is encouraged in all developments within the Rural Character Area defined in Policy PNP19.

Town Centre & Seafront

Policy PNP2 - Town Centre

All development within the Town Centre area shown on the Town Centre and Seafront inset plan (Fig. 6.3 page 32) will be expected to support re-creation of the Garden Town by improving and linking green spaces, greening the streets and buildings that connect them and permeability to the seafront and historic Old Town.

Subject to other policies in the Neighbourhood Plan, all proposals that embrace this theme will be positively supported and development proposals permitted where they:

a) improve the vibrancy, cultural experience, appearance, and layout of the area;

- b) take full account of flood risk; achieve bold but sensitive change;**
- c) result in retail growth being retained within the Town Centre;**
- d) make it easier to move around by all forms of transport according to the ‘hierarchy of sustainability’;**
- e) increase residential accommodation within the area;**
- f) protect heritage assets and remove unattractive features that offend the ambience;**
- g) enhance the provision of urban wildlife corridors and biodiversity links within the area, and with adjoining areas; and**
- h) meet the Design Guide criteria attached as Annex 2 to Policy PNP1.**
- i) Proposals that prevent a) to i) from being achieved will not be approved.**

COMMENT

A policy in a neighbourhood plan should be clear and unambiguous. It should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. It should be concise, precise and supported by appropriate evidence.

The requirements of this policy will not be appropriate for “all development” and paragraph (i) seeks to introduce controls that are not supported by national or local policy and guidance and should be deleted. For clarity and to meet the Basic Conditions the policy should be modified as follows:

Policy PNP2 - Town Centre

Development within the Town Centre area shown on the Town Centre boundary as shown in the Torbay Local Plan 2012-2030 will be expected, where appropriate, viable and deliverable to support the re-creation of the Garden Town by improving and linking green spaces, greening the streets and buildings that connect them and permeability to the seafront and historic Old Town.

Subject to other policies in the Neighbourhood Plan, proposals that embrace this theme will be positively supported where they:

- a) improve the vibrancy, cultural experience, appearance, and layout of the area;**

- b) take full account of flood risk;*
- c) focus retail use within the Town Centre and promote retail growth;*
- d) make it easier to move around by all forms of transport according to the ‘hierarchy of sustainability’ set out in policy TA1 of the Torbay Local plan;*
- e) increase residential accommodation within the area;*
- f) protect heritage assets and remove unattractive features which have a negative impact upon the character of the area;*
- g) enhance the provision of urban wildlife corridors and biodiversity links within the area, and with adjoining areas; and*
- h) meet the relevant Design Guide criteria set out in Policy PNP1(c).*

Policy PNP3 – Paignton Harbour

Improvement of the Harbour and frontage to the harbour shown on the Town Centre and Seafront inset plan (Fig. 6.3 page 32) will be encouraged and development proposals permitted where they will:

- a) retain the heritage features and ‘quaintness’ of the harbour;***
- b) continue the mix of traditional uses as a working harbour, including commercial and residential accommodation;***
- c) attract more tourists;***
- d) improve existing on and off-street parking for greater use by tourists, to include provision for bicycles, motor cycles and recharging facilities for low emission vehicles;***
- e) enable more use of the harbour for water sports;***
- f) enhance the presence of wildlife; and***
- g) enable use of developer contributions to improve harbour facilities and resilience to flood risk.***

Proposals that prevent a) to g) from being achieved will not be approved.

COMMENT

Please see my general comments at the beginning of this section. In order to meet the Basic Conditions, the policy should be modified as follows:

Policy PNP3 – Paignton Harbour

Improvement of the Harbour and frontage to the harbour shown on the Town Centre and Seafront inset plan (Fig. 6.3 page 32) will be encouraged and development proposals supported subject to other policies in this plan where they will:

- a) retain the heritage features and ‘quaintness’ of the harbour;***
- b) continue the mix of traditional uses as a working harbour, including commercial and residential accommodation;***
- c) attract more tourists;***
- d) improve existing on and off-street parking for greater use by tourists, to include provision for bicycles, motor cycles and electric vehicle charging points for low emission vehicles;***
- e) enable more use of the harbour for water sports;***
- f) enhance the presence of wildlife; and***

Where appropriate developer contributions will be used to improve harbour facilities and resilience to flood risk.

Policy PNP4- Seafront

Improvement of the Seafront shown within the Town Centre and Seafront inset plan (Fig. 6.3 page 32) will be supported and development proposals permitted that:

- a) protect all three Paignton Greens as designated Local Green Space for future generations and have no adverse effect on the interest, use, amenity, character or accessibility of this open space area;***
- b) upgrade the public realm and public shelters to provide enhanced seating, weather protection and information facilities that improve the tourism offer;***
- c) make improvements to the Vue/Flagship building, particularly to improve the aspect from Torbay Road by large canopy tree planting to achieve greening of the area.***

Proposals that prevent a) to c) from being achieved will not be approved.

In the long term, relocation of the multiplex cinema will be supported, provided that:

i) an alternative site is found for the cinema; and,

ii) an alternative use is found that would maximise the benefit the existing building can provide with its unrivalled views.

If the Vue building ceases to exist, the released space will be supported for use as a new greenway link to the seafront.

COMMENT

It is not necessary to include a) as the control over development for the three Paignton greens is explicit in their designation as Local Green Spaces i.e. development will only be permitted in “very special circumstances”. In order to meet the Basic Conditions and for clarity the policy should be modified as follows:

Policy PNP4- Seafront

Improvement of the Seafront shown within the Town Centre and Seafront inset plan (Fig. 6.3 page 32) will be encouraged including upgrading the public realm and public shelters to provide enhanced seating, weather protection and information facilities that improve the tourism offer.

