

Wednesday, 7 November 2018

## Meeting of the Council

Dear Member

I am pleased to invite you to attend a meeting of Torbay Council which will be held in **Rosetor Room, Riviera International Conference Centre, Chestnut Avenue, Torquay, TQ2 5LZ** on **Thursday, 15 November 2018** commencing at **5.30 pm**

The items to be discussed at this meeting are attached.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Steve Parrock".

Steve Parrock  
Chief Executive

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

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**A prosperous and healthy Torbay**

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For information relating to this meeting or to request a copy in another format or language please contact:

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# Meeting of the Council Agenda

1. **Opening of meeting**

2. **Apologies for absence**

3. **Declarations of interests**

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

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

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

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

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

4. **Public question time**

To hear and respond to any written questions or statements from members of the public which have been submitted in accordance with Standing Order A24.

5. **Paignton Neighbourhood Plan - Determination of Independent Examination** (Pages 4 - 239)

To consider the submitted report on the above Plan.

6. **Torquay Neighbourhood Plan - Determination of Independent Examination** (Pages 240 - 465)

To consider the submitted report on the above Plan.

7. **Brixham Peninsula Brixham Peninsula Neighbourhood Plan - Determination of Independent Examination** (Pages 466 - 680)

To consider a report on the above Plan.

**Note**

An audio recording of this meeting will normally be available at [www.torbay.gov.uk](http://www.torbay.gov.uk) within 48 hours.



**Meeting: Council**

**Date:** 15 November 2018

**Wards Affected:** All Wards in Torbay

**Report Title:** Paignton Neighbourhood Plan – Determination of Independent Examination

**Is the decision a key decision?** Yes

**When does the decision need to be implemented?** A decision statement must be issued “as soon as possible” after Council.

**Executive Lead Contact Details:** Councillor Derek Mills, Deputy Mayor and Executive Lead for Planning, [derek.mills@torbay.gov.uk](mailto:derek.mills@torbay.gov.uk)

**Supporting Officer Contact Details:** Kevin Mowat, Assistant Director Business Services / Acting Assistant Director Planning and Transport, [kevin.mowat@torbay.gov.uk](mailto:kevin.mowat@torbay.gov.uk)

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## **1. Proposal and Introduction**

- 1.1 Neighbourhood planning was introduced by the Localism Act 2011; that Act introduced new rights and powers to enable communities to become directly involved in planning for their areas. Neighbourhood planning enables interested communities to produce a Neighbourhood Plan. There are detailed statutory requirements which dictate the process for formulating and making a neighbourhood plan.
- 1.2 Once ‘made’ (i.e. “adopted”), Neighbourhood Plans form part of the statutory development plan and therefore become an important consideration when determining planning applications.
- 1.3 This report sets out the local planning authority (LPA) officers’ recommendations in respect of the submitted plan.
- 1.4 The Paignton Neighbourhood Plan (‘the Plan’) has been submitted by the Paignton Neighbourhood Forum (‘the Forum’) who are the Qualifying Body for the area of Paignton as formally designated in December 2012 and reaffirmed in December 2017. A map of the designated area is shown in Appendix 4. It should be recognised by the Council that the Forum has worked tirelessly to prepare the plan.



- 1.5 The Plan has been the subject of a consultation and, following that, an independent examination which tested whether the Plan meets the requirements of the 'basic conditions' as set out by law.
- 1.6 The Examiner's report on the Plan was received by Torbay Council and the Forum on 18<sup>th</sup> July 2018. It recommends that, subject to the modifications proposed in the report, the Plan does meet 'basic conditions' and should proceed to a referendum. The Examiner also recommends that the referendum area does not need to be extended beyond the designated Plan Area.
- 1.7 Officers have considered each of the Examiners recommendations and reasons given in accordance with the law as set out in Appendix 2. In summary, a set of modifications that meet the legal 'basic conditions' are now proposed.
- 1.8 These modifications accept the vast majority of the Examiner's recommendations, but make a number of modifications not recommended by her. These additional modifications have reasons for doing so which find a proper statutory basis, and reflect an appropriate exercise of planning judgment taking all of the submitted representations into account. Four policies in particular which the examiner recommended be moved to a community aspiration section of the Plan have been retained. The rewording and retention of these policies are considered to meet the 'basic conditions' more closely than the examiner's unalloyed modifications. The need for re-consultation is discussed later in the Report, but Officers' advice is that this is not legally necessary in this case. In summary, the modifications proposed are not as a result of new evidence, or a new fact, or a different view taken by the authority as to a particular fact. Instead the modifications are as a result of a planning judgement taken on how the submitted Plan can meet the 'basic conditions' whilst maintaining the original intent of the community.
- 1.9 The Forum have indicated that they are in agreement with the Officer recommendations to Council.
- 1.10 It is recommended that the Council:
  1. Agrees the decision statement in Appendix 2, which shall be adopted and published accordingly, and that the Paignton Neighbourhood Plan as modified in Appendix 3, is submitted to a referendum in accordance with the Neighbourhood Planning (General) Regulations 2012 (as amended) and the Neighbourhood Planning (Referendums) Regulations 2012 (as amended); and,
  2. Delegate to the Assistant Director of Transport and Planning to ensure that the Policy maps are finalised for inclusion in the Plan prior to the referendum, reflecting all modifications set out in the decision statement in Appendix 2; and,

3. Accepts the Examiner's recommendation that it is not necessary to extend the referendum area and that the most appropriate area for the referendum will be that of the Paignton Neighbourhood Area.

### **Appendices**

- Appendix 1: Independent Examiner's Report  
Appendix 2: Decision Statement  
Appendix 3: Post Examination Neighbourhood Plan with modifications as recommended  
Appendix 4: Neighbourhood Area Map

### **Background Documents**

- Paignton Neighbourhood Plan Submission Version, and representations – [www.torbay.gov.uk/neighbourhood-plans](http://www.torbay.gov.uk/neighbourhood-plans)
- Council Approval of area designation – 7<sup>th</sup> December 2012 – [www.torbay.gov.uk/council](http://www.torbay.gov.uk/council)
- National Planning Policy Frameworks 2012 and 2018
- Planning Practice Guidance
- NPIERS Guidance
- Locality Neighbourhood Plans Roadmap

## **Supporting Information**

### **Section 1 : Background Information**

#### **2. What is the proposal/issue**

- 2.1 The Localism Act 2011 introduced new rights and powers to enable communities to get directly involved in planning for their areas. Neighbourhood planning allows interested communities through a Neighbourhood Forum to produce a Neighbourhood Plan.
- 2.2 The National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPG) state that neighbourhood planning enables communities to play a much stronger role in shaping the areas in which they live and work and in supporting new development proposals. It provides the opportunity for communities to set out a positive vision for how they want their community to develop and can put in place planning policies that will help deliver that vision of granting planning permission for the development they want to see.
- 2.3 In 2012, the Council decided to designate three large neighbourhood areas covering 100% of the geographical area of Torbay. This decision was unusual in the UK and has meant that the three neighbourhood plans are large and complex, which has required significant work by the community and LPA in formulating the plans.
- 2.4 There are a series of regulatory stages required by the Neighbourhood Planning (General) Regulations 2012 (as amended) ('the Regulations') that a plan must follow and the Paignton Neighbourhood Plan has been through these to date. Key dates are as follows:
- December 2012: Paignton Neighbourhood Forum and Area Designated.
  - 19 April - 31 May 2017: Pre-submission (Regulation 14) consultation on the draft Plan.
  - 18 August 2017: Paignton Neighbourhood Plan submitted to Torbay Council as the LPA.
  - 1 November - 18 Dec 2017: Plan published by Torbay Council for formal Regulation 16 public consultations.
  - December 2017: Neighbourhood Forums and Areas Re-Designated for statutory 5 years.
  - March 2018: Independent Examiner (Deborah McCann) appointed. Her examination commenced in April 2018.
  - 10 May 2018: Exploratory Meeting held as part of examination process.
  - 16 May 2018: Further clarification requested by Examiner and provided.
  - 18 July 2018: Final Examiners Report received.
- 2.5 The Council has a duty to provide advice and assistance to neighbourhood forums and to engage constructively with the community throughout the neighbourhood planning process including when considering the recommendations of the independent examiner. However, the Council remains the Local Planning Authority with statutory responsibility for ensuring that the

neighbourhood plans it 'makes' are lawful. If a neighbourhood plan is not lawful, the LPA (not the neighbourhood forum in question) will be liable to legal challenge e.g. by landowners whose interests may be affected by the plan.

- 2.6 A neighbourhood plan must support the strategic development needs set out in the Local Plan, positively support local development, not promote less development than set out in the Local Plan, nor undermine its strategic policies.
- 2.7 If successful at examination and referendum a Neighbourhood Plan must then be 'made' (i.e. adopted) by the Council within 8 weeks and at that point it 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. Should there be a conflict between a policy in a neighbourhood plan and a policy in a Local Plan, that conflict must be resolved in favour of the policy which is contained in the last document to become part of the development plan.
- 2.8 Unlike a local plan, the test for a neighbourhood plan is not one of 'soundness'. The role of the Examiner (and the Council acting as LPA) is limited to testing whether the draft Plan meets the 'basic conditions' and other matters set out in para 8 of Schedule 4B of the Town & Country Planning Act 1990 (as amended). The 'basic conditions' are that;
  - a. having regard to national policy, it is appropriate to make the Plan;
  - b. the Plan contributes to the achievement of sustainable development;
  - c. the Plan is in general conformity with the adopted strategic local policies for the local area;
  - d. the Plan is compatible with EU obligations;
  - e. the Plan meets Human Rights requirements.

The Examiner must also consider whether the referendum area should extend beyond the neighbourhood area.

- 2.9 It is the responsibility of the Council, as LPA, considering the recommendations and reasons of the examiner, to ensure that, with or without modifications, the Plan meets the 'basic conditions'. If it is so satisfied, the Council must make arrangements for the Plan to proceed to referendum – in accordance with paragraph 12(4) of the Town & Country Planning Act 1990 (as amended). Although the examiner is the specialist advisor, the Council is the decision-maker. The examiner's report cannot, of itself, be the subject of a legal challenge. The Council must consider each of the examiner's recommendations (and the reasons given) and decide what action to take in response to each of those recommendations. Regulation 18(2)(a) of the Neighbourhood Planning Regulations 2012 (as amended) require the Council to give the reasons for its decision. The decision must then be published in the form of a 'Decision Statement'. A Decision Statement must be published within 5 weeks of receipt of the Examiner's report, unless some other date has been agreed with the Neighbourhood Forum. In this case, it was agreed by the LPA and Neighbourhood Forum that the time would be extended to allow time to consider the matters in full.

2.10 The modifications that the Council may make are prescribed in legislation – extract set out below:

- 'a modifications that the authority consider need to be made to secure that the draft order meets the 'basic conditions',
- b modifications that the authority consider need to be made to secure that the draft order is compatible with the Convention rights,
- c ...
- d ..., and
- e modifications for the purpose of correcting errors.'

(note: (c) and (d) do not apply to Neighbourhood Plans)

If the Council (as LPA) can make modifications to a neighbourhood plan to enable that plan to meet the 'basic conditions', it must make those modifications (rather than refuse a Plan proposal). However, the Council can only make such changes and cannot modify a plan for betterment. Such modifications should be discussed with the Neighbourhood Forum, but there is no general requirement for a formal consultation with interested parties or the public.

2.11 If the Council decides not to follow the Examiner's recommendations, or make minor alterations as described in paragraph 2.9 above; it may instead make alternative modifications or even refuse to submit the plan to referendum. Clear reasons must be given for departing from the Examiner's recommendations. Modifications not recommended by the Examiner must be discussed with the Qualifying Body, which has the option of withdrawing the plan if it is unhappy with the changes proposed by the Council.

2.12 Generally paragraph 12 of Schedule 4B gives the LPA a fairly broad power to make minor modifications that accord with the Examiner's recommendations without the need for further consultation. Paragraph 13 of Schedule 4B states that if the LPA propose to make a decision which differs from that recommended by the examiner and the reason for the difference is wholly or partly as a result of new evidence or a new fact or a different view taken by an authority as to a particular fact, then the LPA must consult on the changes for a minimum of six weeks.

2.13 In respect of the requirement to undertake further consultation on any changes not recommended by the Examiner, Officers have considered the relevant legislation and taken legal advice<sup>1</sup>. It is not considered that further consultation is necessary in this case as there has been no new evidence or facts, and the reasons why the decision is differing from the examiner is based upon the planning judgement of compliance with the 'basic conditions', but it is not a different view of a fact.

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<sup>1</sup> The Court of Appeal in *Kebbell Developments* [2018] EWCA Civ 450) especially paragraphs 34-35. It is noted that Lord Justice Lindblom clearly distinguishes between the exercise of planning judgements and matters of fact (paragraph 49). Paragraph 50 rules that paragraph 13 (of Schedule 4B) "does not generate.... a general entitlement to additional consultation after the examination has taken place",

- 2.14 A Forum may withdraw its Neighbourhood Plan at any time before the Council issues its Decision Statement (which is to be issued shortly after the Council meeting).
- 2.15 Members should also note that a new National Planning Policy Framework (NPPF) was issued in July 2018. Paragraph 214 of the new NPPF allows a transition period for examining plans submitted up to 24<sup>th</sup> January 2019: therefore the three Neighbourhood Plans in Torbay continue to be considered against the 2012 NPPF. However the new (2018) NPPF is material to decision-taking, with respect to planning applications, immediately. Paragraph 14 of the 2018 NPPF specifies the weight that may be given to neighbourhood plans and provides a degree of protection against the Presumption in Favour of Sustainable Development (now in NPPF 11).
- 2.16 Legislation sets out that the Secretary of State has powers to intervene at the request of the Qualifying Body, where requested in writing by a qualifying body within 6 weeks of the publication of the decision notice, in the following circumstances:
- the Council fails to make a decision within 5 weeks of an examination report. (*Note: All parties have agreed to an extension to the 5 week period until the Council meeting on 15 November 2018*); or
  - where the Council does not follow all of the Examiner's recommendations; or
  - the Council modifies the plan in a way that was not recommended by the Examiner (except where the modification is to ensure compatibility with EU or human rights obligations or to correct an error).

However the Secretary of State may agree to intervene in other situations.

- 2.17 In such cases the Secretary of State (or an Inspector appointed by him) may exercise the functions of the local planning authority in deciding what actions to take with respect to the Examiner's report.

### **3. What is the current situation and what options are available**

- 3.1 In response to the report of an Independent Examiner, the LPA must decide whether the Plan should be submitted to referendum. The LPA's options are that:

- 1. Council accepts the Independent Examiner's recommendations in their entirety** that the Plan (with any modification by the Independent Examiner) should be submitted to referendum.
- 2. The Council does not accept the Independent Examiner's recommendations in their entirety.** Reasons must be included and what modifications are proposed by the Council which must show they accord with the 'basic conditions' requirements in relation to the plan as submitted. A schedule of proposed further modifications has been prepared (at Appendix 2) which both the Forum and officers support.

- 3. To refuse the plan** (on the basis that the plan proposal does not meet, or cannot meet with modification, the 'basic conditions' and Convention rights). Reasons must be included.
- 3.2 The issues around Paignton Neighbourhood Plan are discussed in section 4 of this report. In summary, officers consider that the Plan is now capable of proceeding to referendum. However, there are a number of matters that have been developed further from the Examiner's recommended modifications, ensuring those modifications are within the limitations of the regulations. The most significant of which are the retention in modified form of four policies recommended for deletion by the Examiner, which are considered by officers to contain legitimate elements capable of being retained in policy form that would meet the 'basic conditions'. These further changes have been discussed with the Neighbourhood Forum, and are considered by officers to maintain the original intent of the community and ensure it meets the 'basic conditions'. These changes are discussed in more detail in Section 4 of this report and set out fully in Appendix 2.
- 3.3 The LPA must also decide whether to extend the area to which the referendum is to take place. As the three neighbourhood areas are clearly defined and there are no significant cross-border policies in the Plan, it is not considered necessary by the Examiner or the LPA to extend the area to which the referendum is to take place.
- 4. Examiner's Recommendations (see Appendix 1)**
- 4.1 The Examiner did not consider it necessary to make significant changes to the policy text of the Paignton Neighbourhood Plan and has instead proposed a series of modifications. Four (out of twenty seven) policies were recommended for deletion and transfer to a non policy part of the plan. Other policies were modified to ensure they meet the 'basic conditions'. The LPA, in consultation with the Forum, consider that these four policies, and some other recommended deletions are capable of being retained in modified form to meet the 'basic conditions'. A more detailed assessment of the Examiner's recommendations is set out at Appendix 2.
- 4.2 The LPA, made a series of representations on the submitted plan which have been considered by the examiner, along with those from other Council departments and third parties including the development industry. The key concerns raised by the LPA are set out below but the Examiner's report, in Appendix 1, addresses these and others in full.

### **Housing Allocation**

- 4.3 Officers raised objections at the formal consultation stages that the Paignton Neighbourhood Plan was not in general conformity with the Adopted Torbay Local Plan 2012-30 as it does not make site allocations for housing, which would make it difficult for Torbay to demonstrate five years' housing supply. The LPA also raised an objection that the net effect of the Plan's regulatory policies would be to promote less development than in the Local Plan. These concerns were echoed by other representations.

- 4.4 Despite these representations, the Examiner's Report concluded that there is no mechanism to require a neighbourhood plan to allocate sites, and on this basis the Neighbourhood Plan is not in conflict with the strategic priorities of the Local Plan (pp 13-14 of the report).
- 4.5 Officers have carefully considered the Examiner's report and whether the Plan should be modified by the insertion of housing sites. Whilst this approach would be consistent with the LPA's representation and advice to the Forum, the Examiner has considered the arguments in detail and recommended that the Plan meets the 'basic conditions' without including site allocations. Accordingly, it is considered that the Council should not seek to modify the Plan by the insertion of housing sites.
- 4.6 It should be noted that housing sites can be allocated through the Local Plan review process (by December 2020) based on up to date evidence at that time and in consultation with the Neighbourhood Forums.
- 4.7 As previously reported to Council, officers have assessed the stock of deliverable housing sites against the local Plan housing requirement and have concluded that Torbay has around 4.19 year supply of deliverable housing sites. The Forums disagree with this figure, and argue that there is at least 6.1 year supply. The LPA's position, including responses to the Forum's position, is set out at:  
<https://www.torbay.gov.uk/council/policies/planning-policies/evidence-base-and-monitoring/>

These issues were presented to the Examiner as part of the Exploratory meeting held in public.

- 4.8 National planning policy says that when a council does not have a 5-year supply of deliverable housing sites relevant local policies are considered out-of-date. Instead of planning applications being decided based on local policies, national policies are likely to take precedence. That means that if a site can be considered 'sustainable development' (as defined in the NPPF) then planning permission should be granted, irrespective of what the Local or Neighbourhood Plan may say. Consequently it can be seen that without a 5 year supply, both the LPA and local community will have less control over where new homes are built. Members are asked to note Officer advice that the LPA is not able to demonstrate a 5-year housing land supply, and the Paignton Neighbourhood Plan does not allocate housing sites.
- 4.9 The Government has sought to provide some protection for neighbourhood plans against the effect of a five year supply shortfall. Paragraph 14 of the 2018 NPPF provides that, where a 5-year housing land supply cannot be demonstrated, development which conflicts with the provisions of a recent neighbourhood plan is less likely to be 'sustainable development' where, amongst other things;
- i. the LPA can demonstrate a 3-year housing land supply; and



- ii. the neighbourhood plan contains policies and allocations to meet its identified housing requirement (*emphasis added*).

Therefore, Officer's advice is that at this time the weight that the Paignton Neighbourhood Plan will have in decision making will be significantly affected by Torbay's five year housing supply position.

### **Employment Allocations**

4.10 As with housing, the Neighbourhood Plan has not made employment allocations. However, the Plan policies are generally supportive of employment development. The LPA is not under a NPPF obligation to maintain five years supply of employment sites. The Examiner has held that the Neighbourhood Plan cannot be required to make site allocations. In addition her Modifications render the policies more supportive of development (see below).

### **“Restrictive” Phasing**

4.11 The LPA made representations in respect of the combined weight of the submitted Plan requirements on development, coupled with a sentence in most policies which stated that proposals which do not meet the requirements of the policy can expect not to be approved (or similar). The LPA considered that this “restrictive wording” resulted in the Plan promoting less development than the Local Plan and not supporting the Local Plan's strategic priorities in conflict with Paragraph 184 of the (2012) NPPF.

4.12 The Examiner's Modifications have removed this “negative/restrictive” wording and, along with her other recommended modifications is considered by Officers to have overcome this representation, and brought the Plan into closer alignment with the ‘basic conditions’.

### **Local Green Spaces**

4.13 Local Green Space designations allow local communities give special protection to green areas of particular importance to them. Local Green Spaces have a similar status to green belt and development can only occur in very specific circumstances.

4.14 Government guidance (contained in paragraphs 76 and 77 of the 2012 NPPF) says that the Local Green Space designation will not be appropriate for most green areas or open space; and that the designation should be consistent with the local planning of sustainable development and complement investment insufficient homes, jobs and other essential services. The designation should be capable of enduring beyond the end of the plan period and 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.

- 4.15 The Submitted Plan designated 62 Local Green Spaces, the Examiner discusses the issue of Local Green Spaces on pages 31-34 of the Report. In summary, the Examiner found that of the 62 areas of designation submitted in the Plan, 53 meet the requirements of the NPPF. It is noted that the Examiner supported Local Green Space designations at Oldway Mansion and Parkfield. Nine proposed areas of Local Green Space are recommended for deletion and the boundaries of two proposed areas have been revised to exclude parts of the originally proposed areas.
- 4.16 The Council in its capacity as landowner and the LPA made representations on a number of Local Green Spaces which were proposed on the basis that they had development potential. The LPA also raised concerns that a blanket LGS could prejudice enabling development needed to secure the longer term conservation of the historic assets such as at Oldway. The Examiner did not consider that to be a valid objection to the Local Green Space tests however, did note the need for all proposals to meet all of the tests in the NPPF, including being consistent with the local planning of sustainable development. A more detailed discussion of specific Local Green Spaces is set out in Appendix 2.
- 4.17 The extent to which the Local Green Space designations at Oldway and Parkfield House are in general conformity with the Local Plan and NPPF requires a planning judgement. The examiner's judgement is considered to be within a range of rational responses. Independent advice from Locality has confirmed that decisions on specific local greenspaces must be made against the 'basic conditions' rather than corporate landownership.

#### **Views of the Forum on Deleted Policies**

- 4.18 The Forum did not agree with the Examiner's recommendation that 4 of the policies contained in the Plan were in fact "community aspirations" which should be relegated to a separate section of the Plan. The policies in question are:
- PNP11 - Old Town
  - PNP12 - Getting around
  - PNP23 - Yalberton to Blagdon Valley
  - PNP27 - Preston
- 4.19 The Forum considers that these policies relate to land use matters relevant to planning applications and that the reasoning for the Examiner's decisions was unclear. Officers have had a two way consultation with the Forum on the revised form of wording for these four policies, which Officers consider do now meet the 'basic conditions' and it is accordingly recommended that they should be retained (in modified form) in the Plan. In addition, the LPA and Forum both consider that some policy wording recommended for deletion on local food and designing out crime (in Policy PNP1) provide useful guidance which supports strategic policies in the Local Plan and should accordingly be retained in modified form in the Plan. The schedule of recommended changes are set out in Appendix 2, and are considered by Officers to strengthen the Plan and bring it into closer alignment with the 'basic conditions'.

4.20 The LPA's powers to make modifications that have not been recommended by the Examiner and are not needed to correct errors are explained in paragraph 2.10-13 above. The recommended changes are as a result of a difference of planning judgement rather than "new evidence or a new fact". On this basis, there is not a legal requirement to carry out additional consultation on the proposed modifications.

### **Policies Map**

4.21 In line with the Examiner's recommendation, the Forum and officers have prepared a policies map to support the Plan. In preparing the map it has also been necessary to make minor adjustments to the boundaries shown at a very small scale in the Paignton Neighbourhood Plan inset maps in order to snap onto natural landscape features etc. This has been done solely for mapping consistency reasons and does not change the substantive policy boundaries. This map has agreed with the Forum.

### **EU Obligations**

4.22 The Council maintains the responsibility for deciding whether, or not, a Neighbourhood Plan is compatible with EU regulations.

### **Strategic Environmental Assessment (SEA)**

4.23 A SEA is necessary due to the possibility of significant environmental effects arising from the plan. This was carried out as part of a Sustainability Appraisal which concluded that the plan mitigated negative effects and identified opportunities to enhance positive effects.

### **Habitats Regulation Assessment (HRA)**

4.24 A HRA is required by the Habitats Directive (92/43/EEC) when the implementation of the Plan may lead to likely significant effects on European Sites. Natural England did not object to the Plan on the basis that it does not make site allocations, and therefore the plan was unlikely to result in significant effects to European sites. The ruling of the European Court of Justice in People over Wind (PoW) is unlikely to affect this approach. However, necessary review of the HRA position has been undertaken and changes made to the Plan, to ensure compliance with the Habitats Regulations.

4.25 The Examiner has agreed with the LPA's approach (conclusion 4 and pp 19-23 of her report).

### **Human Rights**

4.26 Officers have raised no objection in respect of Human Rights, as considered against the European Convention for Human Rights and the Human Rights act 1998. The examiner did not raise human rights issues in her assessment of the Plan against the 'basic conditions' (Pages 7 and 19 of her report).

## **5. Recommended Modifications (see Appendix 3)**

- 5.1 As discussed in Section 4 above, Officers have given serious consideration to modifying the Plan by the allocation of specific housing sites, but are not recommending this.
- 5.2 Officers have had a two way consultation with the Forum to modify and retain Policies PNP11, 12, 23 and 27 rather than delete them. Officers are satisfied that the policy wording as modified overcomes the Examiner's reasons for their deletion and satisfies the 'basic conditions'. It is therefore appropriate to modify the Plan as set out above and in more detail at appendix 2.
- 5.3 A number of additional minor modifications have been necessary for the purpose of ensuring legibility, grammatical and numbering accuracy of the Plan. These have also been the subject of consultation with the Forum and are indicated at Appendices 2 and 3.

## **6. Corporate Plan and Responsibilities**

- 6.1 The Neighbourhood Plan has no legal requirement to consider or support the Corporate Plan of the Council.
- 6.2 The Paignton Neighbourhood Plan is generally more sceptical about the need for, and benefits of, growth than the Local Plan. It will not deliver the number of homes that Torbay needs. However, the Plan contains strong policies to promote good design and a high quality built and natural environment.
- 6.3 The Neighbourhood Plan has no legal requirement to consider or contribute towards the Council's responsibilities as corporate parents.
- 6.4 The Neighbourhood Plan has no legal requirement to consider deprivation. However, the plan (if approved) would contribute to sustainable development in accordance with the requirement set out in the 'basic conditions'.
- 6.5 As noted above, the Neighbourhood Forum has objected to the level of growth in the adopted Local Plan and to the Government's local housing need methodology. However, those are not relevant considerations to the Submitted Plan. The Plan (as modified) contains strong policies to improve the quality of the built environment and to resist poor quality developments. As such it provides a framework that will help resist poor quality development that would worsen environmental deprivation.

## **7. Financial and Legal Implications**

- 7.1 The Town and Country Planning Act 1990 (as amended), Planning and Compulsory Purchase Act 2004, Localism Act 2011, Neighbourhood Planning Act 2017, and Neighbourhood Planning (General) Regulations 2012 (as amended) all apply. The Council must ensure that the Plan meets the 'basic conditions' as set out in Law.

- 7.2 There will be financial implications in respect of officer resources and direct costs associated with any referendum, should the decision be taken to put the plan to referendum. If the decision is taken to undertake further consultation and examination this will also incur additional costs and time. Central Government will provide additional grant funding to the LPA on completion of the referendum. Any costs not covered by the grant funding will fall to the revenue budget.
- 7.3 The Council can be challenged on its decision and any such challenge arising would incur additional costs as well as the resource implications.
- 7.4 When the Plan is made, the “Neighbourhood Portion” of CIL that must be spent in the area where development arises will increase from 15% to 25%. This matter will be addressed in more detail prior to the Plan being made.

## **8. Risks**

- 8.1 The Council must consider its duty to support Neighbourhood Planning whilst ensuring that only a Plan which meets the ‘basic conditions’ is put to referendum. Failure to do so could result in legal challenge or intervention by the Secretary of State.
- 8.2 If the Plan is approved in line with the recommendations of the Examiner, the Council will not have housing allocations in Paignton other than the Future Growth Areas proposed by the Local Plan. This will exacerbate the LPA’s inability to demonstrate five year housing land supply and means that planning applications must be determined in accordance with the presumption in favour of sustainable development in NPPF 11). This may render greenfield sites more vulnerable to speculative development, although such sites are likely to have environmental or other constraints (including the need for appropriate assessment); and permission cannot be granted “punitively”. The operation of the presumption will however reduce the LPA’s ability to drive up the quality of development.
- 8.3 Additionally, if the Council decides to put the Plan to referendum and in due course it is made (adopted) then, as land owner, it will have a number of Local Greenspace designations on its assets, particularly at Oldway and Parkfield. However, the Examiner has allowed the designations despite objection from Council as landowner, and in some instances the council as LPA. The former planning permission (P/2011/0925) at Oldway Mansion has expired and there is no current scheme that would be obviously undermined by the LGS designation.

**Independent Examiner's**  
**Report of the Paignton**  
**Neighbourhood Plan**

*Author*

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*18<sup>th</sup> July 2018*

## **SECTION 1 Contents**

### **CONTENTS**

#### **Section 1**

<i>Contents</i> .....	2
-----------------------	---

#### **Section 2**

<i>Summary</i> .....	3-4
----------------------	-----

#### **Section 3**

<i>Introduction</i> .....	5-8
---------------------------	-----

#### **Section 4**

<i>The Report</i> .....	8-75
-------------------------	------

<i>1. Appointment of the Independent Examiner</i> .....	8
---	---

<i>2. Qualifying Body</i> .....	8
---------------------------------	---

<i>3. Neighbourhood Plan Area</i> .....	8
---	---

<i>4. Plan Period</i> .....	8
-----------------------------	---

<i>5. Torbay Council Regulation 15 Assessment of the Plan</i> .....	8
---	---

<i>6. Site Visit and Exploratory Meeting</i> .....	9-5
--	-----

<i>7. Consultation Process</i> .....	13
--------------------------------------	----

<i>8. Regulation 16 Consultation</i> .....	13
--	----

<i>9. Compliance with the Basic Conditions</i> .....	13-15
--	-------

<i>10. Planning Policy</i> .....	15-19
----------------------------------	-------

<i>11. Other Relevant Policy Considerations</i> .....	20-26
---	-------

<i>10. Paignton Neighbourhood Plan Policies</i> .....	26-75
---	-------

#### **Section 5**

<i>Conclusions and Recommendations</i> .....	76-77
--	-------

## **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 10<sup>th</sup> 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 it's 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 sits 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* 19



#### **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 22<sup>nd</sup> 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 22<sup>nd</sup> 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 (I) 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 better 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<sup>73</sup>, 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 Framework<sup>73</sup>, 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 12<sup>th</sup> 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 4<sup>th</sup> 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*

## Appendix 2:

### Decision Statement Table: Paignton Neighbourhood Plan

#### Assessment of Examiner's Report

##### Background

This Appendix provides a more detailed officer assessment of the Examiner's Modifications and the LPA's Decision Statement.

Mrs Deborah McCann was appointed through the National Planning Independent Examiner Referral Service (NPIERS) as the Independent Examiner in March 2018. This appointment was consented to by the Neighbourhood Forum. Mrs McCann, an experienced examiner, is independent of the Council and Neighbourhood Forum, possesses appropriate qualifications and has no interest in any land within the Torquay area. Whilst she had previously been employed by Torbay Council in the 1990s, this was considered by the Monitoring Officer not to represent a conflict of interest because of the significant passage of time.

All written representations were provided to the Examiner along with the submitted plan and associated documents. As part of the examination, Mrs McCann held an exploratory meeting public hearing at Paignton Library on 10 May 2018. The final report was received by the Council on 18<sup>th</sup> July 2018. The report was published on the Council's website on 19<sup>th</sup> July 2018.

The conclusion of the report was that the Plan should proceed to referendum, with modifications recommended by the Examiner.

##### Examiner Recommendations.

The Examiner recommend a number of modifications needed to meet the Basic Conditions. Their general thrust of the modifications is to make the Plan more supportive of development in order to meet the Torbay Local Plan's strategic requirements. The LPA has agreed with the bulk of these modifications. However, it is considered that in some instances the basic conditions can be effectively met with different wording, which bring the Plan into overall closer alignment to the Local Plan and NPPF. This wording has been developed in close discussion with the Neighbourhood Forum. The modified policy wording is available in Table A2(1) and (2) below.

**Table A2(1) Assessment of Examiner's Report and LPA Response.**

Submitted Plan Reference (Policy / supporting text paragraph)	Examiner's Recommended Modification (Note: only summarised below, see Examiner's report for more information)	Examiner's Reason(s) (Note: only summarised below, see Examiner's report for more information)	Council Decision and Reason (Required action to take in respect of Examiner's recommended modification and reason)	Outcome to Submitted Plan (Note: only summarised below, all outcomes are incorporated in full into the post examination plan with modifications in Appendix 3)
<b>General and procedural matters</b>				
Section 2 P3	<b>Summary Recommendations</b> <ol style="list-style-type: none"> <li>1. The Paignton Neighbourhood Plan and the policies within it, subject to the recommended modifications does meet the Basic Conditions.</li> <li>2. Satisfied that the Referendum Area should be the same as the Plan Area,</li> <li>3. Having read the Paignton Consultation Statement and the representations made in connection with this subject the examiner considers 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.</li> <li>4. Find that the Paignton Neighbourhood Plan can, subject to the recommended modifications proceed to Referendum.</li> </ol>	Reasons set out in main report, plus see below.	<p>Accept recommendations with the exceptions of further modifications noted below.</p> <p>The LPA concur that the Plan proposal has been prepared in accordance with the legal requirements.</p> <p>No significant cross boundary issues have arisen in relation to the Paignton Neighbourhood Plan which would suggest that the referendum area should be extended.</p>	The Paignton Neighbourhood Plan as modified by the examiner, with the LPA's further modifications, may proceed to referendum.

<b>Submitted Plan Reference</b> (Policy / supporting text paragraph)	<b>Examiner's Recommended Modification</b> (Note: only summarised below, see Examiner's report for more information)	<b>Examiner's Reason(s)</b> (Note: only summarised below, see Examiner's report for more information)	<b>Council Decision and Reason</b> (Required action to take in respect of Examiner's recommended modification and reason)	<b>Outcome to Submitted Plan</b> (Note: only summarised below, all outcomes are incorporated in full into the post examination plan with modifications in Appendix 3)
Section 4.2 P8	I am satisfied that the Paignton Neighbourhood Forum meets the necessary requirements and is the Qualifying Body.	P8	The LPA is satisfied that Paignton Neighbourhood Forum is the appropriate qualifying body, as its forum status was approved by Council in December 2012 and 2017.	
Section 4.3	Confirms the neighbourhood Plan area		Noted – see above.	
Section 4.4	Confirms the Plan period 2012-30		Agree This corresponds to the Torbay Local Plan 2012-30 period	
Section 6.3 PP13-15	Conclusions from Exploratory meeting. There is no mechanism in the law, or NPPF, 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.	Rationale set out in section 6.3 of Inspectors report. PP13-15	As noted in the main report, the LPA accepts the LPA and a number of developers made representations on this issue.  The Examiner's recommendation on this matter is accepted for the reasons set out in the main Council report.	

<b>Submitted Plan Reference</b> (Policy / supporting text paragraph)	<b>Examiner's Recommended Modification</b> (Note: only summarised below, see Examiner's report for more information)	<b>Examiner's Reason(s)</b> (Note: only summarised below, see Examiner's report for more information)	<b>Council Decision and Reason</b> (Required action to take in respect of Examiner's recommended modification and reason)	<b>Outcome to Submitted Plan</b> (Note: only summarised below, all outcomes are incorporated in full into the post examination plan with modifications in Appendix 3)
Section 6.3.9-10 PP13-15	There are a number of policies within the Paignton Neighbourhood Plan that, as currently worded would have a negative impact on the plan's ability to support the strategic development needs set out in the Torbay Local Plan.  With modifications (set out in section 4 of the report) 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.	Rationale set out in section 6.3 of Inspectors report.  Pp13-15 and section 4	The LPA noted that the examiner's Modifications have brought the Plan into general conformity with the basic conditions.  There are some instances where the LPA, in discussion with the Forum, considers that alternative wording of policies can achieve the same outcome.	The Paignton Neighbourhood Plan as modified by the examiner, with the LPA's further modifications, may proceed to referendum.
Section 7 P15	Consultation Process: Satisfied that the consultation process leading to Submission meets the requirements off the Neighbourhood Planning (General) Regulations 2012.	See explanation on p15.	The LPA agrees with the Examiner's conclusion.	
Section 8 P15	Post Submission consultation (Regulation 16) Examiner notes that she considered the representations resulting from the Regulation 16 Consultation which ran from 1 November 2017 to 18 December 2017 as well as late representation.	P15 11.6.6	Noted.	
Section 9.4	Satisfied having regard to these documents and other relevant documents, policies and	Detailed explanation is	Noted. See detailed comments below.	

<b>Submitted Plan Reference</b> (Policy / supporting text paragraph)	<b>Examiner's Recommended Modification</b> (Note: only summarised below, see Examiner's report for more information)	<b>Examiner's Reason(s)</b> (Note: only summarised below, see Examiner's report for more information)	<b>Council Decision and Reason</b> (Required action to take in respect of Examiner's recommended modification and reason)	<b>Outcome to Submitted Plan</b> (Note: only summarised below, all outcomes are incorporated in full into the post examination plan with modifications in Appendix 3)
	legislation that the Paignton Neighbourhood Plan does, subject to the recommended modifications, meet the Basic Conditions. (These are described on p16 of the Examiner's Report)	provided through the report (see below). 10.1 NPPF (2012) 10.2 Strategic policies of the Torbay Local Plan 2012-30		
Section 11 P19	<p><b>11.1 European Convention on Human Rights (ECHR) and other European Union Obligations</b></p> <p>Examiner satisfied that ECHR and other EU obligations have been met.</p> <p>A voluntary Sustainability Appraisal (SA) incorporating a Strategic Environmental Assessment (SEA) that demonstrates how the Neighbourhood Plan would contribute to the achievement of sustainable development has been submitted with the Plan</p> <p>The appraisal did not find any likely significant effects arising from the Neighbourhood Plan policy proposals that would need mitigation.</p>		The LPA agree that a Sustainability Appraisal, incorporating an SEA has been carried out and consulted on with the statutory bodies as required.	

<b>Submitted Plan Reference</b> (Policy / supporting text paragraph)	<b>Examiner's Recommended Modification</b> (Note: only summarised below, see Examiner's report for more information)	<b>Examiner's Reason(s)</b> (Note: only summarised below, see Examiner's report for more information)	<b>Council Decision and Reason</b> (Required action to take in respect of Examiner's recommended modification and reason)	<b>Outcome to Submitted Plan</b> (Note: only summarised below, all outcomes are incorporated in full into the post examination plan with modifications in Appendix 3)
Section 11.2-11.6 Pp19-21	<p>Habitats Regulations Screening          The examiner is satisfied that the HRA "Screening stage" does substantively meet the requirements.</p> <p>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.</p> <p>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.</p> <p>The Examiner's report has considered the effect of the Judgment of the European Court of Justice, case C-323/17 ("People over</p>		<p>The Council has drafted an HRA Appropriate Assessment of the Post Examination Version of the Neighbourhood Plan (September 2018) No sites are allocated for development by the Plan and the Paignton Neighbourhood Plan policies will not affect the integrity of any of the European sites identified and the conservation objectives of these sites would be sustained. Natural England has been consulted and have not objected to the Council proceeding on this basis as the competent authority.</p> <p>In response to the AA's recommendations, Policy PNP1 (Area wide) at element f) has been introduced and paragraph 8.16 and 8.17 have been added to the Plan to confirm the position and the words agreed with the Forum.</p>	<p>The Plan may proceed to Referendum.</p> <p>An additional criteria has been added to Policy PNP1 in response to the HRA Appropriate Assessment.</p>

<b>Submitted Plan Reference</b> (Policy / supporting text paragraph)	<b>Examiner's Recommended Modification</b> (Note: only summarised below, see Examiner's report for more information)	<b>Examiner's Reason(s)</b> (Note: only summarised below, see Examiner's report for more information)	<b>Council Decision and Reason</b> (Required action to take in respect of Examiner's recommended modification and reason)	<b>Outcome to Submitted Plan</b> (Note: only summarised below, all outcomes are incorporated in full into the post examination plan with modifications in Appendix 3)
	Wind").			
11.8 P24	Satisfied that the Paignton Neighbourhood Plan does not cover County matters (mineral extraction and waste development), nationally significant infrastructure.		Noted and agreed.	
11.9 P24	Satisfied that the Paignton Neighbourhood Plan, subject to modification covers development and land use matters.	11.9.1	Noted and agreed.	
11.10 P24	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.	11.10.1	Noted and agreed.	
12.9 p25	<p>General Comments</p> <p>A number of overarching modifications are recommended for all Policies in order to meet the Basic Conditions:</p> <ul style="list-style-type: none"> <li>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</li> </ul>	<p>Recommendations are self-explanatory and an additional rationales provided elsewhere in the report P25. ...</p>	<p>The LPA agrees with these revisions, Where the Forum and the Council prefer a different wording that meets the Basic Conditions it is set out below.</p>	



Submitted Plan Reference (Policy / supporting text paragraph)	Examiner's Recommended Modification (Note: only summarised below, see Examiner's report for more information)	Examiner's Reason(s) (Note: only summarised below, see Examiner's report for more information)	Council Decision and Reason (Required action to take in respect of Examiner's recommended modification and reason)	Outcome to Submitted Plan (Note: only summarised below, all outcomes are incorporated in full into the post examination plan with modifications in Appendix 3)
	<p>Authority.</p> <ul style="list-style-type: none"> <li>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.</li> <li>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.</li> <li>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.</li> </ul>			
<b>Policies</b>				

<b>Submitted Plan Reference</b> (Policy / supporting text paragraph)	<b>Examiner's Recommended Modification</b> (Note: only summarised below, see Examiner's report for more information)	<b>Examiner's Reason(s)</b> (Note: only summarised below, see Examiner's report for more information)	<b>Council Decision and Reason</b> (Required action to take in respect of Examiner's recommended modification and reason)	<b>Outcome to Submitted Plan</b> (Note: only summarised below, all outcomes are incorporated in full into the post examination plan with modifications in Appendix 3)
PNP1 Area Wide (p26-8)	Modify policy PNP1 and revised policy subsections within umbrella of PNP1.	Changes made to make the policy clear and unambiguous (p28 of report)	<p>The Policy's objective has been retained but the policy has been reduced in length or refer to types of development proposals that will, and will not, be supported</p> <p>Officers agree that the Modified PNP1 meets the basic conditions. For clarity it is recommended that a further heading entitled "Achieving "Sustainable Development" is inserted directly above the final five criteria following: "Sustainable development will be achieved by ensuring..."</p> <p>The LPA has added an additional criteria to the Policy in response to the Habitats Regulations Appropriate Assessment.</p>	Policy Modified as per Examiner's wording (PP28-9), with minor additional LPA modification to add heading to aid clarity and in response to the HRA Appropriate Assessment (See above).
Annex 1 to Policy PNP1 P29	Policy sub-divided into separate sub-policies as below.	To reduce confusion and separate out the wide range of issues, and relate policies to land use matters. (P27-8 of report)	Noted and agreed.	

<b>Submitted Plan Reference</b> (Policy / supporting text paragraph)	<b>Examiner's Recommended Modification</b> (Note: only summarised below, see Examiner's report for more information)	<b>Examiner's Reason(s)</b> (Note: only summarised below, see Examiner's report for more information)	<b>Council Decision and Reason</b> (Required action to take in respect of Examiner's recommended modification and reason)	<b>Outcome to Submitted Plan</b> (Note: only summarised below, all outcomes are incorporated in full into the post examination plan with modifications in Appendix 3)
Policy PNP1(a) Rural Character Area pp29-31 and 36	Former Annex 1 policy becomes PNP1(a) <b>Rural Character Area</b>  Policy Modified	As per general comments above.	Policy re-worded to make less restrictive, but the thrust of the policy criteria are retained. Annex 1 as submitted also contains elements relating to Local Food (with some text being recommended for deletion as a policy and moved to form a "community aspiration").  The LPA considers that the modified wording meets the basic conditions.	Policy PNP1(a) retained as per Examiner's recommendation.
PNP1 (b) pp31-34	<b>Local Green Spaces.</b> The Policy wording is recommended for revision to protect Local Green Spaces from harm other than in "very special circumstances".  Fifty one LGS's confirmed as meeting the required criteria: Eight LGS's are recommended for deletion, these being: PLGS 30. Primley Woods PLGS 32. Clennon Valley PLGS 54. Great Parks PLGS 57. Westerland Valley PLGS 58. Yalberton Valley PLGS 60. Little Blagdon, Sunday Car Boot Field	The examiner has assessed the LGS against all of the tests in NPPF paragraphs 76-77  She notes the Council's/TDA's objection to PLGS.14 Parkfield and PLGS.20 Oldway but considers that the designation is clearly defined and meets the required	<b>PLGS 14 Parkfield.</b> It is noted that the LGS does not cover the buildings at Parkfield, but the open space to the south and west of the main building. The Examiner has assessed the area against the NPPF tests (76 -77) and finds it in accordance with the Basic Conditions.  <b>PLGS20: Oldway Mansion Gardens.</b> The LPA and TDA objected to this designation. However the Examiner has considered it against the NPPF tests/Basic Conditions and has found it meets the required criterion (p32). It is noted that this could affect the future development potential of Oldway	Plan Modified as recommended by examiner (with minor amendments as agreed with the Forum for the purpose of mapping clarity.

<b>Submitted Plan Reference</b> (Policy / supporting text paragraph)	<b>Examiner's Recommended Modification</b> (Note: only summarised below, see Examiner's report for more information)	<b>Examiner's Reason(s)</b> (Note: only summarised below, see Examiner's report for more information)	<b>Council Decision and Reason</b> (Required action to take in respect of Examiner's recommended modification and reason)	<b>Outcome to Submitted Plan</b> (Note: only summarised below, all outcomes are incorporated in full into the post examination plan with modifications in Appendix 3)
	<p>PLGS 61 Brake Copse, Collaton St Mary PLGS 62. Collaton Heath/ Saturday car boot sale field.</p> <p>PLGS21 Shorton Valley Woods and PLGS 55 Snowdonia Close , Collaton St Mary should be amended to remove the areas in private ownership.</p>	<p>NPPF tests (p32)</p> <p>The Examiner notes the TDA's objection that some LGSs may have development potential, but did not consider this to be a valid objection in terms of the NPPF tests (she did note that some LGSs could have had an element of protection under NPPF74 but the proposal must be considered as submitted).</p> <p>The deleted LGSs 24,30,32,54,57 and 58 are all considered to be extensive tracts of land (p33).</p>	<p>Mansion. However this is not part of the "Basic Conditions". Application P/2011/0925 for Oldway Mansion has expired and there is no extant proposal which would be obviously jeopardised by the LGS designation.</p> <p>Should the LPA revise the boundary of PLGS20, this would be tantamount to "a different view as to a particular fact" which would require consultation. It would result in very probable objection from the community and need for a second Examination (with associated cost and time implications).</p> <p><b>PLGS 60. Little Blagdon, Sunday Car Boot Field</b> The area is indicated in the Adopted Masterplan as food production area and will therefore have a level of protection under PolicyPNP24/NPPF 91C and 97 (formerly 74). Therefore the examiner's recommendation is considered proportionate.</p> <p><b>PLGS 61 Brake Copse, Collaton St Mary.</b> The copse would need to be protected as part of a development's</p>	

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		<p>PLGS60 Little Blagdon "Sunday Car Boot Sale Field", PLGS 61 Brake Copse, and PLGS62 Collaton Heath "Saturday Car Boot sale field" are deleted on the grounds that insufficient evidence has been provided to persuade the Examiner that the site is demonstrably special.</p>	<p>landscaping scheme and for biodiversity reasons and therefore the Examiner's assessment is accepted.</p> <p><b>PLGS 62. Collaton Heath/ Saturday car boot sale field.</b> The area would be outside the development area in SS2/SDP3/PNP24 and would therefore enjoy a limited protection as countryside area. The Examiner's conclusion that it should not be LGS is accepted.</p> <p><b>Revised LGS Boundaries.</b> The LPA agree that it is appropriate to remove the areas which are private gardens/ownership from LGS. However the determining factor is an area's performance against the NPPF tests not ownership per se, and some of the land that it is agreed meets the criteria is not publicly owned.</p> <p>It is not clear whether the land identified as being in "private ownership" at Snowdonia Close, Yalberton, is legally in separate ownership from the bulk of the LGS. However the land recommended</p>	

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			<p>for removal appears to be physically separated from the main LGS by trees and accordingly fulfils a different role from the bulk of the land shown as LGS.</p> <p>Because of the scale of mapping in the Neighbourhood Plan, minor boundary adjustments are necessary in producing the Policies map to ensure that the boundaries correspond to natural features and do not include private drives etc. This is a minor editorial matter and has been worked up with the Forum.</p>	
PNP1 (Local Food) P34	<p><b>Local Food. Modify the Policy:</b> Delete and restate as a community aspiration.</p> <p>Note that elements of the submitted Local Food Production have been retained by the Examiner in PNP1(v), PNP1(a )and PNP1(c ) 4</p>	Increase clarity and certainty (p36)	<p>The LPA agree with the Examiner that some of the criteria on local food are in part better treated as community aspirations.</p> <p>Elements of the submitted Policy are not therefore contained in PNP1(a) and PNP1(c)4 but notes the overarching policy has been retained by the Examiner in the main PNP1 – Area Wide policy at (v).</p>	Plan modified as recommended by Examiner and as modified further as shown in Appendix 3 in agreement with Paignton Neighbourhood Forum Note that some text has been moved to other Policies (PNP1(c))

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			The LPA however agrees with the Forum that some elements of the wording recommended for deletion (protection of hedgerows and dual purpose edible hedgerows) are land use considerations and can be referred to in Policy PNP1(c) below in accordance with the intent of the policy as submitted. The examiner's modifications elsewhere are considered by the LPA to be sufficient to ensure that these criteria are afforded proportionate weight in the Policy and likely decisions based on it. The modified policy wording and addition of 'aspiration' text to supporting text at paragraph 6.43 have been agreed with the Forum that meet the requirements of the Basic Conditions.	
Annex 2 to PNP1: Design Guide pp36-45	Annex 2: Design Guide subdivided into separate policies (following on from PNP1 (b) above).	Reduce length and scope for confusion (p36)	The LPA agrees with the modified wording	Plan modified as recommended by Examiner
PNP1(c) Design Principles	<b>Design Principles.</b> Policy retained with modifications. Some parts of the policy are reduced in length (e.g. biodiversity). The	The re-numbering is intended to reduce length and	The LPA agrees with the modified wording.	Plan modified as recommended by Examiner, with

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	modified policy PNP1(c) now covers: 1. Strengthen Local Identity, 2. Biodiversity and geodiversity, 3. Treescape, 4. Local food production.	scope for confusion (p36)	<p>The agrees that it is appropriate to expand PNP1(c) criteria 4. to refer to the need to protect orchards and promote the biodiversity/recreational value of dual use "edible hedgerows" which are land use matters that meet the Basic Condition requirement to meet the intent of the submitted Plan wherever it is possible to do so. The wording supports Policy SC4 of the Local Plan.</p> <p>The LPA is satisfied that the examiner's other modifications to the Plan are sufficient to ensure that these considerations are given appropriate weight in the use of the policy as a development management tool.</p>	additional text as shown in Appendix 3 as agreed with the Forum as the Qualifying Body that submitted the Plan.
PNP1(d) Residential Development.	<b>Residential Development.</b> Policy modified but the principles are retained.	As above	The LPA agrees with the modified wording	Plan modified as recommended by Examiner
PNP1 (e) Commercial Facilities.	<b>Commercial Facilities.</b> Policy modified but the principles of this part of PNP1 are retained	As above	The LPA agrees with the modified wording	Plan modified as recommended by Examiner
PNP1 (f)	<b>Towards a sustainable, low carbon, energy</b>	As above	The LPA agrees with the modified	Plan modified as



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Towards a sustainable, low carbon, energy efficient economy	<b>efficient economy.</b> . Policy modified but the principles of this part of PNP1 are retained.		wording	recommended by Examiner
PNP1(g) Designing Out Crime.	<b>Designing Out Crime.</b> The policy is reduced in length with detailed measures (formerly points 29-35) moved to become community aspirations	Reduce unnecessary level of detail (page 43)	The LPA disagrees with the examiner that the designing out crime criteria (29-35) are unnecessary detail. In the LPAs view they are useful criteria which are in accordance with Local Plan Policy DE1.4 and NPPF 69. Whilst the 2018 NPPF does not form part of the tests of soundness, paragraph 95 requires plans to promote public safety and take into account wider security threats.	Further modify Policy PNP1(g) by retaining criteria 29-35 of Submission Policy for the clarity it provides. (See text in table below).
PNP1(h) Sustainable Transport	<b>Sustainable transport.</b> The principles of this part of PNP1 are largely retained.	pp43-44	The LPA agrees with the modified wording	Plan modified as recommended by Examiner
Former Annex 3 to Policy PNP1. Now PNP1(i) Surface water	<b>Surface water.</b> The Annex is modified to become PNP1(i). The principles of the annex/policy are largely retained.	p44-45	The LPA agrees with the modified wording together with a further modification to the criteria sub-references to ensure clarity of their application when making decisions. This	Plan modified as recommended by Examiner with the further clarification as shown in Appendix 3

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			is considered to be a minor editorial matter for the purpose of correcting a formatting error.	and agreed with the Forum as the Qualifying Body that submitted the Plan.
PNP2 Town Centre	<b>Town Centre.</b> Modify the Policy to refer to the Torbay Local Plan town centre boundary, (which is less extensive than the PNP boundary in Figure 6.3). Reference to "All development" has been replaced by "Development", Point (c) "achieve bold but sensitive change" has been deleted but the other criteria in the policy have been retained.	The modification is intended to improve clarity and reduce ambiguity (p46).	The LPA agrees with the modified wording.	Plan modified as recommended by Examiner
PNP3 Paignton Harbour.	<b>Paignton Harbour.</b> Modify policy to remove "restrictive wording": The principles of the policy remain otherwise unchanged.	p48	No clearly defined boundary for the harbour is indicated, which could in officers' view lead to confusion.  Define the extent of Paignton Harbour (following the line in Fig 6.3 (p32) of the PNP and including the northern breakwater to the Esplanade on the Polices map.	Plan modified as recommended by Examiner with a minor additional modification to define the Harbour area.
PNP4 Seafront.	<b>Seafront.</b> Modify Policy. The principles of the Policy are retained, with the exception of the references to Local Green Spaces.	Reference to LGSS is considered by the Examiner to be	The LPA agrees with the modified wording	Plan modified as recommended by Examiner

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		unnecessary duplication of modified policy PNP1(b)(LGS) (p49)		
PNP5 Torbay Road	<b>Torbay Road</b> Modify policy to remove restrictive wording. The policy is largely unchanged.	pp50-51	The LPA agrees with the modified wording.	Plan modified as recommended by Examiner
PNP6 Station Square "Gateway"	<b>Station Square "Gateway"</b> Modify to remove restrictive wording in last paragraph (as per general comment). The policy is otherwise unchanged.	pp51-2	The LPA agrees with the modified wording	Plan modified as recommended by Examiner
PNP7 Victoria Square	<b>Victoria Square.</b> Modify policy to make it more supportive of development. For example requirements such as the requirement for like-for-like replacement of lost car parking have been made more flexible but must still meet the adopted standards.	To ensure that deliverability of development has not been unduly burdened. (p52)	The LPA agrees with the modified wording	Plan modified as recommended by Examiner
PNP8 Crossways, Hyde Road, and Torquay	<b>Crossways</b> Modify to remove restrictive wording (as per general comment). The policy is otherwise unchanged.	Only general comments are made (p53)	The examiner has retained reference to the pedestrian walkway through Crossways, despite the LPA's and TDA representation that the walkway is not a	Plan modified as recommended by Examiner with the following minor

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Road			<p>public right of way and could adversely affect redevelopment proposals. The examiner's report does not specifically address this matter. Discussion with the Forum has agreed that the objection can be overcome by referring to retaining "a" pedestrian link rather than "the" pedestrian link. This removes unintended level of policy prescription.</p> <p>Both Hyde Road and Torquay Road Frontages are designated secondary frontages in the Adopted Torbay Local Plan. The PNP does not show retail frontages but Policy PNP18 shows Crossways (and its Torquay Road and Hyde Road frontages) as being within the Secondary Retail Area. Reference to secondary shopping frontages can be made as a minor factual correction for consistency and has been agreed with the Forum.</p>	<p>additional modifications:</p> <p>a) retain the <del>primary</del> and secondary retail frontages along Hyde Road and Torquay Road...</p> <p>c) retain <del>the a</del> pedestrian link between Torquay Road and Hyde Road</p>
PNP9 Victoria Park	<b>Victoria Park</b> Modify Policy to reflect its Local Green Space status, but the thrust of the policy and its objectives have been retained.	p54	The LPA agrees with the modified wording	Plan modified as recommended by Examiner

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PNP10 Queens Park	<b>Queens Park</b> Modify Policy to reflect its Local Green Space status, but the thrust of the policy and its objectives have been retained.	p55	The LPA agrees with the modified wording. Note that the site is shown as a potential housing site (PNPH17 in Appendix C of the Local Plan); but the LPA did not object to its LGS status.	Plan modified as recommended by Examiner

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PNP11 Old Town	<b>Old Town</b> PNP11 is not a policy but a list of community aspirations and should be modified and moved to a separate section of the Plan. it could be rephrased and included in a CIL priority list.	PNP11 not considered to be a land use policy (p57 of report).	<p>The LPA considers that PNP11 "Old Town" contains useful considerations to assist in the regeneration of Paignton Old Town and realising its special characteristics. It is therefore supportive of, and adds to the principles in SDP2 of the Local Plan and has regard to the NPPF.</p> <p>The LPA and Forum consider that the policy is capable of re-wording to meet the basic conditions, and accordingly should be retained.</p> <p>The policy has accordingly be revised in collaboration and agreement with the Forum. As a template Policy PNP6 (Station Square 'Gateway') has been used as this was approach endorsed by the Examiner.</p>	Policy PNP11 retained and modified as shown in table 2A (below) and Appendix 3 and agreed with the Paignton Neighbourhood as the Qualifying Body that submitted the Plan.

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PNP12 Getting Around	<b>Getting Around:</b> Policy 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.	PNP11 not considered to be a land use policy. p58 of Report.	The LPA supported the aims of Policy PNP12 to improve movement in the town centre. It assists with delivering the objectives set out in Policies SDP2 and TA1 of the Local Plan and has regard to the NPPF.  The LPA and Forum consider that it should be revised to meet the Basic Conditions using the policy structure and wording using the approach endorsed by the Examiner at Policy PNP6 (Station Square 'Gateway') (see PNP11 above)	Policy PNP12 retained and modified as shown in Table 2A below and Appendix 3 and agreed with the Paignton Neighbourhood as the Qualifying Body that submitted the Plan.
PNP13 Housing Opportunities in the Town Centre	<b>Housing Opportunities in the Town Centre:</b> Policy modified as follows: The examiner has deleted the local occupancy condition (point C).  More minor modification to wording of criteria "a", "b", and "d".  The Examiner has modified the Policy to refer to the Torbay Local Plan town centre boundary, which does not include the harbour area. However this appears to be an editorial oversight since the Policy as recommended by the Examiner retains a reference to the	To provide clarity;  Adequate evidence has not been provided to support an occupancy restriction (pp58-59 and 76)  Absence of a Policies Map (overall) will make application of the policy difficult.	As an editorial modification, it is recommended that that Policy PNP13 be revised to "Housing Opportunities in the Town Centre <u>and harbour area</u> " and that the first line of the policy states: "...homes within the Torbay Local Plan town centre boundary <u>and harbour area</u> , the following will apply  <u>Reason</u> – the Town Centre boundary in the Local Plan does not include the harbour area which the submitted Plan and Examiner Report both indicate is intended to be included.	Policy PNP13 amended as shown in Appendix 3 to include the Examiner's modifications together with the additional wording to include the harbour area as agreed with the Paignton Neighbourhood as the Qualifying Body that submitted the Plan.

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	harbour at criteria b)(i)			
PNP14 Core Tourism Investment Area (PCTIA/CTIA)	<b>Core Tourism Investment Area. Policy Modified by</b> prefixing the policy with "Paignton", so that the PCTIA is distinguished from the CTIAs in the Torbay Local Plan. Policy modified to add flexibility but the thrust of the policy has been retained  The PCTIA covers a wider area than the Local Plan.	pp59-60 (general comments)	The Policy seeks to protect a wider area than the Torbay Local Plan (including include some of the streets behind The Esplanade which are outside the CTIA), however the Policy as modified allows changes of use where there is no reasonable prospect of tourist use, and is accordingly considered to be in general conformity with the Local Plan (specifically Policies TO1-3).	Plan modified as recommended by Examiner
PNP15 Flood and Sea Defences	<b>Flood and Sea Defences.</b> Modify to remove restrictive wording (as per general comment). The policy is otherwise substantially unchanged.	pp 61-62	The LPA agrees with the modified wording	Plan modified as recommended by Examiner
PNP16 Victoria Street	<b>Victoria Square</b> Modify to remove restrictive wording (as per general comment). The policy is otherwise substantially unchanged.	P62-63	The LPA agrees with the modified wording. See Policy PNP18 below which is relevant to this policy.	Plan modified as recommended by Examiner
PNP17 Transport Gateway	<b>Transport Gateway.</b> No changes are recommended to this policy	P63 (No specific comment)	The LPA does not object to this policy which is land use based. It is noted that all year opening of toilet and tourist facilities may be unenforceable through planning: but as a land use policy meets Basic Condition requirements as worded	No change to policy.



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			in PNP17.	
PNP18 Supporting the Retention of Retail Uses (formerly) Supporting Independent Traders/.	<b>Supporting the Retention of Retail Uses. Formerly Supporting Independent Traders.</b> The Policy has been re-titled to ensure it relates to land use (i.e. retail) rather than local traders. Policy significantly modified by the Examiner to require changes of use away from Class A1 (shop) in primary and secondary areas to meet a viability test or demonstrate support for wider regeneration.	Add clarity about the uses to which the policy refers and acknowledge permitted development rights. pp63-64	This is a more restrictive approach than Local Plan Policies TC1-3. However because the Examiner's modifications allow exceptions on viability or regeneration grounds, it is considered, meets the basic conditions.	Plan modified as recommended by Examiner
PNP19 Safeguarding open countryside	<b>Safeguarding open Countryside.</b> Modify Policy to refer to the NPPF and Policy C1 of the Local Plan. This creates more flexibility in the policy, but its overall thrust is largely retained.	To provide clarity and set out criteria for determining planning applications. pp 64-65.	The LPA agrees with the modified wording which refers to the NPPF and Policy C1 of the Local Plan.	Plan modified as recommended by Examiner
PNP20 Great Parks	<b>Great Parks.</b> Modify Policy to remove "restrictive" wording in the second paragraph.	p65 (general comment)	The LPA note that reference is made to the Masterplan supplementary advice.	Plan modified as recommended by Examiner
PNP21 White Rock	<b>White Rock.</b> Modify policy. The reference to encouraging major organisations (criteria b) has been removed. Similarly the penultimate	pp66-67 (general comments)	The LPA agrees the modified wording meets the Basic Conditions.	Plan modified as recommended by Examiner

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	point restricting expansion southwards (i.e out side of the plan area into the Brixham Peninsula NP area) has been removed. The final "restrictive" paragraph has been removed. The remainder of the Policy is retained.			
PNP22 Western Corridor	<b>Western Corridor.</b> Modify Policy. . The Policy is reworded to relate to planning applications. It is otherwise substantially unchanged apart from the removal of the final "restrictive" sentence.  The Examiner has also referred to the Western Corridor Area (as shown on Figure 1.3 page 8 of the PNP) to provide clarity about the extent of Western Corridor.	Show policy area on a map and increase clarity (pp67-68)	The LPA agrees with the modified wording	Plan modified as recommended by Examiner
PNP23 Yalberton to Blagdon Valley	<b>Yalberton to Blagdon Valley</b> The Examiner recommended that the Policy should be deleted and moved to a section on Community Aspirations.	Mostly not policy – but a list of community aspirations/projects (Report pages 25-26 and 68-69)	Paignton Neighbourhood Forum has argued land use matters would be lost and that the Policy should be retained in modified form.  Whilst the Policy contains "restrictive elements", it is in general conformity with the Local plan and has regard to the NPPF. As reworded it contributes to the achievement of sustainable development and is able to be applied to planning	Policy PNP23 modified as shown in Table 2A (below) Appendix 3 and agreed with the Paignton Neighbourhood as the Qualifying Body that submitted the Plan.

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			decisions.  The policy structure and wording have been modified using the approach endorsed by the Examiner at Policy PNP6 (Station Square 'Gateway'). This also removes reference to designation of a conservation area.	
PNP24 Collaton St Mary	<b>Collaton St Mary.</b> Modify the Policy. This policy has been significantly modified to reflect the Local Plan Future Growth Area (Policies SS2 and SDP3) and the adopted Supplementary Planning Document. These Modifications render the policy less restrictive of development. However, the list of matters that development should seek to achieve has been largely retained.	Make policy less restrictive and bring into general conformity with the Local Plan (pp70-71)	The modified policy requires regard to be had to the Adopted Masterplan Supplementary Planning Document. The list of considerations, as modified are in general conformity with the Local Plan. It is noted that there are other representations to the policy from the development industry. However the examiner indicates that these have been considered carefully.	Plan modified as recommended by Examiner
PNP25 Clennon Valley	<b>Clennon Valley.</b> Modify Policy: This Policy is retained unchanged except for the final (restrictive) sentence.	pp72 (general comment)	The LPA agrees with the modified wording	Plan modified as recommended by Examiner
PNP26 Clifton with Maidenway	<b>Clifton with Maidenway.</b> Modify Policy: This Policy is retained unchanged except for the final (restrictive) sentence.	pp72-3	The LPA agrees with the modified wording. It is noted that the policy recognises the tourism value of Clennon Valley and that the "restrictive" sentence	Plan modified as recommended by Examiner

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			has been removed.	
PNP27 Preston	<b>Preston.</b> The Examiner recommended that this is not a policy but a list of community aspirations and should be moved to a separate section of the Plan	Policy not a policy but a list of community aspirations (pp 73-74)	<p>The Neighbourhood Forum has made representations that a modified version of the Policy should be retained.</p> <p>The policy contains contentious sites including Oldway Mansion, Parkfield and (two sites at) Preston Down Road, which the LPA and TDA have made representations on. However the key issue likely to restrict development of Oldway Gardens and Parkfield is the Local green Space designation (see discussion above).</p> <p>The Policy has been revised in collaboration with the Forum using the policy structure and wording endorsed by the Examiner at Policy PNP6 (Station Square 'Gateway')</p> <p>It has been further modified to include a reference to the need for a viable use for Oldway Mansion. In the LPA's view this brings the modified Policy PNP28 into general conformity with the Basic Conditions .i.e. has regard to the NPPF,</p>	Policy PNP27 modified as shown in Appendix 3 and agreed with the Paignton Neighbourhood as the Qualifying Body that submitted the Plan.

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			is in general conformity with the strategic policies of the Local Plan, contributes to the achievement of sustainable development and able (as modified) to be applied to planning decisions).	
<b>Section 5: Conclusions and recommendations</b>	Pages 75-76 (N.B These issues have been addressed elsewhere but are repeated her for completeness).			
<b>5.1</b>	The Paignton Neighbourhood Plan has been prepared in accordance with the statutory requirements and processes.	P75	Noted and agreed.	As above.
<b>5.2</b>	The Neighbourhood Plan does not deal with County matters, nationally significant infrastructure etc.	Page 75	Noted and agreed.	Noted.
<b>5.3</b>	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	Page 75	Noted and agreed.	Noted
<b>5.4</b>	The Sustainability Appraisal meets the EU	Detailed rationale	The Council, as competent authority	LPA concurs that SA

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	<p>obligations regarding Strategic Environmental Assessment.</p> <p>The Examiner is satisfied that the Plan meets the Basic Conditions in respect of Habitats Regulations Assessment, including the implications of the "People over Wind" decision</p>	<p>set out on Page 75</p> <p>The Paignton Neighbourhood Plan does not make any site allocations and the examiner concurs with Torbay Council's statement of 4<sup>th</sup> May 2018.</p>	<p>under the Habitats Regulations is empowered to require the Qualifying Bodies to provide sufficient information to enable it to be satisfied in HRA terms. It has therefore reviewed the associated Neighbourhood Plan HRAs, and in the context of the above (not withstanding 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.</p> <p>For absolute clarity, the LPA considers this could be made clearer through a minor re-formatting to set out the same in an 'Appropriate Assessment' Stage. The LPA (as competent authority), has accordingly drafted this amended Appropriate Assessment work to meet the HRA regulations."</p>	<p>SEA and HRA requirements have been met.</p>
<b>5.5</b>	<p>The Paignton Neighbourhood Plan is supported by a Sustainability Appraisal. Examiner is satisfied that the policies and plans in the Paignton Neighbourhood Plan, subject to the recommended modifications</p>	<p>pp75 and see 7.4 above</p>	<p>Noted and agreed. Detailed comments are contained above.</p>	<p>LPA concurs that SA/SEA requirements have been met</p>

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	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			
<b>5.6</b>	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.	To ensure there is consistency of numbering etc.	Update of the following: <ul style="list-style-type: none"> <li>• Cover page wording;</li> <li>• Preface wording</li> <li>• Footer title;</li> <li>• Contents page listings;</li> <li>• Diagrams and boundary maps where amended;</li> <li>• Paragraphs 2.4, and 6.126 (2nd bullet point);</li> <li>• NPPF references clarified to be the 2012 edition;</li> <li>• Include an overall Policies Map as an Appendix 4.</li> </ul> <u>Reason</u> – to ensure clarity, consistency and ease of use.	All updates shown in Appendix 3 have been agreed with the Paignton Neighbourhood Forum as the Qualifying Body that submitted the Plan.
<b>5.7</b>	Recommend that the plan submitted for referendum includes a Policies Map.	For ease of interpretation and clarity.	The LPA support this recommendation. the format and content of the policies map have been agreed with Paignton Neighbourhood Forum as qualifying	Plan submitted for referendum to include a Policies Map.

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			body.	
<b>5.8</b>	The Paignton Neighbourhood Plan subject to the recommended modifications can proceed to Referendum		Noted and accepted.	Agree.



**Annex 2A Revised Policy Wording where significantly different to examiner's recommendation (Note that minor changes/additions are indicated in schedule 2A and the track change Plan at Appendix 3).**

<b>Preface</b>	<p>Insert at end of Preface:</p> <p><u>The Plan has been through several stages of formal consultation and has been examined by an Independent Examiner appointed by Torbay Council.</u></p> <p><u>If approved by those eligible to vote at the Referendum, it will then become part of the statutory development plan which the Council has a legal duty to have regard to when deciding planning applications.</u></p>
<b>PNP1</b>	<p>Area Wide</p> <p>....</p> <p>Development will not be supported where:</p> <p><u>f) The proposal would result in an adverse impact on a European protected site.</u></p> <p><del>f)</del> <u>g) the provision of houses in multiple occupation....</u></p>
<b>PNP1(c)</b>	<p>Design Principles</p> <p>4 Local Food Production Capacity</p> <p>xii) protect and increase food growing spaces to reflect the orchard and food production heritage of the area. <u>The protection and enhancement of orchards will be supported, and consideration should be given to creating edible hedgerows which serve a biodiversity and recreational function".</u></p>
<b>PNP1 (g)</b>	<p>Designing out Crime</p> <p>All developments will be expected to show how crime and the fear of crime <u>and wider security threats</u> have been taken into account in the proposals submitted having regard "Designing out Crime" Guidance. <u>In particular they should have regard to:</u></p>

	<p><u>1) Access and movement - places with well-defined and well used routes with spaces and entrances that provide convenient movement without compromising security;</u></p> <p><u>2) Structure - places that are structured so that different uses do not cause conflict;</u></p> <p><u>3) Surveillance - places where all publically accessible spaces are overlooked;</u></p> <p><u>4) Ownership - places that promote a sense of ownership, respect, territorial responsibility and community;</u></p> <p><u>5) Physical protection - places that include necessary, well designed security features;</u></p> <p><u>6) 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; and</u></p> <p><u>7) Management and maintenance - places that are designed with management and maintenance in mind, to discourage crime.</u></p>
<b>PNP11</b>	<p><u>Old Town</u></p> <p><u>Improvement of the Old Town area shown on the inset plan (Fig. 6.7 page 42) will be encouraged and proposals supported where they will:</u></p> <p><u>a) enhance the public realm;</u></p> <p><u>b) encourage regeneration where sympathetic to heritage features and uses in the area;</u></p> <p><u>c) provide financial contributions where appropriate that enable implementation to be achieved.</u></p> <p><u>Subject to other policies of the plan, improvement of the area will be supported that better the function, amenity and public enjoyment by design detail that will:</u></p> <p><u>d) retain shop and building fronts of importance to the area. Replacement frontages should conserve or enhance the character and</u></p>

	<p><u>appearance of the area having regard to Policy PNP1(c). Where possible, historic features such as building lines, window patterns and material should be reinstated;</u></p> <p><u>e) enable 'Old Town' signage and historic information at key interchanges for tourists and other users of the area to make it easier to find and enjoy;</u></p> <p><u>f) improve pedestrian, cycle and public transport connections and access from the transport hub and seafront;</u></p> <p><u>g) support use of the highway and Palace Avenue Gardens for local markets and events;</u></p> <p><u>h) encourage specialty shops in Winner Street and improvement of residential amenity in Well Street;</u></p> <p><u>i) support provision of a Heritage Centre use within the area;</u></p> <p><u>j) support use of the Palace Theatre and Palace Avenue Garden as key facilities.</u></p>
<b>PNP12</b>	<p><u>Getting Around</u></p> <p><u>Improvement of the Town Centre and seafront area shown on the inset plan (Fig. 6.3 page 42) will be encouraged and proposals supported where they will:</u></p> <p><u>a) make it easier to use sustainable transport;</u></p> <p><u>b) provide financial contributions where appropriate that enable implementation to be achieved.</u></p> <p><u>Subject to other policies of the plan, improvement of the area will be supported that better the function, amenity and public enjoyment by design detail that will:</u></p> <p><u>c) improve integrated transport connections having regard to the hierarchy of sustainability;</u></p> <p><u>d) improve pedestrians connections and the way that traffic uses in the area interact with pedestrians;</u></p>

	<p><u>e) provide safe, continuous, separated cycling and pedestrian pathways to schools, employment and tourist sites;</u></p> <p><u>f) complete Paignton's missing links in the National Cycle Route Network in support of Local Plan Policy SS6;</u></p> <p><u>g) help public transport better meet user needs;</u></p> <p><u>h) de-clutter the town centre to make it easier to move around;</u></p> <p><u>i) improve surfaces for pedestrians, including disabled people;</u></p> <p><u>j) ensure that town centre parking for cycles, motorcycles and cars supports town centre viability;</u></p> <p><u>k) bring different forms of transport closer together wherever possible.</u></p>
<b>PNP23</b>	<p><u>Yalberton to Blagdon Valley</u></p> <p><u>Improvement of the Yalberton to Blagdon Valley area shown on the inset plan (Fig. 6.12 page 59) will be encouraged and proposals supported where they will:</u></p> <p><u>a) enhance tourism and attraction of the area to visitors;</u></p> <p><u>b) provide financial contributions where appropriate that enable implementation of the following measures to be achieved.</u></p> <p><u>Subject to other policies of the plan, improvement of the area will be supported that betters the function, amenity and public enjoyment by design detail that will:</u></p> <p><u>c) enhance the landscape character in accordance with PNP19;</u></p> <p><u>d) enhance biodiversity and safeguard the Valley's caves, lime kilns and underground karst system in support of Torbay Local Plan Policy NC1;</u></p> <p><u>e) protect the unspoilt 'Devon Green Lane' known as Lidstone Lane or Whitehill Lane that runs from Lower Yalberton to Byter Mill, Stoke Gabriel, to the south;</u></p> <p><u>f) enhance buildings, orchards, and structures of heritage importance in the area;</u></p>

	<p><u>g) encourage small scale food growing, rearing and horticulture and protection of the Valley's extensive network of species-rich mature traditional hedges and large number of mature and veteran trees;</u></p> <p><u>h) enable separated cycling facilities through and into the area with 'pinch points' where possible at either end of Long Road to discourage vehicles of more than 3.5 tonnes in total weight.</u></p>
<b>PNP27</b>	<p><u>Preston</u></p> <p><u>Improvement of the Preston area shown on the inset plan (Fig. 1.2 page 9) will be encouraged and proposals supported where they will:</u></p> <p><u>a) enhance the public realm;</u></p> <p><u>b) enhance tourism facilities and community uses;</u></p> <p><u>Subject to other policies of the plan, improvement of the area will be supported that betters the function, amenity and public enjoyment by design detail that will:</u></p> <p><u>c) support appropriate and viable reuse of Oldway Mansion (including the Rotunda) and Parkfield House (including the Stables;</u></p> <p><u>d) improve the seafront area shown on the inset plan (Fig.6.8 page 46) with uses that support:</u></p> <p><u>i) public toilet facilities at Seaway Lane;</u></p> <p><u>ii) a barbeque area on the seafront;</u></p> <p><u>iii) creation of surfing opportunities where possible</u></p> <p><u>e) enable mixed use café, hotel and other tourist facilities where appropriate at Hollicombe;</u></p> <p><u>f) support provision of a community café, allotments and orchard space for community use where appropriate in the top part of Preston.</u></p>



## Appendix 3

A Neighbourhood  
Development Plan to 2030

# Paignton Neighbourhood Plan

*for the historic heart of Torbay*



## Preface

---

This Plan has been produced by the community of Paignton to guide development of the area until 31 March 2030.

The Plan seeks to ensure Paignton will continue to be an area of attractive contrasts that make up the rich pattern of town, countryside and seaside loved by so many residents and visitors alike.

The pleasant mixture of heritage assets and green spaces draws many tourists to the area from near and far. The importance of this to the local economy will continue to be critically important.

At the same time there are challenges to be met in a way that must be sustainable for the existing and future generations who live and work here. This is the task that has been addressed involving hundreds of community volunteers from all parts of Paignton who have worked together to produce this Plan.

The Plan has been through several stages of formal consultation and has been examined by an Independent Examiner appointed by Torbay Council.

If approved by those eligible to vote at the Referendum, it will then become part of the statutory development plan which the Council has a legal duty to have regard to when deciding planning applications.

## Acknowledgements

Producing this Plan would not have been possible without financial help provided by Torbay Council, the Department for Communities and Local Government, and the Community Development Foundation. The assistance received is gratefully acknowledged.

Date: November 2018



# Contents

Page

Preface	2
Part 1: Introduction	7
• What is this Plan ?	7
• How is it structured ?	7
• Who has led in its preparation ?	8
• What areas are included ?	8
• What time period does it cover ?	8
• How will it be used and by whom ?	8
• Scope of the Plan	8
Part 2: Community Involvement	10
• Who has been involved with the process ?	10
• What has it involved ?	10
• Assessment and Referendum	10
Part 3: Statement of Compliance	11
• National Planning Policy and advice	11
• Preservation of Listed Buildings and Conservation Areas	11
• Contribution to achievement of sustainable development	11
• Conformity with Torbay Local Plan	11
• European Obligations	12
• Evidence base	13
Part 4: Vision and Aspirations	14
• Needs and opportunities	14
• Vision and Aspirations	14
Part 5: Aim and Objectives	15
Part 6: Policies and Proposals	16
• Community support for the policies and proposals	16
• <b>Area-wide:</b>	16
Policy PNP1 – Area Wide	18
PNP1 (a) – Rural Character Area	21
PNP1 (b) – Local Green Space	21
PNP1 (c) – Design Principles	26
PNP1 (d) – Residential Development	27
PNP1 (e) – Commercial Development	27
PNP1 (f) – Towards a sustainable low carbon energy efficient economy	27
PNP1 (g) – Designing out crime	27
PNP1 (h) – Sustainable transport	28
PNP1 (i) – Surface Water	29

• <b>Town Centre and Seafront:</b>	31
Policy PNP2 – Town Centre	32
Policy PNP3 - Paignton Harbour	33
Policy PNP4 - Seafront	34
Policy PNP5 – Torbay Road	35
Policy PNP6 – Station Square ‘Gateway’	36
Policy PNP7 – Victoria Square	37
Policy PNP8 – Crossways, Hyde Road and Torquay Road	38
Policy PNP9 – Victoria Park	39
Policy PNP10 – Queens Park	40
Policy PNP11 – Old Town	41
Policy PNP12 – Getting around	43
Policy PNP13 – Housing opportunities within the Town Centre	44
Policy PNP14 – Paignton Neighbourhood Plan Core Tourism Investment Area	45
Policy PNP15 – Flood and sea defences	47
Policy PNP16 – Victoria Street	48
Policy PNP17 – Transport ‘Gateway’ improvement	49
Policy PNP18 – Supporting the Retention of Retail Uses	50
• <b>Western Area:</b>	51
Policy PNP19 – Safeguarding open countryside	51
Policy PNP20 – Great Parks	54
Policy PNP21 – White Rock and nearby areas	56
Policy PNP22 – Western corridor	57
Policy PNP23 – Yalberton to Blagdon Valley	59
Policy PNP24 – Collaton St.Mary Village	61
• <b>Adjoining Areas:</b>	62
Policy PNP25 – Clennon Valley	62
Policy PNP26 – Clifton with Maidenway	63
Policy PNP27 - Preston	64

## Part 7: Community Partnership Areas 65

• Paignton Town	66
• Preston	71
• Clifton with Maidenway	76
• Goodrington, Roselands and Hookhills	79
• Blatchcombe	84

## Part 8: Delivery 91

• The Delivery strategy	91
• Delivery of the Neighbourhood Plan	91

### List of Figures:

Figure 1.1 - Neighbourhood Plan Area	7
Figure 1.2 - Locations within the Neighbourhood Plan Area	9
Figure 2.1 - The steps to adoption	10
Figure 3.1 - The Neighbourhood Plan documents	13
Figure 5.1 - Our Aim and objectives	15
Figure 6.1 – Paignton Area of Torbay Green Infrastructure Delivery Plan	22
Figure 6.2 - Local Green Spaces	23
Figure 6.3 – Town Centre and Seafront	31
Figure 6.4 – Station Square Area	36
Figure 6.5 – Victoria Square Area	37
Figure 6.6 – Crossways, Hyde Road, Torquay Road Area	38

Figure 6.7 – Old Town	42
Figure 6.8 – Neighbourhood Plan Core Tourism Investment Area	46
Figure 6.9 – Town Centre Shopping Areas	50
Figure 6.10 – Paignton’s Rural Character Area and Management Strategy	53
Figure 6.11 - Great Parks vision summary	54
Figure 6.12 – Yalberton Valley	59
Figure 7.1 – Paignton Town Community Partnership Area	66
Figure 7.2 – Identified sites Paignton Town	67
Figure 7.3 – Preston Community Partnership Area	71
Figure 7.4 – Identified sites Preston	72
Figure 7.5 – Clifton with Maidenway Community Partnership Area	76
Figure 7.6 – Identified sites Clifton with Maidenway	77
Figure 7.7 - Goodrington, Roselands and Hookhills Community Partnership Area	79
Figure 7.8 – Identified sites Goodrington, Roselands and Hookhills	80
Figure 7.9 – Blatchcombe Community Partnership Area	84
Figure 7.10 – Sensitive habitat	84
Figure 7.11 – Blatchcombe and the Green Infrastructure Delivery Plan	84
Figure 7.12 – Identified sites Blatchcombe	86
Figure 7.13 – Identified sites Great Parks Area	86
Figure 7.14 – Identified sites Yalberton and White Rock Area	87
Figure 7.15 – Identified sites Collaton St. Mary Area	87

#### **List of Tables:**

Table 3.1 – Torbay Local Plan trajectories	12
Table 3.2 – Neighbourhood Areas, jobs floorspace and homes	12
Table 6.1 – Local Green Space locations	24
Table 6.2 – Paignton’s Rural Character Area and Management Strategy	53
Table 8.1 – Housing sites phasing conclusions	93
Table 8.2 – Future monitoring of the Neighbourhood Plan	95

#### **List of Photographs:**

Palace Avenue Gardens	Cover
Traditional orchards in Yalberton Valley	21
Town Centre Victoria Street	32
Paignton Harbour	33
Canopy along Torbay Road	35
Hyde Road frontage	38
Victoria Park	39
Queens Park Clubhouse	40
Queens Park	40
Palace Avenue	42
St. John’s Church	42
Paignton Shoreline	45
Upper floors Victoria Street	48
Paignton Bus Station	49
Paignton Railway Station	49
Paignton Steam Railway Station	49
Railway and adjacent Picture House	49
View looking south and east from Westerland Valley	52
View looking north west from Yalberton Valley	52
Energy Centre White Rock	56
Former Nortel Site White Rock	56
The Church of St. Mary, Collaton Village	61
Clennon Valley	62
Clifton with Maidenway roof tops	63
Community Partnerships	65

Gradual tree loss example Kings Ash Road 2016	85
<b>List of Appendices:</b>	96
Appendix 1 – Glossary of Terms	97
Appendix 2 – Protected Species and Sites of Importance	103
Appendix 3 – Trees for biodiversity	106
Appendix 4 – Neighbourhood Plan Policies Map	108

# Part 1: Introduction

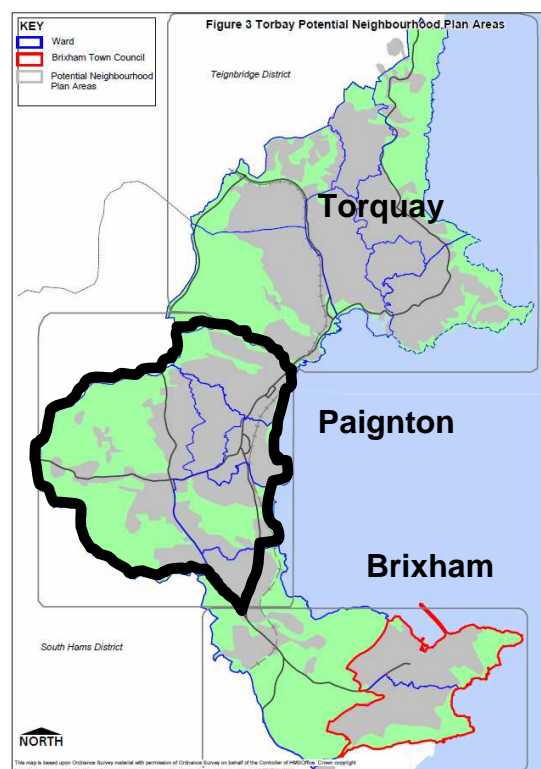
## What is this Plan ?

1.1 An adopted Neighbourhood Plan forms part of the statutory Development Plan used by the local planning authority and others to make decisions on planning applications and related investment proposals. It is therefore a document of considerable importance.

1.2 The ability to produce a Neighbourhood Plan stems from the Localism Act 2011 and is an opportunity taken up enthusiastically by Torbay Council and the Paignton community.

1.3 Together with the Local Plan for Torbay, the Neighbourhood Plans for Torquay, Paignton, and Brixham cover the whole of Torbay.

**Figure 1.1 Neighbourhood Plan Area** (see also Fig. 1.2 page 9)



## How is it structured ?

1.4 The Plan is arranged in distinct parts to aid understanding and effective implementation:

**Part 2 Community Involvement:** provides a summary of the steps taken by the community to produce the Plan;

**Part 3 Statement of Compliance:** sets out how the Plan has complied with formal requirements including: National Planning Policy; general conformity with the strategic policies of the Torbay Local Plan; complements the adjoining Neighbourhood Plans for Torquay & Brixham, and complies with European Obligations;

**Part 4 Vision & Aspirations:** describes the change that Paignton has experienced and the community Vision for the future;

**Part 5 Aim & Objectives:** shows how the Objectives and Policies of the Plan link directly to each other. These include area-wide policies in addition to those relating to specific locations of key importance;

**Part 6 Policies & Proposals:** contains the detailed Policies of the Plan divided into those that apply to the whole Plan area, and those that apply additionally to the Town Centre and Seafront Area, the Western Area, and Adjoining Areas, which together form an integral part of the Neighbourhood Plan;

**Part 7 Community Partnership Areas:** sets out the Policy Maps with additional information and key issues of importance to each of the 5 Community Partnership areas that collectively cover the whole of Paignton;

**Part 8 Delivery:** provides a summary of who will be responsible for delivering the identified projects, how they may be funded and the phasing of those projects. This

part also sets out the monitoring procedures to follow the delivery of the plan.

### **Who has led in its preparation ?**

1.5 Paignton does not have a Parish Council. The Plan has been produced by the community of Paignton acting as a Neighbourhood Forum under the provisions of the Localism Act 2011. The Neighbourhood Area and Forum were designated for this purpose by Torbay Council in December 2012.

### **What areas are included ?**

1.6 This Plan applies to the whole of Paignton as shown on the location map (Fig. 1.2 page 9).

### **What time period does it cover ?**

1.7 In common with the Local Plan, this Neighbourhood Plan covers the period until 2029/30. The specific proposals it contains relate to the period up to 2029/30 in compliance with the Local Plan's development horizon and requirements of the National Planning Policy Framework 2012 (paragraph 47 especially).

### **How will it be used and by whom ?**

1.8 The plan is for everyone with an interest in Paignton – residents, visitors, developers, businesses and investors. It will be used to promote investment in the town, help guide new development to the most suitable sites, protect valuable assets, secure improvements of all kinds, give a continuing voice to the community, and promote a better quality of life for current and future generations.

### **Scope of the Plan**

1.9 The Plan has been produced by the community alongside the new Local Plan for Torbay as a whole, and the Neighbourhood Plans for Torquay and Brixham. By adopting this twin track approach, the Plans have informed

each other to arrive at the policies and proposals needed for the area. Aspects considered have covered:

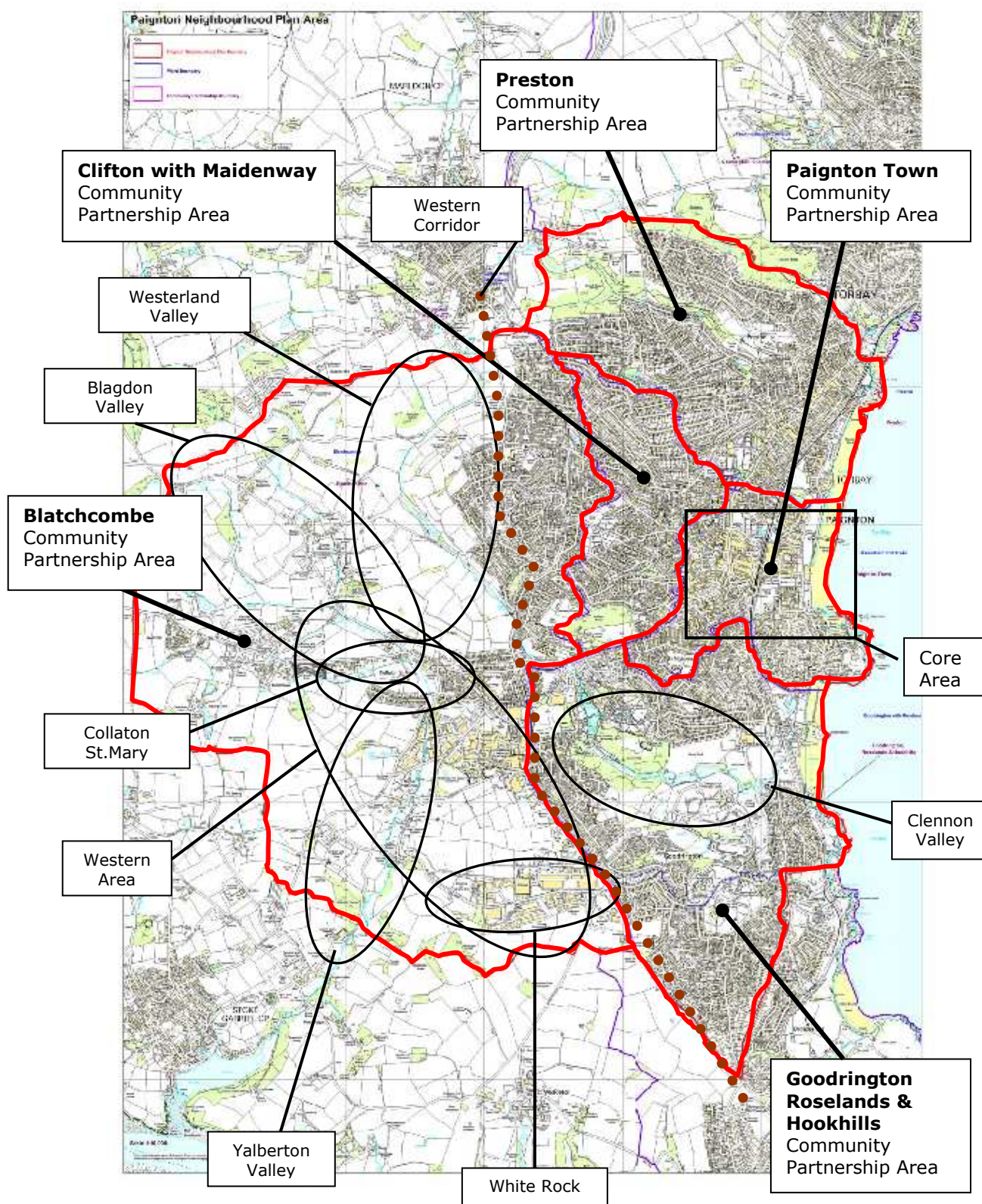
- Population Characteristics
- Economic Circumstances
- Land Use
- Property Condition
- Moving around
- Environmental Conditions
- Condition of Community Assets
- Climate Change

1.10 The Plan has given particular focus to keeping a sustainable balance between making use of previously developed 'brownfield' land before further 'greenfield' space is released for development. A phased approach to land release accords with the National Planning Policy Framework 2012 (NPPF 47).

1.11 A Glossary identifying the intended meaning of terms used in this Neighbourhood Plan is shown at **Appendix 1.**



**Figure 1.2 Locations within the Neighbourhood Plan Area**



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## Part 2: Community Involvement

### Who has been involved with the process ?

2.1 Producing the Neighbourhood Plan has been community led as intended by the Localism Act 2011. It has involved a collaborative working arrangement from the outset between Torbay Council, the 5 established Community Partnerships, and many others that joined in, which included:

- residents and workers who live in the area
- local councillors for the area
- retailers, business and property owners in the area
- local organisations and other community groups in the area
- observers from neighbouring areas

### What has it involved ?

2.2 To ensure the content truly reflects community views and support, the Plan has been produced by the community in 3 stages (Fig. 2.1).

#### Stage 1 - 'SWOT' analysis:

From a blank sheet start, meetings were held in all parts of Paignton to find out views about Paignton's **S**trengths, **W**eaknesses, **O**pportunities, and **T**hreats. The response was greater than expected and helped to show where shared views exist within and across the whole of Paignton.

#### Stage 2 - Key Area proposals

Using exhibitions, questionnaires, workshops, and assistance from the Prince's Foundation, the results of Stage 1 were converted by volunteers into proposals for further views on the key areas where the community want change to take place.

#### Stage 3 - Overall Plan

With further input from each of the 5 Community Partnerships and help from

Planning Aid, proposals for the whole Plan area were prepared for further community views, and amendment where necessary, before submitting the Plan to Torbay Council as the Local Planning Authority.

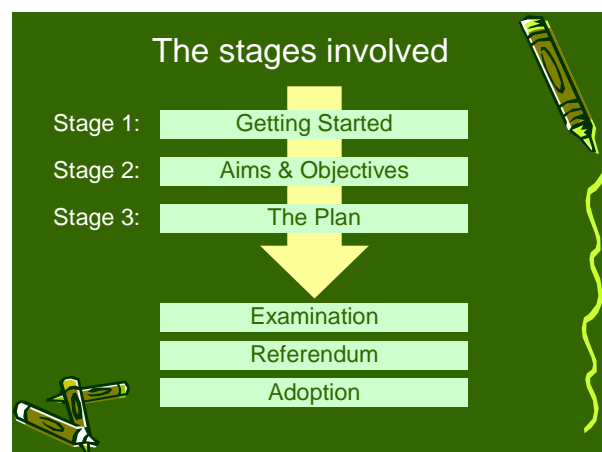
2.3 Details of each Stage above and results received are contained in the supporting **Community Involvement and Consultation** statement (Fig. 3.1 page 13).

### Assessment and Referendum

2.4 Before Adoption, the Plan **was** examined by an independent person and **will be** voted on by eligible voters in the Neighbourhood Area.

*[This paragraph will be replaced with an explanation of the **Referendum date and vote** outcome in the pre-adoption version]*

**Figure 2.1: The steps to adoption**





## Part 3: Statement of Compliance

---

3.1 In accordance with the Localism Act 2011 and related legislation, this Neighbourhood Plan meets all of the requirements known as the 'basic conditions'. In summary:

### **a) National Planning Policy and advice:**

3.2 The Neighbourhood Plan has full regard to advice contained in National Planning Policy Guidance and supports all 3 roles in the National Planning Policy Framework 2012 (NPPF7):

- **The economic role** – it contributes to building a strong, responsive and competitive economy by ensuring that clear support is given for net job growth identified in the Local Plan for our local economy to grow;
- **The social role** – it supports strong, vibrant and healthy communities by ensuring that account has been taken of all sites identified in the Local Plan for sustainable growth of homes in sustainable balance with all other needs;
- **The environmental role** – it contributes to the protection and enhancement of our natural, built and historic environment that makes our locality unique and so attractive.

### **b) Preservation of Listed Buildings and Conservation Areas:**

3.3 Particular care has been taken to ensure that Paignton's many buildings and areas of historic or architectural importance are fully protected.

### **c) Contributes to the achievement of sustainable development:**

3.4 A key feature of the Neighbourhood Plan is the importance given to ensuring that it meets the needs of the present without compromising the ability of future generations to meet their own needs.

### **d) Conformity with Torbay Local Plan:**

3.5 Full assessment has been undertaken to ensure that the Neighbourhood Plan is in general conformity with the strategic policies of the development plan. In the case of Paignton, this is the Torbay Local Plan adopted in December 2015 following an extended period of Examination and Modifications from November 2014 until October 2015. The assessment has also included non-statutory plans the Council uses.

3.6 The Local Plan provides for net growth in jobs of 5,000-5,500 from a base of 59,000 in 2012 'in tandem' with 8,900 additional homes to 2029/30, if the sites identified can overcome infrastructure and protected habitat constraints (**Appendix 2** page 103). Further details are provided in e) below.

3.7 As there is reliance on a significant return to net inward migration assumption, the Local Plan will undergo monitoring annually and 'major' review every 5 years to decide if adjustment of the growth level is necessary either downward or upward within Torbay's remaining capacity. This is to ensure that only sustainable development is achieved in a balanced manner in accordance with the NPPF. The first 5-yearly Review will be in 2020/21 and the second in 2025/26.

### **Coordination with Neighbouring Plans:**

3.8 In accordance with the strategic policies of the Local Plan, all 3 Neighbourhood Plans covering Torbay take into account the Local Plan identified sites for more jobs and homes in a balanced way as summarised in Tables 3.1 and 3.2 below (page 12):

**Table 3.1: Torbay Local Plan trajectories:**

Period	Net Job growth each year Policy SS1	Net Homes each year Policy SS13
2012/17	275-300	400
2017/22	275-300	495
2022/30	275-300	555
Total	5,000-5,500	8,900

(Source: Adopted Torbay Local Plan Dec 2015)

**Table 3.2: Neighbourhood Plan Area jobs, floorspace and homes**

NP Area	Floorspace for Jobs (net sq.m.)	Additional homes
Torquay NP	37,200	3,960
Paignton NP	30,100	4,280
Brixham NP	2,700	660
Total	70,000	8,900

(Source: Floorspace - Local Plan Part 5; Homes-Local Plan Table 4) (all figures rounded – as LP)

3.9 The Local Plan recognises the rate at which the land supply will be taken up by the market during each 5-year review period will depend on the assumptions made about net job growth and net inward migration.

3.10 There is no historic pre-plan backlog of housing land supply shortfall, and there is **at 2015/16** a deliverable 5-year supply of land for additional homes as required by the **2012** NPPF.

3.11 Since the start of the Local Plan period in 2012, job numbers have declined to less than the base level of 59,000.

3.12 Over the same period, further homes have been granted planning consent, new starts and completions have fallen below the Local Plan trajectory, and the number of homes vacant for 6 months or more has risen sharply.

3.13 Review of these 'signals' of decline in job growth and over-supply of housing provision is a legitimate step to take into account in preparing the Neighbourhood Plan. It has led to the conclusion that the supply of land in the Local Plan together with planning consents already granted will last for

longer than the Plan period to 2029/30, which the Local Plan has recognised may become the case (*LP para. 7.5.18*).

3.14 There is no requirement for a Neighbourhood Plan to allocate land for development. In any event, the Local Plan confirms that Neighbourhood Plans are not required to allocate sites where there would be likely significant effects on Habitat Regulation matters (*LP para. 4.1.29*).

3.15 Nonetheless, the Neighbourhood Plan is expected by Policy SS13 of the Local Plan to identify those sites that will provide for Local Plan years 6-10 (2017/22) and rolling 5-year supply thereafter (to accord with NPPF **2012** requirements).

3.16 Accordingly, the Neighbourhood Plan has considered the appropriate sequence of sites at the adopted rate on the assumption that job numbers have not declined and has found no need to identify further sites. Further details are set out in Part 8 of the Neighbourhood Plan and Basic Conditions document that accompanies the Neighbourhood Plan (Fig. 3.1 page **13**).

#### **e) European Obligations:**

3.17 The Neighbourhood Plan does not breach and complies with European obligations as required by environmental and human rights Directives transposed into UK legislation.