Development proposals will be supported that make improvements to the Vue/Flagship building, particularly to improve the aspect from Torbay Road by large canopy tree planting to achieve greening of the area.

In the long term, relocation of the multiplex cinema will be supported, provided that any alternative use would maximise the benefit the existing building can provide with its unrivalled views.

If the Vue building is demolished and not replaced the released space will be supported for use as a new greenway link to the seafront.

Policy PNP5 – Torbay Road

Enhancement of the Torbay Road Area from the railway crossing in the west to the seafront in the east shown on the Town Centre and Seafront inset plan (Fig. 6.3 page 32) will be encouraged and development proposals supported that:

a) bring the Picture House back to life as a tourist attraction (see Fig 6.4 page 37);

b) provide better pedestrian links to the seafront; and

c) explore the option for pedestrianisation.

Schemes will be expected to deliver:

d) improvement and extensions to the walkway canopy locations that are sympathetic to the heritage and greening of the area; and

e) landscaped links to enhance the green infrastructure network and urban wildlife corridors of the existing road and adjoining areas between the level crossing and seafront.

Food and drink developments fronting onto wide pavements on the southern side will be encouraged to make greater use of the route during hours of opening in a manner that does not impede ease of pedestrian movement.

Proposals that prevent any part of Policy PNP5 from being achieved will not be approved.

COMMENT

Please see my general comments at the beginning of this section. In order to meet the Basic Conditions, the policy should be modified as follows:

Policy PNP5 – Torbay Road

Enhancement of the Torbay Road Area from the railway crossing in the west to the seafront in the east shown on the Town Centre and Seafront inset plan (Fig. 6.3 page 32) will be encouraged and development proposals supported that:

a) bring the Picture House back to life as a tourist attraction (see Fig 6.4 page 37);

b) provide better pedestrian links to the seafront; and

c) explore the option for pedestrianisation.

Schemes will be expected to include where appropriate, achievable and subject to viability:

d) improvement and extensions to the walkway canopy locations that are sympathetic

to the heritage and greening of the area; and

e) landscaped links to enhance the green infrastructure network and urban wildlife corridors of the existing road and adjoining areas between the level crossing and seafront.

Food and drink developments fronting onto wide pavements on the southern side will be encouraged to make greater use of the route during hours of opening in a manner that does not impede ease of pedestrian movement.

Policy PNP6 – Station Square ‘Gateway’

Improvement of the Station Square Area shown on the inset plan (Fig. 6.4 this page) will be encouraged and proposals supported where they will:

- a) enhance the public realm;*
- b) showcase the Picture House and Steam Railway as tourist attractions;*
- c) enhance the provision of transport interchange facilities; and*
- d) provide financial contributions that enable implementation to be achieved.*

Subject to other policies in the plan, improvement of the area will be supported that betters the function, amenity and public enjoyment by design detail that will:

- e) open out the area, reduce congestion, encourage low vehicle speeds, create a pedestrian-friendly environment, discourage inappropriate parking, retain heritage features, increase public seating provision, improve street furniture and signage, and incorporate quality planting to green the area;*
- f) enhance the provision of existing interchange facilities at Station Square, the level crossing, station approaches to surrounding streets and paths with the aim of improving access for all, especially the elderly and persons with mobility limitations;*
- g) provide space for additional modes of transport that include park-and-ride facilities to connect with outer Paignton, nearby on-street provision for Car Club providers to serve the area, and secure additional cycle parking facilities in the area.*

Proposals that prevent a) to g) from being achieved will not be approved.

COMMENT

Please see my general comments at the beginning of this section. In order to meet the Basic Conditions, the final sentence of the policy should be deleted.

Policy PNP7 – Victoria Square

Opportunities to improve the Victoria Square Area shown on the inset plan (Fig. 6.5 this page) will be supported and development proposals permitted that:

- a) improve the use and amenity of the area;**
- b) form part of a new development that provides an equivalent replacement of any existing off-street car parking and coach parking that is lost;**
- c) encourage ‘themed markets’ on the square;**
- d) result in no loss of public open space, trees, amenity area, or pedestrian links that detract from greening the town centre;**
- e) connect to and enhance the green infrastructure network and urban wildlife corridors of the adjoining areas, especially between the square and seafront;**
- f) include provision for low emission vehicle recharging facilities, and parking space for cycles and motor cycles for use by residents and tourists alike; and**
- g) support improvements to Victoria Square by delivering developer contributions as a prerequisite to the grant of planning permission.**

Proposals that prevent a) to g) from being achieved will not be approved.

COMMENT

If the policies and proposals are to be implemented as the community intended a neighbourhood plan needs to be deliverable. The National Planning Policy Framework requires that the sites and the scale of development identified in a plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened.