3.18 Sustainability Appraisal and Habitat Regulations Assessment (HRA) of the Local Plan formed part of the Examination in Public in 2014/15 which confirmed in the final HRA that the level of growth proposed must be treated carefully as likely significant effect on protected habitats of European importance could not be ruled out.

3.19 Although it has not been necessary for the Neighbourhood Plan to identify further sites, a voluntary

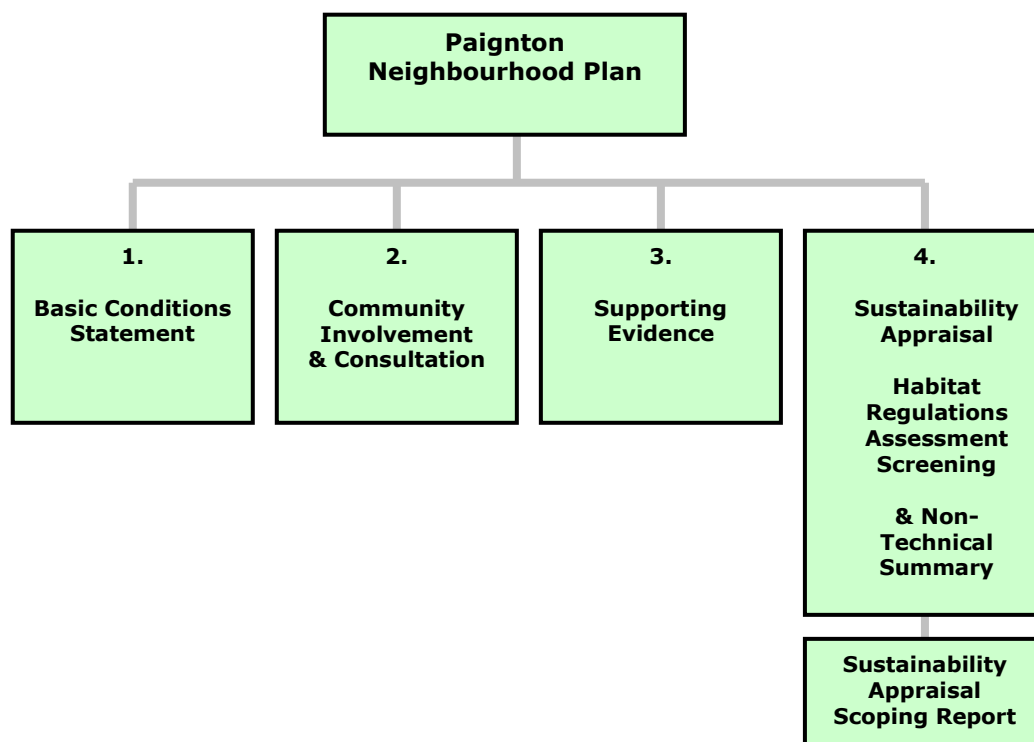
Sustainability Appraisal (incorporating Strategic Environmental Assessment) and HRA 'screening' of the Neighbourhood Plan has been undertaken and all three statutory bodies consulted (Environment Agency, Historic England, and Natural England) to ensure that any likely significant effects have been identified and addressed.

### **Evidence Base:**

3.20 The Local Plan and Neighbourhood Plan have been prepared in parallel using the same evidence base with the progress of each plan informing the content of the other as they have evolved.

3.21 Additional documents prepared to accompany the Neighbourhood Plan are shown in Fig. 3.1 below:

**Fig 3.1 The Neighbourhood Plan documents**



## Part 4: Vision and Aspirations

---

### Needs and opportunities

4.1 Over many centuries Paignton has grown from a Saxon settlement on the south Devon coast to a family tourist resort at the heart of Torbay, also known as the English Riviera.

4.2 The adjoining towns of Torquay and Brixham provide equally distinctive links to the sea and the Bay's unique setting. Torquay is noted for its fine marina and night time entertainment, Paignton for being the family holiday resort and historic heart of Torbay, and Brixham for its long standing fishing port connection with the sea.

4.3 Attractive natural surroundings and mild climate give the area a very distinctive character with outstanding natural and manmade assets that can be damaged very easily by further development. Securing sustainable development therefore lies at the heart of the Neighbourhood Plan.

4.4 The loss of 5,000 jobs in 2001 dealt a heavy blow to the local economy well before the world wide recession of 2008. Recovery from this in a sustainable way is the community's highest priority.

4.5 The National Index of Multiple Deprivation (IMD) shows conclusively that it is the lack of job opportunities locally, not housing provision, which continues to cause many of Paignton's residents to live within the top 10% of the most deprived areas nationally.

4.7 Within this overall Aim, our community wishes to recreate our 'Garden Town' appeal by improving and linking our green spaces and greening the streets and buildings that connect them (97.0% supported).

4.8 Such action in both town and countryside areas will improve the appeal of Paignton to tourists and investors, enhance critically important biodiversity features present in the area and strengthen the quality of community living conditions.

### Community Vision

4.6 From community views expressed during preparation of the Plan, one overriding Aim became very clear:

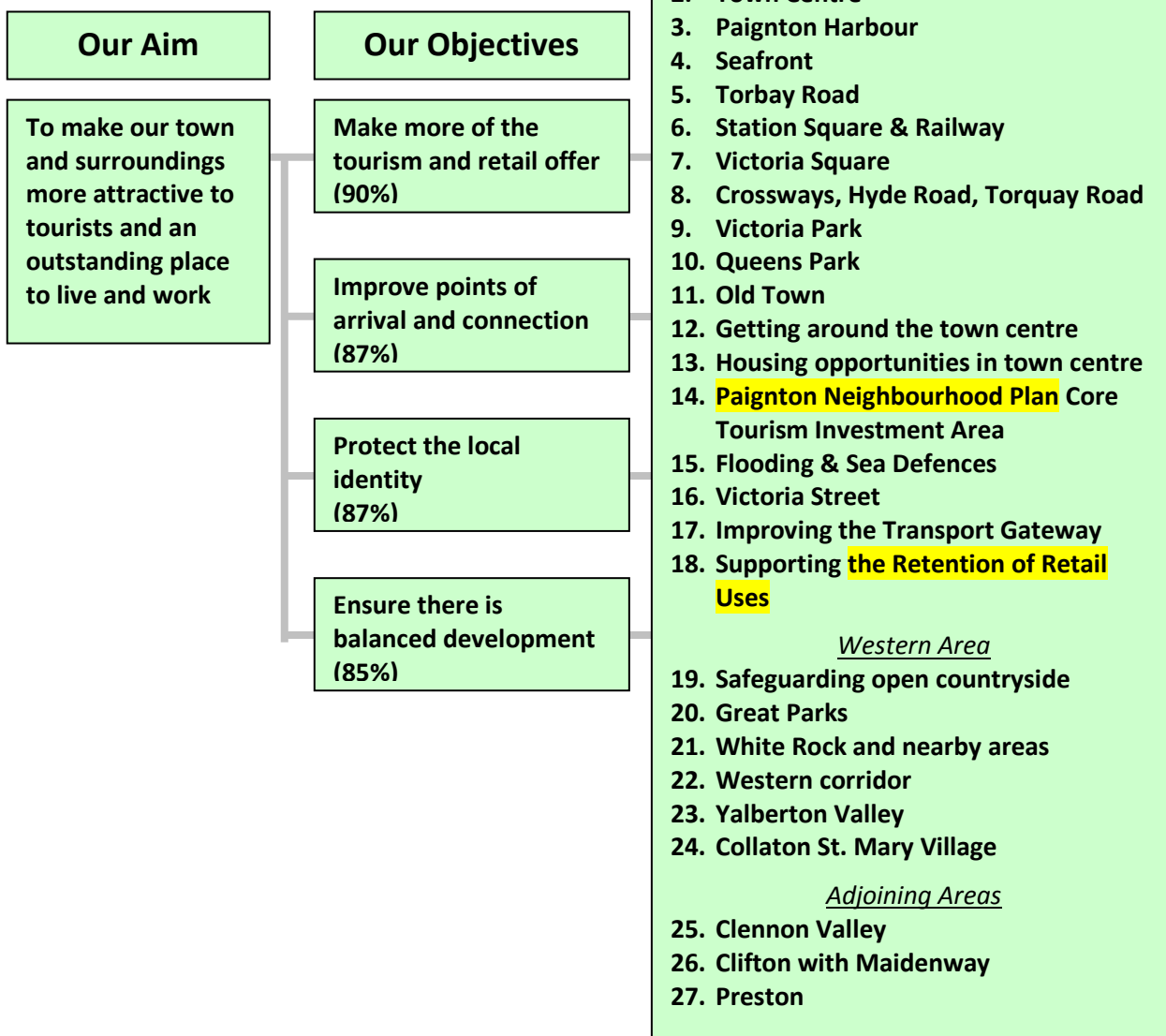
***To make our town and surroundings more attractive to tourists and an outstanding place to live and work***

## Part 5: Aim and Objectives

5.1 To achieve the overall Aim, 4 key Objectives emerged from the Stage 1 results. These key Objectives, and proposals that take them forward, were confirmed in Stages 2 and 3 by our community. Details are contained in the **Community Involvement and Consultation** document that accompanies the Neighbourhood Plan (Fig. 3.1 page 13).

5.2 Bringing these all together provides the framework of the Neighbourhood Plan. Part 6 that follows sets out the Policies and Proposals in detail. The percentage figure is of the community support received for the objectives shown

**Figure 5.1 Our Aim and Objectives**



## Part 6: Policies and Proposals

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6.1 Paignton is a busy seaside town of more than 43,000 residents with many varied attractions and is at the centre of Torbay on the world renowned coastline of the English Riviera. Our plan is to make sustainable use of this unique situation and the assets we have to improve our prosperity, quality of life and care of the environment.

### How will this be achieved ?

6.2 This part of the Neighbourhood Plan sets out the specific Policies and Proposals our community want to see achieved for each location shown in Part 5.

6.3 As required, the policies do not repeat those in the 2012 NPPF and Torbay Local Plan where they continue to apply alongside the Neighbourhood Plan.

6.4 The Policies are arranged by location to aid continuity and implementation, especially when considering planning applications:

- Area Wide Policies (applying to all parts of Paignton)
- Town Centre & Seafront
- Western Area
- Adjoining Areas

### Community support for the policies and proposals

6.5 For each area the following policies and proposals will apply. As supporting information, the percentages shown for each objective come from the views expressed by our community when preparing the Plan.

## Area wide policies

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### Background

6.6 The Local Plan stresses the days of 'predict and provide' are long gone and the importance of getting the balance of new homes, new jobs and

new infrastructure right, to ensure that jobs, not just housing, come forward (*LP para. 3.2.9*). Accordingly, the Neighbourhood Plan has applied the same integrated approach in the policies proposed to ensure the required balance is achieved through the 'plan, monitor and manage' delivery arrangement adopted.

### More jobs

6.7 The Local Plan proposes an additional 5,000-5,500 net growth in jobs over 18 years from a base of 59,000 in 2012 at a target of 275-300 net new jobs every year in Torbay.

6.8 At present (2016), four years into the Local Plan period, jobs in Torbay have steadily dropped to 57,000 instead of having grown to 60,100. The need to assist in giving greater emphasis to net job growth is clear. Further details are contained in the **Supporting Evidence** document that accompanies the Neighbourhood Plan (Fig. 3.1 page 13).

### More homes

6.9 Torbay's resident population in 2011 was 131,100 which grew by only 1,400 between the Census years of 2001 and 2011. Unlike other places, deaths exceed births every year in Torbay and the resident population will reduce if migration from elsewhere does not continue. Latest official estimates indicate that over the last 10 years, between 2006 and 2016, Torbay's population has continued to grow at a modest rate of 200 per annum from 131,900 in 2006 to 133,900 in 2016, and the number of existing homes that have been vacant for 6 months or more has grown by nearly 1,000.

6.10 How much growth from net inward migration will take place is very uncertain. However unless new homes are directly linked to new jobs, they risk being occupied by residents who



have to find work outside Torbay. This would go against the 'golden thread' objective of promoting sustainable development required by the Government's National Planning Policy Framework and balance of land uses required by 2012 NPPF37 especially. The 'sequence' of development will therefore be just as important, if not more so, as the 'pace' of development each year. The Local Plan incorporates a major Review every 5 years from its Adoption in 2015 of the balance being achieved.

6.11 The Neighbourhood Plan review of sites identified in the Local Plan has confirmed that there is a sufficient supply in Paignton as required by the Local Plan pending the next 5-year major review in 2020/21 and beyond. This provides for at least 10 years growth as required by 2012 NPPF47 and the adopted Local Plan. Further details are provided in the **Basic Conditions Statement** and **Supporting Evidence** documents that accompany the Neighbourhood Plan (Fig. 3.1 page 13).

## Environmental change

6.12 Challenges the Paignton area must also address include flood risk from inland and coastal water, existing drainage constraints, movement constraints, promoting a low carbon economy, energy efficiency, and safeguarding the area's contribution to biodiversity and food production.

6.13 On current climate change projections to 2080\*, annual rainfall will change little but drier summers and wetter winters are expected, especially along the western side of the UK. The risk of coastal flooding will increase significantly and there will be more intense rain events, inland flooding and severe storms with absolute sea level rise around the UK of between 12 and 76cm for the 1990-2095 period and larger in more southern parts. Seasonal mean and extreme waves are projected to increase to the South West of the UK. An abrupt change to the Atlantic Ocean Circulation (*Gulf Stream*) is very

unlikely this century. [*\*Met Office UKCP09*]

6.14 Of particular importance to securing growth of the local economy is the importance of the area's landscape quality and biodiversity, which the Local Plan HRA has concluded must be safeguarded by the imperative that planning consent for further development is only granted where it is categorically proven that there will be no adverse impacts on the European sites identified (*LP HRA 2015 para. 9.1.6*).

## In summary

6.15 There are not enough jobs to meet the objective of the Local Plan. This must be the first priority. The Local Plan sites review confirms that a 5 year supply of sites exists for new homes and there is no backlog pent up/hidden demand (para. 6.8). Pressures beyond 5 years will depend on how many people move into the area from outside Torbay. Without more people from outside, Torbay's population level will drop, because deaths exceed births every year, with mixed consequences for our town.

6.16 Improving our economic prosperity and care for the Riviera environment are the key factors.

## Objectives:

- Give priority to employment led growth, not housing led growth (91%)
- Keep the number of additional jobs and homes in 'balance' always (86%)
- Allocate further land for jobs only in sustainable locations (81%)
- Increase the amount of Affordable housing to meet local need (71%)
- Plan for a drop in the resident population (62%)
- Provide more local shops only if the population increases (62%)

- Restrict Houses in Multiple Occupation known as HMO's to areas outside the Core Tourism Investment Area (or tourism areas generally) (80.5%)
- Planning regulations should be rigorously enforced to manage the problem of HMO's (82.6%)
- Other suggestions received as written comments in Stage 2 that are achievable have been incorporated into the plan.

6.17 Accordingly:

### **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 2015, 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;

*(Policy PNP1 continued next column)*

*(Policy PNP1 continued)*

Development will not be supported where:

- f) the development proposal would result in an adverse impact on a European protected site;
- g) 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.

### **Achieving Sustainable Development**

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 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.



## Subsections to Policy PNP1

### Rural Character Area

6.18 Paignton's rural hinterland is a rich mixture of rolling countryside, landscaped peaks, valleys and stunning views. The combination provides an important habitat for wildlife, promotes community wellbeing and is vital to the economy of the area as a tourist destination and for farming.

6.19 Official National Data for wildlife demonstrates that rural Biodiversity is plummeting: English bird populations have fallen 56% on farmland and 23% in woodland<sup>(1)</sup>; English butterfly populations are down 27% on farmland and 51% in woodland<sup>(2)</sup>.

6.20 Environment Agency investigations demonstrate soil structural degradation to be widespread in SW England, generating enhanced surface-water runoff resulting in surface water pollution, localised flooding and reduced winter recharge rates to aquifers<sup>(3)</sup>.

6.21 In 2000 the average UK farm was 169 acres, by 2010 it was 226 acres – an increase of one third. The average for the whole of Europe is 36 acres. Over the same period 47,000 farms disappeared, a 20% decline. UK farms are bigger than in any other European country except the Czech Republic<sup>(4)</sup>.

6.22 The area of farmland in Torbay decreased 10% between 1995 and 2004<sup>(6)</sup>. Devon's orchards have declined 90% in numbers since 1965<sup>(7)</sup>. In 2006 Torbay had 45 hectares of orchards<sup>(8)</sup>.

6.23 The rural area of Paignton is home to an array of principally important national habitats and species identified in the UK Biodiversity Action Plan (BAP). This includes: farmland, traditional orchards and deciduous (including broadleaved) woodland; farmland birds, butterflies and bats and plants<sup>(9)</sup>.

6.24 Paignton's rural farmland (many habitats), traditional orchards, broadleaved woodland and greenspace are also recognised as habitats of principal importance in Torbay's BAP<sup>(10)</sup>.

6.25 There are nationally and internationally important species present in rural Paignton. The Torbay BAP species of principal importance occurring in the RCA are the threatened Cirl Bunting and Horseshoe Bats (Greater and Lesser)<sup>(11)</sup> (**Appendix 2** page 103).

6.26 Most of the UK's Cirl Bunting (*Emberiza cirlus*) population, i.e. the core range, is in South Devon occupying the farmland strip between Exeter and Plymouth. In 2009 rural Paignton had a fragile number of nesting pairs of rare Cirl Buntings, a bird species of principal importance protected by law<sup>(12)</sup>.

6.27 The Greater Horseshoe Bat (*Rhinolophus ferrumequinum*) is rare in the British Isles and is confined to south-west England and south Wales<sup>(13)</sup>. Torbay is one of the UK's most important habitats for this mammal. It is a strictly protected and threatened species of Europe-wide importance listed under Annex II of the European Union Habitats Directive<sup>(14)</sup>.

6.28 The Paignton Rural Character Area habitat is part of the Greater Horseshoe Bat sustenance zone and extensive strategic flight paths<sup>(15)</sup>.

6.29 National Planning Policy (2012 NPPF109, 112 and 118) and the adopted Local Plan (Policies SS8, SC4 and C1) recognise the importance of protecting and enhancing such valued landscapes and soils along with enhancement of the natural environment by providing net gains in biodiversity.

6.30 National Planning Policy 2012 (NPPF117) and Local Plan policies (SDP1, NC1) acknowledge the importance of the protection and recovery of priority species populations,

linked to national and local targets and promoting the establishment of coherent ecological networks.

6.31 To create jobs and prosperity National Planning Policy (2012 NPPF28) identifies that Neighbourhood Plans promote the development and diversification of agricultural and other land-based rural businesses.

6.32 Torbay Policy H3 provides an exception for local need based development within the countryside where demonstrably related to a strong local connection.

6.33 In support of these policies and taking into account local evidence, the Neighbourhood Plan identifies in Policy PNP1(a) the Rural Character Area (RCA) of greatest importance to Paignton.

6.34 The RCA contains a diverse blend of Torbay's Landscape Character Types (TLCT)<sup>(5)</sup>, as defined further in Policy PNP19, together with the management strategy that will be applied in these areas when considering development proposals.

### Local Green Space

6.35 National Planning Policy also encourages local communities to identify for special protection green areas of particular importance to them (2012 NPPF76).

6.36 Paragraph 6.3.1.37 of the adopted Local Plan has left this to the Neighbourhood Plan to determine.

6.37 From assessment made by the community using the criteria specified, the areas of Local Green Space are designated by this Neighbourhood Plan.

### Local Food

6.38 Local food production is an important part of Paignton's local identity, cultural heritage and economy. Protecting and providing diverse spaces for food cultivation such as orchards, allotments and community growing

areas is a key aspect of the town's current and future green infrastructure and food sovereignty.

6.39 Paignton was originally a farming parish noted for the excellence of its food and drink sent all over the country, and famous also for its large plum puddings<sup>(16)</sup>. This rich agricultural heritage gave its name to some of the vegetables and fruit originally grown, bred and developed in the area, such as the large and sweet Paignton Pol Cabbage<sup>(17)</sup> and Paignton Marigold Cider Apple (*Malus domestica Borkh*) which originated in Paignton before 1834<sup>(18)(19)</sup>.

6.40 Growing local food encourages more active, healthy lives and generates community cohesion. Traditional orchards are of principal importance nationally and locally for biodiversity and are places that people can enjoy<sup>(20 & 21)</sup>.

6.41 Local food assets within the Neighbourhood Plan include:

- 1 publically owned 43 acre farm and farmhouse at Little Blagdon, Collaton St. Mary;
- 7 urban allotments;
- 1 community orchard in Goodrington; and
- several hectares of underutilised traditional orchards.

6.42 The local land area for local food provision has declined significantly over several decades.

6.43 National Planning Policies (2012 NPPF35, 69 and 109) recognise that planning can: play an important role in facilitating social interaction and creating healthy, inclusive communities; contribute to and enhance the natural and local environment through the wider benefits of ecosystem services such as food growing; and that conflicts between traffic & cyclists or pedestrians should be minimized. A community aspiration is the wish to encourage support for

food hubs and temporary use of vacant sites for food production.

6.44 Local Plan Policies SS1, SDP3 and SC4 identify that: new development should provide space for community infrastructure; firmly support measures for diverse methods of local food production and the consumption and cultivation of local crops and varieties.

6.45 Accordingly:

#### **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 22); 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.

#### **Policy PNP1 (b)**

##### **Local Green Space**

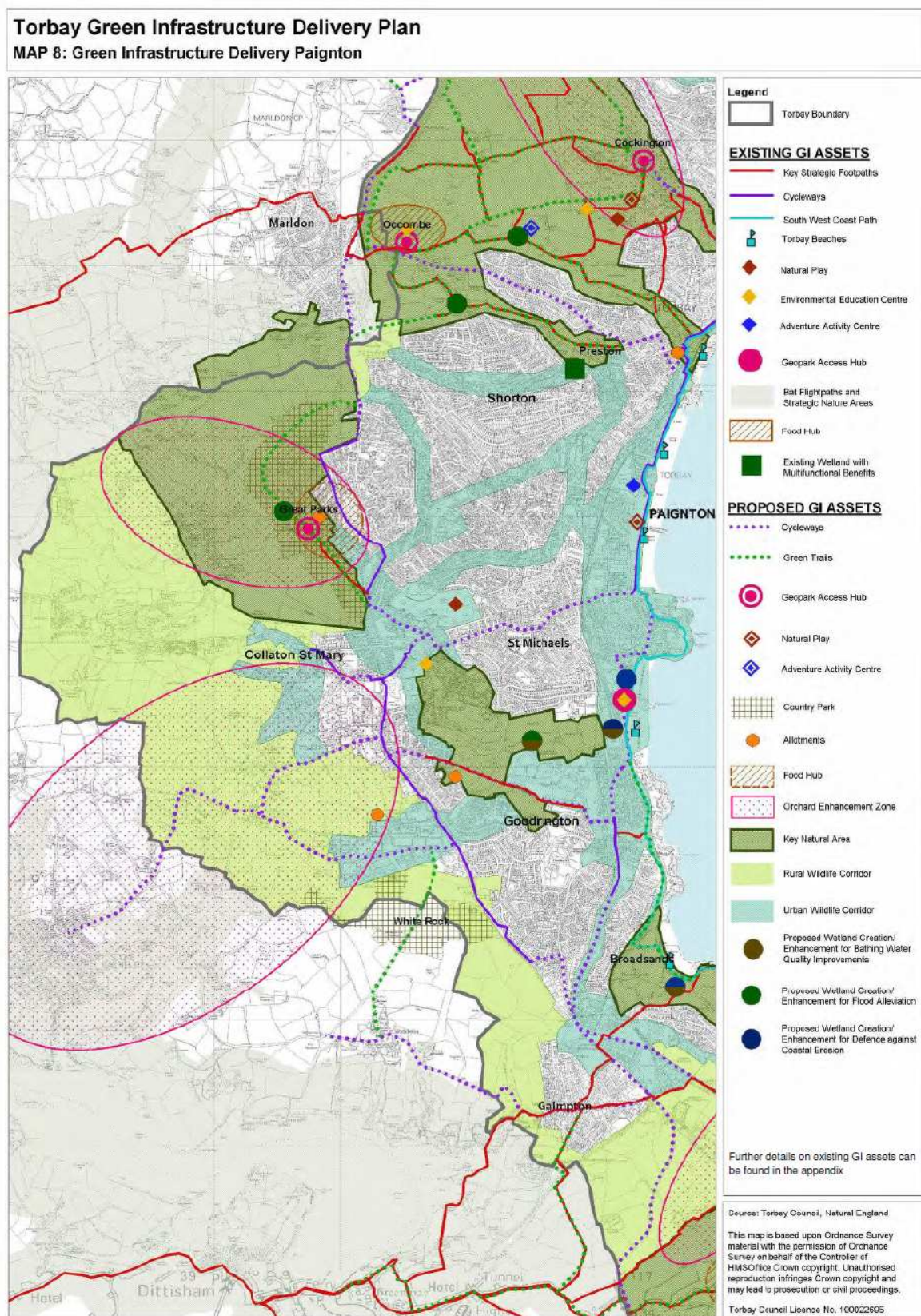
The areas designated as Local Green Space in this Neighbourhood Plan are shown on Fig. 6.2 and Table 6.1 (pages 23/24) and in Part 7 of this Plan. Proposals for new developments will only be supported in very special circumstances. 'Very special circumstances' will not exist unless the potential harm to these Local green spaces by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

**Traditional orchards in Yalberton Valley**





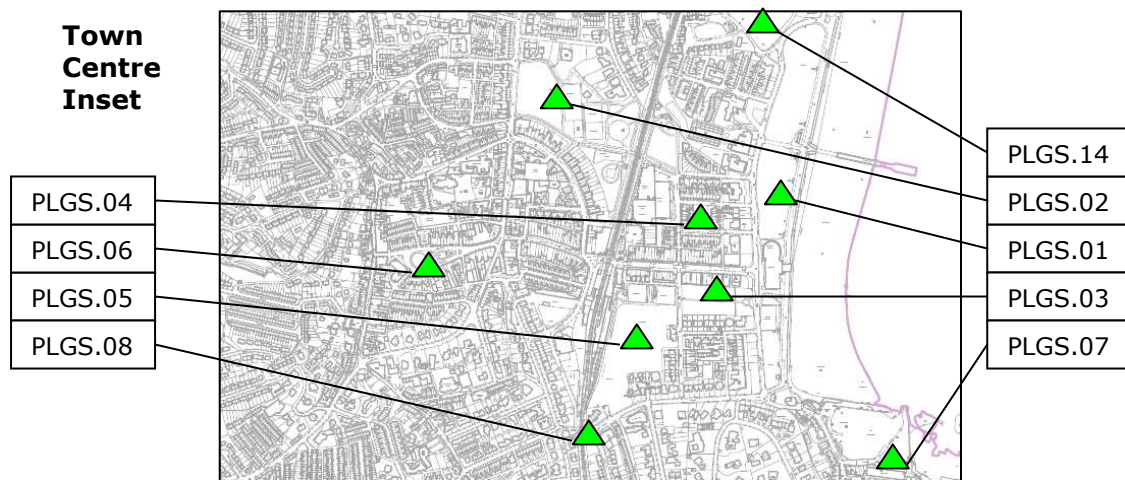
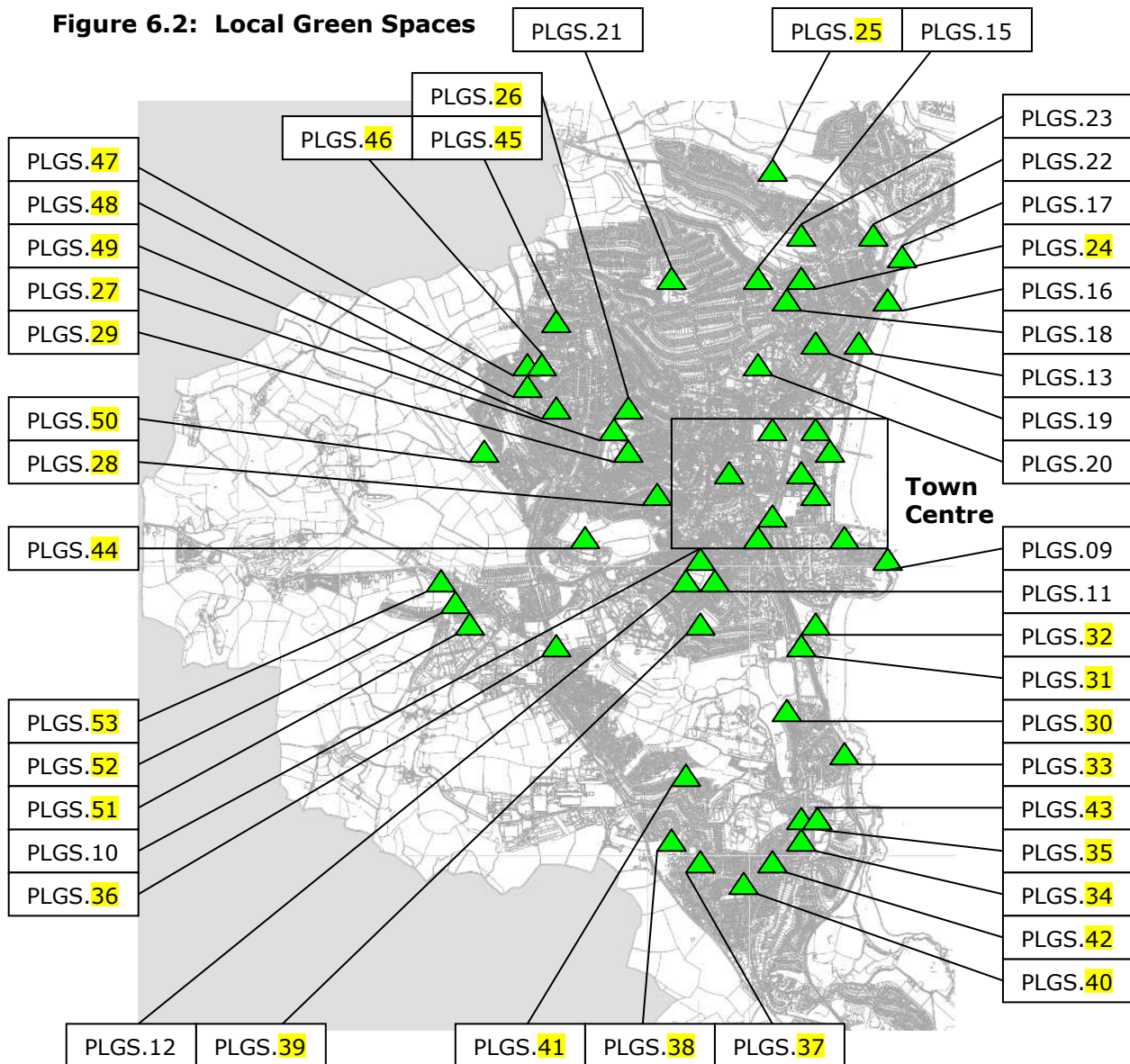
**Figure 6.1 Paignton Area of Torbay Green Infrastructure Delivery Plan**



Source: Torbay Council, Natural England and Torbay Coast & Countryside Trust 2011



**Figure 6.2: Local Green Spaces**



6.28 Further details of each site are given in Table 6.1 below, in Part 7, and in the **Supporting Evidence** document that accompanies the Neighbourhood Plan (Fig. 3.1).

**Table 6.1 Local Green Space locations**

NP Ref	Site name	CP Area				
		PT	Pres	C+M	GR+H	B
PLGS.01	Paignton Green	✓				
PLGS.02	Victoria Park	✓				
PLGS.03	Torbay Park and Gardens	✓				
PLGS.04	Berry Square	✓				
PLGS.05	Queens Park	✓				
PLGS.06	Palace Avenue Gardens	✓				
PLGS.07	Burma Star Garden	✓				
PLGS.08	Whitstone Corner	✓				
PLGS.09	Roundham Head Park	✓				
PLGS.10	St. Michael's Field	✓				
PLGS.11	Oakleigh St. Michael's Allotments	✓				
PLGS.12	Derrell Road Allotments	✓				
PLGS.13	Preston Green		✓			
PLGS.14	Parkfield		✓			
PLGS.15	Coombe Valley Park		✓			
PLGS.16	Hollicombe Cliff Park		✓			
PLGS.17	Hollicombe Park (part of)		✓			
PLGS.18	Wills Avenue Playground		✓			
PLGS.19	Preston Gardens		✓			
PLGS.20	Oldway Mansion Gardens		✓			
PLGS.21	Shorton Valley Woods		✓			
PLGS.22	Hollicombe Allotments		✓			
PLGS.23	Sandringham Gardens		✓			
PLGS.24	Lower Penns Road Allotments		✓			
PLGS.25	Scadson Woods		✓			
PLGS.26	Stanley Gardens			✓		
PLGS.27	Ailescombe Road Allotments			✓		
PLGS.28	Monastery Winner Hill			✓		
PLGS.29	Paignton Cemetery			✓		
PLGS.30	Clennon Valley Allotments				✓	
PLGS.31	Quay West Corner				✓	
PLGS.32	Young's Park (part of)				✓	
PLGS.33	Oyster Bend Field				✓	
PLGS.34	Goodrington Community Orchard				✓	
PLGS.35	Goodrington Village Green				✓	
PLGS.36	Claylands Cross Park				✓	
PLGS.37	Gibson Road Playground				✓	
PLGS.38	White Rock Recreation Ground				✓	
PLGS.39	York Road Allotments				✓	
PLGS.40	Hookhills Playground and Park				✓	
PLGS.41	Lancaster Drive Playpark				✓	
PLGS.42	Cherry Brook Square				✓	
PLGS.43	Goodrington Road				✓	
PLGS.44	Primley Park					✓
PLGS.45	Redwell Road					✓
PLGS.46	Smallcombe Scout Field					✓
PLGS.47	Smallcombe Road Playground					✓

NP Ref	Site name	CP Area				
		PT	Pres	C+M	GR+H	B
PLGS.48	Wild Fox Adventure Playground					✓
PLGS.49	Foxhole Community Playing Field					✓
PLGS.50	Great Parks Play Area					✓
PLGS.51	Snowdonia Close					✓
PLGS.52	Pennine Drive					✓
PLGS.53	Collaton St. Mary Meadow					✓

*Source of Photos in Part 7 by kind permission of S. Moss, M. Parkes, A.Hill*

#### Abbreviations used in the above Table:

- NP** – Neighbourhood Plan
- PLGS** – Paignton Local Green Space
- CP Area** – Community Partnership Area
- PT** – Paignton Town CP Area
- Pres** – Preston CP Area
- C+M** – Clifton with Maidenway CP Area
- GR+H** – Goodrington, Roselands and Hookhills CP Area
- B** – Blatchcombe CP Area

## Design Guidelines

6.46 These guidelines apply to all development proposed within the Neighbourhood Plan Area. They aim to enable development which respects and learns from the past and builds and provides responsibly for the future.

6.47 Development will be expected to reflect local distinctiveness of the area in general and locality of the site in particular, enhance biodiversity, and incorporate advances in sustainable development that helps to move towards a low carbon energy efficient economy.

6.48 Accordingly:

### Policy 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

*(Policy PNP1(c) continued next column)*

*(Policy PNP1 (c) continued)*

#### 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;

#### 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 50m<sup>2</sup> 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 106);
- #### 4. Local food production capacity
- xii) protect and increase food growing spaces to reflect the orchard and food production heritage of the area. The protection and enhancement of orchards will be supported and consideration should be given to creating edible hedgerows which serve a biodiversity and recreational function.



### **Policy 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;

### **Policy 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;

### **Policy 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;

## **Policy 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. In particular they should have regard to

- 1) *Access and movement* – places with well-defined and well used routes with spaces and entrances that provide convenient movement without compromising security;
- 2) *Structure* – places that are structured so that different uses do not cause conflict;
- 3) *Surveillance* – places where all publically accessible spaces are overlooked;
- 4) *Ownership* – places that promote a sense of ownership, respect, territorial responsibility and community;
- 5) *Physical protection* – places that include necessary, well designed security features;
- 6) *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;
- 7) *Management and maintenance* – places that are designed with management and maintenance in mind, to discourage crime.

## **Policy 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.

### **Water risks locally**

6.49 National Planning Policy (2012 NPPF94, 99 and 100) and Local Plan Policy (SS14, SDP3, ER1, ER2 and W5) identify that:

- proactive strategies should be adopted locally to mitigate and adapt to climate change, take full account of flood risk, water supply and demand;
- in vulnerable areas risks can be managed through suitable adaptation measures, including through the planning of green infrastructure; and
- account should be taken of advice from the Environment Agency and other relevant flood risk management bodies, e.g. South West Water.

6.50 Environment Agency investigations in South West England demonstrate that soil structural degradation can generate enhanced

surface-water runoff resulting in surface water pollution and localised flooding<sup>(22)</sup>.

6.51 In addition, the key finding of Torbay Council and South West Water's Sewer Capacity Assessment in 2014 was that 'surface water runoff from all new development in the Torbay Local Authority Area must be kept out of the combined sewer network.' The 2014 Sewer Capacity Assessment concluded that the outlying network of sewers 'will not necessarily have sufficient spare capacity to take additional development'<sup>(23)</sup>.

6.52 In addition the 2014 Sewer Capacity Assessment concluded: 'The effects of new hard surfaces, urban creep (surface hardening) and climate change should not be underestimated. A robust strategy for removing surface water from the existing sewer system will be required in order to maintain the current level of service to both the public sewerage network and for surface water management'<sup>(24)</sup>.

6.53 In addition to the issue of urban creep (surface hardening) risk within the existing urban area, investigations by Torbay Council and South West Water in 2014 recognised that the western and northern areas of Paignton is an area of increasing flooding, spills and outflows as a result of insufficient spare capacity in the existing outlying network of combined (surface and foul) sewers.

6.54 To prevent additional harmful polluting episodes, maintain water treatment services and help protect the environment, it is imperative that surface water (rainfall) runoff from all new development in this area of the plan must be kept out of the combined sewer network. Paignton's North and Western Areas were identified in the report for their potential to achieve more than sustainable drainage improvements<sup>(25)</sup>.

6.55 In support of national and local policy and the available evidence, Torbay Council's and South West

Water's recommendations have been adopted and incorporated into the Neighbourhood Plan as an area wide policy.

6.56 Accordingly:

#### **Policy PNP1 (i)**

##### **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;
- b) 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;
- c) 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; and
- d) the provision of waterless toilet systems is encouraged in all developments within the Rural Character Area defined in Policy PNP19.

#### **References to PNP1 Subsections:**

- (1) Department for Environment Food and Rural Affairs, October 2015, 'Wild Bird Populations in England, 1970 to 2014', *Annual statistical release*, Executive summary.

- (2) Department for Environment Food and Rural Affairs, October 2015, 'Butterflies in the Wider Countryside: England, 1970 to 2014', *Key Points*.
- (3) R.C.Palmer and R.P.Smith, December 2013, 'Soil Structural Degradation in SW England and Its Impact on Surface-Water Runoff Generation', *Soil Use and Management*, vol.29, no.4.
- (4) Eurostat *Statistics Explained* [http://ec.europa.eu/eurostat/statistics-explained/index.php/File:Agricultural\\_holding\\_s\\_2000-10\\_YB14.png](http://ec.europa.eu/eurostat/statistics-explained/index.php/File:Agricultural_holding_s_2000-10_YB14.png)
- (5) Torbay Council, Devon County Council & Enderby Associates, May 2010, *Landscape Character Assessment of Torbay: Final Report-Part 1, 4 Profiles of Torbay Character Types*, pp.33-42.
- (6) The Torbay Biodiversity Steering Group, 2006, *The Nature of Torbay: A Local Biodiversity and Geodiversity Action Plan 2006-2016*, Main Document, Priority Habitat Action Plans 6.3 Farmland, p31.
- (7) B.Pike, 2013, *The Fruit Tree Handbook* UIT/Green Books, Cambridge. Part Four: 17, Restoring a neglected orchard, p 306.
- (8) Torbay Council, Natural England and Torbay Coast and Countryside Trust, April 2011, *The Torbay Green Infrastructure Delivery Plan: Building a Sustainable Future for Torbay*, 3.3 Local Food, p 18.
- (9) Department for Environment Food and Rural Affairs, December 2015, *Biodiversity 2020: a strategy for England's wildlife and ecosystem services – Indicators*.
- (10) The Torbay Biodiversity Steering Group, 2006, *The Nature of Torbay: A Local Biodiversity and Geodiversity Action Plan 2006-2016*, Summary Document, 1. Introduction, p 4.
- (11) The Torbay Biodiversity Steering Group, 2006, *The Nature of Torbay: A Local Biodiversity and Geodiversity Action Plan 2006-2016*, Summary Document, 1. Introduction, p 4. and Species: 7.2, p23 and 7.4, p25.
- (12) Stanbury, A., Davies, M., Grice, P., Gregory, R., & Wotton, S. (2010). The status of the Cirl Bunting in the UK in 2009. *British Birds* 103: 702-711
- (13) JNCC (2012), Third Report by the United Kingdom under Article 17, European Community Directive on the Conservation of Natural Habitats and of Wild Fauna and Flora (92/43/EEC), *Rhinolophus ferrumequinum* Distribution Map, 1.1.1, p2.
- (14) As reference 13.
- (15) Torbay Local Plan (December 2015), Habitats Regulation Assessment
- (16) Devon County Council, Historic Paignton, [www.devon.gov.uk](http://www.devon.gov.uk).
- (17) As reference 16.
- (18) National Fruit Collection (NFC)) fruit (undated) unpublished characterisation by staff at NFC, Brogdale [www.nationalfruitcollection.org.uk](http://www.nationalfruitcollection.org.uk)
- (19) M.Smith (1971), National Apple Register
- (20) Department for Environment Food and Rural Affairs, December 2015, *Biodiversity 2020: a strategy for England's wildlife and ecosystem services – Indicators*.
- (21) The Torbay Biodiversity Steering Group, 2006, *The Nature of Torbay: A Local Biodiversity and Geodiversity Action Plan 2006-2016*, Summary Document, 1. Habitat: Farmland 6.3, p13.
- (22) R.C.Palmer and R.P.Smith, December 2013, 'Soil Structural Degradation in SW England and Its Impact on Surface-Water Runoff Generation', *Soil Use and Management*, vol.29, no.4.
- (23) Torbay Council and South West Water (July 2014), *Torbay 2032 An Assessment of Future Sewer Capacity in Torbay*.
- (24) As reference 2 above.
- (25) As reference 2 above.

## Town Centre & Seafront

6.57 Following views received from our community, the overall objectives for the Town Centre and Seafront area are to:

- Make more of the tourism and retail offer (90%), and
- Improve the points of arrival and connectivity (87%)

6.58 Our local economy benefits from tourism through jobs and income for our community. The town centre and seafront area has opportunities for sustainable improvements that will enhance our prosperity, quality of life, and care of the environment.

6.59 Key proposals of the Plan directed at these aims are:

### Recreating our Garden Town

6.60 While important to the whole plan area, this has special significance for the historic Town Centre that continues to be our Town's heart.

### Our Vision

6.61 We want to recreate our 'Garden Town' improving and linking our green spaces and greening the streets and buildings that connect them (97.0%).

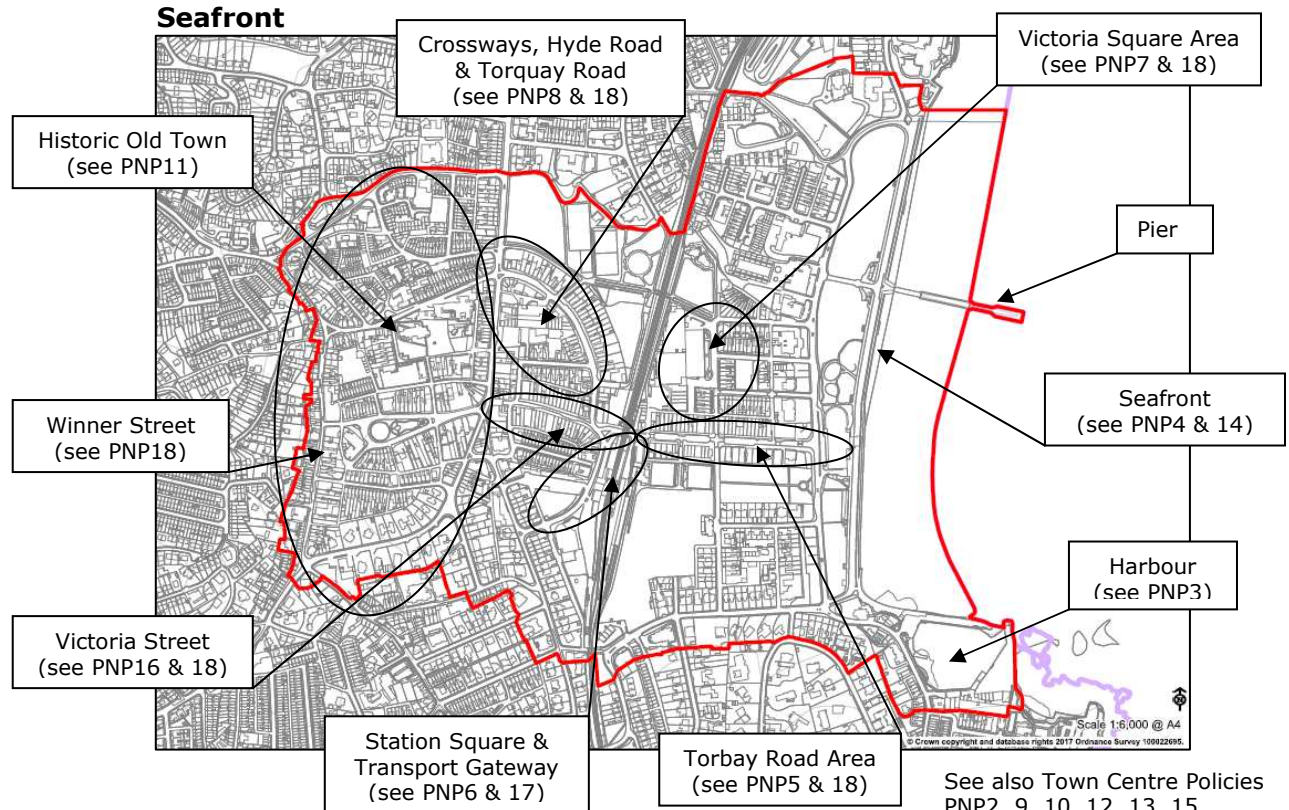
### The Challenge

6.62 Accommodating new needs within a finite space of heritage importance requires particular care.

### Objectives:

- We want to create a vibrant, well designed Town Centre (97.6%)
- We need to take account of the flood risk in our Town Centre in all the plans that we develop (94.2%)
- We need bold but sensitive change to make things happen in the Town Centre (93.6%)
- We want future retail growth to be in our Town Centre - not out of town (92.3%)

**Figure 6.3 Town Centre and Seafront**





- We need to make it easier to get around our Town on foot, cycle and in a car as well as by public transport (91.2%)
- We want residential accommodation in the Town Centre so it is "alive" after the shops close and so we can reduce development on greenfield sites (78.3%)
- Incorporate a Design Guide to improve the townscape, protection of heritage assets, and treatment of unattractive features (77%)

6.63 Accordingly:

### 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:

- improve the vibrancy, cultural experience, appearance, and layout of the area;
- take full account of flood risk;
- focus retail use within the Town Centre and promote retail growth;
- 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;
- increase residential accommodation within the area;
- protect heritage assets and remove unattractive features which have a negative impact upon the character of the area;
- enhance the provision of urban wildlife corridors and biodiversity links within the area, and with adjoining areas; and
- meet the relevant Design Guide criteria set out in Policy PNP1(c).

### Town Centre Victoria Street



## Paignton Harbour

6.64 The Harbour is not as well used by tourists as at Torquay or Brixham. Attracting more tourists to the Harbour area is a key objective of the Plan. The threat of climate change and existing flood risk also need to be considered.

### Objectives:

- Attract tourists to the Harbour area as a key objective of the Plan (82%)
- Improve the Harbour with a theme that is sensitive to its heritage and 'quaintness' (90%)
- Improve the Harbour sensitively with a mixed use development, including accommodation, which adds value to the tourist offer (84.3%)
- Make more use of the Harbour for water sport (70%)
- Ensure that developer contributions are used to support improvements to the Harbour
- Enhance existing off-street parking for greater tourist use (71.0%)

6.65 Accordingly:

### 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 31) 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.

## Paignton Harbour



## Seafront

6.66 The beaches, greens, pier and facilities along the seafront are critical elements of Paignton's tourism offer. In addition, the greens have a long standing use by residents for sports and pastimes throughout the year. As with the Harbour, the threat of climate change and existing flood risk also need to be considered.

### Objectives:

- Protect Paignton Green as an open space for future generations (96%)
- Improve the public realm on the seafront (90.2%)
- Upgrade the shelters to improve the tourism offer (86%)
- Make improvements to the Vue/Flagship building, particularly to improve the view on approach from Torbay Road (82.8%)
- If in the long term an alternative site can be found for the multiplex cinema we should support the cinema relocating (71.5%)
- If the multiplex relocates we should find an alternative use for the Vue part of the building to maximise the benefit that the existing building can provide with its unrivalled views (71.5%)

6.67 In support of the 100 year covenant that applies to Paignton Green for the benefit of Paignton residents, all of the Greens meet the criteria for designation as Local Green Space in accordance with 2012 NPPF76 (PNP1(b), page 21).

6.68 Accordingly:

### Policy PNP4- Seafront

Improvement of the Seafront shown within the Town Centre and Seafront inset plan (Fig. 6.3 page 31) 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.



## Torbay Road

6.69 This key route has vibrancy and attractions of critical importance to our tourism offer. Opportunities identified for enhancement include:

### Objectives:

- Bring the Picture House back to life as a tourist attraction (81% & 95.6%)
- Make greater use of the wide pavement for outdoor cafés (60% & 73.2%)
- Encourage the sympathetic improvement of the walkway canopies (94% & 91.2%)
- Better link to the seafront (82.4%)
- Explore the option for pedestrianisation (69%)

### Canopy along Torbay Road



6.70 Accordingly:

### 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 31) 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 36);
- 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.

## Station Square, level crossing and railway station (Improving the 'Town Centre Gateway')

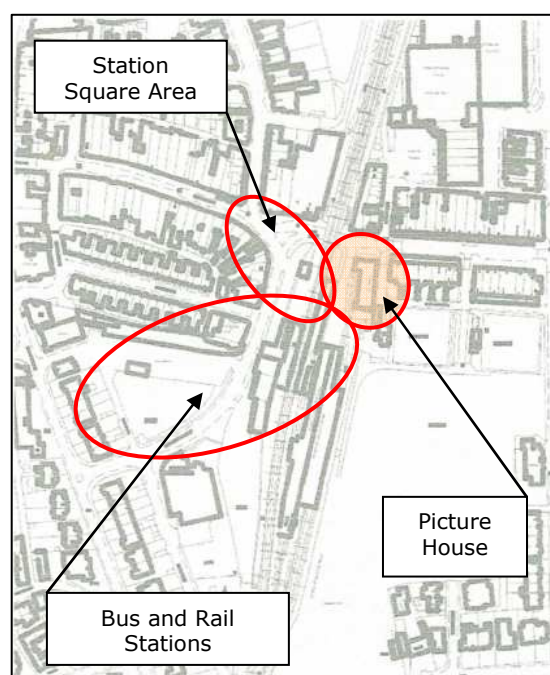
6.71 Heavy rail, steam rail, bus, taxi, long distance coach stop, and public parking facilities all meet at this critical point centrally located between the main shopping area of Victoria Street and tourist route of Torbay Road.

6.72 It is an area also used by many to sit in the sun or rest a while.

### Objectives:

- Make better use of the Station Square Area (91.4%)
- Reconfigure this area to reduce congestion and make it more attractive and enjoyable (90.1%)
- Open out the area to create a shared space that better showcases the Picture House and Steam Railway (85.3%)
- Make greater use of the Steam Railway as a Tourist 'gateway'/attraction (91% & 92.1%)

**Figure 6.4 Station Square Area**



6.73 Accordingly:

### 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:

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

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

- 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;
- 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;
- 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.

...

## Victoria Square (Lidl Square)

6.74 Tourist accommodation providers in the locality wish to develop extra 'themed' holidays and retain the primary use of this area, not its re-use for general housing or conversions into Housing in Multiple Occupation (HMO's). If replacement of the multi-storey car park is necessary, the site has the potential to provide options for alternative or additional use:

### Objectives:

- Be open to any idea that would improve the use and look of this area (86.5%)
- If the car park and Lidl site become available, consider putting a Victoria Centre on it, and be open to what use could be made of it (85.6%)
- Encourage 'themed markets' on Victoria Square (78%)
- Retain the existing number of multi-storey car park spaces (72%)
- Support equivalent replacement of any off-street car parking lost (70%)

**Figure 6.5 Victoria Square Area**



6.75 Accordingly:

### 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:

- improve the use and amenity of the area;
- include parking provision to adopted standards
- encourage 'themed markets' on the square;
- retain public open space, trees, amenity areas, or pedestrian links that contribute to the greening the town centre;
- connect to and enhance the green infrastructure network and urban wildlife corridors of the adjoining areas, especially between the square and seafront;
- 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.

## Crossways (including abutting Hyde Road) and Torquay Road

6.76 As a point of arrival by road, the area provides a thriving scene of business frontages. The main exception being a high level of vacant space at Crossways shopping centre which our community has indicated could provide scope for change. The food supermarket closed in 2012. The centre has an overhead multi-storey car park and incorporates an important pedestrian link between Torquay Road, Hyde Road, and beyond.

6.77 Ideally, the centre will continue to provide space for growth of new retail opportunities that will add vitality and attraction to the experience of tourists and residents. If this ceases to be possible, alternative opportunities would be supported that enable the centre to adapt or be redeveloped to breathe new life into the area.

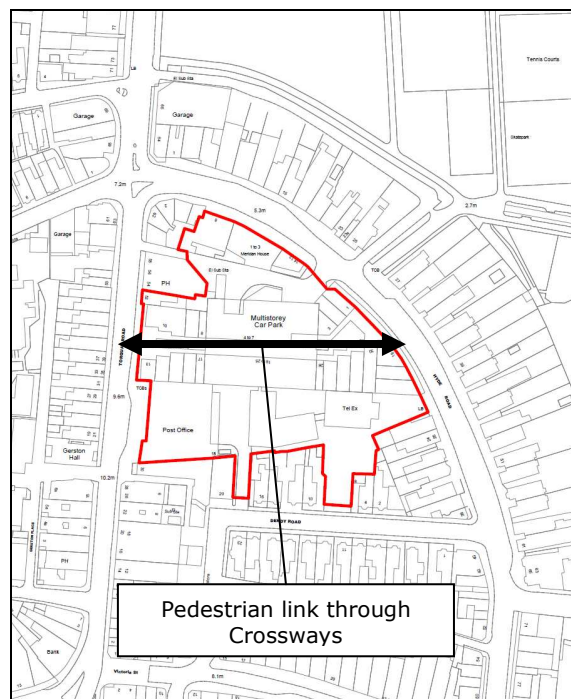
### Objectives:

- Develop Crossways as a multi-use site including residential accommodation and retail (71.5%)
- If one is needed, identify Crossways as the priority town centre location for a supermarket (55%)
- Retain the primary and secondary role of Hyde Road (and Torquay Road) as a shopping street (84%)

### Hyde Road frontage



**Figure 6.6 Crossways, Hyde Road, Torquay Road Area**



6.78 Accordingly:

### **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 secondary retail frontages along Hyde Road and Torquay Road;
- 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 a pedestrian link between Torquay Road and Hyde Road in a manner that contributes towards improvement of the pedestrian network and green infrastructure links.



## Victoria Park

6.79 The public park is well used and an attractive key route through the town centre area to the seafront. It is not supported by the community as an option for supermarket development and will be a protected area because:

- Loss of space from the public park would conflict directly with the National Planning Policy Framework (2012 NPPF74)
- The need for further supermarket provision has not been made
- A supermarket in this location would be too far divorced from the town centre retail offer and not add vitality and viability to the existing provision
- Other priority locations for such provision, if required, exist at Crossways or Victoria Square.

6.80 Protection of the park will include support for any enhancement that is not to the detriment of the park in terms of its open space appearance, use for open space recreation, or means of pedestrian connection that it provides.

### Objectives:

- Keep the current size and accessibility of the park as an Urban Green Space
- Keep as public open space and protected (96%)
- Support any enhancement of the Park only if it is not to the detriment of:
  - use for open space recreation (95%)
  - its open space character (94%)
  - means of pedestrian connection (93%)

6.81 During preparation of the Plan, over 5,500 local residents also petitioned to retain the Park. The Neighbourhood Plan designates the Park as protected Local Green Space

under the provisions of 2012 NPPF76 (PNP1(b), pages 21, 23 and 69).

6.82 Accordingly:

### 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 68) 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

## Victoria Park



## Queens Park

6.83 The existing Park area consists of space in public and private use. Both are critically important to the provision of facilities in the town centre and the contribution made to the landscape.

### Objectives:

- Retain Queens Park for open space sport and recreation use and the contribution that it makes to the town centre 'Garden Town' landscape (82.7%)

### Queens Park Club House



### Queens Park



6.84 Accordingly:

### Policy PNP10 – Queens Park

Proposals for new developments within Queens Park shown on the inset plan in Part 6 (PLGS.05 page 69) 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.

## Old Town

6.85 Winner Street, Palace Avenue, and neighbouring areas form attractive examples of Paignton's historical and architectural heritage with potential for appeal to further tourism through positive action.

### Objectives:

- Rename and market the areas of Winner Street, Palace Avenue and the area between Palace Avenue and Cecil Road as the "Old Town" and market it as that (82.4%)
- Make this area of the town more accessible and easier to find (94.3%\*)
- Make the enhancement and regeneration of this area a priority (74.3%\*)
- If possible develop a Heritage Centre to share the history of our town (88.5%\*)
- Support the maximum use of the Palace Theatre as a key facility (96%)
- Protect Palace Gardens from inappropriate development (96%)
- Encourage the use of Palace Gardens for 'themed' markets and events (59%)
- Encourage specialty shops in Winner Street for tourists and residents (93%)
- Encourage sympathetic improvements to shop and building fronts (94%)
- Remove street eyesores that detract from the visual appearance (83%)
- Improve footpath connectivity with the transport hub and seafront (83%)
- Promote new forms of transport connections such as 'bus links' with Winner Street that would add tourist footfall to the area (77%)
- Support more use of the highway area for themed events (62%)

6.86 Accordingly:

### Policy PNP11 – Old Town

Improvement of the Old Town area shown on the inset plan (Fig. 6.7 page 42) will be encouraged and proposals supported where they will:

- a) enhance the public realm;
- b) encourage regeneration where sympathetic to heritage features and uses in the area; and
- c) provide financial contributions where appropriate that enable implementation to be achieved.

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

- d) retain shop and building fronts of importance to the area. Replacement frontages should conserve or enhance the character and appearance of the area having regard to Policy PNP1(c). Where possible, historic features such as building lines, window patterns and material should be reinstated;
- e) enable 'Old Town' signage and historic information at key interchanges for tourists and other users of the area to make it easier to find and enjoy;
- f) improve pedestrian, cycle and public transport connections and access from the transport hub and seafront;
- g) support use of the highway and Palace Avenue Gardens for local markets and events;
- h) encourage specialty shops in Winner Street and improvement of residential amenity in Well Street;
- i) support provision of a Heritage Centre use within the area;
- j) support use of the Palace Theatre and Palace Avenue Gardens as key facilities.



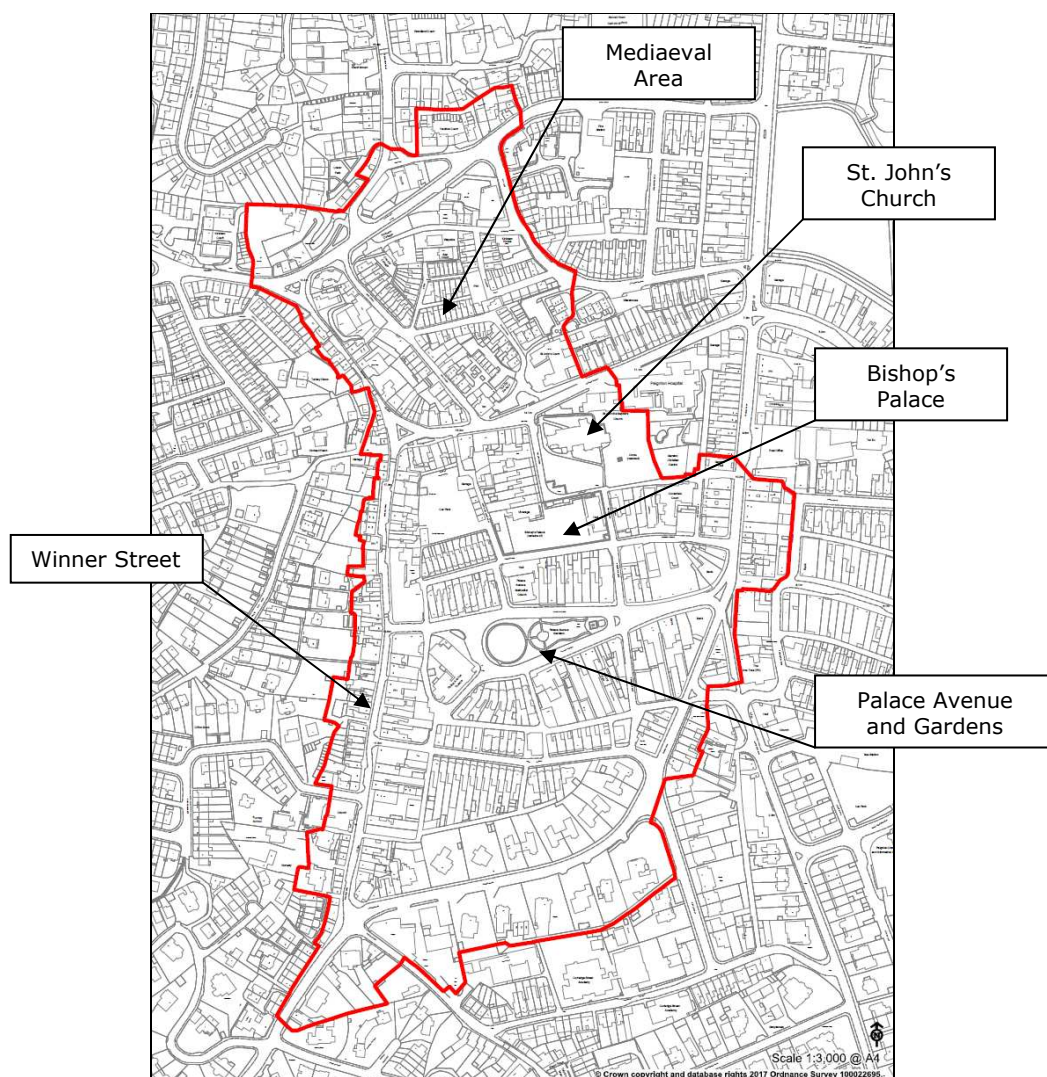
**Palace Avenue**



**St. John's Church**



**Figure 6.7 Old Town**





## Getting Around

6.87 Scope exists for further deliverable improvement in the short term and not all space in the vicinity of Great Western Road is of a shape that fosters ease of use. Further improvement is possible in the longer term:

### Objectives:

In the short term:

- Promoting transport connectivity between all the forms of transport (90%)
- Improved signage for visitors to necessary transport connections (88%)
- Improved surface connections for users with disabilities (88%)
- Review the way traffic uses the Town Centre and how it interacts with pedestrians (87.8%)
- Small scale changes that collectively improve pedestrian connection (86%)
- De-clutter the town centre and make it easier to move around on foot (81.8%)
- Target funds resulting from development to resolve some of these issues (86.6%)
- Ensure that parking within the town supports the viability of the Town Centre
- Plan public transport to better meet users' needs

In the longer term:

- Evaluate the possibility of providing a Transport Hub if possible onto one site – to bring different forms of transport closer together (66%)

6.88 Accordingly:

## Policy PNP 12 – Getting Around

Improvement of the Town Centre and seafront area shown on the inset plan (Fig. 6.3 page 31) will be encouraged and proposals supported where they will:

- a) make it easier to use sustainable transport; and
- b) provide financial contributions where appropriate that enable implementation to be achieved.

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

- c) improve integrated transport connections having regard to the hierarchy of sustainability;
- d) improve pedestrians connections and the way that traffic uses in the area interact with pedestrians;
- e) provide safe, continuous, separated cycling and pedestrian pathways to schools, employment and tourist sites;
- f) complete Paignton's missing links in the National Cycle Route Network in support of Local Plan Policy SS6;
- g) help public transport better meet user needs;
- h) de-clutter the town centre to make it easier to move around;
- i) improve transport connectivity and signage for visitors;
- j) improve surfaces for pedestrians, including disabled people;
- k) ensure that town centre parking for cycles, motorcycles and cars supports town centre viability;
- l) bring different forms of transport closer together wherever possible.

## Housing opportunities within the town centre

6.89 Retaining and expanding the appeal of the town centre as a place to live will help to meet future housing needs and ensure continued vitality and vibrancy in the town centre beyond shopping hours.

### Objectives:

- Support retention of residential areas within the town centre as part of ensuring the area remains in use throughout the whole day (94%)
- In a sensitive way provide housing at the Harbour as part of a mixed development (circa 84.3%)
- Victoria Square, as part of a larger development, could provide housing (54.8%)
- Crossways as part of a mixed retail/accommodation development could provide housing (59.5%)
- A reconfigured Station Lane could provide housing as well as additional retail and a transport hub (59.5%)
- The property next to the old Woolworths Store which was the Gerston Hotel could, with the façade retained intact provide accommodation with a retail mix (58.0%)

Note: 79.7% disagreed with use of Queens Park for residential.

6.90 Accordingly:

### Policy PNP13 – Housing opportunities within the Town Centre and Harbour area

To retain and increase the provision of homes within the Torbay Local Plan town centre boundary and harbour area 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.

## Core Tourism Investment Area

6.91 The tourism industry is vital to the economy of Paignton and its importance cannot be minimized.

### Objectives:

- Refocus the previous Principal Holiday Accommodation Area into a Core Tourism Investment Area (circa 76% & 80.4%)
- Within the Core Tourism Investment Area there should be some flexibility to allow failing businesses to become something other than Holiday Accommodation if the change proposed would support and not detract from the Area's function (circa 63.7%)
- Where a use away from Tourism is permitted, buildings should be restored to their historic form by the removal of unsightly features considered to undermine the viability of the development (circa 63.7%)
- Houses in Multiple Occupation known as HMO's should be restricted to areas outside the Core Tourism Investment Area (and tourism areas generally) (80.5%)
- Planning regulations should be rigorously enforced to manage the problem of HMO's (82.6%)

### Paignton Shoreline



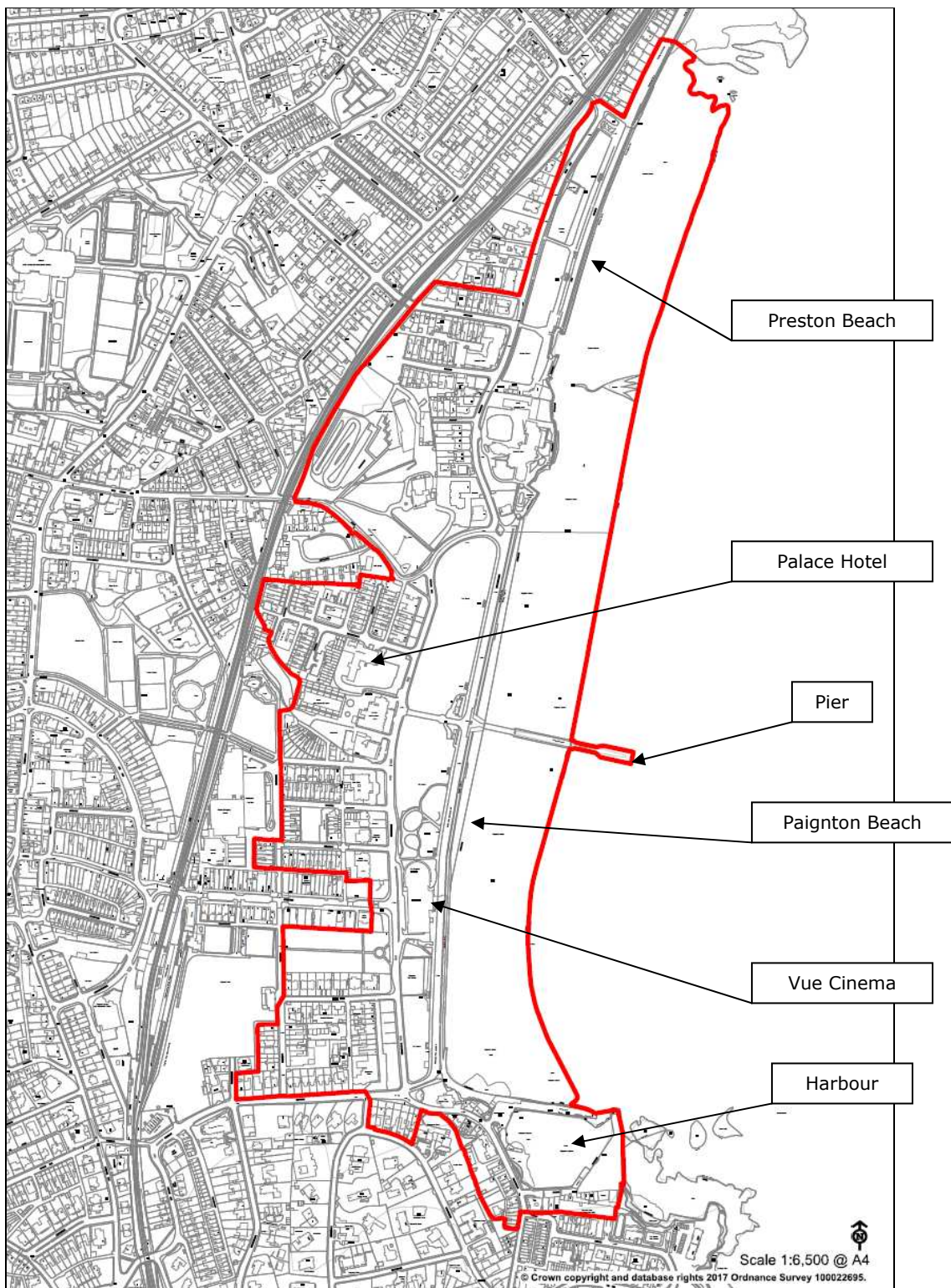
6.92 Accordingly:

### 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 46) 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.

**Figure 6.8** **Neighbourhood Plan** Core Tourism Investment Area





## Flooding and Sea Defences

6.93 The effect of climate change and the risk of flooding is of particular importance across different parts of the area.

6.94 The Town Centre area has flood risk from coastal water in addition to risk from inland waterways and the Victorian combined foul and surface water drainage network.

### Objectives:

- We need protection from rising sea levels probably by building a sea wall (83.7%)
- We need to keep the river courses in a good state of repair to minimise flooding risks
- A regularly updated flood risk assessment is needed that includes assessing the capacity and state of the existing town centre sewer network (94.6%)
- Encourage energy conservation and measures that help adapt to, and fund, the impact of flood risk and climate change (90%)

6.95 Accordingly:

### 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 31) 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.

## Victoria Street

6.96 Already mainly pedestrianised, and our prime shopping street, further deliverable improvements are possible.

### Objectives:

- Keep existing street trees and public seating capacity (96%)
- Encourage more use of vacant floors at upper levels (90%)
- Encourage removal of weeds and unsympathetic building repairs (85%)
- Improve crossings / uneven surface problems (82%)
- More open air markets and similar attractions in the street (81%)
- More use of the street surface for outdoor café seating areas (62%)

### Upper floors Victoria Street



6.97 Accordingly:

### Policy PNP16 – Victoria Street

To support and enhance the vitality and viability of the Victoria Street area (Fig. 6.3 page 31), 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.

## Improving the transport 'Gateway'

6.98 Local residents and tourists alike need easy access to conveniently located facilities when using central transport facilities in particular. This need will grow as more is made of the tourism and retail offer.

### Objectives:

- Provision of Public Toilets (92%)
- Incorporate a principal tourist information office in a central position linked to the transport gateway

### Paignton Bus Station



### Paignton Railway Station



6.99 Accordingly

### 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 31 and 36) 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.

### Paignton Steam Railway Station



### Railway and adjacent Picture House





## Independent Traders

6.100 Despite national trends, the town centre is noted for having many independent traders who provide local services that maintain vibrancy and vitality of the area.

Objective:

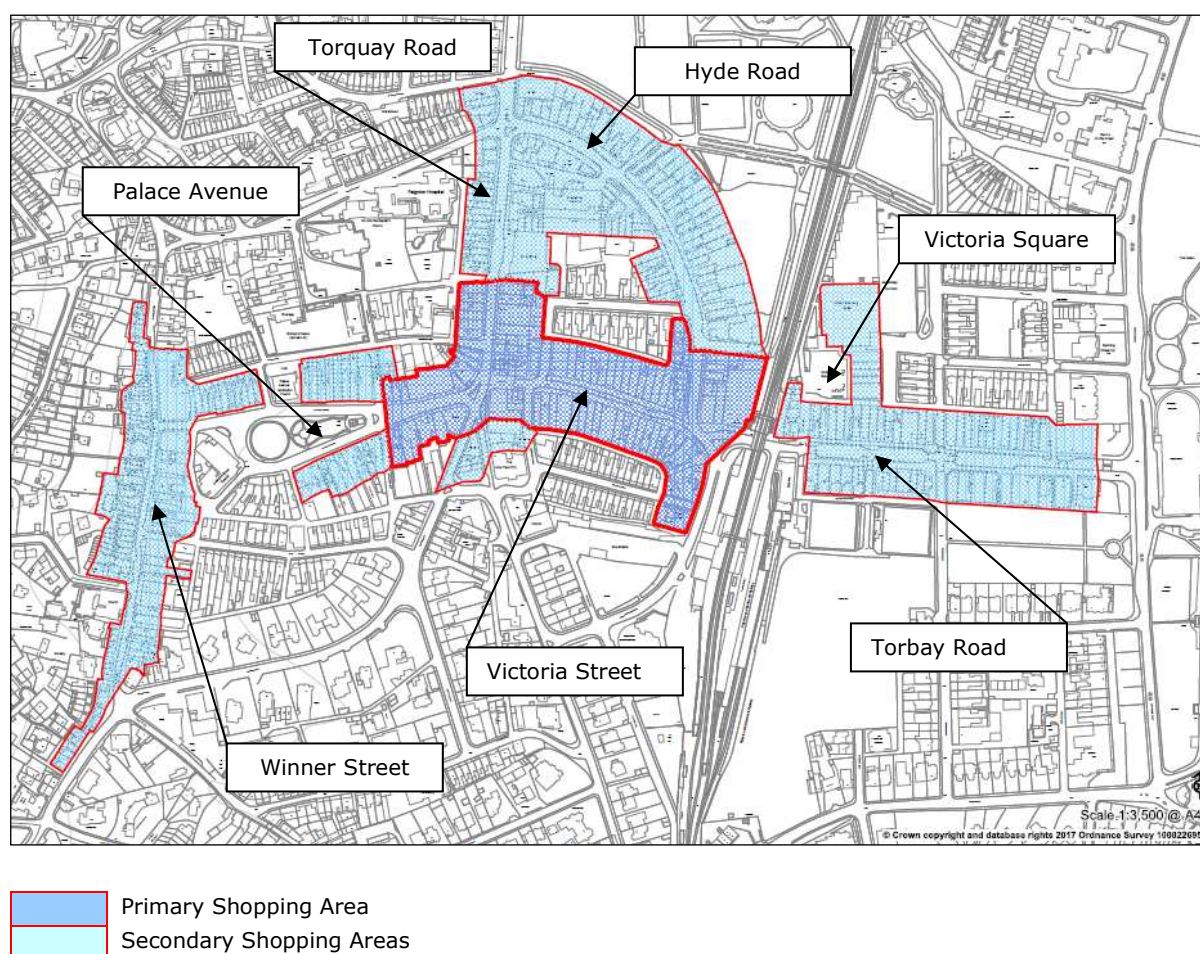
- Support the former Business Improvement District (BID) and provision of independent traders as an attraction to tourists (76%)

6.101 Accordingly:

### 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.

**Figure 6.9 Town Centre Shopping Areas**





## Western Area

6.102 The western side of Paignton is a very important area. It contains attractive countryside, areas of great landscape value, important natural habitats, wildlife and ecology, food production areas, tourist accommodation, and the inherent potential for increased tourist opportunities. It also contains a major employment area, an expanding college campus, and significant possibilities for sustainable development if managed carefully.

6.103 Following the views received from our community, the additional objectives for the western side are:

- To protect local identity and enhance the contribution it makes towards overall prosperity and Paignton's role as a 'seaside and garden town' on the English Riviera;
- To encourage 'balanced' development so that unintended and unsustainable consequences do not arise.

6.104 The first above includes maintaining and enhancing the attractive and inviting arrival experience of the Paignton and Torbay tourist gateway.

### Safeguarding open countryside

6.105 Our 'English Riviera' environment provides our unique identity, attracting tourists from far and wide, producing a significant source of local income. It is essential to food production, wildlife and biodiversity. We are the resident custodians, and how we treat the environment is important to our future generations.

6.106 The Neighbourhood Plan contains a diverse blend of four of the nine Torbay Landscape Character Types (Table 6.2 below). Two of these make up the fundamental identity of Paignton's Rural Character Area (Fig. 6.10 page 53):

- Type 1: Rolling Farmland; and
- Type 3: Secluded Valley.

6.107 The 'Rolling Farmland' landscape is subdivided into 8 distinct geographical areas and the 'Secluded Valley' is subdivided into 5 distinct geographical areas. Each has been named, its sensitivity to change assessed and a management strategy identified to secure retention and restoration where needed (Fig. 6.10 and Table 6.2 page 53).

### Objectives:

- Restricting development in our open countryside is still justified (87%)
- Building for local need is more important than loss of countryside (17%)
- Parts of our countryside are no longer worth keeping (8%)
- Other suggestions received as written comments in Stage 2 that are achievable

6.108 Accordingly:

### 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 53) 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).

**View looking south east from Westerland Valley**

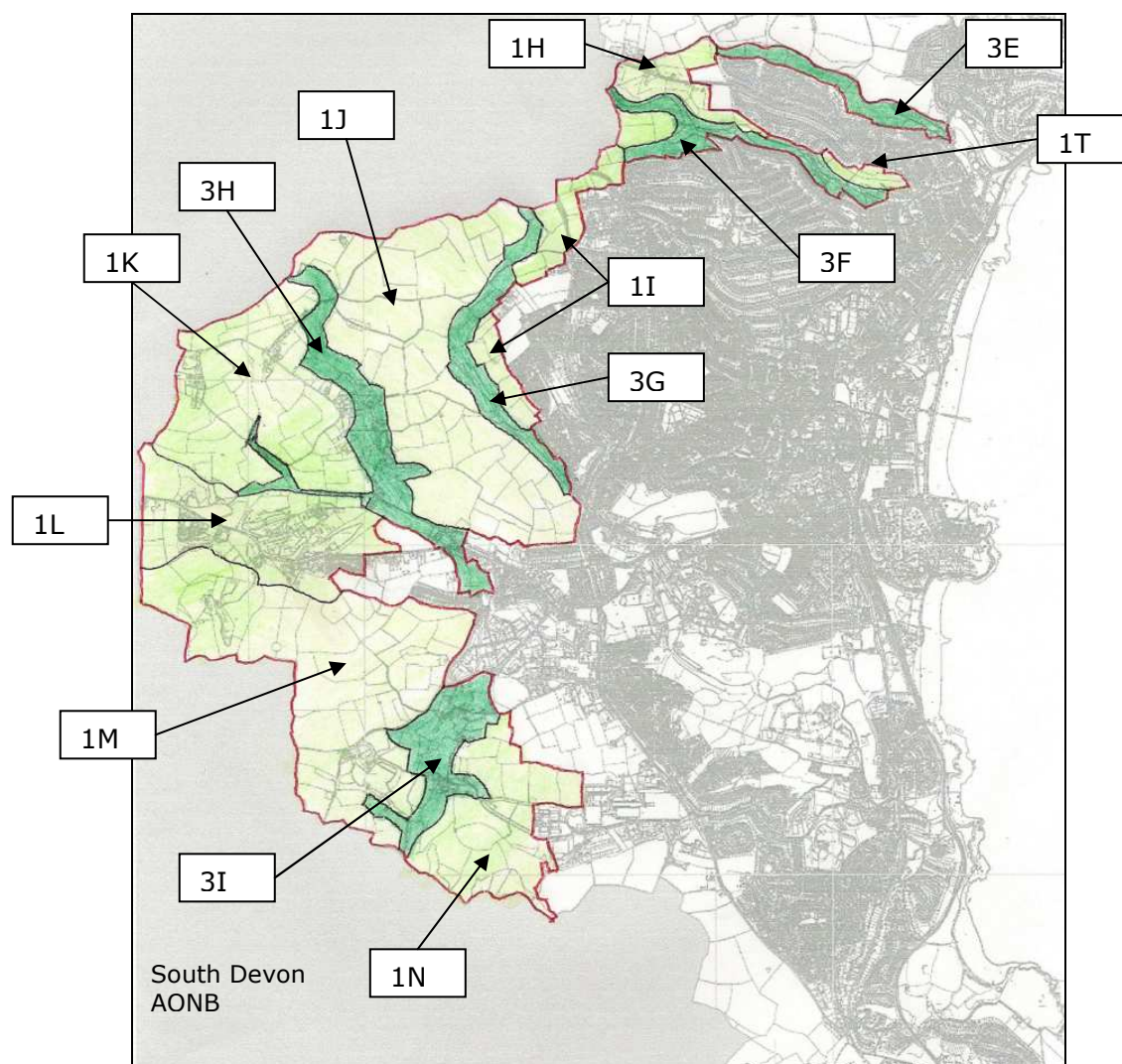


**View looking north west from Yalberton Valley**





**Figure 6.10 Paignton's Rural Character Area and Management Strategy**



**Table 6.2 Paignton's Rural Character Area and Management Strategy**

Sub-area		Overall Sensitivity	Management Strategy
Rolling Farmland			
1H	Occombe Cross	Highly Sensitive	Conserve
1I	South Marldon/Great Parks	Highly Sensitive	Conserve
1J	The Blagdons	Highly Sensitive	Conserve
1K	Barton Pines	Highly Sensitive	Conserve / Enhance
1L	Blagdon Barton	Less Sensitive	Restore
1M	West Yalberton	Highly Sensitive	Conserve
1N	East Yalberton	Moderately Sensitive	Enhance
1T	Preston Park	Moderately Sensitive	Conserve
Secluded Valley			
3E	Hollicombe Valley	Highly Sensitive	Conserve
3F	Occombe Valley	Highly Sensitive	Conserve
3G	Upper Clennon Valley	Highly Sensitive	Conserve
3H	Blagdon Valley	Highly Sensitive	Conserve
3I	Yalberton Valley	Moderately Sensitive	Enhance

Source: Based on Part 2 Landscape Character Assessment of Torbay for Torbay Council by Enderby Associates May 2010.

## Great Parks

6.109 This area is identified in the Local Plan for a final phase of development subject to habitat protection being achieved.

6.110 The Torbay Green Infrastructure Delivery Plan (see Fig. 6.1 above) proposes enhancement of the adjoining Westerland Valley. A Masterplan to guide the final Phase of Great Parks has been produced with community input (2013) and further habitat measures are required to comply with Local Plan Policy SS2 before development can be approved.

### Objectives:

- Assess the scope for a country park in the Westerland Valley (76%) (only 49% felt that enhanced community facilities are required to serve the Great Parks area).
- A Westerland Valley Country Park should link, via cycle ways and bridle paths, to proposed Blagdon and Yalberton Valley Country Parks, forming a westerly country trail around Paignton and Torbay.

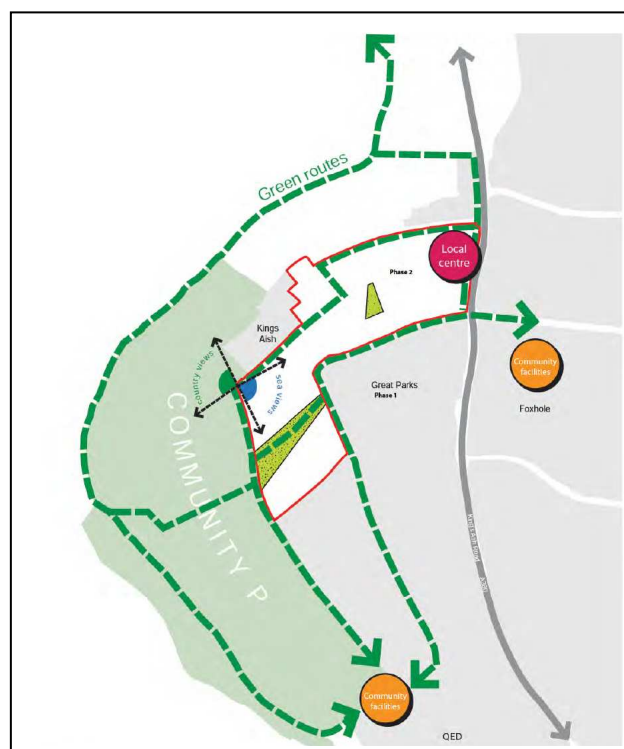
6.111 Accordingly:

### 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.

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.

**Fig. 6.11 Great Parks Vision summary**



## White Rock and nearby areas

6.112 Proposals through recent planning applications have identified new opportunities for mixed use development:

- at White Rock over 350 new homes and 36,800 sq.m. gross of employment floorspace, plus local centre facilities, open space, and student accommodation;
- at Yannons Farm and Holly Gruit of 315 new homes and 5,600 sq.m. gross of employment floorspace, plus local centre and open space.

6.113 To these, the Local Plan has identified further land in the vicinity for employment development and redevelopment opportunities at Devonshire Park. Collectively they provide the main location for new jobs that may require new space and access over the Local Plan period. The campus of South Devon College is in the vicinity and the location overall fosters:

- positive promotion and expansion of 'cluster' working of knowledge driven high technology industries;
- an integrated approach to the treatment of the development 'edge' with the nearby countryside and enhancement of the local identity together with buildings that reflect the latest Built Environment standards reflected in the South Devon College's lead on environmental issues;
- An opportunity to always develop alternative energy supplies e.g. water turbines.

6.114 The combined effect will place considerable demands on the road network, drainage and sewerage, landscape quality and protected habitat.

6.115 Key issues are:

### Business Development

- new units encouraged only when there are none available for conversion, rent or sale and units in keeping with the scale of neighbouring housing areas;
- landscaped to fit in with land contours;

### Environment

- ensuring that overdevelopment along Brixham Road does not result in excessive noise, atmospheric, or light pollution;
- a landscaping plan that would see the introduction of green roadside verges, cycle ways, coupled with sufficient trees to offset the increase in carbon dioxide;
- development regard for biodiversity and mitigation sites for wildlife by ensuring they are listed;

### South Devon College

- a need for green space to accommodate sporting facilities;
- more land to develop horticultural and land based courses;
- a bus lay-by outside the college entrance to reduce danger at Long Road;
- a footbridge over Brixham Road or underpass connecting to Roselands.

### Objectives:

- Priority should be given to new technology developments (e.g., hi-tech engineering, research, energy conservation) (69%) (only 20% felt that more employment land should be given over to build new homes)
- All new buildings should be environmentally friendly and set the standard in energy efficiency (2012 NPPF95) and renewable energy (2012 NPPF97) (*Stage 2 additional community comments*)

- A supply of allotments within the allocation and support community-led garden schemes and orchards (*Stage 2 additional community comments*)
- Improvement of connectivity of ecological and wildlife assets with areas beyond Torbay (*Stage 2 additional community comments*)

6.116 Accordingly:

### **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.

### **Energy Centre White Rock**



### **Former Nortel Site White Rock**





## Western Corridor (Kings Ash Road / Brixham Road)

6.117 The Paignton section of the western Corridor travels due south from 'Churscombe Cross' for several miles to 'Windy Corner' at Churston Common (Fig. 1.2 page 9). At its northern end, Churscombe Cross intersects with the B3060 at Marldon Hill. At its southern end, at Windy Corner, it joins the A379 Dartmouth Road.

6.118 The major bottleneck that creates traffic congestion and long queues in this area is at Tweenaway Cross, even though recent improvements have been made to the junction. With current traffic volumes, there is significant congestion for long periods of the day. Unsatisfactory provision exists in the area for safe, enjoyable active travel by commuters, schoolchildren, cyclists and tourists.

6.119 Further significant improvement of the traffic capacity of the intersection is required to accommodate the additional traffic generated by the new jobs and homes proposed.

6.120 There may be the need to 'partner' some of the developments the route will serve with pockets of land along other parts of the route in Torquay if this becomes a more sustainable solution when the Strategic Environmental Assessment is reviewed every 5 years as part of the Local Plan procedures.

### Objectives:

- Further development should only take place if there are developer contributions that meet the road improvement costs (65%)
- Provide safe, continuous, cycling and pedestrian pathways that link key locations that include school positions, community facilities, employment locations and strategic longer links across open countryside to Totnes working with local landowners, Devon County Council

and other authorities. (Stage 2 additional comments)

6.121 Accordingly:

### Policy PNP22 – Western Corridor

To support Active Travel in the Western Corridor area as shown on Fig 1.2 on page 9 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.



## Yalberton Valley to Blagdon Valley

### Protected Area designation

6.122 Yalberton Valley is a secluded green valley located about 3.5kms south west of Paignton Town Centre and runs approximately 2kms north east of Stoke Gabriel (Fig. 1.2 page 9). The Valley straddles the boundary between the area of South Hams District Council (SHDC) and Torbay Unitary Authority.

6.123 Yalberton stream was re-classified a river by the Environment Agency in 2006 due to its flood profile. The waters rise in the hills around Collaton St. Mary and flow into the River Dart. At its widest ridge point the Valley is approximately 1km.

6.124 The lower part of the Valley includes the Mill Pool at Stoke Gabriel and River Dart and lies within the South Hams area and has been designated at national level as an Area of Outstanding Natural Beauty (AONB).

6.125 The upper part of the Valley containing the hamlets of Higher and Lower Yalberton lie within Torbay Unitary Authority and where countryside and conservation designations require change.

6.126 The Neighbourhood Plan recognises the importance of the upper part of the Valley as an area also needing protection for the valuable contribution it makes to local character and tourism opportunities. Scope for this area as an entity includes:

- The farming industry, agriculture and food production exists throughout the whole length and breadth of the valley. There is a long established history of farming and numerous farming families throughout the valley, which must be protected and preserved against prejudicial development for the future benefit of the whole of the community and Torbay in general;
- Safeguarding the area because of its beauty, historic significance, recreational value, tranquillity and richness of its ecology and wildlife;
- A working partnership with SHDC and wildlife agencies to review all wildlife sites within the Valley and to arrive at any further appropriately comprehensive designation. (An independently commissioned study in 2007 established that the Valley is home to an abundance of protected wildlife (flora and fauna).);
- An opportunity to protect the area as one of significant geographical importance within the English Riviera UNESCO Global Geopark – the significance of the Valley’s caves, historic lime kilns, and underground karst system is acknowledged by professionals who are aware of its significance. This could include registration with Devon RIGS (Regionally Important Geographical Sites).

### Areas for Conservation

6.127 The upper part of the Valley contains 10 listed buildings, including 2 of national monument status – one of which is ‘King William’s Cottage’. To preserve the historical nature of the area:

- A submission for Conservation Area designation in terms of these buildings and the environs was submitted to Torbay Council with an understanding that it would be processed in 2012. A decision is still awaited;
- Appropriate protection is further required for an attractive and unspoilt ‘Devon Green Lane’ (known locally as Lidstone Lane or Whitehill Lane) that runs from Lower Yalberton to Byter Mill, Stoke Gabriel;
- In partnership with SHDC, there is a need to define and rationalise any existing and new Local Wildlife Sites

within the Torbay section of Yalberton and Blagdon Valley.

6.130 Accordingly:

#### Orchard and Food Production

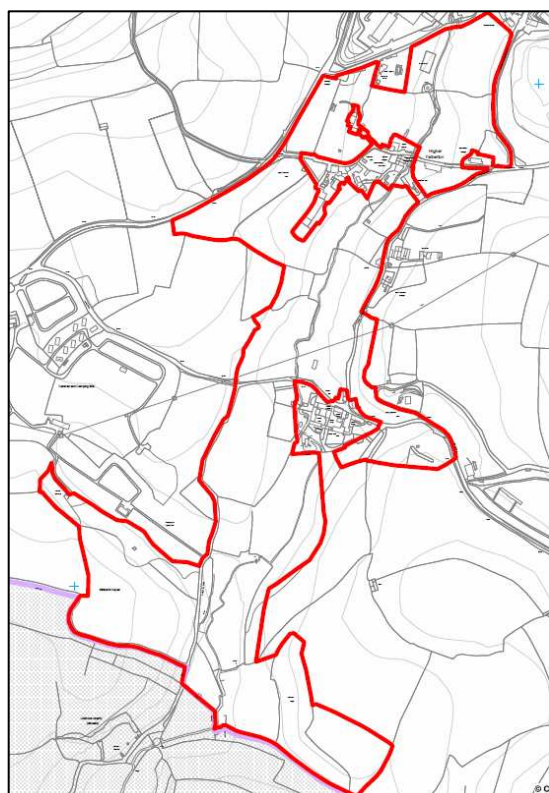
6.128 The Yalberton to Blagdon Valley area is home to a nationally acknowledged cider making firm. There are both productive and under used historic orchards within Yalberton Valley.

6.129 Additionally, there are productive areas of farming and horticulture. The whole area is interlinked within an extensive network of species-rich mature traditional hedges and a large number of mature and veteran trees.

#### Objectives:

- The whole Valley has 'Country Park' potential for tourists and locals. (72%)
- Continued community support for the Global Geopark

**Figure 6.12 Yalberton Valley**



#### **Policy PNP23 –Yalberton to Blagdon Valley**

Improvement of the Yalberton to Blagdon Valley area shown on the inset plan (Fig. 6.12 this page) will be encouraged and proposals supported where they will:

- a) enhance tourism and attraction of the area to visitors;
- b) provide financial contributions where appropriate that enable implementation of the following measures to be achieved.

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

- c) enhance the landscape character in accordance with PNP19;
- d) enhance biodiversity and safeguard the Valley's caves, lime kilns and underground karst system in support of Torbay Local Plan Policy NC1;
- e) protect the unspoilt 'Devon Green Lane' known as Lidstone Lane or Whitehill Lane that runs from Lower Yalberton to Byter Mill, Stoke Gabriel, to the south;
- f) enhance buildings, orchards, and structures of heritage importance in the area;
- g) encourage small scale food growing, rearing and horticulture and protection of the Valley's extensive network of species-rich mature traditional hedges and large number of mature and veteran trees;
- h) enable separated cycling facilities through and into the area with 'pinch points' where possible at either end of Long Road to discourage vehicles of more than 3.5 tonnes in total weight.

## **Collaton Village and its environs**

6.131 The village of Collaton St. Mary leading from the South Hams into Torbay is a unique entrance that must be ring-fenced and preserved, to be kept so that the experience can be enjoyed by villagers and tourists both now and in the future. What follows is intended to make this a reality.

6.132 Collaton St. Mary is the entrance to Torbay from Cornwall and South Hams and any development must enhance and protect the tourist appeal. Such development must also be limited and:

- within social capacity, and with slow growth so as not to lose, damage, or destroy the village identity and surrounding environment;
- within economic capacity, by providing sufficient local jobs to ensure a stable economy, together with adequate transport facilities;
- within environmental capacity that includes sufficient drainage facilities that prevents water damage to Collaton, Yalberton and Stoke Gabriel properties, sewerage provision that does not cause overflow problems, and roads that can cope with both current and future requirements;
- expanded school facilities would be needed with provision for a car park and pick-up/drop off zone incorporated;
- youth and playspace provision would be needed and could be included in a Village Centre, Village Hall, and open area. In the event of a growing number of children and youths moving into the area, there would be a need for a community building which could also include the necessary medical practices to enhance village facilities.

6.133 Support would be given for retention of the holiday parks by not turning the area from green field vistas,

in particular the higher ground in the area, into housing estates which would greatly reduce the number of tourists wanting to come to the area, thereby reducing the economic benefits generated. Currently dangerous road junctions need to be resolved such as Newbarn Farm, Stoke Road / Parkers Arms, and Blagdon Inn (also used for access to holiday chalets and gym/pool facilities).

6.134 The present Zebra crossing on the Totnes Road between Stoke Road and Borough Road should be traffic light controlled, as many drivers are going too fast and with restricted views do not see pedestrians in time. This crossing is much used by parents taking their children to and from school.

6.135 The provision of a Parish Council for Collaton St. Mary is an ambition in particular to ensure and advance openness and transparency, and cooperation between local residents and Torbay Council in order to work towards and establish an acceptable and sustainable core strategy for the long term future of the community.

Objectives:

- The local identity of Collaton St. Mary must not be lost (84%)
- Facilities our community indicated were currently considered to be lacking can be accommodated in organic growth and are:-
  - local jobs (60%)
  - local shops (59%)
  - medical facilities (56%)
  - youth facilities (55%)
  - bus frequency (52%) (only 44% felt other community facilities were lacking. Only 23% considered that local school facilities were lacking)

6.136 A Masterplan for the area was adopted in 2015 that draws attention to the need for further protected habitat assessment before any consent for development can be given. Similarly Local Plan Policy SS2 requires a bespoke mitigation plan to be submitted and approved before any consent can be granted.

6.137 Flooding and sewerage constraints in the area will also require comprehensive assessment before development is able to proceed.

### **The Church of St. Mary, Collaton Village**



6.138 Accordingly:

### **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:

*(PNP24 continued next column)*

*(PNP24 continued)*

- 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 A3B5 proposed by policy SS6 of the Torbay Local Plan 2012-2030;



## Adjoining Areas

6.139 Locations adjoining Paignton Town Centre and the Western Area also provide attractions and opportunities for making more of the tourism offer and improvements to facilities for local residents.

6.140 In particular our community has identified objectives and safeguards in the adjoining areas of:

- Clennon Valley
- Clifton with Maidenway
- Preston

### Clennon Valley

6.141 At the top of Clennon Valley sits the renowned Paignton Zoo within an attractive woodland setting (Fig. 1.2 page 9). A variety of further tourist attractions and local recreation facilities sit within open spaces and tree covered areas lower down the Valley.

6.142 At Goodrington beach, where the valley meets the sea, there is a further range of tourist facilities, including the steam railway that operates between Paignton Town Centre through Kingswear and ferry to Dartmouth.

6.143 From time to time, flooding occurs along the valley floor as water flows towards the sea and from overtopping at Goodrington seafront.

#### Objectives:

- Keep all natural landscape features that give the valley its local identity;
- Support retention and enhancement of all existing tourist facilities, especially those of Paignton Zoo;
- Ensure facilities within the valley that also serve local needs are not lost and are enhanced at every opportunity;
- Encourage re-use of the former open storage site at Claylands in a manner that will blend with and

complement the natural landscape setting;

- Support additional tourist facilities being provided where they will be flood and weather resilient.

6.144 Accordingly:

#### Policy PNP25 – Clennon Valley

Within the area of Clennon Valley and Goodrington Seafront shown on the inset plan (Fig. 1.2 page 9), 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.

### Clennon Valley



## Clifton with Maidenway

6.145 Most of the Clifton with Maidenway area grew intensively as a suburb during the first half of the 20<sup>th</sup> century on ground rising from the Town Centre.

6.146 Primley Woods at the southern end features prominently within views inland and from the sea. A former Marist chapel has also provided a visual reference point from the sea for more than 120 years. Apart from an allotment area there are few local amenities and a need for a community centre.

### Objectives:

- Make use of redevelopment opportunities as they arise to achieve the provision of a local community centre;
- The former Paignton Police Station provides an opportunity for housing or employment redevelopment;
- Ensure changes to existing dwellings do not lead to houses of multiple occupation that are not of a good standard or well managed;
- Protect Monastery Woods, Primley Woods, the recreation ground off Marlton Road and the allotment site. More community use of the cemetery could also be explored;
- Improve the play area in Stanley Gardens (just outside the border of this area).

### Clifton with Maidenway roof tops



6.147 Accordingly:

### Policy PNP26 – Clifton with Maidenway

Within the Clifton with Maidenway area shown on the inset plan (Fig. 1.2 page 9), 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.

## Preston

6.148 Contours, woodland areas and seascape give Preston its distinctive character and identity inland and from the sea. Preston seafront, the Green, and district shopping centre provide a range of facilities for local residents and tourists.

6.149 Set inland are the grand buildings and extensive grounds of Oldway Mansion, built as the home of the world famous Singer family in the 19<sup>th</sup> century. Making more of Oldway as a major tourist attraction with local safeguards has important community support. Other opportunities have also been identified.

### Objectives:

- Retain toilet facilities at the north end (Seaway Lane) (93%)
- More use should be made of Preston Gardens (91%)
- Improve the seafront with a recreation and sports focus (88%)
- Create a permanent barbeque area on the Seafront (88%)
- Continue to focus the seafront areas to tourism use (88%)
- Increase community facilities in the top part of Preston (83%)
- Create a reef break at Hollicombe Beach to provide surfing opportunities (83%)
- Have a café in Preston Gardens to encourage more use.(77%)
- Create a community café in the top part of Preston (73%)
- Develop Hollicombe beach and park to provide mixed use of café, hotel, other use with improved public gardens and beach (73%)
- Do not build on land at Sandringham Gardens and Preston Down Road (91% & 75%)

6.150 Accordingly:

### Policy PNP27 – Preston

Improvement of the Preston area shown on the inset plan (Fig. 1.2 page 9) will be encouraged and proposals supported where they will:

- a) enhance the public realm;
- b) enhance tourism facilities and community uses;

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

- c) support appropriate and viable reuse of Oldway Mansion (including the Rotunda) and Parkfield House (including the Stables);
- d) improve the seafront area shown on the inset plan (Fig.6.8 page 46) with uses that support:
  - i) public toilet facilities at Seaway Lane;
  - ii) a barbeque area on the seafront;
  - iii) creation of surfing opportunities where possible
- e) enable mixed use café, hotel and other tourist facilities where appropriate at Hollicombe;
- f) support provision of a community café, allotments and orchard space for community use where appropriate in the top part of Preston.