In order to meet the Basic Conditions PNP7 should be modified as follows:

Policy PNP7 – Victoria Square

Opportunities to improve the Victoria Square Area shown on the inset plan (Fig. 6.5 this page) will be encouraged and development proposals supported that where appropriate:

- a) improve the use and amenity of the area;*
- b) include parking provision to adopted standards*
- c) encourage ‘themed markets’ on the square;*
- d) retain public open space, trees, amenity areas, or pedestrian links that contribute to the greening the town centre;*
- e) connect to and enhance the green infrastructure network and urban wildlife corridors of the adjoining areas, especially between the square and seafront;*
- f) include provision for electric vehicle charging points for low emission vehicles recharging and parking space for cycles and motor cycles for use by residents and tourists alike;*

Policy PNP8 – Crossways, Hyde Road, and Torquay Road

Development proposals in the Crossways, Hyde Road, and Torquay Road Area shown on the inset plan (Fig 6.6 this page), will be supported that:

- a) retain the primary and secondary retail frontages along Hyde Road and Torquay Road shown in PNP18;***
- b) enable reoccupation of the existing Crossways shopping centre for retail use, or redevelopment for retail or mixed use at ground floor level with residential accommodation above; and***
- c) retain the pedestrian link between Torquay Road and Hyde Road in a manner that contributes towards improvement of the pedestrian network and green infrastructure links.***

Proposals that prevent a) to c) from being achieved will not be approved

COMMENT

Please see my general comments at the beginning of this section. In order to meet the Basic Conditions, the reference to PNP18 and the final sentence should be deleted.

Policy PNP9 – Victoria Park

Protection and enhancement of the designated Local Green Space of Victoria Park shown on the inset plan in Part 6 (PLGS.02 page 70) will be supported by:

a) keeping the current size and accessibility of the Park as a designated Local Green Space in accordance with National Planning Policy Framework 73, 74 and 76;

b) keeping the park as public open space; and

c) encouraging any enhancement of the Park only if it is not to the detriment of:

i) its use for open space recreation, amenity and enjoyment;

ii) its open space character; and

iii) its means of pedestrian connection.

Proposals that prevent a) to c) from being achieved will not be approved.

COMMENT

Please see my general comments at the beginning of this section. By designating Victoria Park, as a Local Green Space control over development is explicit i.e. development will only be permitted in “very special circumstances”. In order to meet the Basic Conditions this policy should be modified as follows:

Policy PNP9 – Victoria Park

Proposals for new developments within the designated Local Green Space of Victoria Park shown on the inset plan in Part 6 (PLGS.02 page 70) will only be supported in very special circumstances. ‘Very special circumstances’ will not exist unless the potential harm to these Local green spaces by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

The following Improvements to the Local Green Space will be supported:

i) its use for open space recreation, amenity and enjoyment;

ii) its open space character; and

iii) its means of pedestrian connection.

Policy PNP10 – Queens Park

Proposals for new developments within Queens Park shown on the inset plan in Part 6 (PLGS.05 page 71) will be permitted provided they:

- a) retain the Local Green Space designation afforded to the area in accordance with National Planning Policy Framework 73, 74 and 76 and PNP1;**
- b) increase the area of open space available on site;**
- c) expand the field spaces used for sport and recreation in the park;**
- d) include large canopy tree planting to enhance the contribution of the Park to the Garden Town landscape; and**
- e) deliver enhanced green and blue infrastructure from the park to its environs and the seafront.**

Proposals that prevent a) to e) from being achieved will not be approved

COMMENT

Please see my general comments at the beginning of this section. By designating Queens Park, as a Local Green Space control over development is explicit i.e. development will only be permitted in “very special circumstances”

In order to meet the Basic Conditions this policy should be modified as follows:

Policy PNP10 – Queens Park

Proposals for new developments within Queens Park shown on the inset plan in Part 6 (PLGS.05 page 71) will only be supported in very special circumstances. ‘Very special circumstances’ will not exist unless the potential harm to these Local green spaces by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

Improvements to the Local Green Space will be supported that:

- a) increase the area of open space available on site;*
- b) expand the field spaces used for sport and recreation in the park;*
- c) large canopy tree planting to enhance the contribution of the Park to the Garden*

Town landscape; and

d) deliver enhanced green and blue infrastructure from the park to its environs and the seafront.

Policy PNP11 – Old Town

Development will be encouraged in the ‘Old Town’ area of Paignton shown on the inset plan (Fig. 6.7 page 43) that as a priority adopts the heritage and visual enhancement, greening, and regeneration themes of this area.

Subject to other policies in the plan, all development proposals (including shop and building fronts) that embrace these themes will be permitted.

Financial contributions will be required in connection with developments fronting onto or directly served by the ‘Old Town’ to implement such provision. They are required to:

a) deliver ‘old town’ signage, and historic information, at key interchanges for tourists and users of the area and its environs to make it easier to find and enjoy;

b) improve pedestrian, cycle and public transport connections and accessibility with the transport hub and seafront;

c) support more use of the highway and Palace Gardens areas for local markets and events;

d) secure the provision of specialty shops in Winner Street and improvement of residential amenity in Well Street;

e) contribute to the establishment of a Heritage Centre within the ‘Old Town’; and

f) remove street clutter and eyesores that detract from the area.

Where development occurs in the ‘Old Town’ it must not be detrimental to the maximum use of the Palace Theatre as a key facility.

Palace Gardens will be protected as a designated Local Green Space in accordance with National Planning Policy Framework73, 71 and 76. Proposals that result in any loss of the green, or which will have a significant adverse effect on the interest, use, amenity, character or accessibility of this space will not be permitted.

COMMENT

PNP11 is not a policy but a list of community aspirations/projects and should be modified and moved to a separate section of the plan. It could be rephrased and included in a CIL priority list.

Policy PNP12 – Getting Around

Integrated transport in the town centre and seafront area defined (Fig. 6.3 page 32) is encouraged. For development to proceed, financial contributions will be required from schemes fronting onto or directly served by town centre and seafront routes to fund, in full, necessary active travel, public transport and highway infrastructure.