## Part 7: Community Partnership Areas

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7.1 This part of the Neighbourhood Plan draws together the policies for each of the 5 Community Partnership areas for ease of reference by applicants for planning consent and other investors. Together they cover the whole of Paignton set out geographically from the Town Centre & Seafront area outwards in the following order:

- Paignton Town
- Preston
- Clifton with Maidenway
- Goodrington, Roselands and Hookhills
- Blatchcombe

7.2 Each part also includes a summary description of the Community Partnership Area in respect of:

- Population Characteristics
- Economic Circumstances
- Land Use
- Property Condition
- Moving around
- Environmental conditions
- Condition of Community Assets
- Climate Change.

7.3 This part of the Plan also includes reference to other proposals of relevance where they are of help to the context of the area, in particular sites already identified for net growth of jobs and homes in the Local Plan subject to the conditions that apply of required habitat enhancement and sewerage provision in particular.

### Community Partnerships



## Paignton Town

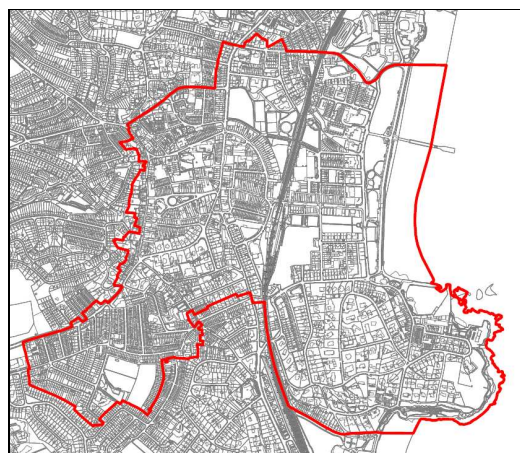
7.4 The Paignton Town Community Partnership area has the same boundary as the Roundham with Hyde Electoral Ward of Torbay Council (Fig. 7.1 this page).

7.5 The key features of the area are:

- A population of 7,600 (2011);
- Within top 10% of most deprived communities;
- Good mix of land uses and scope for job growth;
- Many heritage assets of local and tourist importance;
- Limited scope for vehicular traffic circulation change;
- Scope for improving the public realm and greening future development locations;
- Community assets under threat from reducing public funds;
- Areas vulnerable to coastal flooding and sewer limitations.

7.6 The following policies in Part 6 of the Neighbourhood Plan apply to the Community Partnership area as shown below:

**Figure 7.1 Paignton Town Community Partnership Area**

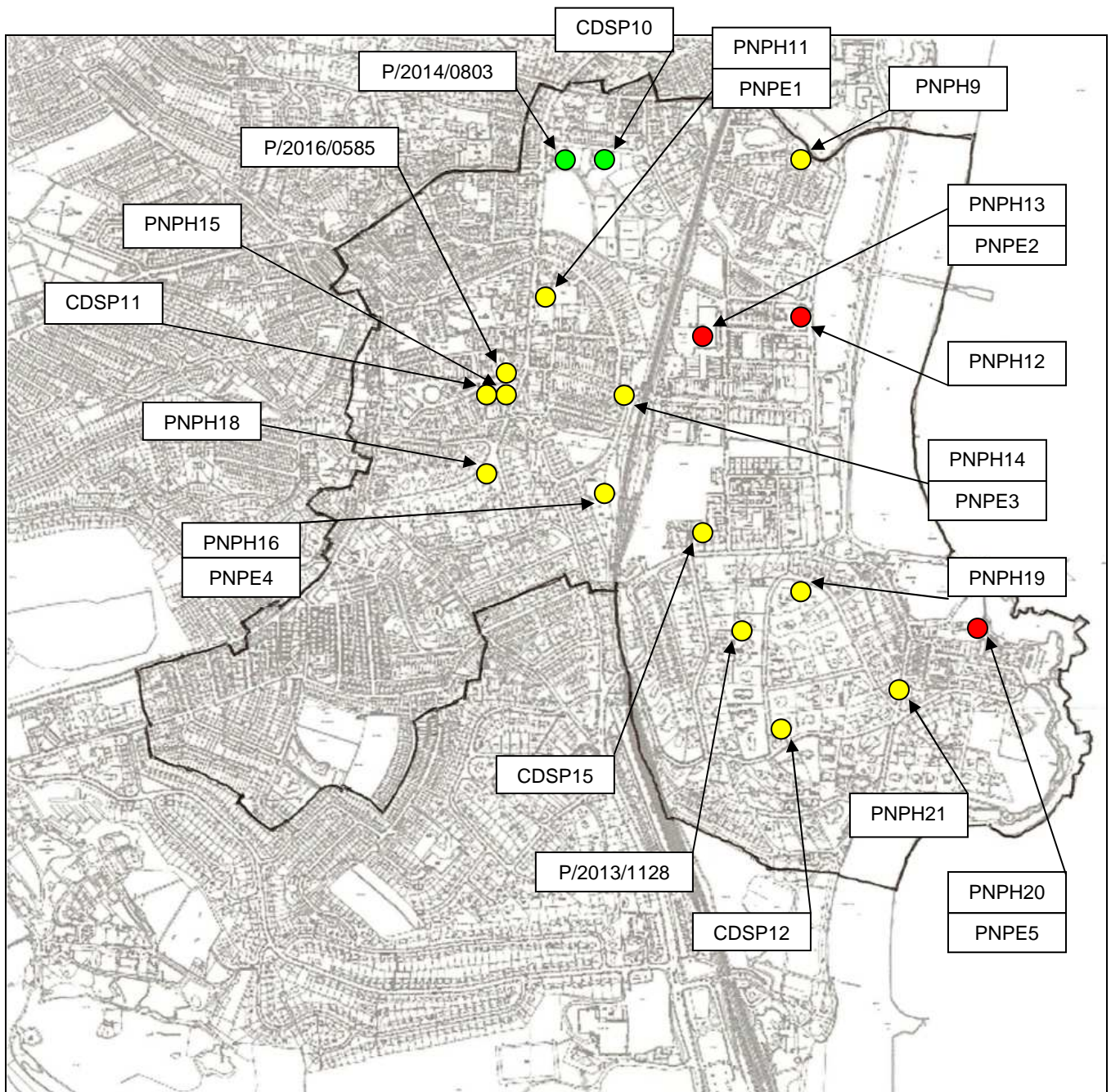


7.7 The assumed phasing of sites identified in the Local Plan for net job growth and additional housing is shown in Part 8 of this Plan (Table 8.1 pages 93-94) and the location of each site shown in Fig. 7.2 (page 67).

7.8 Alongside these locations, 12 sites have been identified as Local Green Space as shown in Policy Maps PLGS.01 to PLGS.12 on the following pages (pages 68-70). For these locations the Local Green Space policy applies as shown in Policy PNP1 and PNP1(a) (pages 18 and 21).

Policy	Page	Policy Map
• PNP1- Area wide	18	Whole Plan Area
• PNP1 Subsections PNP1(a) to (i)	19 to 29	Whole Plan Area
• PNP2 - Town Centre	32	Local Plan Inset Map
• PNP3 - Paignton Harbour	33	Fig. 6.3 page 31
• PNP4 - Seafront	34	Fig. 6.3 page 31
• PNP5 - Torbay Road	35	Fig. 6.3 page 31
• PNP6 - Station Square 'Gateway'	36	Fig. 6.4 page 36
• PNP7 - Victoria Square	37	Fig. 6.5 page 37
• PNP8 - Crossways, Hyde Road & Torquay Road	38	Fig. 6.6 page 38
• PNP9 - Victoria Park	39	PLGS.02 page 68
• PNP10 - Queens Park	40	PLGS.05 page 69
• PNP11 - Old Town	41	Fig. 6.7 page 42
• PNP12 - Getting Around)	43	Fig. 6.3 page 31
• PNP13 - Housing Opportunities within Town Centre	44	Local Plan Inset Map
• PNP14 - NP Core Tourism Investment Area	45	Fig. 6.8 page 46
• PNP15 - Flood & Sea Defences	47	Fig. 6.3 page 31
• PNP16 - Victoria Street	48	Fig. 6.3 page 31
• PNP17 - Transport 'Gateway' improvement	49	Fig. 6.4 page 36
• PNP18 - Supporting the Retention of Retail Uses	50	Fig. 6.9 page 50
• Local Green Spaces PLGS.01 to PLGS.12	18, 21	Pages 68-70

**Figure 7.2 –Identified sites Paignton Town (Roundham with Hyde)**

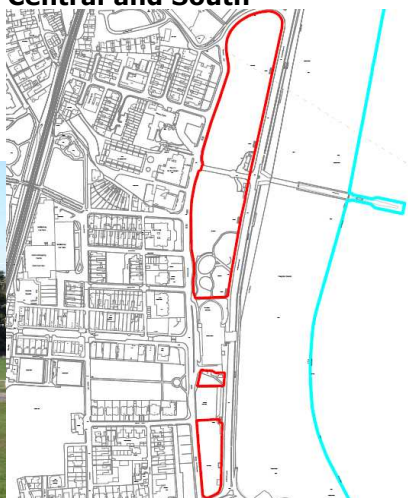


*Footnote: See Part 8 Table 8.1 (pages 93-94) for the phasing assumed for each site.*

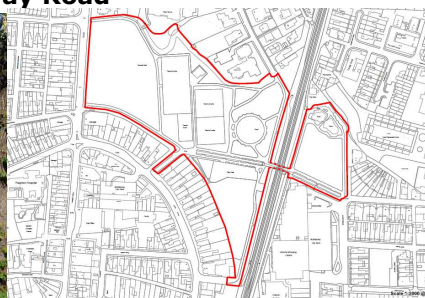
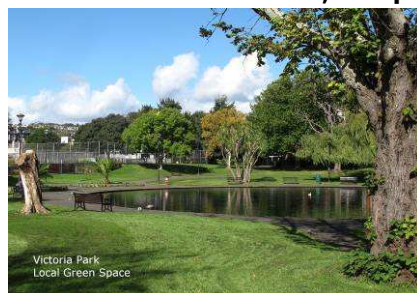


## Paignton Town - Designated Local Green Space

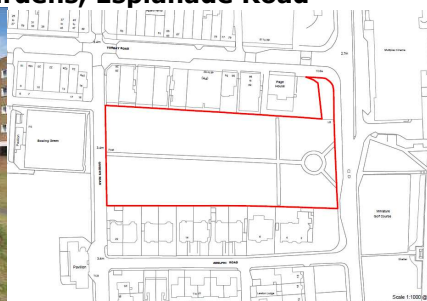
### PLGS 01 – Paignton Green North, Central and South



### PLGS 02 - Victoria Park, Torquay Road



### PLGS 03 – Torbay Park and Gardens, Esplanade Road



### PLGS 04 – Berry Square, off Kernou Road



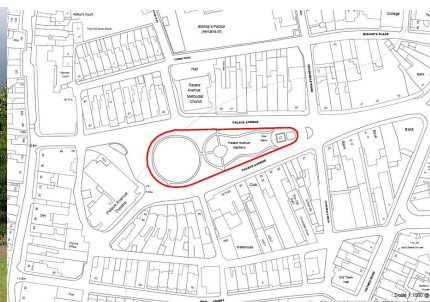
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## PLGS 05 – Queens Park



## PLGS 06 – Palace Avenue Gardens



## PLGS 07 – Burma Star Garden, Cliff Road



## PLGS 08 – Whitstone Corner, Whitstone Road



All plans shown are at varying scales.

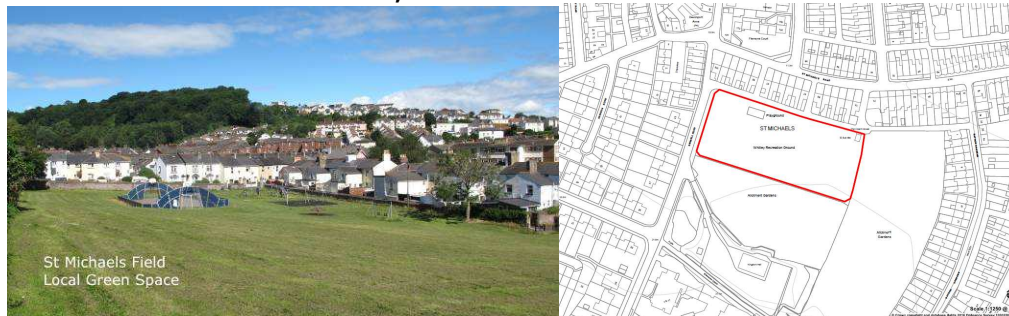
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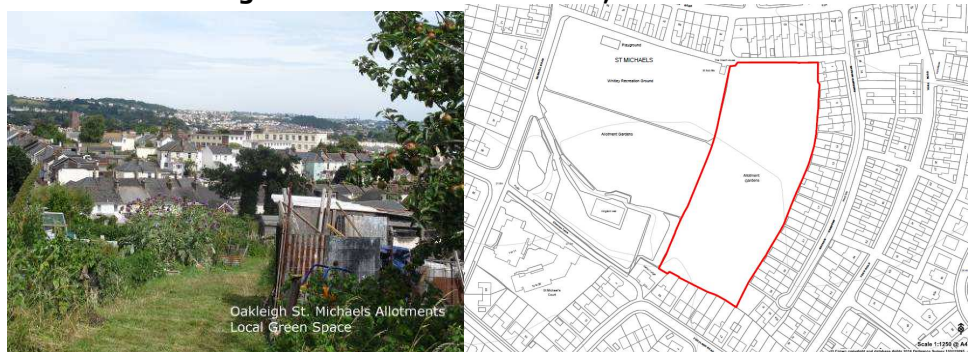
### PLGS 09 – Roundham Head Park



### PLGS 10 – St. Michael's Field, Derrell Road



### PLGS 11 – Oakleigh St. Michael's Allotments, St. Michael's Road



### PLGS 12 – Derrell Road Allotments, Derrell Road



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## Preston

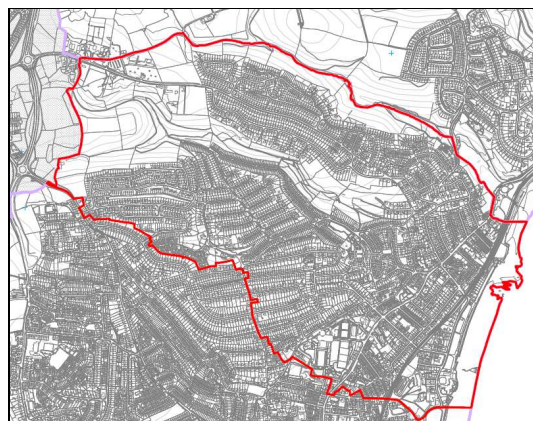
7.9 The Community Partnership area has the same boundary as the Preston Electoral Ward of Torbay (Fig. 7.3).

7.10 The key features of the area are:

- A population of 10,300 (2011);
- Parts within top 10% of most deprived communities;
- Wide range of building styles from seafront to western edge;
- Major heritage asset of Oldway with significant tourist potential;
- Limited scope for vehicular traffic circulation change;
- Significant treescapes and biodiversity assets present;
- Limited community facilities exist in the western half;
- Seafront vulnerable to coastal flooding and sewer limitations.

7.11 The following policies in Part 6 of the Neighbourhood Plan apply to the Community Partnership area as shown below:

**Figure 7.3 Preston Community Partnership Area**



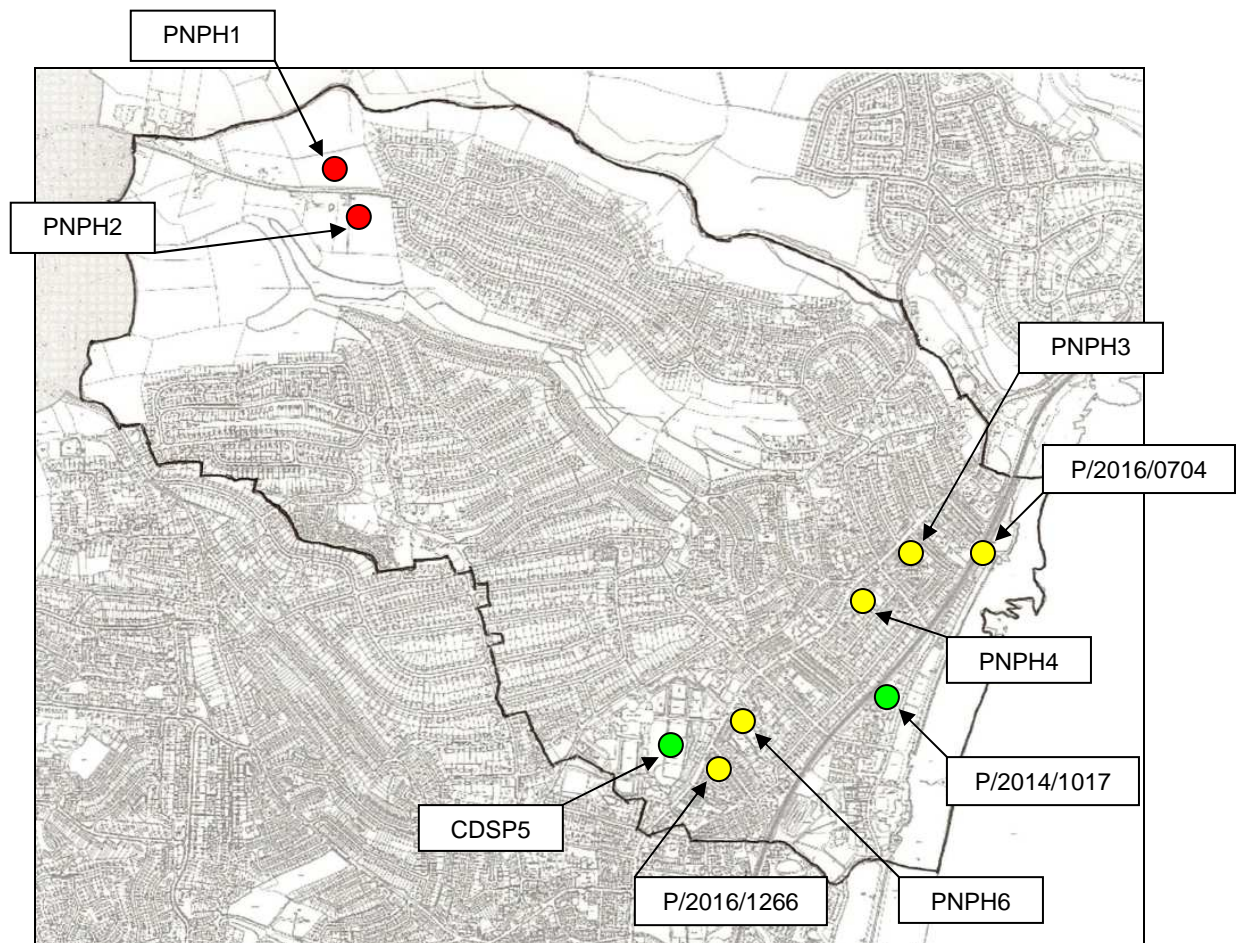
7.12 The assumed phasing of sites identified in the Local Plan for net job growth and additional housing is shown in Part 8 of this Plan (Table 8.1 pages 93-94) and the location of each site is shown in Fig. 7.4 (page 72).

7.13 Alongside these locations, 13 sites have been identified as Local Green Space as shown in Policy Maps PLGS.13 to PLGS.25 on the following pages (pages 73 to 75). For these locations the Local Green Space policy applies as shown in Policy PNP1 and PNP1(a) (pages 18 and 21).

Policy	Page	Policy Map
<ul style="list-style-type: none"> <li>• PNP1- Area wide</li> <li>• PNP1 Subsections PNP1(a) to (i)</li> <li>• PNP14 – NP Core Tourism Investment Area (north part)</li> <li>• PNP19 – Safeguarding open countryside</li> <li>• PNP27 - Preston</li> <li>• Local Green Spaces PLGS.13 to PLGS.25</li> </ul>	18 19 to 29 45 51 64 18, 21	Whole Plan Area Whole Plan Area Fig. 6.8 page 46 Fig. 6.10 page 53 Fig. 7.3 this page Pages 73-75



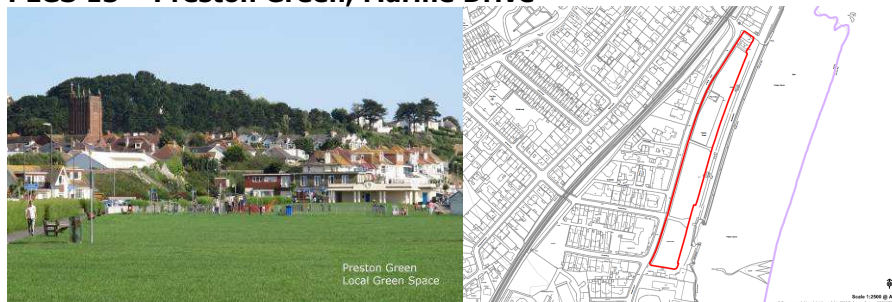
**Figure 7.4 – Identified sites Preston**



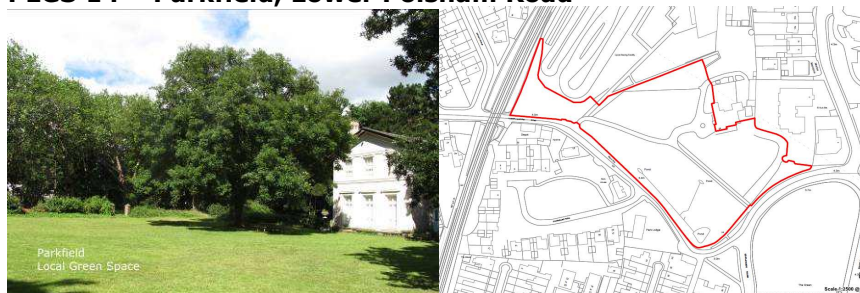
*Footnote: See Part 8 Table 8.1 (pages 93-94) for the phasing assumed for each site.*

## Preston - Designated Local Green Space

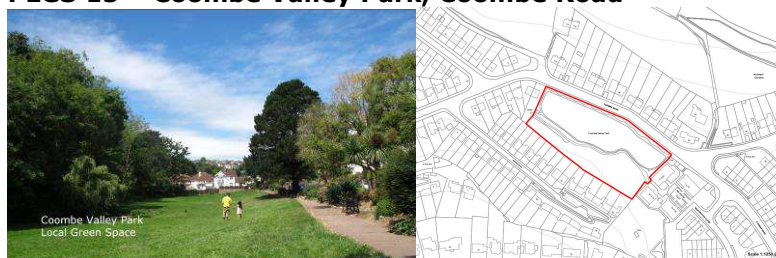
### PLGS 13 – Preston Green, Marine Drive



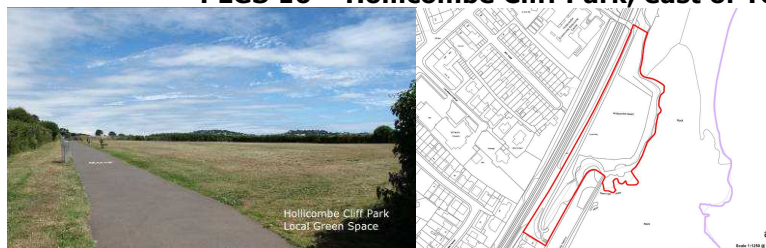
### PLGS 14 – Parkfield, Lower Polsham Road



### PLGS 15 – Coombe Valley Park, Coombe Road



### PLGS 16 – Hollicombe Cliff Park, east of Torquay Road



### PLGS 17 – Hollicombe Park (part of), Torquay Road



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### PLGS 18 – Wills Avenue Playground



### PLGS 19 – Preston Gardens, Torquay Road



### PLGS 20 – Oldway Mansion Gardens, Oldway Road / Torquay Road



### PLGS 21 – Shorton Valley Woods, Shorton Valley Road



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### PLGS 22 – Hollicombe Allotments, Hollacombe Lane



### PLGS 23 – Sandringham Gardens



### PLGS 24 – Lower Penns Road Allotments



### PLGS 25 – Scadson Woods, Duchy Drive



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## Clifton with Maidenway

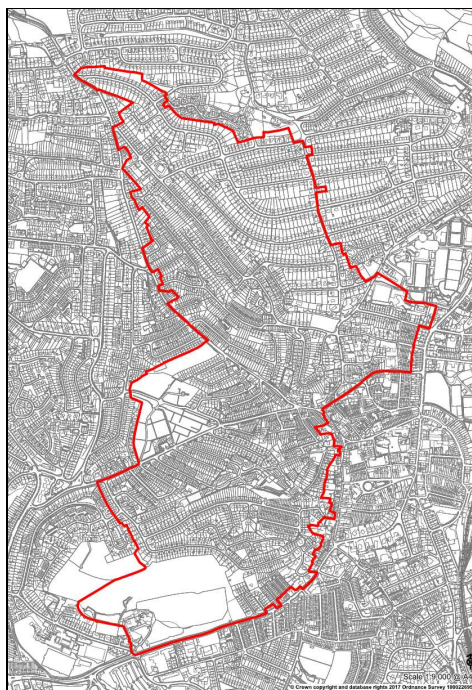
7.14 The Community Partnership area has the same name and boundary as the Electoral Ward of Torbay (Fig. 7.5 this page).

7.15 The key features of the area are:

- A population of 7,100 (2011);
- An established urban suburb with limited space for net job growth;
- Principally inter-war building styles on sloping terrain with limited local facilities;
- A wide mixture of property condition and amenity space;
- Limited scope for vehicular traffic circulation change;
- Key locations of treescape and seaviews present;
- Limited community facilities exist throughout the area;
- Vulnerable to risk of urban creep by covering over soft landscaped areas.

7.16 The following policies in Part 6 of the Neighbourhood Plan apply to the Community Partnership area as shown below:

**Figure 7.5 Clifton with Maidenway Community Partnership Area**



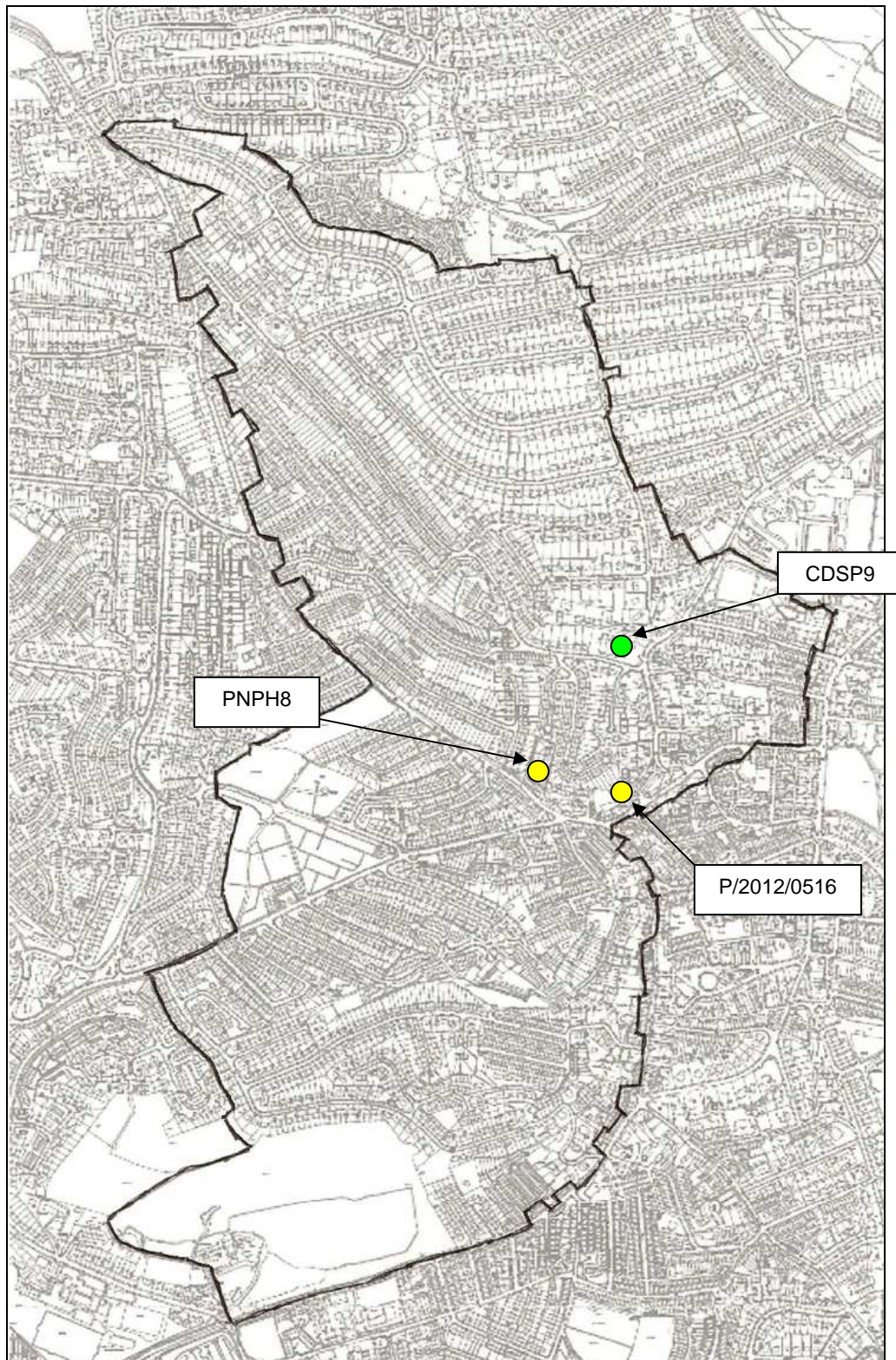
7.17 The assumed phasing of sites identified in the Local Plan for net job growth and additional housing is shown in Part 8 of this Plan (Table 8.1 pages 93-94) and the location of each site is shown in Fig. 7.6 (page 77).

7.18 Alongside these locations, 4 sites have been identified as Local Green Space as shown in PLGS.26 to PLGS.29 on the following page (page 78). For these locations the Local Green Space policy applies as shown in Policy PNP1 and PNP1(a) (pages 18 and 21).

Policy	Page	Policy Map
<ul style="list-style-type: none"> <li>• PNP1- Area wide</li> <li>• PNP1 Subsections PNP1(a) to (i)</li> <li>• PNP26 – Clifton with Maidenway</li> <li>• Local Green Spaces PLGS.26 to PLGS.29</li> </ul>	<p>18 19 to 29 63 18, 21</p>	<p>Whole Plan Area Whole Plan Area Fig. 7.5 this page Page 78</p>



**Figure 7.6 Identified sites Clifton with Maidenway**



*Footnote: See Part 8 Table 8.1 (pages 93-94) for the phasing assumed for each site.*



## Clifton with Maidenway - Designated Local Green Space

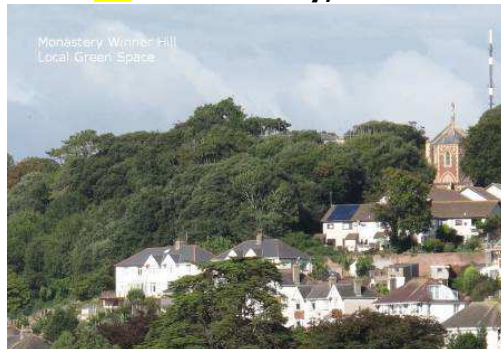
### PLGS 26 - Stanley Gardens, off Marlton Road and Barton Road



### PLGS 27 - Ailescombe Road Allotments



### PLGS 28 - Monastery, Winner Hill



### PLGS 29 - Paignton Cemetery, Colley End Road



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## Goodrington, Roselands & Hookhills

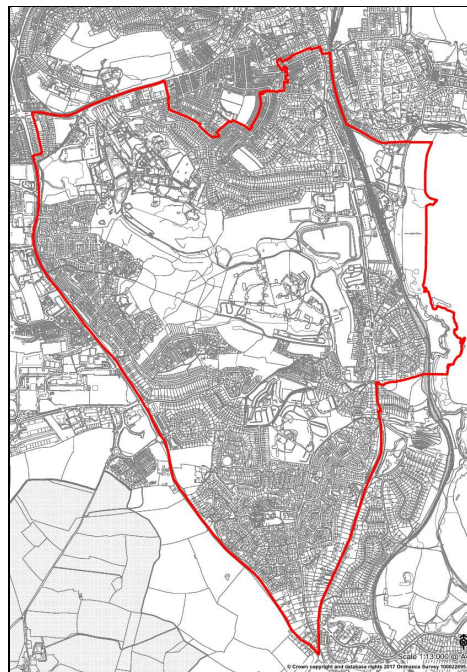
7.19 The Community Partnership area includes the whole of Goodrington with Roselands Electoral Ward of Torbay and the area of Hookhills that forms part of Churston with Galmpton Ward (Fig. 7.7 this page).

7.20 The key features of the area are:

- A population of 7,100 (2011);
- A mix of seafront and inland zoological tourist economy;
- Clennon Valley forming the central land form of the area;
- Older properties generally on the north side of the Valley and more post war housing to the south;
- Relatively modern vehicular traffic network;
- Major areas of landscape, and natural habitats present;
- Good level of community facilities exist throughout the area;
- Goodrington seafront and Valley vulnerable to flooding.

7.21 The following policies in Part 6 of the Neighbourhood Plan apply to the Community Partnership area as shown below:

**Figure 7.7 Goodrington, Roselands and Hookhills Community Partnership Area**

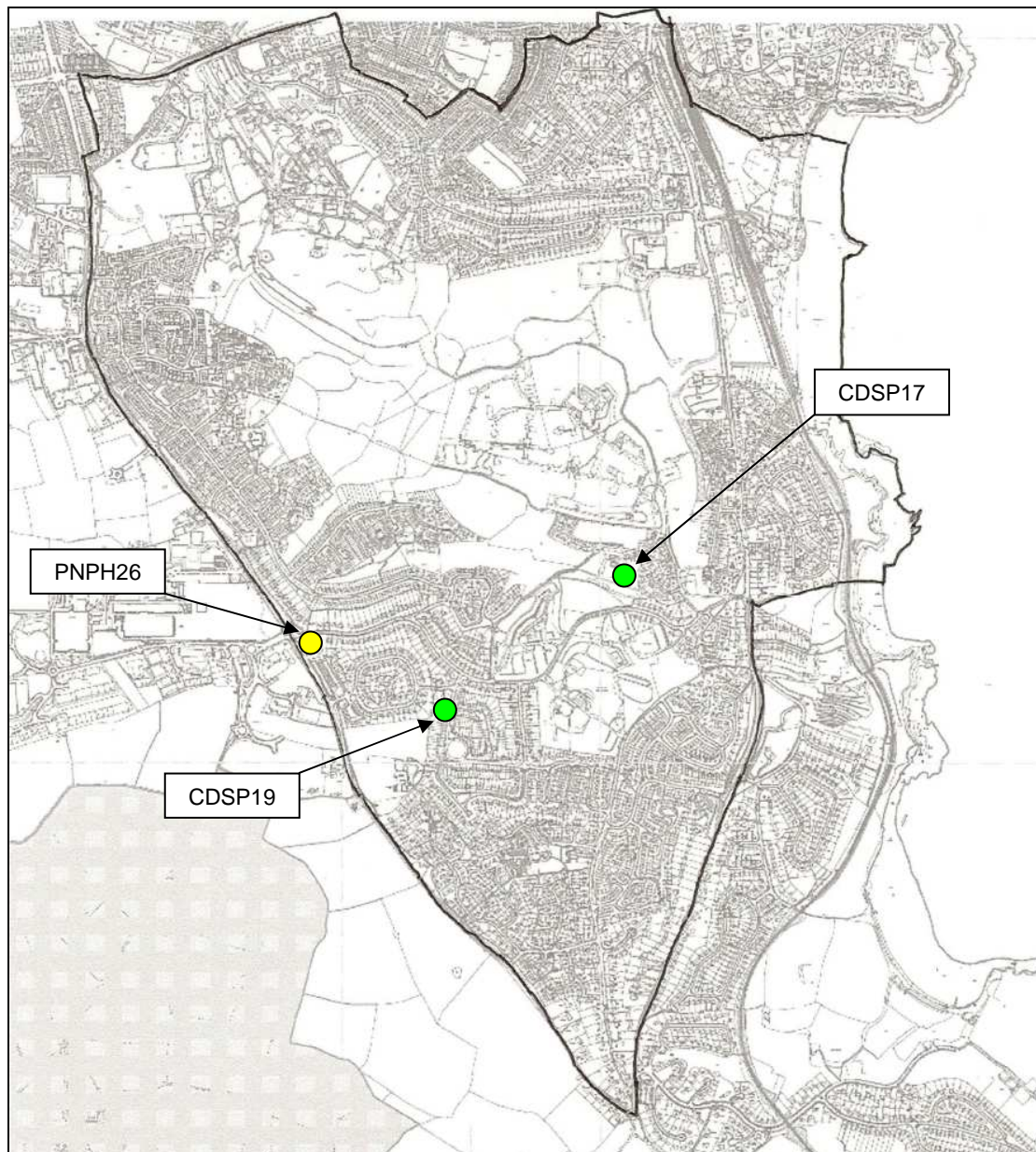


7.22 The assumed phasing of sites identified in the Local Plan for net job growth and additional housing is shown in Part 8 of this Plan (Table 8.1 pages 93-94) and the location of each site is shown in Fig. 7.8 (page 80).

7.23 Alongside these locations, 14 sites have been identified as Local Green Space as shown in PLGS.30 to PLGS.43 on the following pages (pages 81 to 83). For these locations the Local Green Space policy applies as shown in Policy PNP1 and PNP1(a) (pages 18 and 21).

Policy	Page	Policy Map
<ul style="list-style-type: none"> <li>• PNP1- Area wide</li> <li>• PNP1 Subsections PNP1(a) to (i)</li> <li>• PNP25 – Clennon Valley</li> <li>• Local Green Spaces PLGS.30 to PLGS.43</li> </ul>	<p>18 19 to 29 62 18, 21</p>	<p>Whole Plan Area Whole Plan Area Fig. 1.2 page 9 Pages 81-83</p>

**Figure 7.8 – Identified sites Goodrington, Roselands and Hookhills**



*Footnote: See Part 8 Table 8.1 (pages 93-94) for the phasing assumed for each site.*

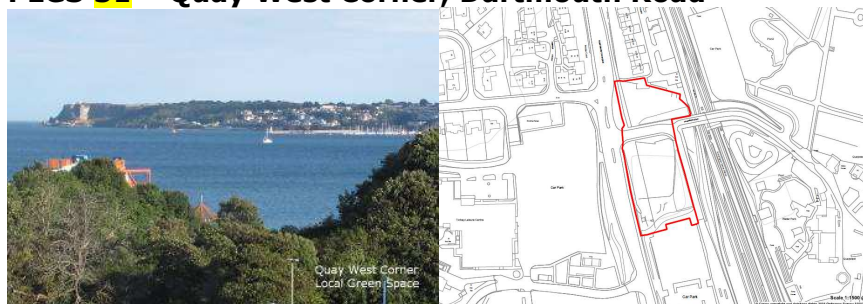


## Goodrington, Roselands & Hookhills - Designated Local Green Space

### PLGS 30 – Clennon Valley Allotments, Dartmouth Road



### PLGS 31 – Quay West Corner, Dartmouth Road



### PLGS 32 – Young's Park



### PLGS 33 – Oyster Bend Field, east of Oyster Bend



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**PLGS 34 – Community Orchard, Goodrington Road**



**PLGS 35 – Goodrington Village Green, Grange Road**



**PLGS 36 – Claylands Cross Park, Brixham Road**



**PLGS 37 – Gibson Road Playground**



**PLGS 38 – White Rock Recreation Ground, Brixham Road**



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### PLGS 39 – York Road Allotments



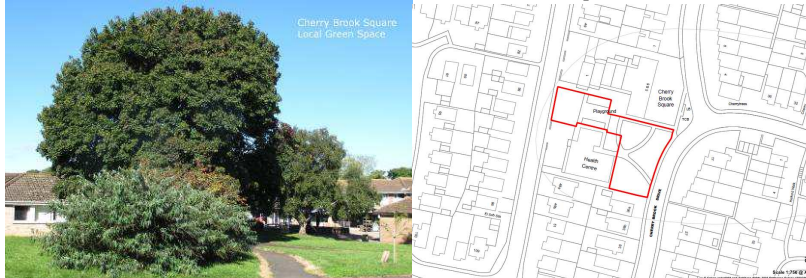
### PLGS 40 – Hookhills Playground and Park



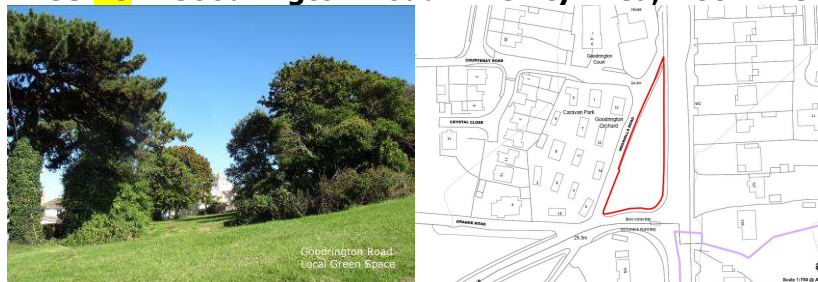
### PLGS 41 – Lancaster Drive Playpark



### PLGS 42 – Cherry Brook Square, Cherry Brook Drive



### PLGS 43 – Goodrington Road Amenity Area, Hookhills Road



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## Blatchcombe

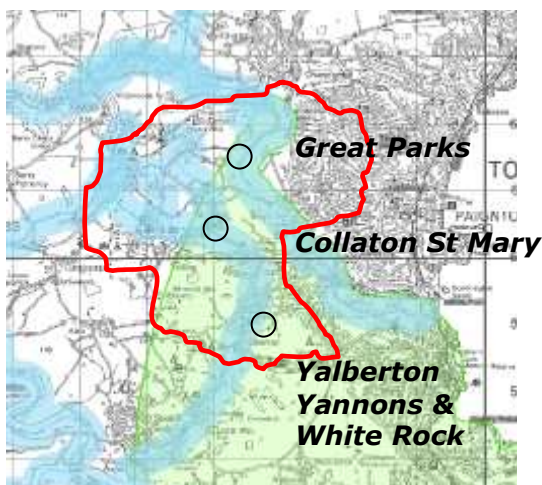
7.24 Blatchcombe Community Partnership area has the same name and boundary as the Electoral Ward of Torbay (Fig. 7.9 this page).

7.25 It is the largest in Paignton by size and population. In 2011 there were just over 11,000 residents.

7.26 More than half the area is countryside of great landscape value to residents and tourists alike and falls within the Special Area of Conservation that protects Greater Horseshoe Bats of National and European importance.

7.27 Maintaining the appeal of the area to the tourist economy of Torbay is of paramount importance, together with ensuring that flooding problems and sewerage constraints which exist are not made worse by further development.

**Figure 7.10 Sensitive habitat**

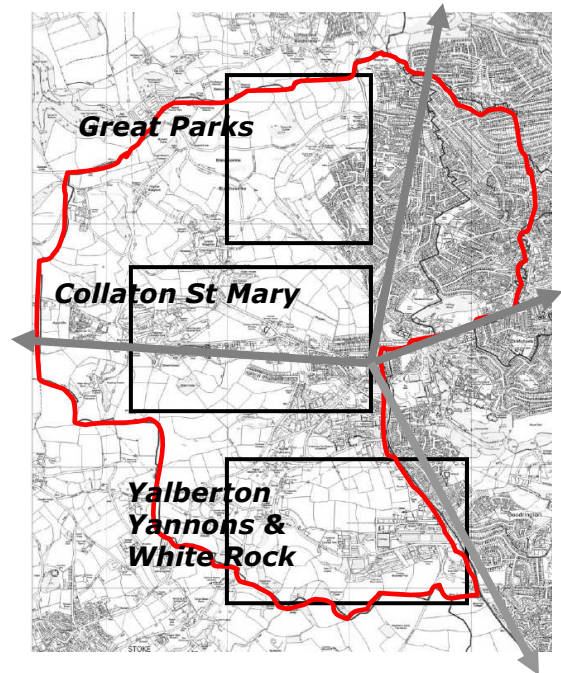


Greater Horseshoe Bat flight paths (blue) and feeding area (green)  
Source: Natural England South Hams SAC

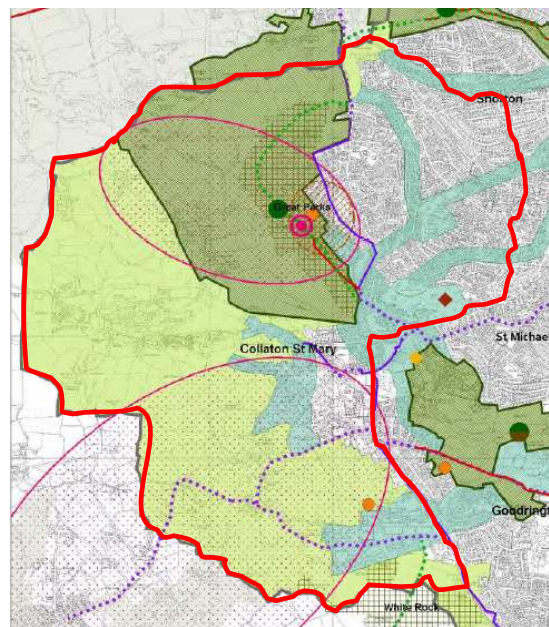
7.28 The Neighbourhood Plan gives particular support to the proposals of the Torbay Green Infrastructure Delivery Plan produced in 2011 by the Council, Natural England and Torbay Coast and Countryside Trust (Figs.6.1 and 7.11 pages 22 and this page). It contains proposals of fundamental

importance to the future wellbeing and sustainability of the Blatchcombe area.

**Figure 7.9 Blatchcombe Community Partnership Area**



**Fig 7.11 Blatchcombe and the Green Infrastructure Delivery Plan**



Source: Torbay Green Infrastructure Delivery Plan 2011 [see also Fig.6.1 page 23]

7.29 The following policies in Part 6 of the Neighbourhood Plan apply to the Community Partnership area as shown below:



Policy	Page	Policy Map
<ul style="list-style-type: none"> <li>• PNP1- Area wide</li> <li>• PNP1 Subsections PNP1(a) to (i)</li> <li>• PNP19 – Safeguarding open countryside</li> <li>• PNP20 – Great Parks</li> <li>• PNP21 – White Rock and nearby areas</li> <li>• PNP22 – Western Corridor</li> <li>• PNP23 – Yalberton to Blagdon Valley</li> <li>• PNP24 – Collaton St. Mary Village</li> <li>• Local Green Spaces PLGS.44 to PLGS.53</li> </ul>	18 19 to 29 51 54 56 57 59 61 18, 21	Whole Plan Area Whole Plan Area Fig. 6.10 page 53 Fig. 6.11 page 54 Fig. 1.2 page 9 Fig. 1.2 page 9 Fig. 6.12 page 59 Fig. 7.9 page 84 Pages 88-90

7.30 In addition:

### **Other proposals**

7.31 Great care is needed to ensure that further growth in the area does not cause main communication routes to be improved in a manner that results in the loss of visual features which give the area its distinctive street scene appeal and local identity.

7.32 This applies especially to the two key communication routes bisecting the area. From west to east, Totnes Road (A385/A3022) provides the main route that connects Paignton to business links with Plymouth. From north to south, Kings Ash Hill and Brixham Road (A380/3022) operate as the outer by-pass to inner urban routes (Fig. 7.9 page 84).

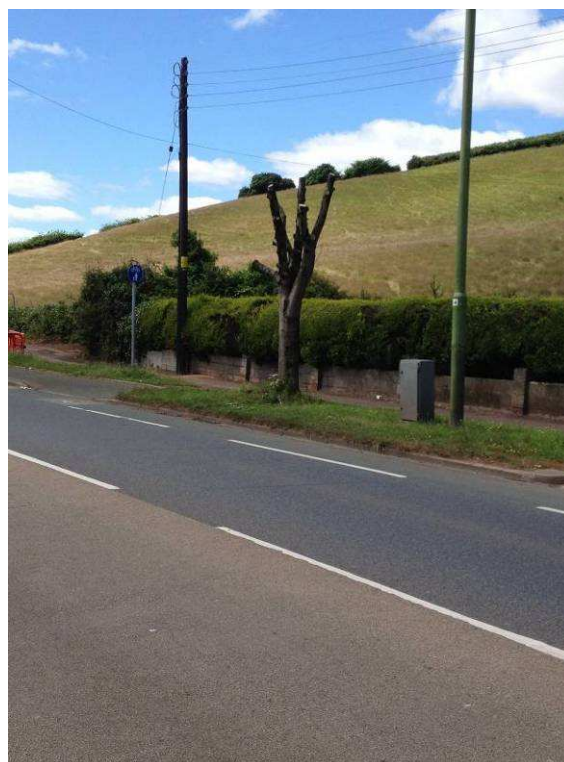
7.33 Recent junction improvements and highway widening have started to change the landscape adversely and have introduced large expanses of tarmac, street furniture and boundary wall treatments that are not in keeping and tree loss (photo right).

7.34 Alongside the Local Plan and this Neighbourhood Plan, further detail is provided by the following that applies to Blatchcombe in guiding future development.

7.35 The assumed phasing of sites identified in the Local Plan for net job growth and additional housing is shown in Part 8 of this Plan (Table 8.1 pages 93-94) and the location of each site is shown in Figs. 7.12 to 7.15 (page 86-87).

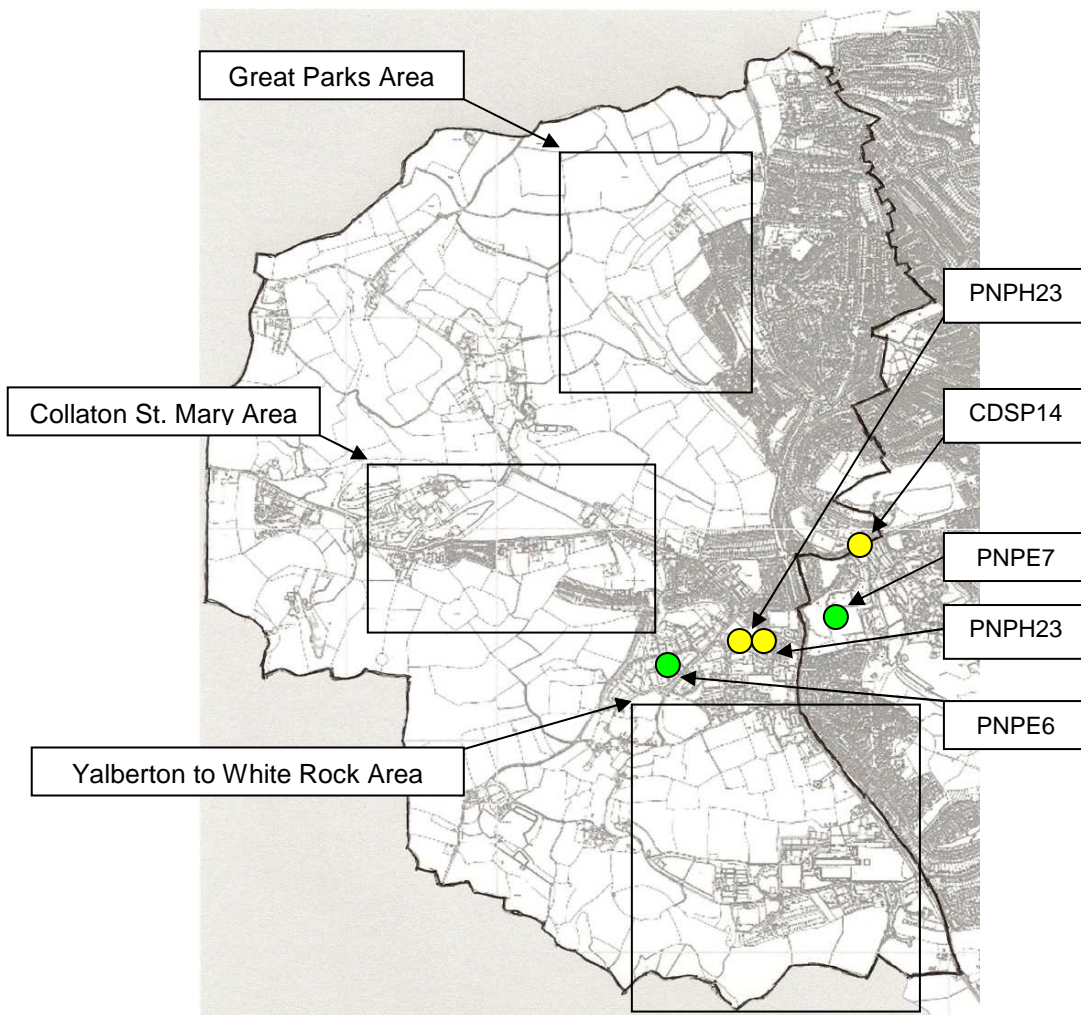
7.36 Alongside these locations, 10 sites have been identified as Local Green Space as shown in PLGS.44 to PLGS.53 on the following pages (pages 93-94). For these locations the Local Green Space policy applies as shown in Policy PNP1 and PNP1(a) (pages 18 and 21).

### **Gradual tree loss example Kings Ash Road 2016**

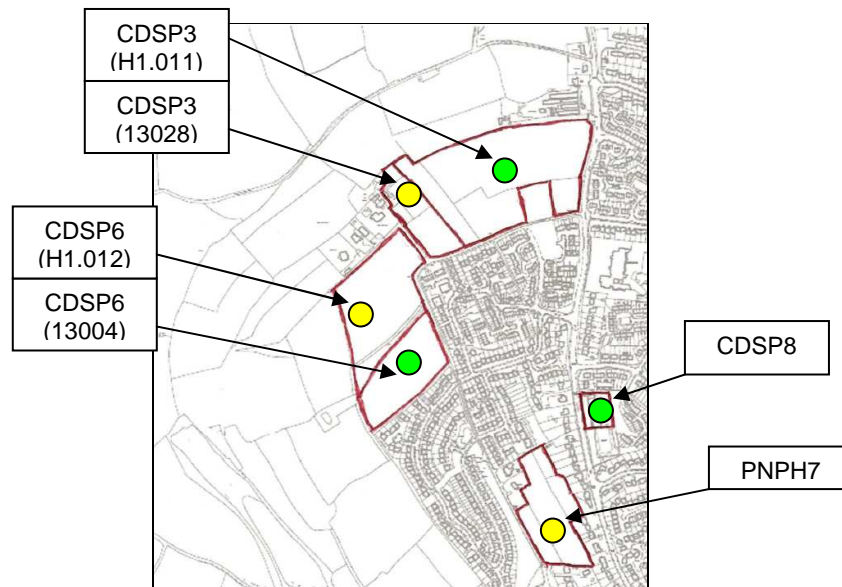




**Figure 7.12– Identified sites Blatchcombe**

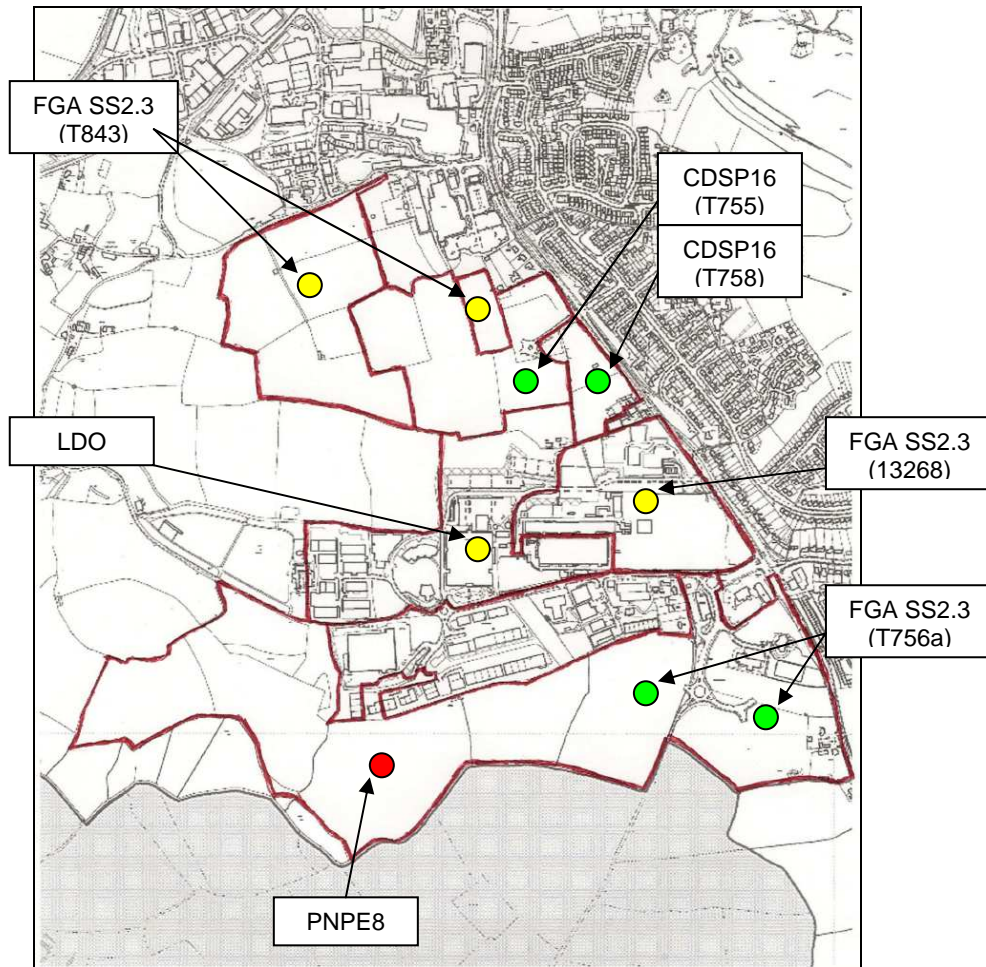


**Figure 7.13 Identified sites Great Parks Area**

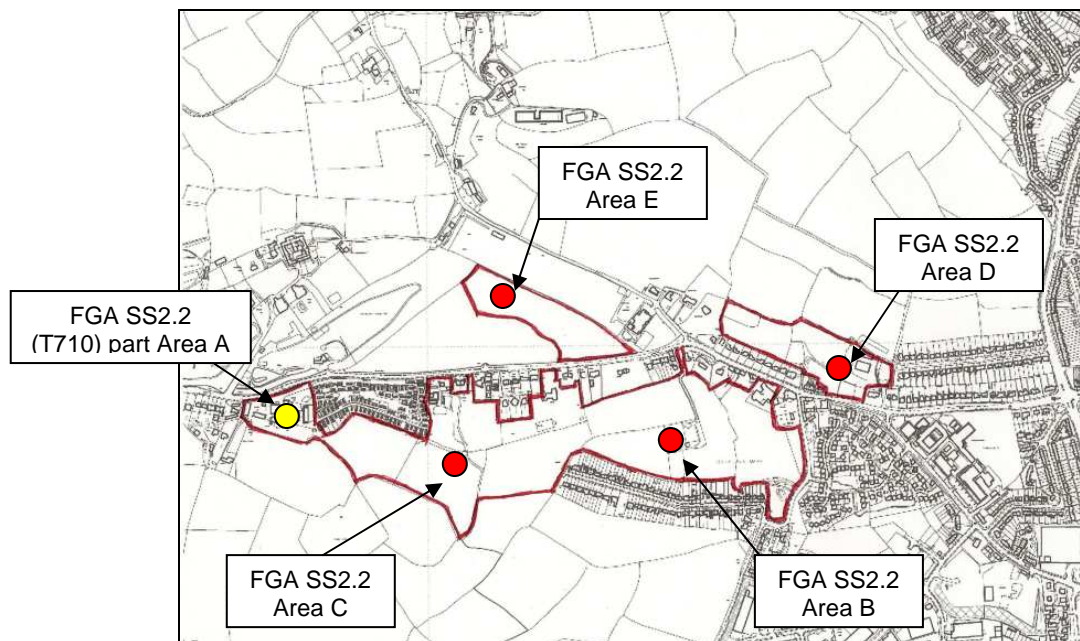


Footnote: See Part 8 Table 8.1 (pages 93-94) for the phasing assumed for each site.

**Figure 7.14 Identified sites Yalberton to White Rock Area**



**Figure 7.15 Identified sites Collaton St. Mary Area**



Footnote: See Part 8 Table 8.1 (pages 93-94) for the phasing assumed for each site.

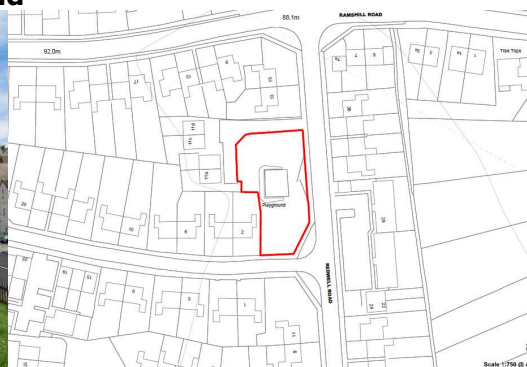


## Blatchcombe - Designated Local Green Space

### PLGS 44 – Primley Park, south of Westleat Avenue



### PLGS 45 – Redwell Road Playground



### PLGS 46 – Smallcombe Road Scout Field, Redwell Lane



### PLGS 47 – Smallcombe Road Playground and Park, Jasmine Grove



All plans shown are at varying scales.

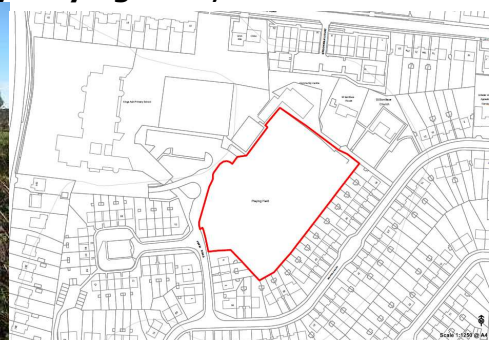
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### PLGS 48 – Wild Fox Adventure Playground, Smallcombe Road



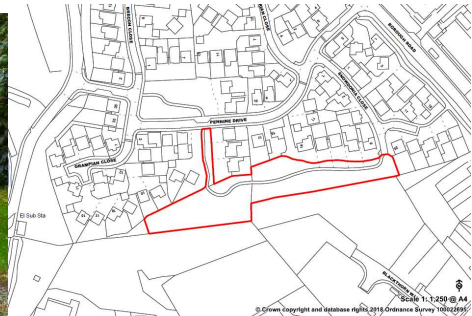
### PLGS 49 – Foxhole Community Playing Field, off Belfield Road



### PLGS 50 – Great Parks Play Area, Trelissick Road



### PLGS 51 – Snowdonia Close



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## PLGS 52 – Pennine Drive Amenity Area



## PLGS 53 – Collaton St. Mary Water Meadow, Stoke Road



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## Part 8: Delivery

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8.1 This part of the Plan highlights the overall delivery strategy, who will be responsible for delivering the identified policies and projects, how they may be funded and the phasing of those projects. It also sets out monitoring procedures to follow the delivery of the Plan. A composite Policies Map is shown at **Appendix 4** (page 108).

### The Delivery strategy

8.2 The delivery strategy of this Neighbourhood Plan is the same as the adopted Torbay Local Plan of “plan, monitor and manage” for net growth of jobs and homes within Torbay’s remaining environmental capacity. As with the Local Plan, it is not a strategy of “predict and provide”.

8.3 The Local Plan strategy, and this Neighbourhood Plan, apply through to 2029/30 and features two key aspects:

- i) to plan “in tandem” for 5,000-5,500 net growth of jobs (from a total of 59,000 in 2012) plus 8,900 additional homes based on 7,550 for an assumed return to net inward migration and household size reduction, plus 1,350 to stimulate net job growth;
- ii) to monitor progress annually, with 5 year major Reviews in 2020/21 and 2025/26, or earlier if justified, because the objectively assessed need includes a number of key economic, demographic and habitat impact assumptions with significant uncertainties.

8.4 If net job growth exceeds expectation, the plan enables an increase in pace of housing provision within Paignton’s remaining environmental capacity. Conversely, if net job growth is less successful, the Local Plan enables revision of housing growth downwards to ensure sustainable balance is maintained

(Local Plan paragraphs 1.1.15 and 7.5.17-18).

8.5 The first five year major review of the Local Plan (in 2020/21) will be against a range of matters and information identified at paragraph 7.5.17 of the Local Plan, i.e. demographic trends, economic performance, market and social signals, land availability, monitoring data, infrastructure, landscape and biodiversity.

8.6 However, the review context will remain as set by the strategic policies approved to ensure that sustainable balance is maintained between achieving net growth in job numbers, provision of additional homes, and environmental capacity.

### Delivery of the Neighbourhood Plan

8.7 This Neighbourhood Plan has been prepared to operate as an extension of the adopted Local Plan for Torbay.

8.8 **Responsibility** for delivering planning decisions in accordance with the Neighbourhood Plan rests with the Council as the local planning authority in consultation with the community where required.

8.9 **Funding** of development and infrastructure provision will rest with individual developers and agencies responsible for their respective services working together with developers.

8.10 **Phasing** of the Neighbourhood Plan falls into two parts:

- i) phasing of sites identified in the Local Plan for job growth and additional homes;
- ii) phasing of policies and proposals of the Neighbourhood Plan.

8.11 From the review undertaken of all Local Plan sites, there is no need to



identify further job or housing sites to those shown in Part 7 of this Neighbourhood Plan as they will more than meet the Local Plan requirement, even if net job growth had not declined.

8.12 The likely phasing of housing site delivery has also been reviewed. The conclusion reached of the more likely delivery sequence is shown in Table 8.1. Further details are contained in the **Basic Conditions Statement** and **Supporting Evidence** documents that accompany the Neighbourhood Plan (Fig. 3.1 page 13).

8.13 The policies and proposals of the Neighbourhood Plan have effect throughout the Plan period.

8.14 **Monitoring** progress of the Neighbourhood Plan will form part of the annual monitoring of the development plan (Local Plan) by the Council, and in consultation with the community where there is need to make adjustment to ensure the outcome sought by the 4 key objectives and detailed proposals is being achieved.

8.15 The results of the Sustainability Appraisal and Habitat Regulations Assessment Screening of the Neighbourhood Plan has identified

those items that will form the baseline against which the Neighbourhood Plan will be monitored to comply with on-going requirements, as shown in Table 8.2. Further details are contained in the **Sustainability Appraisal and Habitat Regulations Assessment** document that accompanies the Neighbourhood Plan (Fig. 3.1 page 13).

8.16 Consideration of Habitat Regulation Assessment has been influenced by the Judgment of the European Court of Justice, case C-323/17, which on 12 April 2018 interpreted that it is not appropriate at the screening stage to take account of measures intended to avoid or reduce the harmful effects of a plan or project on a European site being considered.

8.17 The Council as the local planning authority has assessed the post examination version of the Neighbourhood Plan in light of this Judgment. No sites are allocated for development by the Neighbourhood Plan and the assessment confirmed that the Plan policies will not affect the integrity of any of the European sites identified and the conservation objectives of the sites will be sustained.

**Table 8.1 Housing sites phasing conclusions**

From 1/4/2015			5yr Review 2020/21	5yr Review 2025/26			
LP/NP Site Ref	Location	Period Year	4-8 2015/20 5yrs*	9-10 2020/22 2yrs	11-15 2022/27 5yrs	16-18 2027/30 3yrs**	4-18 2015/30 15yrs**
Town Centre & Seafront (SPD2)							
CDSP10	Former Library, Courtland Rd		38				38
PNPH11	Crossways Shopping Centre				150		150
PNPH14	Corner of Hyde Rd / Torbay Rd				50		50
	SHLAA Deliverable Urban						0
P/2014/0803	2 Courtland Rd		15				15
CDSP11	10 Palace Avenue			9			9
P/2013/1128	Montana, 10 Belle Vue Rd			6			6
PNPH9	Lyndhurst, Lower Polsham Rd			12			12
PNPH15	4 Palace Ave			6			6
PNPH18	Silverlawns, 31 Totnes Rd			19			21
PNPH19	Angleside House, Cleveland Road			24			24
PNPH21	20 Roundham Rd			10			10
	SHLAA Constrained Urban						0
PNPH12	Lighthouse, Esplanade Rd					20	20
PNPH13	Victoria Square MSCP					60	60
PNPH16	Station Lane				30		30
PNPH20	Paignton Harbour					40	40
	Non Identified 6+						0
CDSP12	Seaford Hotel, 2-4 Stafford Rd		9				9
CDSP15	Seaford Sands Hotel, 17 Roundham Rd		14				14
P/2016/0585	13-17 Palace Avenue			32			
North & West (SPD3)							
SDP3.1	Preston Down Rd						0
PNPH1	Land at Preston Down Rd North					50	50
PNPH2	Land at Preston Down Rd South					50	50
SDP3.2	Great Parks (Phase 2)						0
CDSP3	Phase 2 (H1.011)		60	60	65		185
CDSP3	Luscombe Rd (north) (P/2004/1989)				47		47
CDSP6	Phase 2 (P/2012/1074)		60	24			84
CDSP6	Phase 2 (H1.012)			20	100		120
PNPH7	Luscombe Rd (south) P/2014/0938				68		68
SDP3.3	Totnes Rd						0
FGA SS2.2	Motel / Area A			42			42
FGA SS2.2	Area B					130	130
FGA SS2.2	Area C (excl. Motel /Area A)					178	178
FGA SS2.2	Area D					70	70
FGA SS2.2	Area E					40	40
SDP3.4	Yannons / H. Gruit / Devonshire Park						0
CDSP16	Yannons Farm (T755)		194				194
CDSP16	Park Bay / Holly Gruit (T758)		37				37
FGA SS2.3	Yalberton (T843) (P/2014/0983)			65	127		192
FGA SS2.3	Devonshire Park (P/2014/0947)			70	185		255
SDP3.5	White Rock						
CDSP18	(T756a) P/2011/0197 onward		175	70	100		345
LDO	Student Accommodation			50	70		120
	Non Identified 6+						0

From 1/4/2015			5yr Review 2020/21	5yr Review 2025/26			
LP/NP Site Ref	Location	Period Year	4-8 2015/20 5yrs*	9-10 2020/22 2yrs	11-15 2022/27 5yrs	16-18 2027/30 3yrs**	4-18 2015/30 15yrs**
CDSP8	Kings Ash House (P/2012/1223)		14				14
Elsewhere in SPD1							
CDSP5	Oldway Mansion and Fernham (T742)		46				46
CDSP9	Former Divisional Police HQ (T744)		14				14
CDSP14	Totnes Road Service Station, adj 141				14		14
CDSP17	Marine Pk, Goodrington (T706)		39				39
CDSP19	R/O 10-16 & 18-20 Gibson Rd (T866)		6				6
P/2012/0516	Parkhill House, 1 Southfield Rd				12		15
P/2014/1017	Roseville, Marine Gardens		8				8
P/2016/0704	Preston Sands Hotel, 10-12 Marine Prd				10		10
P/2016/1266	Half Moon PH, 188 Torquay Road				10		10
PNPH3	Vauxhall Garage, Torquay Rd				20		20
PNPH4	Land at 4-6 Eugene Rd				6		6
PNPH5	Modern Motoring, Torquay Rd				6		6
PNPH6	63 Manor Rd				8		8
PNPH8	Land r/o Quarry Terrace, Marldon Rd				8		8
PNPH23	Land at Intek House (T705)				12		12
PNPH23	50% of Depot, Borough Rd (T826)					40	40
PNPH26	Alan Kerr Garage, Brixham Rd				10		10
PPs	Excess windfalls (5 or less)***		46				46
Paignton SDP1 – NP Total			775	519	1,108	688	3,080
Excluding approved windfalls of 52 per year			1,294				

Adopted LP 2015 Requirement

729	481	1,070	645	2,925
1,210				

Broad Location  
Developable

Deliverable

\* PH21 approved by LP Inspector as at 1/4/2015

\*\* Subject to 5 yr Review in 2020/21 and 2025/26 of progress of net job growth and housing need assumed in LP

\*\*\* Excess windfalls (5 or less) above normal allowance (see **Supporting Evidence** document)

Site reference key:

**CDSP:** Committed housing site identified in adopted Local Plan (Appendix C)

**PNPH:** Potential housing site identified in adopted Local Plan (Appendix C) subject to consideration in Neighbourhood Development Plan

**FGA:** Future Growth Area identified in adopted Local Plan Policy SS2

All other sites listed are planning application approvals (including PPs shown)

Colour key:

	Approved 5 year supply period 4-8
	NPPF 'Deliverable' and 'developable' period 4-15
	Broad locations for not before 2 <sup>nd</sup> Local Plan Major 5 yr Review in 2025/26

**Table 8.2 Future Monitoring of the Neighbourhood Plan**

<b>Sustainability Objective</b>		<b>Indicator</b>	<b>Baseline</b>	<b>Target</b>
A	Enable net growth of full time jobs in appropriate locations	Total employed and self employed jobs (full time equivalent).	59,000 (2012) within Torbay LP para. 7.5.17	As adopted Local Plan trajectory. (Policy SS1)
B	Address areas of highest employment need in Town Centre	Retail premises vacant within defined town centre and seafront	Retail premises vacant at 1 April 2016	Less than 15% of premises vacant.
C	Reduce vacancy rates of retail and business premises	Retail premises vacant within defined town centre and seafront	Retail premises vacant at 1 April 2016	Less than 15% of premises vacant.
D	Retain and enhance the tourism role of Paignton in facilities available	Annual visitor numbers attributable to Paignton.	Number as from 1 April 2015	An annual increase.
E	Address the lack of community facilities in C+M and St. Michael's	Increase in facilities achieved within C+M and St. Michael's	Facilities present on 1 April 2015	A dedicated meeting place
F	Retain and improve access to Green Infrastructure	Designated Rural Character Area and Local Green Space.	As existed 1 April 2015	No loss or detriment to designated space.
G	Improve community cohesion in the Town Centre and Seafront areas	Number of residential premises rated as occupied within the defined area	As existed 1 April 2015	An increase in number occupied.
H	Address deprivation in the living environment of the Town Centre	Changes to designated Local Green Space.	As existed 1 April 2015	No loss or detriment to designated space.
I	Reduce crime and the fear of crime	Planning applications supported by Police consultation.	As from 1 April 2015	No applications receive an adverse response.
J	Provide the needed level and type of housing stock	Units deliverable and developable on sites identified by Local Plan.	As at 1 April 2015	As Part 8 of Neighbourhood Plan.
K	Enable improved energy efficiency of new and old homes	Residential units granted building regulation approvals that include energy efficiency proposals.	Number approved per year quarter from 1 April 2015	An increase in units approved on the previous year quarter.
L	Support opportunities for renewable energy	Planning consents granted for renewable energy proposals.	Number approved per year quarter from 1 April 2015	An increase in units approved on the previous year quarter.
M	Address sewer capacity issues	Planning applications that accord fully with the consultation response from South West Water or the Environment Agency.	Planning applications from 1 April 2015	No applications that receive an adverse consultation response.
N	Preserve and enhance the designated Conservation Areas	Planning applications that accord fully with the consultation response from Historic England.	Planning applications from 1 April 2015	No applications that receive an adverse consultation response.
O	Protect and enhance the natural landscape and biodiversity	Planning applications fully supported by the consultation response from Natural England or Royal Society for the Protection of Birds.	Planning applications from 1 April 2015	No applications that receive an adverse consultation response.

[Baseline year figures and sources to be added]

## Appendices

Appendix 1 – Glossary of Terms

Appendix 2 – Protected Species and Sites of Importance

Appendix 3 – Trees for biodiversity

Appendix 4 – Neighbourhood Plan Policies Map



## **Appendix 1 Glossary of Terms**

The following definitions apply where the term shown is used in the Neighbourhood Plan. They do not duplicate those contained in Appendix A of the Torbay Local Plan though some duplication has been included for ease of reference. Where there is any difference found between the two documents, the definitions as set out below are those that apply to the Neighbourhood Plan. **The NPPF references are of NPPF 2012.**

<b>Term</b>	<b>Definition</b>
Active Travel	Movement on foot, bicycle, or other modes of transport using muscle movement as the sole or primary energy source. Note: <i>Giving priority to pedestrian and cycle movements</i> (NPPF35).
Affordable Housing	Housing for rent or purchase within the income level of local residents.
Agroecological	Farming within environmental constraints primarily to deliver net gains in biodiversity (NPPF109 & NPPF118), enhanced ecosystem services (NPPF109), and soil quality and structure (NPPF109) using only natural methods of animal husbandry, cultivation and fertility improvement.
Amenity value	Pleasantness of zones within the Neighbourhood Plan area as determined by local residents.
Appropriate Assessment	A second stage assessment that is necessary and undertaken when a proposal may have 'likely significant effects' on species protected by the European Habitats Directives as transposed into UK law.
Article 4 Direction (PNP1-f)	An order approved by the Council as Local Planning Authority that removes the right to development that is permitted without the need to submit an application for planning consent.
Car Club	A vehicle sharing scheme for local residents, using parking spaces identified on-street as an arrangement to reduce traffic (NPPF 30), cut local greenhouse gas emissions (NPPF17, 35, 93 & 98) and help facilitate sustainable travel for all (NPPF 29 & 30).
Community led	Leadership by residents of the Neighbourhood Area who are not part of the Council.
Community-led Housing Enterprises	Community-led solutions to housing need which let residents within the Plan area take a stake in their home or co-op and keep the homes permanently affordable.
Community Partnership Area	An informal local arrangement of residents, business representatives and representatives of other organisations in a part of the Neighbourhood Plan area who meet regarding matters of mutual interest.
Core strategy	A former type of statutory development plan now replaced by a Local Plan produced in accordance with the range and depth of subject matter set out in the National Planning Policy Framework 2012.
Community Supported Agriculture (CSA)	A system of farming that creates a partnership between the farmer / producer and the consumer. In CSA the risks and benefits of farming are shared between the farmer and consumer – it helps to guarantee a market for the farmer and helps people reconnect with, and sometimes get involved with, where their food comes from. There are many models of CSA; one example is where the consumer pays an annual membership fee to cover the farming costs and receives a regular share of the harvest.

Term	Definition
Departure proposal	An application for planning consent that does not accord with the policies defined in the statutory Development Plan (see Development Plan below).
Development land allocation	Definition set out in the Town and Country Planning Local (Local Planning) (England) Regulations 2012. This states (in relation to local plans) that “a site allocation policy is a policy which allocates a site for a particular use or development”. Also, part 4(9)(c) of the Regulations states that the adopted policies map must illustrate geographically the application of the policies in the adopted development Plan.
Development Plan	The statutory plan that applies to an area which in planning law requires all planning decisions to be taken in accordance with the development plan unless ‘material planning considerations’ indicate otherwise. A Development Plan is required to be produced and adopted in accordance with Town and Country Planning legislation. See also Supplementary Planning Document (SPD).
Development Plan Document (DPD)	The term includes the ‘adopted’ Local Plan and Neighbourhood Plans when ‘made’. It does not include non-statutory documents such as Masterplans, Planning Guidance or any other Supplementary Planning Document (SPD). See also Supplementary Planning Documents.
Devon Green Lane	A general name given principally to an ancient unmetalled road in Devon that has existed for a very long time.
Ecosystem services	<p>The benefits people obtain from ecosystems. These include provisioning services such as food and water; regulating services such as flood and disease control; cultural services such as spiritual, recreational, and cultural benefits; and supporting services such as nutrient cycling that maintain the conditions for life.</p> <p>Reference: UK National Ecosystem Assessment, Understanding nature’s value to society, (2011): <i>Synthesis of the Key Findings</i>, UNEP-WCMC, Cambridge.</p>
Energy Efficiency	An ecological approach to design and behavioural change involving optimal insulation, draught-proofing, energy management, and the use of healthy materials to reduce total energy use before, during and after deployment to support the move to a low carbon future (NPPF 95).
EnerPHit	The Passivhaus Institutes energy performance standard and design process for retrofitting of the existing housing stock which requires specific technical standards for Airtightness, Annual Specific Space Heat (or cooling) Demand, Specific Heat Load and Annual Specific Primary Energy Demand. Only retrofits in certain climates, including central Europe and the UK, can be certified to the EnerPHit standard. Note: Supporting energy efficiency improvements to existing buildings (NPPF 95).
English Riviera	Alternative name for the Torbay area used to describe its similar coastline to the northern Mediterranean from southeast France to northwest Italy.
Equivalent replacement	A relocation or replacement in the same place that in all respects is as good as or better than the use or facility that previously existed.
European obligations	These are obligations specified in European Directives and as transposed into UK law. They include a range of social, economic, and environmental matters.
Existing state	Assumed to remain unchanged during the time period covered by the Plan.

Term	Definition
Garden Town	Paignton settlement with enhanced natural surroundings and a greener, healthier built environment, tackling climate change, and providing meaningful jobs in convivial communities.
Greening	The planting of herbaceous plants, shrubs and trees in circular, horizontal, vertical and oblique positions at multiple sites within the landscape, public realm and built environment.
Greenspaces	Space that is not covered in an impervious layer such as tarmac and includes planted areas of soils and landscape.
Hierarchy Of Sustainability	Transport policy delivery where healthy active travel is endorsed rather than more unhealthy, polluting and carbon intense modes of passage according to the following rankings: <ol style="list-style-type: none"> <li>1. walking</li> <li>2. cycling</li> <li>3. public transport</li> <li>4. motor vehicles</li> </ol>
Habitat Regulation Assessment	The assessment of impact of land use plans or proposals on European protected sites, required by the Habitats Directive and legislation transposed into UK law.
Home Zone Design	<p>A home zone is a <a href="#">living street</a> (or group of streets)<sup>(1)</sup>, encouraged by the UK Government<sup>(2)</sup>, as part of residential areas which are designed<sup>(3)</sup> primarily to meet the needs of pedestrians, cyclists, children and residents and where the speeds and dominance of motor vehicles is reduced<sup>(4)</sup>.</p> <p>Notes:</p> <p><sup>(1)</sup> South Gloucestershire Council, March 2013, <i>Living Streets: A guide to the design of informal home zones in new developments for South Gloucestershire</i>;</p> <p><sup>(2)</sup> Department for Transport, November 2005, <i>Home Zones: Challenging the future of our streets</i>;</p> <p><sup>(3)</sup> Institute of Highway Incorporated Engineers' (IHIE), June 2002, <i>Home Zone Design Guideline</i>; and</p> <p><sup>(4)</sup> <i>Minimising traffic conflicts &amp; establishing home zones</i> (NPPF35).</p>
Independent Traders	Locally owned, locally run private businesses employing local residents using mainly local supply chains to deliver local products. In contrast to multiple traders with 9 or more outlets over the country as a whole.
Infrastructure	Physical elements of roads, sewers, other utility services. It does not extend to works identified as necessary to prevent, avoid, mitigate or in any way compensate for 'likely significant effect' on protected species.
Landmark Planting	The planting of biodiverse trees on the tops of hills and contours to deliver net gains in biodiversity (NPPF109 & NPPF118), help control the flow of water, protect the soil (NPPF109), and safeguard Paignton's local identity.
Landscape	An area as perceived by people, whose character is the result of the action and interaction of natural and/or human factors ( <i>European landscape convention, 2000</i> ).
Land use designation	Where a piece of land is identified for specific use. (See also Development Land Allocation.)

Term	Definition
Lifetime Homes	Ordinary homes designed to incorporate <a href="#">16 Design Criteria</a> that can be universally applied to new homes at minimal cost. Each design feature adds to the comfort and convenience of the home and supports the changing needs of individuals and families at different stages of life. Notes: Good design to make places better for people (NPPF56); & Developments designed to consider the needs of people with disabilities by all modes of transport (NPPF35).
Local	Located within the boundary area of the Paignton Neighbourhood Plan.
Local Amenity Value	Characteristics that influence and enhance a persons' appreciation of a particular area or feature. These values are derived from the pleasantness, aesthetic coherence and cultural, environmental and recreational attributes of an area.
Local Green Space [LGS]	Land identified by the community in the Neighbourhood Plan as being of special importance to them in accordance with the National Planning Policy Framework (NPPF76).
Local shops	Retail shops that meet day to day needs in close proximity to the population served without needing to rely on transport to reach them.
Mega-Farms (aka Factory Farms)	Large capital intensive agri-industrial holdings with high densities of livestock husbanded under restricted conditions with no outside access and zero-grazing.
Natural change	The difference in population number between the number of live births and deaths for the given period. It does not include the difference between residents moving into or out of an area known as net-migration. Thus overall population change = Births +/-Deaths + Net Migration.
Net growth	The level of growth that results after account is taken of losses as well as gains.
Net inward migration	Inward migration occurs when the number of incomers exceeds those who leave. Net-outward migration is the opposite. The calculation does not include births/deaths.
Objectively Assessed Need (OAN)	The change in population that would normally arise if there was no plan and the demographic change in population continued as before, sometimes referred to as the 'policy-off' position. Full Objectively Assessed Need (FOAN) is the change expected in population and related requirements in the 'policy-on' situation.
Passivhaus (Standard)	The Passivhaus Institutes energy performance standard and design process for any building which requires specific technical standards for Airtightness, Annual Specific Space Heat (or cooling) Demand, Specific Heat Load and Annual Specific Primary Energy Demand. Note: <i>Supporting the move to a low carbon future</i> (NPPF17 & 95).
Population Projection	The future population that would result if what has been the actual position in the previous period of time continues unchanged into the future period of time identified. Different from a 'prediction' that estimates what the outcome may be if the previous circumstances did not continue and other circumstances were taken into account.
Primary and Secondary Retail Areas	Means Class A1 (Use Classes Order) shops predominate in the former and Class A2, A3 and compatible D1 and D2 uses in the latter.
Public realm	A local area freely accessible to all members of the public at all times of the day.

Term	Definition
Quaintness	Subjective description of an attractive feature of the local public realm or built environment, its scale, variety, balance of appearance and rustic charm not dominated by any particular feature, a blend of elements pleasing to the eye.
Referendum	The stage in preparing a Neighbourhood Plan when registered voters on the electoral register for the Neighbourhood Area are able to vote yes or no to the Plan being approved to become part of the statutory Development Plan for the area.
Renewable Energy	The use and supply of technologies employing sources of energy that are continually replenished such as sunlight, wind, rain, tides, waves and geothermal heat to contribute to energy generation from low carbon sources (NPPF 97).
Residential Local Centre	Focal point of facilities within the Plan area, beyond the town centre, where e.g. retail, social, health, public or religious venues may be conveniently accessed by nearby residents.
Retail offer	The appeal of goods and services to tourists visiting the area as well as residents of the Neighbourhood Plan Area.
Rural hinterland	The area to the west of the main urban area that is mainly in a natural setting of farmland and secluded valleys.
Separated Cycling	The provision of safe two-way cycling thoroughfares 2-3m in width independent of the motor vehicle road network. Note: <i>Minimising conflicts between traffic &amp; cyclists</i> (NPPF35).
Small-Scale Farming	Small scale farms (food growing and or rearing), market gardens, agri-forestry, allotments, underplanted orchards or horticultural holdings of 68 hectares or less.
Spatial plan	A general description of a Development Plan (see above) that has both policies in words and maps that show where and when the policies are intended to have effect.
Strategic Environmental Assessment (SEA)	A process to ensure that significant environmental effects arising from policies, plans and programmes are identified, assessed, mitigated, communicated to decision makers and monitored, and that opportunities for public involvement are provided. European Directive (2001/42/EC) requires the plan making body to carry out strategic environmental assessment on certain plans and programmes. SEA is encompassed by the wider Sustainability Assessments.
Supplementary Planning Document (SPD)	Established by the Planning and Compulsory Purchase Act 2004 (as amended), an SPD can be used to provide guidance on a range of local planning matters and provide greater detail about policies contained within the statutory development plan documents. SPDs cannot make policy or allocate land, but can provide guidance on implementation.
Sustainability Appraisal (SA)	An appraisal of the economic, social and environmental effects of a plan from the outset of the preparation process to allow decisions to be made that accord with sustainable development.
Sustainable Development	Widely recognised internationally, and in the National Planning Policy Framework (page 2), which defines sustainable development as " <i>meeting the needs of the present without compromising the ability of future generations to meet their own needs.</i> " The NPPF refers also to the UK Sustainable Development Strategy "Securing the Future" which sets out five ' <i>guiding principles</i> ' of sustainable development: living within the planet's environmental limits; ensuring a strong, healthy and just society; achieving a sustainable economy; promoting good governance; and using sound science responsibly.

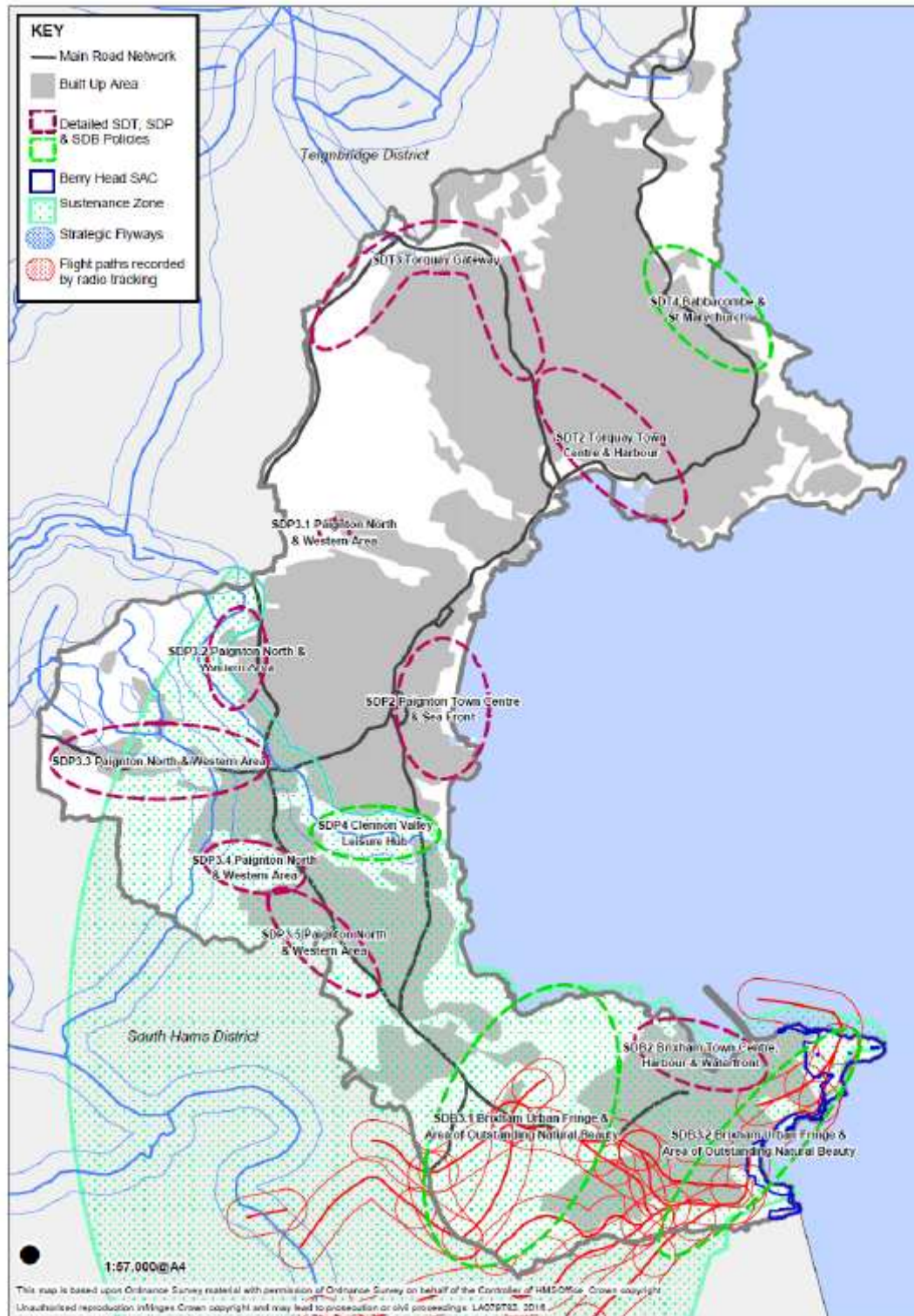


<b>Term</b>	<b>Definition</b>
Themed Markets	Regular or occasional street or park events, usually with stalls, that promote specific trades or celebrations in topics of value or interest to Paignton's residents, e.g. local farmers' markets.
Transport Hub (a.k.a. The Transport Gateway)	The Paignton town centre area occupied by the train and bus stations, coach stop, vehicle pick up, taxi rank and nearby car parks where passengers exchange between transport modes (see policy PNP17).
Unsightly	Subjective description of an unattractive feature of the local public realm or built environment.
Windfall sites	In general windfall sites are defined as sites that are not identified as available for development in the Development Plan. The Torbay Local Plan specifically defines windfalls as sites of 5 or fewer net new dwellings, which were below the threshold considered in the Strategic Housing Land Availability Assessment (SHLAA). However larger windfall sites are also likely to arise during the Plan period.

## Appendix 2 Protected Species and Sites of Importance

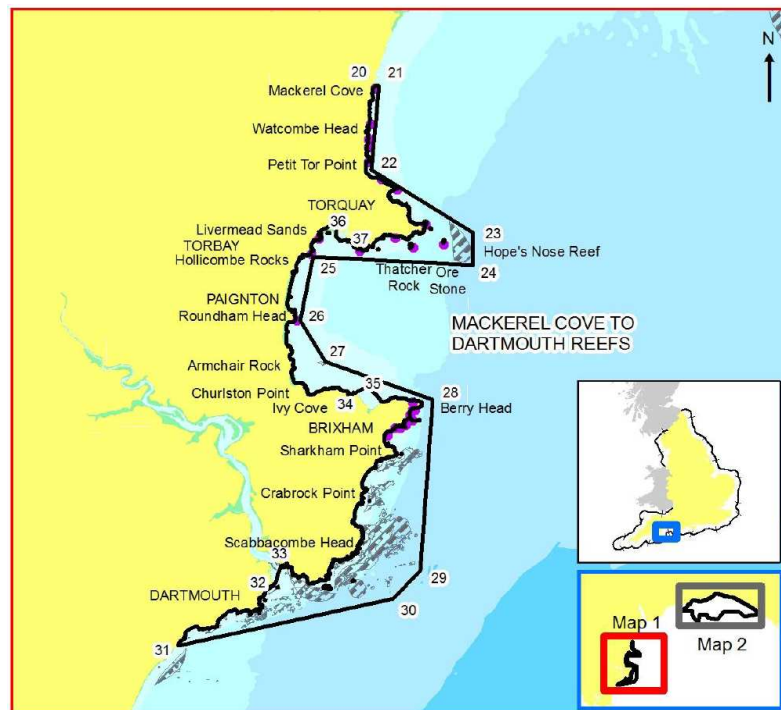
In this Appendix for ease of quick reference:

### a) Greater Horseshoe Bat strategic flight paths and sustenance zone - South Hams Special Area of Conservation (SAC)



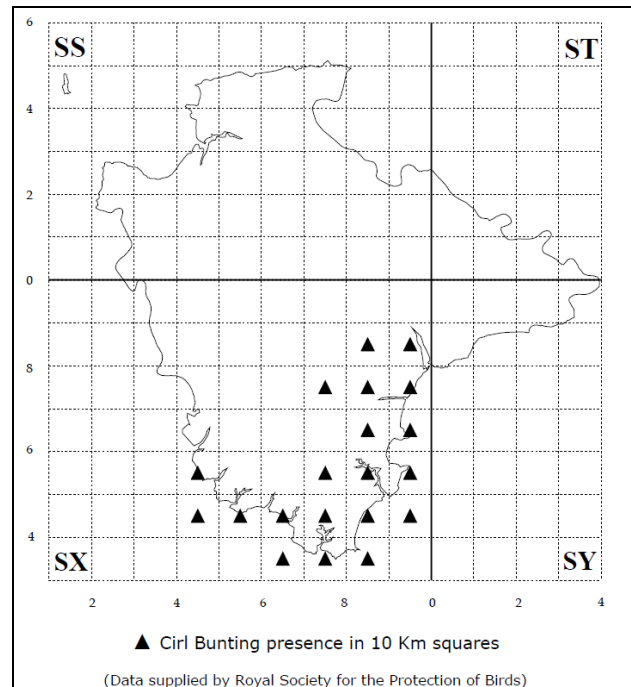
Source: Torbay Local Plan Habitat Regulations Assessment December 2015

## b) Lyme Bay and Torbay Marine Special Area of Conservation (SAC)



Source: Natural England

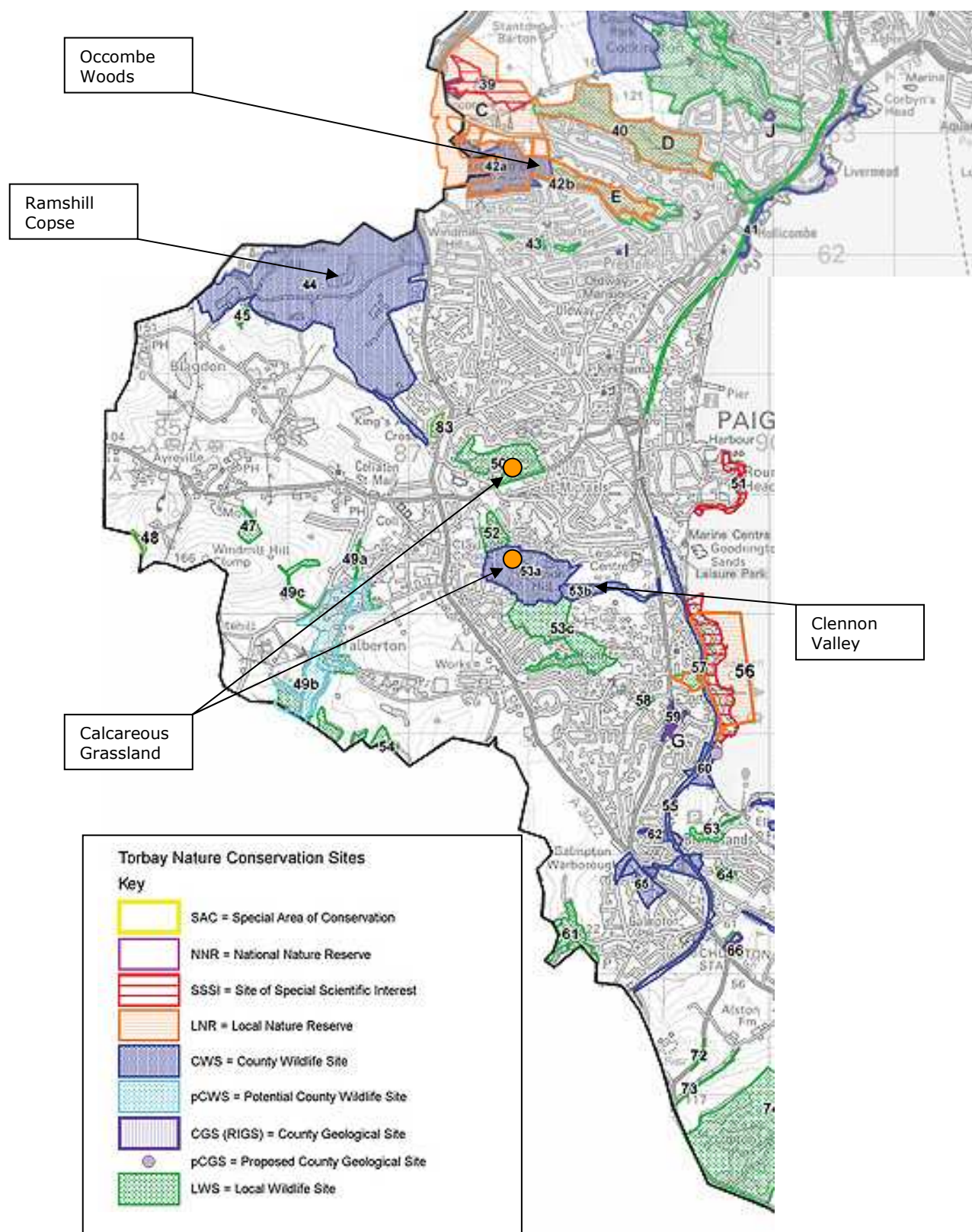
## c) Cirl Buntings – Listed in EC Directive



Source: Devon Biodiversity Action Plan 2009  
See also [magic.gov.uk/MagicMap.aspx](http://magic.gov.uk/MagicMap.aspx)



**d) Designated Sites of Special Scientific Interest (SSSIs) and other Nature Conservation Sites of importance**



Source: The Nature of Torbay 2006-2016 and The Torbay Green Infrastructure Delivery Plan April 2011. See also [http://www.countryside-trust.org.uk/userfiles/files/BAPfullplan\(2\).pdf](http://www.countryside-trust.org.uk/userfiles/files/BAPfullplan(2).pdf)

## Appendix 3 Trees for biodiversity

### References

1. M.Crawford, 2010, 'Creating a Forest Garden – Working With Nature to Grow Edible Crops', Green Books.
2. M.Crawford, 2015, 'Trees for Gardens, Orchards and Permaculture', Permaculture Publications.