Community priorities in terms of additional local facilities to be provided as a result of development in the town centre and seafront area and routes served by it are:

- a) the provision of a travel plan explaining how the development will encourage and make it easier to move around in regard to the hierarchy of sustainability;***
- b) delivering a review of the way traffic uses the area and how it interacts with pedestrians;***
- c) the improvement of pedestrian connections;***
- d) the provision of safe, continuous, separated cycling and pedestrian pathways to all schools, employment and tourist sites in the area;***
- e) - the completion of Paignton's missing links in the National Cycle Route Network in support of Local Plan Policy SS6;***
- f) helping public transport better meet user needs;***
- g) de-cluttering of the town centre to make it easier to move around;***
- h) the improvement of transport connectivity and signage for visitors;***
- i) improving surfaces for all pedestrians, including disabled people; and***
- j) ensuring that town centre parking for cycles, motorcycles and cars supports town centre viability.***

Proposals that prevent a) to j) from being achieved will not be approved.

COMMENT

PNP12 is not a policy but a list of community aspirations/projects and should be modified and moved to a separate section of the plan. It could be rephrased and included in a CIL priority list.

Policy PNP13 – Housing opportunities within the Town Centre

To retain and increase the provision of homes within the Town Centre Area shown on the inset plan (Fig. 6.3 page 32), the following will apply:

a) development will not be permitted that will result in an overall reduction in residential accommodation as part of ensuring the area remains in use throughout the day;

b) additional housing provision identified in the Local Plan and Table 8.1 of this Plan will be supported in the following locations, subject to the development meeting the other policies of this Plan that apply:

i) Paignton Harbour;

ii) Crossways;

iii) Station Lane;

iv) Station Square (former Gerston Hotel);

v) Victoria Square;

c) to help ensure the additional homes meet local needs and remain occupied throughout the year, formal agreement will be required on the grant of planning permission that restricts first occupation to purchasers or tenants who have lived in Torbay for more than 5 years, work in Torbay, or can demonstrate a confirmed offer of employment within Torbay; and

d) proposals must be supported by site specific flood risk assessment able to show the development will be safe for its lifetime and where necessary flood resilience measures must be incorporated; basement flats will not be permitted in areas of flood risk.

Proposals that prevent a) to d) from being achieved will not be approved.

COMMENT

I have not been provided with adequate evidence to support an occupancy restriction condition as proposed in this policy. In order to meet the Basic Conditions, the policy should be modified as follows:

Policy PNP13 – Housing opportunities within the Town Centre

To retain and increase the provision of homes within the Torbay Local Plan town centre boundary the following will apply:

a) development will be supported that retains residential accommodation as part of ensuring the area remains in use throughout the day;

b) additional housing provision identified in the Local Plan and Table 8.1 of this Plan will be supported in the following locations, subject to the development meeting the other policies of this Plan that apply:

i) Paignton Harbour;

ii) Crossways;

iii) Station Lane;

iv) Station Square (former Gerston Hotel);

v) Victoria Square;

c) proposals must comply with existing relevant Flood Risk policy and where appropriate proposals should be supported by site specific flood risk assessment able to show the development will be safe for its lifetime and with necessary flood resilience measures incorporated; basement flats will not be supported in areas of flood risk.

Policy PNP14 – Core Tourism Investment Area

To improve tourism opportunities in the seafront Core Tourism Investment Area shown (Fig. 6.8 page 47) further investment in tourist accommodation will be actively supported and:

a) Houses in Multiple Occupation known, as HMO's will be restricted to areas outside of the Core Tourism Investment Area in accordance with Policy PNP1 (f);

b) Within the Core Tourism Investment Area there will be flexibility to allow change of use from holiday accommodation where it can be evidenced there is no reasonable prospect of continuing use for tourism purposes and the change proposed would support and not detract from the Area's function;

c) Where a use away from tourism is permitted, buildings must be restored to their historic form by the removal of unsightly features considered to undermine the ambience of the development; and

d) evidence of neglect of properties will not be a reason supported for change of use of holiday accommodation that could otherwise be used for tourism purposes.

Proposals that prevent a) to d) from being achieved will not be approved.

COMMENT

Please see my general comments at the beginning of this section. In order to meet the Basic Conditions, the policy should be modified as follows:

Policy PNP14 – Paignton Neighbourhood Plan Core Tourism Investment Area

To improve tourism opportunities in the seafront Core Tourism Investment Area shown (Fig. 6.8 page 47) further investment in tourist accommodation will be actively supported and:

a) Houses in Multiple Occupation known as HMO's will not be supported within the Core Tourism Investment Area in accordance with Policy PNP1 (f);

b) Within the Core Tourism Investment Area there will be flexibility to allow change of use from holiday accommodation where it can be evidenced there is no reasonable prospect of continuing use for tourism purposes and the change proposed would support and not detract from the Area's function;

c) Applications for a change from tourism use should, where appropriate and necessary include information on proposals for the restoration of the building, to include the removal of any unsightly features considered to affect the character of the area.

Evidence of neglect of properties will not be a reason supported for change of use of holiday accommodation that could otherwise be used for tourism purposes.

Policy PNP15 – Flood and Sea Defences

To reduce the risk of flooding within the Town Centre Area defined by the inset plan (Fig. 6.3 page 32):

a) development proposals will not be permitted that remove buildings, structures, or other physical features where it is known they act as a brake on areas liable to flood from the sea, inland water flow, or drainage network, unless alternative compensating proposals are submitted and agreed;

b) all new developments will be required to reduce the amount of surface water entering the combined sewer network by water harvesting for use within the development, and by temporary storage solutions so that surcharging of the ground and sewer network is reduced during periods of intense rainfall;

c) areas of hard surface removal and replacement with soft surface landscaping will be encouraged in all developments to increase natural drainage and thereby increase capacity in the combined sewer network for additional development proposed in the Town Centre; and

d) development proposals in locations at risk of flooding from seawater will not be permitted without financial contributions towards strengthening of the sea defences.

Proposals that prevent a) to d) from being achieved will not be approved.

COMMENT

Pleas see my general comments at the beginning of this section. Flood risk and drainage covered under existing policies and to meet the Basic Conditions the policy should be modified as follows:

Policy PNP15 – Flood and Sea Defences

To reduce the risk of flooding within the Town Centre Area defined by the inset plan (Fig. 6.3 page 32) development proposals must comply with all existing Flood Risk policy requirements.

Proposals to remove buildings, structures, or other physical features that act as a brake on areas liable to flood from the sea, inland water flow, or drainage network, will not be supported unless alternative compensating proposals are submitted and agreed;

Where appropriate new developments will be required to demonstrate how surface water will be managed to achieve the reduction of the amount of surface water entering

the combined sewer network including water harvesting for use within the development, and by temporary storage solutions so that surcharging of the ground and sewer network is reduced during periods of intense rainfall;

The removal of hard surface areas and their replacement with soft surface landscaping will be encouraged in all developments to increase natural drainage and thereby increase capacity in the combined sewer network for additional development proposed in the Town Centre; and

Where appropriate, development proposals in locations at risk of flooding from seawater will be required to make financial contributions towards the strengthening of sea defences in accordance with Torbay Council CIL regime or S106 Obligation.

Policy PNP16 – Victoria Street

To support and enhance the vitality and viability of the Victoria Street area (Fig. 6.3 page 32), development proposals will be supported that:

- a) ensure there is no detriment to, or loss of, the existing street trees and public seating capacity in the area;**
- b) make more efficient use of vacant floors at upper levels, in particular, to facilitate the delivery of residential units in accordance with Area Wide Policy PNP1e);**
- c) remove building repairs and weed growth not sympathetic to the interest of the area;**
- d) deliver improvement to uneven surfaces;**
- e) make more use of the street for open air markets and similar attractions; and**
- f) permit greater use of the street surface for food and drink outlets fronting onto the pedestrianised area during hours of opening where there would be no detriment to pedestrian accessibility and ease of movement.**

Proposals that prevent a) to f) from being achieved will not be approved.

COMMENT

Please see my general comments at the beginning of this section. In order to meet the Basic Conditions, the final sentence should be deleted and the policy should be modified as follows:

Policy PNP16 – Victoria Street

To support and enhance the vitality and viability of the Victoria Street area (Fig. 6.3 page 32), development proposals will be supported that, where appropriate:

- a) retain existing street trees and public seating capacity in the area;*
- b) make more efficient use of vacant floors at upper levels, in particular, to facilitate the delivery of residential units in accordance with PNP1(e);*
- c) include proposals for the enhancement of existing buildings;*
- e) make more use of the street for open air markets and similar attractions; and*
- f) include greater use of the street surface for food and drink outlets fronting onto the pedestrianised area during hours of opening where there would be no detriment to pedestrian accessibility and ease of movement.*

Policy PNP17 – Transport ‘Gateway’ improvement

As part of improving the tourism and retail offer, support will be given within the transport gateway area (Figs. 6.3 and 6.4 pages 32 and 37) to:

- a) the provision of additional public toilet facilities easily accessed by travellers, residents, and tourists who use transport facilities in the vicinity of the bus and railway stations, and that remain open all day; and*
- b) the provision of a principal tourist information office close to the transport gateway in a central position for use by visitors.*

Both facilities to be open for use all year round.

COMMENT

I have no comment on this policy.

Policy PNP18 – Supporting independent traders

Within the Town Centre Area shown on the inset plan (Fig. 6.9 this page) the locations shown for the provision of primary and secondary retail facilities will be retained and development proposals that conflict with this objective will be refused.

COMMENT

The title of this policy is confusing as there is no direct link between the title and the contents.

For clarity the policy should be retitled. In addition, there is no description of the uses the policy is seeking to retain, the policy doesn't acknowledge permitted development and the final sentence is overly onerous. In order to meet the Basic Conditions, the policy should be modified as follows:

Policy PNP18 – Supporting the Retention of Retail Uses

The locations shown for the provision of primary and secondary retail facilities within the Town Centre Area shown on the inset plan (Fig. 6.9 this page) will be retained. Any change of use from A1 retail, requiring planning permission, within this area will only be supported where evidence has been provided that the use is no longer viable unless it supports other policies in the Neighbourhood Plan for wider town centre regeneration.

Western Area

Policy PNP19 – Safeguarding open countryside

The countryside is a finite resource and it is important to ensure that any further development in the countryside does not damage its quality and the relationship between urban and rural areas.

In accordance with National Planning Policy Framework 109 and Annex 1 of policy PNP1, the Rural Character Area shown on the inset plan (Fig. 6.10 page 54) identifies those areas where it is essential to retain the existing rural and landscape character, including its amenities, during the period of the Plan.

It is important to maintain and enhance our Rural Character Area and its relationship to the adjoining Area of Outstanding Natural Beauty (AONB).

Development proposals that prevent this policy from being achieved will not be approved.

COMMENT

The relevant strategic policy of the Torbay Local Plan relating to development in the open countryside is Policy C1. As currently worded this isn't a policy it is a statement. Planning Policy Guidance states:

“A policy in a neighbourhood plan should be clear and unambiguous. It should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications.”