Tree Species	
<i>Acacia spp.</i>	Wattles
<i>Amelanchier spp.</i>	Juneberries/Serviceberries
<i>Arbutus unedo</i>	Strawberry Tree
<i>Caragana arborescens</i>	Siberian Pea Tree
<i>Castanea spp.</i>	Sweet Chestnut & Hybrid Sweet Chestnut
<i>Cercis spp.</i>	Redbuds & Judas Tree
<i>Chaenomeles cathayensis</i>	Cathay Quince
<i>Cornus mas</i>	Cornelian Cherry
<i>Crataegus spp.</i>	Hawthorns
<i>Cydonia oblonga</i>	Quince
<i>Diospyros lotus</i>	Date Plum
<i>Diospyros virginiana</i>	American Persimmon
<i>Elaeagnus x ebbingei</i>	Ebbinge's silverberry
<i>Elaeagnus umbellata</i>	Autumn Olive
<i>Halesia Carolina</i>	Snowbell Tree/Silverbell Tree
<i>Hippophae spp.</i>	Sea Buckthorns
<i>Malus spp.</i>	Apple & Crab Apple
<i>Mespilus germanica</i>	Medlar
<i>Myrica spp.</i>	Bayberries/Wax Myrtles
<i>Prunus armenica</i>	Apricot
<i>Prunus avium</i>	Sweet Cherry
<i>Prunus cerasifera</i>	Cherry Plum & Mirabelle
<i>Prunus cerasus</i>	Sour Cherry
<i>Prunus domestica &amp; P.insititia</i>	Plums (including Gages, Bullaces, & Damsons)
<i>Prunus dulcis</i>	Almond
<i>Prunus persica</i>	Peach & Nectarine
<i>Prunus salicina</i>	Japanese Plum
<i>Prunus spinosa</i>	Blackthorn/Sloe
<i>Pyrus communis, P.pyifolia &amp; P.ussuriensis</i>	Pears

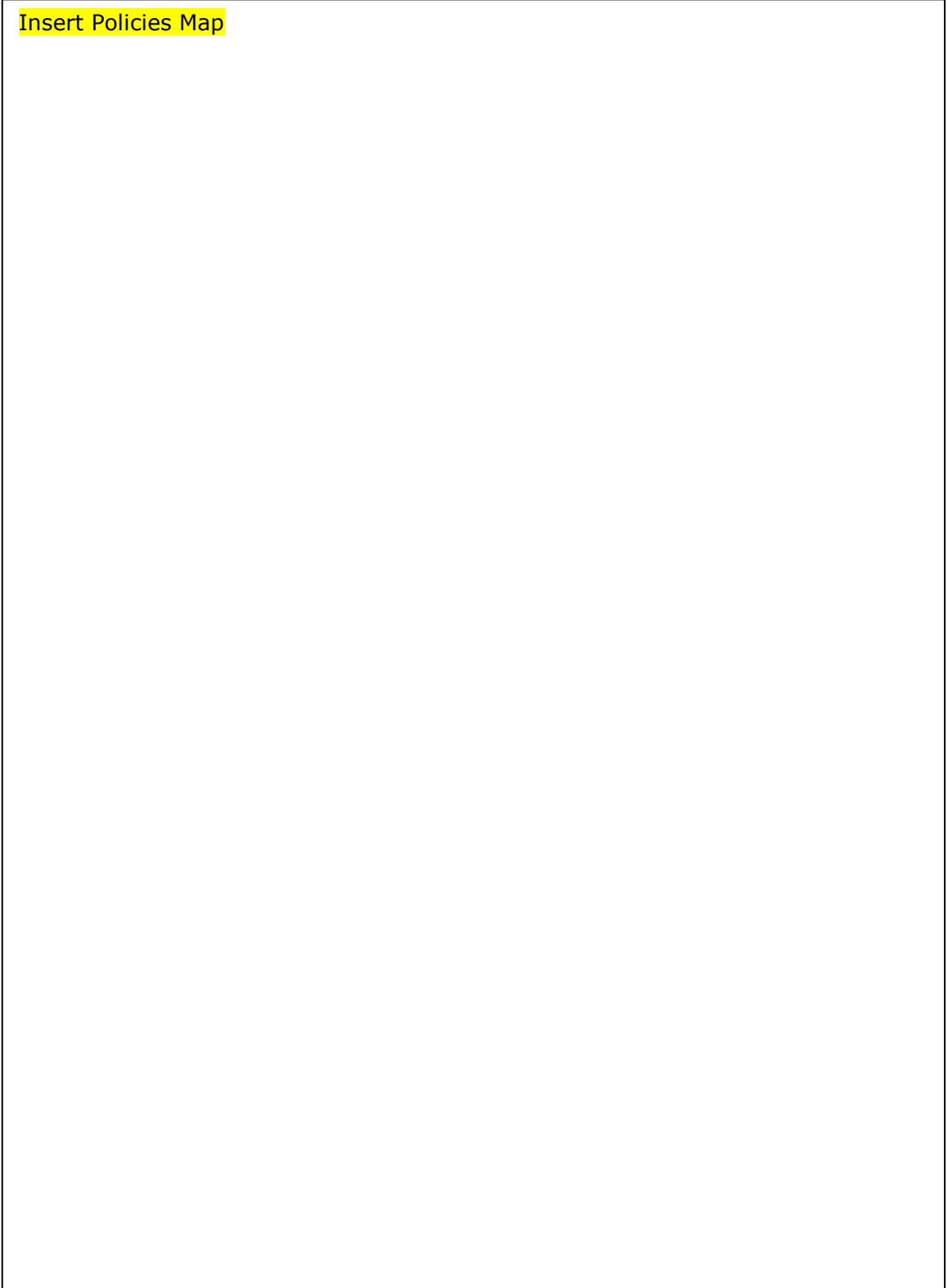
Tree Species	
<i>Quercus robur</i> & <i>Q.petraea</i>	English Oaks
<i>Robinia Pseudoacacia</i>	Black Locust/False Acacia
<i>Sambucus nigra</i>	European Elder
<i>Shepherdia argentea</i>	Buffalo Berry
<i>Tilia spp.</i>	Limes/Lindens
<i>Zanthoxylum spp.</i>	Pepper Trees

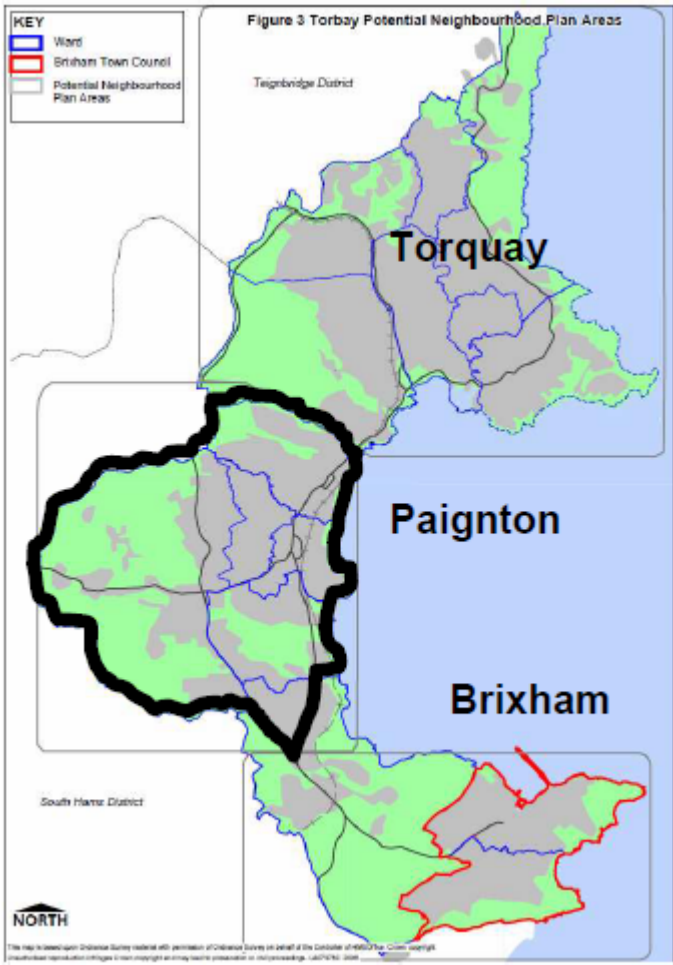


## **Appendix 4** Neighbourhood Plan Policies Map

This Appendix contains a composite Policies Map of the policy areas shown in more detail in the plan.

Insert Policies Map







**Meeting: Council**

**Date:** 15 November 2018

**Wards Affected: All Wards in Torbay**

**Report Title: Torquay Neighbourhood Plan – Determination of Independent Examination**

**Is the decision a key decision?** Yes

**When does the decision need to be implemented?** A decision statement must be issued “as soon as possible” after Council.

**Executive Lead Contact Details:** Councillor Derek Mills, Deputy Mayor and Executive Lead for Planning, [derek.mills@torbay.gov.uk](mailto:derek.mills@torbay.gov.uk)

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## **1. Proposal and Introduction**

- 1.1 Neighbourhood planning was introduced by the Localism Act 2011; that Act introduced new rights and powers to enable communities to become directly involved in planning for their areas. Neighbourhood planning enables interested communities to produce a Neighbourhood Plan. There are detailed statutory requirements which dictate the process for formulating and making a neighbourhood plan.
- 1.2 Once ‘made’ (i.e. “adopted”), Neighbourhood Plans form part of the statutory development plan and therefore become an important consideration when determining planning applications.
- 1.3 This report sets out the local planning authority (LPA) officers’ recommendations in respect of the submitted plan.
- 1.4 The Torquay Neighbourhood Plan (‘the Plan’) has been submitted by the Torquay Neighbourhood Forum (‘the Forum’) who are the Qualifying Body for the area of Torquay as formally designated in December 2012 and reaffirmed in December 2017. A map of the designated area is shown in Appendix 4. It should be recognised by the Council that the Forum has worked tirelessly to prepare the Plan.

- 1.5 The Plan has been the subject of a consultation and, following that an independent examination which tested whether the Plan meets the requirements of the 'basic conditions' as set out by law.
- 1.6 The Examiner's report on the Plan was received by Torbay Council and the Forum on 12<sup>th</sup> July 2018. It recommends that, subject to the modifications proposed in the report, the Plan does meet 'basic conditions' and should proceed to a referendum. The Examiner also recommends that the referendum area does not need to be extended beyond the designated Plan Area.
- 1.7 Officers have considered each of the Examiner's recommendations and reasons given in accordance with the law as set out in Appendix 2. In summary, a set of modifications that meet the legal 'basic conditions' are now proposed.
- 1.8 These modifications address, substantively, the Examiner's findings but do not concur with a large number of his recommendations. The modifications proposed in this report, are based upon the Examiner's findings that the Plan, as submitted to the Council, did not meet the tests. However, the modifications proposed make a number of changes not recommended by the Examiner, particularly the rewording and retention of a considerable number of policies which the Examiner recommended were deleted from the Plan. The originally submitted plan contained 62 planning policies. The new plan with proposed modifications contains 41 policies. These additional modifications have reasons for doing so which find a proper statutory basis, and reflect an appropriate exercise of planning judgment taking all of the submitted representations into account. The rewording and retention of these policies are considered to better meet the 'basic conditions' rather than the Examiner's modifications. The requirement for re-consultation is discussed later in the Report, but officers' advice is that this is not legally necessary in this case. In summary, the modifications proposed are not as a result of new evidence, or a new fact, or a different view taken by the authority as to a particular fact. Instead the modifications are as a result of a planning judgement taken on how the submitted Plan can meet the 'basic conditions' whilst maintaining the original intent of the community.
- 1.9 The Forum have indicated that they are in agreement with the Officer recommendations to Council.
- 1.10 It is recommended that the Council:
1. Agrees the decision statement in Appendix 2, which shall be adopted and published accordingly, and that the Torquay Neighbourhood Plan as modified in Appendix 3, is submitted to a referendum in accordance with the Neighbourhood Planning (General) Regulations 2012 (as amended) and the Neighbourhood Planning (Referendums) Regulations 2012 (as amended); and,
  2. Delegate to the Assistant Director of Transport and Planning to ensure that the Policy maps are finalised for inclusion in the Plan prior to the

referendum, reflecting all modifications set out in the decision statement in Appendix 2; and,

3. Accepts the Examiner's recommendation that it is not necessary to extend the referendum area and that the most appropriate area for the referendum will be that of the Torquay Neighbourhood Area.

### **Appendices**

Appendix 1: Independent Examiner's Report

Appendix 2: Decision Statement

Appendix 3: Post Examination Neighbourhood Plan with modifications as recommended

Appendix 4: Neighbourhood Area Map

### **Background Documents**

Torquay Neighbourhood Plan Submission Version, and representations –

[www.torbay.gov.uk/neighbourhood-plans](http://www.torbay.gov.uk/neighbourhood-plans)

Council Approval of area designation – 7<sup>th</sup> December 2012 –

[www.torbay.gov.uk/council](http://www.torbay.gov.uk/council)

National Planning Policy Frameworks 2012 and 2018

Planning Practice Guidance

NPIERS Guidance

Locality Neighbourhood Plans Roadmap



## **Supporting Information**

### **Section 1 : Background Information**

#### **2. What is the proposal/issue**

- 2.1 The Localism Act 2011 introduced new rights and powers to enable communities to get directly involved in planning for their areas. Neighbourhood planning allows interested communities through a Neighbourhood Forum to produce a Neighbourhood Plan.
- 2.2 The National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPG) state that neighbourhood planning enables communities to play a much stronger role in shaping the areas in which they live and work and in supporting new development proposals. It provides the opportunity for communities to set out a positive vision for how they want their community to develop and can put in place planning policies that will help deliver that vision of granting planning permission for the development they want to see.
- 2.3 In 2012, the Council decided to designate three large neighbourhood areas covering 100% of the geographical area of Torbay. This decision was unusual in the UK and has meant that the three neighbourhood plans are large and complex, which has required significant work by the community and LPA in formulating the plans.
- 2.4 There are a series of regulatory stages required by the Neighbourhood Planning (General) Regulations 2012 (as amended) ('the Regulations') that a plan must follow and the Torquay Neighbourhood Plan has been through these to date. Key dates are as follows:
- December 2012: Torquay Neighbourhood Forum and Area Designated
  - 7 August – 17 September 2017: Pre-submission (Regulation 14) consultation on the draft Plan
  - October 2017: Torquay Neighbourhood Plan submitted to Torbay Council as the LPA
  - 1 November - 18 December 2017: Plan published by Torbay Council for formal Regulation 16 public consultations
  - December 2017: Neighbourhood Forums and Areas Re-Designated for statutory 5 years
  - March 2018: Independent Examiner (Nigel McGurk) appointed. His examination commenced in April 2018
  - 14 May 2018: Public Hearing held as part of examination process
  - 18 July 2018: Final Examiner's Report received
- 2.5 The Council has a duty to provide advice and assistance to town councils and to engage constructively with the community throughout the neighbourhood planning process including when considering the recommendations of the

independent examiner. However, the Council remains the Local Planning Authority with statutory responsibility for ensuring that the neighbourhood plans it 'makes' are lawful. If a neighbourhood plan is not lawful, the LPA (not the neighbourhood forum in question) will be liable to legal challenge e.g. by landowners whose interests may be affected by the plan.

- 2.6 A neighbourhood plan must support the strategic development needs set out in the Local Plan, positively support local development, not promote less development than set out in the Local Plan, nor undermine its strategic policies.
- 2.7 If successful at examination and referendum a Neighbourhood Plan must then be 'made' (i.e. adopted) by the Council within 8 weeks and at that point it 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. Should there be a conflict between a policy in a neighbourhood plan and a policy in a Local Plan, that conflict must be resolved in favour of the policy which is contained in the last document to become part of the development plan.
- 2.8 Unlike a local plan, the test for a neighbourhood plan is not one of 'soundness'. The role of the Examiner (and the Council acting as LPA) is limited to testing whether the draft Plan meets the 'basic conditions' and other matters set out in para 8 of Schedule 4B of the Town & Country Planning Act 1990 (as amended). The 'basic conditions' are that;
- a. having regard to national policy, it is appropriate to make the Plan;
  - b. the Plan contributes to the achievement of sustainable development;
  - c. the Plan is in general conformity with the adopted strategic local policies for the local area;
  - d. the Plan is compatible with EU obligations;
  - e. the Plan meets Human Rights requirements.

The Examiner must also consider whether the referendum area should extend beyond the neighbourhood area.

- 2.9 It is the responsibility of the Council, as LPA, considering the recommendations and reasons of the Examiner, to ensure that, with or without modifications, the Plan meets the 'basic conditions'. If it is so satisfied, the Council must make arrangements for the Plan to proceed to referendum – in accordance with paragraph 12(4) of the Town & Country Planning Act 1990 (as amended). Although the Examiner is the specialist advisor, the Council is the decision-maker. The Examiner's report cannot, of itself, be the subject of a legal challenge. The Council must consider each of the Examiner's recommendations (and the reasons given) and decide what action to take in response to each of those recommendations. Regulation 18(2)(a) of the Neighbourhood Planning Regulations 2012 (as amended) require the Council to give the reasons for its decision. The decision must then be published in the form of a 'Decision Statement'. A Decision Statement must be published within 5 weeks of receipt of the Examiner's report, unless some other date has been agreed with the Neighbourhood Forum. In this case, it was agreed by the LPA

and Neighbourhood Forum that the time would be extended to allow time to consider the matters in full.

2.10 The modifications that the Council may make are prescribed in legislation – extract set out below:

- 'a modifications that the authority consider need to be made to secure that the draft order meets the 'basic conditions',
- b modifications that the authority consider need to be made to secure that the draft order is compatible with the Convention rights,
- c ...
- d ..., and
- e modifications for the purpose of correcting errors.'

(note: (c) and (d) do not apply to Neighbourhood Plans)

If the Council (as LPA) can make modifications to a neighbourhood plan to enable that plan to meet the 'basic conditions', it must make those modifications (rather than refuse a Plan proposal). However, the Council can only make such changes and cannot modify a plan for betterment. Such modifications should be discussed with the Neighbourhood Forum, but there is no general requirement for a formal consultation with interested parties or the public.

2.11 If the Council decides not to follow the Examiner's recommendations, or make minor alterations as described in paragraph 2.9 above; it may instead make alternative modifications or even refuse to submit the plan to referendum. Clear reasons must be given for departing from the Examiner's recommendations. Modifications not recommended by the Examiner must be discussed with the Forum, which has the option of withdrawing the plan if it is unhappy with the changes proposed by the Council.

2.12 Generally paragraph 12 of Schedule 4B gives the LPA a fairly broad power to make minor modifications that accord with the Examiner's recommendations without the need for further consultation. Paragraph 13 of Schedule 4B states that if the LPA propose to make a decision which differs from that recommended by the Examiner and the reason for the difference is wholly or partly as a result of new evidence or a new fact or a different view taken by an authority as to a particular fact, then the LPA must consult on the changes for a minimum of six weeks.

2.13 In respect of the requirement to undertake further consultation on any changes not recommended by the Examiner, Officers have considered the relevant legislation and taken legal advice<sup>1</sup>. It is not considered that further consultation is necessary in this case as there has been no new evidence or facts, and the reasons why the decision is differing from the Examiner is based upon the

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<sup>1</sup> The Court of Appeal in *Keibell Developments* [2018] EWCA Civ 450) especially paragraphs 34-35. It is noted that Lord Justice Lindblom clearly distinguishes between the exercise of planning judgements and matters of fact (paragraph 49). Paragraph 50 rules that paragraph 13 (of Schedule 4B) "does not generate.... a general entitlement to additional consultation after the examination has taken place",

planning judgement of compliance with the ‘basic conditions’, but it is not a different view of a fact.

- 2.14 A Forum may withdraw its Neighbourhood Plan at any time before the Council issues its Decision Statement (which is to be issued shortly after the Council meeting).
- 2.15 Members should also note that a new National Planning Policy Framework (NPPF) was issued in July 2018. Paragraph 214 of the new NPPF allows a transition period for examining plans submitted up to 24<sup>th</sup> January 2019: therefore the three Neighbourhood Plans in Torbay continue to be considered against the 2012 NPPF. However the new (2018) NPPF is material to decision-taking, with respect to planning applications, immediately. Paragraph 14 of the 2018 NPPF specifies the weight that may be given to neighbourhood plans and provides a degree of protection against the Presumption in Favour of Sustainable Development (now in NPPF 11).
- 2.16 Legislation sets out that the Secretary of State has powers to intervene at the request of a Qualifying Body where requested in writing by them, within 6 weeks of the publication of the decision notice, in the following circumstances;
- the Council fails to make a decision within 5 weeks of an examination report (*Note: all Forums have agreed to an extension to the 5 week period until the Council meeting on 15 November 2018*), or;
  - where the Council does not follow all of the Examiner’s recommendations; or
  - the Council modifies the plan in a way that was not recommended by the Examiner (except where the modification is to ensure compatibility with EU or human rights obligations or to correct an error).

However the Secretary of State may agree to intervene in other situations.

- 2.17 In such cases the Secretary of State (or an Inspector appointed by him) may exercise the functions of the local planning authority in deciding what actions to take with respect to the Examiner’s report.

### **3. Options for Council’s Determination of Neighbourhood Plans**

- 3.1 In response to the report of an Independent Examiner, the LPA must decide whether the Plan should be submitted to referendum. The LPA’s options are that:
1. **Council accepts the Independent Examiner’s recommendations in their entirety** that the Plan (with any modification by the Independent Examiner) should be submitted to referendum.
  2. **The Council does not accept the Independent Examiner’s recommendations in their entirety.** Reasons must be included and what modifications are proposed by the Council which must show they accord with the ‘basic conditions’ requirements in relation to the plan as

submitted. A schedule of proposed further modifications has been prepared (at Appendix 2) which both the Forum and officers support.

- 3. To refuse the plan** (on the basis that the plan proposal does not meet, or cannot meet with modification, the 'basic conditions' and Convention rights). Reasons must be included.

- 3.2 The issues around Torquay Neighbourhood Plan are discussed in section 4 of this report. In summary, officers consider that the Plan is capable of proceeding to referendum. However there are a number of matters that have been developed further from the Examiner's recommended modifications, ensuring those modifications are within the limitations of the regulations. The most significant of which are the retention in modified form of a large number of policies recommended for deletion by the Examiner, which are considered by Officers to contain legitimate elements capable of being retained in policy form that would meet the 'basic conditions'. These further changes have been discussed with the Neighbourhood Forum, and are considered by officers to maintain the original intent of the community and ensure it meets the 'basic conditions'. The modifications are not as a result of new evidence or facts, or as a result of a different view of a fact. They are matters of planning judgement, identifying alternative solutions to meeting the 'basic conditions', not seeking betterment of the submitted plan. These changes are discussed in more detail in Section 4 of this report and set out fully in Appendix 2.
  - 3.3 The LPA must also decide whether to extend the area to which the referendum is to take place. As the three neighbourhood areas are clearly defined and there are no significant cross-border policies in the Plan, it is not considered necessary by the Examiner or the LPA to extend the area to which the referendum is to take place.

#### **4. Examiner's Recommendations (see Appendix 1)**

- 4.1 The Examiner did consider it necessary to make extensive changes to the content of the Torquay Neighbourhood Plan. This includes 43 (out of 61) policies which are recommended for deletion whilst a number of other policies have been modified to ensure they meet the 'basic conditions'. The LPA, in consultation with the Forum consider that many of these deleted policies are capable of being retained in a modified form to meet the 'basic conditions' (about 30 policies). A more detailed assessment of the Examiner's recommendations is set out at Appendix 2.
  - 4.2 The LPA, made a series of representations on the submitted plan which have been considered by the examiner, along with those from other Council departments, and third parties including the development industry. The key concerns raised by the LPA are set out below but the Examiner's report, in Appendix 1, addresses these and others in full.

#### **Housing Allocations**

- 4.3 The submitted Torquay Neighbourhood Plan seeks to allocate 3,979 dwellings in Torquay within the planning period. This figure supports the growth levels for

Torquay identified by the Torbay Local Plan and includes the allocation of a significant proportion of potential housing sites which were identified within the Local Plan. There are two identified housing sites which the Forum chose not to allocate (land near Broadley Drive and to the rear of Lichfield Avenue) but the Forum have allocated a number of alternative sites (such as the site of former Dairy Crest, Parkfield Road) in order to make up for and indeed exceed the shortfall. One housing site has been recommended to be removed from the allocations on the basis of a representation from the site owner that it would not be available for development ('Kwik Fit '). Notwithstanding, the Plan still meets the required strategic growth level for housing and the allocations of sites within the plan will help contribute to the need for the LPA to demonstrate a 5-year housing land supply.

- 4.4 As previously reported to Council, officers have assessed the stock of deliverable housing sites against the local Plan housing requirement and have concluded that Torbay has around 4.19 year supply of deliverable housing sites. The Forums disagree with this figure, and argue that that there is at least 6.1 year supply. The LPA's position, including responses to the Forum's position, is set out at:  
<https://www.torbay.gov.uk/council/policies/planning-policies/evidence-base-and-monitoring/>
- 4.5 However, the Government has sought to provide some protection for neighbourhood plans against the effect of a five year supply shortfall. Paragraph 14 of the 2018 NPPF provides that, where a 5-year housing land supply cannot be demonstrated, development which conflicts with the provisions of a recent neighbourhood plan is less likely to be 'sustainable development' where, amongst other things:
- i. the LPA can demonstrate a 3-year housing land supply; and
  - ii. the neighbourhood plan contains policies and allocations to meet its identified housing requirement (*emphasis added*).

### **Employment Allocations**

- 4.6 The submitted Torquay Neighbourhood Plan seeks to meet the strategic employment needs set out in the Torbay Local Plan by allocating a number of employment sites for the creation and retention of employment land. Whilst the LPA is not under a NPPF obligation to maintain 5-years supply of employment sites, the allocation of sufficient employment land would support the delivery of the Local Plan's strategy.
- 4.7 The Examiner has recommended the deletion of these employment sites as part of the deletion of a number of employment policies contained within the plan. Generally this has been on the basis that the employment policies, taken together, represent an unclear, confused approach and is generally more restrictive than the Local Plan. This would revert those allocations back to that as set out in the Local Plan which, in most cases, is an identification as 'potential development site for consideration in the Neighbourhood Plan – primarily employment investment' shown only for 'information only' purposes. The result of having no formal allocated employment land is that it would



increase the risk of non-delivery of Local Plan policies SDT1, SS4 and SS5 in particular.

- 4.8 As part of the LPA's power to make modifications, the LPA has modified the employment policies to address the concerns raised by the Examiner rather than deleting them, which has had the effect of retaining an employment policy (and related policies) which is helpful in supporting the Local Plan's strategic employment needs. The Torquay Neighbourhood Plan also seeks to safeguard employment uses on a number of allocated sites.

### **Local Green Spaces**

- 4.9 Local Green Space designations allow local communities give special protection to green areas of particular importance to them. Local Green Spaces have a similar status to green belt and development can only occur in very specific circumstances.
- 4.10 Government guidance (contained in paragraphs 76 and 77 of the 2012 NPPF) says that the Local Green Space designation will not be appropriate for most green areas or open space; and that the designation should be consistent with the local planning of sustainable development and complement investment in a sufficient number of homes, jobs and other essential services. 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.
- 4.11 The submitted Plan designated 100 Local Green Spaces, the Examiner discusses the issue of Local Green Spaces on pages 72-75 of the Report. In summary, the Examiner found that of the 100 areas of designation submitted in the Plan, 98 meet the requirements of the NPPF. One proposed area of Local Green Space is recommended for deletion (Nightingale Park) and the boundaries of one other area has been revised in light of a landowner representation.
- 4.12 The Council in its capacity as landowner and the LPA made representations on a number of Local Green Spaces which were proposed on the basis that they had development potential. The Examiner did not consider that to be a valid objection in and of itself to the Local Green Space tests. A more detailed discussion of specific Local Green Spaces is set out in Appendix 4. The LPA also raised concerns that certain Local Green Space designations (e.g. Nightingale Park) were not in general conformity with the Local Plan. In the case of Nightingale Park, the designation was removed.
- 4.13 The extent to which the Local Green Space designations are in general conformity with the Local Plan and NPPF requires a planning judgement. The

Examiner's judgement is considered to be within a range of rational responses. Independent advice from Locality has confirmed that decisions on specific local greenspaces must be made against the 'basic conditions' rather than corporate landownership.

### **Views of the Forum on Deleted Policies**

- 4.14 The Forum did not agree with a large number of the Examiner's recommendations. In particular, the Forum felt that the extensive number of deleted policies (43 out of a total of 61) was not necessary. Whilst the Forum recognise and agree with many of the findings raised within the report, the Forum believe that most of the policies contained within the Plan seek to address legitimate planning issues and modification of a large number of these policies, as opposed to deletion, would better address the need for the Plan to meet the 'basic conditions'.
- 4.15 Officers have had a two way consulted with the Forum on the revised form of wording for a number of proposed deleted policies (and also further modifications elsewhere in the Plan where necessary), which Officers consider do now meet the 'basic conditions' whilst maintaining the original intent, and it is accordingly recommended that they should be retained (as modified) in the Plan. In total this accounts for the introduction of 32 modified policies that replace policies which were proposed by the Examiner to be deleted. These policies cover a number of planning issues spanning across all areas of the plan. The schedule of recommended changes are set out in Appendices 2 and 3, and are considered by Officers to strengthen the Plan and bring it into closer alignment with the 'basic conditions' and are not included for betterment.
- 4.16 The LPA's powers to make modifications that have not been recommended by the Examiner and are not needed to correct errors are explained above. The recommended changes are as a result of a difference of planning judgement rather than "new evidence or a new fact".

### **Policies Map**

- 4.17 To take account of Examiner's recommendations and further modifications (as outlined in the Decision Statement in Appendix 2 the Council has updated the Policies Maps of the submitted Torquay Neighbourhood Plan to take account of updated housing allocations, employment allocations, sports policies, Local Green Spaces, etc. In preparing the maps it has also been necessary to make minor adjustments to boundaries and text for the purposes of adding clarity and to correct minor errors. This has also been done for mapping consistence reasons with that of the Local Plan and does not substantively change policy boundaries. Not all of the changes have been made at the time of writing, many are reflected in the latest document but these will require further updates to be made, and accordingly it is proposed that Council delegates authority to the Assistant Director of Business Services to make any necessary further changes.

### **EU Obligations**

- 4.18 The Council maintains the responsibility for deciding whether, or not, a Neighbourhood Plan is compatible with EU regulations.

### **Strategic Environmental Assessment (SEA)**

- 4.19 A SEA is necessary due to the possibility of significant environmental effects arising from the plan (including through the allocation of sites). This was carried out as part of a Sustainability Appraisal which concluded that the plan mitigated negative effects and identified opportunities to enhance positive effects.

### **Habitats Regulation Assessment (HRA)**

- 4.20 A HRA is required by the Habitats Directive (92/43/EEC) when the implementation of the Plan may lead to likely significant effects on European Sites. A HRA Screening Assessment was submitted alongside the Plan and this identified the plan had potential to have effect two European sites but concluded that this would be safeguarded by the effect of Local Plan policies which restrict development. Provided that the plan is in accordance with these policies then the effect would not be significant. Natural England raised some initial concerns over the Plan but did not appear at a Hearing when invited to elaborate on those concerns. The Examiner considered that in any case the concerns would be addressed by modifications, including deletions to element of the Plan which he recommended. The modified plan does reinstate those policies but clarity has been added to the HRA to overcome Natural England's concerns about the impending supplementary planning document. The Ruling of the European Court of Justice (People over Wind (PoW)) is unlikely to affect this approach. However, necessary review of the HRA position has been undertaken and changes made to the Plan, to ensure compliance with the Habitats Regulations.

- 4.21 The Examiner has agreed with the LPA's approach (para 48 and pp 10-13 of his report).

### **Human Rights**

- 4.22 Officers have raised no objection in respect of Human Rights, as considered against the European Convention for Human Rights and the Human Rights act 1998. The Examiner did not raise human rights issues in his assessment of the Plan against the 'basic conditions' (Page 10 of his report).

## **5. Recommended Modifications (see Appendix 3)**

- 5.1 Officers have consulted with the Forum to modify and retain a large number of policies within the Plan rather than delete them (as recommended by the Examiner), and have subsequently consulted the Forum on the modified wording. Officers are satisfied that the policy wording as modified overcomes the Examiner's reasons for their deletion and satisfies the 'basic conditions'. It is therefore appropriate to modify the Plan as set out above and in more detail at appendix 2.
- 5.2 A number of additional minor modifications have been necessary for the purpose of ensuring legibility, grammatical and numbering accuracy of the Plan. These have been discussed with the Forum and are indicated at Appendix 2.

## **6. Corporate Plan and Responsibilities**

- 6.1 The Neighbourhood Plan has no legal requirement to consider or support the Corporate Plan of the Council. It must only be in general conformity with the Torbay Local Plan 2012-2030.
- 6.2 The Torquay Neighbourhood Plan generally supports the strategic growth requirements of the Local Plan, particularly in terms of contributing to maintaining a housing land supply.
- 6.3 The Neighbourhood Plan has no legal requirement to consider or contribute towards the Council's responsibilities as corporate parents.
- 6.4 The Neighbourhood Plan has no legal requirement to consider deprivation. However, the plan (if approved) would contribute to sustainable development in accordance with the requirement set out in the 'basic conditions'.
- 6.5 The Plan contains strong policies to improve the quality of the built environment and to resist poor quality developments. As such it provides a framework that will help resist poor quality development that would worsen environmental deprivation.

## **7. Financial and Legal Implications**

- 7.1 The Town and Country Planning Act 1990 (as amended), Planning and Compulsory Purchase Act 2004, Localism Act 2011, Neighbourhood Planning Act 2017, and Neighbourhood Planning (General) Regulations 2012 (as amended) all apply. The law on neighbourhood plan is complex and has required clarification by the Courts. The LPA's ability to make further modifications outside the examiner's Report and the need for further consultation is discussed in the main report.
- 7.2 The Council must ensure that the Plan meets the 'basic conditions' as set out in the legislation.
- 7.3 There will be financial implications in respect of officer resources and direct costs associated with any referendum, should the decision be taken to put the plan to referendum. If the decision is taken to undertake further consultation and examination this will also incur additional costs and time.
- 7.4 The Council can be challenged on its decision and any such challenge arising would incur additional costs as well as the resource implications.
- 7.5 Central Government will provide additional grant funding to the LPA on completion of the referendum. Any costs not covered by the grant funding will fall to the revenue budget.
- 7.6 When it is made, the "Neighbourhood Portion" of CIL that must be spent in the area where development arises will increase from 15% to 25%.

## **8. Risks**

- 8.1 The Council must consider its duty to support Neighbourhood Planning whilst ensuring that only a Plan which meets the 'basic conditions' is put to referendum. Failure to do so could result in legal challenge.

# **TORQUAY NEIGHBOURHOOD PLAN TO 2030**

Torquay Neighbourhood Plan Examination,  
A Report to Torbay Council

by Independent Examiner, Nigel McGurk BSc(Hons) MCD MBA MRTPI

July 2018





**Contents**

**1, Summary**

**2, Introduction**

**3, Basic Conditions and Development Plan Status**

**4, Background Documents and the Torquay Neighbourhood Area**

**5, Public Consultation**

**6, The Neighbourhood Plan: Introductory Section**

**7, The Neighbourhood Plan: Policies**

**8, The Neighbourhood Plan: Other Matters**

**9, Referendum**

## **1. Summary**

- 1 Subject to the modifications that are recommended within this Report in order to enable the Neighbourhood Plan to meet the basic conditions, I confirm that:
  - having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the neighbourhood plan;
  - the making of the neighbourhood plan contributes to the achievement of sustainable development;
  - the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area);
  - the making of the neighbourhood plan does not breach, and is otherwise compatible with, European Union (EU) obligations; and
  - the making of the neighbourhood plan is not likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects.
- 2 Taking the above into account, I find that the Torquay Neighbourhood Plan meets the basic conditions<sup>1</sup> and I recommend to Torbay Council that, subject to modifications, it proceeds to Referendum.

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<sup>1</sup> It is confirmed in Chapter 3 of this Report that the Torquay Neighbourhood Plan meets the requirements of Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990.

## **2. Introduction**

### **The Neighbourhood Plan**

- 3 This Report provides the findings of the examination into the Torquay Neighbourhood Plan (referred to as the Neighbourhood Plan) prepared by Torquay Neighbourhood Forum.
- 4 As above, the Report recommends that the Neighbourhood Plan should go forward to a Referendum. Were a Referendum to be held and were more than 50% of votes to be in favour of the Neighbourhood Plan, then the Plan would be formally *made* by Torbay Council. The Neighbourhood Plan would then form part of the development plan and as such, it would be used to determine planning applications and guide planning decisions in the Torquay Neighbourhood Area.
- 5 Neighbourhood planning provides communities with the power to establish their own policies to shape future development in and around where they live and work.

*"Neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and deliver the sustainable development they need."* (Paragraph 183, National Planning Policy Framework)

- 6 As confirmed in Paragraph 2.2 of the Basic Conditions Statement, submitted alongside the Neighbourhood Plan, Torquay Neighbourhood Forum is the *Qualifying Body*, ultimately responsible for the Neighbourhood Plan. The Neighbourhood Plan relates only to the designated Torquay Neighbourhood Area and there is no other neighbourhood plan in place in the Torquay Neighbourhood Area.
- 7 All of the above meets with the aims and purposes of neighbourhood planning, as set out in the Localism Act (2011), the National Planning Policy Framework (2012) and Planning Practice Guidance (2014).

Role of the Independent Examiner

- 8 I was appointed by Torbay Council, with the consent of the Qualifying Body, to conduct the examination of the Torquay Neighbourhood Plan and to provide this Report.
- 9 As an Independent Neighbourhood Plan Examiner, I am independent of the Qualifying Body and the Local Authority. I do not have any interest in any land that may be affected by the Neighbourhood Plan and I possess appropriate qualifications and experience.
- 10 I am a chartered town planner and have more than five years' direct experience as an Independent Examiner of Neighbourhood Plans. I also have more than twenty five years' land, planning and development experience, gained across the public, private, partnership and community sectors.
- 11 As the Independent Examiner, I must make one of the following recommendations:
  - that the Neighbourhood Plan should proceed to Referendum, on the basis that it meets all legal requirements;
  - that the Neighbourhood Plan, as modified, should proceed to Referendum;
  - that the Neighbourhood Plan does not proceed to Referendum, on the basis that it does not meet the relevant legal requirements.
- 12 If recommending that the Neighbourhood Plan should go forward to Referendum, I must then consider whether the Referendum Area should extend beyond the Torquay Neighbourhood Area to which the Plan relates.
- 13 Where modifications are recommended, they are presented as bullet points and highlighted in **bold print**, with any proposed new wording in *italics*.

### Neighbourhood Plan Period

- 14 A neighbourhood plan must specify the period during which it is to have effect. The front cover of the Neighbourhood Plan provides some indication of this:

*"The Community's Plan to 2030 and beyond."*

- 15 However, the above phrase is potentially confusing. The Neighbourhood Plan period is precisely that. It does not include a period of time *"beyond"* the plan period. In addition, neither the Neighbourhood Plan nor the Basic Conditions Statement submitted alongside it, are entirely clear in respect of the plan period. The Neighbourhood Plan states that it:

*"...covers the period from now until 2030."*

- 16 However, *"now"* is not defined.
- 17 Helpfully, elsewhere the Neighbourhood Plan refers to the document having been developed in parallel with the Torbay Local Plan, which covers the period 2012-2030. I also note that the proposed allocation of housing sites in the Neighbourhood Plan aims to meet the strategic growth target between the period 2012 and 2030.
- 18 With regards to all of the above, for the purposes of precision and clarity, I recommend:
- **On page 4 of the Neighbourhood Plan, under *"What time period does the Plan cover?"* change to *"..., in common with the Local Plan, covers the period from 2012 to 2030. The development..."* Also, update other time period references to take this into account - for example, on the front cover.**
- 19 Taking the above into account, the Neighbourhood Plan meets the requirements in respect of specifying the period during which it is to have effect.

Public Hearing

- 20 According to the legislation, *when the Examiner considers it necessary* to ensure adequate examination of an issue, or to ensure that a person has a fair chance to put a case, then a public hearing must be held.
- 21 However, the legislation establishes that it is a general rule that neighbourhood plan examinations should be held without a public hearing – by written representations only.
- 22 Further to consideration of the information submitted, I confirmed to Torbay Council that I considered it necessary to hold a Public Hearing, to consider matters in more detail.
- 23 Matters considered at the public hearing have informed this Report.
- 24 The public hearing was advertised by Public Notice and was held at the Imperial Hotel, Torquay on Monday 14<sup>th</sup> May, 2018. Torbay Council, Torquay Neighbourhood Forum, Natural England, Torbay Development Agency and a local resident were all invited to speak and members of the public were welcome to attend. Natural England did not take up its invitation to speak.
- 25 Prior to the public hearing, there was a request to speak from a party that had not been invited to do so. This request was turned down. I note that whilst it is not unusual for such requests to be made, the public hearing is held at the Examiner's discretion.
- 26 Notwithstanding the fact that the Hearing took place, I confirm that *all* representations have been considered during my examination of the Torquay Neighbourhood Plan. This is the case, whether or not people who made representations took part in the Hearing. It may well be that other people who had submitted a representation in respect of the Neighbourhood Plan would have liked to speak at a public hearing, but were not invited to do so.



### **3. Basic Conditions and Development Plan Status**

#### **Basic Conditions**

- 27 It is the role of the Independent Examiner to consider whether a neighbourhood plan meets the “basic conditions.” These were *set out in law*<sup>2</sup> following the Localism Act 2011. A neighbourhood plan meets the basic conditions if:
- having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the neighbourhood plan;
  - the making of the neighbourhood plan contributes to the achievement of sustainable development;
  - the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area);
  - the making of the neighbourhood plan does not breach, and is otherwise compatible with, European Union (EU) obligations; and
  - the making of the neighbourhood plan is not likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects.<sup>3</sup>
  - An independent examiner must also consider whether a neighbourhood plan is compatible with the Convention rights.<sup>4</sup>
- 28 In examining the Plan, I am also required, under Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990, to check whether:
- the policies relate to the development and use of land for a designated Neighbourhood Area in line with the requirements of Section 38A of the Planning and Compulsory Purchase Act (PCPA) 2004;

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<sup>2</sup> Paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990.

<sup>3</sup> Prescribed for the purposes of paragraph 8(2) (g) of Schedule 4B to the 1990 Act by Regulation 32 The Neighbourhood Planning (General) Regulations 2012 and defined in the Conservation of Habitats and Species Regulations 2010 and the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007.

<sup>4</sup> The Convention rights has the same meaning as in the Human Rights Act 1998.

- the Neighbourhood Plan meets the requirements of Section 38B of the 2004 PCPA (the Plan must specify the period to which it has effect, must not include provision about development that is excluded development, and must not relate to more than one Neighbourhood Area);
- the Neighbourhood Plan has been prepared for an area that has been designated under Section 61G of the Localism Act and has been developed and submitted for examination by a qualifying body.

- 29 Subject to the content of this Report, I am satisfied that these three points have been met.
- 30 In line with legislative requirements, a Basic Conditions Statement was submitted alongside the Neighbourhood Plan. This sets out how, in the qualifying body's opinion, the Neighbourhood Plan meets the basic conditions.

### European Convention on Human Rights (ECHR) Obligations

- 31 I am satisfied that the Neighbourhood Plan has regard to fundamental rights and freedoms guaranteed under the ECHR and complies with the Human Rights Act 1998 and there is no substantive evidence to the contrary.
- 32 In the above regard, I note that Information has been submitted to demonstrate that people were provided with a range of opportunities to engage with plan-making in different places and at different times. Representations have been made to the Plan, some of which have resulted in changes and the Consultation Statement submitted alongside the Neighbourhood Plan provides a summary of responses and shows the outcome of comments.

### European Union (EU) Obligations

- 33 There is no legal requirement for a neighbourhood plan to have a sustainability appraisal<sup>5</sup>. However, in some limited circumstances, where a neighbourhood plan is likely to have significant environmental effects, it may require a Strategic Environmental Assessment.
- 34 In this regard, national advice states:
- "Draft neighbourhood plan proposals should be assessed to determine whether the plan is likely to have significant environmental effects."*  
(Planning Practice Guidance<sup>6</sup>)
- 35 National advice then goes on to state<sup>7</sup> that the draft plan:
- "...must be assessed (screened) at an early stage of the plan's preparation..."*
- 36 The Torquay Neighbourhood Plan seeks to allocate land for development and taking this into account, it was considered that there may be significant environmental effects arising as a result of the Neighbourhood Plan and that consequently, a Strategic Environmental Assessment (SEA) was required.

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<sup>5</sup> Paragraph 026, Ref: 11-027-20150209, Planning Practice Guidance.

<sup>6</sup> Paragraph 027, *ibid*.

<sup>7</sup> Planning Practice Guidance Reference ID: 11-028-20150209.

- 37 A Sustainability Appraisal, incorporating SEA Directive requirements, was subsequently carried out and submitted to Torbay Council alongside the Neighbourhood Plan.
- 38 The first stage of the Sustainability Appraisal comprised a Scoping Report. This was consulted upon over a five week period between December 2014 and January 2015. Comments received, including those from statutory consultees, Natural England, Historic England and the Environment Agency, were taken into account, leading to a number of amendments.
- 39 The Sustainability Appraisal was subsequently consulted upon during the draft consultation on the Neighbourhood Plan, during a six week period between July and September 2017 and the responses resulted in a number of amendments to the document.
- 40 The Sustainability Appraisal concluded that:

*"...the Torquay Neighbourhood Plan will generally have a positive effect on sustainability in Torquay...The SA process has identified opportunities to enhance the positive effects and mitigate the negative effects. These opportunities have been addressed within the submitted Plan."*

- 41 A Habitats Regulations Assessment is required if the implementation of the Neighbourhood Plan may lead to likely significant effects on European sites.
- 42 A Habitats Regulations Assessment Screening Report was submitted alongside the Neighbourhood Plan. This identifies a total of 6 European sites within 20km of Torbay's boundaries, of which 2 sites, South Hams Special Area of Conservation (SAC) and Lyme Bay and Torbay Marine SAC, are located within Torbay's boundaries. The Screening Report found that the Neighbourhood Plan could have a likely significant effect on these two European sites, but concluded that:

*"The quantum of growth in Torquay has been identified as having the potential to result in, or contribute to likely significant effects on the South Hams SAC and Lyme Bay and Torbay Marine SAC (category C). However, the Local Plan Policies NC1, W5 and ER2 put in place restrictions on development that could have negative impact on two international sites."*

43 Of the statutory consultees, only Natural England has raised any concerns in respect of European obligations. These appear a little unclear in the representation and Natural England were invited to appear at the Public Hearing to clarify and discuss the body's concerns. However, Natural England did not take up the invitation. Notwithstanding this, I note that the recommendations made in this Report result in the deletion of, or changes to, the Policies referred to by Natural England in its representation.

44 In addition to the above, national guidance establishes that the ultimate responsibility for determining whether a draft neighbourhood plan meets EU obligations lies with the local planning authority:

*"It is the responsibility of the local planning authority to ensure that all the regulations appropriate to the nature and scope of a neighbourhood plan proposal submitted to it have been met in order for the proposal to progress. The local planning authority must decide whether the draft neighbourhood plan is compatible with EU regulations" (Planning Practice Guidance<sup>8</sup>).*

45 Torbay Council has not raised any objections in respect of the Neighbourhood Plan's compatibility with European regulations.

46 In undertaking the work that it has, Torbay Council has considered the Neighbourhood Plan's compatibility with EU regulations in detail. The Neighbourhood Plan seeks to allocate development land in addition to that allocated/identified in the Torbay Local Plan (2015) and Torbay Council recognises that these new allocations were subject to further Sustainability Appraisal as part of the Neighbourhood Plan's preparation. Torbay Council has stated that, on the basis of the supporting evidence and its own assessment, it supports the allocation of these sites.

47 A very late representation was submitted, during the examination of the Neighbourhood Plan, in respect of the Habitats Regulations Assessment process. Taking into account Planning Practice Guidance, as referenced above, I note that Torbay Council's response to this representation was as set out below. I am also mindful of Torbay Council's submission in respect of the Edginswell Future Growth Area having been rigorously and appropriately examined through the Local Plan process.

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<sup>8</sup> Planning Practice Guidance Reference ID: 11-031-20150209.

*"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...considers that the Assessment and Mitigation Measures set out in the (Neighbourhood Plan)...HRA 'Screening Stages' substantively meet the requirements...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."*

- 48 Taking all of the above, I am satisfied that the Neighbourhood Plan meets the basic conditions in respect of European obligations.



#### **4. Background Documents and the Torquay Neighbourhood Area**

##### Background Documents

49 In undertaking this examination, I have considered various information in addition to the Torquay Neighbourhood Plan. This has included (but is not limited to) the following main documents and information:

- National Planning Policy Framework (referred to in this Report as “the Framework”) (2012)
- Planning Practice Guidance (2014)
- Town and Country Planning Act 1990 (as amended)
- The Localism Act (2011)
- The Neighbourhood Plan Regulations (2012) (as amended)
- The Torbay Local Plan 2012-2030 (2015)
- Basic Conditions Statement
- Consultation Statement
- Sustainability Appraisal
- Sustainability Appraisal Scoping Report
- Habitats Regulations Assessment Scoping Report

Also:

- Representations received

50 In addition, I spent an unaccompanied day visiting the Torquay Neighbourhood Area.

Torquay Neighbourhood Area

- 51 There is no plan clearly identifying the boundary of the Torquay Neighbourhood Area within the Neighbourhood Plan. A set of plans accompanying the Neighbourhood Plan has been provided, although the boundary area colour appears to be different to that shown in the key, which is confusing.
- 52 Appendix 1 of the Basic Conditions Statement provides a very clear plan showing the Neighbourhood Area boundary. For clarity and precision, I recommend:
- **Provide the plan showing the Neighbourhood Area boundary, in Appendix 1 of the Basic Conditions Statement, within the Neighbourhood Plan itself.**
- 53 Torbay Council originally designated the Torquay Neighbourhood Area in December 2012. Five years after this designation, the Neighbourhood Forum's status as a Qualifying Body was renewed when re-designated by Torbay Council on 7<sup>th</sup> December 2017.
- 54 This satisfies a requirement in line with the purposes of preparing a Neighbourhood Development Plan under section 61G (1) of the Town and Country Planning Act 1990 (as amended).

## **5. Public Consultation**

### **Introduction**

- 55 As land use plans, the policies of neighbourhood plans form part of the basis for planning and development control decisions. Legislation requires the production of neighbourhood plans to be supported by public consultation.
- 56 Successful public consultation enables a neighbourhood plan to reflect the needs, views and priorities of the local community. It can create a sense of public ownership, help achieve consensus and provide the foundations for a 'Yes' vote at Referendum.

### **Torquay Neighbourhood Plan Consultation**

- 57 A Consultation Statement was submitted to Torbay Council alongside the Neighbourhood Plan. The information within it sets out who was consulted and how, together with the outcome of the consultation, as required by the neighbourhood planning *regulations*<sup>9</sup>.
- 58 Taking the information provided into account, there is evidence to demonstrate that the Neighbourhood Plan comprises a "*shared vision*" for the Torbay Neighbourhood Area, having regard to Paragraph 183 of the National Planning Policy Framework.
- 59 Torquay Neighbourhood Forum formed in 2012 and since its formation, has held regular minuted meetings, open to the public. A Steering Group was established and early work was facilitated by workshops by the Princes Foundation in 2012, culminating in a public consultation event at the end of that year, which was attended by almost 300 people.
- 60 Exhibitions were then held at various locations between January and March 2013, including a stand at a Tourism Event and there were visits to two schools, to gather feedback, in April of that year. An initial draft plan was consulted upon during 2014.

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<sup>9</sup>Neighbourhood Planning (General) Regulations 2012 (as amended).

- 61 A second draft plan was then produced and this underwent public consultation during March and April 2016. Comments were considered and the prior to the creation of a second draft plan, the document underwent a Health Check Report in January 2017. A second Regulation 14 Consultation then took place during August and September 2017.
- 62 The Consultation Report confirms that plan-makers engaged with Torbay Council during the process. In this regard, I note that, whilst the Local Planning Authority considered the final version of the Neighbourhood Plan capable of reaching Referendum, subject to modification, it submitted a very large number of objections and recommended changes to the document, including the deletion of Policies.
- 63 I referred to the basic conditions during the Public Hearing and as noted earlier in this Report, whilst neighbourhood planning affords communities the ability to plan for themselves, it does so within the context of the basic conditions.
- 64 In the case of the Torquay Neighbourhood Plan as submitted, many Policies fail to have regard to national policy and advice, are not in general conformity with the strategic policies of the Torbay Local Plan (2015), and/or do not contribute to the achievement of sustainable development. These are matters considered on a Policy-by-Policy basis later in this Report.
- 65 It is also worthy of note that the Torquay Neighbourhood Plan attempts to take on an extremely large task – not just by covering a significant and wide-ranging geographical area with a very large (in neighbourhood planning terms) population, but also by covering a wide and complex range of matters within a Neighbourhood Plan containing 57 Policies.
- 66 With regards to this, I drew attention at the Public Hearing to the enormous commitment and dedication of plan-makers who, together, devoted thousands of hours of voluntary time to the Torquay Neighbourhood Plan, all with the single main aim of making Torquay a better place for this and future generations.
- 67 However, whilst the commitment of plan-makers is beyond dispute, the scale and complexity of the project taken on has, in respect of parts of the Neighbourhood Plan, proven to comprise a near-impossible task for a volunteer force.

- 68 However, notwithstanding the above, the Consultation Report provides evidence to demonstrate that public consultation comprised part of the overall plan-making process, that matters raised were considered and that the reporting process was transparent. In addition, consultation was well-publicised. As well as via meetings and the distribution of material, information was readily available via a dedicated website, through social media and via articles in the local press.
- 69 Taking all of the above into account, the consultation process met statutory requirements.

## **6. The Neighbourhood Plan – Introductory Section**

70 For clarity and precision, and having regard to recommendations later in this Report, I recommend:

- **Foreword, first sentence, change to “Our Plan *forms part of the statutory development plan for Torbay* and provides a...”**
- **Foreword, delete third para, second column (“We have...”) and replace with “*The Neighbourhood Plan supports sustainable housing growth through the provision of housing land and does so in general conformity with the Local Plan.*”**
- **Foreword, delete final paragraph of second column (“Major Greenfield...”)**

71 It is not the purpose of a neighbourhood plan to “*inform*” a District-wide Local Plan, nor to state what the purpose of other Neighbourhood Plans might be. I also note that the Torbay Local Plan 2015 does not simply provide a “*big picture.*” I recommend:

- **Page 4, second para, delete second sentence (“More than...”)**
- **Page 4, second para, delete last sentence (“The Torbay...”)**

72 I set out the basic conditions earlier in this Report and for precision, I recommend:

- **Page 4, third para, delete and replace with “*The Neighbourhood Plan has to have regard to national policy and advice, be compatible with European legislation and be in general conformity with the strategic policies of the Local Plan.*”**

73 I make a recommendation in respect of the plan period, referred to on page 4, earlier in this Report.



74 Part of the Vision and Aspirations Section reads as though it comprises a Policy requirement, which it does not and it also refers to matters not addressed by either strategic or Neighbourhood Plan Policies. I recommend:

- **Page 4, first column, last para, change to “...of life, it is important that the beauty of the town and its setting are respected. There have...”**

75 The Glossary contains subjective definitions and leaves matters open to question and interpretation. As such, it presents considerable scope for confusion and detracts from the clarity and precision of the Neighbourhood Plan . I recommend:

- **Page 7, delete Glossary.**

76 For precision, having regard to the basic conditions, I recommend:

- **Page 8, change to “...Neighbourhood Plan, which are in general conformity with the strategic policies of the Torbay Local Plan and have regard to the National...These Policies will form part of the development plan and be used to...”**

77 There have been numerous representations made in respect of the “Community Aspirations” contained in the Neighbourhood Plan. Amongst other things, Community Aspirations provide an excellent way to capture non-land use planning matters that arise during the plan-making process. However, they have no land use planning policy status. I am concerned that, as set out, the Community Aspirations in the Neighbourhood Plan are worded in such a manner that they could easily be confused with the document’s Policies.

78 I consider Community Aspirations later in this Report, but for clarity and precision in respect of the references on pages 8 and 9, I recommend:

- **Page 8, last para, change to “The Neighbourhood Plan also identifies a number of Community Aspirations. Whilst these are not Neighbourhood Plan Policies and have no land use planning policy status, their inclusion in the Neighbourhood Plan is intended to capture some of the aims and aspirations of communities in Torquay, as identified through the plan-making process.”**
- **Page 9, delete para commencing “The Plan contains either...”**

## **7. The Neighbourhood Plan – Neighbourhood Plan Policies**

79 I note that the Policy numbering in the Neighbourhood Plan appears very similar to that of the Torbay Local Plan 2012-2030 (referred to in this Report as the Local Plan). To avoid any confusion, I recommend a simple change:

- **Add the suffix “T” to all Neighbourhood Plan Policy numbers. For example, Policy S1 would become Policy TS1. I have used this form of numbering below.”**

80 The paragraph on page 9 entitled “*Local Plan*” is confusing and includes incorrect information. To some degree, it also repeats information already provided. The heading “*National Planning Policy*” that follows is also confusing and unnecessary. I recommend:

- **Delete “Local Plan” and text below it on page 9.**
- **Delete heading “National Planning Policy” on page 9**

General Policies and Aspirations

**Policy TS1 – Sustainable Development**

- 81 As set out above, it is a requirement that the Neighbourhood Plan contributes to the achievement of sustainable development. Sustainable development is recognised as the “*golden thread*” running through national planning policy and the planning system is “*plan-led*,” such that applications for development are considered against the relevant development plan policies in place at the time.
- 82 Consequently, the inclusion of Policy TS1 as a Policy in support of sustainable development provides an opportunity to present a positive, sustainable framework for development. However, the Neighbourhood Plan does not have the power to determine planning applications, or to direct the Local Planning Authority in respect of when planning applications will be “*approved*” or “*refused*.”
- 83 As set out, Policy TS1 appears to direct the Local Planning Authority and whilst this approach is, to some degree, mitigated by reference to “*material planning considerations*,” this simply results in Policy TS1 appearing as a very general statement, as opposed to setting out land use planning policy.
- 84 Essentially, Policy TS1 states that planning permission will be granted – which is not something that the Neighbourhood Plan can determine – unless it is refused and that such determination will depend on the circumstances associated with the proposal.
- 85 As such, Policy TS1 appears vague and does not have regard to Paragraph 154 of the Framework, which states that:

*“Only policies that provide a clear indication of how a decision maker should react to a development proposal should be included in the plan.”*

- 86 Further to the above, the supporting text to Policy TS1 contains a large quantity of incorrect information. For example, it is suggested that every Policy in the Neighbourhood Plan prioritises the provision of affordable housing, that the Neighbourhood Plan will become part of the Local Plan and that Torbay Council will monitor the Neighbourhood Plan to ensure that the aspirations of the community are met. There is no evidence to support any of these suggestions.
- 87 Taking the above into account, I recommend:
- **Delete Policy TS1 and the related supporting text above and below it ("The following policy incorporates...used to prepare the original Plan")**

**Policy TS2 – Definitions of Greenfield and Brownfield Land**

- 88 Brownfield land is defined in the National Planning Policy Framework (the Framework). As set out above, the Neighbourhood Plan must have regard to national policy.
- 89 Policy TS2 seeks to re-define brownfield land. It does so in a manner that results in a definition different to and in conflict with, that set out in national policy.
- 90 No clear justification is provided for this conflict with national policy. In addition, there is no substantive evidence to demonstrate that the impacts of the change to the definition, as proposed, have been tested in respect of the Policies of the Development Plan as a whole. There is nothing, for example, to demonstrate that the departure from national policy, as proposed, would not prevent the delivery of sustainable development within the Neighbourhood Area. Consequently, I cannot conclude that Policy TS2 contributes to the achievement of sustainable development and meets the basic conditions.
- 91 I recommend:
- **Delete Policy TS2**
  - **Delete the heading “Greenfield and Brownfield Land” and the supporting text below it**
  - **Delete the heading “Glossary of definitions” and the sentence below it**

**Policy TS3 - Master Plans**

- 92 Area-wide Master Plans can take the form of Supplementary Planning Documents, providing guidance and material planning considerations to be taken into account when a planning application is determined.
- 93 However, in the absence of any evidence, it is not clear how the Neighbourhood Plan can require the Local Planning Authority to not accept, or determine, a planning application for development if *“the usage of that site is significantly different to that identified within the adopted Master Plan SPD or significantly different to the identified use within the Neighbourhood Plan.”*
- 94 Notwithstanding the lawfulness of such an approach, no evidence is presented to demonstrate that preventing such an application for development being made, accepted or determined by the Local Planning Authority would meet the basic conditions.
- 95 Whilst I note that Torbay Council has recommended its replacement with a supportive planning policy, I am mindful that Policy TS3 is a negatively worded Policy and it is not the role of examination to replace Policies that do not meet the basic conditions with fundamentally different Policies.
- 96 I also note that Policy TS3 appears confusing when considered against the supporting text, which states that Supplementary Planning Documents must be *“kept up to date to reflect viability.”* No evidence has been presented to demonstrate, for example, that any mechanism exists to ensure that relevant Supplementary Planning Documents can be revised and adopted *“to reflect”* changes in respect of viability.
- 97 Taking the above into account, I recommend:
- **Delete Policy TS3**
  - **Delete supporting text above Policy TS3**



**Policy TS4 – Community led planning**

- 98 Planning applications are determined by the Local Planning Authority. Occasionally, planning decisions made by the Local Planning Authority are “called in” for determination by the Secretary of State.
- 99 Section 38(6) of the Town and Country Planning Act sets out the basis upon which planning applications must be assessed. No evidence has been presented in support of Policy TS4’s different approach to that set out by statute, in respect of the proposed requirement that planning applications in the Neighbourhood Area “*must be in general compliance with any representation*” from the community.
- 100 Similarly, whilst I recognise that it may comprise good practice, the Neighbourhood Plan cannot require applicants to consult with Community Partnerships (other than in the circumstance that they are required to do so by law).
- 101 However, Policy TS4 does seek to encourage community engagement and such an approach has regard to Paragraphs 188-190 of the Framework, which highlight the advantages of early engagement and consultation. Taking this and the above into account, I recommend:
- **Policy TS4, change to: “*Policy TS1 – Community Engagement. Early engagement with the relevant Community Partnership in respect of all proposals for major development, new housing or business proposals on non-allocated, greenfield land, will be supported.*”**
  - **Change supporting text above Policy to “...Localism Act, *community involvement at an early stage in the planning of new development is encouraged.* The Community...”**
  - **Delete last sentence of supporting text above Policy**

## Housing

### **Policy TH1 – Housing Allocations**

- 102 As set out, Policy H1 of the Neighbourhood Plan is confusing.
- 103 Whilst it is meant to comprise a housing allocation Policy, it simply refers to a Table that does not form part of the Neighbourhood Plan, as well as to various (unclear) maps, which are printed separately to the Neighbourhood Plan, which together, list and show a range of sites allocated for housing development. These include sites that have already been allocated in the Local Plan. It is not the role of the Neighbourhood Plan to allocate land for residential development that has already been allocated for residential development.
- 104 In addition to the above, Policy H1 seeks to impose a new kind of statutory requirement upon the Local Planning Authority, such that any changes to the Local Plan in respect of housing numbers must be subject to the community agreeing to produce a revised Neighbourhood Plan in parallel. No evidence has been presented to demonstrate that such an approach would have regard to national policy or advice, or would contribute to the achievement of sustainable development. Rather, it could place a significant hurdle in the way of the Local Planning Authority fulfilling its statutory duty.
- 105 Notwithstanding the above, Policy H1 seeks to provide for the delivery of at least 3979 dwellings in the Neighbourhood Area during the plan period. This element of the Policy has regard to Local Plan Policy SDT1 (*"Torquay"*), which requires the delivery of around 3,955 homes during the plan period.
- 106 The land allocated by the Neighbourhood Plan (as opposed to that already allocated by the Local Plan) has largely been drawn from sites identified by the Local Plan as being suitable for residential development. Further allocations have emerged through a transparent assessment process. In this regard, I am mindful that Torbay Council has not raised any concerns with the land allocated for residential development and has stated that the allocations support:

*"...the growth strategy of the Torbay Local Plan. This is supported and welcomed."*

- 107 Taking the above into account and subject to the other recommendations in this Report, I am satisfied that, in respect of housing growth, the Neighbourhood Plan does not promote less development than set out in the Local Plan and nor does it undermine the Local Plan's strategic policies.
- 108 The supporting text to Policy H1 states that the Neighbourhood Plan prioritises the residential development of brownfield land residential development in the Town Centre. However, and having regard to the recommendations contained in this Report, I note that this is not something that is reflected by the Policies of the Neighbourhood Plan in a way that meets the basic conditions.
- 109 I also note that the Neighbourhood Plan relies on a significant number of windfall sites coming forward. This is something that I have been mindful of when examining other relevant Policies, with particular regard to the requirement for the Neighbourhood Plan to contribute to the achievement of sustainable development.
- 110 A representation has been submitted to confirm that the "Kwik Fit" site, NP5, will not be available for residential development during the plan period and this is a matter taken into account in the recommendations below.
- 111 Taking all of the above into account, I recommend:
- **Policy TH1, delete and replace with "*The Torbay Local Plan allocates sites within Future Growth Areas for residential development. The Neighbourhood Plan allocates further sites for residential development, as shown on Table 2 below, with the approximate number of houses to be delivered on each site shown alongside.***
- The Plan shown below identifies the general location of these sites. Site specific plans, clearly identifying site boundaries, are provided in the Appendices to this Plan. For clarity, the Appendices also set out (in a Table and on Plans) all of the housing allocations in Torquay during the plan period. These include the allocations contained in the Torbay Local Plan."***

- Provide new Table 2 below the Policy - listing the sites allocated in the Neighbourhood Plan, with the number of dwellings alongside.
- Provide a new Neighbourhood Area-wide plan showing the location of the allocated sites (the sites allocated in the Neighbourhood Plan, not the Local Plan. Sites currently shown in purple and orange). This only needs to link the names of the sites with their location, rather than show the site boundaries. For clarity, the new plan should link with the new Table 1, for example, via numbering.
- Delete any reference to the “Kwik Fit” site
- Ensure that the Policies Maps are clearly labelled and that the Key clearly distinguishes between the sites allocated in the Neighbourhood Plan and those allocated in the Local Plan. Ensure that the precise boundaries of each (Neighbourhood Plan) allocation are clearly identifiable.
- Page 12, supporting text, delete the last sentence of the fourth para (“The Neighbourhood Plan therefore...”)
- Page 12, last para, delete rest of para after “...housing supply by source.”

## **Policy TH2 – Designing out crime**

112 Paragraph 58 of the Framework requires development to:

*“...create safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion.”*

113 Policy TH2 seeks to reduce the risk and fear of crime and in this respect, it has regard to national policy.

114 However, as worded, the Policy appears vague and ambiguous. It is not clear, for example, how the design of any new residential development, which might for example comprise a single flat or house, can “*minimise opportunities for crime, fear of crime and antisocial behaviour proportionate to the scale of development,*” how this might be judged, who by and to what effect. Neither Policy TH2, nor its supporting text, provides any information or detail in this regard.

115 Consequently, Policy TH2 does not have regard to national planning advice<sup>10</sup> which requires that:

*“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.”*

116 Further to the above, it is not clear, in the absence of any relevant information, as to why designing out crime should only apply to residential development. Taking this and all of the above into account, I recommend:

- **Change Policy TH2 to “*New development should provide for a safe environment and consider opportunities to prevent crime or the fear of crime from undermining quality of life or community cohesion.*”**

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<sup>10</sup> Planning Policy Guidance, Paragraph: 042 Reference ID: 41-042-20140306.

### **Policy TH3 – Future Growth Area Viability Exclusions**

117 Paragraph 173 of the Framework requires:

*“...careful attention to viability and costs in plan-making and decision-taking. Plans should be deliverable.”*

118 Local Plan Policy H2, “Affordable Housing,” ensures that viability can be taken into account in respect of the delivery of affordable housing and Local Plan Policy SS7, “Infrastructure, phasing and delivery of development,” recognises that developer contributions will relate to viability.

119 Policy TH3 states that:

*“Viability arguments shall not be a planning consideration for the Edginswell Growth Area...if that viability is based on the cost to the developer of the land at a date after the end of consultation following submission of this Plan.”*

120 The cost of land is a valid development cost and no substantive evidence has been provided to the contrary. Consequently, Policy TH3 is in direct conflict with, and does not have regard to, national policy. Furthermore, Policy TH3 places a significant obstacle in the way of development coming forward and does not contribute to the achievement of sustainable development.

121 The Policy does not meet the basic conditions and I recommend:

- **Delete Policy TH3**
- **Delete the three paragraphs of text above Policy TH3 (“Government Viability...policies”)**



**Policy TH4 – Affordable homes from Greenfield developments**

- 122 Local Plan Policy H2, referred to above, determines how much affordable housing will be sought on development sites.
- 123 Policy TH4 commences by placing a requirement on the Local Planning Authority in respect of how an application for development will be determined. As noted earlier in this Report, this is a matter beyond the scope of the Neighbourhood Plan.
- 124 The approach to affordable housing set out in Policy TH4 is less detailed and less clear than that set out in Local Plan Policy H2, *"Affordable Housing."* Consequently, rather than provide local detail to a strategic policy, Policy TH4 runs the risk of detracting from the clarity of the development plan. It introduces an affordable housing requirement different to that set out in Local Plan Policy H2, without substantive evidence to justify the approach set out.
- 125 Further to the above, no evidence has been presented to demonstrate that the requirements of the Policy, such as the sale of *"affordable sites"* for self-build construction, or the building of *"the same number of affordable units on a Brownfield site"* comprise viable or deliverable options, having regard to Paragraph 173 of the Framework, referred to earlier in this Report.
- 126 Part of the supporting text on page 14 reads as though it comprises a Policy requirement, which it does not. Further, there is no evidence that the Neighbourhood Plan provides for *"positive policy statements for affordable homes on Greenfield sites."*
- 127 I recommend:
- **Delete Policy TH4**
  - **Page 14, last sentence of fourth para, change to *"Over the plan period, we aim to positively address this issue by increasing the supply of affordable housing."***
  - **Delete last two paras, first column, page 14 (*"To achieve...communities."*)**

**Policy TH5 – Affordable housing occupancy restrictions**

- 128 During the Public Hearing it was noted that the Devon Home Choice Register provides for a cascade mechanism, such that occupancy from areas surrounding development is prioritised.
- 129 Policy TH5 goes considerably further than this by demanding that all new affordable housing is limited to housing at least one occupant who has lived in Torbay for not less than five years. Such an approach is restrictive and conflicts significantly with the Neighbourhood Plan's stated aim of providing positive policy statements for affordable housing.
- 130 In this regard, I am mindful that Torbay Development Agency has expressed concerns that the approach set out could potentially prevent key workers from moving to the area and that there is no substantive evidence, in support of the Policy, to the contrary.
- 131 Taking the above into account, I consider that Policy TH5 would fail to contribute to the achievement of sustainable development.
- 132 The Community Aspiration above Policy TH5 appears to set out a "*planning policy target*." No detail is provided in respect of how or why this comprises an aspiration. It is not supported by any Policy requirements and consequently, the Community Aspiration appears highly confusing.
- 133 I recommend:
- **Delete Policy TH5**
  - **Delete the sentence of supporting text above Policy TH5**
  - **Delete the Community Aspiration above Policy TH5**

**Policy TH6 – Sustainable later life homes**

- 134 Policy H6 seeks to direct the Local Planning Authority by stating that any retirement or assisted living development would be refused if it failed to be within an *“easy walk”* of community hub facilities.
- 135 The approach set out would fail to provide for the balanced consideration of a proposal, taking into account both the potential harm and potential benefits that might arise. Consequently, the Policy could prevent development that is sustainable from coming forward and in this way, it fails to contribute to the achievement of sustainable development.
- 136 Further to the above, the Neighbourhood Plan requires *“community hubs”* to include a doctor's surgery or pharmacy and a post office. Such a requirement appears restrictive, not least given the closure of many post offices in recent years and there is no substantive evidence to demonstrate that all residential allocations within the Neighbourhood Area are within *“easy walking distance”* of such community hubs. This indicates a further risk to the Policy's contribution to the achievement of sustainable development.
- 137 In addition to all of the above, the Neighbourhood Plan considers an *“easy walk”* to comprise not more than 400 metres and *“considerably less,”* dependent upon the presence of roads and gradients. In the absence of any evidence to the contrary, it appears that such a short distance would severely restrict opportunities for the provision of later life homes – the delivery of which the Neighbourhood Plan seeks to support.
- 138 In the above regard, I am mindful that whilst the Institute of Highways and Transportation, in its guidance document, *“Providing for Journeys on Foot,”* states that 800 metres comprises a reasonable walking distance, no substantive evidence is provided to support the contention that restricting retirement or assisted care development to locations that may be *“considerably less”* than 400 metres from a post office, amongst other things, would contribute to the achievement of sustainable development.
- 139 Taking all of the above into account, Policy TH6 does not meet the basic conditions and I recommend:

- **Delete Policy TH6**

**Policy TH7 – Retirement and assisted living**

- 140 Policy TH7 seeks to establish a presumption in favour of the change of use of any tourist accommodation in Babbacombe, outside the CTIA, to retirement or assisted living development.
- 141 This proposed presumption is not supported by any evidence to demonstrate that it would, in all circumstances, be appropriate to change the use of any such tourist accommodation to retirement or assisted living development. There is no substantive evidence, for example, to demonstrate how modern requirements relating to the care and retirement needs of older people would automatically be met by the change of use of any tourist accommodation in Babbacombe.
- 142 Consequently, in the absence of evidence to the contrary, I am concerned that the Policy could result in a presumption in favour of inappropriate development and that this would not contribute to the achievement of sustainable development.
- 143 The Policy is not in general conformity with Local Plan Policy H6, "*Housing for people in need of care*," which seeks to ensure the provision of appropriate accommodation to meet needs. It does not meet the basic conditions.
- 144 I recommend:
- **Delete Policy TH7**
  - **Delete supporting text on page 15, headed "Homes for an ageing population"**

### **Community Infrastructure Levy**

145 The Community Infrastructure Levy section of the Neighbourhood Plan does not contain any Policies. Rather than be presented as three separate boxes, which could be confused with Policies, and rather than contain language which could also be confused with Policy requirements, I recommend:

- **Page 16, remove the boxes around the three separate “Community Aspirations” and retain one heading, at the beginning of the section, “Community Aspiration” (delete the other two headings)**
- **Remove the bold font from text**
- **Change from the eleventh line of text to the end of the section “...within that area, *the community would like to see development where CIL contributions are not sought, but S106 contributions are, provide the equivalent amount of money to that from the normally...contribution be provided for the community’s own spend decisions.***

***The community would also like to see the reduced CIL...Area be reviewed and adapted to reflect changes in economic regeneration.”***

146 In making the above recommendations, I note that these relate to local aspirations and that any payment of Community Infrastructure Levy is subject to the appropriate tests and regulations.

Torquay Gateway (including the Edginswell Future Growth Area)

**Policy TH8 – Prioritisation of Town Centre redevelopment and Brownfield sites**

- 147 The Edginswell Future Growth Area is allocated for development in the adopted Local Plan. Local Plan Policy SDT3, "*Torquay Gateway*," identifies land at Edginswell Future Growth Area for the delivery of around 550 new homes. The Policy does not seek to prevent the delivery of these homes until after 2025.
- 148 Policy TH8 seeks to prevent the delivery of residential development at the Edginswell Future Growth Area until after 2025, unless more than 75% of "*homes designated on other sites have been granted permission and the net increase in jobs in Torbay or Torquay meets or exceeds...jobs growth trend ambitions...*"
- 149 This places a significant and major restriction on the delivery of the Torbay Local Plan, contrary to Local Plan Policy SDT3.
- 150 Further, it does so without any substantive evidence to demonstrate that the delivery of sustainable growth will not be unduly hindered or prevented. Rather, Policy TH8 serves to delay the development of allocated land at Edginswell on the basis of planning permissions elsewhere, regardless of delivery, as well as subject to employment growth – which, itself, would seem to relate directly to the development of the Edginswell Growth Area (which provides for mixed use development, including employment).
- 151 Consequently, the Policy is not in general conformity with the strategic policies of the Local Plan and it does not contribute to the achievement of sustainable development.
- 152 I note that the Policy also seeks to impose a provision that would limit occupation of housing unless all infrastructure identified in a Master Plan "*is complete*." There is an absence of substantive information demonstrating that such a requirement has regard to Paragraph 173 of the Framework in respect of viability and delivery.
- 153 Taking all of the above into account, I recommend:

- **Delete Policy TH8**



**Policy TH9 – Homes for Torbay residents**

- 154 Policy TH9 seeks to impose a requirement for all homes sold in Edginswell Future Growth Area to be the “*purchaser’s sole residency.*”
- 155 No evidence is provided to demonstrate that such an onerous and restrictive Policy, that goes well beyond national and local policy requirements, would provide for the delivery of sustainable development. In the absence of such evidence, the Policy would appear to be so restrictive as to have a significant impact on a wide range of matters, including, for example, the provision of private rented housing.
- 156 No indication of the impact that the proposed approach might have on the housing market or affordability has been provided.
- 157 Whilst I note that the St Ives Neighbourhood Plan in Cornwall includes a restrictive Policy in respect of second homes, that is a Policy that was supported by substantive evidence in relation to a specific local issue. Policy TH9 is not supported by any such substantive evidence and as presented, it appears as an unjustified and restrictive Policy that would fail to contribute to the achievement of sustainable development.
- 158 I recommend:

- **Delete Policy TH9**

**Policy TH10 – Gateway sustainable community planning**

159 National policy requires that development that is sustainable should come forward without delay.

160 Policy TH10 seeks to direct the Local Planning Authority in respect of the granting of planning permission. Furthermore, it does so in a manner that would actively restrict the delivery of housing on land allocated in the adopted Local Plan.

161 Policy TH10 is not in general conformity with the Local Plan and does not contribute to the achievement of sustainable development.

162 I recommend:

- **Delete Policy TH10**
- **Pages 16, 17 and 18, delete the “Torquay Gateway (including the Edginswell Future Growth Area)” section of the Neighbourhood Plan**

Homes from former Tourism properties

163 The inclusion of this section of text in the Housing Chapter is confusing. It relates directly to other Policies elsewhere in the Neighbourhood Plan and largely comprises a list of those Policies. As such, this part of the Housing Chapter serves to detract from the clarity of this part of the document. I recommend:

- **Page 18, delete the “Homes from former Tourism properties” section, including the list of Policies**

Design and quality of development

**Policy TH11**

- 164 Paragraph 50 of the Framework promotes the delivery of a wide choice of high quality homes.
- 165 Policy TH11 seeks to prevent *“the development of an existing residential property that does not provide accommodation with a separate bedroom.”*
- 166 As such, the Policy appears imprecise and ambiguous to the point that it would serve to prevent various household extensions, without justification and contrary to the provisions of national and local policy.
- 167 In addition to the above, Policy TH11 could serve to prevent the delivery of a wide choice of housing, contrary to national policy, as set out in Chapter 6 of the Framework, *“Delivering a wide choice of high quality homes.”*
- 168 In this regard, I am mindful of Torbay Development Agency's comment that the Policy would, for example, place an obstacle in the way of the delivery of studio apartments, which may, in turn, prevent younger workers from accessing the Torquay housing market. In the absence of substantive evidence to the contrary, this could run counter to the Neighbourhood Plan's aspiration to support employment growth.
- 169 Taking the above into account, I recommend:

- **Delete Policy TH11**

**Policy TH12 – HMO's**

170 Policy TH12 seeks to impose a requirement upon the Local Planning Authority in respect of the determination of planning applications. In doing so, the Policy requires that all HMO proposals must demonstrate that such housing supports the growth of the economy of Torquay and provides accommodation for a resident manager to live on site.

171 As stated earlier, Paragraph 173 of the Framework requires that plans be deliverable and that careful attention is paid to viability. No substantive evidence has been provided to demonstrate that the requirements of Policy TH12 are viable and deliverable.

The Policy does not meet the basic conditions and I recommend:

- **Delete Policy TH12**
- **Delete the two paras of supporting text above Policies TH11 and TH12**

**Policy TH13 – Established architecture**

- 172 Paragraph 58 of the Framework states that planning policies should aim to ensure that developments:

*“...respond to local character...and reflect the identity of local surroundings...”*

- 173 Subject to the recommendation below, Policy TH13 seeks to ensure that development respects local character and in this way, it has regard to national policy.

- 174 A requirement that development *“must not have an adverse impact”* fails to provide for the balanced consideration of development proposals, such that benefits can be weighed against harm. Consequently, as worded, Policy TH13 could prevent development that is sustainable from coming forward and it does not contribute to the achievement of sustainable development.

- 175 Further to the above, in the absence of evidence, it is not clear how any development can *“be in a character, scale, bulk and design sympathetic to the established surrounding architecture.”* It is not entirely clear what established surrounding architecture comprises and consequently, this part of the Policy is ambiguous and open to interpretation.

- 176 Further to the above, *“development”* can be very wide ranging – it can include, for example, ATM machines, shop signs and essential telecommunications infrastructure. In the absence of any substantive evidence, it is not clear how such development might meet the requirements of the Policy, as set out and again, this could result in the Policy failing to contribute to the achievement of sustainable development.

- 177 No indication is provided of what *“significantly increase the density of properties in the immediate area”* actually means and consequently, this part of the Policy is imprecise, leaving it open to subjective interpretation. I am also mindful that, in the absence of substantive evidence, it is not clear how the Policy would support, for example, the Neighbourhood Plan's promotion of brownfield development, which may require an increase in density in order for it to be viable.

- 178 Taking all of the above into account, I recommend:

- **Policy TH13, change to *“Development should respect local character and reflect the identity of its surroundings.”***



**Policy TH14 – Parking facilities**

- 179 Local Plan Policy TA3 seeks to provide for appropriate car parking provision in keeping with guideline requirements. The guidelines set out estimated car parking requirements in detail.
- 180 Policy TH14 allows any car parking guidelines to be ignored, regardless of circumstances, if a development is within easy walking distance of a public car park. This approach is not in general conformity with the Local Plan and in the absence of substantive evidence to the contrary, it could result in support for inappropriate forms of development and fail to contribute to the achievement of sustainable development.
- 181 In making the recommendation below, I am also mindful that the Policy runs directly contrary to the community aims set out in the supporting text.
- 182 The final part of the Policy, in respect of the requirement for all major development to contribute to better pedestrian and cycle links, is not supported by any evidence in respect of viability or deliverability, having regard to Paragraph 173 of the Framework; and there is nothing to indicate that the requirement set out would, in all circumstances, be necessary to make development acceptable in planning terms, be directly related to development, or be fairly and reasonably related in scale and kind to development, having regard to Paragraph 204 of the Framework.
- 183 Policy TH14 does not meet the basic conditions. I recommend:
- **Delete Policy TH14**
  - **Delete supporting text above Policy TH14**

**Policy TH15 – Sites excluded from development**

184 Policy TH15 seeks to impose a requirement on the Local Planning Authority and attempts to simply prevent all forms of development in two locations.

185 Such an unduly restrictive approach is in direct conflict with national and local planning policy and actively prevents sustainable development.

186 I recommend:

- **Delete Policy TH15**
- **Delete the title “Sites excluded from development” and the two paras of text below it**

**Policy TH16 – Protection of the historic built environment**

187 Chapter 12 of the Framework, *“Conserving and enhancing the historic environment,”* recognises that the nation’s heritage assets are irreplaceable and sets out a clear, detailed approach to conserving them in a manner appropriate to their significance.

188 Policy TH16 ignores national policy and seeks to implement its own approach in respect of Listed Buildings and Conservation Areas. It appears as a muddled mixture of requirements, including a vague reference to allowing all changes that support a sustainable future for a Listed Building.

189 The resultant policy does not have regard to national policy and fails to contribute to the achievement of sustainable development. It fails to provide a decision maker with a clear indication of how to react to a development proposal, having regard to Paragraph 154 of the Framework, which states that:

*“Only policies that provide a clear indication of how a decision maker should react to a development proposal should be included in the plan.”*

190 The significant departure from national policy suggested is not supported by any detailed justification.

191 I recommend:

- **Delete Policy TH16**
- **Delete title “Conservation of the historic built environment” and the para of text below it**

192 In making the above recommendation I am mindful that national and local planning policy provide for the conservation and enhancement of heritage assets in a manner appropriate to their significance.

**Policy TH17 – Rural village buffer zones**

193 Similarly to Policy TH15, Policy TH17 seeks to impose a requirement on the Local Planning Authority and would serve to prevent all forms of development within a specific area. Such a restrictive approach is not justified by the provision of substantive evidence, goes well beyond any local or national planning policy requirements and fails to contribute to the achievement of sustainable development.

194 Policy TH17 does not meet the basic conditions. I recommend:

- **Delete Policy TH17**

**Policy TH18 – Rural Village Conservation Areas**

- 195 Similarly to Policy TH16, Policy TH18 seeks to direct the Local Planning Authority and introduce an approach that fails to have regard to national policy in respect of heritage assets, as set out in Chapter 12 of the Framework.
- 196 Policy TH18 seeks to simply prevent various forms of development in the Maidencombe and Cockington Village Conservation Areas. Such an approach is in direct conflict with national policy, which provides for development which conserves heritage assets in a manner appropriate to their significance. There is no substantive evidence to justify the departure from national policy proposed.
- 197 Further to the above, Conservation Area Appraisals and Management Plans provide guidance. They do not provide the basis for permitting development which “*complies*” with them. As well as failing to have regard to national policy, such an approach runs the risk of failing to take into account relevant considerations and does not contribute to the achievement of sustainable development.
- 198 Policy TH18 does not meet the basic conditions. I recommend:
- **Delete Policy TH18**
  - **Delete the heading “Special protection for rural village environments” and the two paras of text below it.**

**Policy TH19 – Maidencombe area**

- 199 Policy TH19 refers to the "*Maidencombe Village Envelope*." Page 64 of the Neighbourhood Plan includes a plan entitled "*The defined Village Envelope*." However, this is entirely different to the Village Envelope for Maidencombe in the Local Plan. No substantive evidence has been provided in justification for this direct conflict with the Local Plan.
- 200 The first paragraph of Policy TH19 includes the phrase "*will be permitted*." Such an approach runs the risk of pre-determining planning applications without taking relevant factors into consideration and does not, therefore, contribute to the achievement of sustainable development.
- 201 In the absence of any justification, it is not clear why Policy TH19 seeks to prevent infill development and "*refurbishment of existing buildings*" – although it is not clear why refurbishment would, in all cases, require planning permission – in the Maidencombe Conservation Area. Such an approach does not have regard to national policy, as set out in Chapter 12 of the Framework, which does not seek to prevent development in Conservation Areas, but requires that heritage assets are conserved in a manner appropriate to their significance.
- 202 Policy TH19 c) requires that the amenity of property is not harmed. Notwithstanding that it is more appropriate for amenity to relate to occupiers rather than to property, simply requiring no harm to amenity prevents the balanced consideration of a proposal, whereby any harm arising is considered against benefits. The approach set out does not contribute to the achievement of sustainable development.
- 203 It is not clear, in the absence of any substantive evidence, how all development in Maidencombe can reinforce the landscape quality of the area and the character of the rural setting, as required by Policy TH19 d). Landscaping may not be relevant to some forms of development and by its very nature, development within the village boundary will be exactly that – rather than something that could necessarily reinforce the character of the setting of the village. This part of the Policy is unclear and does not provide a decision maker with a clear indication of how to react to a development proposal, having regard to Paragraph 154 of the Framework.



- 204 Policy 19 e) is imprecise. No indication of how cumulative impact will be measured, against what criteria and who will be the judge of this, is provided. Neither “*urban creep*” nor “*overdevelopment*” are defined and they consequently appear as ambiguous terms, open to wide interpretation.
- 205 Policy H19 2) seeks to pre-determine the planning application process and impose an obligation upon the Local Planning Authority. The Policy seeks to prevent the development of any “*buildings*” in part of the Neighbourhood Area without clear justification for such a significant departure from national and local policy.
- 206 Policy H19 3) goes way beyond the requirements of national and local planning policy and seeks to introduce a new approach to development control, imposing a requirement on the Local Planning Authority to “*deem permissible*” replacement dwellings and extensions. This part of the Policy does not have regard to national policy and does not contribute to the achievement of sustainable development.
- 207 Policy TH19 4) is in direct conflict with other parts of Policy TH19 and the Neighbourhood Plan. It imposes an obligation on the Local Planning Authority to refuse infill development. The Policy is imprecise and fails to provide a decision maker with a clear indication of how to react to a development proposal, having regard to Paragraph 154 of the Framework.
- 208 Part 5 of the Policy seeks to “*constrain*” any development to the footprints of post-1968 buildings. No justification is provided to support an approach that, in the absence of evidence to the contrary, would not contribute to the achievement of sustainable development.
- 209 Part 6 of the Policy seeks to prevent any planning application being made until an independent assessment has been provided. The Neighbourhood Plan cannot dictate the requirements of planning applications, which are prescribed by statute. Furthermore, no indication is provided of why an assessment would be relevant and necessary in the case of every planning application in the area; and no indication is provided of how such an independent assessment might be funded. Part 6 of the Policy fails to have regard to national policy in respect of deliverability and viability (Paragraph 173 of the Framework) and planning obligations (Paragraph 204 of the Framework).

210 Much of Policy TH19 fails to meet the basic conditions. I note earlier in this Report that national policy requires development to respect local character and taking this and all of the above into account, I recommend:

- **Delete Policy TH19 and replace with *“Proposals for development within Maidencombe Village Envelope must demonstrate that they respect local character and where appropriate, that they conserve or enhance heritage assets. To help achieve this, development should be of a scale, height, footprint and massing in keeping with its surroundings and design should draw from and appear in keeping with, local features.”***
- **Delete title “Special policies for Maidencombe” and the supporting text below it**
- **Replace “the defined Village Envelope” diagram on page 64 with a plan of the adopted Village Envelope, showing the precise adopted boundaries (taken directly from the Local Plan)**

**Policy TH20 – Cockington Village and Country Park**

211 The first two criteria of Policy TH20 seek to impose obligations on the Local Planning Authority in respect of the determination of planning applications. The Neighbourhood Plan cannot impose planning conditions, or require the Local Planning Authority to do so; and cannot simply circumvent the planning application process by ruling out development.

212 No evidence has been provided to demonstrate that a blanket presumption in favour of a change of use from commercial to residential development would, in all cases, contribute to the achievement of sustainable development.

213 Policy TH20 does not meet the basic conditions. I recommend:

- **Delete Policy TH20**
- **Delete the heading “Special Policies for Cockington Village and Country Park” and the supporting text below it.**

Economy and Jobs

**Policy TJ1 – Designated Employment Sites and minimum employment space**

- 214 The first part of Policy TJ1 is unclear. It presents a list of 12 areas and states that they are "*Employment Sites*." No indication is provided of what land use planning policy implications this has. For example, what kind of development might be supported at Torbay Hospital or any of the other sites ? Consequently, the first part of the Policy does not provide a decision maker with a clear indication of how to react to a development proposal.
- 215 Whilst I note that Local Plan Policy SDT1 is supported by a reference to "*possible Neighbourhood Plan employment sites*," simply providing a list in a Neighbourhood Plan does not, in itself, comprise a land use planning policy.
- 216 In making recommendations in respect of the above I am mindful that, together, national and local policy provide a positive planning policy framework for employment development.
- 217 The final paragraph of Policy TJ1 is unclear. It suggests (but it is not clear) that mixed use development should not come forward unless there is more than 37,200 square metres of employment space, presumably (as it is not made clear) within the Neighbourhood Area. No indication is provided of why there must be at least 37,200 square metres of employment; of how much employment space there is today; or of what would happen if there was not at least 37,200 square metres of employment space. Further, it is not clear why the Policy is only concerned with mixed use development.
- 218 Policy TJ1 would appear to seek to prevent mixed use development from coming forward in favour of, for example, retaining land allocated for employment, but not necessarily providing employment. It is not clear how such an approach would contribute to the achievement of sustainable development. The approach set out lacks detail. It is imprecise and unclear.

219 I recommend:

- **Delete Policy TJ1**
- **Delete the heading “Supporting existing and new business” and the supporting text below it.**
- **Delete the employment sites from the Policies Maps**

**Policy TJ2 – Gateway Employment Sites**

220 Policy TJ2 is a highly restrictive Policy, which seeks to limit development at Gateway Sites to “*permanent employment space*.” The Policy fails to have regard to Local Plan Policy SDT3 which supports mixed use across the Future Growth Area.

221 I recommend:

- **Delete Policy TJ2**
- **Delete the supporting text above the Policy**



**Policy TJ3 – Retention of existing purpose built B Class employment sites**

- 222 Policy TJ3 does not define what “*existing trading estates*” or “*significant purpose built permanent employment sites*” are. The Policy is imprecise in this regard and consequently, it does not provide a decision maker with a clear indication of how to react to a development proposal.
- 223 Local Plan Policy SS5, “*Employment space*,” provides for the flexible use of employment land and it does not protect “*B class uses*” regardless of circumstances. As set out, Policy TJ3 simply seeks to prevent a change of use away from a “B” class, employment use. Such an approach would fail to provide for flexibility and in the absence of any evidence to the contrary, could serve to prevent sustainable development from coming forward. Consequently, the Policy would not be in general conformity with the Local Plan.
- 224 The Neighbourhood Plan cannot direct the Local Planning Authority to impose conditions.
- 225 Taking the above into account, I recommend:
- **Delete Policy TJ3**
  - **Delete the supporting text above the Policy**

**Policy TJ4 – Home Based Enterprises**

- 226 The Framework recognises a high quality communications infrastructure as being essential for sustainable economic growth.
- 227 In seeking to promote the provision of fibre optic superfast broadband to encourage home based employment, the Neighbourhood Plan has regard to national policy.
- 228 However, in the absence of any detail, it is not clear why, or how employment units provide for home-based enterprises. As set out, the term “*employment units*” appears as an ambiguous, undefined term.
- 229 In the absence of evidence to the contrary, there may be cases where it is not viable, deliverable or even possible to provide fibre optic superfast broadband connectivity and taking this and the above into account, I recommend:
- **Change Policy TJ4 to “Policy TJ1. “All new residential units should have fibre optic...”**

**Policy TJ5 – Change of use for unsustainable businesses**

230 Policy TJ5 is predicated on a “*presumption in favour*” of the change of use of employment uses. This is confusing, as it is in direct conflict with the overall aims and objectives of the Neighbourhood Plan.

231 In addition to the above, in seeking to adopt a presumption in favour of a change of use, the Policy runs the risk of supporting inappropriate forms of development and does not contribute to the achievement of sustainable development.

232 Further to the above, the profitability of a business is not a land use planning matter.

233 I recommend:

- **Delete Policy TJ5**
- **Delete the heading “Unsustainable businesses” and the supporting text below it**

234 I note that the above recommendation does not alter the fact that there is nothing to prevent a planning application in respect of the proposed change of use of land or property relating to a failing or failed business.

**Policy TJ6 – Support for certain existing Employment Sites**

235 As above, the Neighbourhood Plan cannot direct the Local Planning Authority to grant or refuse planning permission.

236 I recommend:

- **Delete Policy TJ6**
- **Delete the supporting text above the Policy**

**Policy TJ7 – Commercial street scenes**

237 As noted earlier in this Report, Chapter 12 of the Framework sets out national policy in respect of the conservation of heritage assets.

238 The requirements set out in Policy TJ7 in respect of development in Conservation Areas introduce a level of detail that conflicts directly with national policy, which requires that heritage assets be safeguarded in a manner appropriate to their significance. Notwithstanding that there is no national or local policy requirement for it to do so, there is no substantive evidence to demonstrate that it would be viable, deliverable, or even desirable for all development to retain historic facades and restore original features in all cases.

239 However, the overall aim of Policy TJ7, to ensure that development respects heritage, and consequently, does have regard to national policy and I recommend:

- **Change Policy JT7 to “Policy TJ2. *Development within Conservation Areas should conserve or enhance heritage assets and their settings.*”**

**Policy TJ9 – Prevention of crime through design**

240 No Policy J8 appears in the Neighbourhood Plan.

241 Policy TJ9 effectively repeats the provisions of Neighbourhood Plan Policy H2 (which is the subject of recommendations earlier in this Report).

242 I recommend:

- **Delete Policy TJ9**
- **Delete the supporting text above the Policy**



Tourism

243 The “*Community Aspiration*” set out on page 25 does not read as an aspiration but as a set of requirements stating what Torbay Council should do. The Neighbourhood Plan cannot impose obligations on Torbay Council and the “*Community Aspiration*” thus appears misleading and is not supported by evidence to demonstrate that all of the requirements set out are achievable. As such, the inclusion of this section detracts from the clarity of the Neighbourhood Plan. I recommend:

- **Delete the fourth para on page 25 (“Community...”)**
- **Delete the “Community Aspiration” (including all bullet points, associated heading and intro sentence)**

**Policy TT1 – Limited period for Change of Use Tourism Properties within a CTIA**

244 Policy TT1 supports the change of use of any “*current business*” to mixed use, residential, tourism, retail, café or restaurant use for a five year period.

245 No evidence is provided to demonstrate that such a blanket approach would not result in support for inappropriate development. As such, the Policy fails to contribute to the achievement of sustainable development.

246 Further to the above, even if it was the case (and I am not suggesting that it is) that such an approach might be appropriate in every circumstance, then it is not clear why the Policy seeks to impose a five year time limit. No substantive evidence has been provided to justify the Policy being time-limited. There is nothing for example, explaining why it would only be important to support change of use for part of the plan period. Such an approach could prevent sustainable development from coming forward and there is no substantive evidence to the contrary.

247 I recommend:

- **Delete Policy TT1**
- **Delete the two paras of text immediately above the Policy**

**Policy TT2 – Change of use constraints within a CTIA**

248 Policy TT2 seeks to enhance the character of the CTIA. As worded, the Policy is imprecise – no indication “ is provided of what an “*other established tourism area*” might be – and it runs the risk of pre-determining the planning application process through the inclusion of the phrase “*shall not be permitted.*”

249 However, the aims of the Policy in respect of the Core Tourism Investment Areas (CTIAs) appear to be in general conformity with Local Plan Policy TO1, “*Tourism, events and culture,*” which seeks to enhance the character of CTIAs.

250 Taking the above into account, I recommend:

- **Change Policy TT2 to “*Policy TT1. Change of use from tourism accommodation within a CTIA to HMO or student halls of residence or hostel type accommodation will not be supported.*”**
- **Change title of Policy TT2 to that shown above (“Change of...”)**

**Policy TT3 – Change of Use of Tourism Properties outside CTIAs**

251 The Neighbourhood Plan relies on windfall sites to provide for sustainable housing growth. To some degree, Policy TT3 provides for this, by supporting the change of use of tourist accommodation outside CTIAs to residential use.

252 However, as set out, Policy TT3 seeks to introduce various restrictions based upon the size and location of tourism properties without demonstrating the impact that this might have on the delivery of housing growth. Consequently, it is not possible to fully understand how the Policy might prevent necessary, sustainable development from coming forward.

253 Further to the above, I am mindful that Local Plan Policy TO2 already provides a positive and detailed policy framework in respect of the change of use of holiday accommodation.

254 I recommend:

- **Delete Policy TT3**

**Policy TT4 – Change of use in Conservation Areas and Listed Buildings**

255 In seeking to introduce a presumption in favour of the change of use of a Listed Building, Policy TT4 does not have regard to national policy in respect of safeguarding heritage assets in a manner appropriate to their significance, as set out in Chapter 12 of the Framework.

256 In addition to the above, the Policy refers to the retention of existing development – which is not something that necessarily requires planning permission. This introduces unnecessary confusion into the Neighbourhood Plan.

257 I recommend:

- **Delete Policy TT4**
- **Delete the supporting text above the Policy**

258 Pages 27 and 28 include “*Community Aspirations*” which read as though they comprise requirements to be imposed on Torbay Council. I recommend:

- **Page 27, take the first Community Aspiration out of the box and remove the bold font. Change wording to “*The Neighbourhood Forum would like to encourage Torbay Council to serve run-down sites within tourism areas with Section 215 notices...*”**
- **Page 27 take the second Community Aspiration out of the box and remove the bold font. Change wording to “Community Aspiration. *The community would like to see, and where possible will work towards enabling the following: \* The harbour...*”**
- **Page 27/28 delete the third aspiration (“The primary...”) which reads as though it comprises a policy requirement, which it is not**

**Policy TT5 – Change of use constraints on Babbacombe Downs CTIA**

259 Local Plan Policy TO1, "*Tourism, events and culture*," establishes that CTIAs comprise main areas for investment in tourism.

260 Policy TT5 promotes a change of use away from tourism uses and is not in general conformity with the Local Plan. Further, no evidence is provided to demonstrate that residential development can or will provide retail and/or cafes and restaurants, having regard to Paragraph 173 of the Framework. Also, the term "*heritage characteristics*" is not defined and leads the Policy to appear imprecise.

261 I recommend:

- **Delete Policy TT5**



**Policy TT6 – Oddicombe Beach**

262 No information is provided to establish precisely what the “*Oddicombe Beach area*” comprises.

263 The Policy does not define “*new facilities*” and it is not clear, in the absence of any substantive evidence, why the development of car parks and development within the footprints of existing buildings would comprise sustainable development.

264 Also, “*historic nature*” is not defined. It comprises an imprecise term and no indication is provided of how a development might complement the natural environment of the area.

265 The Policy is not precise and it fails to provide a decision maker with a clear indication of how to react to a development proposal.

266 I recommend:

- **Delete Policy TT6**

267 Pages 28 and 29 include two “*Community Aspirations for the Council.*” It is not the role of the Neighbourhood Plan to set out Community Aspirations to direct Torbay Council.

268 Page 29 sets out two “*Community Aspirations*” and these require an appropriate introduction to ensure that they are presented as aspirations. I recommend:

- **Page 28 and top of page 29, delete the two “Community Aspirations for the Council”**
- **Page 29, take the two Community Aspirations out of the boxes remove the bold font. Change wording after the first Community Aspiration title to “*The community would like to see, and where possible will work towards enabling the following: \* Support positive...*”**
- **Change wording after the second Community Aspiration title to “*The community would like to see, and where possible will work towards enabling the following: \*Create a gateway...*”**

Environment

**Policy TE1 – Protection of SSSI**

269 Sites of Special Scientific Interest (SSSIs) are protected by law. Also, Local Plan Policy NC1, "*Biodiversity and geodiversity*," establishes that development that would have an adverse impact on such sites will not normally be permitted.

270 Policy TE1 seeks to provide for specific forms of new development within SSSIs thus introducing an inflexible approach that is not in general conformity with the Local Plan.

271 I recommend:

- **Delete Policy TE1**
- **Delete last sentence of supporting text above Policy**

**Policy TE2 – Protection of the Countryside and Undeveloped Coastal Areas**

272 National policy supports a range of appropriate development outside urban areas and in taking this into account, Local Plan Policy C1, *“Countryside and the Rural Economy,”* sets out the various kinds of development that may be permitted in the countryside

273 Policy TE2 seeks to preclude development that the Local Plan states may be permitted. Policy TE2 is not in general conformity with the Local Plan and no substantive evidence is provided to justify the conflict identified.