PNP19 does not provide any criteria or framework for the determination of a planning application.

In order to meet the Basic Conditions, the policy should be modified as follows:

Policy PNP19 – Safeguarding open countryside

The countryside is a finite resource and it is important to ensure that any further development in the countryside does not damage its quality and the relationship between urban and rural areas.

In the Rural Character Area shown on the inset plan (Fig. 6.10 page 54) where it is essential to retain the existing rural and landscape character, including its amenities, during the period of the Plan development proposals will be supported where they are in conformity with the National Planning Policy Framework, Policy C1 of the Torbay Local Plan and PNP1,

It is important to maintain and enhance our Rural Character Area and its relationship to the adjoining Area of Outstanding Natural Beauty (AONB).

Policy PNP20 – Great Parks

Completion of development proposals in the Great Parks area shown on the inset plan (Fig. 6.11 this page) will be supported in accordance with the Masterplan produced in 2013, subject to the required further habitat safeguards being achieved to ensure no likely significant effects on protected species in the area.

Development proposals that prevent this policy from being achieved will not be approved.

Further proposals that enable local initiatives to boost market gardening, agroforestry, orchards, allotment spaces, horticulture and separated cycling facilities in the area will be supported.

COMMENT

In order to meet the Basic Conditions, the second paragraph of this policy should be deleted.

Policy PNP21 – White Rock and nearby areas

To secure job led growth and improved economic prosperity in a sustainable manner priority will be given in the White Rock and nearby areas northward to development

proposals that:

a) secure the provision of new employment opportunities to keep pace with new home opportunities already achieved;

b) encourage major employer organisations to invest and move into the area;

c) involve new technology developments such as high-tech engineering, research, renewable energy, energy efficiency and energy conservation;

d) enhance the facilities and operation of South Devon College;

e) include landmark planting on prominent hilltops together with improved connectivity of local ecological and wildlife assets with areas beyond Paignton; and

f) add allotments and orchard spaces for community use.

Further development southward will not be supported where it would result in the extension of Paignton into the adjoining Neighbourhood Plan area.

Proposals that prevent a) to f) from being achieved will not be approved.

COMMENT

In order to meet the Basic Conditions paragraph (b) should be deleted as it cannot form part of a policy and PNP21 should be modified as follows:

Policy PNP21 – White Rock and nearby areas

To secure job led growth and improved economic prosperity in a sustainable manner support will be given in the White Rock and nearby areas northward to development proposals that where appropriate:

a) secure the provision of new employment opportunities to keep pace with new home opportunities already achieved;

b) involve new technology developments such as high-tech engineering, research, renewable energy, energy efficiency and energy conservation;

c) enhance the facilities and operation of South Devon College;

d) include landmark planting on prominent hilltops together with improved connectivity of local ecological and wildlife assets with areas beyond Paignton; and

e) add allotments and orchard spaces for community use.

Policy PNP22 – Western Corridor

Active travel in the Western Corridor area is encouraged. Financial contributions will be required, as appropriate, from each developer to fund in full necessary active travel, public transport and highway infrastructure.

Community priorities in terms of additional local facilities to be provided as a result of development along the Western Corridor and routes served by it are:

a) the provision of safe, continuous, separated cycling and pedestrian pathways to all schools and employment sites in the area;

b) the delivery of a Western Area park- and-ride facility connecting with central Paignton to accord with policy PNP6 criteria g);

c) the establishment of a strategic, continuous, separate cycling and pedestrian pathway across open countryside to Totnes working with local landowners, Devon County Council and other involved authorities;

d) establishing a well connected green infrastructure network on both sides and middle of the Western corridor and the routes it serves by additional street tree planting and new public seating at selected points;

e) space for the secure parking of at least two community car club cars in all major developments and one in each residential local centre; and

f) other necessary highway and associated infrastructure.

Proposals that prevent a) to f) from being achieved will not be approved.

COMMENT

As currently worded the policy lacks clarity and includes elements, which I do not consider to be land use policy. The “Western Corridor” is not described or defined adequately on a map.

Please see my general comments at the beginning of this section. In order to meet the Basic Conditions, the policy should be modified as follows:

Policy PNP22 – Western Corridor

To support Active Travel in the Western Corridor area as shown on Fig 1.2 on page 8

where appropriate, viable and achievable development proposals should provide or contribute to the provision of the following:

a) the provision of safe, continuous, separated cycling and pedestrian pathways to all schools and employment sites in the area;

b) the delivery of a Western Area park- and-ride facility connecting with central Paignton to accord with policy PNP6 criteria g);

c) the establishment of a strategic, continuous, separate cycling and pedestrian pathway across open countryside to Totnes working with local landowners, Devon County Council and other involved authorities;

d) establishing a well connected green infrastructure network on both sides and middle of the Western corridor and the routes it serves by additional street tree planting and new public seating at selected points;

e) space for the secure parking of at least two community car club cars in all major developments and one in each residential local centre; and

f) other necessary highway and associated infrastructure.

Policy PNP23 –Yalberton to Blagdon Valley

Within the Yalberton to Blagdon Valley area shown on the inset plan (Fig. 6.12 this page), the following policy will apply:

a) safeguarding the whole of the area as a designated Local Green Space in accordance with National Planning Policy Framework 77 because of its importance to the local community and visitors as a place of landscape beauty, historical significance, recreational value, tranquility and richness of its ecology and wildlife;

b) working in partnership with neighbouring authorities and wildlife agencies to review all wildlife sites within the Valley and to arrive at any further appropriately comprehensive designations;

c) Treating the area as one of significant geographical importance within the English Riviera UNESCO Global Geopark area, in view of the Valley's caves, lime kilns, and underground karst system, and making application to include registration of the area as a Devon RIGS (Regionally Important Geographical Site);

d) progressing the designation of the upper part of the Valley shown on inset plan (Fig.