274 I recommend:

- **Delete Policy TE2**
- **Delete supporting text above Policy**

**Policy TE3 – Tourism Accommodation on Greenfield sites**

275 National policy supports:

*“...sustainable rural tourism and leisure developments that benefit businesses in rural areas, communities and visitors and which respect the character of the countryside.”* (Paragraph 28, the Framework)

276 Policy TE3 seeks to impose a presumption against tourism development on greenfield site. This fails to have regard to national policy. No substantive evidence is provided to demonstrate that Policy TE3 contributes to the achievement of sustainable development.

- **Delete Policy TE3**
- **Delete supporting text**

## **Policy TE4 – Local Green Space**

277 Local communities can identify areas of green space of particular importance to them for special protection. Paragraph 76 of the Framework states that:

*“By designating land as Local Green Space local communities will be able to rule out new development other than in very special circumstances.”*

278 Consequently, Local Green Space is a restrictive and significant policy designation. The Framework requires the managing of development within Local Green Space to be consistent with policy for Green Belts. A Local Green Space designation therefore provides protection that is comparable to that for Green Belt land.

279 National policy establishes that:

*“The Local Green Space designation will not be appropriate for most green areas or open space.”* (Paragraph 77)

280 Thus, when identifying Local Green Space, plan-makers should demonstrate that the requirements for its designation are met in full. These requirements are that the green space is in reasonably close proximity to the community it serves; it is demonstrably special to a local community and holds a particular local significance; and it is local in character and is not an extensive tract of land. Furthermore, identifying Local Green Space must be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services.

281 Part of Policy TE4 seeks to designate 100 areas of Local Green Space. Whilst this might seem like a lot of areas, I note earlier in this Report that the Neighbourhood Area covers a wide and varied geographical area and that it is home to a lot of people. Further, there is no restriction on the number of areas of Local Green Space that a Neighbourhood Plan can designate.

- 282 With the exception of two sites, it has been demonstrated that each of the areas designated meet the requirements of the Framework, as set out above.
- 283 Whilst Torbay Development Agency objected to the designation of all areas of Local Green Space, no substantive evidence was provided in respect of the contention that all of the designations are not consistent with the local planning of sustainable development. I note earlier in this Report that Torbay Council supports and welcomes the housing land allocations in the Neighbourhood Plan, as they support the growth strategy for Torbay.
- 284 However, evidence has been submitted to demonstrate that the proposed designation at Nightingale Park (TLGSS11) would conflict with Local Plan designations for development and that the proposed Local Green Space at Newton Road (TLGSS6) could constrain the possible future delivery of Edginswell Station, next to the Future Growth Area.
- 285 The proposed designation at Nightingale Park is not in general conformity with the Local Plan and is inconsistent with the local planning of sustainable development. Designation of the site as a Local Green Space would place a significant obstacle in the way of delivering development promoted in the adopted Local Plan and no substantive evidence has been presented to the contrary. The designation does not meet the tests set out in the Framework.
- 286 Whilst there is uncertainty in respect of the development of a new railway station at Edginswell, I note that its delivery, were it to come to pass, would relate to an important Future Growth Area and could provide significant opportunities for sustainable patterns of movement. However, there is no substantive evidence before me to demonstrate that the designation of land at Newton Road as Local Green Space would necessarily restrict the scope for the creation of a successful new rail link. Furthermore, the delivery of a new railway station and related features may, in themselves, comprise very special circumstances – which the Local Green Space designation allows for. I take this into account in the recommendations below.
- 287 During the Public Hearing it was established that the boundary relating to the proposed Local Green Space at Teignmouth Road was incorrectly drawn and I make a recommendation in this regard below.



288 As worded, Policy TE4 does not have regard to Paragraph 76 of the Framework, which rules out development of Local Green Space other than in very special circumstances and I make a recommendation in this regard below. National policy does not refer to “*exceptional*” circumstances and again, I recommend changes to take account of this.

289 As above, the Local Green Space designation is very important. Given this, rather than append the list of areas of Local Green Space, I recommend that it be included, along with an indicative plan, within the Neighbourhood Plan itself. Given the number of deletions recommended in this Report, I note that the Local Green Space Policy will become one of, if not the, most important land use planning Policies in the Neighbourhood Plan and it is therefore important that it is clearly presented.

290 Also, some of the supporting text does not relate to Policy TE4 and taking this and all of the above into account, I recommend:

- **Change Policy TE4 to “*Policy TE1. The areas listed below, indicated on the accompanying plan and shown in detail on the Neighbourhood Plan Policies Maps, are designated as areas of Local Green Space, where development is ruled out, other than in very special circumstances.*”**

*Very special circumstances may include the provision of a new railway station at Edginswell and the provision of a new structure providing a café, beach facilities and toilets at Hollicombe Park.”*

- **Delete the Local Green Space at Nightingale Park**
- **Provide a Table showing the Map reference number (LGS1 to LGS99) and name of each Local Green Space (do not include “*Community Partnership*”) following the Policy**
- **Provide an indicative plan showing the location (not the boundary) of each site, linked to numbering in the Table above, following the Policy**
- **Retain the Local Green Space boundaries on the Policies Maps but change the references to relate to LGS1-LGS99**
- **Change the boundary of the Local Green Space at Teignmouth Road in accordance with the representation made by the landowner**

- **Supporting text, page 31, delete “The sites are listed...Maps 1 to 19.”**
- **Page 31, penultimate para, delete “rather indicative of a change to how these areas are managed in the future.” Policy TE4 does not refer to site management**
- **Page 32, delete the two paras of supporting text above the Policy, which are confusing and unnecessary**

**Policy TE5 – Green Infrastructure Delivery Plan**

291 The Torbay Green Infrastructure Delivery Plan 2010 provides guidance. It does not provide adopted planning Policies and it is unclear, in the absence of any evidence-based justification why all development must conform with this guidance, or how such an approach would meet the requirements of Paragraph 173 of the Framework in respect of deliverability and viability.

292 I recommend:

- **Delete Policy TE5**
- **Replace with a new *“Community Aspiration. The Neighbourhood Forum would like to highlight the importance to the community of the Torbay Green Infrastructure Delivery Plan 2010 and would like to see its provisions taken into account wherever possible.”***
- **Page 32, delete last sentence of supporting text (“There are many..”)**
- **Page 33 take the Community Aspiration out of the box and remove the bold font. After “Community Aspiration” add *“The community would like to see the following: \* Improve...”***

**Policy TE6 – Development on Established Woodland**

- 293 National policy seeks to contribute to and enhance the natural environment and seeks to minimise impacts on biodiversity and provide net gains in biodiversity where possible.
- 294 Subject to the recommendations below, Policy TE6 is a positive Policy that seeks to protect woodland as a resource, having regard to national policy. As such the Policy contributes to the achievement of sustainable development.
- 295 The two Community Aspirations below Policy TE6 read as though they comprise Policy requirements, which they do not. I recommend:
- **Change Policy TE6 to “*Policy TE2. Development on established woodland will not be supported unless it is related to the sustainable management of that woodland and/or improved public access.*”**
  - **Below Policy TE6, delete the two Community Aspirations and the single para of supporting text located between them**

**Policy TE7 – Green Corridors**

- 296 Policy TE7 is confusingly worded. It appears to require all greenfield development to provide green corridors and green links to watercourses, agricultural land, woodland or hedgerows, wherever such exist on land within or bordering the site, and to link these to facilitate the movement of wildlife.
- 297 However, no substantive evidence is provided to demonstrate that the provisions of the Policy are viable and deliverable, having regard to Paragraphs 173 and 201 of the Framework, in respect of viability, deliverability, necessity and being directly and fairly related to development.
- 298 Further to the above, the phrase “*suitable and appropriate*” is vague and imprecise and does not provide a decision maker with a clear indication of how to react to a development proposal.
- 299 However, notwithstanding the above, part of the intention set out has regard to the Framework's promotion of biodiversity and I recommend:
- **Change Policy TE7 to “*Policy TE3. Greenfield development should, where deliverable and viable, support the provision and/or enhancement of green infrastructure through the provision of green corridors and/or links to existing green infrastructure, to facilitate the natural movement of wildlife.*”**
  - **Delete the second sentence of the supporting text above Policy TE 7 (“To help...Plan”)**

**Policy TE8 – Protected species, habitats and biodiversity - general**

300 Policy TE8 seeks to impose a requirement for any new housing or commercial development on an unallocated site to demonstrate “*no negative impact*” on any habitat. The Policy then goes on to conflict with itself by suggesting that development should provide “*mitigating arrangements.*”

301 Consequently, the Policy does not provide for the balanced consideration of a development proposal, whereby any harm arising can be considered against any benefits. It does not contribute to the achievement of sustainable development. Further, the conflict within the Policy leads it to appear unclear and results in a Policy which does not provide a decision maker with a clear indication of how to react to a development proposal.

302 I recommend:

- **Delete Policy TE8**

**Policy TE9 – European Protected Species**

- 303 Policy TE9 requires the submission of independent assessments without any indication of who might pay for such. This part of the Policy does not have regard to the Framework in respect of viability and deliverability. The Policy also seeks to direct the Local Planning Authority to impose conditions and this is something beyond the scope of the Neighbourhood Plan.
- 304 Further to the above, the Policy sets out requirements in respect of matters of detail without providing any detailed justification for such. For example, there is no indication of precisely why light levels from development must be below 0.5 lux or the precise locations within which these requirements would need to be met. The Policy also sets out a requirement for the provision of a protected buffer zone, but it does not provide any substantive evidence in respect of the precise boundaries of such.
- 305 There are also legal requirements in respect of European obligations and taking these and the above into account, I recommend:
- **Replace the text of Policy TE9 with “*Development within the Edginswell Future Growth Area or the Maidencombe area (including Sladnor Park) must have a Habitats Regulations Assessment as appropriate.*” (delete rest of Policy)**
  - **Supporting text, page 34, delete the last three paras (“A landscape...determined.”)**



**Policy TE10 – Marine Management Planning**

306 Marine Management Licensing Requirements and Regulations are not a land use planning matter.

307 I recommend:

- **Delete Policy TE10**
- **Delete supporting text above Policy**

Health and Wellbeing

**Policy THW1 – Travel Plans**

308 The Neighbourhood Plan cannot direct the Local Planning Authority to impose conditions, nor place obligations on Torbay Council and its Councillors.

309 I recommend:

- **Delete Policy THW1**

310 The first and fourth Community Aspirations on page 36 require an appropriate introduction and the second and third Community Aspirations read as though they comprise Policy requirements, which they do not. The first Community Aspiration on page 37 requires an appropriate introduction and the last one reads as though it comprises a Policy requirement, which it does not. I recommend:

- **Page 36, delete “Principles” after first Community Aspiration title and add, “*The community would like to see and where possible, encourage the following: \* Provide...*”**
- **Delete the second and third Community Aspirations on page 36**
- **Change text after the title of the fourth Community Aspiration to “*The community would like to encourage and enable more...*”**
- **Remove the box and bold font from the Community Aspirations to be retained on pages 36 and 37**
- **Page 37, replace first sentence of text after first Community Aspiration title with “*The community would like to see and will seek to encourage the use of open space for recreation and play being promoted by the following principles: \* Retain...*”**

### **Policy THW2 – Allotments**

- 311 The Framework requires planning policies to plan positively for the provision and use of shared space and community facilities (Paragraph 70) and to some degree, Policy THW2 has regard to this by seeking to protect allotments.
- 312 However, no examples of any existing community food production areas are provided, so it is unclear how these can be protected. Furthermore, the definition provided would include all areas of food producing farmland and there is no evidence that the blanket protection of such would have regard to national policy or contribute to the achievement of sustainable development.
- 313 Neither national nor local policy requires the blanket protection of high quality agricultural land and the Neighbourhood Plan provides no substantive justification for limiting the use of land to agriculture or food production.
- 314 Policy THW2 seeks to prevent loss of existing allotments. This has regard to Paragraph 70 of the Framework. Whilst the approach set out in the recommendation below is more stringent than that in Local Plan Policy SC4, it is, I consider that, in this case, the strong local demand and community support for the approach justifies a slightly different approach in the Neighbourhood Area.
- 315 I recommend:
- **Change Policy THW2 to “*The change of use of existing allotments will not be supported.*” (Delete rest of Policy)**
  - **Change title of Policy to that set out above**
  - **Change supporting text above Policy to “*There is high demand for allotments and the Policy below supports their retention.*”**

**Policy THW3 – Community Facilities**

316 The Neighbourhood Plan considers that Community Hub Facilities include, as a minimum, a food shop, a Post Office and a Doctor's Surgery or Pharmacy. Policy THW3 requires all developments of more than 20 residential units to provide Community Hub Facilities, or for 50% of dwellings to be within 400 metres or less of such facilities.

317 No substantive evidence has been provided to justify the onerous requirements of Policy THW3. In the absence of information to the contrary, the Policy does not have regard to the Framework, in respect of viability and deliverability, or being necessary or fairly and reasonably related in scale and kind to development.

318 The local community partnership does not possess "*express consent*" powers, as referred to in the Community Aspiration below Policy THW3.

319 I note that national policy supports the provision of community facilities and taking this and the above into account, I recommend:

- **Change Policy THW3 to "*The provision of new community facilities will be supported.*"**
- **Delete the supporting text above Policy TWH3, which reads as though it comprises a Policy, but does not**
- **Change title of Policy to that shown above**
- **Page 37 delete second Community Aspiration (last box on page "*No public right of way...*")**

**Policy THW4 – Outside Space Provision**

- 320 Local Plan Policy DE3, "*Development Amenity*," seeks to provide for and protect residential amenity.
- 321 Policy THW4 provides for minimum areas of outside space and is in general conformity with the Local Plan, other than it is unclear in respect of why open space standards for flats can be ignored if the flats are located near to green space or the coastline. The existence of green space and the coastline is not the same thing as accessible outside space and as set out, the Policy does not contribute to the achievement of sustainable development.
- 322 Taking the above into account, I recommend:
- **Policy THW4, delete "unless it is within an easy walk of a public access green space or the coastline."**
  - **Supporting text above Policy, delete "or access to public green spaces or the coastline."**

**Policy THW5 – Access to sustainable transport**

323 Policy THW5 is a restrictive Policy. There is no substantive evidence to demonstrate that its provisions have been considered against all allocations for residential development in Torquay. Consequently, in the absence of evidence to the contrary, it cannot be concluded that Policy THW5 contributes to the achievement of sustainable development. Rather, the Policy appears to place a barrier in the way of the delivery of allocated development sites and prevents sustainable growth.

324 I recommend:

- **Delete Policy THW5**

**Policy THW6 – Cycle Storage and Changing Facilities**

325 Policy THW6 imposes a requirement without regard to the Framework in respect of viability and delivery. Also, the Policy includes a vague reference to “*where reasonably possible*” and thus, it does not provide a decision maker with a clear indication of how to react to a development proposal, having regard to Paragraph 154 of the Framework.

326 However, the provision of cycling facilities may serve to contribute to the promotion of sustainable transport modes, having regard to Chapter 4 of the Framework, “*Promoting sustainable transport.*”

327 I recommend:

- **Change Policy THW6 to “*The provision of secure cycle storage and showers for staff as part of employment development, will be supported.*”**



Sport and Leisure

**Policy TSL1 – Alpine Ski Facility**

328 Policy TSL1 is imprecise and confusing. The aim of the Policy, as set out in the supporting text, is to protect the Alpine Ski Facility. However, as set out the focus of the Policy is not the Facility itself.

329 The safeguarding of an important community sports facility has regard to Paragraph 73 of the Framework, which recognises the important contribution that opportunities for sport and recreation make to the health and well-being of communities.

330 I recommend:

- **Change Policy TSL1 to “*The loss of the Alpine Ski Facility will not be supported unless the facility is re-provided to the same, or a better standard, in an equally accessible location elsewhere in the Neighbourhood Area.*”**

331 In respect of the Community Aspirations on page 39 and 40 I recommend:

- **Change fourth para of supporting text on page 39 to “*We would also like the Council to provide long term...*”**
- **All Community Aspirations on pages 39 and 40, remove boxes and remove bold font**
- **Combine first two Community Aspirations (first column page 39) as “*The community would like to see Clubs working together to ensure their sustainability and would like the Council to provide long term leases at nominal rent for Council-owned facilities.*”**
- **Change next Community Aspiration (second column page 39) to “*The Community would like there to be a single...usable length to 25m could provide an interim step.*” And the one after that to “*The Community would like there to be a regional standard athletics track at Nightingale Park at the Willows.*”**

- Page 40, change second Community Aspiration to ***“The Community would like the Council to provide facilities and access to angling spots in conjunction with local clubs.”***
- Change third Community Aspiration on page 40 to ***“The Community would like there to be a new, purpose-built...track in an accessible location and existing facilities to be maintained to a safe standard.”***
- Delete line of text in the second column at the top of page 40 as well as the line of text under “Water Sports” in the same column. Also delete the four headings that follow (re: horse riding, tennis, bowls, water sports). Combine the five Community Aspirations into the following: ***“The Community would like there to be a good quality sustainable public access golf course in Torquay; horse riding opportunities in Torquay’s countryside; a tennis court with a range of public hire courts; and the provision of water sport opportunities.”***

**Policy TSL2 – Sport and Leisure – Nightingale Park**

332 Policy TSL2 is confusing and conflicts with itself. It requires not less than 50% of Nightingale Park to be used for a sports, leisure and recreational hub, but then seeks to limit any development to the provision of public access, changing facilities, landscaping and ancillary uses.

333 Notwithstanding the above, no substantive evidence is provided to justify the 50% figure, or the restriction on development uses. In any case, the Policy is not in general conformity with Local Plan Policy SC2, *“Sport, leisure and recreation,”* which establishes a flexible approach to the provision of sports facilities.

334 I recommend:

- **Delete Policy TSL2**

**Policy TSL3 – Sport and Leisure and Policy TSL4 – Sport and Leisure – Sports grounds and facilities**

335 Policy TSL3 is imprecise, as it fails to set out precisely which areas it seeks to protect for the purposes of sport and leisure. It also seeks to direct the Local Planning Authority in respect of the determination of planning applications and is inflexible to the point that it is not in general conformity with Local Plan Policy SC2 (referred to in Policy TSL2, above).

336 However, the clear intent of the Policy is to protect sports facilities having regard to Paragraph 73 of the Framework.

337 Similarly to Policy TSL3, Policy TSL4 seeks to protect sports facilities, having regard to the Framework, but is worded in a way that directs the Local Planning Authority in respect of the determination of planning applications (and runs the risk of pre-determining the application process by doing so).

338 I recommend:

- **Combine Policies TSL3 and TSL4 to create a new Policy: “*Policy TSL2. The loss of the sports and recreational facilities at Torquay Valley of Sport, Torquay Sports Cluster and Upton Park (as shown on the plans below) and/or the loss of any other existing playing or sports fields will not be supported, unless replaced by equal or better facilities in equally or more easily accessible locations in the Neighbourhood Area.*”**
- **Provide a new plan, or plans, below the Policy showing the precise boundary of the sports and recreational facilities identified in the Policy (only) to be protected.**

## Transport

### **Policy TTR1 – Access to Primary Schools**

339 Policy TTR1 seeks to prevent all residential development of more than 20 units unless a new primary school will be constructed within “an easy walk” of 80% of homes, or it can be shown that there are sufficient school places available.

340 The Policy fails to have regard to national policy, which states that:

*“The Government attaches great importance to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities. Local planning authorities should take a proactive, positive and collaborative approach to meeting this requirement...They should give great weight to the need to create, expand or alter schools...”* (Paragraph 72, the Framework).

341 Policy TTR1 sets out an inflexible approach that fails to have regard to Paragraphs 173 and 204 of the Framework in respect of viability, deliverability and planning obligations. No substantive evidence is provided to demonstrate that the requirements of the Policy have been tested against the requirements of the adopted Local Plan and in the absence of such evidence, the Policy places a major obstacle in the way of providing for sustainable growth.

342 I recommend:

- **Delete Policy TTR1**
- **Delete heading and para of text above the Policy**

**Policy TTR2 – Sustainable Communities**

343 Policy TTR2 effectively repeats the requirements set out in Policy THW5. As a consequence, Policy TTR2 appears as a highly restrictive Policy. It is unsupported by substantive evidence to demonstrate that its provisions have been considered against all greenfield allocations for residential development in Torquay.

344 In the absence of evidence to the contrary, it cannot be concluded that Policy THW5 contributes to the achievement of sustainable development. Rather, the Policy places a barrier in the way of the delivery of allocated development sites and prevents sustainable growth.

345 I recommend:

- **Delete Policy TTR2**
- **Delete the para of supporting text above the Policy**

**Policy TTR3 – Potential Park and Ride or Helipad Facility**

346 Policy TTR3 seeks to direct the Local Planning Authority to impose conditions. Furthermore, the requirements set out are not supported by any substantive evidence to demonstrate that they are viable and deliverable, having regard to Paragraph 173 of the Framework. As an aside, I note that there is no substantive evidence to demonstrate that the requirements meet the relevant tests for planning conditions, set out in Paragraph 206 of the Framework.

347 I recommend:

- **Delete Policy TTR3**

348 A number of “*Community Aspirations*” are set out on pages 42 to 44. I recommend:

- **All Community Aspirations on pages 42 to 44, remove boxes and remove bold font**
- **Page 42, delete heading “Town centre and harbour area” and combine the two Community Aspirations. Underneath the Community Aspiration title add “*The community would like to see the following: \* Entry...- a review of the traffic light system and better interconnection...*”**
- **Page 43, under first Community Aspiration heading add “*The community would like to see the following: \* Clearer signage for entry into...*”**
- **Page 43, delete text under “Harbour area” which reads like a Policy requirement**
- **Page 43, second Community Aspiration, add “*The community would like to see: \* The Strand...*”**
- **Page 43, top of second column, add “*The community would like to see a situation whereby: \* Cars and Buses...*”**



- Page 43 second column, change to *“The community would like to see the routes of buses...terrain being maintained...”*
- Delete para of text at end of Page 43 (*“A potentially...adjoining sites.”*)
- Add to first Community Aspiration on Page 44, *“The community would like to encourage actions which: \* Maximise...”*
- Delete the next two “Community Aspirations” which read as a combination of statements and Policy requirements.
- Delete last Community Aspiration, which seeks to place an obligation on Torbay Council (*“The Hele...”*)

## **8. The Neighbourhood Plan: Other Matters**

349 The remaining sections of the Neighbourhood Plan do not contain any Policies. They present many "*Community Aspirations*" the majority of which appear as Policy requirements, or statements that something will happen, without any evidence to demonstrate that this will be the case. As such, unlike the Community Aspirations recommended for retention in the main body of the Neighbourhood Plan and which relate to associated land use Policies, pages 45 to 72 appear to detract from the clarity and precision of the Neighbourhood Plan.

350 I recommend:

- **Delete pages 45 to 72**

351 In making the above recommendation, I note that some of the information provided might form the basis for future plans or documents and this is a matter for the Neighbourhood Forum to consider. However, the Community Partnership section is introduced by a statement that the information supports "*the overall development of Torquay,*" which is not the case.

352 Taking the above into account, I consider that simply moving the information, as set out, to the Appendices would result in a transfer of confusing and potentially misleading information from one place to another.

353 The Policies Maps should form part of the Neighbourhood Plan itself, rather than be appended.

354 I recommend:

- **Provide the Policies Maps at the end of (but within) the Neighbourhood Plan and ensure that these are referenced on the Contents page**

- **For clarity, the Key and Maps should show areas of Local Green Space, Neighbourhood Plan Housing Allocations, Local Plan Housing, Village Envelopes (as defined by the adopted Local Plan), CTIAs, and the Edginswell Future Growth Area. For clarity, the Key and Maps should show the Neighbourhood Area (but not Community Partnership Areas – which are not a land use policy matter)**

355 The recommendations made in this Report will have a subsequent impact on Contents, Tables, Plans and page/Policy numbering.

356 I recommend:

- **Update the Contents, Tables, Plans and page/Policy numbering, taking into account the recommendations contained in this Report.**

## **9. Referendum**

357 I recommend to Torbay Council that, subject to the modifications proposed, **the Torquay Neighbourhood Plan should proceed to a Referendum.**

### **Referendum Area**

358 I am required to consider whether the Referendum Area should be extended beyond the Torquay Neighbourhood Area.

359 I consider the Neighbourhood Area to be appropriate and there is no substantive evidence to demonstrate that this is not the case.

360 Consequently, I recommend that the Plan should proceed to a Referendum based on the Torquay Neighbourhood Area approved by Torbay Council and confirmed by public notice on the 7<sup>th</sup> December 2017.

**Nigel McGurk, July 2018**  
**Erimax – Land, Planning and Communities**



## **Appendix 2:**

### **Decision Statement Table: Torquay Neighbourhood Plan**

#### **Assessment of Examiner's Report**

##### **Background**

This Appendix provides a more detailed officer assessment of the Examiner's Modifications and the LPA's Decision Statement.

All written representations were provided to the Examiner along with the submitted plan and associated documents. As part of the examination, Mr McGurk held a public hearing at the Imperial Hotel, Parkhill Road, Torquay on 14<sup>th</sup> May 2018. The final report was received by the Council on 10<sup>th</sup> July 2018. The report was published on the Council's website.

The conclusion of the report was that the Plan should proceed to referendum, with modifications recommended by the Examiner.

<b>Submitted Plan Reference</b>  (i.e. policy, supporting text, paragraph, section or other matter contained within the plan)	<b>Examiner's Recommended Modification</b>  (Note: only summarised below, see Examiner's report for more information)	<b>Examiner's Reason(s)</b>  (Note: only summarised below, see Examiner's report for more information)	<b>Council Decision and Reason</b>  (Required action to take in respect of Examiner's recommended modification and reason)	<b>Outcome to Submitted Plan</b>  (Note: only summarised below, all outcomes are incorporated in full into the post examination plan with modifications in Appendix 3)
Neighbourhood Plan period	Throughout the Plan, change any references to the time period to take account that it should reflect 2012-2030, in common with the Local Plan.  (See Report page 6)	For clarity and precision.	<u>Decision</u> – As per the Examiner's recommended modification. Change time period references to reflect the period of the plan throughout the document, including but not limited to the front cover and the introductory section.  <u>Reason</u> – As per the Examiner's stated reason.	All time period references within the Plan now reflect and/or take account of the period covered by the plan, which is the same as the Local Plan (2012-2030).
Neighbourhood Area boundary	Provide the Appendix 1 plan (Neighbourhood Area boundary) contained in the Basic Conditions Statement within the Neighbourhood Plan.  (See Report page 15)	To satisfy Section 61G(1) of the Town & Country Planning Act 1990 (as amended).	<u>Decision</u> – As per the Examiner's recommended modification, add boundary map of designated area.  <u>Reason</u> – As per the Examiner's stated reasoning.	Neighbourhood Area boundary map now shown within the Introduction section on page 4 of the modified Plan.
Introductory Section	Amend wording of 'Foreword' and page 4;  Delete page 7 'Glossary';	For clarity and precision and to have regard to recommendations elsewhere in the report.	<u>Decision</u> – As per the Examiner's recommended modifications except for: - para 74 of the Examiner's Report, the recommended modification has been substituted for an alternative	All amendments included in the 'post examination Plan with modifications'.

	<p>Amend and delete wording on pages 8 &amp; 9;</p> <p>Add suffix “T” to all Policy numbers (as in this Statement).</p> <p>(Report pages 19-21)</p>	<p>To distinguish the Torquay Neighbourhood Plan policy numbering from the adopted Torbay Local Plan numbering.</p>	<p>minor change to have regard to modifications made elsewhere in the Plan as set out in this Decision Statement.</p> <ul style="list-style-type: none"> <li>- Para 78 of the Examiner’s Report, the recommended modification is made plus with further minor alterations to account for modifications made elsewhere in the Plan as set out in this Decision Statement with regards to the retention of Community Partnership Statements within an Appendix.</li> </ul> <p><u>Reason</u> – To meet the Basic Conditions requirement for there to be clarity and precision.</p>	
<p>Policy TS1: The Presumption in Favour of Development</p>	<p>Delete policy and supporting text.</p> <p>(Report pages 22-23)</p>	<p>Vague and inappropriate wording that seeks to direct the LPA and does not have regard to NPPF154. Incorrect information contained within supporting text.</p>	<p><u>Decision</u> - It is agreed that the submitted plan, in this regard, does not meet the Basic Conditions and it is understood that deleting this policy and the associated supporting text, as recommended by the Examiner, would allow the plan to meet the Basic Conditions. However, it is considered that a modified policy and associated supporting text, retaining the policies general intent, could be introduced and that this would enable the policy, as modified, to meet the Basic Conditions. It is considered that the proposed modification would meet the requirements of Section 61E of the Town and Country Planning Act 1990 (as amended). For this reason, amend policy wording and supporting text to meet Basic Condition requirements.</p>	<p>Modified policy title, wording and supporting text included in the ‘post examination Plan with modifications’.</p> <p>Now appears as TS1 – Sustainable Development</p>



			<p><u>Reason</u> – In order to overcome conflict with the Basic Conditions and correct errors, including as identified by the Examiner. This includes providing clarity on how a decision maker should react to a development proposal within the Neighbourhood Area and setting a positive framework for sustainable development, having regard to national guidance.</p> <p>Note that NPPF154 specifically applies to Local Plans, not Neighbourhood Plans. However, the principles also apply to Neighbourhood Plans as set out in Para 041 (PPG ID 41-041) of the Planning Practice Guidance (PPG).</p>	
Policy TS2: Definitions of Greenfield and Brownfield land	Delete policy, supporting text and Glossary heading.  (Report page 24)	Definition proposed, conflicts with national policy without justification and no substantive evidence to test impact would not harm delivery of sustainable development	<p><u>Decision</u> - It is agreed that the submitted plan, in this regard, does not meet the Basic Conditions and it is understood that deleting this policy and the associated supporting text, as recommended by the Examiner, would allow the plan to meet the Basic Conditions. However, it is considered that a modified policy and associated supporting text, retaining the policies general intent, could be introduced and that this would enable the policy, as modified, to meet the Basic Conditions. It is considered that the proposed modification would meet the requirements of Section 61E of the Town and Country Planning Act 1990 (as amended). For this reason, amend policy wording and supporting text to meet Basic Condition requirements.</p> <p>Specifically, relate definition of brownfield</p>	<p>Policy and associated text deleted and does not appear in the 'post Examination Plan with modifications'</p> <p>Modified policy appears as TS4 Support for Brownfield and Greenfield Development</p>

			<p>land in the supporting text to that which is directly specified in the NPPF. Provide modified policy which retains the intent of the policy that brownfield development should be supported in preference to greenfield development,</p> <p><u>Reason</u> – In order to overcome conflict with the Basic Conditions, as identified by the Examiner.</p>	
Policy TS3: Master Plans	<p>Delete policy and supporting text.</p> <p>(Report page 25)</p>	Confusing when considered against the supporting text and contains unlawful elements.	<p><u>Decision</u> - Retain the policy with modified wording and supporting text to provide clarity. It is agreed that the submitted plan, in this regard, does not meet the Basic Conditions and it is understood that deleting this policy and the associated supporting text, as recommended by the Examiner, would allow the plan to meet the Basic Conditions. However, it is considered that a modified policy and associated supporting text, retaining the policies general intent, could be introduced and that this would enable the policy, as modified, to meet the Basic Conditions. It is considered that the proposed modification would meet the requirements of Section 61E of the Town and Country Planning Act 1990 (as amended). For this reason, amend policy wording and supporting text to meet Basic Condition requirements.</p> <p><u>Reason</u> – In order to overcome conflict with the Basic Conditions and correct errors, including as identified by the Examiner.</p>	<p>Modified policy wording and supporting text included in the 'post examination Plan with modifications'</p> <p>Modified policy appears as Policy TS2 – Master Plans</p>

Policy TS4: Community led planning	Amend policy title, number and wording.  Amend supporting text.  (Report page 26)	To accord with a consultation approach that has regard to national guidance and law.	<u>Decision</u> - As per the Examiner's recommended modification.  <u>Reason</u> - As per the Examiner's stated reasoning.	Modified policy wording and supporting text included in the 'post examination Plan with modifications'  Modified policy appears as Policy TS4 - Community led planning
Policy TH1: Allocation of housing sites and revisions to the Local Plan	Amend policy wording; delete one housing site  Provide a new Table and plan of sites allocated by the Neighbourhood Plan. Amend page 12 supporting text.  (Report pages 27-29)	The policy is confusing and not wholly consistent with national policy and guidance  Not the role of a Neighbourhood Plan to allocate land already allocated.  Delete 'Kwik Fit' site as it is unavailable for development.	<u>Decision</u> – As per the Examiner's recommended modification plus further minor amendments of policy title, supporting text and table to reflect those changes, wider plan modifications and correct minor errors in numbering and site name classifications within table. Decision was taken not to provide a further map within the written document of the housing sites as these are already shown with clarity on the Policies Maps.  <u>Reason</u> - to provide clarity and precision having regard to national guidance (PPG ID 41-042)	All amendments included in the 'post examination Plan with modifications'.  Modified policy appears as TH1 - Housing Allocations
Policy TH2: Designing out crime	Amend policy wording.  (Report page 30)	As worded the policy appears vague and ambiguous.	<u>Decision</u> - As per the Examiner's recommended modification.  <u>Reason</u> - As per the Examiner's stated reasoning plus to provide clarity having regard to national guidance (PPG ID41-042)	Policy retained with amended policy wording in the 'post examination Plan with modifications'.  Modified policy appears as Policy TH2 – Designing out crime
Policy TH3:	Delete policy and related text.	Wording conflicts with NPPF173 and Local Plan Policy H2 in regard to viability and also does	<u>Decision</u> - It is agreed that the submitted plan, in this regard, does not meet the Basic Conditions and it is understood that deleting	Modified policy title, wording and supporting text included in the 'post

Future Growth Area viability exclusions	(Report page 31)	not contribute to the achievement of sustainable development.	<p>this policy and the associated supporting text, as recommended by the Examiner, would allow the plan to meet the Basic Conditions. However, it is considered that a modified policy and associated supporting text, retaining the policies general intent, could be introduced and that this would enable the policy, as modified, to meet the Basic Conditions. It is considered that the proposed modification would meet the requirements of Section 61E of the Town and Country Planning Act 1990 (as amended). For this reason, amend policy wording and supporting text to meet Basic Condition requirements.</p> <p><u>Reason</u> – In order to overcome conflict with the Basic Conditions, as identified by the Examiner. Including to contribute to the achievement of sustainable development and be consistent with national policy and be in general conformity with the Local Plan.</p> <p>NPPF173 relates to deliverability in terms of viability of a Local Plan but PPG ID41-005 makes it clear that this also applies to neighbourhood planning</p>	<p>examination Plan with modifications’.</p> <p>Modified policy appears as TH3 – Future Growth Area viability priorities</p>
Policy TH4: Affordable homes from Greenfield developments	<p>Delete policy;</p> <p>Amend supporting text.</p> <p>(Report page 32)</p>	Lack of substantive evidence to justify approach. Less clear than Local Plan and not in general conformity with Policy H2, Does not have full regard to national guidance	<p><u>Decision</u> - It is agreed that the submitted plan, in this regard, does not meet the Basic Conditions and it is understood that deleting this policy and amending the associated supporting text, as recommended by the Examiner, would allow the plan to meet the Basic Conditions. However, it is considered that a modified policy and associated</p>	<p>Modified policy wording and supporting text included in the ‘post examination Plan with modifications’.</p> <p>Modified policy appears as TH4 – Affordable</p>

			<p>supporting text, retaining the policies general intent, could be introduced and that this would enable the policy, as modified, to meet the Basic Conditions. It is considered that the proposed modification would meet the requirements of Section 61E of the Town and Country Planning Act 1990 (as amended). For this reason, amend policy wording and supporting text to meet Basic Condition requirements.</p> <p><u>Reason</u> – In order to overcome conflict with the Basic Conditions, as identified by the Examiner.</p>	homes from greenfield developments
Policy TH5: Affordable housing occupancy restrictions	<p>Delete policy and supporting text;</p> <p>Delete 'Community Aspiration'.</p> <p>(Report page 33)</p>	Fails to contribute to achievement of sustainable development.	<p><u>Decision</u> - As per the Examiner's recommendation.</p> <p><u>Reason</u> - As per the Examiner's stated reasoning.</p>	Policy and associated text deleted and does not appear in the 'post Examination Plan with modifications'
Policy TH6: Sustainable later life homes	<p>Delete policy.</p> <p>(Report page 34)</p>	Appears restrictive and a risk to achieving sustainable development.	<p><u>Decision</u> - It is agreed that the submitted plan, in this regard, does not meet the Basic Conditions and it is understood that deleting this policy, as recommended by the Examiner, would allow the plan to meet the Basic Conditions. However, it is considered that a modified policy and associated supporting text, retaining the policies general intent, could be introduced and that this would enable the policy, as modified, to meet the Basic Conditions. It is considered that the proposed modification would meet the requirements of Section 61E of the Town and Country Planning Act 1990 (as</p>	<p>Modified policy, wording and supporting text included in the 'post examination Plan with modifications'.</p> <p>Modified policy appears as TH5 – Sustainable later life homes</p>

			<p>amended). For this reason, amend policy wording and supporting text to meet Basic Condition requirements.</p> <p><u>Reason</u> – In order to overcome conflict with the Basic Conditions, as identified by the Examiner.</p> <p>Encouraging sustainable locations for accommodation designed for needs of the elderly or who are frail has regard to national policy, contributes to achievement of sustainable development and is in general conformity with the strategic policies of the Local Plan.</p>	
Policy TH7: Retirement and assisted living	Delete policy and supporting text; (Report page 35)	As worded it creates a presumption in favour of potentially inappropriate development that would not contribute to achievement of sustainable development and is not in general conformity with the Local Plan	<p><u>Decision</u> - As per the Examiner's recommended modification but some supporting text retained.</p> <p><u>Reason</u> – As per the Examiner's recommended modification. Some supporting text retained to support the retained Policy TH6 Sustainable later life homes</p>	Policy and some associated supporting text deleted and does not appear in the 'post Examination Plan with modifications'.
Community Infrastructure Levy (Page 16)	Amend presentation and wording of these stated 'Community Aspirations'. (Report page 36)	Could be confused with Policies.	<p><u>Decision</u> - As per the Examiner's recommended modification.</p> <p><u>Reason</u> – As per the Examiner's stated reasoning.</p>	All amendments included in the 'post examination Plan with modifications'.
Policy TH8:	Delete policy.	Not in general conformity with the Local Plan, lacks substantive	<u>Decision</u> - As per the Examiner's recommended modification.	Policy and associated text deleted and does

Prioritisation of Town Centre redevelopment and Brownfield sites	(Report page 37)	evidence, and without due regard to the NPPF,	<u>Reason</u> - As per the Examiner's stated reasoning.	not appear in the 'post Examination Plan with modifications'
Policy TH9: Homes for Torbay residents	Delete policy. (Report page 38)	Lack of evidence provided to support such restrictive requirements which would exceed national and local policy requirements. Fails to contribute to the achievement of sustainable development.	<u>Decision</u> - As per the Examiner's recommended modification.  <u>Reason</u> - As per the Examiner's stated reasoning.	Policy and associated text deleted and does not appear in the 'post Examination Plan with modifications'
Policy TH10: Gateway sustainable community planning	Delete policy and amend text. (Report page 39)	As worded, fails to contribute towards achieving sustainable development and is not in general conformity with the Local Plan	<u>Decision</u> - It is agreed that the submitted plan, in this regard, does not meet the Basic Conditions and it is understood that deleting this policy and the associated supporting text, as recommended by the Examiner, would allow the plan to meet the Basic Conditions. However, it is considered that a modified policy and associated supporting text, retaining the policies general intent, could be introduced and that this would enable the policy, as modified, to meet the Basic Conditions. It is considered that the proposed modification would meet the requirements of Section 61E of the Town and Country Planning Act 1990 (as amended). For this reason, amend policy wording and supporting text to meet Basic Condition requirements.  <u>Reason</u> – In order to overcome conflict with the Basic Conditions, as identified by the Examiner.  Positively encouraging consideration of the	Modified policy title, wording and supporting text included in the 'post examination Plan with modifications'.  Modified policy appears as TH10 – Gateway sustainable community planning



			wider area has regard to national policy, contributes to achieving sustainable development and is in general conformity with the strategic policies of the Local Plan.	
Homes from former Tourism properties (page 18)	Delete heading and policy list. (Report page 40)	Detracts from clarity.	<u>Decision</u> - As per the Examiner's recommended modification.  <u>Reason</u> – As per the Examiner's stated reasoning.	Section deleted and does not appear in the 'post Examination Plan with modifications'
Policy TH11: Minimum bedrooms	Delete policy. (Report page 41)	Imprecise and ambiguous. Lacks due regard to national policy.	<u>Decision</u> - As per the Examiner's recommended modification.  <u>Reason</u> – As per the Examiner's stated reasoning.	Policy deleted and does not appear in the 'post Examination Plan with modifications'.
Policy TH12: HMO's	Delete policy and supporting text. (Report page 42)	Not compliant with NPPF173 regarding viability. No substantive evidence.	<u>Decision</u> - It is agreed that the submitted plan, in this regard, does not meet the Basic Conditions and it is understood that deleting this policy and the associated supporting text, as recommended by the Examiner, would allow the plan to meet the Basic Conditions. However, it is considered that a modified policy and associated supporting text, retaining the policies general intent, could be introduced and that this would enable the policy, as modified, to meet the Basic Conditions. It is considered that the proposed modification would meet the requirements of Section 61E of the Town and Country Planning Act 1990 (as amended). For this reason, amend policy wording and supporting text to meet Basic Condition requirements.	Policy deleted and does not appear in the plan in Appendix 3  Modified policy appears as TH7 - HMOs

			<u>Reason</u> – In order to overcome conflict with the Basic Conditions, as identified by the Examiner. NPPF173 relates to deliverability in terms of viability of a Local Plan but PPG ID41-005 makes it clear that this also applies to neighbourhood planning.	
Policy TH13: Established Architecture	Modify the policy wording.  (Report page 43)	To provide for a more balanced consideration and to avoid ambiguity.	<p><u>Decision</u> - It is agreed that the submitted plan, in this regard, does not meet the Basic Conditions and it is understood that modifying this policy, as recommended by the Examiner, would allow the plan to meet the Basic Conditions. However, it is considered that a further modification to the policy, better retaining the policies general intent, could be introduced and that this would enable the policy, as modified, to meet the Basic Conditions. It is considered that the proposed modification would meet the requirements of Section 61E of the Town and Country Planning Act 1990 (as amended). For this reason, amend policy wording and supporting text to meet Basic Condition requirements.</p> <p><u>Reason</u> - In order to overcome conflict with the Basic Conditions, as identified by the Examiner. The policy as modified has the required due regard to NPPF58, is in general conformity with the Local Plan and better contributes to the achievement of sustainable development.</p>	<p>Policy amended and contained within the 'post Examination Plan with modifications'.</p> <p>Modified policy appears as TH8 – Established architecture</p>
Policy TH14 Parking facilities	Delete policy and supporting text.  (Report page 44)	Lack of evidence to support policy, and would not have due regard to national policy (NPPF173 and NPPF204). Not in general conformity with the	<u>Decision</u> - It is agreed that the submitted plan, in this regard, does not meet the Basic Conditions and it is understood that deleting this policy and the associated supporting text, as recommended by the Examiner,	Modified policy wording and supporting text included in the 'post examination Plan with modifications'.

		Local Plan.	<p>would allow the plan to meet the Basic Conditions. However, it is considered that a modified policy and associated supporting text, retaining the policies general intent, could be introduced and that this would enable the policy, as modified, to meet the Basic Conditions. It is considered that the proposed modification would meet the requirements of Section 61E of the Town and Country Planning Act 1990 (as amended). For this reason, amend policy wording and supporting text to meet Basic Condition requirements.</p> <p><u>Reason</u> – In order to overcome conflict with the Basic Conditions, as identified by the Examiner. Ensuring an appropriate provision of parking for residential development has regard to national guidance, contributes to the achievement of sustainable development and is in general conformity with the strategic policies of the Local Plan.</p>	Modified policy appears as TH9 – Parking facilities
Policy TH15: Sites excluded from development	Delete policy and supporting text.  (Report page 45)	Unduly restrictive.	<p><u>Decision</u> - As per the Examiner's recommended modification but move some modified supporting text to the support text section of TH1.</p> <p><u>Reason</u> – As per the Examiner's stated reasoning. Text moved to TH1 in order to reflect that the Neighbourhood Plan chose not to allocate two potential housing sites contained in the Local Plan. Adds clarity to the plan.</p>	All amendments included in the 'post examination Plan with modifications'.

Policy TH16: Protection of the historic built environment	Delete policy and supporting text.  (Report page 46)	Does not have regard to national policy and fails to contribute to the achievement of sustainable development.	<p><u>Decision</u> - It is agreed that the submitted plan, in this regard, does not meet the Basic Conditions and it is understood that deleting this policy and the associated supporting text, as recommended by the Examiner, would allow the plan to meet the Basic Conditions. However, it is considered that a modified policy and associated supporting text, retaining the policies general intent, could be introduced and that this would enable the policy, as modified, to meet the Basic Conditions. It is considered that the proposed modification would meet the requirements of Section 61E of the Town and Country Planning Act 1990 (as amended). For this reason, amend policy wording and supporting text to meet Basic Condition requirements.</p> <p><u>Reason</u> – In order to overcome conflict with the Basic Conditions, as identified by the Examiner. Appropriate protection of heritage assets through plan policy has regard to national policy, contributes to achieving sustainable development and is in general conformity with the strategic policies of the Local Plan.</p>	<p>Modified policy wording and supporting text included in the 'post examination Plan with modifications'.</p> <p>Modified policy appears as TH10 Protection of the historic built environment</p>
Policy TH17: Rural village buffer zones	Delete policy.  (Report page 47)	Restrictive approach not justified by evidence, does not have regard to national policy, not in general conformity with the Local Plan and fails to contribute to the achievement of sustainable development.	<p><u>Decision</u> - As per the Examiner's recommended modification.</p> <p><u>Reason</u> – As per the Examiner's stated reasoning.</p>	Policy and associated text deleted and does not appear in the 'post Examination Plan with modifications'
Policy TH18:	Delete policy and	Wording does not have regard	<u>Decision</u> - It is agreed that the submitted	Modified policy wording

Rural Village Conservation areas	supporting text. (Report page 48)	to national policy.	<p>plan, in this regard, does not meet the Basic Conditions and it is understood that deleting this policy and the associated supporting text, as recommended by the Examiner, would allow the plan to meet the Basic Conditions. However, it is considered that a modified policy and associated supporting text, retaining the policies general intent, could be introduced and that this would enable the policy, as modified, to meet the Basic Conditions. It is considered that the proposed modification would meet the requirements of Section 61E of the Town and Country Planning Act 1990 (as amended). For this reason, amend policy wording and supporting text to meet Basic Condition requirements.</p> <p><u>Reason</u> – In order to overcome conflict with the Basic Conditions, as identified by the Examiner. Encouraging development proposals that would enhance a designated Conservation Area has regard to national policy, contributes to achievement of sustainable development and is in general conformity with the strategic policies of the Local Plan.</p>	<p>and supporting text included in the 'post examination Plan with modifications'.</p> <p>Modified policy appears as TH11 – Rural village conservation areas</p>
Policy TH19: Maidencombe area	<p>Amend policy wording; Amend supporting text and title;</p> <p>Replace village envelope diagram on page 64.</p> <p>(Report pages 49-51)</p>	To avoid conflict with national policy, the Local Plan, contribute to sustainable development and provide clarity for decision making	<p><u>Decision</u> – Policy wording changed as per the Examiner's recommended modification but further detail added to re-emphasise the unique landscape character and setting of Maidencombe, which better retains the intent of the submitted policy and better meets the requirements of Section 61E of the Town and Country Planning Act 1990 (as amended). This includes making</p>	<p>All amendments included in the 'post examination Plan with modifications'.</p> <p>Modified policy appears as TH12 – Maidencombe area</p>

			<p>reference to the context of the Local Plan (C1, C2 and SS2) with regards to the intent of the policy. Further information added in supporting text to link to Landscape Character Assessment evidence undertaken as part of the Local Plan evidence base and already referenced within the Torquay NP submission documents.</p> <p>The boundary of the Village Envelope which is retained as specified in the Plan. In addition, supporting text retained and amended to reflect modification002E</p> <p><u>Reason</u> – In order to overcome conflict with the Basic Conditions, as identified by the Examiner. Proposed amended village envelope boundary retained on the basis of being in general conformity with the Local Plan (including Policy C1) and evidence being sufficient to support proposed changes. Changes to supporting text add clarity to the plan.</p>	
Policy TH20: Cockington village and Country Park	Delete policy and supporting text.  (Report page 52)	Blanket presumption approach inappropriate.	<p><u>Decision</u> - Retain policy with modified wording to overcome the issue raised.</p> <p><u>Reason</u> – providing clear guidance for development in the historic area involved has regard to national policy, contributes to achieving sustainable development and is in general conformity with the strategic policies of the Local Plan.</p>	<p>Revised policy and text included in Appendix 3 and agreed with the Torquay neighbourhood Forum as the Qualifying Body that submitted the Plan.</p> <p>Modified policy appears as TH13 – Cockington Village and Country Park</p>
Policy TJ1:	Delete policy and	Content imprecise and unclear.	<u>Decision</u> - It is agreed that the submitted	Modified policy title

Designated Employment Sites and minimum employment space	supporting text;  Delete all employment sites from policies maps,  (Report pages 53-54)		plan, in this regard, does not meet the Basic Conditions and it is understood that deleting this policy and the associated supporting text, as recommended by the Examiner, would allow the plan to meet the Basic Conditions. This applies not just to this employment policy but also to policies TJ2, TJ3, TJ5 and TJ6. It is considered that these policies perform related functions and have common aims. It is considered that a modified, single policy and associated supporting text can be introduced which would retain the policies general intent (TJ1, TJ2, TJ3, TJ5, TJ6) and that this would enable a single policy, as modified, to meet the Basic Conditions. It is considered that the proposed modification would meet the requirements of Section 61E of the Town and Country Planning Act 1990 (as amended). For this reason, provide a new policy to replace the employment policies already listed together with amended supporting text to meet Basic Condition requirements.  <u>Reason</u> – In order to overcome conflict with the Basic Conditions, as identified by the Examiner (also see reasons identified for Policy TJ2, TJ3, TJ5 and TJ6).	(TJ1), wording and supporting text included in the 'post examination Plan with modifications'.  Modified policy appears as TJ1 - Employment
Policy TJ2: Gateway Employment Sites	Delete policy and supporting text.  (Report page 55)	Highly restrictive, not in general conformity with the Local Plan.	<u>Decision</u> - As per the Examiner's recommended modification (though note new Policy TJ1)  <u>Reason</u> – As per the Examiner's stated reasoning.	Policy and associated text deleted (though note new Policy TJ1 which seeks to retain some of its intent) and does not appear in this form within the 'post Examination Plan with



				modifications'
Policy TJ3: Retention of existing purpose built B Class employment sites	Delete policy and supporting text.  (Report page 56)	Not clear or flexible, not in general conformity with the Local Plan.	<u>Decision</u> - As per the Examiner's recommended modification (though note new Policy TJ1)  <u>Reason</u> - As per the Examiner's stated reasoning.	Policy and associated text deleted (though note new Policy TJ1 which seeks to retain some of its intent) and does not appear in this form within the 'post Examination Plan with modifications'
Policy TJ4: Home Based Enterprises	Modify policy wording.  (Report page 57)	To remove ambiguity.	<u>Decision</u> - As per the Examiner's recommended modification.  <u>Reason</u> – As per the Examiner's stated reasoning.	All amendments included in the 'post examination Plan with modifications'.  Modified policy appears as TJ2 – Home based enterprises
Policy TJ5: Change of use for unsustainable businesses	Delete policy and supporting text.  (Report page 58)	Confusing and does not contribute to the achievement of sustainable development.	<u>Decision</u> - As per the Examiner's recommended modification (though note new Policy TJ1)  <u>Reason</u> - As per the Examiner's stated reasoning.	Policy and associated text deleted (though note new Policy TJ1 which seeks to retain some of its intent) and does not appear in this form within the 'post Examination Plan with modifications'
Policy TJ6: Support for certain existing Employment Sites	Delete policy and supporting text.  (Report page 59)	Policy cannot direct LA to grant or refuse planning permission	<u>Decision</u> - As per the Examiner's recommended modification (though note new Policy TJ1)  <u>Reason</u> – As per the Examiner's stated reasoning.	Policy and associated text deleted (though note new Policy TJ1 which seeks to retain some of its intent) and does not appear in this form within the 'post

				Examination Plan with modifications'
Policy TJ7: Commercial street scenes	Modify policy wording. (Report page 60)	To have regard to national policy.	<u>Decision</u> - As per the Examiner's recommended modification.  <u>Reason</u> – As per the Examiner's stated reasoning.	All amendments included in the 'post examination Plan with modifications'.  Modified policy appears as TJ3 – Commercial street scenes
Policy TJ8	No policy or recommendation attributed to this number.	N/A	N/A	N/A
Policy TJ9: Prevention of crime through design	Delete policy and supporting text. (Report page 61)	Repetitive of policy TH2.	<u>Decision</u> - As per the Examiner's recommended modification.  <u>Reason</u> – As per the Examiner's stated reasoning.	Policy and associated text deleted and does not appear within the 'post Examination Plan with modifications'
Tourism 'Community Aspiration' (page 25)	Delete 'Community Aspiration' and related text. (Report page 62)	Reads as a Policy and detracts from clarity. Places obligations on the Council and is confusing.	<u>Decision</u> - Retain with modified wording to make it clear it is not a policy.  <u>Reason</u> – Community expression of aspirations in the Plan is allowed if they are not able to be confused with policy statements.	All amendments included in the 'post examination Plan with modifications'.
Policy TT1: Limited period for Change of Use of Tourism Properties within a CTIA	Delete policy and supporting text. (Report page 63)	Fails to contribute to sustainable development and lacks evidence to justify.	<u>Decision</u> - As per the Examiner's recommended modification.  <u>Reason</u> – As per the Examiner's stated reasoning.	Policy and associated text deleted and does not appear in the 'post Examination Plan with modifications'

Policy TT2: Change of Use constraints within an established tourism area or CTIA	Modify policy title and wording.  (Report page 64)	To avoid imprecision and be in general conformity with the Local Plan.	<p><u>Decision</u> – It is agreed that the submitted plan, in this regard, does not meet the Basic Conditions and it is understood that modifying this policy, as recommended by the Examiner, would allow the plan to meet the Basic Conditions. However, it is considered that a further modification to the policy could be made could be introduced and that this would enable the policy, as modified, to meet the Basic Conditions whilst also better retaining the original intent. It is considered that the proposed modification would meet the requirements of Section 61E of the Town and Country Planning Act 1990 (as amended). For this reason, further amend policy wording to meet Basic Condition requirements. Specifically this includes the provision of change of use outside as well as inside CTIAs (capturing the intent of established tourism areas within the submitted policy).</p> <p>Also modify policy to incorporate some of the original intent of TT3 (see further below)</p> <p><u>Reason</u> – As per the Examiner's stated reasoning plus better capture the full intent of the submitted policy in way which meets the Basic Conditions.</p>	<p>Modified policy title and wording included in the 'post examination Plan with modifications'.</p> <p>Modified policy appears as TT1 – Change of use constraints within and outside a CTIA</p>
Policy TT3: Permitted Change of Use of Tourism	Delete policy.  (Report page 65)	Restrictions are unduly placed on development without evidence to support an assessment of impact. Does not	<u>Decision</u> – Agree partly with Examiner's modification but some elements could be retained in a modified form and have been	Policy deleted but some elements incorporated into TT1.

Properties outside CTIA's		contribute to the achievement of sustainable development.	incorporated within TT1 (see above). As per the Examiner's recommended modification.  <u>Reason</u> – Because the modified reasoning meets the basic conditions in terms of meeting the basic conditions and is in particular in general conformity with Local Plan tourism policies.	
Policy TT4: Change of Use in Conservation Areas and Listed Buildings	Delete policy and supporting text;  Amend 'Community Aspirations'.  (Report page 66)	The presumption in favour of change of use does not have regard to national policy. The policy lacks clarity and precision.  The 'Community Aspirations' read as requirements.	<u>Decision</u> - As per the Examiner's recommended modification.  <u>Reason</u> – As per the Examiner's stated reasoning.	Policy deleted and does not appear in the 'post Examination Plan with modifications'. Community aspirations amended in the modified plan.  Modified policy appears as TT2 – Change of Use in Conservation Areas and Listed Buildings.
Policy TT5: Change of use constraints on Babbacombe Downs CTIA	Delete policy.  (Report page 67)	Not in general conformity with Local Plan Policy TO1 and wording imprecise.	<u>Decision</u> - It is agreed that the submitted plan, in this regard, does not meet the Basic Conditions and it is understood that deleting this policy as recommended by the Examiner, would allow the plan to meet the Basic Conditions. However, it is considered that a modified policy, retaining the policies general intent, could be introduced and that this would enable the policy, as modified, to meet the Basic Conditions. It is considered that the proposed modification would meet the requirements of Section 61E of the Town and Country Planning Act 1990 (as amended). For this reason, amend policy wording to meet Basic Condition	Modified policy title, wording and supporting text included in the 'post examination Plan with modifications'.  Modified policy appears as TT3 – Change of use constraints on Babbacombe Downs CTIA

			requirements.  <u>Reason</u> - In order to overcome conflict with the Basic Conditions, as identified by the Examiner.	
Policy TT6: Oddicombe Beach	Delete policy and supporting text;  Delete and amend various 'Community Aspirations'.  (Report page 68)	Policy not sufficiently precise.  The 'Community Aspirations' exceed their remit.	<u>Decision</u> - As per the Examiner's recommended modification with regards to TT6. In relation to the Community Aspirations, retain all with appropriate introductory text to make to ensure they are aspirations and not requirements placed on the Council.  <u>Reason</u> – As per the Examiner's stated reasoning plus policy is not consistent with the Local Plan in terms of reflecting flood risk at Oddicombe Beach.	Policy deleted and does not appear in the 'post Examination Plan with modifications'. All other amendments to community aspirations included in the 'post examination Plan with modifications'.
Policy TE1: Protection of SSSI	Delete policy;  Amend supporting text.  (Report page 69)	Not in general conformity with the Local Plan and inflexible.	<u>Decision</u> - As per the Examiner's recommended modification.  <u>Reason</u> – As per the Examiner's stated reasoning.	Policy and associated text deleted and does not appear in the 'post Examination Plan with modifications'. All other amendments included in the 'post examination Plan with modifications'.
Policy TE2: Protection of the Countryside and Undeveloped Coastal Areas	Delete policy;  Delete supporting text.  (Report page 70)	Not in general conformity with the Local Plan and not supported by any substantive evidence.	<u>Decision</u> - As per the Examiner's recommended modification.  <u>Reason</u> – As per the Examiner's stated reasoning.	Policy and associated text deleted and does not appear in the 'post Examination Plan with modifications'.

Policy TE3: Tourism Accommodation on Greenfield sites	Delete policy;  Delete supporting text.  (Report page 71)	Does not have regard to national policy and no evidence to indicate it would contribute to sustainable development.	<u>Decision</u> - It is agreed that the submitted plan, in this regard, does not meet the Basic Conditions and it is understood that deleting this policy and the associated supporting text, as recommended by the Examiner, would allow the plan to meet the Basic Conditions. However, it is considered that a modified policy and associated supporting text, retaining the policies general intent, could be introduced and that this would enable the policy, as modified, to meet the Basic Conditions. It is considered that the proposed modification would meet the requirements of Section 61E of the Town and Country Planning Act 1990 (as amended). For this reason, amend policy wording and supporting text to meet Basic Condition requirements.  <u>Reason</u> – In order to overcome conflict with the Basic Conditions, as identified by the Examiner. As modified the policy has regard to national guidance, contributes to achievement of sustainable development and is in general conformity with the strategic policies of the Local Plan.	Modified policy title, wording and supporting text included in the 'post examination Plan with modifications'.  Modified policy appears as TE1 – Tourism Accommodation on Brownfield Sites
Policy TE4: Local Green Spaces	Modify the policy wording:  Delete Nightingale Park as does not meet the required criteria;  Provide Table and Map of all other sites confirmed and reference as LGS1-99;	To accord with national guidance. To provide clarity and precision.	<u>Decision</u> – As per the Examiner's recommended modifications except for amendments to table numbering/reference and the provision of an indicative plan to show location of each site. Further line added regarding allowing minor improvements to access and community facilities consistent with the intent of the policy and consistent with NPPF policy for managing Local Green Space (in accordance with Green Belt). Amendment	All amendments included in the 'post examination Plan with modifications'.  Modified policy appears as TE2 – Local Green Spaces

	<p>Amend boundary of LGS at Teignmouth Road.</p> <p>Amend supporting text on pages 31-32.</p> <p>(Report pages 72-75)</p>		<p>to table to correct error with name of TLGSM18 to reference King George playing Fields.</p> <p><u>Reason</u> – As per the Examiner's stated reasoning but with regards to presentation modifications it is considered that this is unnecessary in terms of providing additional clarity. The policy, maps and table are sufficiently clear. To correct errors.</p>	
Policy TE5: Green Infrastructure Delivery Plan	<p>Replace the policy with a 'Community Aspiration'</p> <p>(Report page 76)</p>	<p>The Green Infrastructure Delivery Plan is guidance (not planning policy or SPD) only and it is unclear and not supported by evidence why those requirements should be placed upon development.</p>	<p><u>Decision</u> - As per the Examiner's recommended modification.</p> <p><u>Reason</u> – As per the Examiner's stated reasoning.</p>	<p>The Policy (as revised to a Community Aspiration) has been incorporated into the 'post examination Plan with modifications'.</p>
Policy TE6: Development on Established Woodland	<p>Modify policy wording;</p> <p>Delete 2 'Community Aspirations' below Policy TE6 and single paragraph of supporting text.</p> <p>(Report page 77)</p>	<p>(No clear reason given for the policy wording change.)</p> <p>Both 'Community Aspirations' deleted because they read as Policy requirements.</p>	<p><u>Decision</u> - As per the Examiner's recommended modification.</p> <p><u>Reason</u> – As per the Examiner's stated reasoning.</p>	<p>All amendments included in the 'post examination Plan with modifications'.</p> <p>Modified policy appears as TE3 – Development on Established Woodland</p>
Policy TE7: Green Corridors	<p>Modify policy wording;</p> <p>Amend supporting text.</p> <p>(Report page 78)</p>	<p>Confusingly worded and vague.</p>	<p><u>Decision</u> - As per the Examiner's recommended modification.</p> <p><u>Reason</u> – As per the Examiner's stated reasoning.</p>	<p>All amendments included in the 'post examination Plan with modifications'.</p> <p>Modified policy appears as TE4 – Green</p>



				Corridors
Policy TE8: Protected species habitats and biodiversity – general	Delete policy.  Report page 79).	Conflicting wording that does not contribute to achievement of sustainable development.	<p><u>Decision</u> - It is agreed that the submitted plan, in this regard, does not meet the Basic Conditions and it is understood that deleting this policy and the associated supporting text, as recommended by the Examiner, would allow the plan to meet the Basic Conditions. However, it is considered that a modified policy and associated supporting text, retaining the policies general intent, could be introduced and that this would enable the policy, as modified, to meet the Basic Conditions. It is considered that the proposed modification would meet the requirements of Section 61E of the Town and Country Planning Act 1990 (as amended). For this reason, amend policy wording and supporting text to meet Basic Condition requirements.</p> <p><u>Reason</u> – In order to overcome conflict with the Basic Conditions, as identified by the Examiner.</p>	<p>Modified policy title, wording and supporting text included in the 'post examination Plan with modifications'.</p> <p>Modified policy appears as TE5 – Protected species habitats and biodiversity</p>
Policy TE9: European Protected species	Replace policy wording;  Amend supporting text.  (Report page 80)	Taking account of European obligations.	<p><u>Decision</u> - As per the Examiner's recommended modification but with additional line to reference all stages of construction process in order to retain original intent of submitted plan and also meet the basic conditions.</p> <p><u>Reason</u> – As per the Examiner's stated reasoning and to meet the basic conditions.</p>	<p>All amendments included in the 'post examination Plan with modifications'.</p> <p>Modified policy appears as TE6 – European protected species</p>
Policy TE10:	Delete policy and supporting text.	Not a land use planning matter.	<u>Decision</u> - It is agreed that the submitted plan, in this regard, does not meet the Basic	Modified policy title, wording and supporting

Marine Management Planning	(Report page 81)		<p>Conditions and it is understood that deleting this policy and the associated supporting text, as recommended by the Examiner, would allow the plan to meet the Basic Conditions. However, it is considered that a modified policy and associated supporting text, retaining the policies general intent, could be introduced and that this would enable the policy, as modified, to meet the Basic Conditions. It is considered that the proposed modification would meet the requirements of Section 61E of the Town and Country Planning Act 1990 (as amended). For this reason, amend policy wording and supporting text to meet Basic Condition requirements. In this instance the modification can ensure that only land use matters are included,</p> <p><u>Reason</u> – to ensure only land use matters are involved in the policy proposed in accordance with Basic Conditions.</p>	<p>text included in the ‘post examination Plan with modifications’.</p> <p>Modified policy appears as TE7 – Marine Management Planning</p>
Policy THW1: Travel Plans	<p>Delete policy.</p> <p>Amend ‘Community Aspirations’.</p> <p>(Report page 82)</p>	<p>The policy unduly imposes conditions and obligations on the local planning authority and its Councillors.</p> <p>‘Community Aspirations’ read as policies.</p>	<p><u>Decision</u> - It is agreed that the submitted plan, in this regard, does not meet the Basic Conditions and it is understood that deleting this policy and the associated supporting text, as recommended by the Examiner, would allow the plan to meet the Basic Conditions. However, it is considered that a modified policy and associated supporting text, retaining the policies general intent, could be introduced and that this would enable the policy, as modified, to meet the Basic Conditions. It is considered that the proposed modification would meet the requirements of Section 61E of the Town and Country Planning Act 1990 (as</p>	<p>All amendments included in the ‘post examination Plan with modifications’.</p> <p>Modified policy appears as THW1 – Travel Plans</p>

			<p>amended). For this reason, amend policy wording and supporting text to meet Basic Condition requirements. Some aspects of the policy which were deleted (e.g. Ward Councillors) retained in the form of a Community Aspiration.</p> <p><u>Reason</u> – In order to overcome conflict with the Basic Conditions, as identified by the Examiner.</p>	
Policy THW2: Community Food Production and high quality agricultural land	<p>Modify policy title and wording:</p> <p>Amend supporting text.</p> <p>(Report page 83)</p>	Insufficient information provided for a blanket protection as proposed.	<p><u>Decision</u> - Modify policy and associated 'Community Aspiration' wording to meet the Basic Conditions. It is noted that modifying this policy and the associated text, as recommended by the Examiner, would allow the plan to meet the Basic Conditions. However, it is considered that a further modified policy, retaining more of the policy's general intent, could be introduced to instead replace the submitted policy and that this would enable the policy, as modified, to meet the Basic Conditions.</p> <p><u>Reason</u> – preventing the loss of allotments has full regard to national guidance, supports achievement of sustainable development and is in general conformity with the strategic policies of the Local Plan.</p>	<p>Modified policy title, wording and supporting text included in the 'post examination Plan with modifications'.</p> <p>Modified policy appears as Policy THW2 – change of use of allotments and retention of food production areas</p>
Policy THW3: Community Hub Facilities	<p>Modify policy title and wording;</p> <p>Amend supporting text;</p> <p>Delete second 'Community Aspiration'.</p>	To accord with national policy, in the absence of substantive evidence for a more onerous requirement.	<p><u>Decision</u> - Retain submitted title with further revised policy wording, supporting text and amended wording of the 'Community Aspiration'</p> <p><u>Reason</u> – Encouraging the provision of new residential development that is served by supporting facilities has full regard to</p>	Policy wording, supporting text and amendment of 'Community Aspiration' text as further modified is included in the 'post examination Plan with modifications'

	(Report page 84)		national guidance, contributes towards the achievement of sustainable development and is in general accordance with the strategic policies of the Local Plan.	Modified policy appears as THW3 – Community facilities
Policy THW4: Outside Space Provision	Modify policy wording; Amend supporting text.  (Report page 85)	Insufficient justification for exempting flats from the requirement where they are near green space or the coastline and does not contribute to sustainable development.	<u>Decision</u> - Modify policy and associated supporting text to meet the Basic Conditions. It is noted that modifying this policy and the associated text, as recommended by the Examiner, would allow the plan to meet the Basic Conditions. However, it is considered that a further modified policy, retaining more of the policy's general intent, could be introduced to instead replace the submitted policy and that this would enable the policy, as modified, to meet the Basic Conditions.  <u>Reason</u> – to ensure development contributes to achievement of sustainable development having regard to national policy.	Policy wording and amendment of text as further modified is included in the 'post examination Plan with modifications'.  Modified policy appears as THW4 – Outside Space Provision
Policy THW5: Access to sustainable transport	Delete policy.  (Report page 86).	As worded would prevent sustainable growth and development.	<u>Decision</u> - Amend policy wording to meet the Basic Conditions. It is noted that deleting this policy and the associated text, as recommended by the Examiner, would allow the plan to meet the Basic Conditions. However, it is considered that a modified policy, retaining the policies general intent, could be introduced to instead replace the submitted policy and that this would enable the policy, as modified, to meet the Basic Conditions.  <u>Reason</u> – In order to overcome conflict with the Basic Conditions, as identified by the Examiner. Encouraging sustainable	Policy wording and amendment of text as further modified is included in the 'post examination Plan with modifications'.  Modified policy appears as THW5 – Access to Sustainable Transport

			transport has full regard to national guidance, contributes to achievement of sustainable development and is in general conformity with the strategic policies of the Local Plan.	
Policy THW6: Cycle Storage and Changing Facilities	Modify policy wording. (Report page 87)	Does not provide a decision maker with clarity.	<u>Decision</u> - As per the Examiner's recommended modification.  <u>Reason</u> – As per the Examiner's stated reasoning. To provide the decision maker with clarity having regard generally to national guidance.	Policy wording and amendment of text as modified is included in the 'post examination Plan with modifications'.  Modified policy appears as THW6 – Cycle storage and changing facilities
Policy TSL1: Alpine Ski Facility	Modify policy wording; Amend supporting text;  Amend 'Community Aspirations' pages 39 and 40. (Report pages 88-89)	Imprecise and confusing.	<u>Decision</u> - As per the Examiner's recommended modifications.  <u>Reason</u> – As per the Examiner's stated reasoning, to improve clarity for application by the decision maker having regard to national guidance.	Policy wording and amendment of text as modified is included in the 'post examination Plan with modifications'.  All other amendments included in the 'post examination Plan with modifications'.
Policy TSL2: Sport and Leisure – Nightingale Park	Delete policy (Report page 90).	Confusing, lack of evidence provided to justify and not in conformity with Local Plan.	<u>Decision</u> - Modify to address concerns raised by Examiner in respect of meeting the Basic Conditions. It is noted that deleting this policy and the associated text, as recommended by the Examiner, would allow the plan to meet the Basic Conditions. However, it is considered that a modified policy, retaining the policies general intent, could be introduced to instead replace the submitted policy and that this would enable	Policy wording and amendment of text as modified is included in the 'post examination Plan with modifications'

			<p>the policy, as modified, to meet the Basic Conditions.</p> <p><u>Reason</u> – To be in conformity with the Local Plan, better contribute to the achievement of sustainable development and add clarity.</p>	
Policy TSL3: Sport and Leisure	<p>Combine with TSL4 (below) and modify policy wording;</p> <p>Provide a plan showing the facilities protected.</p> <p>(Report page 91)</p>	Imprecise on areas intended to be protected and inflexible.	<p><u>Decision</u> - As per the Examiner's recommended modification except show plan within Policies Maps not within written document.</p> <p><u>Reason</u> – As per the Examiner's stated reasoning. For clarity.</p>	<p>All amendments included in the 'post examination Plan with modifications'.</p> <p>Modified policy appears as TSL3 Sport and Leisure – Sports grounds and facilities</p>
Policy TSL4: Sport and Leisure – Sports grounds and facilities	See TSL3 above.	See TSL3 above	See TSL3 above	See TSL3 above
Policy TTR1: Access to primary schools	<p>Delete policy and supporting text.</p> <p>(Report page 92)</p>	Does not have regard to national guidance and harms the delivery of sustainable development.	<p><u>Decision</u> - It is agreed that the submitted plan, in this regard, does not meet the Basic Conditions and it is understood that deleting this policy and the associated supporting text, as recommended by the Examiner, would allow the plan to meet the Basic Conditions. However, it is considered that a modified policy and associated supporting text, retaining the policies general intent, could be introduced and that this would enable the policy, as modified, to meet the Basic Conditions. It is considered that the proposed modification would meet the</p>	<p>Modified policy wording and supporting text included in the 'post examination Plan with modifications'.</p> <p>Modified policy appears as TTR1 - Access to primary schools</p>

			<p>requirements of Section 61E of the Town and Country Planning Act 1990 (as amended). For this reason, amend policy wording and supporting text to meet Basic Condition requirements.</p> <p><u>Reason</u> - In order to overcome conflict with the Basic Conditions, as identified by the Examiner.</p>	
Policy TTR2: Sustainable Communities	<p>Delete policy and supporting text.</p> <p>(Report page 93)</p>	As worded, would prevent sustainable growth.	<p><u>Decision</u> - It is agreed that the submitted plan, in this regard, does not meet the Basic Conditions and it is understood that deleting this policy and the associated supporting text, as recommended by the Examiner, would allow the plan to meet the Basic Conditions. However, it is considered that a modified policy and associated supporting text, retaining the policies general intent, could be introduced and that this would enable the policy, as modified, to meet the Basic Conditions. It is considered that the proposed modification would meet the requirements of Section 61E of the Town and Country Planning Act 1990 (as amended). For this reason, amend policy wording and supporting text to meet Basic Condition requirements.</p> <p><u>Reason</u> – In order to overcome conflict with the Basic Conditions, as identified by the Examiner. Encouraging sustainable transport has full regard to national guidance, contributes to achievement of sustainable development and is in general conformity with the strategic policies of the</p>	<p>Modified policy wording and supporting text included in the 'post examination Plan with modifications'.</p> <p>Modified policy appears as TTR2 - Sustainable Communities</p>



			Local Plan.	
Policy TTR3: Potential Park and Ride or Helipad facility	Delete policy.  (Report page 94)	Does not meet Basic Conditions including having regard to national guidance in respect of viability and deliverability and tests for planning conditions.	<p><u>Decision</u> - It is agreed that the submitted plan, in this regard, does not meet the Basic Conditions and it is understood that deleting this policy and the associated supporting text, as recommended by the Examiner, would allow the plan to meet the Basic Conditions. However, it is considered that a modified policy and associated supporting text, retaining the policies general intent, could be introduced and that this would enable the policy, as modified, to meet the Basic Conditions. It is considered that the proposed modification would meet the requirements of Section 61E of the Town and Country Planning Act 1990 (as amended). For this reason, amend policy wording and supporting text to meet Basic Condition requirements.</p> <p><u>Reason</u> – In order to overcome conflict with the Basic Conditions, as identified by the Examiner. Minimising the effect of development on landscape quality has regard to national guidance, contributes to achievement of sustainable development and is in general conformity with the strategic policies of the Local Plan (including SS6 and C1).</p>	Modified policy wording and supporting text included in the 'post examination Plan with modifications'.
'Community Aspirations' (pages 42-44)	Remove boxes;  Amend wording  (Report page 94-95)	To distinguish from being policies.	<p><u>Decision</u> - As per the Examiner's recommended modification.</p> <p><u>Reason</u> – As per the Examiner's stated reasoning.</p>	All amendments included in the 'post examination Plan with modifications'.

Art Culture and Community Partnership Statements and all Appendices (pages 44-72)	Delete all pages 45-72.  (Report page 96)	The section detracts from the clarity and precision of the Plan. Moving the section to Appendices would transfer confusing and potentially misleading information from one place to another.	<u>Decision</u> - Amend wording of these pages to enable their retention in a manner that meets the Basic Conditions and clearly identify them as an appendix separate but supplementary to the main plan. Add additional text to make clear that the appendix has no land use planning policy status.  <u>Reason</u> – To be consistent with national guidance as set out in PPG ID41-004	All amendments included in the 'post examination Plan with modifications'.
Policies Maps	Provide within the Plan (currently in a separate document) and amend where indicated.  (Report pages 96-97)	Not expressly given but assumed for clarity and ease of use by decision makers.	<u>Decision</u> - All recommendations agreed.  <u>Reason</u> – to meet the Basic Conditions requirements.	All amendments included in the 'post examination Plan with modifications'.
Contents page, Tables, Plans, page/policy numbering.	Update taking into account the recommendations of the Report.  (Report page 97)	Not expressly given but assumed for clarity and ease of use by decision makers.	<u>Decision</u> - All agreed. In addition, minor editorial changes associated with typos/grammar/presentation within the submitted Torquay Neighbourhood Plan have been made.  <u>Reason</u> – for clarity (consistent with national guidance) and to ease the practical application of the Plan as a legible, clear document	All amendments included in the 'post examination Plan with modifications'.



The Community's Plan to 2030

# The Torquay Neighbourhood Plan

Page 385



*...to be the best place to  
live, work or visit in the  
West...*

Agenda Item 6  
Appendix 3

# Contents

Introduction .....	3
Why does Torquay need a Neighbourhood Plan? .....	3
What area does the plan cover and how has it been prepared? .....	3
Who is the plan for and how will it be used? .....	4
How is this plan related to other plans? .....	4
What time period does the Plan cover? .....	4
Vision and Aspirations.....	4
Objectives .....	6
Planning and Development .....	6
The Economy .....	6
Services and Facilities .....	6
Traffic and movement.....	6
Environment .....	6
The Town Centre .....	7
The Gateway to Torquay .....	7
General Policies and Aspirations .....	9
Allocated Housing Sites .....	11
Table 2: Housing provision broken down by type of site .....	13
Housing and Development Policies.....	13

Economy and Jobs.....	21
Tourism .....	23
Environment.....	28
Health and Wellbeing.....	36
Sport and Leisure .....	39
Transport.....	42
Appendix A – Community Aspirations and Statements.....	45
Introduction .....	45
Art and Culture.....	46
Barton & Watcombe Community Partnership.....	48
Cockington, Chelston and Livermead Community Partnership .....	50
Ellacombe Community Partnership.....	53
Hele and Lower Barton Community Partnership (Hele’s Angels).....	55
Shiphay and the Willows Community Partnership .....	57
St Marychurch & District Community Partnership .....	59
Part A – St Marychurch, Babbacombe & Plainmoor .....	60
Part B – Maidencombe .....	64
Torre & Upton Community Partnership .....	70
Torquay Town Centre Community Partnership and Town Centre Focus Group .....	72

## Foreword

Our Plan forms part of the statutory development plan for Torbay and provides a community inspired plan for the future of Torquay; **by our community for our community.**

Our ambition is to see Torquay as the **best place to live in the West Country** - a vibrant and well balanced economic area, with sufficient well paid jobs and homes that are suitable and affordable for all with a revitalised central area offering quality retail, leisure, homes and office space.

**The Torquay Neighbourhood Plan Forum is a community group made up of the Community Partnerships and stakeholders in Torquay** who have been working over the last few years to produce a Neighbourhood Plan for the whole of Torquay; anyone who lives or works in Torquay have been welcomed to be a member of the Torquay Neighbourhood Plan Forum.

**The concept of Neighbourhood Plans was introduced in England by the Localism Act, 2011. Their purpose is to give local communities the power to truly shape development at a local level.** This Plan has been prepared through an extensive programme of consultation with local residents, businesses, Community Partnerships, our Council and other interested parties.

Our Plan sits beside the proposed Plans for Paignton and Brixham that together will shape the whole of Torbay and give detail to the strategic policies contained within the adopted Torbay Local Plan and complies with National Planning Policies. **It will help shape development in Torquay over the period to 2030 and lay the foundations for a successful future;** it articulates how our communities wish to see their neighbourhoods change and where development should take place.

Our Plan is a statutory 'Development Plan' and provides **a statement from the community about how development will be managed positively for growth while maintaining and enhancing the area's distinctive character and landscape. It also ensures the community truly benefits** from the right development, both homes and businesses, in the right places. **It also grants our most precious greenspaces with a special level of protection as 'Local Green Spaces'.**

**Our Plan has positively supported the 'ambitious' jobs growth predictions contained within the Local Plan** and it is also accompanied by a full sustainability appraisal that concludes **it is in compliance with the provision of sustainable development.**

The Neighbourhood Plan supports sustainable housing growth through the provision of housing land and does so in general conformity with the Local Plan.

Leon Butler  
Chair, Torquay Neighbourhood Plan Forum

# Introduction

## Why does Torquay need a Neighbourhood Plan?

Torquay is a traditional seaside town in a beautiful setting with an international reputation as the English Riviera. It is one of England's most visited holiday destinations and its mild climate and superb setting make for an excellent quality of life. It is home to some 65,000 people, many drawn here in retirement.

Torquay's undoubted attractions are counter-balanced by a stagnating economy with deep-rooted needs for affordable homes, new well paid job opportunities, good quality health and social care and investment in the town's physical and social infrastructure. It is a town of enormous contrasts, with some relatively wealthy parts but areas of genuine deprivation.

We want to see Torquay's economy and communities growing stronger as we cherish the best of our rich heritage and nurture sustainable growth for a successful future. Torquay needs to change, it needs targeted care and attention, it needs our Plan.

## What area does the plan cover and how has it been prepared?

The plan covers the whole of Torquay.

A group of local residents and business representatives came together in late 2011 to start the process. A public meeting was held, and in November 2011 the Torquay Neighbourhood Forum was established to steer the plan. The nine local Community Partnerships have taken a leading role within the Torquay Neighbourhood Forum, each one aiming to ensure that the needs and aspirations of its area are included in the plan. Those partnerships are:

1. Barton and Watcombe
2. Cockington, Chelston and Livermead
3. Ellacombe
4. Shiphay and The Willows
5. Hele and Lower Barton (Hele's Angels)
6. St Marychurch and District
7. Torre and Upton
8. Torquay Town Centre
9. Wellswood and Torwood

In active collaboration with the whole community, the steering group of the Forum and local Community Partnerships have shaped the plan for our town.

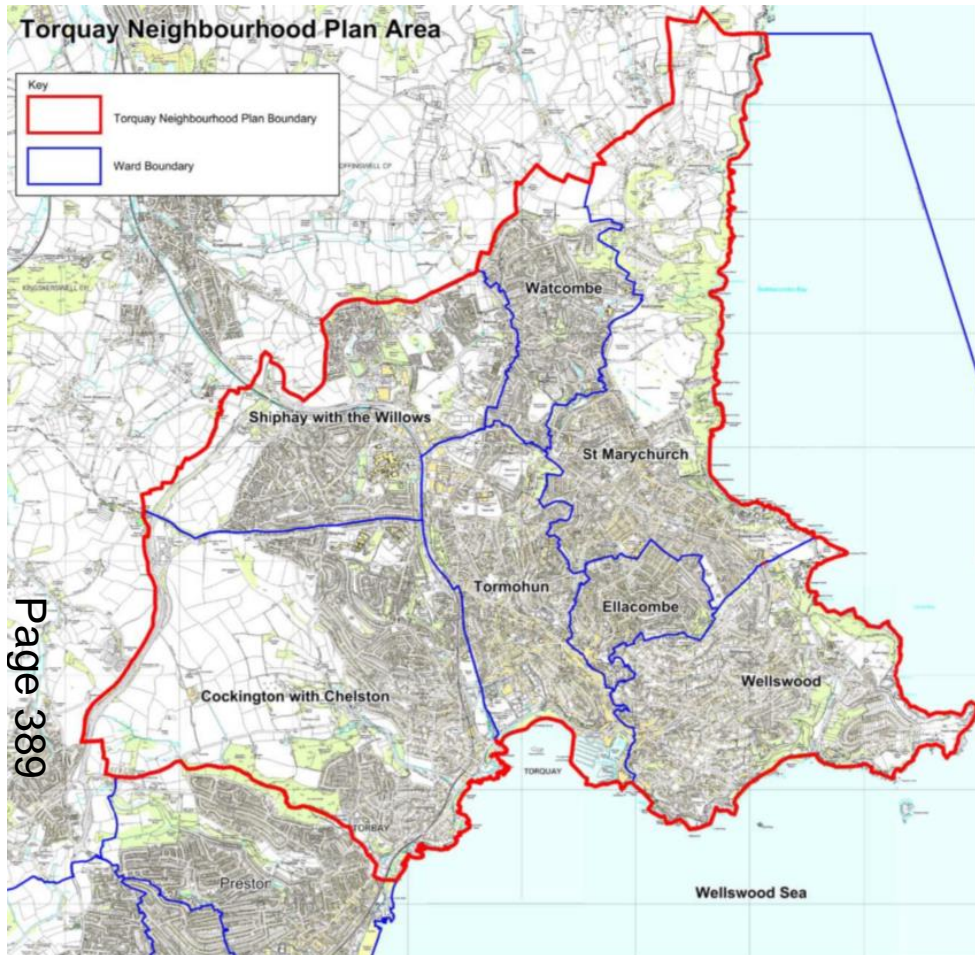
The Prince's Foundation for Building Community was commissioned to help support development of the Plan. During 2012 the Foundation identified key issues for Torquay including:

- size and complexity of area
- housing need
- defining the tourism offer
- town centre decline
- areas of growth

The policies and proposals of this plan respond to the issues identified and the aspirations of the communities, setting out their shared priorities and aspirations for Torquay's future planning.

The Torbay Local Plan with its supporting documentation and the National Planning Policy Framework (NPPF) have been used to draft those policies and to ensure our Plan is in general compliance with the strategic policies of the Local Plan and the NPPF.





## Who is the plan for and how will it be used?

The plan is for anyone and everyone with an interest in Torquay – residents, visitors, businesses and investors. It is a Statutory Development Plan and will be used to promote investment in the town and our community, signpost new development to the most suitable sites, protect valuable assets, help secure

improvements of all kinds, give a continuing voice to the community and promote a better quality of life for current and future generations.

## How is this plan related to other plans?

The Torquay Neighbourhood Plan (the Plan) has been developed in parallel with the new Torbay Local Plan which was adopted by Torbay Council in December 2015, and the Plans for Paignton and Brixham.

The Neighbourhood Plan has to have regard to national policy and advice, be compatible with European legislation and be in general conformity with the strategic policies of the Local Plan.

## What time period does the Plan cover?

The plan, in common with the Local Plan, covers the period from 2012 to 2030. The development proposals it contains relate to the same period as the Local Plan's development horizon.

## Vision and Aspirations

Torquay is enviably situated, with an outstanding coastal location and a temperate climate. The quality of life it offers attracts business investors, visitors and new residents. After many years of anticipation, it has also been connected to the rest of Devon by a major new road – the South Devon Highway. Torquay is open and ready for new business and investment.

To retain this quality of life, the beauty of the town and its setting should be preserved and enhanced. There have already been measures to conserve the coastal margins and areas of countryside; new buildings are being designed to improve the town's appearance while our heritage is being cared for and maintained.



Our Plan aims to reinforce this balance – attracting new interest and investment while protecting and enhancing the considerable assets and attractions of Torquay.

We want a happy and attractive town, growing economically stronger and healthier each year. We want to share the best of Torquay with our visitors and enjoy its continual improvement.

The Plan aims to express a simple, memorable and distinctive vision for the town and its communities, capturing the shared aspirations of the community as a whole and setting out clear achievable objectives to guide the way ahead:

#### **The Vision for Torquay**

- We want to protect and support the best of Torquay's heritage, its cherished neighbourhoods and villages and the distinctive local character of each one; while securing their future as vibrant communities and attractive places to live, work and visit.
- We want to drive and support sustainable development delivering economic recovery and sustainable growth through rebalancing the economy, providing a sustainable future with new businesses, new jobs and infrastructure supported by the required number of new homes to meet economic growth; helping our communities to flourish as it meets present and future demands.
- We want to improve health, social and cultural well-being including sport and leisure for all, ensure facilities and services are in place to meet local needs and help to grow a vibrant community that provides for and supports people of all ages.
- We want to create a more effective, safe, accessible and efficient transport and travel network for pedestrians, cyclists, motorists and users of public transport.
- We want to protect and enhance our natural, built and historic environment.

# Objectives

## Planning and Development

We want to drive and support sustainable development to meet economic growth and help our communities flourish as they meet present and future demands by delivering:

- recovery and growth in investment and new businesses
- economic diversity through rebalancing the economy away from the dominance of Tourism and the Public Sector
- new homes and infrastructure to support net jobs growth.
- holistic planning for the whole town and clear aspirations for each of its neighbourhoods (Community Partnership areas)
- a planning processes that has real community involvement
- provision of a good range of quality, appropriate and affordable homes for all sections of the community
- Brownfield development is prioritised before Greenfield
- a framework to ensure that public funds collected in connection with new developments (through the Community Infrastructure Levy or similar) are used to address local priorities identified by the community.

## The Economy

We wish to drive the change to a diverse economy away from the dominance of Tourism and Public Sector to a broad range of job creation businesses including high tech, light industrial and office based:

- change to a higher quality/higher value year round and sustainable tourism sector through change of use of unsustainable tourism businesses through clear Planning policies.
- retain our purpose built job creation areas and make space for new areas within the well-connected Edginswell Gateway area located at the end of the new South Devon Highway.

## Services and Facilities

We want to improve health, social and cultural well-being for all, ensure facilities and services are in place to meet local needs, and help to grow a vibrant community that provides for and supports people of all ages:

- identify valued green spaces and public spaces, protect them and promote their improvement
- produce Community Partnership statements identifying local community needs and aspirations
- produce aspirations and policies within our Plan on Sports and Leisure, Health and Wellbeing and Arts and Culture.

## Traffic and movement

We want to create a more effective, safe, accessible and efficient transport and travel network for pedestrians, cyclists, motorists and users of public transport:

- improve the flow of traffic and improve signposting in to and around Torquay.
- make it easier to find the way in to and around Torquay, especially to the town centre, identify visitor accommodation and attractions.
- improve safety and ease of access for pedestrians, cyclists and all users of public transport.

## Environment

We want to protect and enhance our natural, built and historic environment:

- protect and enhance the local natural, built and historic environment.
- secure recognition of the features and characteristics which shape and contribute positively to the identity, character and unique qualities of Torquay and its communities.
- protect, conserve and enhance those features and characteristics that make Torquay special.
- protect all our highly valued green spaces.

- protect local, nationally and internationally important sites and species

## The Town Centre

We want to celebrate and enhance the vibrancy and uniqueness of Torquay town centre and harbour front and to increase the residential element of the centre to maintain and grow a mix of quality retail, social, entertainment and evening economy fit for the future:

- continue the process of improving the flow of traffic and supporting pedestrian use by signposting and routing traffic more directly into the town centre and making shopping a positive experience for pedestrians.
- enhance the shopping and social experience in a town centre that is sustainable and fit for purpose
- assure good quality and safe access for all.
- improve car parking access and quality of provision meeting the needs of a future town centre experience.
- increase residential density in the current town centre, promoting increased residential use of upper floors and redevelopment of redundant sites.

## The Gateway to Torquay

We want to deliver a gateway of significance for the town. A gateway of mixed use, well-connected with sustainable communities, robust in structure and adaptable in form to allow change and growth as the economy expands:

- promote well-designed new buildings providing structured growth based on net job creation and inward investment while positively enhancing the appearance of the gateway to Torquay.
- support, integrate and strengthen existing neighbourhood centres at Shiphay, Barton and The Willows.
- preserve and enhance employment areas
- preserve and enhance the habitats for protected species

The following section contains the Planning policies of our Neighbourhood Plan, which are in general conformity with the strategic policies of the Torbay Local Plan and have regard to the National Planning Policy Framework. These Policies will form part of the development plan and be used to manage development through the planning process.

The Neighbourhood Plan also identifies a number of Community Aspirations. Whilst these are not Neighbourhood Plan Policies and have no land use planning policy status, their inclusion in the Neighbourhood Plan relate to associated land use matters and are intended to capture some of the aims and aspirations of communities in Torquay, as identified through the plan-making process. Appendix 1 of this plan contains a set of further Community Aspirations, including those identified by the Community Partnerships of Torquay.

# General Policies and Aspirations

This is a Plan for the whole of Torquay and for each of its neighbourhoods, aimed at securing sustainable development to promote investment in the town's physical and social fabric, strengthening its economy, conserving its heritage, promoting its natural beauty and growing a safer and healthier community.

The policies in this section are designed to help deliver those aims for:

- Housing
- Economy and Jobs
- Tourism
- Health and Wellbeing
- Sports and Leisure
- Transport

Page 34

## **Policy TS1 – Sustainable Development**

The Torquay Neighbourhood Plan provides a framework which contributes to the achievement of sustainable development in Torquay.

Development proposals should accord with the policies contained in the Torquay Neighbourhood Plan, where relevant, unless material planning considerations indicate otherwise.

This Plan's policies aim to steer and shape development. The policies of this Plan and the Local Plan are complementary, together providing a platform for promoting, enabling and delivering sustainable development.

When the plan is formally made by Torbay Council it will become part of the statutory development plan. That means it will be a material consideration in the determination of planning applications.

## **Master Plans**

Master Plans were adopted by Torbay Council for Torquay Town Centre and The Torquay Gateway (Edginswell) Future Growth Area in 2015 and form key Supplementary Planning Documents (SPD) that give guidance to development proposals. They were prepared during the parallel-process of preparing the Torbay Local Plan and the Torquay Neighbourhood Plan.

To be an effective planning tool, Master Plans should be kept up to date to reflect changes to the local economy, regeneration aspirations, viability, new constraints, new thinking and align with the policies and aspirations contained within a Neighbourhood Plan.

## **POLICY TS2 - Master Plans**

Major development proposals within the town centre and Torquay Gateway areas will be supported where they contribute to meeting the objectives of the Torquay Neighbourhood Plan for these areas and they conform to the area wide Master Plans adopted by the Council as SPDs where those masterplans are in compliance with the policies of this Plan.

## Community led planning

To support the continuance of community led planning and accord with the Localism Act, community involvement at an early stage in the planning of new development is encouraged. The Community Partnership network within Torquay is an established community-based, properly constituted, consultation network set up by Torbay Council for the purposes of channelling ideas and feedback on Council policies and services.

### **POLICY TS3 - Community led planning**

Early engagement with the relevant Community Partnership in respect of all proposals for major development, new housing or business proposals on non-allocated, greenfield land, will be supported.

## Greenfield and Brownfield Land

The NPPF provides a definition of brownfield (previously developed) sites. This definition is important in the context of policies contained in this plan.

*“Previously developed land: Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or was last occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill, where provision for restoration has been made through development management procedures; land in built-up areas such as residential gardens, parks, recreation grounds and allotments; and land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape.”*

Other sites will be classed as greenfield for the purposes of this Plan.

Most sites available for development within Torquay are Brownfield or previously developed sites. Most are within the town centre and other urban areas. Our communities support the urgent need for regeneration and the NPPF supports that Brownfield sites are redeveloped in preference to Greenfield.

The development of the Future Growth Area would be required to support a substantial and very optimistic net jobs growth contained within the strategic economic policies of the Local Plan. Net jobs growth has been negative since the start of the Local Plan period and although jobs are being created the loss of employment opportunities within Torbay has been greater. This has meant residents need to travel outside the area to seek employment and therefore a risk of unsustainable development.

### **Policy TS4 - Support for Brownfield and Greenfield development**

Development proposals for brownfield sites will be supported, providing there are no significant adverse impacts, having regard to other policies in this plan.

Development of greenfield sites can have an adverse impact through the loss of green space, so will be supported where this is an allocated site within the Plan or the loss is required to meet the strategic economic policies within the Local Plan.

# Housing

The Torquay Neighbourhood plan recognises the importance of new housing developments to provide the homes to support the ambitious economic growth and net job creation plans identified within the Local Plan and creating thriving and sustainable communities. It is in full compliance with the Local Plan requirement for homes over the Plan period.

The strategy is to provide good quality housing to meet the needs of Torquay's communities now and for the next 12 years. The Local Plan sets the overall strategy; our Neighbourhood Plan sets out to provide the detail to achieve this strategy by ensuring our communities benefit from the provision of new quality homes and that policies are in place to shape their development to maximise the value to the community in terms of quality of life.

There are relatively few opportunities for sustainable, major new housing development (particularly those greater than 20 units) on greenfield sites within Torquay other than the Future Growth Area at Edginswell.

The provision of affordable housing from sites with good inherent viability while protecting our environment by promoting brownfield developments will be priorities for housing policies within the Plan.

## Allocated Housing Sites

Our Plan allocates sites for housing (and employment).

The Torquay Local Plan is 'jobs led' with an ambitious target for net job creation. The allocation of residential (and employment sites) within our Plan will meet the needs of the economy and the projected demand within the Torbay Local Plan.

The greenfield Future Growth Area at Edginswell will represent a small but significant proportion of the possible housing growth (approx. 12.5%) while most of the sites arise from allocated sites and windfall developments (less than 6 homes).

This is in contrast to a currently stagnant economy, and little demand for housing. Our Plan supports housing growth where this is linked to job creation and an improving economy but recognises that to achieve the ambitions contained within the Local Plan may be challenging and may significantly affect housing demand.

Our Neighbourhood Plan, together with the adopted Torbay Local Plan, allocates sufficient housing sites to meet the strategic growth target of approximately 3969 dwellings between 2012 and 2030 (18 years). This housing figure is made up of committed sites (1156 dwellings) and the future growth area (550) within the Local Plan; plus housing site allocations made in our Plan and a proportionally significant windfall provision of smaller sites (below 6 dwellings) of 1040.

Our Plan allocates specific sites for more than 1232 dwellings, drawing almost entirely from the pool of identified/potential sites in the Local Plan (minimum 1111 dwellings), and has added a number of new sites (minimum of 112 dwellings). There are just two sites that were proposed as a potential development sites within the Local Plan (TNPH48 and TNPH6) that have not been supported.

TNPH48 forms a strategic link between key designated Local Green Spaces and is a wildlife corridor; during consultation on the Local Plan it received more than



80% of the representations, unanimously opposing development of the site. This was further supported in Neighbourhood Plan public consultations.

TNPH6 is designated a Local Green Space

Table 1 and 2 presents a breakdown of housing supply by source.

The number of units on each site is a notional number based on an assessment of the site's potential and the aspirations of the relevant Community Partnership for types of homes provided. The number of units could be changed subject to material Planning considerations, the policies within our Plan and the Local Plan.

### Policy TH1 - Housing Allocations

The Torbay Local Plan allocates sites within Future Growth Areas for residential development. The Neighbourhood Plan allocates further sites for residential development, as shown on Table 1 and 2 below, with the approximate number of houses to be delivered on each site shown alongside.

Site specific plans, clearly identifying site boundaries, are provided in the Appendices to this Plan. For clarity, the Appendices also set out (in a Table and on Plans) all of the housing allocations in Torquay during the plan period. These include the allocations contained in the Torbay Local Plan.

Table 1: Neighbourhood Plan allocated sites			
Site ref	Name	Yield	CP area
TNPH1	Holiday Park, Kingskerswell Rd	45	SHIP
TNPH2	Torquay Holiday Park	150	SHIP
TNPH3	North of Nuthatch Drive	100	SHIP

TNPH4	Starpitten Lane	15	BART
TNPH5	Land off Plantation Way	10	SHIP
TNPH6	Site 2 Higher Cadewell Ln	12	SHIP
TNPH7	Site 1 Higher Cadewell Ln	18	SHIP
TNPH8	Foxlands, York Rd	12	STMD
TNPH9	TGGS Shiphay Manor	20	CHEL
TNPH10	Quintaville	10	ELLA
TNPH11	Torre Station	9	CHEL
TNPH12	16/18 Lower Thurlow Rd	6	TORR
TNPH13	Richwood Hotel	8	TORR
TNPH14	Transport Yard	8	ELLA
TNPH15	300-302 Union St	6	TORR
TNPH16	Sherwell Valley Garage	20	CHEL
TNPH17	Tor House & Gospel Hall	25	TORR
TNPH18	Zion Church	8	TORR
TNPH19	Town Hall Car Park regeneration	50	TORR
TNPH20	Laburnum St	8	TORRE
TNPH21	Barclay Court Hotel	8	ELLA
TNPH22	Market Street	89	ELLA
TNPH23	Ansteys Lea Hotel	9	WELL
TNPH24	Municipal Chambers	12	TOWN

TNPH25	Lower Union Lane, Temperance Street Regeneration	130	TOWN
TNPH26	Braddons St Disused Playground	9	TOWN
TNPH27	Roebuck House	20	TOWN
TNPH28	22-28 Union Street	13	TOWN
TNPH29	3-9 Pimlico	10	TOWN
TNPH30	Pimlico	50	TOWN
TNPH31	39 Abbey Road	12	TOWN
TNPH32	Shedden Hall Hotel	14	TOWN
TNPH33	Former Laundry site, Rock Road	30	TOWN
TNPH34	Brampton Court Hotel	10	TOWN
TNPH35	8-9 Braddons Hill Rd W	8	TOWN
TNPH36	Melville St Joinery Works	6	TOWN
TNPH37	40-44 Swan St	10	TOWN
TNPH38	Lansdowne Hotel	8	WELL
TNPH39	Fleet Walk	25	TOWN
TNPH40	Golden Palms	12	TOWN
TNPH41	Terrace Car Park	60	WELL
TNPH42	Hermosa	6	WELL
TNPH43	Ingoldsby	7	CHEL
TNPH44	La Rosaire	7	CHEL
TNPH45	Lee Hotel, Torbay Road	6	CHEL
NP1	Old Cockington School	20	CHEL

NP2	Dainton Storage Yard (Torre Station)	30	CHEL
NP3	Dairy Crest site (Parkfield Road)	40	TORR
NP4	Bancourt Hotel	12	TORR
NP5	Chilcote Close Car Park	10	STMD

Table 2: Housing provision broken down by type of site			Total
	Commitments and other deliverable sites in Local Plan		1156
	TNP allocated sites drawn from Local Plan pool of identified sites		1111
	Additional TNP allocated sites		112
	Future growth area in Local Plan		550
	Windfalls		1040
	<b>TOTAL</b>		<b>3969</b>

## Housing and Development Policies

### Community led development

Torquay has a well-developed network of Community Partnerships based on election ward areas. These areas often represent distinct neighbourhoods based on historic expansion areas to the town. They have in depth knowledge of their communities and have developed community consultation networks allowing them to be ideally placed to fully support and take a leading role in Neighbourhood Planning. We wish to ensure the continuation of a community led development plan for Torquay

#### COMMUNITY ASPIRATION

Any revision to the economic outlook that forms part of a future adopted Torbay Local Plan should include changes to the requirement for residential development. Any significant change to the economic outlook or housing needs for Torquay within a revised Torbay Local Plan should be accompanied by a revision to the Torquay Neighbourhood Plan.

### **Design to reduce risk and fear of crime**

To ensure developments support safe communities, the Plan fully supports the 'Secured by Design' initiative by the Police Designing Out Crime Officer's' protocol with Torbay Council.

#### **Policy TH2 - Designing out crime**

New development should provide for a safe environment and consider opportunities to prevent crime or the fear of crime from undermining quality of life or community cohesion

### **Affordable Homes**

In the Torbay Local Plan Evidence Study Housing Requirement Report it states (S4.1.8) 'it is a truth that the more homes that are allocated with a policy clearly linking delivery to the provision of affordable units, the more affordable homes will be achieved'; also (S4.1.3) 'affordable housing constitutes about 60% of the overall housing requirement'.

S4.1.2 States 'Historically Torbay has had a very pressing need for affordable housing. The 2003 Housing Need Survey found a need comparable to Inner

London'; while S4.1.3 states 'affordable housing constitutes about 60% of the overall housing requirement'.

Torbay currently has a shortage of affordable homes but Torquay is recognised as having a nationally high demand. In 2012 the Council refreshed its waiting list, and as at March 2013 this shows that there is a waiting list of 3050 people for social rented properties (S 4.2.1); although only 1,648 are actually 'in need' (S4.2.2).

This all has a significant effect on the quality of life of the young and those in the low wage or benefits economy that predominates in our town. This critical issue has not been addressed during the past decades due to low economic growth fuelling low housing growth and a high volume of low viability sites that have avoided provision of affordable housing. Over the plan period we would like to see this issue to be positively addressed by policies to increase the supply of affordable housing to a nationally recognised level.

To achieve this there will be opportunities through private sector developments to provide or contribute towards providing affordable housing but it is also acknowledged that the provision of affordable homes over the last 10 years has not achieved the percentage rate required in the adopted Local Plans. Our Plan therefore identifies positive policy statements for affordable homes on Greenfield development sites and aspirations for additional means of provision.

Our Plan acknowledges the value of land to developers is variable and directly related to profitability or potential viability within the known Planning policies for that site. Our Plan does not want the provision of affordable housing and community facilities to be compromised.

By making the following policy for the Future Growth Area, it does not restrict the supply of land but prioritises obligations for the benefit of developing a sustainable community.

#### **Policy TH3 - Future growth area priorities**

Within the Edginswell Future Growth Area, the delivery of affordable housing and community facilities will be given highest priority as part of the obligations arising from development proposals for the area after the provision of essential site specific matters to mitigate the impact of development.

#### **COMMUNITY ASPIRATION**

The community would like to see, aspirations raised and the provision of affordable housing maximised through a range of measures applied through the private and public sector investment. To meet the high demand for affordable housing, if 20% of all new housing provided in Torquay was a combination of affordable and social homes over a rolling 5 year period, this would equate to approximately 850 homes overall and would make significant contribution to providing for local needs.

We recommend that the disposal of suitable Council owned land should be to Housing Associations and self-building schemes as part of an appropriate commercial arrangement, to ensure the level of provision of affordable and social housing is not less than 20% of total homes built during any rolling 5 year period. To enable this we accept that some open market housing may be required on those sites for viability purposes.

The following policy will ensure maximum benefit for the community from provision of affordable housing by providing flexibility for development proposals

to achieve their affordable housing requirements, consistent with the approach of the Local Plan.

#### **Policy TH4 - Affordable homes from greenfield developments**

To encourage a wider range of opportunities for the provision of affordable housing and priority use of brownfield land, development proposals for 20 units or more on greenfield sites will be supported where the provision to meet the affordable housing requirement of the Local Plan is achieved through, in sequentially preferred order:

- on-site provision, or;
- a mix of on-site and off-site provision, or;
- via commuted payments.

This policy supports on-site provision of affordable housing as the most preferred approach. Circumstance may arise where there are material reasons to indicate that providing affordable housing on-site may not be achievable, in those circumstances the provision of homes off-site on brownfield sites or via commuted payments will be supported.

#### **Community Infrastructure Levy**

The Community has identified the specific need for Community Infrastructure Levy funds to regenerate the community facilities in the deprived Town Centre area.

#### **COMMUNITY ASPIRATION**

As part of the Community Partnership submissions that form part of this Plan there are a number of key projects that have been identified for each area. The

community wishes that these projects and future projects that arise in each area are funded through the CIL levy and are prioritised across Torquay by the Neighbourhood Plan Forum or Community Partnership structure.

To help regeneration of the community facilities within the Town Centre Master Plan Area and Community Investment Area while acknowledging the range of site viabilities within that area; the community would like to see development where CIL contributions are not sought, but S106 contributions are, provide the equivalent amount of money to that from the normally prescribed neighbourhood portion CIL contribution be provided for the community's own spend decisions.

The community would also like to see the reduced CIL levy for the Town Centre Master Plan Area be reviewed and adapted to reflect changes in economic regeneration

### **Homes for an ageing population**

Exeter and Torbay Strategic Housing Market Assessment 2007 Section 18/P10 states 'The household structure of Torbay UA follows from its older than average population. In particular 28% of all households were comprised of all pensioners, over half of which were single persons living alone.' In S19 'One of the key messages from stakeholders was that the ageing population of the area was having a considerable impact on the housing in the sub-region.'

The Torquay Neighbourhood Plan encourages downsizing for its ageing population so that more, larger homes will be available to families.

To acknowledge the needs of reduced mobility, later life homes must be in locations that provide essential services in close proximity

We therefore support the provision of purpose built homes for later life in suitable locations where there is ease of pedestrian access to local community facilities (for instance, typically a Doctor's surgery, a pharmacy, post office facilities, convenience food retail, convenience food retail and public transport).

#### **Policy TH5 - Sustainable later life homes**

New residential units designed for retirement or accommodation for assisted living will be supported where their location makes them easily accessible by walking or public transport to shops, the town centre and community facilities

### **Torquay Gateway (including the Edginswell Future Growth Area)**

The Neighbourhood Plan supports the development of the greenfield Torquay Gateway (Edginswell) site (the Future Growth Area) as part of a jobs led, phased development of Torquay.

Any development in this area should exploit its unique position adjacent to the new link road for good quality housing that meets sustainable housing growth and includes purpose built employment space to promote job creation.

The location is of prime value for both job creation and homes relying on the easy access to the stronger economies of Newton Abbot and Exeter via the new Link Road and dual carriageway network. This site is allocated as a Future Growth Area within the Torbay Local Plan.

Our Plan also seeks to rebalance the economy of Torquay away from the low value Tourism offer and towards higher value skilled jobs and therefore the development of this area must be of mixed use.

NPPF 8/70 states we should ‘deliver the social, recreational and cultural facilities and services the community needs’ while NPPF 8/72 states ‘the Government attaches great importance to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities’.

There has been a history of ad hoc, unstructured development within the Willows area that has not developed the community infrastructure to support a sustainable community. A key priority for the current community is to ensure this is corrected by making sure any new major residential development within the adjacent strategic expansion area is integrated within the surrounding communities by ensuring enabling connections are made and community hub facilities exist to support a sustainable community covering a large area.

#### **Policy TH6 - Gateway sustainable community planning**

Development proposals within the Edginswell Future Growth Area should be developed with consideration of the immediate surrounding communities of Stophay, the Willows and Barton. Opportunities to provide transport connectivity as well as complement, augment and/or support the provision of community facilities and primary schools which serve the wider area are important considerations for creating an integrated sustainable community.

### **Design and quality of development**

The redevelopment of larger properties often formerly used for Tourism has led to much low value poorly designed homes providing basic amenities often on an HMO basis that has in turn led to social issues and degradation of the surrounding communities.

We wish to see the stock of homes reflect a sustainable future and promote good quality living environments.

We therefore wish to see the redevelopment of Torquay support good quality design that sits comfortably within the existing built environment and supports the established character of the area.

#### **Policy TH7 - HMO's**

The provision of houses in multiple occupation (HMOs) will not be supported when they would adversely affect the tourism offer or worsen concentrations of deprivation or create conditions of community conflict.

#### **Policy TH8 - Established architecture**

Development must be of good quality design, respect the local character in terms of height, scale and bulk; and reflect the identity of its surroundings.

Communities and the Police have identified lack of parking as a key issue within their areas often exacerbated by developments that have insufficient or no on-site provision causing congested on street parking, parking on pavements and destruction of community assets like grass verges and open spaces.

#### **Policy TH9 - Parking facilities**

All housing developments must meet the guideline parking requirements contained in the Local Plan unless it can be shown that there is not likely to be an increase in on-street parking arising from the development or, the development is within the town centre and an easy walk of a public car park which will be available to residents for the foreseeable future.

In addition, any application for new residential units or additional bedrooms to existing units must be assessed for their impact on parking requirements and proposals shall identify suitable and appropriate parking arrangements so that parking will not add to the potential for antisocial behaviour or conflict within the community. New major developments must contribute to better pedestrian/cycle links where possible and encourage modal shift towards active travel.

## **Conservation of the historic built environment**

Our Plan supports the preservation of our historic homes and other buildings through a policy that protects key historic elements and acknowledges the need for a sustainable future for such buildings.

### **Policy TH10 Protection of the historic built environment**

Alterations to Listed Buildings will be supported where they safeguard and enhance their historic qualities and elements according to their significance. In doing so, proposals which at the same time contribute to providing a sustainable economic future for such buildings will be particularly supported.

## **Special protection for rural village environments**

To protect the character, historic environment and Tourism value of unique rural enclave communities within a largely urban area there will be special provisions to restrict potential development within and on the fringes of the only two rural villages found within Torquay: Maidencombe and Cockington.

### **Policy TH11 - Rural village conservation areas**

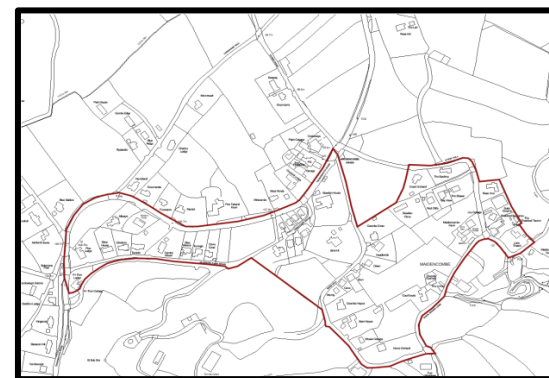
Within the Maidencombe and Cockington Village designated Conservation Areas and subject to other policies in this Plan, development proposals consisting of

sensitive conversions, extensions and alterations will be supported where this would protect or enhance the character and setting of the designated Conservation Area and also have regard to the significance of existing open spaces in terms of their contribution to the Conservation Area.

## **Special policies for Maidencombe**

### **Village Envelope**

In conjunction with the LPA, local residents and in accordance with the Local Plan, the Village Envelope has been redefined and is designated in the policy mapping for the area and illustrated in the map below (and in more detail within the Torquay Neighbourhood Plan Policies Maps).

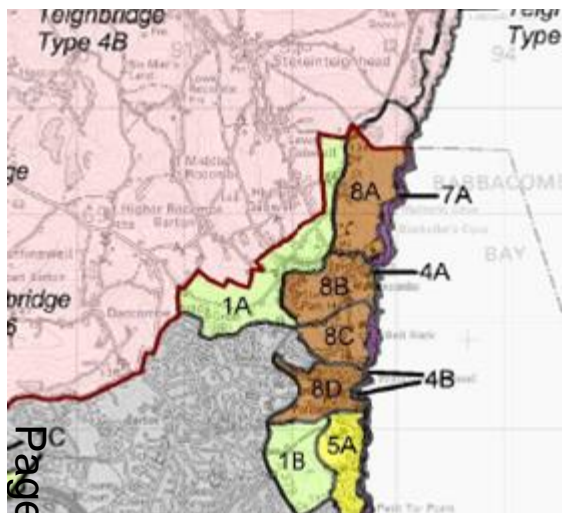


### **General environment**

The St Marychurch & Maidencombe CP submission identifies extremely sensitive environmental issues for the Maidencombe area as it lies within the Countryside (C1) and Undeveloped Coast (C2) designation within the Local Plan and is a known habitat for internationally protected species. The landscape at Maidencombe is special and classed as highly sensitive according to the most recent Landscape Character Assessment which states that infill development and other significant changes will generally not be suitable and could have substantial adverse effects.



Opportunities for infill development are therefore likely to be very limited in this regard due to those constraints. In particular areas identified as 8A, 8B and 8D of the 'Landscape Character Assessment of Torbay Part 2 (2010)' are classed as 'highly sensitive'.



For information - extract from 'Landscape Character Assessment of Torbay Part 2 (2010)

To protect the character, historic environment and tourism value of this rural area development will be limited within the countryside and undeveloped coast in accordance with the Local Plan Policies C1, C2 and SS2.

#### **Policy TH12 - Maidencombe area**

Any proposal for development within Maidencombe Village Envelope must demonstrate that it respects local character and it conserves or enhances heritage and landscape assets where it might impact on those assets.

To achieve this, any development must be of a scale, height, footprint, location and massing in keeping with its built surroundings and the overall physical characteristics within the Village Envelope; and to protect the amenity of existing homes.

Designs and construction materials must draw from and be in keeping with local features and design characteristics and be appropriate in relation to its landscape sensitivity. Development must take into account the value of the rural landscape and comply with the Local Plan policies in the designated Countryside Area (C1) and Undeveloped Coast (C2).

Major developments in C1 countryside, outside the Village Envelope, will not be supported and any greenfield development will be resisted unless it is compatible with the rural character and setting and it fits within the constraints of the existing landscape and visual character of the area.

### **Special policies for Cockington Village and Country Park**

Cockington Village and Country Park form an exceptionally well preserved historic and environmentally sensitive area; and visitor destination.

Cockington Village and Country Park form what was an old manorial village and private estate until 1933 when it was given to the people of Torbay. The manor house has become a crafts centre while the village has been uniquely preserved and has a quintessentially Devon thatched village environment with constrained historic development (the pub being the last significant development in the late 1920's). Being close to a Torquay means its popularity arose in Victorian times and remains a seasonally busy day time visitor attraction with a largely residential population.

Visitors largely come to see the historic preserved village and use the recreational area of the Country Park that includes a crafts studios and manor house.

There has been a long standing balance between the residents' quality of life and commercial activities that has resulted in the community's support for the often

intrusive day time commercial use; while protecting the peaceful evening and night time environment for the benefit of resident's quality of life.

Historically the visitor numbers have substantially decreased since their peak in the 1950's; the retail offering struggles to adapt to the changing market and its viability is low due to oversupply of similar product types. Some shrinkage in retail space would be beneficial to improve the long term viability of remaining outlets, improve the ambience of the village centre and cater for a more demanding visitor market.

To reinforce the current C1 Countryside designation within the Local Plan, special constraints will be placed on some form of development.

#### **Policy TH13 – Cockington Village and Country Park**

Within Cockington Village and Cockington Country Park: the change of use to or new A3, A4 or A5 class use will only be supported if it is restricted to opening for trading in daytime hours (generally between 08.00 and 18.00).

New homes or new businesses will not be supported on greenfield sites;

Within Cockington Village, change of use from employment space to dwellings will be supported where there is no reasonable, viable prospect of the site being sustainable for employment uses and subject to the external appearance being retained or restored, where possible or appropriate, to its historic origins.

# Economy and Jobs

Our Plan supports secure well-paid jobs within a vibrant, diverse economy and fully support the ambition of the Torbay Local Plan to increase net jobs created in Torbay and improve and diversify Torquay's economy for the benefit of our community's quality of life. A full assessment of the economy has been provided within the supporting evidence.

The Local Plan has a very ambitious goal of net job increase during the Plan period. The current published data shows a large net job loss for the first 4 years to 2016.

Currently Tourism and the Public Sector are responsible for over half the economy of Torquay. The Tourism industry employs around one third of the local workforce and is widely recognised as currently unsustainable due to limited growth in the traditional markets and lack of investment in support of future market demands from poor profitability.

There have been some recent significant signs that inward investment to Torbay is increasing in both high tech businesses and the tourism sector. This trend must be continued to enable the economy to support the increase in net jobs predicted by the Torbay Local Plan.

The Tourism policies in the Neighbourhood Plan require a managed transition of the Tourism industry to a higher visitor spending, higher quality accommodation and attraction provision, to encourage better paid full time jobs, and sustainable businesses.

This transition may reduce the net tourism jobs created within the first 10 years of the Plan and, with a potentially shrinking public sector, special emphasis in this

Plan is on creating non-tourism jobs that will be required to provide the new jobs in Torquay as identified within the Torbay Local Plan.

There will be a net value of an improved economy to the local community from more and better paid jobs supporting better quality homes and secure futures.

A key part of job creation will be to revitalise the town centre and harbour area through development for homes and an effective fit for purpose retail and leisure area. This is the goal of the Torquay Town Centre Master Plan SPD; this goal has the general support of the Plan subject to continued review and updating based on the predicted needs of the changing high street retail and tourism sectors.

## **Supporting existing and new businesses**

To ensure the job creating enterprises can be in the best locations for businesses to flourish it is essential that their location offers the very best communications routes both within Torbay and to surrounding centres of population, and the reduction of existing purpose built permanent employment areas is resisted by the Plan.

The following policies are designed to encourage new businesses in to Torquay and prevent further loss of employment space.

The following policy designates key Employment Sites for Torquay for the retention and 'smarter' use of existing space and also highlights opportunities for new space for instance that which is allocated through the Local Plan within the Edginswell Future Growth Area (consistent with the adopted Masterplan SPD) and at Nightingale Park (possible employment uses associated with sports and recreation, consistent with the retention of significant public greenspace).

Other sites may be considered as significant employment sites within the context of this Plan. The Town Centre area is defined to protect a key retail/leisure area

that will form the foundation of a revitalised ‘town centre’ experience. The intention is that the front facing street level units will be protected for employment but residential will be allowed above and behind subject to Policy TC4 in the Local Plan.

### **Policy TJ1 – Employment**

New development should help contribute to the strategic needs for employment land for Torquay, as set out in the Local Plan.

The provision of new employment space will be supported across Torquay, consistent with policies for managing development contained within the Torquay Neighbourhood Plan and the Torbay Local Plan.

Loss of employment uses at the following sites which are allocated for employment use in this plan will be resisted. Support will be given to the retention and improvement of employment space.

TNPE01 – Torbay Hospital

TNPE02 – Woodlands/Lawes Bridge

TNPE03 – Kerswell Gardens

TNPE04 – Lymington Road Area and Chatto Road Industrial Estate

TNPE05 – Lummaton Quarry

TNPE06 – Torquay Town Centre street level (Fleet Walk)

TNPE07 – Broomhill Industrial Estate

TNPE08 – Newton Road commercial area

TNPE09 – Browns Bridge

TNPE10 – Edginswell Business Park

TNPE11 – Barton Hill/Barton Way/Hele Road commercial and industrial area

The provision and delivery of new employment uses on sites at Nightingale Park (see TSL2) and at the Edginswell Future Growth Area (consistent with Policy TS3) will be given support.

There is a trend towards home based enterprises and home working. The following policy will ensure homes are built to accommodate this trend for fit for purpose space.

### **Policy TJ2: Home based enterprises**

All new residential units should have fibre optic superfast broadband connected or provision made for retrospective fitting where this is not possible at the time of development.

## **Protection of the historic commercial environment**

Our Plan supports the retention of historic street scenes in Conservation Areas

### **Policy TJ3 - Commercial street scenes**

Development within Conservation Areas should conserve or enhance commercial heritage assets and their settings.

# Tourism

## ‘Torquay – a destination in transition’

**The vision is to be ‘the best in the west’: a quality, all year round sustainable tourist destination based on: coast, countryside, culture and cuisine.’**

Torquay’s tourism sector is acknowledged as requiring transition to a higher value, higher quality, year round offering to improve the sustainability of the sector and provide one foundation of a secure and prosperous economy for Torquay. The following policies underpin this transition.

‘Turning the Tide for Tourism’ identifies an oversupply of in the small B&B guest house sector (less than 10 rooms) with significant oversupply of low quality low value added small hotels. There is an identified lack of good quality large hotels and branded chains.

### **Increase in the quality and sustainability of the accommodation sector**

The foundation for the transition of Torquay to the ‘best in the west’ should be by the following aspirations:

#### **COMMUNITY ASPIRATION**

The community would like to see, and where possible will work towards enabling the following:

- A thorough and on-going bed audit and research key accommodation data to support the investment in rebalancing of the quantity and quality of bed spaces in each accommodation sector. This research should include a

professionally assessed market evaluation and predicted future (20 year) trends. The results should be published and advice and guidance to Tourism businesses should be provided on the implications of the data.

- The transition of tourism should be managed through the delivery of the Local and Neighbourhood Plans within the framework of the Planning process whereby the bed audit and market evaluation will provide evidence for decision making.
- Businesses should be allowed to change use where there are areas of over-supply or low quality or low spend value by a presumption in favour of a change of use to other high quality accommodation or homes, or
- New developments should be allowed in those areas that support the vision for our resort and are on Brownfield sites.
- Visitor infrastructure investment priorities by the Council should be concentrated in the Core Tourism Investment Areas (CTIA’s).
- The Council should support and promote the investment in and development of quality, accessible and green tourism businesses.
- There should be no Houses in Multiple Occupation (HMO’s) or other hostel accommodation allowed in established tourism areas.
- The Council should persuade or use their power to serve Section 215 Notices on landlords and owners of properties to improve maintenance and visual appearance in established tourism areas.
- The planning process should protect the green open spaces within Torquay’s environment by restricting new holiday accommodation and tourism sites to the extensive availability of existing or Brownfield sites.
- Council policies should encourage tourism businesses to improve quality, trade all year round and provide quality jobs.
- The Council should support the creation of an international hotel school to underpin the change to a high quality Tourism Sector.
- The Council should support good quality sustainable conference facilities to underpin all year round tourism.
- Key tourism and retail areas outside the Core Tourism Investment Areas (CTIA’s) and town centre should be well signposted.

## **Concentrate tourism investment within CTIA's to develop a vibrant, quality visitor experience**

Two CTIA's are created within the Local Plan:

- The coastal strip from Livermead Cliff Hotel to the Imperial Hotel including the areas around Torre Abbey/RICC, Lower Belgrave Road and harbour, and
- Babbacombe cliff and coastal strip.

Although in general key serviced accommodation businesses within a CTIA should be retained where possible it will be more important in the first 5 years of this Plan to improve the ambience of the area by change of use of unsustainable businesses to high quality, mixed use developments of holiday apartments, homes, retail or restaurant/café uses with a design sensitive to the heritage value of the area. This policy should be extended to the redevelopment of any sites not trading so that the visual amenity value of the area is improved.

### **COMMUNITY ASPIRATION**

The community would like to see, in general, key serviced accommodation businesses within CTIA's being retained where possible as it will be more important in the first 5 years of this Plan to improve the ambience of the area by change of use of unsustainable businesses to high quality, mixed use developments of holiday apartments, homes, retail or restaurant/café uses with a design sensitive to the heritage value of the area. This approach should be extended to the redevelopment of any sites not trading so that the visual amenity value of the area is improved.

### **Policy TT1: Change of use constraints within and outside a CTIA**

#### *Outside CTIAs*

Change of use from tourism accommodation within a CTIA to HMO or student halls of residence or hostel type accommodation will not be supported.

Change of use from tourism accommodation outside a CTIA to HMO or student halls of residence or hostel type accommodation will not be supported where this would detrimentally affect the holiday character of the area.

The change of use to residential dwellings from tourism properties outside the CTIA's will be supported subject to the site being of limited significance to the tourism setting (typically 10 letting rooms or less of serviced holiday accommodation), or there is a lack of viability for tourism (including that it can be demonstrated that the current business has been marketed on realistic terms for 12 months without sale), or at least half of the units within the property are already of Class 3 residential status.

#### *Within CTIAs*

The change of use to residential units from tourism accommodation within a CTIA will be supported if there is no reasonable prospect of the site being used or redeveloped wholly for tourism accommodation and where tourism related use at street level (such as retail and/or cafes/restaurants) is provided that would not detract from and would add to the tourism offer of the CTIA.

The planning process must protect the built environment within conservation areas and help develop sustainable uses for historic buildings that are or have been used for tourism accommodation.

The following policies recognise the importance of the sustainable use of heritage assets through the protection and enhancement of existing properties:

### **PLANNING POLICY TT2: Change of Use in Conservation Areas and Listed Buildings**

Within designated Conservation Areas or where Listed Buildings are involved, whether inside or outside of a CTIA, change of use from tourist accommodation and other development proposals requiring consent will be supported in principle (subject to other policies in this Plan) to ensure a sound future for such heritage

assets and wherever possible unsympathetic development of the past is removed or altered to enhance the historic environment.

A vital part of the long-term strategy is the general amenity value of tourism accommodation areas and this requires a robust and systematic approach to the improvement of run-down or derelict properties and sites.

Section 215 of the Town & Country Planning Act (1990) provides a method of supporting the overall improvement of these areas by a robust and systematic approach serving notices for improvements to run-down or derelict properties and sites.

#### COMMUNITY ASPIRATION

The Neighbourhood Forum would like to encourage Torbay Council to serve notices if the property or site is having a substantial negative impact on the visual quality of the surrounding area and the local community requests action.

### Torquay Seafront and harbour area

This is the primary CTIA for Torquay and should be the main focus for investment to create and retain high quality, high value tourism based accommodation, entertainment, retail, cafes and restaurants to underpin the transition to a higher spending visitor base.

#### COMMUNITY ASPIRATION

The community would like to see, and where possible will work towards enabling the following:

- The harbour area should have café, bars and restaurants creating a safe, al fresco experience in the summer months with good quality public space all year round.
- The beach and harbour-side environment should be a key investment area for refurbishment and maintenance to provide a high quality visitor experience while retaining its heritage, scale and resort ambiance.
- Provide e-information platform for visitors to access all information on Torquay at key points as technology improves.
- Invest to improve maintenance of roads, pavements and the street scene from public and private sector investments.
- Move fairground activities from Torre Abbey and transform the area to become a green space for summer festivals, music and other events.
- Develop national standard, good quality conference facilities to support all year round tourism and quality hotels by promoting the redevelopment of the Riviera International Conference Centre site to incorporate a top quality integrated conference hotel and fit for purpose sustainable conference centre and promoting hotel accommodation in the local area to support delegate requirements.

### Babbacombe

Babbacombe is recognised as a satellite resort and secondary CTIA with two distinct areas, the beach side and the green downs area with its Victorian buildings.

Although some hotel businesses will thrive, in general the tourism based accommodation will be allowed to shrink by change of use unless it forms part of the key front line cliff top properties. This area forms an open green area popular for visitors to Babbacombe and would be enhanced by investment in a range of cafés/restaurants and retail units to assure economic viability of the whole area. To achieve this change of use should have some flexibility to provide incentive for redevelopment and support viability.



### **Policy TT3: Change of use constraints on Babbacombe Downs CTIA**

Within the Babbacombe Downs CTIA and subject to other policies in this Plan, support will be given in principle to change of use from tourist accommodation to:

- a) residential use, except where it would involve introduction of HMO accommodation or loss of high quality tourist accommodation;
- b) tourist related use at street level such as retail and/or cafes/restaurants that would not detract from and would add to the tourist offer of the CTIA.

Any proposal involving new buildings should be of a design sensitive to the historic character of the area and comply with other policies within this Plan

### **Integrate water based sports and activities into the tourism offer.**

#### **COMMUNITY ASPIRATION**

The community would like to see, and where possible will work towards enabling the following:

Support the development of improved harbour and beach side facilities to support a quality tourism offer and develop regional and national standard sports facilities and water sports provision as an integral part of the broader Tourism offer and support the recently approved Cultural Strategy.

Positive actions to include:

- make access to the water easier for all users
- make storage and launching small craft from beaches and harbours easier
- maintain beaches to a high standard and ensure investments are made in infrastructure support Blue Flag/Quality awards for all beaches and provide good quality fit for purpose beach fronts.
- provide quality public toilets with extended opening and availability all year.

- redevelop Meadfoot west beach area with a quality sea view restaurant to support the new beach hut development and the local area's quality accommodation providers.

### **Develop Torquay as the cultural centre of the west with a broadened range of tourism infrastructure to diversify the visitor appeal.**

#### **COMMUNITY ASPIRATION**

The community would like to see, and where possible will work towards enabling the following:

- Promote a range of quality all year round festivals based on coast and countryside, culture and cuisine linking to the objectives of the adopted Cultural Strategy and those submitted by Torbay Action for Art.
- Promote Heritage, Literary, Geology and Arts Trails.
- Promote walking and tour guides and bring to visitors' attention the 'hidden jewels' of Torbay.
- Identify a suitable site for a Torbay open air theatre.
- Support a Torbay Culture/Arts Centre on a suitable site.
- Support investment in all year round, quality indoor attractions and a major national attraction comparable with the Eden Project.
- Help businesses create packaged themed breaks and a resort tourist pass.
- Create a dedicated Agatha Christie centre housed in an iconic building such as the Pavilion where her life and works are also celebrated with history and live performances.
- Develop a festival/music/large event location on Torre Abbey green space in place of the fair.
- Support the development of a quality retail offering through town centre regeneration as an integral part of tourism offer by initiatives that bring together the tourism and retail sectors.

### COMMUNITY ASPIRATION

The community would like to see, and where possible will work towards enabling the following:

Transition night-time economy to provide a quality harbour area to attract high spenders and visitors who use quality accommodation

- Support positive management of night time economy by retaining Purple Flag award.
- Establish zero tolerance policing of any anti-social behaviour, including but not limited to drunkenness, rough sleeping and begging.
- Promote a quality café/restaurant/bar/mixed accommodation area around harbour.
- Encourage relocation of clubs to distributed locations away from established residential areas but integrated with the main tourism accommodation areas
- Promote a dedicated entertainment complex with cinema/pubs/clubs/casino/retail integrated with the main tourism area such as the top end of town.

Encourage continued investment in quality food and drink providers to encourage higher spend.

Introduce 20 mph speed limit and pedestrian friendly areas around the harbour to provide a safer environment.

- Route in to hub via Rathmore/Falkland Road from Avenue Road with a roundabout at the junction with Torbay Road (this will require the reversal of the current one way routes)
- Improve direct rail links working with the Torbay Development Agency (TDA) and the Heart of the West Local Enterprise Partnership (HOSWLEP) to ensure continued investment.
- Incorporate controlled crossings for safe pedestrian access to transport hub.
- Consider a mass transportation system linking key areas within Torquay and the rest of Torbay.
- Encourage the linking of harbours along the South West coast with a coastal ferry service.

### COMMUNITY ASPIRATION

The community would like to see, and where possible will work towards enabling the following:

Create a transport gateway hub at Torquay train station for trains, coaches, buses, bikes, taxis and the town centre land train

- Train station, coach drop off/collection facilities, bus stop to link with main routes (and land train), taxi rank and cycle hire with link to wider cycle/foot path routes.
- Sheddon Hill car park as coach park.
- Ensure all routes are accessible.
- Encourage development of existing railway buildings in to related uses.

# Environment

The quality and character Torquay's rural, urban and maritime landscapes have long been recognised as a valuable asset. Countryside and beaches are the top attractions for visitors to the area of South Devon and as such the environment within Torquay is vital to the tourism industry; as well as giving a significant motivation for new residents to move to the area. However, this means that the landscape is under continuous pressure for change from development, changes in land management practices, and the effects of climate change. Torquay's rural landscape is heavily influenced by their patchwork of green spaces, undeveloped coastal fringe and agricultural activity. The continuation of agriculture is vital for the continued conservation and enhancement of the landscape.

## Protection of environmentally important species and habitats

The Plan area contains a number of sites of or is in close proximity to designated sites European or National importance for bio and geodiversity.

South Hams Special Area of Conservation  
Lyme Bay and Torbay Marine SAC and Torbay Marine Conservation Zone (MCZ)  
Lummaton Quarry SSSI  
Babbacombe Cliffs SSSI  
Hopes Nose to Walls Hill SSSI  
Kents Cavern SSSI  
New Cut SSSI  
Meadfoot Sea Road SSSI  
Daddyhole SSSI  
Dyer's Quarry SSSI  
Oocombe SSSI

## Promoting Brownfield sites for new tourism developments

Landscapes perceived as beautiful, tranquil and 'natural' improve mental wellbeing by reducing stress and evoking positive emotions, and help improve physical fitness by providing inviting and inspiring environments to exercise. Access to the countryside and green spaces, such as via the public rights of way network, is important for these benefits to be fully realised.

Growth in visitor numbers and the resident population will exert further pressure on Torquay's landscape; this needs to be managed carefully to maintain the high quality and distinctive character of the landscape to secure future economic prosperity, health and wellbeing.

Torquay has a large number of Brownfield and redundant tourism sites providing a significant pool of assets for redevelopment and hence reducing the pressure on the few remaining green areas in Torquay.

### Policy TE1 - Tourism accommodation on brownfield sites

New tourism developments will be particularly supported where they make use of brownfield land for the provision of that development.

## Designated Local Green Spaces

Torquay has many open green spaces because of its location on the coast and because the large developments in the 19<sup>th</sup> and early 20<sup>th</sup> century placed special emphasis on provision of public access parks.

Each Community Partnership has audited their green spaces and identified their list of Local Greenspaces in compliance with NPPF 8/76

76. Local communities through local and neighbourhood plans should be able to identify for special protection green areas of particular importance to them. By designating land as Local Green Space local communities will be able to rule out new development other than in very special circumstances. Identifying land as Local Green Space should therefore be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services. Local Green Spaces should only be designated when a plan is prepared or reviewed, and be capable of enduring beyond the end of the plan period.

Many other green area sites were rejected because they did not meet the strict criteria for designation so those designated have special significance to the local community be it historic asset, recreational, sport or food production use or wildlife refuge. It is of note that almost all homes within Torquay are in a largely urban area and local communities highly value those public access green spaces within walking distance of their homes. The preservation of these assets has been a high priority identified in public consultations.

The number of sites is considered unexceptional to the large urban area that the Plan covers, representing c. 1 green space for every 200 homes (with many supporting the Tourism industry). This is not disproportionate to that expected in contemporary urban planning.

It is recognised that some sites suffer from a lack of maintenance caused by a reduction in Torbay Council funding; this must not be taken as a lack of worth to the community.

Local Green Space justifications are contained within the supporting evidence document: Basic Conditions Statement.

#### PLANNING POLICY TE2: Local Green Spaces

The areas listed below, indicated on the accompanying plan and shown in detail on the Neighbourhood Plan Policies Maps, are designated as areas of Local Green Space, where development is ruled out, other than in very special circumstances.

Very special circumstances may include the provision of a new railway station at Edginswell, the provision of a new structure providing a café, beach facilities and toilets at Hollicombe Park. In addition, minor improvements to community access, or facilities that support their use for public recreation or amateur sports, or development allowing reasonable small extensions in a style that reflects the setting and the local area which would be consistent with the LGS designation, will be supported.

**Table 3: Designated Local Green Spaces**

Map Ref	Local Green Space Name	Community Partnership area
TLGSB1	Barton Downs	Barton & Watcombe
TLGSB2	Brunel Woods	Barton & Watcombe
TLGSB3	Firlands Green	Barton & Watcombe
TLGSB4	Great Hill	Barton & Watcombe
TLGSB5	Steps Cross Playing Field	Barton & Watcombe
TLGSB6	Woodend Project	Barton & Watcombe
TLGSC1	Armada Park	Cockington, Chelston & Livermead
TLGSC2	Ashfield Gardens	Cockington, Chelston & Livermead
TLGSC3	Cockington Country Park	Cockington, Chelston & Livermead
TLGSC4	Corbyns Head	Cockington, Chelston & Livermead

TLGSC5	Crownhill Park	Cockington, Chelston & Livermead
TLGSC6	Goshen Triangle	Cockington, Chelston & Livermead
TLGSC7	Highlands/Sherwell Valley Allotments	Cockington, Chelston & Livermead
TLGSC8	Hollicombe Park	Cockington, Chelston & Livermead
TLGSC9	John Coad Park (Innerbrook/Sandford Green Space)	Cockington, Chelston & Livermead
TLGSC10	Kings Gardens	Cockington, Chelston & Livermead
TLGSC11	Occombe Farm	Cockington, Chelston & Livermead
TLGSC12	Piggeries Green Space	Cockington, Chelston & Livermead
TLGSC13	Preston Primary School Play Park	Cockington, Chelston & Livermead
TLGSC14	Rocket Park	Cockington, Chelston & Livermead
TLGSC15	Sherwell Park	Cockington, Chelston & Livermead
TLGSC16	Sherwell Valley/Grenville Green Space (Markham Plantation)	Cockington, Chelston & Livermead
TLGSC17	St Matthews Field	Cockington, Chelston & Livermead
TLGSC18	Torre Valley North & South Sports Fields	Cockington, Chelston & Livermead
TLGSC19	Rugby/Cricket Club & Bowling Club	Cockington, Chelston & Livermead

TLGSC20	Two Parks	Cockington, Chelston & Livermead
TLGSC21	Victoria Park	Cockington, Chelston & Livermead
TLGSC22	Hollicombe Brake	Cockington, Chelston & Livermead
TLGSC23	Scadson Valley Green Space	Cockington, Chelston & Livermead
TLGSE1	Belmont Park	Ellacombe
TLGSE2	Brewery Park	Ellacombe
TLGSE3	Castle Road Park	Ellacombe
TLGSE4	Ellacombe Park	Ellacombe
TLGSE5	Quinta/Windsor Road Allotments	Ellacombe
TLGSE6	Stentiford Hill Park	Ellacombe
TLGSE7	Warberry Copse	Ellacombe
TLGSH1	Cricket Field Playing Field	Hele, Watcombe & Lower Barton
TLGSH2	Daison Wood	Hele, Watcombe & Lower Barton
TLGSH3	Truro Bank	Hele, Watcombe & Lower Barton
TLGSH4	Windmill Hill Playing Fields	Hele, Watcombe & Lower Barton
TLGSM1	Babbacombe Downs	St Marychurch & District
TLGSM2	Brunel Manor Gardens & Grounds	St Marychurch & District
TLGSM3	Cary Park	St Marychurch & District
TLGSM4	Easterfield Playing Fields	St Marychurch & District

TLGSM5	Glen Sannox Memorial Gardens	St Marychurch & District
TLGSM6	Hartop Road Allotments	St Marychurch & District
TLGSM7	Haytor Park	St Marychurch & District
TLGSM8	The Fields	St Marychurch & District
TLGSM9	Maidencombe Community Orchard	St Marychurch & District
TLGSM10	Maidencombe Village Green	St Marychurch & District
TLGSM11	Millenium Copse	St Marychurch & District
TLGSM12	Petitor Downs	St Marychurch & District
TLGSM13	Quinta Road Allotments	St Marychurch & District
TLGSM14	Quinta Road School Playing Fields	St Marychurch & District
TLGSM15	Plainmoor Recreation Ground	St Marychurch & District
TLGSM16	Tessier Gardens	St Marychurch & District
TLGSM17	The Grove	St Marychurch & District
TLGSM18	King George V Memorial Playing Fields	St Marychurch & District
TLGSM19	The Rose Garden	St Marychurch & District
TLGSM20	Valley of the Rocks	St Marychurch & District
TLGSM21	Walls Hill	St Marychurch & District

TLGSM22	Walls Hill Slopes	St Marychurch & District
TLGSM23	William's Field	St Marychurch & District
TLGSS1	Cadewell Park Green	Shiphay & Willows
TLGSS2	Darwin Park	Shiphay & Willows
TLGSS3	Ellacombe Plantation	Shiphay & Willows
TLGSS4	Exe Hill Green Space & Playground	Shiphay & Willows
TLGSS5	Furzebrake Plantation	Shiphay & Willows
TLGSS6	Green Space at Newton Road	Shiphay & Willows
TLGSS7	Huntacott Way Green Space & Playground	Shiphay & Willows
TLGSS8	Kitson Park	Shiphay & Willows
TLGSS9	Lindisfarne Park	Shiphay & Willows
TLGSS10	Lloyd Avenue Village Green	Shiphay & Willows
TLGSS11	Monserrat Rise, Barton/Willows	Shiphay & Willows
TLGSS12	Riviera Way Woodland	Shiphay & Willows
TLGSS13	Shiphay Park	Shiphay & Willows
TLGSS14	South Parks Allotments	Shiphay & Willows
TLGSS15	Beechfield Allotments	Shiphay & Willows
TLGST1	Cary Green	Torquay Town Centre
TLGST2	Promenade; Princess Gardens & the Sunken Gardens	Torquay Town Centre
TLGST3	Royal Terrace Gardens (Rock Walk)	Torquay Town Centre
TLGST4	Abbey Park and Meadows	Torquay Town Centre
TLGST5	Old Maids Perch	Torquay Town Centre
TLGSTU1	Brunswick Square	Torre & Upton
TLGSTU2	Chapel Woods	Torre & Upton

TLGSTU3	Memorial Gardens	Torre & Upton
TLGSTU4	Parkfield Road Gardens	Torre & Upton
TLGSTU5	Stantaway Hill & Allotments	Torre & Upton
TLGSTU6	Torre Churchyard	Torre & Upton
TLGSTU7	Upton Park	Torre & Upton
TLGSW1	Daddyhole Plain	Wellswood & Torwood
TLGSW2	Ilsham Valley	Wellswood & Torwood
TLGSW3	Lincombe Woods	Wellswood & Torwood
TLGSW4	Manor Gardens	Wellswood & Torwood
TLGSW5	St Johns Wood	Wellswood & Torwood
TLGSW6	Stoodley Knowle Meadow	Wellswood & Torwood
TLGSW7	Thatcher Pines & Thatcher Point	Wellswood & Torwood
TLGSW8	Torwood Gardens	Wellswood & Torwood
TLGSW9	Wellswood Green	Wellswood & Torwood

## People 47 **Green Infrastructure**

People want to live, work and visit attractive places and the Bay's identity is its natural setting and stunning coastal environment. It is important with the increasing pressures that are being placed on Torbay's green infrastructure, that these qualities are not compromised. The value of green infrastructure, for the health of Torbay, needs to be acknowledged and measures put in place for long term investment. The economic regeneration of the Bay needs to consider green infrastructure alongside the built environment; only then can sustainable communities be created for the future.

### COMMUNITY ASPIRATION

The Neighbourhood Forum would like to highlight the importance to the community of the Torbay Green Infrastructure Delivery Plan 2010 and would like to see its provisions taken into account wherever possible

The diversity of landscapes in Torquay is striking, whether it is the rugged coastlines of rocky cliffs and sweeping bays, secluded valleys such as Cockington and Maidencombe, rolling hills of traditionally managed farmland, or its rich historic character. Torquay contains a number of valuable landscapes which have been designated in recognition of their international, national and local significance, in particular the approval of the whole area as a UNESCO Global Geopark, one of only 120 in the world. The Geopark provides a tool for promoting the area's geology and natural resources through education, and supporting the sustainable economic development of the area, especially through tourism.

Just as it is necessary to strategically plan and deliver roads, utilities and drainage, it is also important to plan strategically in order to deliver a healthy natural environment. Both require the same level of attention. A Green Infrastructure network is made up of interconnected open spaces that provide multiple environmental, economic and social benefits, linked together throughout the urban landscape and out to the wider countryside, coast and sea. These spaces provide a mix of functions including recreation, sustainable transport, education, wildlife habitat, flood risk management, local food production, energy production and ecosystem services. Often these functions are overlapping, for example woodland can be a recreational asset, a wildlife habitat, a landscape feature and a fuel supply all at once.

### **Parks, woodlands and green spaces**

Our parks and green spaces are rightly valued as amongst our most precious assets.

### COMMUNITY ASPIRATION

The Community would like to see the following:

- Improve the appearance of green space.
- Improve accessibility, especially for the disabled.



- Page 418

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## PLANNING POLICY TE3 Development on Established Woodland

Torquay is a largely urban area surrounded by countryside and coastline. New large scale developments are on Greenfield sites that are close to countryside or coast.

To help protect the environment and promote access for wildlife to pockets of habitat the following policy supports the linking of existing areas of green space, woodland and hedgerows when greenfield development takes place.

#### **Policy TE4 - Green Corridors**

Greenfield development should, where deliverable and viable, support the provision and/or enhancement of green infrastructure through the provision of green corridors and/or links to existing green infrastructure, to facilitate the natural movement of wildlife.

### **Protected Species and biodiversity**

All protected species under National and European Law must be protected from development that adversely has a negative impact on them. It is also important to ensure biodiversity is not lost

The Habitats Regulations Assessment for our Plan identifies Torquay as outside of the South Hams SAC sustenance zone for Greater Horseshoe bats; however there are two flyway ends; one at Sladnor Park and the other at Edginswell Future Growth Area.

It is unlikely development in the built up area of Torquay would have effect on the integrity of the SAC through an effect on the defined sustenance zone itself.

There is a possibility of disturbance of flyways at Edginswell Future Growth Area and at Sladnor Park. Greater horseshoe bats are particularly light sensitive and tend to avoid areas that are subject to artificial illumination. Increased lighting used for new developments, recreation and crime prevention in areas used by the bats would have a significant impact.

The Local Plan identifies a landscape buffer zone would be required along the western edge of the Future Growth Area between any future built development and the A 380 and the protection of hedgerows. This would retain and create connective corridors. A similar approach of suitable buffer zones and protection of sustenance and roosts at Sladnor Park would help protect the colony.

The area around Maidencombe is already recognised as a protected area for the European protected Cirl Buntings and therefore special measures should be in place to protect their nesting and sustenance zones.

Provision of such protection would be consistent with and support the Local Plan Policy NC1 while NPPF 27/119 States that the presumption in favour of sustainable development (paragraph 14) does not apply where development requiring appropriate assessment under the Birds or Habitats Directives is being considered, planned or determined.

#### **Policy TE5 - Protected species habitats and biodiversity**

Considering all stages of the construction process, the development of new homes, or a new commercial property or business premises of any class, on an unallocated site that could have an impact on a protected species or habitat must provide, as appropriate, an assessment of impacts upon any existing protected species or habitats and as necessary provide mitigating arrangements in order to protect and enhance those species and habitats.

#### **Policy TE6 - European Protected species on specified sites**

Considering all stages of the construction process, all development within the Edginswell Future Growth Area or the Maidencombe area (including the Village

envelope and surrounding defined Buffer Zone) must have a Habitats Regulation Assessment as appropriate.

## **Marine Environment Planning**

The marine planning authority for England the MMO is responsible for preparing marine plans for English inshore and offshore waters. At its landward extent, a marine plan will apply up to the mean high water spring mark, which includes the tidal extent of any rivers. There could therefore be an overlap with terrestrial plans which generally extend to the mean low water springs mark. Beyond activities based at sea or on the coast, marine plans also apply where an authorised land-based activity may have an impact on these areas. Marine plans will inform and guide decision makers on development in marine and coastal areas.

### **Policy TE7 - Marine Management Planning**

Development proposals on land adjacent to the coastline will be supported where they do not have an adverse effect on a marine policy or management plan.

# Health and Wellbeing

The concept of ‘healthy urban planning’ is being promoted by the World Health Organisation to draw attention to the need for planners, public health professionals and others to work together to plan places that foster health and well-being.

Physical activity, especially walking, has many important health benefits for older adults and the built environment plays a crucial role in encouraging healthy activity for this growing segment of the population. Current UK estimates from the Office of National Statistics (ONS 2011) see the proportion of over 60s rising from 23% to 31% by 2058. Torbay already has an over 60s population which exceeds the 2058 ONS national estimates with 31.4% of its population currently over the age of 60 (2011 census) – placing Torbay 45 years ahead of the rest of the country.

Torbay has the potential to act as a leading example of how the design of buildings and public spaces can facilitate beneficial activity for its ageing population as well as improving the health of the wider community. The comprehensive review of Torquay Town Centre through the Master Planning process and planned growth within Torquay offers a unique opportunity to integrate design guidelines which encourage healthy behaviour and increase accessibility, not just for older adults, but for all residents and visitors no matter what age or ability.

## **Walking, cycling and public transport environment**

This plan encourages development proposals which bring together a range of principles resulting in a reduction in the environmental effects of traffic on the health of local people.

### **COMMUNITY ASPIRATION:**

The community would like to see and where possible, encourage the following:

- Provide joined up routes for walking, cycling and public transport across Torquay and ensure new developments are fully integrated to existing networks.
- Manage vehicular parking and speeds to promote safer communities including the use of mandatory 20mph speed restrictions and resident only parking restrictions.
- Encourage walking and cycling to schools by suitable parking arrangements, controlled crossings and mandatory speed limits for key walking and cycling routes.

### **COMMUNITY ASPIRATION**

The community would like to encourage and enable more journeys to be undertaken in the town by walking, cycling or public transport by:

- Encouraging walking and cycling by ensuring all light controlled junctions and major intersections are appropriate for safe pedestrian and cycle use.
- Ensuring key community walking and cycling routes are well lit and designed to be safe
- Creating safe and secure layouts that minimise conflicts between traffic and cyclists
- Ensuring isolated communities and later life homes are served by a sustainable public transport route that links to major public transport routes and essential community hub facilities.
- Promoting sustainable public travel methods to dissuade the use of private cars
- Ensuring existing transport infrastructure, such as rail and bus services are integrated effectively and are sustainable.

### **COMMUNITY ASPIRATION**

The community would like the development of new or expanded schools to include requirements for controlled crossings and mandatory 20mph speed limits for all key walking routes adjacent to the school and the area Ward Councillors to be consulted on new and revised Travel Plans

### **Policy THW1: Travel Plans**

To encourage improved health and wellbeing from school developments, Travel Plans for new or expanded schools must include proposals consulted with the local Ward Councillors that demonstrate how the Travel Plans will provide safe and effective routes of benefit to staff, parents, pupils and all other route users.



### **Open spaces, recreation and play**

### **COMMUNITY ASPIRATION**

The community would like to see and will seek to encourage the use of open space for recreation and play being promoted by the following principles:

Retain existing open spaces, sports and recreational facilities and resist their loss without approval from the local Community Partnership.

Require high-quality public spaces and encourage active and continual use of public areas. Connect places with each other and make moving through them easy.

Ensure open spaces cater for a range of users with multiple social, health and environmental benefits.

Ensure play spaces are easy and safe to get to by sustainable transport, and well over-looked to ensure safety.

Ensure schools have adequately sized open spaces, including playing fields and opportunities for food growing.

Provide a range of sports and leisure facilities and pitches designed and maintained for use by the whole community.

Provide a wide range of high-quality play opportunities and experiences integrated into residential areas.

### **Growing food in the community**

The following policy ensures opportunities are provided for households to have access to space to grow food on allotments. There is a high demand for allotments and the policy below supports their retention. The policy also protects high quality agricultural land.

### **Policy THW2: Change of use of allotments and retention of food production areas**

The change of use of existing allotments and non-agricultural development on high quality agricultural land (unless allocated) will not be supported.

### **New Developments - community facilities**

Community facilities (for instance, typically a Doctor's surgery, a pharmacy, post office facilities, convenience food retail, convenience food retail and public transport) for new major developments promote a sense of community and improve the quality of life of residents.

### **Policy THW3 - Community Facilities**

To contribute to sustainable development, where major residential developments of more than 20 units are proposed, they will be supported where

they will be served within a reasonable walking distance by a range of community facilities.  
The greater the number and variety of facilities, the greater the support which will be provided.

### **Public Rights of way**

We wish to see our public rights of way and public access routes are protected.

#### **COMMUNITY ASPIRATION**

No public right of way should be closed without the express consent of the local Community Partnership.

### **Access to outside space**

Many new homes in Torquay have been conversions of large properties in to small poor quality living spaces without access to outside space. A key principle of our Plan requires new housing developments to include adequate outdoor space, such as a front or back gardens or balconies.

#### **Policy THW4: Outside space provision**

All new houses shall have not less than 20 sqm of outside space (excluding space for cars or parking) and must have garden areas with not less than 10 sqm of space suitable for growing plants or the equivalent allocated communal growing space within an easy walk. Flats or apartments must have either a balcony of not less than 10 sqm and as appropriate to the size of the home or a communal green area of not less than 10 sqm per unit within the curtilage of the property.

Where there are compelling opportunities to enhance nearby spaces that can be served by the new development, in lieu of providing sufficient open space within the development site, this will be considered on its individual merits on a case-by-case basis.

### **Sustainable Transport**

To promote reducing the reliance on cars the Plan requires major housing developments and purpose built employment space to be within easy walking distance of a sustainable transport route.

#### **Policy THW5: Access to sustainable transport**

To encourage use of sustainable forms of transport, new development proposals will be supported where they are located on or near to public transport routes wherever possible and appropriate.

To ensure cycling to work is encouraged to reduce traffic issues and promote health the following policy makes it mandatory for basic cyclist friendly facilities for new employment space

#### **Policy THW6 Cycle storage and changing facilities**

The provision of secure cycle storage and showers for staff as part of employment development, will be supported.

# Sport and Leisure

Sports and Leisure facilities form an essential adjunct to a Health and Wellbeing strategy.

Many sports facilities are shared with the other towns that form Torbay and will not be appropriate for Torquay to provide independent facilities for all sports.

Torquay has many sports clubs covering a wide range of sports activities including unusually, alpine skiing. Some clubs struggle with sustainability as sometimes numbers of good facilities are limited or the size of the club is too small. Club facilities are vital to a vibrant sports offering. Our Plan promotes cooperation between clubs across Torquay (and Torbay) to provide improved investment in facilities to regional or national standards within Torbay that can host at least county events. These facilities will also support Tourism through increased visitor stays.

## COMMUNITY ASPIRATION

We would like the Council to provide long term leases to Clubs at nominal rent so that they are in a position to improve those facilities by grant application and long term investment.

## COMMUNITY ASPIRATION

The community would like to see Clubs working together to ensure their sustainability.

## Sports and Leisure Facilities

### Swimming

The swimming facilities in Torquay (and Torbay) are inadequate for clubs: the public pools in Torquay and Brixham have too few lanes for adequate training and without spectator space for galas; while Paignton has a pool with good spectator space and number of lanes but a non-standard length (33m) making it unsuitable for inter club galas.

## COMMUNITY ASPIRATION

The Community would like there to be a single, fit for purpose swimming venue in Torquay or Torbay to cater for club swimmers and regional galas consisting 8 lanes, 25m length with c. 100 person spectator spaces. A modification to the Paignton pool to reduce the usable length to 25m could provide an interim step.

### Alpine Skiing

Torquay has the first Alpine dry ski slope ever built in the UK and the Torbay Alpine Ski Club has been operating on the site since 1966. It continues as a well-used facility that provides open ski sessions, ski lessons and club tuition for skiers to national standard. It is a valuable asset for Torbay. In compliance with SC" of the Local Plan the following policy protects this facility

## Policy TSL1 - Alpine Ski Facility

The loss of the Alpine Ski Facility will not be supported unless the facility is re-provided to the same, or a better standard, in any equally accessible location elsewhere in the Neighbourhood Area.

### Athletics

## COMMUNITY ASPIRATION

*The Community would like there to be a regional standard athletics track at Nightingale Park at the Willows or in an equivalent accessible location elsewhere.*



## PLANNING POLICY TSL2: Sport and Leisure – Nightingale Park

The provision of new sports, leisure and recreation facilities will be encouraged at Nightingale Park that also take into account the environmental quality of the existing park.

### Football, cricket and rugby

#### COMMUNITY ASPIRATION

We wish to see our Clubs embedded in the community, working together and aspire to regional significance

### Angling

Torquay has no major rivers or lakes within its boundary but relies on lakes in the surrounding area for fresh water angling.

Torquay is now a Marine Protection Zone and the benefits to fish populations should enhance the quality of sea angling options in Torquay.

#### COMMUNITY ASPIRATION

The Community would like the Council to provide facilities and access to angling spots in conjunction with local clubs.

### Cycling and skateboarding

A range of cycling routes and options are supported for Torquay including BMX, family and off road.

#### COMMUNITY ASPIRATION

The Community would like there to be a new, purpose-built skate board park and bmx track that would be an important new facility for young people located in an accessible location and existing facilities to be maintained to a safe standard

### Golf

Torquay has one golf course which also has public access.

#### COMMUNITY ASPIRATION

The Community would like there to be at least one good quality sustainable public access golf course accessible to Torquay; horse riding opportunities in Torquay's countryside; sufficient public hire tennis courts; and support for the provision of a modern well equipped range of water sport opportunities.

#### COMMUNITY ASPIRATION

The Council should ensure appropriate locations for water supports are designated that are harmonious with other users and integrated within the Tourism provision.

## Protection of existing sports grounds and leisure facilities

Torquay Sports Cluster incorporating Cricketfield Road, Torquay Academy, Windmill Hill, The Acorn Centre and Barton Downs shall be prioritised as areas to develop a sustainable cluster for sports facilities.

Upton Park is a key park that serves the Torre, Upton and town centre areas and the existing plans to invest in the park as a Town Park with improved court facilities such as tennis and netball are supported.

Torquay Valley of Sport incorporates the area that includes the Bowling Green, Rugby/Cricket Club/Torquay Recreational Ground, Torre Valley South and Torre Valley North.

**PLANNING POLICY TSL3: Sport and Leisure – Sports Grounds and Facilities**

The loss of the sports and recreational facilities at Torquay Valley of Sport, Torquay Sports Cluster and Upton Park (as shown on the plans below) and/or the loss of any other existing playing or sports field will not be supported, unless replaced by equal or better facilities in equally or more easily accessible locations in the Neighbourhood Area.

# Transport

This plan brings together a range of transport projects that aim to reduce traffic and promote the use of public transport. Their implementation has already begun by the Council and partners. This Plan provides an expression of projects which are supported by the community and have been highlighted during the neighbourhood planning process.

## **Transport and education needs for major new developments**

A major cause of congestion during peak times is the use of cars for school journeys. Major new developments of family homes should therefore be within walking distance of primary schools.

### **Policy TTR1 Access to primary schools**

Major residential developments of more than 20 units will not be supported if there are insufficient existing Primary School places to meet reasonable predicted demand from the types of homes proposed within reasonable walking distance of that development; or there are adequate plans in place to accommodate future growth in primary school places arising as a result of development.

The following policy supports the development of low carbon sustainable communities by ensuring major Greenfield developments are located close to employment opportunities.

### **Policy TTR2 Sustainable Communities**

To encourage reduction in the need to travel, support will be given wherever possible to development proposals that minimise the distance between homes and places of work, education, recreation and shopping.

## **Traffic in and around Torquay**

It was claimed that '*the best view of Torquay was seen as you leave*'. The new traffic route is more direct and makes the best impression when entering the town centre. The Neighbourhood Forum promoted the new route reversing the flow of traffic through Torre and this is now being implemented by the Council.

### **COMMUNITY ASPIRATION**

*The community would like to see the following:*

- Clearer signage for entry into Torquay - one way traffic to flow through Torre (past Post Office) straight down to Castle Circus.
- Exit from Torquay - one way traffic to flow via Abbey Road, Tor Hill Road and East Street to Newton Road. Two way traffic around Town Hall in Castle Circus, Lymington Road and Trematon Avenue.
- A review of the traffic light system on Newton Road and better interconnection between the trading estates.
- Coach Terminus to be relocated to Torquay Rail Station with parking at Sheddon Hill car park.
- Union Street through to GPO island to become a multi-user pedestrian area. Market Street, Pimlico, Lower Union Street and Temperance Street to be included.
- Fleet Street - pedestrian access across Cary Parade and Palk St to be improved. Further public consultation will be required if Fleet Street becomes bus free.
- Harbour area to become semi-pedestrian - will support the development of the area in line with the Tourism Strategy.
- Strand bus stops/taxi ranks to be moved to other areas such as the current bus stops adjacent to Princess Gardens.
- Key tourist and retail crossing routes should optimise the flow for pedestrians and road users through choice of appropriate crossing arrangements

## Signage

Signage and wayfinding is critical to helping move people around the town.

### COMMUNITY ASPIRATION

The community would like to see:

- Clearer signage for entry into and exit from Torquay Town Centre.
- Change priority at the junction of Union Street and Castle Circus to allow priority for vehicles entering the town.
- Sign post established tourism accommodation areas and shopping areas

## **Harbour Area**

The Harbour area and the Strand should be developed as Torquay's main tourist area and also a recreational area for residents.

Currently this area is used as a terminus and stopping place for up to 15 buses and includes a taxi rank. To improve the area bus stops should be relocated to an alternative location. Torbay Road/Princess gardens already have bus stops and shelters as part of the current bus routes to harbour area. Proposed changes would allow buses to turn around at the Pavilion Island on Cary Parade.

### COMMUNITY ASPIRATION

The community would like to see:

- The Strand/Harbour side to be pedestrian friendly with the exclusion of bus stops and taxi/car parking from the area; development of this area could then be based on a cafe culture style and used as a recreational space
- Fleet Street to be pedestrianised with buses excluded
- The main bus terminus to be moved to other areas such as Babbacombe Road, Torbay Road/Princess Gardens, Lower Union Street or Pimlico

- Taxi ranks to be moved to other areas such as Torbay Road/adjacent to Carey Green (existing), Lower Union Street or Pimlico.

Traffic route for buses in/out of 'town centre'

The following aspiration identifies an alternative route for buses.

### COMMUNITY ASPIRATION

The community would like to see:

- Cars and Buses to/from Babbacombe/Vane Hill could still be able to travel through Cary Parade to the Strand to access stopping places along Babbacombe Road and Torbay Road.
- Buses from Paignton and Brixham to Newton Abbot could travel along Torbay Road as far as Pavilion island then return down Torbay Road (possible terminus) to Sheddon Hill, Abbey Road, (possible loop around Town Hall), Torhill Road, Newton Road
- Buses travelling South could go via Union Street, Pimlico, Abbey Road, Sheddon Hill to Torbay Road (north via a new roundabout in place of traffic lights) and turn at the Pavilion roundabout.

## Community bus routes

### COMMUNITY ASPIRATION

The community would like to see the routes of buses that service unconnected and isolated communities, mostly in hilly terrain being maintained. These are bus services on less profitable routes that are vital in the prevention of isolation for vulnerable older and less able residents who live in areas of Torquay where the local terrain can be difficult or far away from a main route.

## Highway and transport considerations for gateway area at Edginswell

A potentially significant issue for the Gateway is the fact that the A380 Riviera Way and Newton Road acts as the main connection to the Willows, Edginswell Business Park, Broomhill Way, Wren Park, Woodlands, Torre Station area and the Asda Store. This therefore means a vehicle journey is required to move from one to another creating increased traffic on the main route into Torquay. Site principles should include pedestrian, cycle, and vehicular connections to adjoining sites.

There is concern that with the new Link Road there will be greater traffic congestion on Riviera Way and Newton Road from the South Devon Highway junction right through to Torre Station.

#### COMMUNITY ASPIRATION

The community would like to see actions that encourage:

- Maximise the traffic flow through the traffic light controlled junctions on Newton Road.
- Improve lane markings to maximise traffic flow through junctions
- Use intelligent light controls to maximise flow at junctions

#### COMMUNITY ASPIRATION Edginswell Rail Station

The community supports the proposed new rail station at Edginswell but without general parking as this is deemed unnecessary in this location due to close proximity to the Hospital, retail areas and Future Growth Area.

#### COMMUNITY ASPIRATION Park and Ride

The community supports a Park and Ride facility serving Torquay and Paignton at Gallows Gate; the location could also support a helipad facility subject to material planning considerations

The Hele area is designated an Air Quality Management Area (AQMA). To improve the quality of life for the community the following aspiration should be noted:

#### COMMUNITY ASPIRATION Air Quality Improvement

The community would like to see the Hele Road area being the subject of a joint community and Council working party to examine, agree and implement an action plan to reduce the pollution arising from vehicular traffic to a reasonable level.

## Air quality

# Appendix A – Community Aspirations and Statements

## Introduction

This Neighbourhood Plan contains a clear vision, objectives and a series of policies that focus on Torquay, the successful delivery of which during the plan period, will achieve the collective community’s vision for the town.

This Plan also recognises that Torquay is made up of a number of distinct communities which have come together to create nine strong Community Partnerships.

The following statements have been produced by each local Community Partnership and support the overall development of Torquay while reflecting the local needs within each Community Partnership area.

Each statement sets out a description of the area, Community Aspirations and suggests opportunities for action. The statements are not planning policies and are separate to the main part of the Torquay Neighbourhood Plan. This Appendix has no land use planning policy status but contains ideas, proposals and initiatives captured as part of the production of the Torquay Neighbourhood Plan.

### Community Infrastructure Levy

Once this plan comes into force, 25% of developer financial contributions (Community Infrastructure Levy) from developments within Torquay must be spent by the Council in line with the wishes of the local community (as mandated by Central Government).

The Community Partnership Statements identify a number of projects in each area. It is our expectation that CIL funding will be spent on projects identified, agreed and prioritised by the Community Partnerships.

**COMMUNITY ASPIRATION: Community Infrastructure Levy (CIL)**

The community would like to see the neighbourhood portion of the CIL spent on projects and priorities identified by and in agreement with the Community Partnerships. Although the current community projects and priorities are identified within this Plan, they are subject to change over the Plan period.

### Universal Projects for all Community Partnership areas

Universal projects to be supported through the CIL funding have been identified for all Community Partnership areas to assure the safety of parents and children within our communities when travelling to/from school/other recreational areas and to improve play equipment for children.

**COMMUNITY ASPIRATION Safe routes to schools**

All schools should be provided with enforceable 20 mph zones around the site, controlled crossings on roads within 100m of school for key routes on busy roads to school and enforceable safe drop off /pick up zones for parents with cars.

**COMMUNITY ASPIRATION Other safe routes**

The community would like to see improved footpaths and road environments to give safe pedestrian and cycle routes to beaches, recreational areas and public places.

**COMMUNITY ASPIRATION Children’s play equipment**

The community support a range of children's play equipment in appropriate green spaces across the area.

## Art and Culture

### COMMUNITY statement for Arts and Culture

Artists have been involved in the life of Torquay for centuries; whether its mason's carving ornate stone for its buildings, painters and sculptors capturing the town, its people and coastline, musicians playing in the harbour, a performance in the theatre or simply someone photographing a view. Art enhances the quality and richness of the town and is an integral part of its cultural wellbeing.

These policies aim to promote and support economic, environmental and social development by attracting tourists and business, by enhancing the design of the buildings and spaces and by encouraging pride in the town.

The outcomes, support, material and narrative of public art can vary considerably. However, the consistent quality of public art is that it is site specific and relates to the town and the bay. It may include new buildings, architectural features and spaces, landscaping, materials, sculpture, landmarks, images, events and decoration. It may be small or large scale, permanent or temporary, internal or external.

It is also recognised that art and culture are major contributors to education, health and social well-being. The National Planning Policy Framework (NPPF) also promotes this approach: 'take account of and support local strategies to improve health, social and cultural well-being for all, and deliver sufficient community and cultural facilities and services to meet local needs.' (Paragraph 17)

The new Torbay Local Plan (2012 – 2030) includes *Aspiration 4: Create more sustainable communities and better places*. One of the objectives states: 'To create more enjoyable, creative built and natural environment using heritage assets, public art and revitalisation of the public spaces to attract events, exhibitions and festivals which celebrate and enhance the culture of Torbay.'

Also, reference is made more specifically in the Town Centre CP submission: 'The use of heritage assets, public art and public space, events, exhibitions and festivals to provide more enjoyable, creative environment in town centres.'

The following key aspirations would help establish Torquay as a major cultural destination and inspirational place for people to live, work and visit. Therefore the community would like to work towards and see:

#### COMMUNITY ASPIRATION: Arts activity

Support, develop and fund opportunities for the people of Torquay to take part in and experience a wide range of arts activity and to share in the social, economic and environmental benefits the arts can bring.

Support the development of an environment where artists can flourish.

#### COMMUNITY ASPIRATION: Dedicated places

A dedicated art and cultural hub should be provided in the town. Indoor and outdoor space should be provided throughout Torquay for cultural and art projects to inspire, engage and encourage residents and visitors.

#### COMMUNITY ASPIRATION: Offering support, guidance and incentives

Support, guide and fund local initiatives, including art markets, pop ups, art trails, performance, street theatre and visual displays.

Incentives should be offered to businesses to become patrons and mentors for local artists through an 'Art for Rent Scheme'. Space should be provided in business premises for the placement of art in order to support the gallery and artist.



COMMUNITY ASPIRATION: Heritage and Cultural Assets  
Promote Torquay's heritage by encouraging the positive use of buildings and spaces, and by recognising places valued by the community.

## Barton & Watcombe Community Partnership

*Objective – To develop opportunities to tackle child poverty and isolation amongst older people in the Community*

### About the area

Historically the area is best known for Watcombe Pottery, established in 1869 and producing fine pottery until its closure in 1962.

At the northern edge of the area lies Brunel Manor, built by the great Victorian engineer to be his retirement home. Sadly, this was not to be since he died before it was completed, but it remains a fine example of Brunel's architectural flamboyance.

A local Community centre lies near the top of Barton Hill Road, and smaller neighbourhood centres at Fore Street, Barton and Moor Lane, Watcombe. Community facilities (one primary and two special schools, open spaces) are scattered across the area – there is no single clear focal point

The Barton and Watcombe area includes substantial areas of relative deprivation, largely made up of former council housing, alongside more affluent suburban areas. The latter parts mask some of the deeply embedded social needs of the area as a whole. The local community hopes that this plan will help to secure greater recognition of the issues that challenge our community and help to release funding to tackle them.



### Community Aspirations

**COMMUNITY ASPIRATION** All parks and public access green spaces should be protected from development

**COMMUNITY ASPIRATION** – Continue to improve play facilities in the area

**COMMUNITY ASPIRATION** – Improve highways to ensure safe traffic flows, improved parking and the consideration of a 20mph limit in residential areas

**COMMUNITY ASPIRATION** – Use empty buildings to drive employment opportunities

**COMMUNITY ASPIRATION** - Improve local employment opportunities such as Brunel Industrial Estate, Woodlands Trading Estate and Lummaton Quarry

**COMMUNITY ASPIRATION** – Prioritise bringing empty homes back into use

**COMMUNITY ASPIRATION** – Raise the standards of housing in both the private and social sectors

**COMMUNITY ASPIRATION** – All future development should promote community safety, and particularly reduces antisocial behaviour, the fear of crime and conflict within the built environment in the area

**COMMUNITY ASPIRATION** – Pursue Community Investment Area

## Projects

- Sustain the Acorn Sports and Community Centre and ensure its continued support to the community
- Support to the Medway Centre
- Enhance the Wood End Project site
- Improve community use of Brunel Woods
- Improve Steps Cross playing field for Peninsular League standard football with dual use for local schools
- Develop bus links to St Marychurch to access public and retail services
- Section 215 notices to be used to tackle untidy land/buildings which are negatively affecting the amenity of the area
- Ensure there is support in the community for those most vulnerable eg via a Street Warden scheme
- Support initiatives to reduce Child Poverty in the area
- Support initiatives to reduce isolation amongst older people in the area
- Support initiatives to reduce worklessness in the area
- Work in partnership with local employers to create training opportunities for local young people

## Cockington, Chelston and Livermead Community Partnership

***Objective – To preserve what is great about our area by protecting our countryside and green spaces while making improvements to our communities' quality of life through community cohesion and the built environment***

### Description of the area

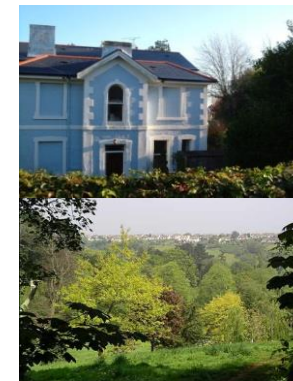
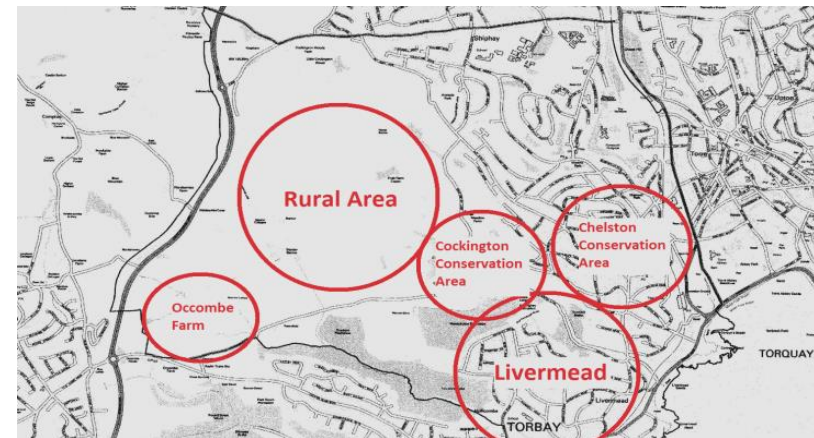
The area is made up of two distinct parts. Cockington and Stantor Barton retain their ancient manor house, estate village, farms and woodland and is designated 'Countryside'; while the other area is largely completely developed for housing. Much of Chelston is made up of Victorian villas, houses and terraces; more modern mid-20<sup>th</sup> century housing predominates in Livermead; while upper Chelston has a significant area of social or former social housing. Most of Victorian Chelston and Cockington Village are Conservation Areas.

Community facilities are located in the local centres at Old Mill Road and Walnut Road, Chelston and the smaller neighbourhood centres at Queensway and Sherwell Valley Road, Chelston and Roundhill Road, Livermead. Two secondary and four primary schools also lie within the area, along with a significant number and variety of green spaces for recreation and sport, several visitor attractions (Cockington Country Park and Ocombe Country Park) and accessible beaches at Hollicombe, Livermead and Corbyn Head.

### Community Aspirations

#### Community Support

We wish to have resilient communities that are well informed, engaged and enjoy an improving quality of life.





#### COMMUNITY ASPRATION

- Create and develop two sustainable Community Hubs in Lower Chelston/Old Mill Road area and Queensway to provide a range of community support services and activities prioritising, but not limited to, the vulnerable, young and older residents.
- Maintain effective communications and organisations to ensure the Community is kept informed and given the opportunity to influence decision making on matters affecting them.
- Support the retention of all pubs and post offices in our area by designating them Assets of Community Value
- Support for the enforcement of Conservation Management Plans

#### Planning and Development

We wish to maintain a diverse mix of housing with a focus on family homes by promoting small scale infill, change of use and brownfield development.

#### COMMUNITY ASPIRATION

**The community** supports the maintenance of a sustainable mix of shopping and service facilities at existing local and neighbourhood centres.

We support the provision of good quality employment and commercial development to meet the needs of growing businesses and those looking to relocate to Torquay.

#### The protection of our Environment

**COMMUNITY ASPIRATION** We wish to see all our green spaces used by and cherished by our community protected from green field development.

Visitor attraction areas the Country Parks at Ocombe and Cockington (including the Village) and the Stantor Barton Countryside area (excluding any proposal for Gallows Gate park as a park and ride facility) are important rural recreational, food production areas and should be protected from any greenfield housing or commercial developments.

The field off Broadley Drive had been a suggested development site within the Torbay Local Plan. The site has special importance to local residents and has been rejected as a development site within this Plan because it is a highly visible site from the Countryside and the skyline from the coast and forms an important green link between established woodland wildlife areas of Scadson Woods/Ocombe and Cockington Country Park.

The former gas works operational site now a community park has been capped with clean soil but still contains high levels of toxins that could pose a serious risk to health if disturbed.

The community supports efforts to reduce traffic in Torquay through suitable park and ride facilities. Such a facility has been proposed for Gallows Gate area.

#### Cockington Village and the rural countryside areas

Cockington consisting Cockington Village, Cockington Court and Cockington Country Park is a day time attraction for visitors and we wish to prevent changes that promote evening and night-time operations as this would destroy its unique character and further harm the residents' quality of life.

#### COMMUNITY ASPIRATION

Cockington Country Park should be accredited with Natural England as a formal Country Park and be protected from:

- changes or commercial activity that would detract rather than enhance Cockington's unique rural characteristics,
- changes that would be detrimental to the quality of life of village residents and residents of properties on the boundaries of the area,
- changes that would significantly increase vehicle traffic through rural lanes and residential areas.
- evening or night-time entertainment or amenities for businesses should be refused.

#### COMMUNITY ASPIRATION

Quality tourism provision based on cuisine, arts/crafts, history and countryside are positively supported

#### COMMUNITY ASPIRATION

Measures should be introduced for cyclists, pedestrians and horses to access the public lanes around Cockington in safety by minimising traffic volume, traffic speed and eliminating on- road parking

- Implement 20mph speed restrictions and traffic calming measures on all roads within the village envelope, stop access by large HGV's and retain the prohibition of coaches
- Improve drainage and flood resilience to minimise flood risks for homes and businesses in Cockington Village and lower Chelston
- Create a Cockington 'gateway' when entering the village from the coast to enhance the sense of 'arrival' for visitors and an exit on departure.
- Provide each community green space with children's play equipment, benches and support to maximise the quality of life of the surrounding community
- Provide safe pedestrian and cycle access to Cockington from the seafront (main access route), Nutbush Lane and Seaway Lane areas.
- Develop community support services hubs at Queensway and Chelston.
- Ensure adequate public transport links for each community are maintained
- Improve traffic flows and safety of pedestrians and cyclists in the area and beyond by implementing the following:
  - at Torquay station – establishing a new public transport gateway for Torquay with commercial development and improved connections between all public transport services, footpaths and cycle routes.
  - at Shipway/Newton Road and Torre Abbey/Avenue Road – improve junctions to maximise traffic flow and enhance pedestrian and cyclist safety

## Projects

- Make changes to Cockington Village centre cross roads area to improve the ambience and safety for visitors and reduce traffic issues.



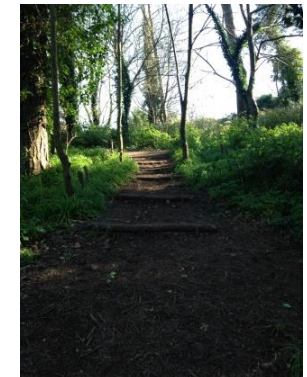
## Ellacombe Community Partnership

*Objective – To strengthen the identity of Ellacombe as a vibrant Community*

### About the area

Ellacombe takes its name from Ellacombe House which once stood at the top of Market Street. The area grew up in the 19th century, predominantly to provide housing for working people. The land was owned by Sir Lawrence Palk, who in 1867 bequeathed Ellacombe Park for public recreation and land for the Parish Church and the Primary School.

The area lies close to the town centre and is relatively tightly built-up. It relies on the town centre for many facilities. The parish church and primary school remain focal points in the community, there are a scatter of open spaces and corner shops, and a small neighbourhood centre at Hoxton Road.





## Community Aspirations

**COMMUNITY ASPIRATION** - As the area is so built up, protect and enhance all existing parks and green open areas

**COMMUNITY ASPIRATION** - Preserve the heritage and character of the area

**COMMUNITY ASPIRATION** - Protect public houses from change of use by registering them as Assets of Community Value

**COMMUNITY ASPIRATION** - Retain the Ellacombe Church site for community use

**COMMUNITY ASPIRATION** - Retain the structure of current houses and resist further conversions into flats to minimise over-crowding in the area

**COMMUNITY ASPIRATION** - Create training and employment opportunities within Ellacombe through the conversion of existing small brown field sites

**COMMUNITY ASPIRATION** - Mixed use development that enhances the retail and service quality and offer of Market Street, as a district shopping area for Ellacombe, are supported

**COMMUNITY ASPIRATION** - Retain and improve the public transport routes to other parts of Torbay

- Enhancing the Market Forum so it becomes a vibrant indoor Market for the benefit of the community
- Further improve traffic calming outside Ellacombe Academy if necessary
- Encourage superfast broadband providers to invest in Ellacombe

## Projects

- Develop the former Bowling Pavilion at the top of Ellacombe Park, Princes Road, as a Community Centre/Hub, as a focal point for the area
- Continue to enhance Warberry Copse
- Continue to improve the children's play facilities in the area

## Hele and Lower Barton Community Partnership (Hele's Angels)

***Objective – To take Community action against child poverty and social isolation and enhance educational and employment opportunities for a sustainable future***

### About the area

There is a strong sense of community in this area, even in the face of significant challenges and deprivation. The area proudly displays a Village sign and, whilst the built area does not look like a traditional village, the community is proud of its village roots.

Since Hele began to grow this has always been an area consisting predominantly of social housing. It is well served by local facilities, but they need to be better maintained and extended. The existing local facilities are; Churches / surgeries / shops / schools / faith centres / shops / community centres, those that are in the area at the moment are aging and fragile need investment so that they are sustainable.

Hele Road is an artificial boundary between two parts of the communities, historically it existed as the heart of the community and boasted a parade of shops and pubs. The lack of parking and the speed of the traffic on this road does not help the area; many use Hele Road as a thoroughfare; to improve the village this needs to be reversed. There is a need to identify a proper traffic plan to nurture the recreation of a 'village heart' again.

The employment areas are valued and there appears enthusiasm to support and improve and maintain them. The majority of the employment provision is on the outskirts of the area (Old Woods Trading Estate) and this is considered invaluable to the local people. However, it is accepted that this area could be vastly improved and upgrade

### Community Aspirations

**COMMUNITY ASPIRATION** Protect and enhance all parks and green open areas

**COMMUNITY ASPIRATION** – Continue to improve play facilities in the area

**COMMUNITY ASPIRATION** – Improve highways particularly to reduce traffic flows on the Hele Road and discouraging HGVs and coaches from the area, make roads safer adjacent to Torquay Academy and other schools, and increase parking opportunities near to shops and other facilities.

**COMMUNITY ASPIRATION** – Encourage shops to relocate back to the Hele Road to recreate a small district shopping area

**COMMUNITY ASPIRATION** - Use empty buildings to drive employment opportunities

**COMMUNITY ASPIRATION** – Improve local employment opportunities such as Woodlands Trading Estate, Broomhill Way, Herald Express site etc.

**COMMUNITY ASPIRATION** - Prioritise bringing empty homes back into use

**COMMUNITY ASPIRATION** – Improve the standards of housing in both the private and social sectors

**COMMUNITY ASPIRATION** – Ensure future development of the area promotes community safety, and particularly reduces antisocial behaviour, the fear of crime and conflict within the built environment

**COMMUNITY ASPIRATION** – Pursue a Community Investment Area

## Projects

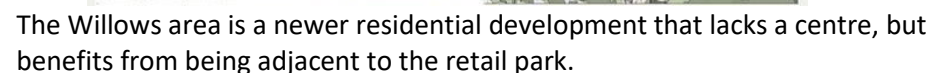
- Sustain the Windmill Centre and ensure its continued support to the community
- Sustain the Local Hele's Angels initiative to it may continue its support to the local community
- Support and expand on the Hele's Angels Garden and Greens initiative encouraging local people to grow their own vegetables, and improve the local green spaces.
- Section 215 notices to be used to tackle untidy land/buildings which are negatively affecting the amenity of the area
- Ensure there is support in the community for those most vulnerable e.g. via a Street Warden scheme
- Support initiatives to reduce Child Poverty in the area
- Support initiatives to reduce isolation amongst older people in the area
- Support initiatives to improve opportunities for employment in the area
- Work in partnership with local employers to create training opportunities for local young people

***Objective – To support the sustainable growth of quality homes and jobs delivered to the highest level of urban and landscape design in conjunction with the wishes of the local community.***

This part of Torquay includes the Gateway area, dealt with elsewhere in the plan. This chapter focuses on those elements not covered by or subject to the key Gateway policies.

59 Situated at the entrance to Torquay, the area is well served by road and is at the end of the new South Devon Highway.

The area also includes a local centre at Shiphay and two primary schools.



## COMMUNITY ASPIRATION

- All new major development in this area should take the fullest opportunity to support sustainable, high quality design which achieves benefits for the wider community.
- Major development should require masterplans to be submitted as part of planning applications which show how development will come forward in a holistic manner and avoid piecemeal development which is disjointed from adjacent sites. These documents should be informed by community engagement.
- The Edginswell Future Growth Area should be developed in accordance with the Torquay Gateway (Edginswell) Masterplan SPD.
- New local community facilities such as those relating to education and health are critical to support future growth in the wider area. An assessment of

health facility and education facility needs should be undertaken for all major development.

We support the provision of good quality employment and commercial development to meet the needs of growing businesses and those looking to relocate to Torquay.

#### COMMUNITY ASPIRATION

Hele Roundabout/Barton Hill Road/Barton Hill Way and Woodland Industrial Estate has scope for redevelopment and improvement through a Local Development Order with the objective of it becoming a modern employment centre.

#### COMMUNITY ASPIRATION

Provision for housing is supported in this area, particularly family and smaller homes, and some live/work accommodation.

#### COMMUNITY ASPIRATION Services and Facilities

The former tip area adjacent to Browns Bridge Road named as Nightingale Park should continue to be protected for sports and leisure as identified in Torbay's Playing Pitch Strategy and the adopted Torbay Local Plan. Detailed plans should be developed in accordance with the consultation report published in June 2016 "NIGHTINGALE PARK ESTABLISHING COMMUNITY PREFERENCES".

- A 'sports and leisure masterplan' should be developed to properly plan and maximise the area's potential for sport, leisure which could include woodland walkways and a circuitous route around the park. Wild meadowland could also be included.
- New development within the area covered by the Gateway Masterplan should be supported by adequate community facilities which should include a new primary school and community health facilities as appropriate to their scale of the development.

#### COMMUNITY ASPIRATION Traffic and Movement

- New developments should include good pedestrian, cycle and road connections to adjoining sites.
- The A380 Riviera Way and Newton Road is the principal route into Torquay and experiences congestion, especially around the traffic light junctions at Scotts Bridge and Shiphay Lane. The opening of the South Devon Link Road and new developments in Torquay will exacerbate this. Measures are supported to address the issue within the next 5 years.
- A new rail halt is proposed in the vicinity of the Edginswell business park. Appropriate, limited accessible car parking should be provided.
- Improved pedestrian access should be established between Nicholson Way and Riviera Way.
- Good, safe cycle routes should be provided within the area and on towards the town centre and sea front.

#### COMMUNITY ASPIRATION Environment

- Welsury Covert and Jubilee Plantation should be protected and retained as wooded areas with the completion of a woodland park.
- The areas' parks and green spaces should be designated as Green Space, these to include: Kitson Park, Shiphay Park, Lindisfarne Park, Nightingale Park and the green at Cadewell Park Road.
- The allotments at Barton Hill Way should be protected.

### Education

The area boasts two Ofsted rated 'good' local primary schools, together with excellent pre-schools. However, recent population growth, combined with the failure to deliver a school at the Willows in previous years, has led to a shortage of primary school places in the area.

Many parents in the Gateway area are unable to find school places for their children within walking distance. An important future goal should be the provision of a school place for every child within a safe 10 minute walk; with the multiple benefits of easing the burden on working parents, encouraging healthy living and protecting the environment. It is with this goal in mind that a new school is intended to be included in the new 'Masterplanned' area.

Just outside the boundary of the Gateway, there is the recently developed Torquay Academy and Torquay Boys and Girls grammar Schools. In 2013, the Devon Studio School was opened in the former hospital annexe in Newton Road. This caters for up to 300 pupils studying various 'education for employment' courses, particularly in health care.

This section of the Neighbourhood Plan has not considered the exact increase in school places that will be required depending on housing growth in the Gateway Area. However, it is clear that a significant increase in school places will be necessary in the near future.

#### **COMMUNITY ASPIRATION EDUCATION**

Where there is a demonstrated lack of provision, a new Primary School should be built and funded as part of the Council's Community Infrastructure or S106 Levy and should be ready for use at a suitable location that serves both Shiphay and the Willows areas and should be dependent on the provision of a safe link between the two areas before the occupation of not more than 50 homes.

## St Marychurch & District Community Partnership

### Part A – St Marychurch, Babbacombe & Plainmoor

*Objective – To enhance the unique nature and history of each area by protection and preservation of valuable architecture and existing greenspace*

St Marychurch, Babbacombe, Plainmoor and Maidencombe make up the community Ward and are all very special and unique places in their own right.

The Neighbourhood Plan for the Community Partnership is focused on **Protection and Preservation**, as once land is given up for development it is lost forever, and for the local residents – **preservation** is more important and of far greater significance than development for present and future generations.

#### ABOUT THE AREA

St Marychurch is one of the oldest settlements in South Devon with records dating from around 1050 AD. Its name is derived from the church of St Mary the Virgin which was founded in Anglo-Saxon times with its high tower and Saxon font dating from around 1110 AD.



The old town hall

The early 19<sup>th</sup> century architecture of villas and terraced buildings fall within a conservation area and contain a number of listed buildings and many others of significant interest, such as is the former Town Hall built in 1883. The former town stretches from Plainmoor to Maidencombe and is known for its scenery, shopping precinct and neighbouring churches. The conservation area largely defines the historic development of what is now a significant suburb of Torquay.



St Marychurch parish church



## Tourism

Babbacombe Downs with its fine views across Lyme Bay is an area of natural beauty appreciated year round by both residents and visitors alike. This area supports a substantial number of local businesses of large and small hotels that cater to visitors all year round.



Oddicombe Beach from Babbacombe Downs

Page 245

## Retail business

The main shopping area in Fore Street also consists of a small precinct market area. Other major shopping areas include Babbacombe Road, Reddenhill Road and St Marychurch Road in Plainmoor.

These shopping areas, based in the midst of our hotel and B&B district, also serve a large residential area with a wide range of independent traders and businesses.



St Marychurch Precinct



Reddenhill Road Plainmoor



Old St Marychurch & Babbacombe

## COMMUNITY ASPIRATIONS

### ENVIRONMENT

#### COMMUNITY ASPIRATION

Protect from greenfield development all green open spaces and the coastline from Walls Hill to Maidencombe, and to include

Babbacombe Downs and the beach areas, Tessier Gardens, King George V playing fields and Cary Park.

#### COMMUNITY ASPIRATION

- Increase the maintenance of all areas, including coastal paths and pathways for public use and safety ensuring they are fit for purpose.
- Refurbish Petitor Downs and the Great Rock area to bring them back into public use.

#### COMMUNITY ASPIRATION

Secure a long term commitment from the Local Authorities to preserve all protection plans (including covenants) and ensure PPSIs are respected.

- Obtain Covenant protection from Torbay Council for Babbacombe Downs from future development/building
- Protection and preservation of coastal paths, identify and record public rights of way; green lanes, alleyways and established paths in and around the area and increase maintenance for public use and safety.
- Protect and identify public rights of way throughout the ward and increase maintenance for public use and safety.

#### HOUSING

As the area attracts a large number of senior residents there is a need to have sufficient places to cater for supported independent living and also, as demand increases, more places that cater for those who are no longer able to be independent. We need to ensure that there are sufficient Nursing/Care home facilities by a combination of new development, adaption of existing buildings and re-furbishing existing homes.

#### COMMUNITY ASPIRATION

**Ensure that any development considers the need of all residents, existing and new, and that**

- The re-develop existing suitable properties in appropriate style and scale for housing as long as they are not likely to have an adverse impact on neighbours the immediate environment or the area as a whole.
- By identifying and secure appropriate sites for good quality and affordable housing to meet the projected demographic needs for this Ward and not allowing development of housing on any greenfield site.
- By ensuring that any significant development of new homes in the area (5 or more in one application) is allowed only if a reasonable proportion of new (medium and long term) jobs are made available.
- The development of properties for senior residents to enable independent living for as long as possible. Because the area has a large number of senior residents there is a need to have

properties to develop that cater for those who can manage on their own (i.e. warden controlled) and also develop properties that cater for those who can't

- The possible development of the Football Ground (subject to the Club having a better alternative accommodation), for community use, with the possibility of land for school playing fields and that appropriate building with sufficient amenity and infrastructure only is considered, that the plans should include the development of swimming, sports and play facilities – sheet 9
- The possible development of the Golf Course or part there of (*subject to the Club having a better alternative accommodation*). The housing in this area should benefit a cross section of residents and be a mixture of sizes, e.g. 1, 2, 3 & 4 beds and include affordable starter homes, shared ownership property and retirement apartments. If the development is large enough perhaps it could incorporate a 'village' design. However, particular attention needs to be made to the local infrastructure and the impact on surrounding communities in terms of erosion, flooding and rain run-off. To this end any established trees should not be removed – map sheet 6.

## COMMUNITY USAGE

## COMMUNITY ASPIRATION

### To protect the amenity that is provided by

- Plainmoor Swimming Pool and play park, and have those areas improved for community use. Ensuring that any development of the football ground is tied to the improvement of this and other amenities in the immediate area. Plainmoor swimming pool is the only public swimming pool in Torquay
- The retention of key bus routes serving the area, and to ensure access to and from the main retail areas of the ward, town, harbour, hospital and outlying districts.
- The refurbishment of shopping and retail areas, and the standardization of street furniture and street signs.
- Maintaining/refurbishing existing public conveniences at Babbacombe Downs and Hampton Avenue, and keep them open all year. Re-open those that have been closed on Reddenhill Road for the use of children and residents using the play area on Cary Park

### COMMUNITY ASPIRATION

**Additionally there should be an on-going commitment to improvement in the following local amenities** – if necessary through partnership working with developers:

- To maintain standards of cleanliness and litter removal
- Local schools to provide opportunities for adult education
- Play and Youth facilities
- Leisure and facilities/opportunities
- Beaches, Planting, Signage
- Litter and Cleanliness

## RETAIL AREAS

There are three significant local retail areas. The area has four major tourist attractions, three excellent beaches, significant areas of green spaces and good local amenities, all adding to the value of the area as a tourist destination.

The economy of this area is generated mainly through three sectors – Retail and Financial Services, Care Services and Tourism – map sheet 9.

### COMMUNITY APIRATION

Page 449 ensure the continued success of the business and retail areas by

- Investing in improving the standard of retail areas and the properties therein and standardization of street furniture and street signs to continue the unique theme of Black and Silver as on finger posts.
- Removing unnecessary ‘street clutter’ in the form of excess street furniture and signage – where possible ‘doubling up’ signs to avoid proliferation.
- Making sure that we maintain plenty of free and unrestricted on-street parking and secure, easily accessible and affordable off-road parking for visitors, local residents and businesses. This should include identifying spaces that need no longer be restricted. Coach access and parking is available, and

improving the ‘arrival and departure’ experience of drivers and passengers.

- Tying any significant development with a financial contribution to improvement or maintenance of local amenities.

## Part B – Maidencombe

### BRIEF HISTORY

Maidencombe makes up the Community Ward and is a very special and unique place in its own right. Situated at the northern most part of the Ward, it consists of approximately 408 acres of predominantly agricultural land. The entire coastal strip has been designated a **Countryside Zone and Coastal Preservation Area** and an **Area of Great Landscape Value**.

The historic hamlet of ‘Medenecombe’ is recorded in the Domesday survey of 1086 as a tiny manor with a population of about twenty. Nestling in a hollow surrounded by dramatic coastal scenery, it was originally orchard groves which over time evolved into a small number of farmsteads.

In 2015 registration for Village Green status was awarded.

### CHARACTER OF AREA

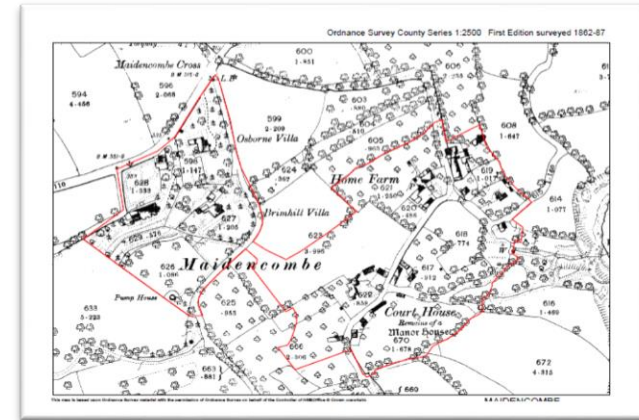
The steep access lanes into the combe serve to emphasise the remoteness of the area set amidst the outstanding natural beauty of a dramatic coastline.

The field systems of Maidencombe have survived since medieval times and early boundary walls are in evidence today.

The chief threat to Maidencombe is the continual pressure to change farming practices or even to develop the farmland, which, if allowed could dilute attempts to nurture a dynamic and successful 'Geopark' and set in motion the further urbanization of Torbay to the detriment of tourist numbers to the area.

#### GEOPARK:

The Torbay Coast and Countryside Trust has emphasised the importance of Maidencombe as a vital component of the Bay's global Geopark status to attract visitors and residents alike to the area. To this end, a proposed cycleway would facilitate pollution-free access.



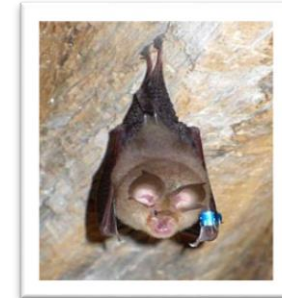
The Maidencombe medieval field systems



Old Maidencombe



Gull Bunting



Lesser Horseshoe Bat

#### Maidencombe's particular areas for protection

Maidencombe has a particularly flower rich bio-diversity which depends on the survival of its extensive farmland environment and the traditional practices employed in its permanent pasture management and upkeep of hedgerows, hedgerow trees, cider orchard and lower-rich meadows.

#### Fragile Nature:

A Senior Archaeology and Historic Environment Officer for Torbay Council, has voiced concerns over the possibility of destroying the fine balance that exists in thecombe with any further development.

The presence within the boundaries of Maidencombe of extremely rare UK species, such as the Cirl Bunting and a roosting/breeding colony of Lesser and Greater Horseshoe Bats demonstrates the current, albeit delicate, well-being of the environment.

Thecombe and the village itself present a very difficult scenario. Any future development would need massive new infrastructure improvements (e.g. mains sewage and substantial rainwater attenuation); this may be achievable perhaps, but at the brutal cost of destroying the fragile balance of thecombe.

The area surrounding the Village Envelope of Maidencombe, is largely identified in the Torbay Local Plan as Countryside Area (Local Plan Policy C1) and/or Undeveloped Coast (Local Plan Policy C2). The landscape is sensitive to developmental change and proposals for new developments must be managed in accordance with these policies with particular reference to development only being acceptable where it does not harm (either on its own or in combination with other development) the special landscape character in this area, particularly with reference to integrity of landscape character, sense of remoteness of the Combe/village and scenic beauty.

The Landscape Character Assessment of Torbay (2010) comments on the unique quality of the landscape in this area and makes the following analysis regarding the capacity to accommodate change within character type 8 – Coastal Slopes and Combes (8a and 8b):

8a - "The area forms an integral part of the coastal landscape and new built development or other significant changes are likely to have substantial adverse effects"

8b - "The land forms an important setting for the village and Conservation Area and any changes should only be limited in nature, and strictly

controlled to ensure that the secluded character of the area and setting of the village is not harmed. Infilling should be resisted."

## COMMUNITY ASPIRATIONS

### ENVIRONMENT

#### COMMUNITY ASPIRATION

##### **Protect green open spaces and coastline**

- There is a need to increase the maintenance of all areas, pathways, for public use and safety ensuring they are fit for purpose.
- Refurbish Great Rock area to bring it back into public use

#### COMMUNITY ASPIRATION

##### **Secure a long term commitment from the Local Authorities to preserve existing protection plans (including covenants) and ensure SSSIs are respected and to**

- Designate Maidencombe Community Orchard as a Local Green Space
- Protect and identify public rights of way throughout Maidencombe and increase maintenance for public use and safety.
- Protect and preserve the coastal paths, and identify and record public rights of way; green lanes, alleyways and established paths in and around the area and increase maintenance for public use and safety.
- Ensure full protection for endangered species of bats and birds

### COMMUNITY USAGE

#### COMMUNITY ASPIRATION

##### **Public transport**

- Retain key bus routes serving the area to ensure access to and from the main retail areas of the Ward, Town, Harbour, Hospital and outlying districts.

## COMMUNITY ASPIRATION

### Improvement to local amenities

- There must be an on-going commitment to improvement in the following local amenities; possibly through partnership working with developers:
  - Play and Youth facilities
  - Leisure and facilities/opportunities
  - Beaches,
  - Planting,
  - Signage,
  - Litter and Cleanliness

## HOUSING

### COMMUNITY ASPIRATION Developments

#### VILLAGE ENVELOPE

##### AREA 1

Within Area 1, opportunities have been identified for a single dwelling that is compliant with policy TH12 on each of sites A and B.

##### AREA 3A AND 3B

Within these two areas, development proposals should be managed in accordance the development design criteria outline in Policy TH12

##### AREA 2 - CONSERVATION AREA

Area 2 reflects the part of the Maidencombe Conservation Area which overlaps with the Village Envelope. This area has particularly special historic significance and development. Any development proposal must positively sustain and enhance the special qualities of this area. Because of the special historic and landscape significance proposals should be managed in accordance with *Policy SS10 Conservation and the historic environment*, contained in the Torbay Local Plan 2012-2030.

##### SLADNOR PARK

Sladnor Park (defined by the blue boundary line on the aerial photograph) has an extremely high environmental sensitivity and any development of the site would have a serious adverse impact on key protected species (an existing Greater Horseshoe and Lesser Horseshoe bat nesting and roosting cave, badgers, deer and Cirl Buntings). The topography of wooded areas currently constrains rain water runoff and helps prevent soil erosion, coastal erosion and local flood issues. While it is acknowledged that there are existing chalet structures (as outlined in red) on part of the site most of the original structures associated with a hotel at the top of the site have blended in to the landscape over a substantial period of time. The scope of any new development is severely limited and must be within the policy umbrella for the whole of the Maidencombe area and the C1 designation within the Local Plan that does not support major developments. New development should be constrained to that part of the site of the existing chalets and designed to have minimal visual and environmental impact. The typical design of properties in the Maidencombe area comprises one or two storey detached houses of individual and historic designs.