6.12 this page) as a Conservation Area in view of its buildings and areas of special architectural and historic importance;

e) protecting the unspool 'Devon Green Lane' known as Lidstone Lane or Whitehill Lane that runs from Lower Yalberton to Byter Mill, Stoke Gabriel, to the south;

f) encouraging proposals that make good use of small-scale food growing and rearing and horticulture opportunities and protection of the valley's extensive network of species-rich mature traditional hedges and large number of mature and veteran trees;

g) promoting the potential designation of the Valley from Blagdon to Yalberton as a 'Country Park' for the use and enjoyment of the local community and tourists; and

h) securing the provision of separated cycling facilities through and into the area with appropriate 'pinch points' at either end of Long Road to encourage cycling and discourage vehicles of more than 3.5 tonnes in total weight.

Proposals that prevent a) to h) from being achieved will not be approved.

COMMENT

As currently worded most elements of PNP23 are not policy but community aspirations or projects. I have deleted Yalberton to Blagdon Valley as a Local Green Space; my reasoning for this is given in PNP1(c).

In order to meet the Basic Conditions, the first paragraph of the policy should be deleted. I consider paragraphs b, c, d, e, f, g and h are community aspirations and should be moved to a separate section of the plan.

Policy PNP24 –Collaton St. Mary Village

Growth of Collaton St. Mary has been sporadic and piecemeal over many decades. Foul and surface water disposal and flooding has become a significant problem. Any further development beyond the present area will be supported only where the proposals:

a) are of a low organic level of growth over the total period of the Plan and only give effective development that grows the village gradually;

b) must focus and limit any development to re-establishing the village identity by the creation of a village centre, and green space for local activities and necessities, such as the Ocean Garage area;

c) do not detract from prominent landscape and other local features that give the area its identity and character;

d) include details that show sufficient capacity exists to accommodate the additional development and not cause any risk of flooding to existing properties. Giving approval with conditions requiring details to be submitted at a later time will not be accepted;

e) utilise minimal and sustainable existing brownfield development;

f) include supporting employment and other facilities required to meet local needs;

g) restrict future growth or development unless, and until, there is a properly costed, financed and achievable infrastructure in place to provide for, and service, such growth and development;

h) prevent any development creep, or urban creep;

i) prevent major road development, or new commuter routes, or change to or widening of the existing road network in the village, and prevents 'rat-runs' from arising;

j) gives priority at all times to meeting the needs of local residents; and

k) Adds allotments and orchard spaces for community use where achievable.

Proposals that prevent a) to k) from being achieved will not be approved.

COMMENT

Collaton St Mary has been identified as a "Future Growth Area" in the Torbay Local Plan and is subject to an adopted masterplan. National Planning Guidance states that neighbourhood plans should support the strategic development needs set out in the Local Plan and plan positively to support local development (as outlined in paragraph 16 of the National Planning Policy Framework) and should not promote less development than set out in the Local Plan or undermine its strategic policies (see paragraph 16 and paragraph 184 of the National Planning Policy Framework). Nor should it be used to constrain the delivery of a strategic site allocated for development in the Local Plan.

Should there be a conflict between a policy in a neighbourhood plan and a policy in a Local Plan, section 38(5) of the Planning and Compulsory Purchase Act 2004 requires that the conflict must be resolved in favour of the policy, which is contained, in the last document to become part of the development plan.

I have given very careful consideration to both the policy and the representations I have received. I have also considered the wider issues covered in the Exploratory Meeting, of whether or not the Neighbourhood Plan in failing to make site allocations alongside restrictive policies will not support the growth identified through the Torbay Local Plan and its strategic policies. I conclude that in order to ensure that policy PNP24 does “not promote less development than set out in the Local Plan or undermine its strategic policies (see paragraph 16 and paragraph 184 of the National Planning Policy Framework)” and does not “constrain the delivery of a strategic site allocated for development in the Local Plan” the policy should be modified as follows:

Policy PNP24 – Collaton St. Mary Village

Growth of Collaton St. Mary has been sporadic and piecemeal over many decades. Foul and surface water disposal and flooding have become a significant problem. Any further development beyond the currently developed areas will only be supported where the proposals are in accordance with the adopted masterplan for the area. Development proposals for residential development where appropriate should include details of how:

- a) the village identity will be re established by the creation of a village centre, and green space for local activities and necessities, such as part of the Ocean Garage area;***
- b) prominent landscape and other local features that give the area its identity and character will be protected;***
- c) employment and other facilities required to meet local needs will be supported;***
- d) the use of existing brownfield sites (also referred to as previously developed land) has been prioritised;***
- e) the needs of local residents have been considered; and***
- f) allotments and orchard spaces for community use have been incorporated.***

Residential development proposals where appropriate will be required to demonstrate:

- i) that sufficient capacity exists to accommodate the additional development and not cause any risk of flooding to existing properties.***
- ii) there is infrastructure in place to provide for, and service, such growth and development;***

iii) any supporting Transport Statement or Transport Assessment avoids major road development, or new commuter routes, or change to or widening of the existing road network in the village, and prevents 'rat-runs' from arising except for strategic improvements to the A385 proposed by policy SS6 of the Torbay Local Plan 2012-2030;

Policy PNP25 – Clennon Valley

Within the area of Clennon Valley and Goodrington Seafront shown on the inset plan (Fig. 1.2 page 8), development proposals will be supported that:

- a) retain and enhance the natural landscape character of the valley, biodiversity and waterway flowing through;**
- b) safeguard footpaths and facilities used by local residents;**
- c) improve provision of facilities for tourists that widen the tourism offer;**
- d) provide facilities that will be resilient to flood risk; and**
- e) widen the provision of all weather tourist attractions.**

Proposals that prevent a) to e) from being achieved will not be approved.