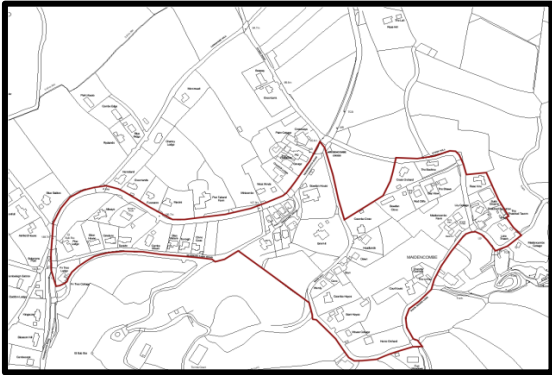


Aerial View of Maidencombe and Sladnor Park

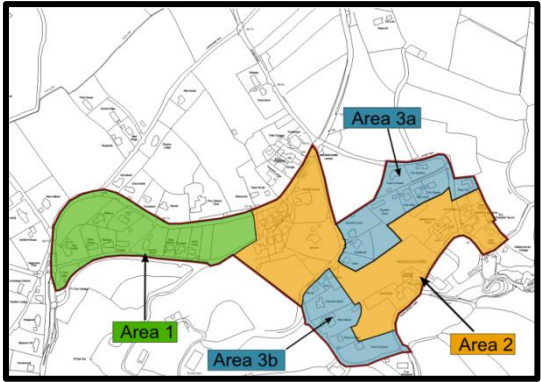


Page 453

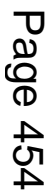
The defined Village Envelope



Development Areas within the Village Envelope



Development sites within Area 1 of the Village Envelope



## Torre & Upton Community Partnership

*Objective – To grow the Community sustainably and sensitively with good quality buildings raising the standards and expectations for both residents and businesses and provide valuable employment opportunities.*



### About the area

Torre and Upton Community Partnership area adjoins the centre of Torquay and is part of the ward of Tormohun. Tormohun dates from Saxon times and the medieval parish church still lies at its heart in Torre. Upton contains the civic centre of Torbay with the Edwardian town hall, library and Art Deco offices. A conservation area covers the historic heart of each area and several of the 40 listed buildings in the area are significant to the town's history.

The housing predominantly dates from the 1840s onwards, with a combination of large villas and variously sized terraces. A large modern development has been completed at the former South Devon College site. The density of development in the area is quite high, and there is a strong Victorian street scene.

The main retail area is Higher Union Street which runs between Brunswick Square and the top of the town centre shops. Lucius Street and Belgrave Road also serve as local centres. There are a small number of industrial units around Torre Station.

As in other areas adjoining the town centre, there are higher than average levels of need, deprivation and HMO properties. Several centres and facilities for those in need of accommodation, employment or other support lie at the top of the town centre near to this area and the drug and alcohol treatment centre lies within it

### Community Aspirations

There are already more than the normal proportion of HMO's in the area.

**COMMUNITY ASPIRATION** Where existing buildings or sites are underused, vacant or awaiting development, temporary uses will be supported, in particular

those which benefit the community. Council officers will be expected to take enforcement against landowners or both residential and commercial buildings/sites that are not properly maintained.

## Projects

- The Civic Hub shown in the Masterplan for Torquay Town Centre is fully supported by the residents and businesses in Torre and Upton. The library could be extended upwards and updated to incorporate the Connections Office and other public information services. This would release the listed Electric House for other uses. The closure of the Magistrates Court gives the opportunity for a more creative development for the Town Hall car park area. This is expected to have a positive knock on effect for the smaller, individually owned businesses in Higher Union Street. Should the council vacate the Town Hall for purpose built offices, we would support a change of use for the building with a hotel/conference centre being the preferred option.
- Upton Park will be enhanced for the benefit of residents of all ages, providing facilities for recreation and relaxation. This will include the re-arrangement of the sports areas and linking with the coach park. By bringing this forward, we will have a more appropriate setting for the civic buildings.
- The B&Q site in Laburnum Row presents the opportunity for a good quality development providing a mixture of residential and commercial. This latter could be retail and/or office space. This part of Torre deserves proper investment, and the residents and visitors to the area will value standards being raised.

- We wish to see the development at Torre Marine completed, and the serious issues of rising water and run off into adjacent streets dealt with, so that the park that was part of the original plans, can be put in place. This would not only create a pleasant open green space for the residents, but also, with the traffic reversal, enhance the area for all those entering Torquay.

## Torquay Town Centre Community Partnership and Town Centre Focus Group

**Objective – To maintain and improve the Town Centre as a dynamic, vibrant urban environment by working closely with residents, businesses and visitors to our Community**

### Brief Description of the area

Torquay Town Centre contains both quiet residential suburbs and a significant proportion of the major hotel accommodation in the resort, as well as being the largest retail centre of Torbay. A large proportion of the area consists of open space. This includes coastline, parks, and recreation grounds, the walled gardens of Torre Abbey, the rock-faced Royal Terrace Gardens and the private gardens and terraces of numerous hotels. Many of the major buildings are set against a backdrop of mature trees.

### Key Community Aims

#### Key Community Aims:

- Improve the Town Centre retail, service and leisure experience to improve footfall and provide employment opportunities by:-
- Becoming the premier leisure destination both night and day
- Creating a more diverse late night offer. Whilst we recognise the value of our late night economy we would like to see a broader offer than is currently

available. This could be achieved by encouraging and providing a range of activities for all age groups such as late night shopping and regular food /music activities to encourage residents/visitors to stay on in town.

- Encouraging leisure and sport into our Town Centre and to provide a variety of undercover attractions for tourists and residents.
- Encouraging more people to live and work within the Town Centre
- Providing more eating and outside sitting areas.
- Providing adequate well maintained, accessible and convenient parking facilities
- Creating better connectivity and providing more pedestrianisation.
- Encouraging sympathetic development providing the size and kind of premises which modern day High Street names consider attractive, whilst at the same time creating suitable premises for small independent retailers and other uses such as gyms and cinemas.
- Make more of and protect the Town's heritage assets by:-
- Protecting the green and open public spaces from Cary Green, the Pavilions, Promenade to the end of the Princess Gardens and the 'Sunken Gardens', In addition the Royal Terrace Gardens (Rock Walk) which are all covered under one listing with English Heritage. Torre Abbey and its Meadows should continue to be protected by covenant from future developments. Included earlier in document.
- Maintaining Victorian facades where possible to keep the character of the Town.
- Make provision for cyclists in and around the Town which would complement cyclist tourism
- Make access to public spaces easier for the disabled. Protect and maintain our beaches – Torre Abbey Sands and Beacon Cove.
- Protect the marine environment and develop a sustainable Maritime Economy



## **COMMUNITY ASPIRATION**

### **Key Development Sites**

Retailing is in the throes of a revolution which has seen high streets up and down the country lose market share year on year. The results are there for all to see, empty shops, derelict buildings, shoppers getting into their cars to go out of town, or not going out at all but shopping online.

“High Streets and town centres that are fit for the 21<sup>st</sup> Century need to be multifunctional social centres, not simply competitors for stretched consumers. They must offer irresistible opportunities and experiences that do not exist elsewhere, are rooted in the interests and needs of local people, and will meet the demands of a rapidly changing world.” Action for Market Towns, Twenty First Century Town Centres (2011).

The concept of ‘healthy urban planning’ is being promoted by the World Health Organisation to draw attention to the need for planners, public health professionals and others to work together to plan places that foster health and wellbeing

Physical activity, especially walking, has many important health benefits for older adults and the built environment plays a crucial role in encouraging healthy activity for this growing segment of the population. Current UK estimates from the Office of National Statistics (ONS 2011) see the proportion of over 60s rising from 23% to 31% by 2058. Torbay already has an over 60s population which exceeds the 2058 ONS national estimates with 31.4% of its population currently over the age of 60 (2011 census) – placing Torbay 45 years ahead of the rest of the country.

Torbay has the potential to act as a leading example of how the design of buildings and public spaces can facilitate beneficial activity for its aging population as well as improving the health of the wider community. The comprehensive review of Torquay Town Centre and planned growth within the Bay offers a unique opportunity to integrate design guidelines which encourage

healthy behaviour and increase accessibility, not just for older adults, but for all residents and visitors no matter what age or ability.

### **Castle Circus and Union Street**

Potential site for redevelopment to create a focal point of the Town and could include a supermarket/superstore, multi storey car park, plus residential development to increase footfall and act as a catalyst for regeneration of the wider area, encouraging other businesses offering a fresh bakery, butchers, fishmongers, greengrocers as an alternative to this proposed development to be re-established in this area. Redevelopment would be subject to taking into account the listed building status of some of these buildings. We would also want to encourage better pedestrian facilities with possibly wider pavements and better links to the Union Street development.

**Melville Hill Community Group - Marvellous Melville** - Melville Hill should be recognised as a place of historic charm, with a mix of both private and quality rented housing that is affordable. New developments should include up market, and contemporary schemes that introduce a wine bar and café culture enhancing the neighbouring business and tourist district. The area should become suitable for people of all ages with Community facilities. There must be no further agreements for Houses of Multiple Occupation or the sub division of existing properties to form single person dwellings





**Fleet Street and Swan Street** - Create a water feature to replicate the Fleet. Create a glass canopy to enhance the street scene achieve connectivity with the Harbour providing outdoor eateries/ cafe culture/leisure and bijoux shops – The Fleet Walk shopping experience. Whilst the Victorian warehouse buildings of Swan Street offer potential for residential and retail which would retain the exteriors of the existing buildings.



**The Strand, Torwood Street and the Harbour side** – Strong aspiration for improvement of this key stretch of Torquay Harbour which could include redevelopment of The Strand buildings, including Debenhams and the Amusement Arcade. Combination of luxury apartments, improved retail, hotel, small restaurants would be welcomed whilst protecting outlook from the Terrace. Make Torquay Inner Harbour accessible to local people by giving it official community asset status.

Upgrade the area of public space on the harbour side of the Strand to allow for a range of different activities, and a higher quality environment with better provision of seating and better management of spaces including attractive signage to guide people to the waterfront. The Old Opera House has been suggested as an alternative site for an Art Centre or for performing arts. Could alternative uses be found for some of the Night Clubs here in order to dilute the heavy concentration of these in this key part of the Town Centre? The Terrace car park is a potential development site with its spectacular views but there would be the need to retain adequate car parking for the harbour area.

The cinema also needs upgrading and possibly relocating. However, if the cinema is relocated we need to be mindful that this will create a large empty building in an area of the Town already facing many challenges and would suggest the possibility of a much needed community centre being established here. Relocate Job Centre and Magistrates Court to out of Town centre location, thus making room for landmark retail store and unique indoor attraction to help revitalise this end of Town. The Town Hall has been identified as a potential Art Centre. Key will be the preservation of the architecture of this building.

A new Library is required: a modern facility is fundamental to giving the town the correct image; a similar development to Paignton Library would be welcomed, as not just a modern library but a centre offering community facilities such as meeting rooms, and education facilities.





**Temperance Street** - This is an opportunity to have this area developed as a major shopping area for the town, to take in former works site, and multi storey car park. Suitable uses could be anchor store, quality office space, leisure facilities such as cinema, indoor sports facilities embracing modernisation of multi - storey car park on Lower Union Lane and could extend to Temperance Street car park, also including some residential.

**Union Parade and Pimlico** - These areas to be developed predominantly for retail, commerce and town centre shopping. Opportunity for a major demolition/redevelopment programme as The Hogs Head and surrounding buildings have little architectural merit and we would welcome a landmark building here to encourage further exploration of the Town; possibly a multi-use community space incorporating a new library, council offices and possibly a gym. Support the creation of an indoor attraction for example promoting the Town's connections with people like Agatha Christie or Isambard Kingdom Brunel. Place canopies over large stretches of the pavement and open spaces in the Town, possibly an atrium over the pedestrianised area of Union Street, to make Torquay the place to shop no matter what the weather.

**Market Street and Indoor Market** - Create premises as a form of innovation centres to support fledgling retailers to establish their first business. This could in turn be reinforced by significant Town centre residential development and cafe culture. Encourage more residential homes to be created in this area with at least two bedrooms to encourage families to bring life back into the Town out of trading hours.



**Pavilion/ Torquay Marina Car Park:** The Marina Car Park has the potential for a quality development as this has the best views of the harbour which are currently not exploited. However, the height of any development needs to be considered so that this in itself is not detrimental, and thus become a contentious issue to local residents. In addition the groups have serious concerns about incorporating development of the Pavilion into the large hotel scheme on the Marina car park and would support further investigation for the re siting of the Pavilion to another location which may then enable a lower rise less intrusive development on the Marina car park. A possible option would be to relocate the Pavilion on to a constructed island (with bridges) in the inner harbour, around which boats could still move/moor. The point of the development would be to: Protect the Pavilion and make it the centre of a revitalised harbour area; provide a waterside dining/entertainment environment unique in the UK that would encourage a more mature and upmarket night time economy and provide the type of retail experience during the daytime best described as "Totnes by the sea." If the Pavilion were moved this would allow a larger footprint for the developer of the hotel/spa to build a wider but lower development that could include a children's play area or be the site for an open air public performance space. Other proposals for Pavilion site include: the Pavilion to become a Community Asset and Marina Car Park to become landscaped recreation area for residents and visitors

**Princess Theatre/Princess Pier:** Potential to redevelop/extend the theatre to enable it to attract West End Shows whilst not expanding out into the Gardens which should be protected.

**Rock Walk:** To provide access to those with disabilities a cable car/ funicular railway from the bottom to the top of Rock Walk would be welcomed in addition to it creating a revenue generating opportunity. It would support a high level walkway from Rock walk to a feature development on Princess Pier incorporating a ferry terminal.

**RICC/Balloon Site/Marina Car Park:** There is a chronic shortage of play and recreational facilities within 200 metres of the sea front and we have identified these sites for such a facility

**Area along SW Coast path just beyond Imperial Hotel (Peak Tor):** To capitalise on our fantastic coastline, explore the possibility of an open air theatre here to rival the Minnack in Cornwall

# Wellswood and Torwood Community Partnership

*Objective - To Protect and Enhance the existing Green Spaces and Coastline, preserving the special quality of the natural environment and character of conservation areas.*

## About the area

The Wellswood and Torwood Ward covers two rocky headlands at Torquay's south-east perimeter, bordered by sea. It is an area of 414 hectares, of which almost a quarter is green space. Over 40,000 years ago early man found shelter in the deep caves at Kent's Cavern in the Ilsham Valley and these now form a gateway to the UNESCO Geopark. The area's wealth of geosites, fine Victorian architecture, extensive open spaces, woodland and pine-clad rocky coastline provide the essence of the "English Riviera".

In the early 1800's, as Torquay began to develop as a holiday destination, prosperous families began to build detached villas on the wooded slopes overlooking the harbour. This is seen most clearly in the design and layout of the Warberries and the adjoining Lincombes. The scale of building in an extensive landscaped setting, and its confident execution over nearly 170 acres, became the hallmark for the mid 19th century vogue resort. Its spacious open nature survives today and is protected by the Lincombes and Warberry Conservation Areas.

The area's character is largely defined by the amount of public open space and woodland, and a number of major hotels, including three with four stars. At the heart lies Wellswood Green with its shops, primary school and church. Adjoining the harbour, Torwood Street is home to Torquay Museum and a variety of bars and food outlets.





## Community Aspirations

### Environment

Protect, maintain character and enhance:

- All public green areas, improving waste and toilet facilities
- Conservation Areas, and current density of development
- Coastal Path, Geopark and all associated areas
- Supporting Community initiatives to upgrade amenities

Promote diversity and prosperity of local businesses in Wellwood and Lisburn Square

Retain Post Office and Pub in Wellwood by designating them Assets of Community Value

Support any future proposals for redevelopment of the Palace Hotel and grounds, while retaining a hotel

Encourage Torquay Museum to develop as a Community Centre

Support proposals for Kent's Cavern to enhance tourism and education, in line with it's importance within the English Riviera Geopark, and improve the access strategy to limit impact on the surrounding area

Support opportunities for redevelopment in Torwood Street area and Terrace Car Park, retaining sufficient parking for local businesses

### Traffic and Movement

Prioritise pedestrian access and slow traffic in key areas, addressing much needed improvements in traffic management.

### Property densities

Maintain the existing property density to ensure that the open nature of the area is not destroyed

## Projects

### Traffic and Movement

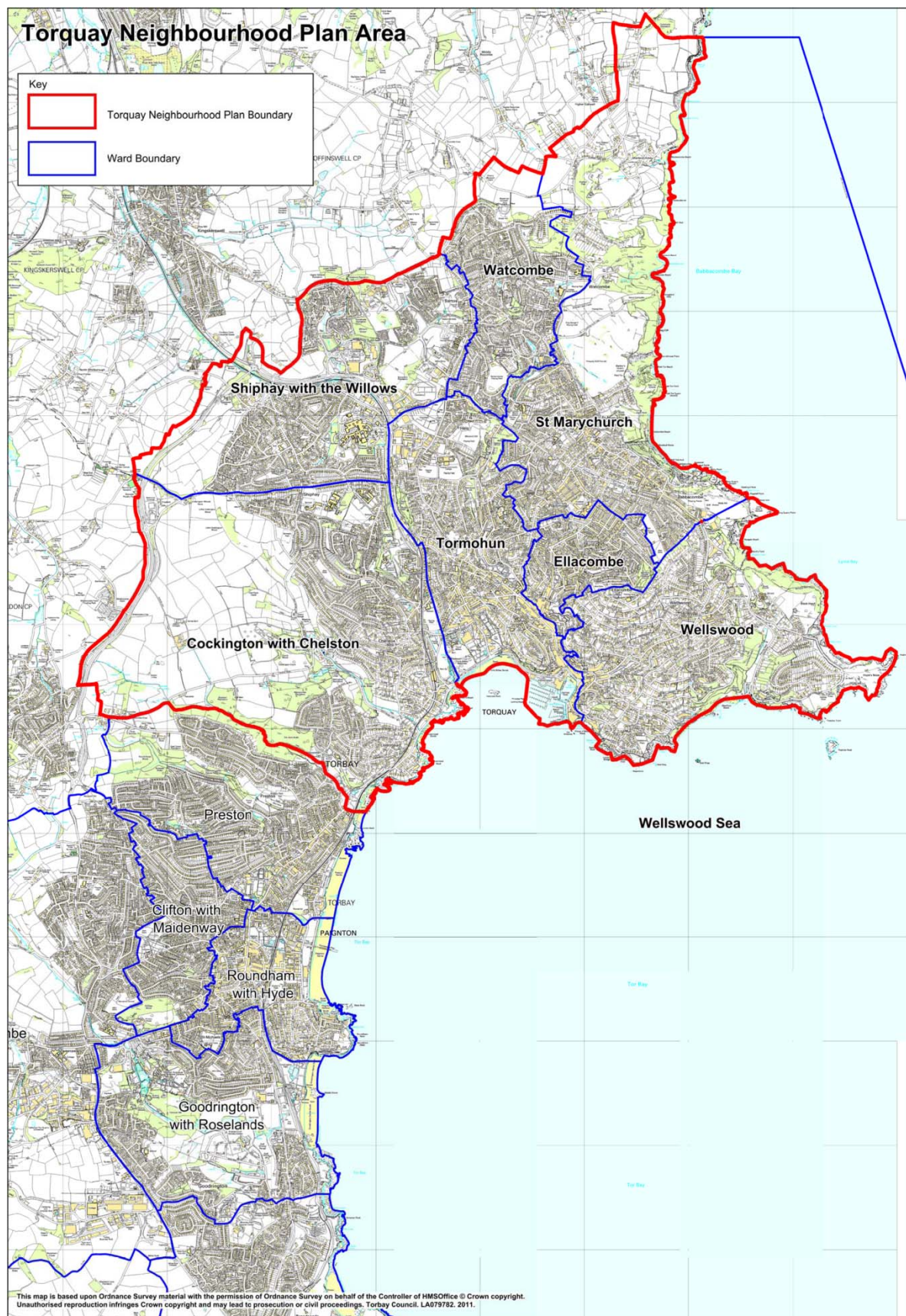
- 1) Address traffic management through Wellwood (Ilsham Road) improving character and environment
- 2) Provide a safe pedestrian footway along Ilsham Road from the junction with Ilisham Marine Drive to the Ilsham Valley
- 3) Provide a safe pedestrian footway and cut back overhanging trees on Parkhill Road by the Imperial Hotel
- 4) Provide a natural footpath along the side of Stoodley Knowle meadow, to relieve parking impact on Ilsham Road and improve access to coastal path

## **Environment**

- 1) Re-open Redgate Beach and Footpath to Walls Hill
- 2) Support creation of Wildflower Meadow at Stoodley Knowle
- 3) Improve Coastal Path signage and information



Map of the Neighbourhood Area proposed:



Application Date: 17/07/12



**Meeting: Council**

**Date:** 15 November 2018

**Wards Affected:** All Wards in Torbay

**Report Title:** Brixham Peninsula Brixham Peninsula Neighbourhood Plan – Determination of Independent Examination

**Is the decision a key decision?** Yes

**When does the decision need to be implemented?** A decision statement must be issued “as soon as possible” after Council.

**Executive Lead Contact Details:** Councillor Derek Mills, Deputy Mayor and Executive Lead for Planning, [derek.mills@torbay.gov.uk](mailto:derek.mills@torbay.gov.uk)

**Supporting Officer Contact Details:** Kevin Mowat, Assistant Director Business Services / Acting Assistant Director Planning and Transport, [kevin.mowat@torbay.gov.uk](mailto:kevin.mowat@torbay.gov.uk)

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## **1. Proposal and Introduction**

- 1.1 Neighbourhood planning was introduced by the Localism Act 2011; that Act introduced new rights and powers to enable communities to become directly involved in planning for their areas. Neighbourhood planning enables interested communities to produce a Neighbourhood Plan. There are detailed statutory requirements which dictate the process for formulating and making a neighbourhood plan.
- 1.2 Once ‘made’ (i.e. “adopted”), Neighbourhood Plans form part of the statutory development plan and therefore become an important consideration when determining planning applications.
- 1.3 This report sets out the local planning authority (LPA) officers’ recommendations in respect of the submitted plan.
- 1.4 The Brixham Peninsula Neighbourhood Plan (‘the Plan’) has been submitted by Brixham Town Council (‘the Town Council’) and prepared by the Brixham Peninsula Neighbourhood Forum (‘the Forum’) who are a subsidiary of the Town Council. The Town Council is a parish council within the terms of the Local Government Act 1972 and is therefore the relevant, or ‘Qualifying Body’, for the purposes of section 38A(12) of the 2004 Act. A parish council is entitled to submit to the LPA a proposal for the making of a neighbourhood plan for the whole or part of its area, even though the area extends beyond the Town



Council administrative boundary to include the villages of Churston, Galmpton and Broadsands. The Town Council is required to 'lead' on the Brixham Peninsula Neighbourhood Plan. Therefore whilst the Council designated the Forum as a 'Qualifying Body' in December 2012 and re-designated in December 2017 there was not a legal requirement to do so. The Council is satisfied that the Plan was lawfully prepared and submitted by Brixham Town Council and not by a third party, i.e. a separate Neighbourhood Forum. A map of the designated area is shown in Appendix 4. It should be recognised by the Council that the Forum has worked tirelessly to prepare the Plan.

- 1.5 The Plan has been the subject of a consultation and, following that, an independent examination which tested whether the Plan meets the requirements of the 'basic conditions' as set out by law.
- 1.6 The Examiner's report on the Plan was received by Torbay Council and the Forum on 26<sup>h</sup> July 2018. It recommends that, subject to the modifications proposed in the report, the Plan does meet 'basic conditions' and should proceed to a referendum. The Examiner also recommends that the referendum area does not need to be extended beyond the designated Plan Area.
- 1.7 Officers have considered each of the Examiner's recommendations and reasons given in accordance with the law as set out in Appendix 2. In summary a set of additional modifications that meet the legal 'basic conditions' are now proposed.
- 1.8 These accept many of the Examiner's recommendations, but do make a number of modifications not recommended by her. These additional modifications have reasons for doing so which find a proper statutory basis, and reflect an appropriate exercise of planning judgment taking all of the submitted representations into account. The rewording and retention of these policies are considered to meet the 'basic conditions'. The requirement for re-consultation is discussed later in the Report, but officers' advice is that this is not legally necessary in this case. In summary, the modifications proposed are not as a result of new evidence, or a new fact, or a different view taken by the authority as to a particular fact. Instead the modifications are as a result of a planning judgement taken on how the submitted Plan can meet the 'basic conditions' whilst maintaining the original intent of the community.
- 1.9 It is recommended that the Council:
  1. Agrees the decision statement in Appendix 2, which shall be adopted and published accordingly, and that the Brixham Peninsula Neighbourhood Plan as modified in Appendix 3, is submitted to a referendum in accordance with the Neighbourhood Planning (General) Regulations 2012 (as amended) and the Neighbourhood Planning (Referendums) Regulations 2012 (as amended); and,
  2. Delegate to the Assistant Director of Transport and Planning to ensure that the Policy maps are finalised for inclusion in the Plan prior to the

referendum, reflecting all modifications set out in the decision statement in Appendix 2; and,

3. Accepts the Examiner's recommendation that it is not necessary to extend the referendum area and that the most appropriate area for the referendum will be that of the Brixham Peninsula Neighbourhood Area.

### **Appendices**

- Appendix 1: Independent Examiner's Report
- Appendix 2: Decision Statement
- Appendix 3: Post Examination Neighbourhood Plan with modifications as recommended
- Appendix 4: Neighbourhood Area Map

### **Background Documents**

Brixham Peninsula Neighbourhood Plan Submission Version, and representations – [www.torbay.gov.uk/neighbourhood-plans](http://www.torbay.gov.uk/neighbourhood-plans)  
Council Approval of area designation – 7<sup>th</sup> December 2012 –December 2017 (the Report (Item 11) and Minutes [www.torbay.gov.uk/council](http://www.torbay.gov.uk/council))  
National Planning Policy Frameworks 2012 and 2018  
Planning Practice Guidance  
NPIERS Guidance  
Locality Neighbourhood Plans Roadmap

## **Supporting Information**

### **Background Information**

#### **2. What is the proposal/issue**

- 2.1 The Localism Act 2011 introduced new rights and powers to enable communities to get directly involved in planning for their areas. Neighbourhood planning allows interested communities through a Neighbourhood Forum to produce a Neighbourhood Plan.
- 2.2 The National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPG) state that neighbourhood planning enables communities to play a much stronger role in shaping the areas in which they live and work and in supporting new development proposals. It provides the opportunity for communities to set out a positive vision for how they want their community to develop and can put in place planning policies that will help deliver that vision of granting planning permission for the development they want to see.
- 2.3 In 2012, the Council decided to designate three large neighbourhood areas covering 100% of the geographical area of Torbay. This decision was unusual in the UK and has meant that the three neighbourhood plans are large and complex, which has required significant work by the community and LPA in formulating the plans.
- 2.4 There are a series of regulatory stages required by the Neighbourhood Planning (General) Regulations 2012 (as amended) ('the Regulations') that a plan must follow and the Brixham Peninsula Neighbourhood Plan has been through these to date. Key dates are as follows:
- 6 December 2012: Brixham Peninsula Neighbourhood Forum (Note paragraph 1.3 above) and Area Designated.
  - 28 January to 11 March 2017: Pre-submission (Regulation 14) consultation on the draft Plan
  - 21 August 2017: Brixham Peninsula Neighbourhood Plan submitted to Torbay Council as the LPA. Note: A further revised Consultation Statement was submitted in October 17.
  - 1 November to 18 December 2017: Plan published by Torbay Council for formal Regulation 16 public consultations
  - December 2017: Brixham Peninsula Neighbourhood Forum and Area re-Designated
  - March 2018: Independent Examiner (Deborah McCann) appointed. Her examination commenced in April 2018
  - 1 June 2018: Examiner's Clarification Questions to the BPNF as part of examination process
  - 18 June and 2 July 2018: Clarification responses by BPNF provided.
  - 26 July 2018: Final Examiners Report received
- 2.5 The Council has a duty to provide advice and assistance to town councils and to engage constructively with the community throughout the neighbourhood

planning process including when considering the recommendations of the independent examiner. However, the Council remains the Local Planning Authority with statutory responsibility for ensuring that the neighbourhood plans it 'makes' are lawful. If a neighbourhood plan is not lawful, the LPA (not the neighbourhood forum in question) will be liable to legal challenge e.g. by landowners whose interests may be affected by the plan.

- 2.6 A neighbourhood plan must support the strategic development needs set out in the Local Plan, positively support local development, not promote less development than set out in the Local Plan, nor undermine its strategic policies.
- 2.7 If successful at examination and referendum a Neighbourhood Plan must then be 'made' (i.e. adopted) by the Council within 8 weeks and at that point it 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. Should there be a conflict between a policy in a neighbourhood plan and a policy in a Local Plan, that conflict must be resolved in favour of the policy which is contained in the last document to become part of the development plan.
- 2.8 Unlike a local plan, the test for a neighbourhood plan is not one of 'soundness'. The role of the Examiner (and the Council acting as LPA) is limited to testing whether the draft Plan meets the "basic conditions" and other matters set out in para 8 of Schedule 4B of the Town & Country Planning Act 1990 (as amended). The 'basic conditions' are that;
- a. having regard to national policy, it is appropriate to make the Plan;
  - b. the Plan contributes to the achievement of sustainable development;
  - c. the Plan is in general conformity with the adopted strategic local policies for the local area;
  - d. the Plan is compatible with EU obligations;
  - e. the Plan meets Human Rights requirements.

The Examiner must also consider whether the referendum area should extend beyond the neighbourhood area.

- 2.9 It is the responsibility of the Council, as LPA, considering the recommendations and reasons of the examiner, to ensure that, with or without modifications, the Plan meets the "basic conditions". If it is so satisfied, the Council must make arrangements for the Plan to proceed to referendum – in accordance with paragraph 12(4) of the Town & Country Planning Act 1990 (as amended). Although the examiner is the specialist advisor, the Council is the decision-maker. The examiner's report cannot, of itself, be the subject of a legal challenge. The Council must consider each of the examiner's recommendations (and the reasons given) and decide what action to take in response to each of those recommendations. Regulation 18(2)(a) of the Neighbourhood Planning Regulations 2012 (as amended) require the Council to give the reasons for its decision. The decision must then be published in the form of a 'Decision Statement'. A Decision Statement must be published within 5 weeks of receipt of the Examiner's report, unless some other date has been agreed with the Neighbourhood Forum. In this case, it was agreed by the LPA

and Neighbourhood Forum that the time would be extended to allow time to consider the matters in full.

2.10 The modifications that the Council may make are prescribed in legislation – extract set out below:

- 'a modifications that the authority consider need to be made to secure that the draft order meets the 'basic conditions',
- b modifications that the authority consider need to be made to secure that the draft order is compatible with the Convention rights,
- c ...
- d ..., and
- e modifications for the purpose of correcting errors.'

(note: (c) and (d) do not apply to Neighbourhood Plans)

If the Council (as LPA) can make modifications to a neighbourhood plan to enable that plan to meet the 'basic conditions', it must make those modifications (rather than refuse a Plan proposal). However, the Council can only make such changes and cannot modify a plan for betterment. Such modifications should be discussed with the Neighbourhood Forum, but there is no general requirement for a formal consultation with interested parties or the public.

2.11 If the Council decides not to follow the Examiner's recommendations, or make minor alterations as described in paragraph 2.9 above; it may instead make alternative modifications or even refuse to submit the plan to referendum. Clear reasons must be given for departing from the Examiner's recommendations. Modifications not recommended by the Examiner must be discussed with the Qualifying Body, which has the option of withdrawing the plan if it is unhappy with the changes proposed by the Council.

2.12 Generally paragraph 12 of Schedule 4B gives the LPA a fairly broad power to make minor modifications that accord with the Examiner's recommendations without the need for further consultation. Paragraph 13 of Schedule 4B states that if the LPA propose to make a decision which differs from that recommended by the examiner and the reason for the difference is wholly or partly as a result of new evidence or a new fact or a different view taken by an authority as to a particular fact, then the LPA must consult on the changes for a minimum of six weeks.

2.13 In respect of the requirement to undertake further consultation on any changes not recommended by the Examiner, Officers have considered the relevant legislation and taken legal advice<sup>1</sup>. It is not considered that further consultation is necessary in this case as there has been no new evidence or facts, and the reasons why the decision is differing from the examiner is based upon the

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<sup>1</sup> The Court of Appeal in *Kebbell Developments* [2018] EWCA Civ 450) especially paragraphs 34-35. It is noted that Lord Justice Lindblom clearly distinguishes between the exercise of planning judgements and matters of fact (paragraph 49). Paragraph 50 rules that paragraph 13 (of Schedule 4B) "*does not generate.... a general entitlement to additional consultation after the examination has taken place*",

planning judgement of compliance with the 'basic conditions', but it is not a different view of a fact.

- 2.14 A Forum may withdraw its Neighbourhood Plan at any time before the Council issues its Decision Statement (which is to be issued shortly after the Council meeting).
- 2.15 Members should also note that a new National Planning Policy Framework (NPPF) was issued in July 2018. Paragraph 214 of the new NPPF allows a transition period for examining plans submitted up to 24<sup>th</sup> January 2019: therefore the three Neighbourhood Plans in Torbay continue to be considered against the 2012 NPPF. However the new (2018) NPPF is material to decision-taking, with respect to planning applications, immediately. Paragraph 14 of the 2018 NPPF specifies the weight that may be given to neighbourhood plans and provides a degree of protection against the Presumption in Favour of Sustainable Development (now in NPPF 11).
- 2.16 Legislation sets out that the Secretary of State has powers to intervene at the request of the Qualifying Body, where requested in writing by them within 6 weeks of the publication of the decision notice, in the following circumstances:
- the Council fails to make a decision within 5 weeks of an examination report. (Note : All parties have agreed to an extension to the 5 week period until the Council meeting on 15 November 2018);or
  - where the Council does not follow all of the Examiner's recommendations; or
  - the Council modifies the plan in a way that was not recommended by the Examiner (except where the modification is to ensure compatibility with EU or human rights obligations or to correct an error).

However the Secretary of State may agree to intervene in other situations.

- 2.17 In such cases the Secretary of State (or an Inspector appointed by him) may exercise the functions of the local planning authority in deciding what actions to take with respect to the Examiner's report.

### **3. Options for Council's Determination of Neighbourhood Plans**

- 3.1 In response to the report of an Independent Examiner, the LPA must decide whether the Plan should be submitted to referendum. The LPA's options are that

- 1. Council accepts the Independent Examiner's recommendations in their entirety** that the Plan (with any modification by the Independent Examiner) should be submitted to referendum.
- 2. The Council does not accept the Independent Examiner's recommendations in their entirety.** Reasons must be included and what modifications are proposed by the Council which must show they accord with the 'basic conditions' requirements in relation to the plan as

submitted. A schedule of proposed further modifications has been prepared (at Appendix 2) which both the Forum and officers support.

- 3. To refuse the plan** (on the basis that the plan proposal does not meet, or cannot meet with modification, the 'basic conditions' and Convention rights). Reasons must be included.

- 3.2 The issues around Brixham Peninsula Neighbourhood Plan are discussed in section 4 of this report. In summary Officers consider that the Plan is now capable of proceeding to referendum. However there are a number of matters which have been developed further from the Examiner's recommended modifications, ensuring those modifications are within the limitations of the regulations. These further changes have been discussed with the Neighbourhood Forum, and are considered by officers to maintain the original intent of the community and ensure it meets the 'basic conditions'. The modifications are not as a result of new evidence or facts, or as a result of a different view of a fact. They are matters of planning judgement, identifying alternative solutions to meeting the 'basic conditions', not seeking betterment of the submitted plan. These changes are discussed in more detail in Section 4 of this report and set out fully in Appendix 2.
- 3.3 The LPA must also decide whether to extend the area to which the referendum is to take place. As the three neighbourhood areas are clearly defined and there are no significant cross-border policies in the Plan, it is not considered necessary by the Examiner or the LPA to extend the area to which the referendum is to take place.

#### **4. Examiner's Recommendations (see Appendix 1)**

- 4.1 The Examiner did not consider it necessary to make significant changes to the content of the Brixham Peninsula Neighbourhood Plan and has instead proposed a series of modifications. No policies are recommended for deletion but a number of policies have been modified by a greater or lesser extent to ensure they meet the 'basic conditions', most significantly these are one proposed housing site allocation being deleted and an amendment of a Local Green Space boundary.
- 4.2 The LPA have considered the Examiner's recommendations and reasons for them, and have concluded that a number of further or alternative modifications are appropriate. All modifications have been discussed with the forum. In relation to the recommended deletion of the housing site allocation (Waterside Quarry), the LPA agree with the examiner's conclusions. Officers have considered it necessary to align the justification text to associated Policy changes in order to meet the 'basic conditions', particularly by adding clarity. A more detailed assessment of the Examiner's recommendations is set out at Appendix 2.
- 4.3 The LPA, made a series of representations on the submitted plan which have been considered by the examiner, along with those from other Council departments, and third parties including the development industry. The key



concerns raised by the LPA are set out below but the Examiner's report, in Appendix 1, addresses these and others in full.

### **Housing Site Allocations**

- 4.4 In the submitted plan, Policy BH3 'Delivery of new homes' allocates housing sites to meet the identified need set out in the Council's Local Plan. In relation to this policy, and particularly Table 2 ('Allocated housing sites') and BH3-I10 Waterside Quarry, the Examiner's report states she had '*considered carefully the evidence and supporting documents available..... and the relevant representations*'. The Examiner's conclusions stated that she '*focused on the issue of the adequacy or otherwise of the environmental assessment of the site in the light of the PoW case and whether or not the site as a result of this and other site constraints is developable*' and concluded that she was '*not satisfied that the HRA assessment of the site as submitted is adequate*'. It is important to note that the LPA has consistently maintained a position which raises concerns over the adequacy of the assessment, concluding the same as the Examiner.
- 4.5 The Forum strongly disagree with this conclusion and have put forward a number of further representations to support the re-instatement of Waterside including referencing the provision within the plan of a safeguarding Policy (E8) and additional modified text to BH3, to ensure no Likely Significant Effect at the planning application/project stage (see also the discussion in 4.5 below). These representations have been given serious consideration.
- 4.6 The Council, as competent authority and following discussions with its consultant Jacobs UK Ltd, contests the conclusion of 'no potential effect on Greater Horseshoe Bats' reached by the AECOM HRA (submitted HRA with Neighbourhood Plan). This screened out the Waterside Quarry site with no mitigation measures and did not recognise that this site had Greater Horseshoe Bat records immediately adjacent to it. Based on the evidence provided to date, the LPA agree with the conclusion of the Examiner and do so as it is not possible to ascertain that the proposal site is not likely to have a significant effect on a European site in accordance with the basic condition as prescribed in Schedule 2 Paragraph 1 of the Neighbourhood Planning Regulations 2012.
- 4.7 It is the view of Officers that there has, in essence, been an insufficient response to the existing evidence on and around the site in respect of the identified presence of bats. The Plan cannot rely on a safeguarding policy and the competent authority **must**, before the plan is given effect, have ascertained that there is no likely significant effect on the integrity of a European site. This requirement is set out within "The Conservation of Habitats and Species Regulations 2017", Regulation 105. The Plan would not be lawful if these conditions are not met and the retention of the site could bring proceedings for judicial review which could then compromise the Plan as a whole. Had the evidence been appropriately considered within the submitted HRA, it is not believed that the site would have been screened out. Consequently there has not been an assessment of the 'in combination effects' or any mitigation measures proposed.

- 4.8 Had the Waterside Quarry site not been screened out, it may have been possible (as with other sites) to adopt a mitigation strategy that may have identified a development opportunity. However, the presence of a roost in the cliff face of the adjacent site marks it apart from the other allocations. Evidence of full and satisfactory mitigation has not been provided. It is not possible to rely on the existing broad mitigation measures set out in the Local Plan as these are applied in principle before further evidence is obtained. In this case as there is further evidence, this indicates a requirement for specific mitigation measures. If mitigation measures had been submitted, this would have been considered.
- 4.9 It is of note that nothing set out above rules out development on any part of the site at any point going forward, it is instead about the process for this plan. It is considered that there may be mitigation measures that would provide a solution but such information would have to be provided. Although this has not been received through the plan making process to a satisfactory degree, it would be possible to submit a planning application, which contained such information, for consideration.
- 4.10 The Examiner's Report also considers the wider Policy BH3 - Delivery of new homes. She concluded that there was a potential shortfall in housing numbers, and that consequently the policy should be modified to '*supporting the strategic development needs set out in the Local Plan*'. Whilst the LPA raised earlier concerns that the capacity of some sites may vary from that shown in Table 2 of the submitted Plan; on reflection Officers now consider that whilst some sites may deliver less, others have the potential to deliver more units and consequently the overall delivery should broadly meet the Torbay Local Plan Policy SDB1 of 660 dwellings by 2030. The LPA is therefore satisfied that sufficient housing numbers based on the sites listed following modification of the Plan meet the required housing figure set out in the Torbay Local Plan Policy and is therefore in general conformity in this respect.
- 4.11 The LPA considers that the additional policy text recommended by the Examiner is moved to the supporting text and is further modified, restricting the 'strategic need' to that of the Brixham Peninsula (Local Plan Policy SDB1 area) only. This ensures that the plan meets the 'basic conditions', and clearly demonstrates that, when 'made', the Plan contains policies and allocations to meet its (fully) identified housing requirement.
- 4.12 As previously reported to Council, officers have assessed the stock of deliverable housing sites against the local Plan housing requirement and have concluded that Torbay has around 4.19 year supply of deliverable housing sites. The Forums disagree with this figure, and argue that there is at least 6.1 year supply. The LPA's position, including responses to the Forum's argument, is set out at:  
<https://www.torbay.gov.uk/council/policies/planning-policies/evidence-base-and-monitoring/>

- 4.13 The Government has sought to provide some protection for neighbourhood plans against the effect of a five year supply shortfall. Paragraph 14 of the 2018 NPPF provides that, where a 5-year housing land supply cannot be demonstrated, development which conflicts with the provisions of a recent neighbourhood plan is less likely to be ‘sustainable development’ where, amongst other things:
- i. the LPA can demonstrate a 3-year housing land supply; and
  - ii. the neighbourhood plan contains policies and allocations to meet its identified housing requirement (*emphasis added*).
- 4.14 Members are asked to note officer advice that the LPA is not able to demonstrate a 5-year housing land supply. The Brixham Peninsula Neighbourhood Plan does allocate housing sites and therefore, in addition to housing allocation contributing to the general housing supply requirement, the area of Brixham will benefit from the additional protection afforded by the NPPF to areas with neighbourhood plans in place, where a 3-year housing land supply can be demonstrated by the LPA.

### **Employment Allocations**

- 4.15 The Neighbourhood Plan, in Policy J1, ‘identifies’ employment sites but does not allocate them. However, the Plan policies are generally supportive of employment development. The LPA is not under a NPPF obligation to maintain five years supply of employment sites. The Examiner has held that the Neighbourhood Plan cannot be required to make site allocations. Her recommended modification did however seek to ensure that J1 ‘*promoted appropriate to meet the local and strategic needs set out in the Torbay Local Plan 2012-2030*’. The Local Planning Authority has added the codicil that this need relates to the SDB1 Area (see Appendix 2 and 3).
- 4.16 The submitted Plan’s accompanying AECOM HRA expressed concerns in relation to Site J1-I1 (Oxen Cove and Freshwater). The Examiner therefore took the view that, ‘...*although this is a fine distinction I am clear that as the sites have not been allocated any potential shortfall in evidence in relation to the HRA can be adequately addressed should any planning application come forward.*’ It was within the scope of the ‘basic conditions’ to retain the employment sites as ‘identified’. In any case, the site passes the Council’s HRA appropriate assessment.

### **Local Green Spaces**

- 4.17 Local Green Space designations allow local communities to give special protection to green areas of particular importance to them. Local Green Spaces have a similar status to green belt, and development can only occur in specific circumstances.
- 4.18 Government guidance (contained in paragraphs 76 and 77 of the 2012 NPPF) says that the Local Green Space designation will not be appropriate for most green areas or open space; and that the designation should be consistent with the local planning of sustainable development and complement investment in a sufficient number of homes, jobs and other essential services. The designation

should be capable of enduring beyond the end of the plan period and 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.

- 4.19 The submitted Plan has designated 16 Local Green Spaces, the Examiner discusses the issue of Local Green Spaces on pages 47-49 of the Report. In summary, the Examiner found that all areas of designation submitted in the Plan, meet the requirements of the NPPF with the exception of part of E4-13 Churston Golf Course. In this case the Examiner concluded that the boundary of the proposed area should be revised to exclude the area of the Clubhouse, Car Park, 1<sup>st</sup> and 18<sup>th</sup> holes of the originally proposed area; that the site would however remain protected, specifically by Policy E6 of the Plan which places the site outside the 'settlement boundary' and that any development proposal would therefore need to be considered in the context of rural countryside area (Policy C1 criteria in the Local Plan) and Neighbourhood Plan Policy BH9 Exception sites policy alongside general protection policies for recreational spaces and Habitats Regulation matters relating to the SAC.
- 4.20 The extent to which this area of Local Green Space designation at Churston Golf Course is in general conformity with the Local Plan and has regard to the NPPF requires a planning judgement.
- 4.21 The Forum disagree with modification proposed by the Examiner and specifically questioned why designation does not meet the 'basic conditions'.
- 4.22 The Council in its capacity as landowner and the LPA made representations on a number of Local Green Spaces which were proposed on the basis that they had development potential. The Examiner did not consider that to be a valid objection to the Local Green Space tests in and of itself. However she concluded that the Golf Course Clubhouse, Car Park, 1<sup>st</sup> and 18<sup>th</sup> holes should be excluded in order to address concerns and ensure the Plan is in conformity with the strategic policies of the Local Plan.
- 4.23 The examiner reported that *"Torbay Council object to the area including the 1st and 18th hole of Churston Golf area being included in the proposed Churston Golf Course LGS on the basis that the site is currently within built up/urban area (village) with potential for sustainable development. This site, including the existing clubhouse has (expired) outline planning permission for 132 units and is identified in the Torbay Local Plan as 'BNPH2' -Appendix C Pool of potential housing sites. The Local Plan Inspector recommended consideration of site as housing allocation in Neighbourhood Plan. Torbay Council consider that there is a resulting lack of Conformity with Strategic Policies: SS12 and SS13 and SDB 1 of the Torbay Local Plan... My conclusion is that whilst most*

*of the proposed Local Green Spaces do meet the required tests I have concerns relating to the proposed boundary of the proposed Churston Golf Course LGS. I have considered the Torbay Council objection and my conclusions on the Brixham Peninsula Neighbourhood Plan housing policies and their ability to deliver the level of housing growth identified in the Torbay Local Plan and therefore a lack of SS12 and SS13 and SDB 1 of the Torbay Local Plan. To overcome my concerns and meet the 'basic conditions' the boundary of E5-13 should be modified to exclude the area which covers the 1st and 18th hole of Churston Golf Course, including the existing club house". It is noted (given the Examiner's report does not explicitly acknowledge it) that there were other representations to this site being designated as a Local Green Space, submitted on behalf of the previous applicant, which state that there remains potential for development on the site. It is further noted that the Examiner's reference to E5-13 is made in error and should refer to E4-13.*

- 4.24 While the Examiner has raised concerns over the "ability to deliver the level of housing growth identified" it is noted, as it is in 4.12 and 4.13 of this report also, that the LPA do not now concur with that conclusion. The Torbay Council objection referred to by the Examiner made it clear that the site had potential for sustainable development, therefore meeting paragraph 76 of the NPPF (2012). These matters differ from one another in that the Examiner was referring to development within the Plan period, whereas the LPA are referencing the future ability to plan for sustainable development beyond the Plan period. The key concern of the LPA is that designating the whole site as a Local Green Space is not consistent, given the resulting constraint, with the local planning of sustainable development.
- 4.25 It is proposed by the LPA that the boundary of the designation will be modified from that as submitted but will not match that as recommended by the Examiner. It was determined by the Local Plan inspector that the site should be considered by the local community and the result of this is clear intention to designate the site as Local Green Space but also to ensure the Plan makes sufficient allocations to meet the identified need for the plan period.
- 4.26 The modification is that the Clubhouse and Car Park should be excluded from the designation but that the 1<sup>st</sup> and 18<sup>th</sup> holes are maintained within it. It is considered that the 1<sup>st</sup> and 18<sup>th</sup> specifically meet the three criteria of Paragraph 77 (NPPF 2012) set out in 4.19 of this report, as it is a green space in reasonably close proximity to the community; a green area demonstrably special to the local community and holds a particular local significance for example because of its recreational value; and the green area concerned is local in character whereas the arguments for the Clubhouse and Car Park area are less clear. Designating the 1<sup>st</sup> and 18<sup>th</sup> meets Paragraph 76 of the NPPF (2012) as it, when considered alongside the Clubhouse and Car Park area, provides capacity within the site to enable the local planning of sustainable development in the future and complements the planning of homes, jobs and other essential services.
- 4.27 It is a matter of planning judgement as to the extent of the site that is necessary to enable sustainable development. The resultant designation would accord

with the 'basic conditions' by having regard to the NPPF, meeting both paragraphs 76 and 77 of the NPPF (2012). As modified it provides for some flexibility in the future, beyond the end of the plan period which would not otherwise have been explicitly possible, to consider the site through the plan making process as part of the local planning of sustainable development. Members should also note that the designation 'should' be capable of enduring beyond the Plan period but may be reviewed at future Plan making stages.

### **Affordable housing**

4.28 Policy BH1 'Affordable housing – site allocations' provides for affordable housing in accordance with Local Plan Policy H2. However there is an exception where off-site contributions are 'ring-fenced' for the provision of affordable housing within the Brixham Peninsula area. The commuted sums held by the Authority will be released to the wider Torbay area if they unspent on the 3<sup>rd</sup> anniversary of payment. Policy BH2 'Affordable housing - occupation' apportions the eligibility for occupation of affordable housing to a local connection within the Brixham Peninsula. The Council objected to this policy on the grounds that it would create a 'two tier' system of housing allocation from the existing Devon Home Choice and would be difficult to administer. However, the Examiner considered there was sufficient evidence submitted with the plan to retain the Policy, albeit in a modified form, that restricts applications to 'new' affordable units and that there is a default to the Torbay Council Waiting List if no occupants can be found. The LPA is satisfied that the key workers criterion, removed by the examiner, can be retained without impacting on the 'basic conditions'.

### **Views of the Forum on Policy modifications and deletion**

4.29 Through a two way consultation with the Forum, a revised form of wording for a number of Policies is proposed which Officers consider do now meet the 'basic conditions' and it is accordingly recommended that they should be updated (as modified) in the Plan. The schedule of recommended changes are set out in Appendix 2. The Forum, as set out above, do not agree with the Examiner and LPA position on the deletion of Waterside Quarry as an allocated housing site, or on all of the changes proposed specifically in the justification text.

### **Policies Map**

4.30 In line with the Examiner's recommendation, Officers and Forms are working jointly to update the policies map to support the Plan modifications. In preparing a Policies map it has been necessary to make minor modifications to the key to accord with the Policy Document as well as the inclusion of boundary area for Policy J5 (harbour-side economy). This has been done solely for mapping consistency reasons and does not change the substantive policy boundaries. Other changes are also made to accord with the modifications as set out in Appendix 2. Not all of the changes have been made at the time of writing, many are reflected in the latest document but these will require further updates to be made, and accordingly it is proposed that Council delegates authority to the Assistant Director of Business Services to make any necessary further changes.

- 4.31 The examiner also recommended modification of the boundary of Policies J6 and J7. However, the necessity of the recommendation has been questioned. Officers believe that the modification could add betterment to the plan, but it is not necessary to meet ‘basic conditions’ and accordingly the boundary has not been modified and remains as submitted.

### **EU Obligations**

- 4.32 The Council maintains the responsibility for deciding whether, or not, a Neighbourhood Plan is compatible with EU regulations.

### **Strategic Environmental Assessment (SEA)**

- 4.33 A SEA is necessary due to the allocation of sites raising the possibility of significant environmental effects arising from the plan. This was carried out as part of a Sustainability Appraisal which concluded that the plan mitigated negative effects and identified opportunities to enhance positive effects.

### **Habitats Regulation Assessment (HRA)**

- 4.34 A HRA is required by the Habitats Directive (92/43/EEC) when the implementation of the Plan may lead to likely significant effects on European Sites.
- 4.35 Natural England did not object to the Plan, or the modifications proposed by the examiner, and made it clear that it is the responsibility of the Council (as LPA) as the competent authority to ensure that the Plan does not have a likely significant effect of European sites.
- 4.36 The accompanying HRA Appropriate Assessment (‘AA’) has been modified to ensure it accords with the Ruling of the European Court in People over Wind (PoW)<sup>2</sup>. Changes to the plan have been made to ensure compliance with the Habitats Regulations.

### **Human Rights**

- 4.37 Officers have raised no objection in respect of Human Rights, as considered against the European Convention for Human Rights and the Human Rights act 1998. The examiner did not raise human rights issues in her assessment of the Plan against the “‘basic conditions’”.

## **5. Recommended Modifications (see Appendix 3)**

- 5.1 As discussed in Section 4 above, Officers have given serious consideration to the Forum’s further representations on all matters and the Decision Statement, along with the amended Plan in Appendix 3, sets out the LPA conclusions.
- 5.2 Officers have had a two way consultation with the Forum to modify a number of Policies. Officers are satisfied that the policy wording as modified overcomes the Examiner’s reasons for their modification and satisfies the “‘basic conditions’”. It is therefore appropriate to modify the Plan as set out above and in more detail at Appendix 2 and 3.

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<sup>2</sup> People Over Wind, Peter Sweetman v Coillte Teoranta Case C-323/17



- 5.3 A number of additional minor modifications have been necessary for the purpose of ensuring legibility, grammatical and numbering accuracy of the Plan. These have also been the subject of consultation with the Forum and are indicated at Appendix 2 and 3.

## **6. Corporate Plan and Responsibilities**

- 6.1 The Neighbourhood Plan has no legal requirement to consider or support the Corporate Plan of the Council.
- 6.2 The Brixham Peninsula Neighbourhood Plan will deliver the number of homes that the Local Plan (2012-2030) requires. The Plan does not allocate Employment sites but does make provision for the employment need. It contains strong policies to promote good design and a high quality built and protect the natural environment.
- 6.3 The Neighbourhood Plan has no legal requirement to consider or contribute towards the Council's responsibilities as corporate parents.
- 6.4 The Neighbourhood Plan has no legal requirement to consider deprivation. However, the plan (if approved) would contribute to sustainable development in accordance with the requirement set out in the 'basic conditions'.
- 6.5 The Plan contains strong policies to improve the quality of the built environment and to resist poor quality developments. It also contains a local affordable housing occupation policy that provides for a local connection to the Peninsula in the first instance but does default to the Torbay Waiting List. It provides a framework that will help resist poor quality development that could worsen environmental deprivation.

## **7. Financial and Legal Implications**

- 7.1 The Town and Country Planning Act 1990 (as amended), Planning and Compulsory Purchase Act 2004, Localism Act 2011, Neighbourhood Planning Act 2017, and Neighbourhood Planning (General) Regulations 2012 (as amended) all apply. The Council must ensure that the Plan meets the "basic conditions" as set out in Law.
- 7.2 There will be financial implications in respect of officer resources and direct costs associated with any referendum, should the decision be taken to put the plan to referendum. If the decision is taken to undertake further consultation and examination this will also incur additional costs and time.
- 7.3 The Council can be challenged on its decision and any such challenge arising would incur additional costs as well as the resource implications.
- 7.4 Central Government will provide additional grant funding to the LPA on completion of the referendum. Any costs not covered by the grant funding will fall to the revenue budget.

- 7.5 When it is made, the “Neighbourhood Portion” of CIL that must be spent in the area where development arises will increase from 15% to 25%.

## **8. Risks**

- 8.1 The Council must consider its duty to support Neighbourhood Planning whilst ensuring that only a Plan which meets the ‘basic conditions’ is put to referendum. Failure to do so could result in legal challenge.
- 8.2 If the Plan is approved in line with the recommendations of the Examiner, the onus on the Council to justify its decision would be much reduced. If the further Modifications are not consulted upon there may be a legal challenge to the Plan from dissatisfied third parties whose only opportunity to object will be through that of judicial review.
- 8.3 Additionally, if the Council decides to put the Plan to referendum and in due course it is made (adopted) then, as land owner, it will have a number of Local Greenspace designations on its assets. However, the Examiner has allowed the designations despite objection from Council as landowner.

**Independent Examiner's Report of the  
Brixham Peninsula Neighbourhood  
Development Plan**

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*26th July 2018*

## **SECTION 1 Contents**

### **CONTENTS**

#### **Section 1**

<i>Contents.....</i>	<i>2</i>
----------------------	----------

#### **Section 2**

<i>Summary.....</i>	<i>3</i>
---------------------	----------

#### **Section 3**

<i>Introduction.....</i>	<i>4-6</i>
--------------------------	------------

#### **Section 4**

<i>The Report.....</i>	<i>7-60</i>
------------------------	-------------

1. <i>Appointment of the Independent Examiner.....</i>	<i>7</i>
2. <i>Qualifying Body.....</i>	<i>7</i>
3. <i>Neighbourhood Plan Area.....</i>	<i>7-8</i>
4. <i>Plan Period.....</i>	<i>8</i>
5. <i>Torbay Regulation 15 assessment.....</i>	<i>8-9</i>
6. <i>Site Visit.....</i>	<i>9</i>
7. <i>Questions for clarification.....</i>	<i>9</i>
8. <i>Consultation Process.....</i>	<i>9-10</i>
9. <i>Regulation 16 consultation responses.....</i>	<i>10</i>
10. <i>Compliance with the Basic Conditions.....</i>	<i>10-12</i>
11. <i>Planning Policy.....</i>	<i>12-15</i>
12. <i>Other Relevant Policy Considerations.....</i>	<i>15-24</i>
13. <i>Brixham Peninsula Neighbourhood Plan Policies.....</i>	<i>24-60</i>

#### **Section 5**

<i>Conclusions and Recommendations.....</i>	<i>61-62</i>
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## **SECTION 2**

### **Summary**

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

- 1. I find the Brixham Peninsula 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 Brixham Peninsula Neighbourhood Development Plan go to Referendum.*
- 3. I have read the Brixham Peninsula Consultation Statement and the representations made in connection with this subject. I consider that the consultation process was adequate 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 Brixham Peninsula Neighbourhood Development Plan can, subject to the recommended modifications proceed to Referendum.*
- 5. The current development plan for the Neighbourhood Plan Area is the Torbay Local Plan 2012- 2030 adopted December 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 Brixham Peninsula Neighbourhood Development 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 Brixham Peninsula Neighbourhood Development Plan meets the Basic Conditions and has taken into account human rights; and to recommend whether the Brixham Peninsula Neighbourhood Development 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 Brixham Peninsula Neighbourhood Development 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 (as amended).*

*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.*

#### **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.*

*2.2 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).*

*2.3 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*

*2.4 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 am also 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 Brixham Peninsula Neighbourhood Development 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 Brixham Peninsula Neighbourhood Development Plan with the agreement of Brixham Neighbourhood Forum.*

#### **2. Qualifying body**

*2.1 I am satisfied that the Brixham Peninsula Neighbourhood Forum (the Forum) meets the necessary requirements and is the Qualifying Body.*

*2.2 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.*

*2.3 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*

*4.2.4 The original application for Neighbourhood Area and Neighbourhood Forum status in Brixham was approved in December 2012. The Forum status expired after 5 years (December 2017). The Brixham 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**

*3.1 The Neighbourhood Plan area covers the designated Brixham Peninsula Neighbourhood Area which includes the whole of the administrative area of Brixham Town Council and the non parished villages of Churston, Galmpton and Broadsands.*

3.2 The Brixham with Churston, Galmpton & Broadsands Neighbourhood Plan Forum (also known as the “Brixham Peninsula Neighbourhood Forum”) was re-designated by full Council on 7 December 2017 (the Report (Item 11) and Minutes can be accessed online). The designation lasts, in accordance with the regulations, for 5 years.

3.3 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 Brixham Strategic Policy Area defined in the Torbay Local Plan adopted by the Council on 10 December 2015.

#### **4. Plan Period**

It is intended that the Brixham Peninsula Neighbourhood Development Plan will cover the period 2012-2030, to align with the Torbay Local Plan, reference to ‘and beyond’ should be removed to align with the Torbay Local Plan.

#### **5. Torbay Council Assessment of the Plan under regulation 15 of the Neighbourhood Planning (General) Regulations 2017.**

##### **4.5.1 Plan proposals and modification proposals**

15.—(1) Where a qualifying body submits a plan proposal or a modification proposal to the local planning authority, it must include—

(a) a map or statement which identifies the area to which the proposed neighbourhood development plan relates;

(b) a consultation statement;

(c) the proposed neighbourhood development plan or neighbourhood development plan as proposed to be modified”; and

(d) a statement explaining how the proposed neighbourhood development plan meets the requirements of paragraph 8 of Schedule 4B to the 1990 Act or in the case of a modification proposal, how the neighbourhood development plan as proposed to be modified meets the requirements of paragraph 11 of Schedule A2 to the 2004 Act.

e) in relation to a modification proposal, a statement setting out the whether or not the qualifying body consider that the modifications contained in the modification proposal are so significant or substantial as to change the nature of the neighbourhood development plan which the modification proposal would modify, giving reasons for why the qualifying body is of this opinion.

(2) In this regulation “consultation statement” means a document which—

*(a) contains details of the persons and bodies who were consulted about the proposed neighbourhood development plan or neighbourhood development plan as proposed to be modified;*

*(b) explains how they were consulted;*

*(c) summarises the main issues and concerns raised by the persons consulted; and*

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

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

## **6. Site Visit**

*I carried out an unaccompanied site visit to familiarise myself with the Neighbourhood Plan Area on 31<sup>st</sup> May 2018.*

## **7. Questions for Clarification**

*7.1 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, there were a number of issues on which I required clarification from the Forum. These questions were published on the Torbay Council website together with the response from the Forum. There were also a number of representations received in the light of the questions and responses and these too have been published on the Council's website. I have carefully considered the responses and representations taken them into consideration in my conclusions and made reference to them in my report where appropriate.*

## **8. The Consultation Process**

*4.8.1 The Brixham Peninsula Neighbourhood Development 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.*

*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.*

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

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

## **9.Regulation 16 consultation by Torbay Council and record of responses.**

*9.1 The Local Planning Authority placed the Brixham Peninsula Neighbourhood Development Plan out for consultation under Regulation 16 from Wednesday 1<sup>st</sup> of November Monday 18<sup>th</sup> of December 2017.*

*9.2 A 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 referred to them where appropriate.*

*9.3 A number of late representations were also received and published on Torbay Council's website. Where appropriate I took these into consideration in my examination of the Plan.*

## **10. Compliance with the Basic Conditions**

*10.1 The Brixham Neighbourhood Plan Forum produced a Basic Conditions Statement. The purpose of this statement is to set out in some detail how 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.*

*10.2 I have to determine whether the Brixham Peninsula Neighbourhood Development 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.*

10.3 Documents brought to my attention by the Local Planning Authority for my examination include:

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

(ii) *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) *Policy Document*

(v) *Policy Maps*

(vi) *Housing Site Assessment*

(vii) *Employment Site Assessment*

(viii) *Greenspace Site Assessment*

(ix) *Broadsands Village Design Statement*

(x) *Churston Village Design Statement*

(xi) *Galmpton Village Design Statement*

(xii) *Brixham Town Design Statement*

(xiii) *Brixham Town Centre Master Plan*

(ixx) *Habitats Regulations Assessment Screening prepared by AECOM*

(xxi) *Strategic Environmental Assessment prepared by AECOM*

(xxii) *Housing Site Assessment prepared by AECOM*



## **Comment on Documents submitted**

4.10.4 In my report I addressed a number of concerns and questions relating in particular to the following documents:

(vi) Housing Site Assessment

(vii) Employment Site Assessment

(viii) Greenspace Site Assessment

(ixx)) Habitats Regulations Assessment Screening prepared by AECOM

(xxi)) Strategic Environmental Assessment prepared by AECOM

(xxii) Housing Site Assessment prepared by AECOM

*These concerns have been addressed in the appropriate section of my report.*

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

## **11.Planning Policy**

### **11.1. National Planning Policy**

11.1.1 The National Planning Policy Framework (NPPF) 2012 sets out national policy, supporting this document is National Planning Policy Guidance (NPPG). The Government published its new National planning Policy Framework on 24 July 2018. Whilst the revised NPPF becomes a material consideration from the date of publication, paragraph 2014 sets out a transitional period:

“214. The policies in the previous Framework will apply for the purpose of examining plans, where those plans are submitted(69) on or before 24 January 2019. Where such plans are withdrawn or otherwise do not proceed to become part of the development plan, the policies contained in this Framework will apply to any subsequent plan produced for the area concerned.

(69) For neighbourhood plans, ‘submission’ in this context means where a qualifying body submits a plan proposal to the local planning authority in accordance with regulation 15 of the Neighbourhood Planning (General) Regulations 2012.

*During the transitional period for emerging plans submitted for examination (set out in paragraph 214), consistency should be tested against the previous Framework published in*

March 2012.”

Accordingly, my report, which was at a second fact check stage on 24 July, has considered the Neighbourhood Plan on the basis of the 2012 NPPF and paragraph numbers relate to that document.

11.1.2 To meet the Basic Conditions, the Plan must have “regard to national policy and advice”. In addition, the NPPF 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”.

11.1.3 The Brixham Peninsula Neighbourhood Development Plan does not need to repeat these national policies, but to demonstrate it has taken them into account.

11.1.4 I have examined the Brixham Peninsula Neighbourhood Development Plan and consider that, subject to modification, the plan does have “regard for National Policy and Advice” and therefore the Plan, subject to minor modification does meet the Basic Conditions in this respect. For clarity, should the plan be Made documents i, iv and v will become part of the development plan.

## **11.2. Local Planning Policy- The Development Plan**

11.2.1 Brixham Peninsula is within the area covered by Torbay Council. Currently the relevant development plan is Torbay Local Plan 2012-2030.

The Local Plan states that:

“Brixham is expected to provide sufficient land to enable delivery of at least 2,700 square metres (sqm) of employment floor space and 660 new homes over the Plan period.

11.2.2 Such development will only be acceptable if it can be accommodated without prejudicing the integrity of the Area of Outstanding Natural Beauty (AONB) and Special Areas of Conservation, and provided that the interests of priority species, such as the Greater Horseshoe Bat and Cirl Buntings, can be safeguarded.”

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

11.2.4 National planning policy states that the neighbourhood plan 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.*

*11.2.5 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.*

*11.2.6 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.*

*11.2.7 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.*

*11.2.8 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).*

*11.2.9 I am satisfied that subject to modification the Brixham Peninsula Neighbourhood Plan is in general conformity with the Strategic Policies of the Torbay Local Plan 2012-2030.*

## **12. Other Relevant Policy Considerations**

### **12.1 European Convention on Human Rights (ECMR) and other European Union Obligations**

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

*A Strategic Environmental Assessment (SEA) screening opinion was sought as required from the following organisations during the formal consultation period:*

- *Natural England*
- *Historic England*
- *Environment Agency*
- *Torbay Council*

*The view of Torbay Council was that a Strategic Environmental Assessment (SEA) and Habitats Regulation Appraisal (HRA) was required:*

The SEA was carried out by AECOM.

#### 12.1.2 The SEA concluded that:

*“the current version of the BPNP is likely to lead to significant positive effects in relation to the ‘population and community’ and ‘health and wellbeing’ sustainability themes. These benefits largely relate to the carefully targeted spatial approach proposed by the current version of the BPNP, the focus on enhancing the vitality of the Neighbourhood Plan area and the BPNP’s impetus on protecting and enhancing open space and green infrastructure networks. In addition, the allocations proposed through the Neighbourhood Plan will enable significant enhancements to be made to the quality of townscapes and the setting of the historic environment at key locations of existing poor public realm in the Brixham Peninsula, leading to significant positive effects in relation to the ‘historic environment and landscape’ theme.*

*In relation to the ‘biodiversity and geodiversity’ sustainability theme, the scope and scale of the proposed policy approaches relating to the natural environment will help ensure that wide ranging benefits in relation to this theme are secured through the Neighbourhood Plan. Whilst the delivery of the allocations through the BPNP will inevitably lead to some minor localised adverse effects in relation to biodiversity, the approach initiated by the Neighbourhood Plan will both limit the potential magnitude of adverse effects and secure enhancements. The focus on allocating sites on previously developed land will also bring positive effects in relation to the ‘land, soil and water resources theme’ through limiting the development of agricultural land, including land classified as the Best and Most Versatile Agricultural Land. It will also help support the remediation of contaminated land at a number of locations.*

*The current version of the BPNP will initiate a number of beneficial approaches regarding the ‘transportation’ and ‘climate change’ sustainability themes. However, these are not considered to be significant in the context of the SEA process given the scope of the Neighbourhood Plan and the scale of proposals.”*

### **12.2 Habitats Regulations Assessment**

12.2.1 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.

12.2.2 AECOM was appointed by the Brixham Neighbourhood Forum to assist in undertaking a Habitats Regulations Assessment (HRA) of the Brixham Peninsula Neighbourhood Plan (hereafter referred to as the Neighbourhood Plan or the ‘Plan’). The report identified that the

*objectives of the assessment were to (extracts from the report shown in parentheses):*

- *“Identify any aspects of the Neighbourhood Plan that would cause an adverse effect on the integrity of Natura 2000 sites, otherwise known as European sites (Special Areas of Conservation (SACs), Special Protection Areas (SPAs) and, as a matter of Government policy, Ramsar sites), either in isolation or in combination with other plans and projects; and*
- *To advise on appropriate policy mechanisms for delivering mitigation where such effects were identified.*

*12.2.3 In accordance with the Screening 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*

*12.2.4 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.” (Taken from the AECOM SEA Report)*

### **12.3 Torbay Local Plan HRA**

*12.3.1 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).*

*12.3.2 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.*

*12.3.3 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.*

*12.3.4 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.*

*12.3.5 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).*

## **12.4 Screening of the Neighbourhood Plan**

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

### *Likely significant effects*

*12.4.2 The Report’s screening of the allocations and Neighbourhood Plan policy proposals resulted in the following conclusions:*

*“During the initial screening of the Brixham Peninsula Neighbourhood Plan, two policies (Policy J1: Employment land – proposed, retained and refurbished and Policy H3: Delivery of New Homes) were initially screened in for further assessment (see Chapter 4) as impact pathways potentially existed that could have a likely significant effect upon the South Hams SAC via the following impact pathways:*

- Fragmentation, loss and disturbance of commuting routes and foraging areas for greater horseshoe bats; and*



- *Recreational pressure on the calcareous grassland and European dry heath.*

*Potential recreational pressure and water quality impacts on Lyme Bay and Torbay SAC were also identified.*

*12.4.3 Following this initial screening exercise, further investigation was undertaken, and a Likely Significant Effect test was conducted of the two policies that could not be initially screened out during the screening exercise.*

*12.4.4 Two sites identified for employment within Policy J1 of the Neighbourhood Plan (and which do not already have planning permission), have not been previously assessed in the Local Plan HRA. These are Torbay Trading Estate, and Brixham Town Centre Car Park, However, this policy can be screened out of this assessment due to the mechanisms in place in the Local Plan and Neighbourhood Plan to ensure greater horseshoe bat surveys at the project stage.*

*12.4.5 Two sites identified for housing in the Neighbourhood Plan have been assessed as having a potential effect on greater horseshoe bats: Castor Road and St. Mary's/Old Dairy. However, given the nature of the sites and the policy framework provided by the Torbay Local Plan and Brixham Peninsula Neighbourhood Plan, it is considered that the sites could be delivered without a likely significant effect on South Hams SAC.*

*12.4.6 As a general principle, all identified sites that are deemed suitable for greater horseshoe bats should be resurveyed to support a planning application if the most recent survey data is more than 2 survey seasons in age. For example, since the most recent surveys for St Mary's/Old Dairy were undertaken in 2015, it would be advisable to repeat them in the next (2018) survey season. As another example, since the investigation of Knapman's Yard for roosts in summer 2016 is now 12 months old, any planning application for that site should include an updated survey. "*

*"It is therefore considered that no likely significant effects of the Neighbourhood Plan on the SAC will arise alone or in combination with other plans and projects."*

## **12.5 Adequacy of the HRA**

*12.5.1 In the Basic Conditions Statement, the Forum have identified three main areas of difference between Torbay Borough Council and the Forum in terms of the adequacy of the HRA Assessment as follows:*

### *"1. Survey information*

- *The area of difference here concerns the level of information which has been provided for all sites allocated or suggested for allocation in the Local Plan (e.g., in*

*“Appendix C: Pools of Housing and Employment Sites”).*

- *The Forum’s position is that they have asked the Council for evidence that sites were screened at an individual site level by a properly qualified ecologist physically attending the site. Having not received such information the Forum’s position is that on the precautionary principle it must conclude that sites have not been properly screened.*
- *Torbay Council’s position is that all sites were screened using a “landscape approach”<sup>24</sup> but “not identified individually”. This approach is explained in the Torbay Council HRA documents as follows:*

*areas within the Sustenance Zone that are within existing built up areas have also not been subject to appraisal because such areas do not have suitable habitat to support either commuting or foraging GHBs”.*

*12.5.2 In response to this, the Forum considers Torbay Council’s HRA screening methodology to be less robust than the Neighbourhood Plan’s HRA screening methodology, where all allocated and identified sites were visited by a properly qualified ecologist.*

*12.5.3 Further, it is the Forum’s position is that Torbay Council’s application of its HRA screening methodology is inconsistent with its more recent representations on one Housing Site, as set out below, which is in the urban area.*

## **12. 6 Housing sites**

*12.6.1 The area of difference here concerns an allocated housing site Waterside Quarry H3 – I11. For the avoidance of doubt, part of this site is owned by the family of the Vice Chairman of the Forum having previously been sold in June 2014 by Torbay Council as set out in the Housing Site Assessment.*

*12.6.2 The Forum’s position as so advised by Greena Ecology Consultancy and AECOM with endorsement from Natural England is that a proportionate level of surveys have been undertaken.*

*12.6.3 The site was assessed by Greena Ecology Consultancy in their November 2016 report and determined not suitable for Greater Horseshoe Bats. Following representations from Torbay Council at the regulation 14 consultation stage that the site needed to be resurveyed, despite their conclusion that the site was not suitable for bats, Greena Ecology Consultancy were asked to undertake further bat surveys.*

*12.6.4 On the basis of in aggregate 4 months worth of survey data where no Greater Horseshoe Bats were found, Greena Ecology Consultancy in their July 2017 addendum report determined the site was “suitable for the inclusion as an allocated site in the Neighbourhood Plan”.*

12.6.5 Torbay Council's position, as the Forum understands it, is that (despite being located within an existing built-up area) this one site needs to be subject to a full suite of 6 months of bat surveys before it can be allocated in this Neighbourhood Plan.

12.6.6 In response to this, the Forum having been so advised consider Torbay Council's position to be correct for a project level planning application, but wrong in law for a plan level site allocation. This has been raised in correspondence between the Forum and Torbay Council and should it assist the Assessor such correspondence can be made available.

## **12.7 Employment sites**

12.7.1 The area of difference here concerns an identified employment site Oxen Cove and Freshwater Quarry J1 – 2. For the avoidance of doubt, this site is owned by Torbay Council.

12.7.2 The Forum's position as set out by Greena Ecology Consultancy and AECOM and confirmed by the Natural England regulation 14 consultation response is that insufficient survey information has been provided to allocate the site. Specifically, no survey work at all has taken place and having been so advised the Forum's position is that as a minimum some survey evidence would be required to establish the use of the site by bats. However, to recognise the potential of the site, it has been identified.

12.7.3 Torbay Council's position, as the Forum understands it, is that as the site is located in an existing build-up area it does not need to be surveyed.

Notwithstanding any differences of the scope and depth of information at the plan making stage, the Forum state that no allocation or identification in the Neighbourhood Plan removes the Local Plan HRA (December 2015) requirement for further information at the project level planning application stage.

## **12.8 Conclusion**

12.8.1 Having given the evidence and representations before me very careful consideration

I have come to the following conclusions:

Oxen Cove and Freshwater Quarry J1 – 2 is not a formal site allocation but an "identified site" and as such I am satisfied that as the sites have not been allocated any potential shortfall in evidence in relation to an HRA can be adequately addressed should any planning application come forward

Waterside Quarry H3 – I11 In my planning judgment I consider that there is sufficient doubt, given the evidence before me and the representations received that the HRA is adequate to allocate this site for housing development and on that basis, it should be deleted as an allocation from the plan.

## **12.9 PoW**

*12.9.1 I have received a number of representations as to 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 Brixham Peninsula Neighbourhood Plan particularly.*

*12.9.2 The decision in the case 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.*

*12.9.3 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 Brixham Peninsula Neighbourhood Plan, 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.”*

*12.9.4 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."*

*On the basis that Waterside Quarry is deleted from the plan I am satisfied that the HRA 'Screening Stage' does substantively meet the requirements, subject to the mitigation measures identified in the BPNP HRA.*

## **12.4 Sustainable development**

*The Forum state:*

*"Particular care has been taken throughout preparation of the Neighbourhood Plan to ensure that it provides a positive approach towards supporting the achievement of sustainable development able to meet the needs identified by the community. All three sustainability "dimensions" of the NPPF (economic, social and environmental) have been incorporated into the Plan."*

*My conclusion is that the principles of Sustainable Development required in the NPPF 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 Brixham Peninsula Neighbourhood Development Plan subject to the recommended modifications addresses the sustainability issues adequately.*

*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.*

*I am satisfied that the Brixham Peninsula Neighbourhood Development Plan has done so.*

*I am therefore satisfied that the Brixham Peninsula Neighbourhood Development Plan meets the basic conditions on EU obligations.*

## **12.10 Excluded development**

*I12.10.1 am satisfied that the Brixham Peninsula Neighbourhood Development 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.

### **12.11 Development and use of land**

12.11.1 I am satisfied that the Brixham Peninsula Neighbourhood Development Plan, subject to modification covers development and land use matters.

### **12.12 The Neighbourhood Plan Vision, Strategic Aims and Policies**

12.12.1 The Brixham Neighbourhood Plan does not have a clearly labelled vision and strategic aims however it is clear from the following extract from the plan:

*“Our Neighbourhood Plan will be a guide for all developments that will regenerate and enhance, especially those areas that we wish to improve, whilst avoiding harm to what we value. We need to create jobs and affordable housing to ensure a more balanced community, reduce commuting, sustain our infrastructure and improve our health and wellbeing. We also have a clear duty to enhance our environment, protect our wildlife, preserve our open spaces and celebrate our heritage. We also need to ensure that developments are economically sustainable and that they will help our key industries prosper, especially fishing, tourism, agriculture and light industry.”*

*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.*

### **13. Brixham Peninsula Neighbourhood Development Plan Policies**

13.1 Neighbourhood Planning Guidance states:

*“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).*

*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).*

*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.*

*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.*

*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.*

*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.*

*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.”*

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

### **13.1.2 General Comments**

*In order to provide clarity and to ensure that the policies in the Brixham Peninsula Neighbourhood Plan meet the Basic Conditions it has been necessary for me to make modifications to a number of policies and delete some parts of others.*

*Where modification has been made to a policy the supporting text/justification should be modified accordingly.*

#### **Policy J1: Employment land – proposed, retained and refurbished**

##### **J1.1 Employment land, commercial and business premises are to be retained unless**



*there is no reasonable prospect of the site being used for employment purposes on grounds of viability. A lack of viability is to be established by clear evidence from an active marketing effort that it would not be possible to achieve a lease or sale of the premises at a reasonable market rate. The greater the contribution to employment, the higher the level of evidence which must be provided and in all events a minimum period of six months of marketing should be undertaken.*

*J1.2 In the event of a lack of viability being established under J1.1 above, subject to compliance with the other policies of this Neighbourhood Plan, a change of use will be supported where the alternative use will contribute to the needs of the community by addressing an identified Brixham Peninsula need for*

- affordable housing in accordance with the definition in the NPPF;*
- purpose-built accommodation for older people (with a minimum age of 60); or*
- purpose-built accommodation for the disabled.*

*This contribution could be delivered either directly on-site or through financial contributions to provide an equal amount of development on other sites within the Brixham Peninsula.*

*J1.3 Employment development will be promoted particularly that which generates permanent jobs; increases the diversity of industries across the peninsula; or promotes key industries. Development on brownfield sites in preference to greenfield sites will be promoted and supported. Application of this policy will be subject to compliance with the other policies of this Neighbourhood Plan and not prejudicing the integrity of the AONB, Special Areas of Conservation and the Coastal Preservation Area.*

*J1.4 The sites listed in Table 1 below and shown on the accompanying Policy Maps (Document 2) are identified for employment development at the plan making stage in this Neighbourhood Plan. Detailed evidence will be required at the project stage as regards the compliance of any development planning application with environmental legislative requirements.*

**Table 1: Identified employment sites.**

<b>Site Address</b>	<b>Yield (sqm)</b>
<b>J1 – 1: Brixham Town Centre (identified site)</b>	<b>500</b>
<b>J1 – 2: Oxen Cove and Freshwater Quarry (identified site)</b>	<b>2,000</b>

**J1 – 3: Torbay Trading Estate (identified site)** **200**

**J1 – 4: 74 New Road (committed site)** **220**

#### COMMENT

Torbay Council object to the wording of this policy on the basis that it is not in general conformity with paragraph 22 of the NPPF and the Strategic Policies of the Torbay Local Plan. In addition, the Council expresses concern that the employment sites are “identified” rather than allocated and therefore fail to be in general conformity with Policy SS5 and SDB1 of the Torbay Local Plan.

Concern has also been raised that site J1-2 has not been adequately assessed for impact on the Greater Horseshoe Bat. However, the neighbourhood plan does not allocate these sites but identifies them. Point J1.4 states “Detailed evidence will be required at the project stage as regards the compliance of any development planning application with environmental legislative requirements.” Although this is a fine distinction I am clear that as the sites have not been allocated any potential shortfall in evidence in relation to the HRA can be adequately addressed should any planning application come forward. Please see pages 19-26 of my report entitled 11.4 Habitat Regulations Assessment for my detailed examination of this issue.

For clarity and in order to meet the Basic Conditions the policy should be modified as follows:

#### **Policy J1: Employment land – proposed, retained and refurbished**

**J1.1 Employment development will be promoted appropriate to meet the local and strategic needs set out in the Torbay Local Plan 2012-2030, particularly that which generates permanent jobs; increases the diversity of industries across the peninsula; or promotes key industries. Development on brownfield sites in preference to greenfield sites will be promoted and supported. Application of this policy will be subject to compliance with the other policies of this Neighbourhood Plan and not prejudicing the integrity of the AONB, Special Areas of Conservation and the Undeveloped Coast**

**J1.2 The sites listed in Table 1 below and shown on the accompanying Policy Maps (Document 2) are identified for employment development at the plan making stage in this Neighbourhood Plan. Detailed evidence will be required at the project stage as regards the compliance of any development planning application with environmental legislative requirements.**

**Table 1: Identified employment sites.**

<b>Site Address</b>	<b>Yield (sqm)</b>
---------------------	--------------------

<i>J1 – 1: Brixham Town Centre (identified site)</i>	<i>500</i>
<i>J1-2 Oxen Cove and Freshwater Quarry</i>	<i>2,000</i>
<i>J1 – 3: Torbay Trading Estate (identified site)</i>	<i>200</i>
<i>J1 – 4: 74 New Road (committed site)</i>	<i>220</i>

*J1.3 Employment land, commercial and business premises are to be retained unless there is no reasonable prospect of the site being used for employment purposes on grounds of viability and in accordance with Policy SS5 of the Torbay Local Plan.*

*J1.4 In the event of a lack of viability being established under J1.3 above, subject to compliance with the other policies of this Neighbourhood Plan, for appropriate sites a change of use will be supported where the alternative use will contribute to the needs of the community by addressing an identified Brixham Peninsula need for*

- affordable housing in accordance with the definition in the NPPF;*
- purpose-built accommodation for older people (with a minimum age of 60);*
- or*
- purpose-built accommodation for the disabled.*

*Where the proposed loss of employment space is agreed contributions will be sought to mitigate the loss of employment in accordance with the tests set out in the CIL Regulations.*

***Policy J2: Provision of information and communication technology***

***All proposals for new employment and residential development should be designed to be connected to high-quality communications infrastructure to ensure that fibre optic or other cabling does not need to be retro-fitted. If not possible then evidence to show that development cannot be directly connected to high-quality communications infrastructure due to viability or technical reasons must be provided.***

***COMMENT***

*I have no comment on this policy.*

***Policy J3:***

***Local employment – training and skills***

***Subject to compliance with the other policies of this Neighbourhood Plan, applications for development proposals that include any or all of the following will be welcomed:***

- ***Raise skills levels and increase employability.***
- ***Link with local educational/training facilities, including South Devon College.***
- ***Tackle skills shortages in existing and potential business sector clusters that are, or have the potential to be, strengths in the local economy.***
- ***Address barriers to employment for economically inactive people, and***
- ***Provide for the development of childcare facilities within or in close proximity to employment sites.***

**COMMENT**

*I have no comment on this policy.*

***Policy J4: Local employment – increased employment and local amenity***

***J4.1 Subject to compliance with the other policies of this Neighbourhood Plan, new start-up businesses or incubation units will be supported within the defined settlement boundaries and home-based jobs, web-based commerce, live/work units and work hubs providing/facilitating an increase in employment will be particularly welcomed.***

***J4.2 Development will not be allowed which generates unacceptable noise, air pollution, levels of traffic or where the residential amenity of the area will be adversely affected.***

***J4.3 Where a new employment development has 10 or more workers, travel planning is strongly encouraged to ensure that staff travel is made sustainable (e.g. via car share, public transport, bicycle, use of park and ride and walking).***

**COMMENT**

*I have no comment on this policy.*

***Policy J5: Sustaining a vibrant harbour-side economy***

***J5.1 Brixham Harbour shall be maintained and further developed as a working harbour, to support the harbour-based economy and harbour-side businesses, and to safeguard the town's heritage and image.***

***J5.2 Subject to compliance with the other policies of this Neighbourhood Plan, support will be given to applications for a range of fishing and marine-related developments,***

*including shellfish processing on the Harbour Estate that would benefit the fishing industry and harbour-side economy while paying due regard to resident and visitor amenity. Developments around the harbour will comply with Local Plan Policies TO3 (Marine economy) and DE3 (Development amenity), and will address Local Plan Policies SS6 (Strategic Transport Improvements) and SS6.6 (Ferry Transport Links) but will not rely on the construction of a Northern Arm Breakwater as a prerequisite to new developments. They will also observe where relevant the requirements of Neighbourhood Plan Policy BE1 in respect of Heritage assets and any requirements relating to maintenance or enhancement of the Brixham Town Conservation Area in the development plan.*

#### **COMMENT**

*For clarity the plan should include a policies map to support this policy and to meet the Basic Conditions the policy should be modified as follows:*

#### **Policy J5: Sustaining a vibrant harbour-side economy**

*J5.1 Brixham Harbour shall be maintained and further developed as a working harbour, to support the harbour-based economy and harbour-side businesses, and to safeguard the town's heritage and image.*

*J5.2 Subject to compliance with the other policies of this Neighbourhood Plan, support will be given to applications for a range of fishing and marine-related developments, including shellfish processing on the Harbour Estate that would benefit the fishing industry and harbour-side economy while paying due regard to resident and visitor amenity. Developments around the harbour should be in conformity with Local Plan Policies T01 (Tourism, events and culture), TO3 (Marine economy) and DE3 (Development amenity), and will address Local Plan Policies SS6 (Strategic Transport Improvements) and SS6.6 (Ferry Transport Links) but will not rely on the construction of a Northern Arm Breakwater as a prerequisite to new developments. They will also observe where relevant the requirements of Neighbourhood Plan Policy BE1 in respect of Heritage assets and any requirements relating to the preservation or enhancement of the Brixham Town Conservation Area in the development plan.*

#### **Policy J6: Brixham Town Centre**

*A full planning brief/master plan, proportionate in breadth and detail to the size and complexity of any development proposal, should be undertaken for any development of the identified Brixham Town Centre site (see reference J1 – 1 in Table 1 above and the Policy Maps (Document 2)). This planning brief/master plan should ideally be made*

**public at the earliest possible, hence pre-application or preliminary consultation, stage. This document should detail how heritage assets and the designated conservation area are to be safeguarded and how the local character and the town's attractiveness as a major tourist destination is to be maintained. Access, connectivity, transport issues and design characteristics should also be addressed.**

#### **COMMENT**

*For clarity a more detailed policy map boundary should be provided to accompany this policy.*

#### **Policy J7: Oxen Cove and Freshwater Quarry**

**J7.1 A full planning brief/master plan, proportionate in breadth and detail to the size and complexity of any development proposal, should be undertaken for any development of the identified Oxen Cove and Freshwater Quarry site (see reference J1 – 2 in Table 1 above and the Policy Maps (Document 2)). This planning brief/master plan should ideally be made public at the earliest possible, hence pre-application or preliminary consultation, stage. This document should detail how heritage assets and environmental assets are to be safeguarded and how the local character and the town's attractiveness as a tourist destination is to be maintained. Access and transport issues will be expected to be addressed in any initial development proposal and should include the potential short re- alignment route of the South Devon Coastal Path.**

**J7.2 Design and development options should be informed by the Port Master Plan and the evolving Town Centre Master Plan, and pay due regard to resident and tourist amenity issues. Appropriate Ecology surveys will need to be undertaken at the project stage for any planning application as set out in the HRA to this Neighbourhood Plan.**

#### **COMMENT**

*Concern has also been raised that site J1-2 has not been adequately assessed for impact on the Greater Horseshoe Bat. However, the neighbourhood plan does not allocate these sites but identifies them. Point J1.4 states "Detailed evidence will be required at the project stage as regards the compliance of any development planning application with environmental legislative requirements." Although this is a fine distinction I am clear that as the sites have not been allocated any potential shortfall in evidence in relation to the HRA can be adequately addressed should any planning application come forward. Please see pages 19-26 of my report entitled 11.4 Habitats Regulations Assessment for my detailed examination of this issue.*

*Paragraph 3.2.8 should be revised as follows:*

*“3.2.8 Subject to any environmental constraints the land at Freshwater Quarry could also provide a multi-level car park; some surface level parking is to be made available for high-sided vehicles, coaches, cars with boat trailers etc., together with some residential. Sufficient space will be allowed for a new slipway for public use and associated public facilities along with access to the Northern Arm breakwater, when finance is available for its construction.”*

*For clarity a boundary map should be provided and to meet the Basic Conditions J7.2 should be modified as follows:*

***J7.2 Design and development options should be informed by the Port Master Plan and have regard to resident and tourist amenity issues. Appropriate Ecology surveys will need to be undertaken at the project stage for any planning application as set out in the HRA to this Neighbourhood Plan.***

#### ***Policy J8: Employment in Churston, Galmpton and Broadsands***

***J8.1 New employment development within the Settlement Boundaries (Policy E2) of the three villages should respect the sensitive countryside and coastal setting of the Peninsula, and the character assessment and design guidance in the Village Design Statement (Policy BH5). Employment proposals should relate to the scale and nature of the existing communities and villages of Churston, Galmpton and Broadsands.***

***J8.2 Subject to compliance with the other policies of this Neighbourhood Plan, small-scale (defined as set out at Table 21 in Local Plan Policy SDB3 for Brixham Urban Fringe), sensitively designed proposals which provide local employment opportunities appropriate to the countryside and the rural economy (such as rural crafts, farming, heritage, marine, tourism, outdoor leisure and recreation) will be supported. There should be no adverse impact on the character of the village or amenity of residents. Any traffic generated should not adversely impact on the villages, either through impacts on their tranquillity and rural character, their environment or through impacts on the narrow lanes including the safety of all road users.***

#### ***COMMENT***

*I have no comment on this policy.*

#### ***Housing policies (BH)***

##### ***Policy BH1: Affordable housing***

***BH1.1 Affordable homes will be provided in new developments as a proportion of new***



*open market homes in line with the ratios set out in Local Plan Policy H2. Provision of affordable homes is preferred on-site and integrated into the new development. However, where the calculated provision requires provision of part of a house, that partial provision is to be provided by payment of a commuted sum to fund the provision of affordable housing within the Brixham Peninsula defined neighbourhood area.*

*BH1.2 Where it is determined that a larger number of affordable houses could be provided by payment of a commuted sum rather than on-site provision, a commuted sum may be paid but only if it is directly allocated to the physical provision of affordable homes within the Brixham Peninsula defined neighbourhood area.*

*BH1.3 Where a commuted sum has not been used to fund the physical provision of affordable housing within the Brixham Peninsula defined neighbourhood area by the 3rd anniversary of its payment date, that sum will be released to fund the physical provision of affordable housing across the wider area served by the Local Planning Authority. Where a commuted sum has not been used to fund the physical provision of affordable housing within the wider area served by the Local Planning Authority by the 5th anniversary of its payment date, that sum will be released back to the developer.*

#### **COMMENT**

*For clarity and in order to meet the Basic Conditions BH1.2 should be modified as follows:*

*BH1.2 An off-site contribution will be considered where it would result in a larger number of affordable houses being delivered than through on-site provision but only if it is directly allocated to the physical provision of affordable homes within the Brixham Peninsula defined neighbourhood area.*

#### **Policy BH2: Allocation of new affordable homes**

**BH2.1 Affordable houses in the Peninsula shall only be occupied by persons (and their dependents) whose housing needs are not met by the market and:**

- **who have had a minimum period of 5 years in the last 10 years of permanent and continuous residence in the Peninsula and are currently living in the Peninsula; or**
- **who have lived in the Peninsula for at least 5 years and whose parents or children are currently living here and have at least 10 years continuous residency; or**
- **who are a key worker as defined by the UK Government and are working**



*within the Peninsula.*

***BH2.2 Where persons cannot be found to meet these criteria, affordable housing may be occupied by people and their dependents whose housing needs are not met by the market. These occupancy requirements shall apply in perpetuity, and be the subject of a legal agreement negotiated during the planning process on any development of affordable housing.***

#### *COMMENT*

*Torbay Council has made representation that this policy conflicts with the Councils Local Connection Policy which has been approved at Council and as established by Devon Home Choice and would make it particularly difficult to administer a 2-tier system. However, I am satisfied that Neighbourhood Plans can introduce local occupancy conditions in relation to **new** (my emphasis) affordable housing units. I have therefore modified the policy to clarify that the local occupancy condition relates only to any new affordable housing units and that there is a default to the Torbay Council waiting list if no local occupants can be found.*

*For clarity and in order to meet the Basic conditions the policy should be modified as follows:*

#### ***Local allocations policy***

##### ***Policy BH2: Allocation of new affordable homes***

***BH2.1 New affordable houses in the Peninsula shall only be occupied by persons (and their dependents) whose housing needs are not met by the market and:***

- who have had a minimum period of 5 years in the last 10 years of permanent and continuous residence in the Peninsula and are currently living in the Peninsula; or***
- who have lived in the Peninsula for at least 5 years and whose parents or children are currently living here and have at least 10 years continuous residency; or***

***BH2.2 Where persons cannot be found to meet these criteria, affordable housing may be occupied by people and their dependents identified on the Torbay Housing Waiting List.***

***These occupancy requirements shall apply in perpetuity, and be the subject of a legal agreement negotiated during the planning process on any development of affordable***

*housing.*

**Policy BH3: Delivery of new homes**

**Table 2: Allocated housing sites. (table not included here)**

**COMMENT**

*Policy SDB1 of the identifies the requirement for Brixham to provide sufficient land to enable the delivery of at least 660 new homes over the plan period.*

*Torbay Council have raised objection to this policy on the basis that it cannot be demonstrated that all the sites are deliverable in accordance with NPPF para 47(i.e. within 5 years). Local Plan Policy SS13 seeks site allocations for years 6-10). There are also concerns that some allocated sites have not demonstrated that the constraints can be overcome, and sites or number of units indicated can be delivered as set out in the Housing Assessment Document 3. In addition, I have received representations related to the Habitats Regulation Assessment of the Waterside Quarry site.*

*National planning policy states that a neighbourhood plan 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.*

*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 considered carefully the allocated sites, the evidence and representations made both in support and objections to those allocations. My conclusions are as follows:*

**1. Waterside Quarry**

*I have received many representations regarding this allocation. The issues surrounding this allocation are multiple and complex. Some are relevant to the neighbourhood plan process and examination and others are not. I have considered carefully the evidence and supporting documents available to me and the relevant representations. I have focused on the issue of the adequacy or otherwise of the environmental assessment of the site in the light of the PoW case and whether or not the site as a result of this and other site constraints is developable.*

*My conclusion is that I am not satisfied that the HRA assessment of the site as submitted is adequate. The NPPF is clear that sites allocated should be both deliverable and developable. In my planning judgement there is sufficient uncertainty about the deliverability and developability of the site that it should be deleted from table.*

*My detailed consideration of this issue is on pages 19-26 of this report, entitled 11.4 Habitat Regulations Assessment.*

*2.Supporting the strategic development needs set out in the Local Plan.*

*I have carefully considered the representations made in connection with the sites in Table 2. These representations, including those from Torbay Council which support in principal the allocations but express concern that either not all of the sites are deliverable or developable or the capacity of some sites has been overestimated.*

*Having considered the evidence made available to me and taking into consideration the representations received, I conclude, in my planning judgement that there is the potential of a shortfall in the overall numbers that will be delivered from the allocations in Table 2. Neighbourhood Planning Guidance clearly states that :*

*“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).”*

*I have modified the policy to ensure that this policy supports that strategic development needs of the Torbay Local Plan. In order to meet the Basic Conditions, the policy should be modified as follows:*

**Policy BH3:**

**Delivery of new homes**

***The Brixham Neighbourhood Plan supports housing growth appropriate to meet local needs and the strategic needs set out in the Torbay Local Plan 2012-2030, including affordable housing.***

***The sites listed in Table 2 are allocated for residential development. Appropriate Ecology surveys as set out in the Plan’s accompanying HRA will need to be undertaken at the project stage for any planning application as set out in the HRA***

***Table 2: Allocated housing sites. (table revised to exclude Waterside Quarry)***

**Policy BH4: Brownfield and greenfield sites**

**BH4.1 Subject to compliance with the other policies of this Neighbourhood Plan, development on brownfield (or previously developed) sites in preference to greenfield sites will be encouraged and supported.**

**BH4.2 Brownfield sites within the defined Settlement Boundaries (Policy E2) are the preferred locations for development.**

**BH4.3 Development that extends settlements on to adjoining greenfield sites is not supported. The only exception to this is where the development is fully compliant with Policy BH9 in relation to Exception Sites.**

**COMMENT**

*This policy does not directly refer to housing but as sits within the housing section it is assumed that it is only intended to relate to housing development. It is also assumed that BH4.3 is intended to refer to rural exception site development.*

*For clarity and to meet the Basic Conditions the policy should be modified as follows:*

*Policy BH4: Housing Development- brownfield (previously developed) and greenfield (not previously developed) sites*

*BH4.1 Subject to compliance with the other policies of this Neighbourhood Plan, residential development on brownfield (or previously developed) sites in preference to greenfield sites will be encouraged and supported.*

*BH4.2 Brownfield sites within the defined Settlement Boundaries (Policy E2) are the preferred locations for residential development.*

*BH4.3 Development that extends settlements on to adjoining greenfield sites will be considered in the context of TLP Policy C1 and Exception Site development that may meet Local Need through self-build and local affordable housing Provision (BH9)*

**Policy BH5:**

**Good design and the town and village Design Statements**

**BH5.1 All new development should demonstrate good quality design and respect the character and appearance of the surrounding area.**

**BH5.2 The character and appearance of Brixham Town and the villages of Churston,**

*Galmpton and Broadsands are set out in detail in the relevant Design Statement (Documents 6, 7, 8 and 9) which include both general and area-specific design guidelines (as denoted by the shading pink of the boxes around text), as well as photographic examples of community views on good and bad design. Design statements apply to their respective area as set out on the Policy Maps (Document 2) by a dashed brown line.*

***BH5.3 A central part of achieving good design is responding to and integrating with local character and landscape context as well as the built environment.***

***BH5.4 Development that fails to take the opportunities afforded by good design so as to respect or enhance the local character and quality of the area as set out in the Design Statements, the Landscape Character Assessment 22 or the Brixham Urban Fringe Landscape Assessment,23 or the way the area functions, or does not comply with the general and area-specific design guidelines in the Design Statements, shall not be permitted.***

***BH5.5 The design of new development and altered buildings or areas in the following categories should adequately take into account the safety and security of the users of the facilities and that of neighbouring residents:***

- ***Major housing schemes of 10 or more homes***
- ***Major commercial office, industrial, retail or leisure schemes***
- ***New neighbourhood or district community facilities***
- ***Shop Front improvements***
- ***Proposals which include significant areas of open space/landscaping as part of a development, including linkage footpaths***
- ***Proposals incorporating significant off street car parking provisions***
- ***Improvements such as cycle lanes and new or improved footpaths***
- ***All developments involving Class A3, A4 and A5 food and drink uses***
- ***New or redeveloped schools /education premises***
- ***Where intended occupants are particularly vulnerable and require higher standards of security to ensure their personal safety e.g. care homes and drug rehabilitation centres***

#### *COMMENT*

*Please see my general comments at the beginning of this section. Neighbourhood Planning 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. 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.”*

*Paragraph BH5.4 lacks sufficient clarity to allow a decision maker can “apply it consistently and with confidence when determining planning applications”. It repeats elements in other paragraphs in the policy and uses the word “permitted”. As stated in my general comments the decision on any planning applications is made by the Local Planning Authority and not the Neighbourhood Plan.*

*Neighbourhood Planning Guidance states:*

*“Decisions on planning applications will be made using both the Local Plan and the neighbourhood plan, and any other material considerations.”*

*“Planning applications are decided in accordance with the development plan, unless material considerations indicate otherwise. It is for the decision maker in each case to determine what is a material consideration and what weight to give to it. “*

*In order to meet the Basic conditions paragraph BH5.4 should be deleted.*

#### **Policy BH6: Roofscape and dormer management**

**BH6.1 To protect local amenity, dormers will only be approved where they:**

- **are modestly scaled;**
- **are subservient to the roofscape, by being below the ridge line and set in from the sides and eaves lines;**
- **are sympathetic to the original fascia and eaves and retain traditional roof features (such as chimney stacks);**
- **do not include inappropriate projecting roof features (such as Juliette balconies or extractor fans);**
- **use traditional materials and methods of fixing which are consistent with the local character of the area;**
- **include windows that are subordinate in size, aligned to the windows below and sympathetic to traditional fenestration in materials, form and expression;**  
**and**
- **do not result in a detrimental impact to neighbouring residential amenity.**

**BH6.2 Design construction should reflect the traditional, intrinsic qualities of the**

**original building.**

**BH6.3 Large roof-lights or solar panels can be as visually harmful as poorly designed dormer windows. They should be carefully designed and positioned to avoid impacting on the appearance of a building, particularly where they are not a characteristic feature in the area.**