COMMENT

Please see my general comments at the beginning of this section.

In order to meet the Basic Conditions, the final sentence should be deleted.

Policy PNP26 – Clifton with Maidenway

Within the Clifton with Maidenway area shown on the inset plan (Fig. 1.2 page 8), development proposals will be supported that:

- a) retain and improve existing community facilities;**
- b) enable the provision of a community centre to be achieved;**
- c) protect and enhance existing landscape features;**
- d) make use of opportunities to improve the range and quality of housing provision.**

Proposals that prevent a) to d) from being achieved will not be approved

COMMENT

Please see my general comments at the beginning of this section. In order to meet the Basic Conditions, the final sentence should be deleted.

PNP27 Preston

Within the Preston area shown on the inset plan (Fig. 1.2 page 8), development proposals will be supported that:

a) retain and protect Preston Green and land shown at Sandringham Gardens and listed in Annex 1 to Policy PNP1 as designated Local Green Space;

b) make more of Oldway Mansion and grounds as a tourist attraction with enhanced facilities for local residents;

c) continue to focus tourism use in the areas shown (Fig. 6.8 page 47) and improve the seafront with a recreation and sports focus that include:

(i) public toilet facilities retained at Seaway Lane;

(ii) more use of Preston Gardens, to include a café;

(iii) a barbeque area on the seafront;

(iv) mixed use café, hotel and other facilities at Hollicombe, to include investigating the provision of a reef break to provide surfing opportunities;

d) increase the provision of community facilities in the top part of Preston, to include a community café;

e) provide modern stable facilities at Parkfield for community and tourist use.

f) add allotments and orchard spaces for community use; and

Proposals that prevent a) to f) and i) to iv) from being achieved will not be approved.

COMMENT

National Planning Guidance is clear:

“A policy in a neighbourhood plan should be clear and unambiguous. It should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when

determining planning applications.”

PNP27 as currently worded is not really a policy but a list of community aspirations. It sets out generally how the community would like to see the Preston area developed in the future without being precise enough as a measure for the determination of a planning application. PNP27 should be moved to a separate section of the plan.

SECTION 5

Conclusion and Recommendations

1. *I find that the Paignton Neighbourhood Plan has been prepared in accordance with the statutory requirements and processes set out in the Town and Country Planning Act 1990 (as amended by the Localism Act 2011) and the subsequent Neighbourhood Planning (General) Regulations 2012.*
2. *The Neighbourhood Plan does not deal with County matters (mineral extraction and waste development), nationally significant infrastructure such as highways and railways or other matters set out in Section 61K of the Town and Country Planning Act 1990.*
3. *The Paignton Neighbourhood Plan does not relate to more than one Neighbourhood Area and there are no other Neighbourhood Development Plans in place within the Neighbourhood Area.*
4. *The Sustainability Appraisal meets the EU obligations regarding Strategic Environmental Assessment. I have given the issue of the Habitats Regulation Assessment (HRA) very careful consideration in the light of the “People over Wind” decision by the European Court (Seventh Chamber) dated the 12th of April 2018. In essence this judgment relates to the HRA screening process. The Paignton Neighbourhood Plan does not make any site allocations and I concur with the opinion of Torbay Council in their email of the 4th of May 2018:*

“The Council, as competent authority under the Habitats Regulations is empowered to require the Qualifying Bodies to provide sufficient information to enable it to be satisfied in HRA terms. We have therefore reviewed the associated Neighbourhood Plan HRAs, and in the context of the above (notwithstanding any other representations on sites/specific elements) considers that the Assessment and Mitigation Measures set out in all three NP HRA 'Screening Stages' substantively meet the requirements. For absolute clarity, this could be made clearer through a minor re-formatting to set out the same in an 'Appropriate Assessment' Stage. Given that the information provided is sufficient to make the assessment, the LPA is prepared to make the minor amendments to formatting before making the plan. This would, in terms of the Council, (as competent authority), meet the HRA regulations.”

I am therefore satisfied that the Paignton Neighbourhood Plan meets the Basic Conditions in this respect.

5. *The Paignton Neighbourhood Plan is supported by a Sustainability Appraisal. I am satisfied that the policies and plans in the Paignton Neighbourhood Plan, subject to the recommended modifications would contribute to achieving sustainable development. Subject to modification they have regard to national policy and to*

guidance, and generally conform to the strategic policies of the Torbay Local Plan adopted in 2015.

- 6. Due to the number of modifications made to the policies within the plan, Torbay Council should make any necessary modifications (including to plans and supporting text) to ensure that there is consistency of numbering etc.*
- 7. The absence of a Policies Map will make the application of the policies within the plan difficult. I recommend that for clarity and ease of use the version of the plan submitted for referendum includes a Policies Map.*
- 8. I therefore consider that the Paignton Neighbourhood Plan subject to the recommended modifications can proceed to Referendum.*

Deborah McCann BSc MRICS MRTPI Dip Arch Con Dip LD

Planning Consultant

NEIGHBOURHOOD PLANNERS Examiner

CEDR accredited mediator

18th July 2018