**COMMENT**

*This policy should reference that in certain circumstances planning permission will not be required by the development this policy seeks to control.*

*For clarity the introduction to the policy should be modified as follows:*

**Policy BH6: Roofscape and dormer management**

**To protect local amenity, where planning permission is required dormers will only be approved where they:**

**BH6.1. ....**

**Policy BH7: Sustainable construction**

**New development is encouraged to, on a basis proportionate to the scale of the development, incorporate the latest in sustainable construction, adaptive technologies, eco-innovation and other measures to combat climate change and enable sustainable lifestyles. Development orientation, design and layout should minimise energy use and maximise energy efficiency.**

**COMMENT**

*I have no comment on this policy.*

**Policy BH8:**

**Access to new dwellings**

**BH8.1 No more than five dwellings shall be accessed off an existing un-adopted highway.**

**BH8.2 In new developments where an un-adopted highway is first planned it will, in principle, be acceptable to access more than five dwellings.**

**COMMENT**

*Parking and access standards are set out in the Manual for streets and the adopted Torbay Highway Design Guide for New Development.*

*I have not been provided with any evidence to support a variance from these standards. For clarity and to meet the Basic Conditions the policy should be modified as follows:*

***Policy BH8: Access to new dwellings***

***Access to new developments should comply with the relevant adopted standards.***

***Policy BH9: Exception sites***

***Subject to compliance with the other policies of this Neighbourhood Plan and in particular the Conservation of Habitats & Species Regulations 2010, in exceptional circumstances, proposals for rural exception housing schemes on sites that would not otherwise be acceptable for housing development, may be permitted where the development:***

***a. Exclusively addresses an identified Brixham Peninsula need for:***

- affordable housing in accordance with the definition in the NPPF;***
- purpose-built accommodation for older people (with a minimum age of 60);***
- or***
- purpose built accommodation for the disabled;***

***and the developer has evidenced that scale of the need for that type of housing within the Brixham Peninsula area the time that Planning Permission is sought is sufficient to justify a development on a site which would otherwise not be able to be developed; and***

***b. Is subject to planning obligations and safeguards that provide legal certainty that the need will continue to be served in perpetuity; and***

***c. Is adjacent to a Settlement Boundary (Policy E2) or otherwise demonstrably well related to existing residential development and amenities; and***

***d. Is not located within a Settlement Gap (Policy E3); and***

***e. Is appropriate in terms of its scale, form and character and is of low environmental and visual impact; and***

***f. Does not comprise more than 20 dwellings or buildings with a footprint in excess of 200 sqm unless agreed otherwise in conjunction with the community.***



## COMMENT

*Rural exception sites are defined in the NPPF as follows:*

*“Rural exception sites: Small sites used for affordable housing in perpetuity where sites would not normally be used for housing. Rural exception sites seek to address the needs of the local community by accommodating households who are either current residents or have an existing family or employment connection. Small numbers of market homes may be allowed at the local authority’s discretion, for example where essential to enable the delivery of affordable units without grant funding. “*

*Rural exception site policy is specifically aimed at “small sites”. Although there is no definition of small sites in this context I consider that a site accommodating 20 homes could not be considered “small” and for this reason the policy as currently worded does not have regard to national policy.*

*Neither does the NPPF specify who the affordable housing should be for, other than addressing “ the needs of the local community by accommodating households who are either current residents or have an existing family or employment connection”. Therefore, it may be that a development coming forward will include provision of older and disabled people, but this cannot be a requirement of the policy. Therefore, paragraph f) should be deleted.*

*Paragraph 4.9 should be modified to reflect this definition and the modification of the policy.*

*4.9 Policy BH9 (Exception Sites) is intended to deliver affordable housing on “small “ sites that otherwise could not come forward including houses for older person, and disabled persons. It is for the Local planning Authority to determine what constitutes a “small” site however a proposal for 20 homes could not be considered small. In the Regulation 14 consultation a proposal was brought to attention which it appears could deliver a rural exception site, subject to community consultation. Accordingly, through Policy BH9 it is expected that more homes than set out above will come forward. , older person, and disabled persons.*

*Paragraph e is covered by policy C1 of the Torbay Local Plan and other policies in the Neighbourhood Plan and is unnecessary and should be deleted. For clarity and in order to meet the Basic Conditions the policy should be modified as follows:*

### **Policy BH9: Exception sites**

***Subject to compliance with the other policies of this Neighbourhood Plan and in particular the Conservation of Habitats & Species Regulations 2010, proposals for rural exception housing schemes, may be permitted where the development:***

- a. Addresses an identified Brixham Peninsula need for affordable housing in accordance with the definition in the NPPF and the developer has evidenced that scale of the need for that type of housing within the Brixham Peninsula area the time that Planning Permission is sought is sufficient to justify a development on a site which would otherwise not be able to be developed; and*
- b. Is subject to planning obligations and safeguards that provide legal certainty that the need will continue to be served in perpetuity; and*
- c. Is adjacent to a Settlement Boundary (Policy E2) or otherwise demonstrably well related to existing residential development and amenities;*
- d. Is not located within a Settlement Gap (Policy E3); and*
- e. does not constitute major development in the AONB.*

***The natural environment (E)***

***Policy E1: Landscape beauty and protected areas***

***E1.1 The natural beauty, landscape character, tranquillity and biodiversity of the Brixham Peninsula, as set out in the Design Statements (Policy BH5), the Landscape Character Assessment or the Brixham Urban Fringe Landscape Assessment will be preserved and enhanced. New development will respect these qualities and wherever possible enhance them.***

***E1.2 Designated landscapes including the internationally designated Special Area of Conservation (SAC), the nationally designated National Nature Reserve (NNR) or Area of Outstanding Natural Beauty (AONB), and the locally designated Undeveloped Coast (Local Plan Policy C2) or Countryside Area (Local Plan Policy C1) will all be protected. Landscapes which comprise the English Riviera Global Geopark will be protected to ensure the retention of the area's status as an urban geopark. As a minimum, prevailing international, national and local policies will be applied.***

***E1.3 Development within or impacting on the AONB must demonstrate that "great weight" has been given to conserving landscape and scenic beauty. As a minimum, development will comply with all policies, objectives and guidance from the South Devon AONB and the National Trust.***

***E1.4 Outside of Settlement Boundaries (Policy E2) priority will be given to protecting and enhancing the countryside from inappropriate development.***

***E1.5 Unsympathetic development that will harm the wider landscape or introduce or increase light pollution will not be supported.***

#### **COMMENT**

*A statutory framework for the protection of AONBs already exists and does not need to be repeated in a neighbourhood plan. There can be no requirement to comply with policies, objectives or guidance from the National Trust who are a non- governmental charitable organisation .For clarity and to meet the Basic Conditions paragraphs E1.3, E1.4, should be modified as follows and E1.5 deleted as it is duplicating protection covered under existing policy:*

***E1.3 Development within or impacting on the AONB must comply with the requirements of the National Planning Policy Framework and other statutory documents including the AONB management plan.***

***E1.4 Priority will be given to protecting and enhancing the countryside from inappropriate development in accordance with Policy C1 of the Torbay Local Plan.***

#### **Policy E2: Settlement boundaries**

***E2.1 Settlement boundaries are defined by this Neighbourhood Plan for the respective settlements of the Town of Brixham and the three villages of Churston, Galampton and Broadsands. These boundaries are shown in the Policy Maps (Document 2).***

***E2.2 Subject to compliance with the other policies of this Neighbourhood Plan, proposals for sustainable developments within settlement boundaries will be supported where developments demonstrate good design and follow the guidance in the relevant Design Statement (Policy BH5).***

***E2.3 Areas outside settlement boundaries will be treated as open countryside where, in addition to any protection already afforded in any international, national or development plan policy, only the following development will be supported:***

- development which demonstrates an operational need for a countryside location such as for agricultural, horticultural or forestry operations or dwellings for their workforces where the same need is demonstrated;***
- development where there is a need for replacement buildings of similar size;***
- small-scale and low-impact rural/farm diversification schemes appropriate to the site, location and its rural setting;***
- the conversion and/or reuse of existing rural buildings that are permanent structures and can be reused without major reconstruction;***

- **the expansion of existing buildings to facilitate the growth of established businesses proportionate to the original nature and scale of the site and its rural setting;**
- **extensions and alterations to dwellings which do not dominate or have other adverse effects on the character or appearance of the original property, or on the landscape or setting in general;**
- **developments proposed for an Exception Site (Policy BH2) specifically to meet local need in strict accordance with that policy;**
- **facilities for outdoor sport and recreation are appropriate to the rural setting in terms of design and impact which accord with Policy S&L1 and which do not generate unacceptable levels of traffic onto unsuitable roads.**

#### COMMENT

*National Planning Policy defines rural exception sites as follows:*

*“Rural exception sites: Small sites used for affordable housing in perpetuity where sites would not normally be used for housing. Rural exception sites seek to address the needs of the local community by accommodating households who are either current residents or have an existing family or employment connection. Small numbers of market homes may be allowed at the local authority’s discretion, for example where essential to enable the delivery of affordable units without grant funding.”*

*In order to be a “rural exception site” it has to conform to this definition. The Local Planning Authority will make the judgment as to whether or not a site coming forward meets this definition. Paragraph E2.3 covers development already controlled by policy C1 of the Torbay Local Plan, it does not need to be repeated.*

*Paragraph 5.10 should be reworded to reflect the policy modification as follows:*

*“5.10 Policy E2 is a development of the “village envelope” concept proposed by the Local Plan. This Neighbourhood Plan policy hence provides supporting detail to a Local Plan policy C1.”*

*For clarity and to meet the Basic Conditions paragraph E2.3 should be modified as follows:*

*E2.3 Development outside settlement boundaries will need to meet the criteria in Torbay Local Plan Policy C1.*

#### **Policy E3: Settlement gaps**

**E3.1 Settlement gaps have been defined between Paignton, Galmpton, Churston and**

**Brixham. They are shown at Appendix 3 and on the Policy Maps (Document 2). Countryside around Brixham is largely AONB (Policy E1 at para E1.3). Settlement Gaps relate to areas outside of the AONB where the countryside which forms the “gap” is Undeveloped Coast (Local Plan Policy C2) or Countryside Area (Local Plan Policy C1).**

**E3.2 Within the settlement gaps no development that visually and or actually closes the gaps between these urban areas will be permitted. In particular, development should not:**

- **lead to a reduction in the functional value of the settlement gap by way of a perceived reduction in levels of separation between settlements or a perceived reduction in connectivity to the wider countryside; or**
- **harm the openness or landscape character of the area, including through visual impacts, and/or would otherwise result in harm to settlements in their wider landscape setting; or**
- **lead to a loss of environmental or historical assets that individually or collectively contribute to local identity.**

#### **COMMENT**

*Torbay Council have made representation on this policy that it fails to adequately describe the proposed settlement gaps on the relevant policy map, that the ellipses are difficult to interpret. On balance I think that the description is adequate however I consider that the first ellipse of 2 is not located within what could reasonably be considered as a “settlement gap” and should be removed from the policy and accompanying map.*

*Neighbourhood Planning Guidance states that:*

*“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 Policy E3, as currently worded is not “drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications” also it addresses development covered by other policies.*

*As previously stated, it is for the Local Planning Authority to determine planning applications therefore the word “permitted” is not appropriate in this context.*

*For clarity and to meet the Basic Conditions the policy should be modified as follows:*

### *Policy E3: Settlement gaps*

***E3.1 Settlement gaps have been identified between Paignton, Galmpton, Churston and Brixham. They are shown at Appendix 3 and on the Policy Maps (Document 2).***

***Countryside around Brixham is largely AONB (Policy E1 at para E1.3). Settlement Gaps relate to areas outside of the AONB where the countryside which forms the “gap” is Undeveloped Coast (Local Plan Policy C2) or Countryside Area (Local Plan Policy C1).***

***E3.2 Within the settlement gaps development proposals must meet the criteria set out in Policy C1 of the Torbay Local Plan. No development that visually and or actually closes the gaps between these urban areas will be supported.***

### ***Policy E4: Local Green Spaces***

***The sites set out in Table 3 below and shown in the Policy Maps (Document 2) and the Greenspace Site Assessment (Document 5) are designated Local Green Spaces (LGS), as defined in the NPPF.***

***They will be protected beyond the lifespan of this Neighbourhood Plan as required by the NPPF.***

***Development within a LGS will only be permitted in “very special circumstances” and would require robust justification on grounds of specific benefit to the community. For example, where the proposal would enhance recreational, sport or leisure facilities and provided it met stringent design and environmental requirements it might be viewed favourably.***

***Some land designated as Local Green Space is already protected by higher level international and national protection, for example, the Berry Head Special Area of Conservation (SAC). This policy provides additional protection for such areas; it does not dilute existing protection.***

### ***COMMENT***

***Considering policies E4 and E5 together there seems to be an arbitrary distinction as to why some areas have been designated as Local Green Space and some as public open spaces. For example, there are areas of allotments that are included in E4 and others in E5. However, I have considered Policies E4 and E5 as they are before me. The list of areas put forward for designation as Local Green Spaces includes 16 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.*

*In addition, the Local Green Space should be capable of enduring beyond the plan period and not be subject to a local plan allocation. Local Green Space designation will rarely be appropriate where the land has planning permission for development. Exceptions could be where the development would be compatible with the reasons for designation or where planning permission is no longer capable of being implemented.*

*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, Torbay Council object to the area including the 1st and 18th hole of Churston Golf area being included in the proposed Churston Golf Course LGS on the basis that the site is currently within built up/urban area (village) with potential for sustainable development. This site, including the existing clubhouse has (expired) outline planning permission for 132 units and is identified in the Torbay Local Plan as ‘BPNPH2’ -Appendix C Pool of potential housing sites. The Local Plan Inspector recommended consideration of site as housing allocation in Neighbourhood Plan. Torbay Council consider that there is a resulting lack of Conformity with Strategic Policies: SS12 and SS13 and SDB 1 of the Torbay Local Plan.*

*Torbay Development Agency 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.*



*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.*

*I have received confirmation that land behind 39, Wall Park Road Brixham is not part of the land proposed to be designated Local Green Space within the Berry Head LGS site (E4-4).*

*The Forum has confirmed that the owners of the proposed Local Green Spaces have been consulted.*

*My conclusion is that whilst most of the proposed Local Green Spaces do meet the required tests I have concerns relating to the proposed boundary of the proposed Churston Golf Course LGS. I have considered the Torbay Council objection and my conclusions on the Brixham Peninsula Neighbourhood Plan housing policies and their ability to deliver the level of housing growth identified in the Torbay Local Plan and therefore a lack of SS12 and SS13 and SDB 1 of the Torbay Local Plan. To overcome my concerns and meet the Basic Conditions the boundary of E5-13 should be modified to exclude the area which covers the 1st and 18th hole of Churston Golf Course, including the existing club house as identified as BPN PH2 in the Torbay Local Plan sheet 31 of the policies map.*

#### **Policy E5: Public Open Spaces**

**E5.1 The sites set out in the Table in Appendix 4 to this document and shown in the Policy Maps (Document 2) and the Greenspace Site Assessment (Document 5) are allocated as Public Open Spaces.**

**E5.2 Public Open Spaces have value to the community and they should be retained as open space for public recreational use. Development on them will only be acceptable where it enhances the public enjoyment of the space or an alternative facility will be provided as part of that development to an equivalent or better standard and location without detriment to biodiversity and landscape requirements.**

#### **COMMENT**

*Please refer to my comments on policy E4.*

*Planning Policy Guidance states:*

*“Open space, which includes all open space of public value, can take many forms, from formal sports pitches to open areas within a development, linear corridors and country parks. It can provide health and recreation benefits to people living and working nearby; have an ecological value and contribute to green infrastructure (see National Planning Policy*



*Framework paragraph 114), as well as being an important part of the landscape and setting of built development, and an important component in the achievement of sustainable development (see National Planning Policy Framework paragraphs 6-10)."*

*The National Planning Policy Framework, paragraph 74 states:*

*74. Existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:*

- an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or*
- the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or*
- the development is for alternative sports and recreational provision, the needs for which clearly outweigh the loss.*

*The neighbourhood planning process does not, in contrast to Local Green Space designation enable the allocation or designation of public open spaces, more the identification existing spaces or the need for additional ones.*

*I have received objection to a number of the proposed "allocations" and I have considered these carefully. Torbay Development Agency has objected to many of the sites 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 sites should be identified under paragraph 74, as paragraph 74 sets out a clear policy process for assessment of whether or not the open space can be redeveloped.*

*For clarity and in order to meet the Basic Conditions the policy should be modified as follows:*

### ***Policy E5: Open Spaces***

***E5.1 The sites set out in the Table in Appendix 4 to this document and shown in the Policy Maps (Document 2) and the Greenspace Site Assessment (Document 5) are identified as Open Spaces and should not be built on unless:***

- an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or***
- the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or***

- *the development is for alternative sports and recreational provision, the needs for which clearly outweigh the loss.*

**Policy E6: Views and vistas**

*Views and vistas, particularly those to and from the sea or the river Dart, including horizons and skylines, must be protected. New development should preserve public views of the townscape, seascape, landscape and skyline that are valued by residents and visitors alike. Examples of such views are given in the Design Statements. In cases where impacts on such views are possible photomontages will be the principle way in which the absence of unacceptable impact can be demonstrated.*

**COMMENT**

*For clarity and to meet the Basic Conditions the policy should be modified as follows:*

**Policy E6: Views and vistas**

*Views and vistas, particularly those to and from the sea or the River Dart, public views of the townscape, seascape, landscape and skyline are valued by residents and visitors alike. Examples of such views are given in the Brixham Town ,Churston, Galmpton and Broadsands Design Statements (Documents 6, 7, 8 and 9); the Landscape Character Assessment and the Brixham Urban Fringe Landscape Assessment. Proposals for developments which affect these views and vistas should be accompanied by a visual impact assessment appropriate to the size and scale of the proposal.*

**Policy E7: Protecting semi-natural and other landscape features**

*Semi-natural and other landscape, historic, and environmental assets of local and regional importance will be expected to be preserved in any development proposal. Development should where-ever possible ensure the retention, integration or enhancement of local semi-natural, cultural, historic or man-made features and their contribution to the special character, wildlife habitats and biodiversity of the Peninsula, such as:*

- *Devon banks (stone-clad hedges often over 800 years old)*
- *dry-stone walls and gateposts*
- *village orchards*
- *field barns*
- *lime kilns*

## COMMENT

*For clarity and to meet the Basic Conditions this policy should be modified as follows:*

### ***Policy E7: Protecting semi-natural and other landscape features***

*Development should where-ever possible ensure the retention, integration or enhancement of local semi-natural, cultural, historic or man-made features and their contribution to the special character, wildlife habitats and biodiversity of the Peninsula, such as:*

- *Devon banks (stone-clad hedges often over 800 years old)*
- *dry-stone walls and gateposts*
- *village orchards*
- *field barns*
- *lime kilns*

### ***Policy E8: Internationally and nationally important ecological sites and species***

***E8.1 In relation to important sites, development will not be permitted where it would adversely affect the ecologies of areas designated as:***

- ***South Hams SAC (SAC), which includes a coastal strip from Shoalstone to Sharkham and substantial areas of headland at Berry Head;***
- ***Lyme Bay and Torbay Marine Candidate Special Area of Conservation (SAC), which includes all of the coastal waters around Torbay;***
- ***Sites of Special Scientific Interest (SSSI), including Berry Head to Sharkham Point and Saltern Cove;***
- ***National Nature Reserves, including Berry Head;***
- ***Torbay Marine Conservation Zone (MCZ), which includes coastal waters***
- ***around Torbay from Babbacombe to Sharkham Point; or***
- ***recommended Dart Estuary Marine Conservation Zone (MCZ), which includes the upper waters of the River Dart to below Dittisham.***

***E8.2 In relation to important species, all species found on our Peninsula, covered by the Wildlife and Conservation Act (1981) and the Conservation of Habitats and Species Regulations (2010), including Wildlife Countryside Marine Management – The Conservation of Habitats and Species (Amendment) Regulations 2012, will be***

***protected. In particular, development will not be permitted where it would:***

***threaten the habitat of the Greater Horseshoe Bat, its roost, its strategic flyways and its sustenance zones, or***

- threaten the habitat and nesting sites of the Cirl Bunting.***

***E8.3 To demonstrate compliance with paragraphs E8.1 and E8.2 development will require at the time it is considered a full report setting out, in addition to that already required by way of national and local policy, for the:***

- Greater Horseshoe Bat, survey evidence as set out in the South Hams SAC guidance. 47 For major development additional survey evidence to specifically assess the impact of the development both alone and in combination with all other developments will be required.***
- dry heaths and calcareous grassland at Berryhead, evidence to show that additional recreational pressure can be mitigated to an acceptable level. For major developments this evidence be required to provide more detail to justify that additional recreational pressure can be mitigated to an acceptable level both alone and combination with all other development. 49***
- coastal waters around Torbay, evidence of the ability to connect onto mains drains or install alternatives such as septic tanks. For major developments this report will be required to evidence there is sufficient storm and waste water pipe-work, storage and treatment capacity, both alone and in combination with all other development, to ensure no increase in the levels of pollutants likely to have an adverse effect on the integrity of the Lyme Bay and Torbay Marine SAC.50***

***For this paragraph 8.3, major development means developments of 20 or more homes, employment development of 1,000 sqm or more floorspace, and all waste and minerals development.***

#### **COMMENT**

*Please see my comments at the beginning of this section. A regulatory policy regime already exists for Internationally and nationally important ecological sites and species. By including a policy which reflects but in part paraphrases this existing policy incorrectly there is the potential for confusion. It is not necessary for the Neighbourhood Plan to repeat this policy and for clarity and in order to meet the Basic Conditions the policy should be modified as follows:*

***Policy E8: Internationally and nationally important ecological sites and species***

***E8.1 Internationally important sites and species will be protected. Development on or likely to have an adverse effect on nationally important sites will not normally be permitted. Development proposals will not be permitted where they are not in conformity with the requirements of the National Planning Policy Framework and policy NC1 of the Torbay Local Plan and would adversely impact the biodiversity of areas designated as:***

- ***South Hams SAC (SAC), which includes a coastal strip from Shoalstone to Sharkham and substantial areas of headland at Berry Head;***
- ***Lyme Bay and Torbay Marine Candidate Special Area of Conservation (SAC), which includes all of the coastal waters around Torbay;***
- ***Sites of Special Scientific Interest (SSSI), including Berry Head to Sharkham Point and Saltern Cove;***
- ***National Nature Reserves, including Berry Head;***
- ***Torbay Marine Conservation Zone (MCZ), which includes coastal waters***
- ***around Torbay from Babbacombe to Sharkham Point; or***
- ***recommended Dart Estuary Marine Conservation Zone (MCZ), which includes the upper waters of the River Dart to below Dittisham.***

***E8.2 In relation to important species, all species found on our Peninsula, covered by the Wildlife and Conservation Act (1981) and the Conservation of Habitats and Species Regulations (2010), including Wildlife Countryside Marine Management – The Conservation of Habitats and Species (Amendment) Regulations 2012, will be protected.***

***The built environment (BE)***

***Policy BE1: Heritage Assets and their setting***

***BE1.1 Any development must conserve and enhance the heritage assets of Brixham Peninsula and their setting, including maintaining traditional settlement separation.***

***BE1.2 Inappropriate extensions or alterations to nationally Listed properties and other properties that, while not Listed, make a contribution to the character of the area will be resisted. Development must not cause harm or adversely impact on the setting of important heritage sites in the Brixham Peninsula.***

***BE1.3 The Design Guidelines in the relevant Design Statement should be taken into consideration in all developments to ensure a high quality of design that respects the specific character and historic legacy of each settlement and the surrounding area.***

***COMMENT***

*This policy lacks clarity and does not reflect national planning policy and guidance. In order to meet the Basic Conditions, it should be modified as follows:*

***Policy BE1:***

***BE1.1 Proposals which affect Designated and Non Designated Heritage Assets must comply with the requirements of the National Planning Policy Framework and the relevant policies of the Torbay Local Plan.***

***BE1.2 The Design Guidelines in the relevant Design Statement should be taken into consideration in all developments to ensure a high quality of design that respects the specific character and historic legacy of each settlement and the surrounding area.***

***Transport (T)***

***Policy T1: Linking of new developments to travel improvements***

***T1.1 All developments should include safe walking and cycling access.***

***T1.2 All developments should provide a travel plan proportionate in breadth and detail to the size and complexity of any development proposal to address the impact of travel associated with the development. Evidence should be provided to show that the carbon footprint from travel has been minimised and the health and well-being of travellers (in particular commuters) maximised.***

***T1.3 All development should seek to minimise commuting distances and seek to include improvements to the safety of cyclists and pedestrians by the provision of new off-road cycleways, highway crossings and greater separation between motor vehicles and other travellers.***

***COMMENT***

*For clarity and to meet the Basic Conditions the policy should be modified as follows:*

***Policy T1: Linking of new developments to travel improvements***

***T1.1 Where appropriate developments should include safe walking and cycling access.***

***T1.2 Developments should provide a travel plan proportionate in breadth and detail to the size and complexity of any development proposal to address the impact of travel associated with the development. This should include information on how the carbon footprint from travel has been minimised and the health and well-being of travellers (in***

*particular commuters) maximised.*

*T1.3 All development should seek to minimise commuting distances and seek to include improvements to the safety of pedestrians and cyclists.*

*The health and wellbeing (HW) of the community*

**Policy HW1: Retention of current health and social care estates**

*Facilities currently providing health and social care will be strongly encouraged to be retained for such purposes unless the service provided can be demonstrated not to be viable, either financially or clinically at that location. Where the current locations of facilities cannot be retained, an alternative facility within the Brixham Peninsula with as good accessibility will need to be provided. Subject to compliance with the other policies of this Neighbourhood Plan, developments to health facilities that reduce travel and improve accessibility both for our town and village communities will be favoured.*

*COMMENT*

*I have no comment on this policy.*

**Policy HW2: Operational space for voluntary support organisations**

*Given the increasing role of the voluntary sector in promoting strong and healthy communities across the Peninsula, subject to compliance with the other policies of this Neighbourhood Plan, the retention of existing operational space and the provision of new operational space for voluntary organisations will be prioritised. Where new development may jeopardise or reduce voluntary activity, provision of alternative operational space for that voluntary activity should be provided.*

*COMMENT*

*Please see my general comments at the beginning of this section. This is not worded as a policy, it is not drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications and is in part community aspiration. In order to be retained as a policy and meet the Basic conditions it should be reworded as follows:*

**Policy HW2: Operational space for voluntary support organisations**

*Given the increasing role of the voluntary sector in promoting strong and healthy communities across the Peninsula the provision of new operational space for*

*voluntary organisations will be supported. Proposals resulting in the loss of operational space for voluntary organisations will only be supported where it can be demonstrated that the facility is not practically or financially viable at that location, or an alternative facility within the Brixham Peninsula has been provided*

**Education and learning for all (L)**

**Policy L1: Protection of existing educational facilities**

*School buildings, associated playing fields and other educational facilities will be expected to be retained for these purposes. Any proposal to develop these facilities for other purposes should clearly demonstrate that they are either not required to meet either current or anticipated need or that they are no longer viable for appropriate reasons, such as educational policy, financial support, or health and safety.*

**COMMENT**

*I have no comment on this policy.*

**Policy L2: Matching educational provision to local need**

*Subject to compliance with the other policies of this Neighbourhood Plan, the development of Early Years and Primary School facilities will be supported to ensure excellence in educational provision that is easily accessible to local communities and fully responsive to future demand.*

**COMMENT**

*I have no comment on this policy.*

**Policy L3: Providing for 16–18 years and beyond**

*Subject to compliance with the other policies of this Neighbourhood Plan, educational and training developments will be supported where they are within, or in close proximity, to our schools, colleges and work places. The latter will include horticultural, maritime establishments and farms, where training and education can be provided within or close to the Brixham Peninsula.*

**COMMENT**

*I have no comment on this policy.*



## **Tourism (TO)**

### **Policy TO1: Support for of tourism**

**TO1.1 Subject to compliance with the other policies of this Neighbourhood Plan, developments that increase the quality and range of tourist accommodation and leisure potential in the Peninsula area will be supported, especially where it can be demonstrated that the development will lead to the creation of local jobs.**

**TO1.2 Redevelopment for non-tourism use of any significant “holiday camp” or self-catering tourism accommodation site within the Brixham Peninsula will not be supported. Significant in this context means any site providing more than 10 units of all or any of caravan, lodge, chalet, apartment or similar short-term visitor accommodation.**

**TO1.3 Where there is no reasonable prospect of a tourist facility or amenity being re-developed explicitly for tourism purposes change of use will be supported subject to the following criteria:**

- **the alternative use will also support local tourism, including self-catering accommodation; or**
- **the alternative use will otherwise support the local economy by providing employment; or**
- **the alternative use will contribute to the needs of the community by providing affordable, disabled or older person housing in accordance with Policy BH9 or by providing housing for principal residence housing.**

### **COMMENT**

*TO1.2 introduces the term “significant” which is then defined as more than 10 units. This number seems to be arbitrary and in addition TO1.2 and TO1.3 are in conflict. TO1.3 seeks to introduce a principal residency restriction and I have not been provided with adequate evidence to support this. For clarity and to meet the Basic Conditions paragraphs TO1.2 and TO1.3 of the policy should be modified as follows:*

***TO1.2 Proposals for the redevelopment for non-tourism use of any “holiday camp” or self-catering tourism accommodation site within the Brixham Peninsula will only be supported where it can be demonstrated that the use is not practically or financially viable, at that location. A lack of viability is to be established by clear evidence from an active marketing effort that it would not be possible to achieve a lease or sale of the premises at a reasonable market rate.***

*TO1.3 Where there is no reasonable prospect of a tourist facility or amenity being re-developed explicitly for tourism purposes change of use will be supported subject to the following criteria:*

- the alternative use will also support local tourism, including self-catering accommodation; or*
- the alternative use will otherwise support the local economy by providing employment; or*
- the alternative use will contribute to the needs of the community by providing affordable, disabled or older person housing in accordance with Policy BH9.*

#### **Sport and leisure (S&L)**

##### **Policy S&L1: Increase available space for outdoor sport and leisure**

**S&L1.1 Notwithstanding areas already designated as Local Green Spaces or Open Spaces of Public Value, additional and better quality outdoor playing space is required in the Peninsula. Subject to compliance with the other policies of this Neighbourhood Plan, proposals for developments within and adjacent to settlements (but excluding Settlement Gaps) which provide outdoor pursuits will be encouraged. These pursuits will embrace a range of activities and sports including formal games pitches, tracks, courts, parks (e.g., skateboarding) and facilities, signposted walking routes and “Trim Trails”, and more informal “free play” and “free activity” areas.**

**S&L1.2 The approval of any new, enhanced or improved sport or leisure facility will be subject to assessment of the design and impact, amenity and light emission of the proposed development in relation to its setting and other policies in this Plan. It would not be appropriate to introduce flood-lighting into dark areas or cause larger volumes of traffic to need to negotiate minor rural roads.**

#### **COMMENT**

*I have no comment on this policy.*

##### **Policy S&L2: Sport and recreational facilities in new developments**

**All new large residential development proposals (10 homes or more) are strongly encouraged to integrate space into the development. Where appropriate the financial contributions to the improvement of existing or provision of new off-site facilities will be acceptable as an alternative.**

COMMENT

*For clarity and to meet the Basic Conditions the policy should be modified as follows:*

***Policy S&L2: Sport and recreational facilities in new developments***

***New residential development proposals, will be required to provide sport and recreational facilities integrated into the development in accordance with Torbay Council adopted standards. Where appropriate financial contributions to the improvement of existing or provision of new off-site facilities may be acceptable as an alternative.***

***Art and culture (A&C)***

***Policy A&C1: Promotion and protection for the arts and local culture***

***Subject to compliance with the other policies of this Neighbourhood Plan, proposals for developments that contain fringe benefits, and promote or create new space for cultural activity will be supported. Developments that threaten the cultural activities and/or facilities of our communities will be resisted.***

COMMENT

*The wording of this policy lacks clarity and should be modified as follows:*

***Policy A&C1: Promotion and protection for the arts and local culture***

***Subject to compliance with the other policies of this Neighbourhood Plan, proposals for developments supporting artists, activity, places and the use of heritage assets, and promote or create new space for cultural activity will be supported. Developments that threaten the cultural activities and/or facilities of our communities will be resisted.***

## **SECTION 5**

### **Conclusion and Recommendations**

*5.1 I find that the Brixham Peninsula Neighbourhood Development 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.*

*5.2 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.*

*5.3 The Brixham Peninsula 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.*

*5.4 The Sustainability Appraisal meets the EU obligations regarding Strategic Environmental Assessment.*

*5.5 I have given the issue of the Habitats Regulation Assessment (HRA) and the representations received in relation to the evidence base behind it very careful consideration particularly in the light of the “People over Wind” decision by the European Court (Seventh Chamber) dated the 12<sup>th</sup> of April 2018. In essence this judgment relates to the HRA screening process. I have modified the plan where I have considered it necessary to ensure compliance with the relevant legislation but in regard to the overall HRA process I concur with the opinion of Torbay Council in their email of the 4<sup>th</sup> 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 (not withstanding 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 Brixham Peninsula Neighbourhood Plan meets the Basic Conditions in this respect.*

*5.6 The policies and plans in the Brixham Peninsula Neighbourhood Plan, subject to the*

*recommended modifications would contribute to achieving sustainable development. They have regard to national policy and to guidance, and generally conform to the strategic policies of the Torbay Local Plan 2012-2030.*

*5.7 I therefore consider that the Brixham Peninsula Neighbourhood Development Plan subject to the recommended modifications can proceed to Referendum.*

*Deborah McCann BSc MRICS MRTPI Dip Arch Con Dip LD*

*Planning Consultant*

*NPIERS Examiner*

*CEDR accredited mediator*

*26th July 2018*

## Appendix 2

### Decision Statement Table: Brixham Peninsula Neighbourhood Plan

#### Assessment of Examiner's Report

##### Background

This Appendix provides a more detailed officer assessment of the Examiner's Modifications and the LPA's Decision Statement.

Mrs Deborah McCann was appointed through the National Planning Independent Examiner Referral Service (NPIERS) as the Independent Examiner in March 2018. This appointment was consented to by the Neighbourhood Forum. Mrs McCann, an experienced examiner, is independent of the Council and Neighbourhood Forum, possesses appropriate qualifications and has no interest in any land within the Torquay area. Whilst she had previously been employed by Torbay Council in the 1990s, this was considered by the Monitoring Officer not to represent a conflict of interest because of the significant passage of time.

All written representations were provided to the Examiner along with the submitted plan and associated documents. The final report was received by the Council on 26<sup>th</sup> July 2018 and is published on the Council's website.

The conclusion of the report was that the Plan should proceed to referendum, with modifications recommended by the Examiner.

Submitted Plan Reference (Policy / supporting text paragraph)	Examiner's Recommended Modification (Note: only summarised below, see Examiner's report for more information)	Examiner's Reason(s) (Note: only summarised below, see Examiner's report for more information)	Council Decision and Reason (Required action to take in respect of Examiner's recommended modification and reason)	Outcome to Submitted Plan (Note: only summarised below, all outcomes are incorporated in full into the post examination plan with modifications in Appendix 3)
Policy Document: - Front cover; and - page 8, para 1.8.	Modify wording by deleting reference to 'and beyond' regarding the period of the plan. (Report, page 8, top)	<i>"It is intended that the Brixham Peninsula Neighbourhood Development Plan will cover the period 2012-2030, to align with the Torbay Local Plan, reference to 'and beyond' should be removed to align with the Torbay Local Plan".</i> (Report, page 8, top)	Modify wording by deleting reference to 'and beyond' as recommended. <u>Reason:</u> LPA would also add reasons that this will add clarity  Note: The Planning and Compulsory Purchase Act 2004, as amended by the Localism Act 2011, requires at Section 38B (1.)(a.) "A <i>neighbourhood development plan... specify the period... it is to have effect</i> ". Accordingly, the reference to 'and beyond' requires deletion to comply with Basic Conditions.	Policy document modified as recommended by the Examiner where relevant and as shown in Appendix 3  Clarify Plan Period (2012-2030) and remove 'beyond'
<b>Employment policies to create jobs (J)</b>				
Policy J1: Employment land – proposed, retained and refurbished (BPNP pages 25 to 28)	Modify policy wording: - At J1.1 to clarify scope of support for employment development is that <i>'appropriate to meet the local and strategic needs set out in the Torbay Local Plan'</i> . (Report, page 27, middle);	For clarity and to meet Basic Conditions.  The Examiner's comments note a Habitats Regulations Assessment (HRA) issue She goes on to comment: <i>'However, the neighbourhood plan does not allocate these sites but identifies them'</i>  The Examiner also notes that <i>'the Council expresses concern that the employment sites are "identified" rather than allocated and therefore fail to be in general conformity with</i>	Agree: Modification meets BC  Additional LPA Modification to Examiner's Modification of J1.1 - add additional text to give clarity that 'need' relates to the Neighbourhood Plan Area only (i.e. SDB1 area in Torbay Local Plan) <u>Reason:</u> Employment sites are 'identified' and not 'allocated'.. Therefore, additional wording to be in general conformity with the strategic Local Plan SDB Policies (SS5) and for clarity.	Policy Modified as recommended by Examiner with additional change and additional glossary/footnote for clarity  <i>'..appropriate to meet the local and strategic needs set out in the Torbay Local Plan <b>SDB1 area</b>'.</i>  <b>Footnote: 'identified' J1 employment sites: These are not allocated sites and do not have policy weight but recognise a potential development site for consideration through the development management process primarily for employment investment subject to other policies in the Development Plan</b>

Submitted Plan Reference (Policy / supporting text paragraph)	Examiner's Recommended Modification (Note: only summarised below, see Examiner's report for more information)	Examiner's Reason(s) (Note: only summarised below, see Examiner's report for more information)	Council Decision and Reason (Required action to take in respect of Examiner's recommended modification and reason)	Outcome to Submitted Plan (Note: only summarised below, all outcomes are incorporated in full into the post examination plan with modifications in Appendix 3)
Page 548		<p><i>Policy SS5 and SDB1 of the Torbay Local Plan.'</i></p> <p>(Report, page 27, middle and Section 12.7 page 21 in relation to J1.2 and HRA</p>	<p>LPA further Modification to add supporting text/glossary definition of BPNP 'identified sites' does not have the full force of a site allocation.</p> <p>Note: The LPA HRA Appropriate Assessment concludes J1 sites are acceptable with Mitigation Measures.</p>	<p><b><i>Committed J1 employment sites Have extant planning permission. If this planning permission expires, any proposal will be considered on the basis of the Development Plan unless material considerations indicate otherwise. A site's planning history is likely to be a material consideration.</i></b></p> <p><b><i>Footnotes also added to Policies Map Key.</i></b></p>
	<p>- At J1.2 Table 1 to references to Oxen Cove and Freshwater Quarry site <i>J11-2 Oxen Cove and Freshwater Quarry (<del>identified site</del>) 2,000</i></p> <p>(Report, page 28, top); and and Section 12.7 page 21</p>		<p>Re J1.2 do not modify policy. Reason: Modified references to reference Oxen Cove and Freshwater are errors by the Examiner.</p>	<p>This part of Policy not modified as recommended by Examiner.</p> <p>Reinstate J1.1 as submitted</p>
	<p>- At J1.3, to delete a 'viability' definition and refer to LP Policy SS5 "<i>on grounds of viability and in accordance with Policy SS5 of the Torbay Local Plan</i>".</p> <p>(Report, page 28, top).</p>		<p>Agree with some of the Modification but include part of original text as a further LPA modification :</p> <p>Re J1.3, modify policy to address issues raised, but retain core 'viability' definition within Policy rather than referring to Local Plan Policy SS5</p> <p>Reason: The LPA wording has been agreed in collaboration with the Forum (BTC) Retention of core viability definition provides</p>	<p>This part of Policy partially modified as recommended by Examiner LPA partially re-instated Policy as submitted Plan</p> <p><i>J1.3 ....A lack of viability is to be established by clear evidence from an active marketing effort that it would not be possible to achieve a lease or sale of the premises at a reasonable market rate.</i></p>



<b>Submitted Plan Reference</b> (Policy / supporting text paragraph)	<b>Examiner's Recommended Modification</b> (Note: only summarised below, see Examiner's report for more information)	<b>Examiner's Reason(s)</b> (Note: only summarised below, see Examiner's report for more information)	<b>Council Decision and Reason</b> (Required action to take in respect of Examiner's recommended modification and reason)	<b>Outcome to Submitted Plan</b> (Note: only summarised below, all outcomes are incorporated in full into the post examination plan with modifications in Appendix 3)
			clarity; reflects policy intent; and follows approach of Examiner at Modified Policy TO1.2 and as modified, policy meets Basic Conditions.	
Policy J2: Provision of information and communication technology (BPNP page14)	No comment made. (Report, page 28, bottom)	As submitted, policy meets Basic Conditions. (Report, page 5, para 2.4)	Agree: Retain as submitted policy. <u>Reason:</u> As submitted, policy meets Basic Conditions.	No change made to submitted Policy as recommended by Examiner.
Policy J3: Local employment – training and skills (BPNP pages15 and 16)	No comment made. (Report, page 28 and 29, top)	As submitted, policy meets Basic Conditions. (Report, page 5, para 2.4)	Agree: Retain as submitted policy. <u>Reason:</u> As submitted, policy meets Basic Conditions.	No change made to submitted Policy as recommended by Examiner.
Policy J4: Local employment – increased employment and local amenity (BPNP pages16 and 17)	No comment made. (Report, page 29, bottom)	As submitted, policy meets Basic Conditions. (Report, page 5, para 2.4)	Agree: Retain as submitted policy. <u>Reason:</u> As submitted, policy meets Basic Conditions.	No change made to submitted Policy as recommended by Examiner
Policy J5: Sustaining a vibrant harbour-side economy (BPNP pages 17 and 18)	Include a policies map. (Report, page 30, middle)	For clarity. (Report, page 30, middle)	Agree: Include the 'Brixham Harbour area' on the Policies Maps. <u>Reason</u> Inclusion of area referred to in policy maps adds clarity.	Policy Map modified as recommended by Examiner.  New Policy Map boundary provided covering Brixham Harbour and environs. Note: A small part of this area is outside the approved Neighbourhood Plan Area.
	Modify policy wording.	To meet Basic Conditions. (Report, page 30, middle)	Agree: Modify policy as recommended.	Policy Modified as recommended by Examiner.

Submitted Plan Reference (Policy / supporting text paragraph)	Examiner's Recommended Modification (Note: only summarised below, see Examiner's report for more information)	Examiner's Reason(s) (Note: only summarised below, see Examiner's report for more information)	Council Decision and Reason (Required action to take in respect of Examiner's recommended modification and reason)	Outcome to Submitted Plan (Note: only summarised below, all outcomes are incorporated in full into the post examination plan with modifications in Appendix 3)
	<p>J5.2 Second sentence <del>'will comply'</del> to <i>'should be in conformity' with Local Plan Policies T01 (Tourism, events and culture), ...</i> (Report, page 30, middle)</p> <p>Modify last sentence relating to <del>maintenance</del> <i>preservation or enhancement of the Brixham Town Conservation Area in the development plan</i></p>		<p><u>Additional Reason</u> Modified language better reflects requirements and general conformity with Torbay Local Plan. As modified, policy meets Basic Conditions.</p>	<p>J5.2 <del>'will comply'</del> to <i>'should be in conformity' with Local Plan Policies T01 (Tourism, events and culture)</i></p> <p><del>maintenance</del> <i>preservation or enhancement of the Brixham Town Conservation Area in the development plan</i></p>
<p>Policy J6: Redevelopment of the Town Centre Car Park BPNP pages 18 and 19</p>	<p>Include a <i>'more detailed'</i> policy map. (Report, page 30 and 31, top)</p>	<p>For clarity. (Report, page 31, top)</p>	<p>Disagree: Retain maps as submitted in the Policy Maps (i.e., site: J1.1 &amp; H3.1 Town Centre Map boundary) and the Employment Site Assessment. LPA add minor justification text to cross refer to Policy BH3 and BH3-11 for clarity. <u>Reason</u> Whilst the BPNP Planning Brief refers to a wider area than that shown by J1.1. In consultation with the Forum the Maps in submitted Neighbourhood Plan are considered sufficient and no additional modification is necessary. Officers consider that the extent of the Map boundary meets the Basic Conditions and is therefore lawful but will limit the Policy to the area shown.</p>	<p>Policy Map not modified as recommended by Examiner existing site boundaries retained as J1.1.</p> <p>Additional LPA change for clarity. Supporting text change to 3.2.4 <i>The development is to include a mix of retail premises, a hotel, affordable housing (see also Policy BH3-11 for 25 units), multi-level car parking....</i></p>

<b>Submitted Plan Reference</b> (Policy / supporting text paragraph)	<b>Examiner's Recommended Modification</b> (Note: only summarised below, see Examiner's report for more information)	<b>Examiner's Reason(s)</b> (Note: only summarised below, see Examiner's report for more information)	<b>Council Decision and Reason</b> (Required action to take in respect of Examiner's recommended modification and reason)	<b>Outcome to Submitted Plan</b> (Note: only summarised below, all outcomes are incorporated in full into the post examination plan with modifications in Appendix 3)
Policy J7: Oxen Cove and Freshwater Quarry (BPNP pages 19 to 20)	Modify justification at 3.2.8 to emphasise development will be ' <i>Subject to any environmental constraints...</i> ' at project (i.e., planning permission) stage. (Report, page 31 and 32, top)	<p>Examiner Considers Greater Horseshoe Bats (HRA) concerns unresolved. Examiner clear that sites have not been allocated, therefore '<i>any potential shortfall in evidence in relation to the HRA can be adequately addressed should planning application come forward</i>'. i.e. at project stage.</p> <p>(Report, page 31, bottom and Section 12.7 page 21 on HRA issue)</p>	<p>Agree:  Modify justification at para 3.2.8 as recommended.  <u>Reason</u>  Justification needs to reflect policy and HRA Matters. Policy does not allocate employment land. Policy correctly provides that development can only come forward when planning application/project stage HRA 'safeguards' are met.</p> <p>Note: BPNP AECOM HRA Report screened out Policy J7 and LPA HRA Appropriate Assessment of J1-2 and BH3-I6 sites concludes an allocation would be acceptable with mitigation measures.</p> <p><u>LPA Additional modification to supporting text.</u>  LPA minor additional modification to cross reference to justification text to cross refer to Policy BH3-I6 for clarity in para 3.2.11 and in 3.2.8 cross reference to LPA modification footnote in Policy J1 'identified' definition/status for clarity. Notes that development to meet environmental constraints para 3.2.10 for clarity.</p>	<p>Supporting Policy Text amended in accordance with Examiner's Recommendation. Additional LPA modification minor cross reference to Policy BH3.I6):</p> <p>New para <b>3.2.11 <i>The land at Freshwater Quarry and Oxen Cove is also allocated for residential development in Policy BH3-I6.</i></b></p> <p>Para 3.2.7 '<i>An area of 2,000 sqm has been identified for employment at Oxen Cove,...</i> (<b>see Policy J1 and footnote defining 'identified' status</b>) primarily marine related,...</p> <p>Para 3.2.10 <b><i>Proposals will be subject to any environmental constraints. More specific information and</i></b></p>

Submitted Plan Reference (Policy / supporting text paragraph)	Examiner's Recommended Modification (Note: only summarised below, see Examiner's report for more information)	Examiner's Reason(s) (Note: only summarised below, see Examiner's report for more information)	Council Decision and Reason (Required action to take in respect of Examiner's recommended modification and reason)	Outcome to Submitted Plan (Note: only summarised below, all outcomes are incorporated in full into the post examination plan with modifications in Appendix 3)
Page 552	Include a policies map. (Report, page 32, top)	For clarity. (Report, page 32, top)	<p>Disagree: Retain maps as submitted in the Policy Maps (i.e., site J1.2 and BH3.I6 Town Centre Map) and the Employment Site Assessment.</p> <p><u>Reason</u> Whilst the BPNP Planning Brief refers to a wider area than shown by J1-I2. The Forum considers the maps in submitted Neighbourhood Plan are sufficient and that no additional modification is appropriate. Officers consider that the extent of the Map boundary meets the Basic Conditions and is therefore lawful but will limit the Policy to the area shown.</p>	Policy Map not modified in accordance with Examiner's Recommendation. Existing site boundaries retained as per Policy J1-I2.
	Modify policy wording to delete reference to <i>'the evolving Town Centre Master Plan</i> at J7.2. (Report, page 32, top)	To meet Basic Conditions. (Report, page 32, top)	<p>Disagree: Only modify policy wording to reflect issue raised by deleting word 'evolving' and adding 'Brixham'.</p> <p><u>Reason</u> The 'Town Centre Master Plan' is referenced in related Policy J1 and this site covers the same area as J1-I2. The Masterplan forms a supporting document to the submitted Neighbourhood Plan and it is no longer 'evolving'. Modification reflects policy intention. As modified policy meets Basic Conditions.</p>	<p>Change made to Policy Document, This part of Policy has not modified as recommended by Examiner.</p> <p><i>J7.2 Design and development options should be informed by the Port Master Plan and the <b>evolving Brixham Town Centre Master Plan</b> and have regard to...</i></p>

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Policy J8: Employment in Churston, Galmpton and Broadsands  (BPNP page 21)	No comment made. (Report, page 32, bottom)	As submitted, policy meets Basic Conditions. (Report, page 5, para 2.4)	Agree: Retain as submitted policy. <u>Reason:</u> As submitted, policy meets Basic Conditions.	No change made as recommended by the Examiner.
<b>Housing policies (BH)</b>				
Policy BH1: Affordable housing  (BPNP page 22 and 23)	Modify policy wording. BH1.2 to: <i>An off-site contribution will be considered where it would result in a larger number of affordable houses being delivered than through on-site provision...</i> (Report, pages 32 33, middle)	For clarity and to meet Basic Conditions. (Report, page 33, middle)	Agree: Modify policy as recommended. <u>Additional LPA modification of policy title to 'Policy BH1: Affordable housing site allocations'.</u> <u>Reason</u> Modification adds clarity. Modified policy title adds further clarity relating to the allocation of affordable housing as distinct from affordable housing eligibility of occupation in Policy BH2. As modified, policy meets Basic Conditions.	Policy Modified as recommended by Examiner with additional LPA modification of title for clarity.  <i>BH1.2 to: An off-site contribution will be considered where it would result in a larger number of affordable houses being delivered than through on-site provision..</i>  <i>Title: Policy BH1: Affordable housing <b>site allocations</b></i>
Policy BH2: Allocation of new affordable homes  (BPNP page 23 and 24)	Modify policy wording to limit policy scope to <i>new affordable houses</i> only (BH1.1), delete 'key workers' from awarding criteria, and BH2.2 default to the Torbay Council waiting list if no local occupants can be found. (Report, page33 and 34, bottom)	For clarity and to meet Basic Conditions. <i>"I am satisfied that Neighbourhood Plans can introduce local occupancy conditions in relation to <u>new</u> (my emphasis) affordable housing units."</i>  <i>"...and that there is a default to the Torbay Council waiting list"</i> (Report, page 34, middle)	Agree in part: Modify policy to limit policy scope to <i>new affordable homes</i> only (BH2.1) as recommended and default to Torbay Housing Waiting list where persons cannot be found (Bh2.2)  LPA Disagree with the Examiner that that 'key workers' need to be deleted to meet the BC and therefore 'key workers' from within award criteria retained.	Policy partially modified as recommended by Examiner LPA partially retained submission Policy as submitted Plan with additional LPA minor modification to title change for clarity.  <i>'Title: Policy BH2: <b>Occupation</b> of new affordable homes.</i>  <i>BH2.1 <b>New affordable homes</b> in the (retain 'key worker' criterion)</i>  <i>BH2.2 Where persons cannot be found to meet these criteria, affordable housing may</i>

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Page 554			<p>LPA additional Modification to policy title to '<i>Policy BH2: Allocation Occupation of new affordable homes.</i>'</p> <p><u>Reason:</u> Modification to limit policy scope to <u>new</u> affordable homes only required to meet Basic Conditions. Deletion of 'key workers' is not required to meet Basic Conditions, so no modification made.</p> <p>LPA additional Modification to policy title adds clarity and BH2.1...to <i>affordable 'homes'</i></p> <p>As modified, policy meets Basic Conditions.</p>	<p><i>be occupied by people and their dependents <b>whose housing needs are not met by the market identified on the Torbay Housing Waiting List...</b></i></p>

<b>Submitted Plan Reference</b> (Policy / supporting text paragraph)	<b>Examiner's Recommended Modification</b> (Note: only summarised below, see Examiner's report for more information)	<b>Examiner's Reason(s)</b> (Note: only summarised below, see Examiner's report for more information)	<b>Council Decision and Reason</b> (Required action to take in respect of Examiner's recommended modification and reason)	<b>Outcome to Submitted Plan</b> (Note: only summarised below, all outcomes are incorporated in full into the post examination plan with modifications in Appendix 3)
<p>Policy BH3: Delivery of new homes (and Table 2 Allocated housing sites)</p> <p>(BPNP pages 25 to 26)</p>	<p>Modify policy wording to state support for ... <i>housing growth appropriate to meet local needs and the strategic needs set out in the Torbay Local Plan 2012-2030, including affordable housing.</i></p> <p>(Report, pages 35 and 36, bottom and 19 to 23 regarding HRA matters)</p>	<p>To ensure that the policy supports that strategic development needs of the Torbay Local Plan and in order to meet Basic Conditions.</p> <p>Examiner's comments considered "<i>potential of a shortfall in the overall numbers that will be delivered from the allocations in Table 2</i>". Modifications "<i>ensure that this policy supports that strategic development needs of the Torbay Local Plan and plan positively to support local development (as outlined in paragraph 16 of the National Planning Policy Framework)</i>".</p> <p>(Report, page 36, middle, 4th para)</p>	<p>Disagree: Retain this part of Policy as submitted.</p> <p><u>LPA additional modification</u> to include the Examiner's wording in justification with minor alterations</p> <p><u>Reason:</u> The identified 'expectation' of the neighbourhood area of 660 homes is met numerically by the (at least) housing sites allocated in Table 2.</p> <p>Examiner raises concerns regarding delivery of housing in BH3. However the LPA is now broadly satisfied that the BPNP is in general conformity with Policy SDB1 and that the level of housing allocation will meet the 660 target (Policy BH3).</p> <p>To ensure the plan meets the basic conditions the inclusion of the Examiner's text within the justification is necessary.</p>	<p>This part of Policy not modified as recommended by Examiner. Modified text as recommended by Examiner with additional LPA modification moved to justification para 4.7.</p> <p><b>4.7 The Brixham Neighbourhood Plan supports housing growth appropriate to meet local needs and the strategic needs set out in the Torbay Local Plan 2012-2030, Policy SDB1, including affordable housing.</b> Local Plan...</p>

	<p>Accept all sites in Table 2 as allocated for residential development, except for Waterside Quarry (Report, page 36, bottom, amendment of Policy BH3)</p> <p>(Report, pages 35 and 36, bottom and 19 to 23 regarding HRA matters in Section 12)</p>	<p>The Examiner Comments: <i>The adequacy or otherwise of the environmental assessment of the site in the light of the PoW case and whether or not the site as a result of this and other site constraints is developable. My conclusion is that I am not satisfied that the HRA assessment of the site as submitted is adequate.</i></p> <p>(Report, page 36, top, 1st para)</p> <p>Reasoning also provided on pages 19 to 23 regarding HRA matters)</p>	<p>Agree: Delete Waterside site in Table 2.</p> <p><u>LPA additional modification</u> Modify footnote 17 (affordable housing for Jewson BH3.I8) and 18 (assisted living St Kilda BH3.I3) by switching text around. Text at footnotes 17 and 18 needs rearranging to be consistent with Housing Site Assessment (at page 34 and page 50), as there is an error in the Submitted Plan.</p> <p><u>LPA additional modification for clarity</u> add footnote to define Housing 'allocated', 'identified', 'committed' and 'windfall sites' particularly as a different definition is used for 'identified' sites in Policy J1.</p> <p><u>Reason:</u> The LPA has no evidence to overturn the Examiner's recommendation for Waterside site deletion. The LPA HRA (AA) confirms that the site cannot demonstrate there is no likely significant effect, either alone or in combination with other plans or projects on the integrity of the SH SAC; as required in accordance with the basic condition as prescribed in Schedule 2 Paragraph 1 of the Neighbourhood Planning Regulations 2012.</p>	<p>Policy Table 2 modified as recommended by Examiner (Waterside Quarry Site BH3.I10 deleted). Additional LPA modification to footnotes for clarity. (giving a Table 2 total allocation of <b>685</b>) and footnotes modified as shown in Appendix 3 with consequential numerical changes to figures in supporting text 4.7 and 4.8.</p> <p>LPA additional modifications: Modify footnote 17 (affordable housing for Jewson BH3.I8) and 18 (assisted living St Kilda BH3.I3) by switching text around.</p> <p>Add footnote to define 'allocated', 'identified', 'committed' and 'windfall sites'</p> <p>Footnote to Table 2 : <b><i>'Identified' BH3 housing sites: These sites have been identified by the Forum (Brixham Town Council) and are allocated housing sites.</i></b></p> <p><b><i>Committed housing sites: These sites have extant planning permission. If this planning permission expires, any proposal will be considered on the basis of the Development Plan unless material considerations indicate otherwise. A site's planning history is likely to be a material consideration.</i></b></p> <p><b><i>Windfall Sites" are sites which are usually not identified or allocated within the development plan but that are still required to be considered on the basis of the Development Plan unless material considerations indicate otherwise. The figure in table 2 refers specifically to windfall sites of 5 or fewer new dwellings.</i></b></p> <p>Footnotes also added to Policies Map Key.</p>
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Page 557	<p>Modify policy wording to require <i>"Appropriate Ecology surveys as set out in the Plan's accompanying HRA will need to be undertaken at the project stage for any planning application as set out in the HRA"</i></p> <p>(Report, page 36, bottom, amendment of Policy BH3)</p> <p>Detailed consideration 19-26 entitled 11.4 Habitats Regulations Assessment</p>	<p>'Plan level' HRA concerns also need resolution at 'project stage' as <i>"There are also concerns that some allocated sites have not demonstrated that the constraints can be overcome, and sites or number of units indicated can be delivered as set out in the Housing Assessment Document 3"</i></p> <p>(Report, page 35, top, 2nd para)</p> <p>Detailed consideration 19-26 entitled 11.4 Habitats Regulations Assessment.</p>	<p>Agree</p> <p>Modify policy to address issues raised using different wording to that proposed by Examiner. <u>LPA further modification</u> to clarify and meet BC explicit HRA concerns.</p> <p><u>Reason:</u></p> <p>The Examiner's suggested modification supports the approach in the Torbay Local Plan and in the submitted Neighbourhood Plan Policy E8, by making it clear allocations are where appropriate, subject to analysis at the project level too.</p> <p>However, it is considered clarity can be added by additional and amended wording recommended. Policies should focus on the planning outcome and not the methodology to achieve that outcome. (For example, as drafted the policy does not state what happens if surveys highlight a problem). Hence the policy should refer to the Habitats Regulations requirement i.e. <i>"Proposals either alone or in combination should not adversely affect the integrity of the SACs.. this wording is additional to that proposed by the Examiner to achieve this. As modified, the policy meets Basic Conditions.</i></p>	<p>This part of Policy partially modified as recommended by Examiner with additional LPA modification.</p> <p><i>The sites listed in Table 2 are allocated for residential development. <b>Proposals will need to demonstrate there is no likely significant effect, either alone or in combination with other plans or projects on the integrity of European sites; appropriate ecology surveys will need to be undertaken at the project stage for any planning application where the Plan's accompanying HRA has indicated this is necessary.</b></i></p>

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Policy BH4: Brownfield and greenfield sites (BPNP pages 26 and 27)	Modify policy title and wording (BH4.1) to limit policy scope to 'residential' development only and (BH4.3) to refer to Torbay Local Plan in criteria. <i>...greenfield sites will be considered in the context of TLP Policy C1 and Exception Site development that may meet Local Need through self-build and local affordable housing Provision (BH9)</i>  (Report, page 37, middle)	Examiner states: <i>This policy does not directly refer to housing but as sits within the housing section it is assumed that it is only intended to relate to housing development. It is also assumed that BH4.3 is intended to refer to rural exception site development.</i> For clarity and to meet Basic Conditions.  (Report, page 37, middle)	Agree: Modify policy wording and title to address issues raised. Clarify policy scope relates 'residential' development only and include reference to Torbay Local Plan C1 in criteria.  <u>LPA additional further modification</u> to refer to BH9 Exception Sites Policy and modify reference to self-build within the scope of affordable housing Examiner's reference to self-build. <u>Reason:</u> Minor modification uses clearer language and as modified policy meets Basic Conditions Additional further modification to cross reference Policy BH9 exception site policy	Policy partially modified as recommended by Examiner with additional LPA modification  <i>Policy BH4:Housing Development - brownfield (previously developed) and greenfield (not previously developed) sites</i>  BH4.1... <i>residential</i> development on brownfield  BH4.3 ...greenfield sites <i>will be considered in the context of Torbay Local Plan Policy C1 and Exception Site development that may meet Local Need through local affordable housing (including self- build) provision (BH9)</i>
Policy BH5: Good design and the town and village Design Statements  (BPNP pages 27 to 29)	Modify Policy wording by deleting BH5.4 relating to 'not permitting' badly designed developments. (Report, pages37 to 39, middle)	'Paragraph BH5.4 lacks sufficient clarity to allow a decision maker can "apply it consistently and with confidence when determining planning applications". It repeats elements in other paragraphs in the policy and uses the word" permitted".... decision on any planning applications is made by the Local Planning Authority therefore delete BH5.4 (Report, page 39, top)  To meet Basic Conditions. (Report, page 39, middle)	Agree/Disagree: Deletion of BH5.4 as submitted however <u>LPA make further additional modification</u> by retaining BH5.4 but re-wording to address issues raised.  Add reference to Landscape Character Assessment, Urban Fringe Documents in supporting Text para4.11 and retain footnotes 22 and 23 as reference 'lost' in reworded Policy section BH5.4 <u>Reason:</u> Modified text accords with policy intention. Note: The	Policy modified but not as recommended by Examiner LPA modification  <i>BH5.4 Planning permission will not be granted for development of poor design that fails to take opportunities available for improving local character and quality of an area and the way it functions.</i>  <i>.4.11 .favoured by our communities. Further evidence on landscape character and appearance is also set out in the Landscape Character Assessment of Torbay<sup>22</sup> and the Brixham Urban Fringe Landscape Study<sup>23</sup>.</i>

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			Further Modified text is in Exeter St James Neighbourhood Plan Policy D1: Good Quality Design, was a Locality 'model policy' example. As modified, policy meets Basic Conditions.	
Policy BH6: Roofscape and dormer management  (BPNP pages 29 to 30)	Modify Policy wording to limit policy scope to <i>To protect local amenity, where planning permission is required, dormers will only be approved where they will only be approved where they:</i> (Report, 39 to 40 ;Recommendation page 40, top)	Policy should reference that in certain circumstances planning permission will not be required by the development this policy seeks to control. (Report, page 40, top)	Agree: intention of modification however <u>LPA propose further modification</u> to address issues raised. <u>Reason:</u> Intent of modification adds clarity, and further modification to Examiner's modification adds further clarity all roofscape alterations that require planning permission. As modified, policy meets Basic Conditions.	Policy modified but not as recommended by Examiner LPA modification  <i>Policy BH6 Roofscape and dormer management</i> <b>To protect local amenity, where planning permission is required:</b> <b>BH6.1 dormers will only be approved where they:...</b>
Policy BH7: Sustainable construction (BPNP page 30)	No comment made. (Report, page 40, bottom)	As submitted, policy meets Basic Conditions. (Report, page 5, para 2.4)	Agree: Retain as submitted policy. <u>Reason:</u> As submitted, policy meets Basic Conditions.	No change made to submitted Policy as recommended by Examiner
Policy BH8: Access to new dwellings (BPNP Pages 31 and 32)	Modify Policy wording to refer to existing ' <i>adopted standards</i> ' and make compliance with standards a requirement. (Report, pages 40 to 41; recommendation on page 41, top)	Examiner not been provided with any evidence to support a variance the standards (in Manual for Street and Torbay Highway Design Guide). For clarity and to meet Basic Conditions. (Report, pages 40 and 41; Reason page 41, top)	Agree: Modify policy wording as recommended. <del>LPA additional further minor Modification to</del> set out what the 'adopted standards' are and where they can be found. and supporting text 4.16 to 18 to accord with Policy change. <u>Reason:</u> Modifications add clarity. As modified policy meets Basic Conditions.	Policy modified as recommended by Examiner additional supporting text amendment to 4.17 and delete paragraph 4.18  <b>BH8 Access to new developments should comply with the relevant adopted standards.</b>  <i>4.17 ...bring it up to the standard required for adoption by the Local Highways Authority (see Torbay Highways design guide</i>

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				for new developments and Torbay Council Highways development control standing advice) <b>4.18 DELETE</b>
Policy BH9: Exception sites (BPNP page 33 to 34)	Modify justification wording at 4.19. (Report, 41 to 43; recommendation on page 42, middle)	To reflect NPPF definition of rural exception sites exception sites and the modification of the policy. (Report, page 42, middle)	Agree Modify justification wording at para 4.9 as recommended, except regarding inserting extraneous words at end of paragraph. <u>Reason:</u> Modification adds clarity. Inserting extraneous words at end of paragraph would introduce errors.  <u>LPA Additional Modification</u> to BH3 supporting text para 4.9 for consistency with policy modifications to BH9	Policy supporting text modified partially as recommended by Examiner partially LPA modification minor deletion of text.  <i>Para 4.19 Policy BH9 (Exception Sites) is intended to deliver affordable, <del>older person, and disabled person</del> housing on "small " sites that otherwise could not come forward including houses for older person, and disabled persons. It is for the Local planning Authority to determine what constitutes a "small" site however a proposal for 20 homes could not be considered small. In the Regulation 14 consultation a proposal was brought to attention which it appears could deliver on a policy compliant basis 20 homes, or more a rural exception site, subject to community consultation. Accordingly, through Policy BH9 it is expected that more homes than set out above will come forward.</i>  BH3 supporting text 4.9 Policy BH9 (Exception Sites) is intended to deliver affordable ( <b>including older person, and disabled person</b> ) housing on sites that otherwise could not come forward.

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Page 561	<p>Modify Policy wording.</p> <p>Modify criterion 'a.' to delete</p> <ul style="list-style-type: none"> <li>• <i>purpose-built accommodation for older people (with a minimum age of 60); or</i></li> <li>• <i>purpose built accommodation for the disabled;</i></li> </ul> <p>replace 'e.' with new criterion to read '<i>does not constitute major development in the AONB</i>'.</p> <p>delete 'f.'</p> <p>(Report, page 42 and 43)</p>	<p>Rural exception sites are defined in the NPPF: <i>Rural exception sites: Small sites used for affordable housing in perpetuity where sites would not normally be used for housing. Rural exception sites seek to address the needs of the local community.</i></p> <p>It may be that a development coming forward will include provision of older and disabled people, but Examiner considers this cannot be a requirement of the policy. Therefore, paragraph f) should be deleted For clarity and to meet Basic Conditions. Paragraph e is unnecessary. (Report, page 42, bottom)</p>	<p>Agree: Modify policy wording as recommended by Examiner.</p> <p><u>Further LPA modifications</u> To remove grammar errors introduced by Examiner at criterion 'a' and 'c'. To mirror justification wording 4.19 in policy wording after criterion 'e' by inserting criterion f is considered to be a small sites .</p> <p><u>Reason:</u> Modifications add clarity and remove errors. LPA further modification as criterion e. as modified by the Examiner would restrict 'major development' <i>in</i> the AONB but not <i>outside</i> the AONB. For clarity and to align with supporting text in 4.19 as amended by the Examiner.</p> <p>As modified policy meets Basic Conditions.</p>	<p>Policy text modified partially as recommended by Examiner partially LPA modification.</p> <p>Paragraph e amended to read <b><i>does not constitute major development if within the AONB; and</i></b></p> <p>Paragraph f added <b><i>is considered to be a small site; and</i></b></p>
<b>The natural environment (E)</b>				
<p>Policy E1: Landscape beauty and protected areas</p> <p>(BPNP pages 35 to 37)</p>	<p>Modify policy wording at E1.3 and E1.4. Delete E1.5. (Report, page 44, top)</p>	<p>Examiner notes existing statutory framework for the protection of AONBs that does not need to be repeated in a neighbourhood plan. There can be no requirement to comply with policies, objectives or</p>	<p>Agree Modify policy wording as recommended by Examiner in E1.4, <u>LPA recommended further modifications</u> at E1.1 to correct factual error as not all</p>	<p>Policy text modified partially as recommended by Examiner partially LPA modification.</p> <p><b><i>E1.2 The internationally designated... The English Riviera Global Geopark..</i></b></p>

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Page 562		guidance as stated. For clarity and to meet Basic Conditions policy to be modified and E1.5 deleted as it is duplicating protection covered under existing policy. (Report, page 44, top)	designations are landscape designations. E1.3 Partly as recommended by Examiner but retaining submitted text, explicit NPPF wording for clarity.  LPA re-instate E1.5 in re-worded form. <u>Reason:</u> LPA further modifications add clarity and further modifications add further clarity. Re-worded E1.5 reflects policy intention and uses wording from Torbay Local Plan policy SS8 and AONB Management Plan. As modified policy meets Basic Conditions.	E1.3 partly as recommended by Examiner and Partly retained text.  <i>E1.3 Development within or impacting on the AONB <b>must demonstrate that great weight has been given to conserving and enhancing landscape and scenic beauty</b> and must comply with the requirements of the National Planning Policy Framework and other statutory documents including the AONB Management Plan.</i>  E1.4 as per Examiner's Recommended modification.  <i>E1.5 Development should not harm protected landscape characteristics including dark night skies and tranquility.</i>
	Policy E2: Settlement boundaries (BPNP page 38 to 41)  Modify justification wording at para 5.10. to reflect Policy Modification to E2.3 i.e. criteria for acceptable development in Local Plan Policy C1  (Report, pages 44 to 45; recommendation page 45, middle)	To reflect the policy modification. (Report, page 45, middle)	Agree: Modify justification wording as recommended by Examiner. <u>Reason:</u> Modification adds clarity.	Policy supporting text modified as recommended by Examiner  <i>5.10 Policy E2 is a development of the "village envelope" concept proposed by the Local Plan. This Neighbourhood Plan policy hence provides supporting detail to a Local Plan policy C1.</i>
	Modify wording at E2.3. i.e. criteria for acceptable development in Local Plan Policy C1 (Report pages 44 and 45; recommendation, page 45, middle)	For clarity and to meet Basic Conditions. E2.3 covers development already controlled by policy C1 of Torbay Local Plan. (Report, page 45, middle)	Agree: Modify policy wording as recommended by Examiner. <u>Reason:</u> E2.3 is similar too (but not the same as) Policy C1 of Torbay Local Plan. Modification adds clarity. As modified, policy meets Basic Conditions.	Policy Modified as recommended by Examiner  <i>E2.3. "Development outside settlement boundaries will need to meet the criteria in Torbay Local Plan Policy C1.</i>

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Policy E3 Settlement Gaps (BPNP pages 41 to 42)	Support all settlement gaps shown in ellipses, except "first ellipse of 2" (Report pages 45 to 17; recommendation, page 46, middle)	Ellipses provide adequate description of the area of the settlement gap. But not agreed "first ellipse of 2" is not located within what could reasonably be considered a settlement gap (Report, page 46, middle)	Agree: Support all settlement gaps shown in ellipses and remove first ellipse of 2 (i.e., Galmpton Common, area adjacent to view receptor shown) as recommended by Examiner. <u>LPA additional modification</u> to accord with Deletion of ellipse 2 where relevant. On Policy Map and supporting text.  <u>Reason:</u> Ellipses provide adequate description of the area of the settlement gap. First ellipse of 2 (i.e., Galmpton Common area adjacent to view receptor shown) has different characteristic to other areas shown	Policy and policies map modified as recommended by Examiner  Delete first ellipse of 2 (and arrow) at Galmpton add Policy Maps Note: For Policy E3: <b>Settlement Gaps, arrows show principle viewpoints as per photographs in the Policy Document, Appendix 3. add note to Map Key relating to E3 Photos</b>  Removal of Aerial Map in Appendix 3 added E3 reference to Photographs changed introductory text  <b>The following photographs show Settlement Gaps from principle viewpoints. The photograph numbers shown correspond to the numbers on the Policy Maps"</b>
	Modify policy wording  E3.1 and E3.2 (Report, page 47, top)	As currently worded a decision maker cannot apply it consistently and with confidence and addresses development covered by other policies. For clarity and to meet Basic Conditions. (Report 45 and 46; recommendation , page 46, bottom)	Agree Modify policy wording as recommended by Examiner. <u>Reason:</u> Modification adds clarity and as modified, policy meets Basic Conditions. Incorporation of all lengthy criteria in para E3.2 of submitted plan in single sentence of modified policy is clearer.	Policy Modified as recommended by Examiner
Policy E4: Local Green Spaces  (BPNP pages 41 to 55 and	Accept all 16 Local Green Space sites, except for the LGS which covers the 1st and 18th of Churston Golf Course, including the clubhouse as identified as BPNPH2 in the Torbay Local Plan.	Most of the Local Green Spaces do meet all of the tests set out in paragraphs 76/77 of the National Planning Policy Framework (2012)	Agree/Disagree: Modify the boundary of the Churston Golf Course LGS (E5-13)  <u>Additional LPA modification 1)</u>	Policy (and Policies Map) partly modified as recommended by Examiner.  Area of club house and car park are excluded from the Local Green Space designation on Policy Map.

<b>Submitted Plan Reference</b> (Policy / supporting text paragraph)	<b>Examiner's Recommended Modification</b> (Note: only summarised below, see Examiner's report for more information)	<b>Examiner's Reason(s)</b> (Note: only summarised below, see Examiner's report for more information)	<b>Council Decision and Reason</b> (Required action to take in respect of Examiner's recommended modification and reason)	<b>Outcome to Submitted Plan</b> (Note: only summarised below, all outcomes are incorporated in full into the post examination plan with modifications in Appendix 3)
Galmpton-Brockenbury Policies Map)	(Report pages 47 to 49, recommendation page 49, middle, 4th para)	<p>Concerns relating to the proposed boundary of the proposed Churston Golf Course LGS and conclusions on the housing policies and their ability to deliver the level of housing growth identified. To overcome these and meet the basic conditions the boundary of the Churston Golf Course LGS (E5-13) should be modified to exclude the area which covers the 1<sup>st</sup> and 18<sup>th</sup> hole of Churston Golf Course, including the existing club house.</p> <p>(Report, page 49, middle, 4th para and page 48, bottom, final para).</p>	<p>Modify boundary to exclude only the club house and car park area, maintaining the 1<sup>st</sup> and 18<sup>th</sup> holes.</p> <p><u>Additional LPA modification 2)</u></p> <p>Modify second sentence of Policy: <i>"Having regard to the NPPF, these Local Greenspace Designations are considered to be capable of enduring beyond the end of the Plan period."</i></p> <p><u>Reason:</u> The LPA considers the Examiner has correctly applied the tests in para 76 and 77 NPPF (2012) and that the area of concern meets the tests of para 77 but not 76 because it would constrain local planning of sustainable development.</p> <p>As modified it provides for some flexibility in the future, beyond the end of the plan period which would not otherwise have been explicitly possible, to consider the site through the plan making process as part of the local planning of sustainable development.</p> <p>For the avoidance of doubt the removed part of the site is not</p>	<p>Modify second sentence of Policy <b><i>Having regard to the NPPF, these Local Greenspace Designations are considered to be capable of enduring beyond the end of the Plan period.</i></b></p>



Submitted Plan Reference (Policy / supporting text paragraph)	Examiner's Recommended Modification (Note: only summarised below, see Examiner's report for more information)	Examiner's Reason(s) (Note: only summarised below, see Examiner's report for more information)	Council Decision and Reason (Required action to take in respect of Examiner's recommended modification and reason)	Outcome to Submitted Plan (Note: only summarised below, all outcomes are incorporated in full into the post examination plan with modifications in Appendix 3)
			<p>allocated for housing development.</p> <p><u>Reason:</u> The LPA considers this Sentence does not correctly reflect para 76 NPPF (2012) 99 NPPF (2018)</p>	
<p>Policy E5: Public Open Spaces</p> <p>PNP page 55</p>	<p>Modify policy wording to incorporate specific criteria at NPPF para 74. in E5.1 (delete E5.2) (Report, page 50, bottom)</p>	<p>Incorporate NPPF Criteria. For clarity and to meet Basic Conditions. (Report, page 50, middle)</p>	<p>Agree: Modify policy wording as recommended by Examiner. (modify E5.1 and delete E5.2)</p> <p><u>Reason:</u> Modification adds clarity and as modified, policy meets Basic Conditions. Use of specific criteria in NPPF para 74 accords with policy intention and gives greater regard to national guidance.</p> <p><u>LPA additional modification</u> to add list of E5 open spaces to supporting text para 5.25 for clarity.</p>	<p>Policy modified as recommended by Examiner. With additional LPA supporting text modification to add list of sites to para 5.25</p> <p><i>E5.1 ....identified as Open Spaces and should not be built on unless:</i></p> <ul style="list-style-type: none"> <li>• <i>an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or</i></li> <li>• <i>the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or</i></li> <li>• <i>the development is for alternative sports and recreational provision, the needs for which clearly outweigh the loss.</i></li> </ul> <p>Add list of sites from Appendix 4.</p>

Submitted Plan Reference (Policy / supporting text paragraph)	Examiner's Recommended Modification (Note: only summarised below, see Examiner's report for more information)	Examiner's Reason(s) (Note: only summarised below, see Examiner's report for more information)	Council Decision and Reason (Required action to take in respect of Examiner's recommended modification and reason)	Outcome to Submitted Plan (Note: only summarised below, all outcomes are incorporated in full into the post examination plan with modifications in Appendix 3)
Policy E6: Views and vistas  (BPNP pages 56 to 57)	Modify policy wording.  (Report, page 51, middle)	For clarity and to meet Basic Conditions. (Report, page 51, middle)	Agree: Modify policy wording  <u>LPA additional modification</u> to further modify final sentence of policy.  <u>Reason:</u> Modification adds clarity and as modified, policy meets Basic Conditions. Modifications correctly focus policy on planning outcome not planning application documents using text from Torbay Local Plan Policy SS8.	Policy modified as recommended by Examiner with additional LPA modification.  ...Proposals for developments which affect these views and vistas should <b>demonstrate that landscapes are safeguarded with their importance and</b> be accompanied by...
Policy E7: Protecting semi-natural and other landscape features (BPNP pages 57 to 59)	Modify policy wording. Delete first sentence of Policy.  (Report pages 51 to 52; recommendation, page 52, top)	For clarity and to meet Basic Conditions. (Report, page 52, top)	Agree: Modify policy wording both as recommended by Examiner. <u>Reason:</u> Modification adds clarity and as modified, policy meets Basic Conditions.	Policy modified as recommended by Examiner.  Delete first sentence of Policy
Policy E8: Internationally and nationally important ecological sites (BPNP 59 to 64)	Modify policy wording at E8.1 and at E8.2. Delete E8.3 (Report, page 54, top and Section 12.2 pages 16 to 23 contextual HRA)	For clarity and to meet Basic Conditions. Existing regulatory regime. Other policies already exist and there is potential for confusion from "policy which reflects but in part paraphrases this existing policy incorrectly". (Report, page 53, bottom)	Agree: Modify policy to address issues raised  <u>LPA additional modifications</u> using different wording to that proposed by Examiner.  <u>Reason:</u> Re E8.1, it is agreed a modification to the wording of the submitted plan adds clarity. However, the wording	Policy text modified as combination of Examiner and LPA modifications.  <b><i>E8.1 Internationally important sites and species will be protected. Development affecting internationally protected sites and species will only be approved where it can be demonstrated there is no likely significant effect, either alone or in combination with other plans or projects and regard has been given to National Planning Policy Framework and conforms with policy NC1 of the Torbay Local Plan (2012-2030). Internationally</i></b>

Submitted Plan Reference (Policy / supporting text paragraph)	Examiner's Recommended Modification (Note: only summarised below, see Examiner's report for more information)	Examiner's Reason(s) (Note: only summarised below, see Examiner's report for more information)	Council Decision and Reason (Required action to take in respect of Examiner's recommended modification and reason)	Outcome to Submitted Plan (Note: only summarised below, all outcomes are incorporated in full into the post examination plan with modifications in Appendix 3)
Page 567			<p>recommended by the Examiner is not considered appropriate. ' LPA also note in E8.2 there is an error that the Conservation of Habitats and Species Regulations Habitats and Species Regulations 2017 replaced the as amended 2010 Habitats Regulations referred to in the policy. Where this factual error occurs, the LPA considers it appropriate to modify.</p> <p>Re E8.3 the submitted policy incorrectly focused on a planning methodology (i.e., submission of documents) not planning impacts and outcomes.</p> <p>E8 should reflects the policy intention, and outcome with being moved to the policy justification. As modified, policy E8 meets Basic Conditions.</p> <p><u>LPA additional Modification</u> Policy justification modified to reflect policy modifications and for accuracy and clarity in 5.37 to 5.51</p>	<p><b><i>protected sites (designations within Torbay are shown on the Local Plan Policies Map) include the following:</i></b></p> <ul style="list-style-type: none"><li><b><i>South Hams Special Area of Conservation (SAC)</i></b></li><li><b><i>Lyme Bay and Torbay Marine SAC</i></b></li></ul> <p><b><i>E8.2 Nationally important sites and species will be protected. Development on or likely to have an adverse effect on nationally important sites and species will not normally be permitted. Development proposals should have regard to the National Planning Policy Framework and be in conformity with policy NC1 of the Torbay Local Plan (2012-2030). Nationally protected sites (designations within Torbay are shown on the Local Plan Polices Map) and species include the following:</i></b></p> <ul style="list-style-type: none"><li><b><i>Sites of Special Scientific Interest (SSSI), including Berry Head to Sharkham Point and Saltern Cove;</i></b></li><li><b><i>National Nature Reserves, including Berry Head;</i></b></li><li><b><i>Torbay Marine Conservation Zone (MCZ), which includes coastal waters around Torbay from Babbacombe to Sharkham Point;</i></b></li><li><b><i>recommended Dart Estuary Marine Conservation Zone (MCZ), which includes the upper waters of the River Dart to below Dittisham; and</i></b></li><li><b><i>the Cirl Bunting and its habitat and territories.</i></b></li></ul>

Submitted Plan Reference (Policy / supporting text paragraph)	Examiner's Recommended Modification (Note: only summarised below, see Examiner's report for more information)	Examiner's Reason(s) (Note: only summarised below, see Examiner's report for more information)	Council Decision and Reason (Required action to take in respect of Examiner's recommended modification and reason)	Outcome to Submitted Plan (Note: only summarised below, all outcomes are incorporated in full into the post examination plan with modifications in Appendix 3)
				Policy justification modified to reflect policy modifications and for accuracy and clarity in 5.37 to 5.51 see Appendix 3
<b>The built environment (BE)</b>				
Policy BE1: Heritage assets and their setting (BPNP page 67 )	Modify policy wording BE1.1 and BE1.2. (Report, page 55, top)  Note: typographical error deleted policy title also	For clarity and to meet Basic Conditions, by reflecting national planning policy and guidance. (Report, page 55, top)	Agree: Agree to modify policy wording as recommended modifying BE1.1 and deleting BE1.2  LPA additional modification to correct typographical error and reinstate policy title  <u>Reason:</u> Deletion of policy title is an error by the Examiner. Remaining modifications add clarity and as modified, policy meets Basic Conditions.	Policy text modified as recommended by Examiner and corrected by LPA.  <b>BE1 <i>Heritage Assets and their setting</i></b>
<b>Transport (T)</b>				
Policy T1: Linking of new developments to travel improvements (BPNP pages 70 to71)	Modify policy wording T1.2 and T1.3 (Report, page 55, bottom)	For clarity and to meet Basic Conditions. (Report, page 55, bottom)	Agree: Modify policy wording as recommended by Examiner. <u>Reason:</u> Modification adds clarity and as modified, policy meets Basic Conditions.	Policy text modified submitted Policy as recommended by Examiner.  Policy text T1.2 and T1.3 modified.
<b>The health and wellbeing (HW) of the community</b>				
Policy HW1: Retention of current health and social care estates (BPNP75 to 76)	No comment made (Report, page 56, middle)	Policy meets Basic Conditions. (Report, page 5, para 2.4)	Agree: Retain as submitted policy.  <u>Reason:</u> As submitted, policy meets Basic Conditions.	No change made to submitted Policy as recommended by Examiner
Policy HW2: Operational space for voluntary	Modify policy wording. (Report, page 56, bottom)	<i>Examiner Comments: ...“it is not drafted with sufficient clarity that a decision maker can apply it consistently and with</i>	Agree Modify policy wording both as recommended by Examiner.	Policy text modified as recommended by Examiner.

Submitted Plan Reference (Policy / supporting text paragraph)	Examiner's Recommended Modification (Note: only summarised below, see Examiner's report for more information)	Examiner's Reason(s) (Note: only summarised below, see Examiner's report for more information)	Council Decision and Reason (Required action to take in respect of Examiner's recommended modification and reason)	Outcome to Submitted Plan (Note: only summarised below, all outcomes are incorporated in full into the post examination plan with modifications in Appendix 3)
support organisations (BPNP Page 76)		<i>confidence when determining planning applications and is in part community aspiration.</i> " .For clarity and to meet Basic Conditions. (Report, page 56, bottom)	<u>Reason:</u> Modification adds clarity and as modified, policy meets Basic Conditions.	
<b>Education and learning for all (L)</b>				
Education and learning for all (L) Introductory Text.	No comment made	N/A	LPA additional modification last sentence of introductory text 9.3.3.  <u>Reason:</u> Text goes beyond NPPF and legal requirements.	Introductory text last sentence 9.3.3. modified <i>9.3.3. education provision must be high on everybody's list of priorities. Hence there is a need for adequate provision of educational facilities for children of all ages to ensure that sufficient capacity has been provided in time for any extra demand created by new developments.</i>
Policy L1: Protection of existing educational facilities	No comment made (Report, page 57, top)	Policy meets Basic Conditions. (Report, page 5, para 2.4)	Agree: Retain as submitted policy. <u>Reason:</u> As submitted, policy meets Basic Conditions.	No change made to submitted Policy as recommended by Examiner
Policy L2: Matching educational provision to local need	No comment made (Report, page 57, middle)	Policy meets Basic Conditions. (Report, page 5, para 2.4)	Agree: Retain as submitted policy. <u>Reason:</u> As submitted, policy meets Basic Conditions.	No change made to submitted Policy as recommended by Examiner
Policy L3: Providing for 16–18 years and beyond	No comment made (Report, page 57, bottom)	Policy meets Basic Conditions. (Report, page 5, para 2.4)	Agree: Retain as submitted policy. <u>Reason:</u> As submitted, policy meets Basic Conditions.	No change made to submitted Policy as recommended by Examiner
<b>Tourism (TO)</b>				

Submitted Plan Reference (Policy / supporting text paragraph)	Examiner's Recommended Modification (Note: only summarised below, see Examiner's report for more information)	Examiner's Reason(s) (Note: only summarised below, see Examiner's report for more information)	Council Decision and Reason (Required action to take in respect of Examiner's recommended modification and reason)	Outcome to Submitted Plan (Note: only summarised below, all outcomes are incorporated in full into the post examination plan with modifications in Appendix 3)
Policy TO1: Support for tourism	Modify policy wording.  (Report, page 58)	For clarity and to meet Basic Conditions. (Report, page 58)	Agree: Modify policy wording as recommended by Examiner.  <u>LPA additional modification</u> at para TO1.3 to reflect BH9 modification in cross reference  <u>Reason:</u> Modification adds clarity. As modified, policy meets Basic Conditions.	Policy text modified as recommended by Examiner and additional LPA modification to reflect modified BH9, i.e. removing "disabled or older person"
<b>Sport and leisure (S&amp;L)</b>				
Policy S&L1: Increase available space for outdoor sport and leisure (SPNP pages 88 to 89)	No comment made (Report, page 59)	Policy meets Basic Conditions. (Report, page 5, para 2.4)	Agree: Retain as submitted policy. LPA additional modification to correct typographical error to accord with Policy title of Policy E5 <i>S&amp;L1.1 Notwithstanding areas already designated as Local Green Spaces or <b>Public</b> Open Spaces of Public Value,</i> <u>Reason:</u> As submitted, policy meets Basic Conditions.	No change made to submitted Policy as recommended by Examiner  <i>S&amp;L1.1 Notwithstanding areas already designated as Local Green Spaces or <b>Public Open Spaces,</b></i>

Submitted Plan Reference (Policy / supporting text paragraph)	Examiner's Recommended Modification (Note: only summarised below, see Examiner's report for more information)	Examiner's Reason(s) (Note: only summarised below, see Examiner's report for more information)	Council Decision and Reason (Required action to take in respect of Examiner's recommended modification and reason)	Outcome to Submitted Plan (Note: only summarised below, all outcomes are incorporated in full into the post examination plan with modifications in Appendix 3)
Policy S&L2: Sport and recreational facilities in new developments (BPNP page 89)	Modify policy wording to refer to existing 'adopted standards' and make compliance with standards a requirement. (Report, page 60, top)	For clarity and to meet Basic Conditions. (Report, page 60, top)	Agree: Modify policy wording as recommended by Examiner.  <u>LPA Additional modification</u> to modify justification to highlight what the 'adopted standards' are and where they can be found (Torbay Council Planning Contributions SPD)  <u>Reason:</u> Modification adds clarity and as modified, policy meets Basic Conditions.	Policy modified as recommended by Examiner.  Justification text modified to provide link to adopted standards in para 11.5  <b>11.7 Public open space, sports and recreational standards are set out in the Torbay Council Planning Contributions and Affordable Housing Supplementary Planning Document (2017). Wherever possible Section 106 or CIL monies will be sought through the planning process to provide high-quality equipment or resources for such purposes.</b>
<b>Art and culture (A&amp;C)</b>				
Policy A&C1: Promotion and protection for the arts and local culture  (BPNP Page 91)	Modify policy wording where arts and local culture assets are defined. (Report, page 60, bottom)	For clarity. (Report, page 60, bottom)	Agree: Modify policy wording as recommended by Examiner. <u>Reason:</u> Modification adds clarity and as modified, policy meets Basic Conditions.	Policy modified as recommended by Examiner.
General comments 13.1.2 page 25	<i>Were modification has been made to a policy the supporting text/justification should be modified accordingly.</i>	General Recommendation to update supporting text/justification where relevant.	<u>LPA additional modifications</u> For clarity, accuracy and consistency	Footer Post Examination November 2018 Note NPPF 2012 and 2018 page 2 Note Torbay Local Plan page 2 Note on Policy Document and Policy Maps page 2 Updates to Policy Maps



# **Brixham Peninsula Neighbourhood Plan Policy Document**

2012–2030

Protecting the Green and the Marine – Ensuring the Future



## List of Documents

The Brixham Peninsula Neighbourhood Plan comprises the following 10 documents:

1. Policy Document
2. Policy Maps
3. Housing Site Assessment
4. Employment Site Assessment
5. Greenspace Site Assessment
6. Broadsands Village Design Statement
7. Churston Village Design Statement
8. Galmpton Village Design Statement
9. Brixham Town Design Statement
10. Brixham Town Centre Master Plan

In addition, there are 3 supporting documents:

- (i.) Habitat Regulation Assessment Screening prepared by AECOM
- (ii.) Strategic Environmental Assessment prepared by AECOM
- (iii.) Housing Site Assessment prepared by AECOM

Note: This Plan was prepared under the National Planning Policy Framework (NPPF) 2012; the transitional arrangement in paragraph 214 of the July 2018 NPPF apply to it. Where reference is made to the NPPF this is the 2012 document unless stated otherwise.  
Note: References to the 'Local Plan' refer to the Torbay Local Plan 2012–2030 "A Landscape for Success" as adopted in December 2015

## Thanks

This Plan has been compiled by the Working Group of the Brixham Peninsula Neighbourhood Forum, which has comprised Jackie Stockman (Chairman), Adam Billings (Vice Chairman), Will Baker, Helen Boyles, Sue Dawes, Brian Harland, Geoff Melbourne, Brian Payne, Mona Stock along with Tracey Cabache of the Torbay CDT using evidence gathered from the community during the process. The Chair and Vice Chair would like to acknowledge the huge commitment from all concerned and in particular Will Baker for his efforts pulling the documents together.

# Contents

Preface .....	5
1 Introduction and the rationale for our Holistic approach .....	7
2 New jobs and new homes for the Brixham Peninsula.....	10
3 Employment policies to create jobs (J) .....	12
3.1 <i>Employment policies for the Brixham Peninsula as a whole .....</i>	<i>12</i>
<i>Policy J1: Employment land – proposed, retained and refurbished .....</i>	<i>12</i>
<i>Policy J2: Provision of information and communication technology.....</i>	<i>14</i>
<i>Policy J3: Local employment – training and skills .....</i>	<i>15</i>
<i>Policy J4: Local employment – increased employment and local amenity..</i>	<i>16</i>
3.2 <i>Employment policies for the Town of Brixham .....</i>	<i>17</i>
<i>Policy J5: Sustaining a vibrant harbour-side economy.....</i>	<i>17</i>
<i>Policy J6: Redevelopment of the Town Centre Car Park .....</i>	<i>18</i>
<i>Policy J7: Oxen Cove and Freshwater Quarry.....</i>	<i>19</i>
3.3 <i>Employment policies for Churston, Galmpton and Broadsands.....</i>	<i>21</i>
<i>Policy J8: Employment in Churston, Galmpton and Broadsands .....</i>	<i>21</i>
4 Housing policies (BH) .....	22
<i>Policy BH1: Affordable housing <b>site allocations</b> .....</i>	<i>22</i>
<i>Policy BH2: <b>Occupation</b> of new affordable homes .....</i>	<i>23</i>
<i>Policy BH3: Delivery of new homes.....</i>	<i>25</i>
<i>Policy BH4: <b>Housing Development -brownfield (previously developed) and greenfield (not previously developed) sites</b> .....</i>	<i>26</i>
<i>Policy BH5: Good design and the town and village Design Statements.....</i>	<i>27</i>
<i>Policy BH6: Roofscape and dormer management.....</i>	<i>30</i>
<i>Policy BH7: Sustainable construction .....</i>	<i>31</i>
<i>Policy BH8: Access to new dwellings.....</i>	<i>32</i>
<i>Policy BH9: Exception sites .....</i>	<i>33</i>
5 The natural environment (E) .....	35
<i>Policy E1: Landscape beauty and protected areas.....</i>	<i>35</i>
<i>Policy E2: Settlement boundaries .....</i>	<i>38</i>
<i>Policy E3 Settlement Gaps.....</i>	<i>40</i>
<i>Policy E4: Local Green Spaces.....</i>	<i>42</i>
<i>Policy E5: Public Open Spaces .....</i>	<i>54</i>

	<i>Policy E6: Views and vistas.....</i>	<i>55</i>
	<i>Policy E7: Protecting semi-natural and other landscape features .....</i>	<i>56</i>
	<i>Policy E8: Internationally and nationally important ecological sites .....</i>	<i>58</i>
6	The built environment (BE) .....	63
	<i>Policy BE1: Heritage assets and their setting.....</i>	<i>65</i>
7	Transport (T) .....	66
	<i>Policy T1: Linking of new developments to travel improvements .....</i>	<i>68</i>
8	The health and wellbeing (HW) of the community .....	70
	<i>Policy HW1: Retention of current health and social care estates.....</i>	<i>75</i>
	<i>Policy HW2: Operational space for voluntary support organisations .....</i>	<i>76</i>
9	Education and learning for all (L).....	77
	<i>Policy L1: Protection of existing educational facilities.....</i>	<i>79</i>
	<i>Policy L2: Matching educational provision to local need .....</i>	<i>79</i>
	<i>Policy L3: Providing for 16–18 years and beyond.....</i>	<i>81</i>
10	Tourism (TO) .....	83
	<i>Policy TO1: Support for tourism .....</i>	<i>85</i>
11	Sport and leisure (S&L).....	88
	<i>Policy S&amp;L1: Increase available space for outdoor sport and leisure .....</i>	<i>88</i>
	<i>Policy S&amp;L2: Sport and recreational facilities in new developments .....</i>	<i>89</i>
12	Art and culture (A&C) .....	91
	<i>Policy A&amp;C1: Promotion and protection for the arts and local culture .....</i>	<i>91</i>

Appendix 1: Important aspirations

Appendix 2: Priority projects to evolve from Neighbourhood Plan policies

Appendix 3: Settlement Gaps

Appendix 4: List of Public Open Spaces

## Preface

Since the Brixham Town Design Statement was published in 2010, work has continued on this Neighbourhood Plan for the whole of the Brixham Peninsula to bring a collective community approach to planning our sustainable future.

Neighbourhood Planning provides our community with the opportunity to manage development for the benefit of the community as a whole. Through our extensive consultation, we have seen the community of the Brixham Peninsula neighbourhood area - across the Town of Brixham and the villages of Churston Galmpton and Broadsands - express a desire for sensitive sustainable development which maintains our way of life and the characteristics of the neighbourhood that make it unique and special.

Our Neighbourhood Plan will be a guide for all developments that will regenerate and enhance, especially those areas that we wish to improve, whilst avoiding harm to what we value. We need to create jobs and affordable housing to ensure a more balanced community, reduce commuting, sustain our infrastructure and improve our health and wellbeing. We also have a clear duty to enhance our environment, protect our wildlife, preserve our open spaces and celebrate our heritage. We also need to ensure that developments are economically sustainable and that they will help our key industries prosper, especially fishing, tourism, agriculture and light industry.

Rather than the trend towards more second homes, our aim is to retain more of our young people so they stay living here rather than moving away for work. Young people need good jobs and decent homes, so employment and housing have been key priorities in the plan. Reducing the average age of the population and increasing levels of income will make the community more sustainable and vibrant and this plan recognises this.

Some of the good ideas generated in the formation of this plan could not be implemented through policies of a land based document. However, they are considered too significant to edit out and so are retained as aspirations (**Appendix 1**) which we hope will one day be realised. Similarly, we have

identified projects (**Appendix 2**) that could be achieved to enhance our area and create jobs. This also serves to point the way for developers to propose plans that are compatible with protecting our environment and improving the lives of all who live here. Throughout our work we have retained a strong sense of the character of our Peninsula and strived to ensure that all our development plans are sustainable and that we retain the “special” qualities and characteristics that attract residents and visitors alike.

This plan, created by the community, is for both the present and the future, our children’s future. It seeks to achieve this by what we understand to be sustainable development:

**“growth that ensures better lives for us  
don't mean worse lives for future generations ”.<sup>1</sup>**

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<sup>1</sup> This definition accords entirely with the Ministerial Foreword in the National Planning Policy Framework 2012.

# 1 Introduction and the rationale for our Holistic approach

- 1.1 Guided by frequent community engagement events, in general conformity with the Torbay Local Plan 2012–2030 “A Landscape for Success” as adopted in December 2015 following amendments to comply with the Examination Inspector’s Report of October 2015 (Local Plan), and shaped by the National Planning Policy Framework of 2012 (NPPF), this Brixham Peninsula Neighbourhood Plan (Neighbourhood Plan) has been produced by volunteers from the communities of Brixham Town, Churston, Galmpton and Broadsands.
- 1.2 By adopting a holistic approach, this plan promotes new sustainable development, whilst still protecting and enhancing our vital industries and our environment, heritage and local character. In this way, our communities can be both the governors and the beneficiaries of Neighbourhood development.
- 1.3 This has been achieved by devising policies that seek to meet our need for more homes, sustain and improve our economic progress, protect, conserve and enrich our environment and heritage, enhance our infrastructure, and improve the health and wellbeing of all who live here as well as those who visit our Peninsula.
- 1.4 A neighbourhood plan is essentially aimed at producing a realistic blueprint for planning how to achieve optimal use of the remaining land available for development. It has proved crucial that we understand the relationship between land use for homes and employment with topics such as health for all ages, sport, education, food production, heritage, art and culture all as vital factors when considering the need to preserve our green spaces, protect our ecologies, enhance our communities and retain the essential characteristics of our Peninsula.
- 1.5 During the production of this plan, the Town of Brixham and each of the three villages of Churston, Galmpton and Broadsands have produced their own Design Statements. Each Design Statement identifies specifically which design features and characteristics define the uniqueness, character and identity of each area. In this way, our communities have laid down explicit guidelines on how to ensure future development will protect and enhance the scale of local features,

fit in with dominant architecture and enhance that which inspires us to care passionately about the future of our area. Where plans include the necessary improvements to infrastructure that may be needed, presumption will be in favour of sustainable developments where proposals are being appropriately situated, designed and constrained in accordance with our Design Statements.

- 1.6 This will increase the likelihood that the needs, aspirations and optimism of our communities will be reflected in whatever developments are being proposed.
- 1.7 The value of combining the needs and aspirations of the town of Brixham with those of the three surrounding communities of Churston, Galmpton and Broadsands has proved challenging at times, but mostly it has focussed all of our attention on the nature of our Peninsula and the aspirations we all share. The fact is that we share the same constricting gateway, the difficult road junction at Windy Corner, and we know that what affects the villages affects the town and vice versa. We share many of the economic, travel, demographic and environmental issues, all of which supports the decision we made to work together.
- 1.8 In finite terms this plan seeks to address many conflicting demands and agendas over the prescribed period, 2012–2030. But throughout its development, as with the Design Statements that are not for a fixed term, we have sought to seek solutions and create new ideas that will shape the future for several generations to come. Our rationale here, guided by the NPPF definition of sustainability, means it is not merely economic development and future land use that must be sustainable, but that the welfare and wellbeing of all who inhabit the area, including our endangered species, must also be planned for in a sustainable way.
- 1.9 As stated, the essence of neighbourhood planning is about engaging communities, localities and neighbourhoods in designating space for development.
- 1.10 The primary drivers are to provide new homes and grow the economy. This has to be achieved along with community aspiration for demographic change,

economic resilience, better opportunities for its children and young people, improvements in health and wellbeing, environmental protection and, key to it all, more and better homes and opportunities for all who live and/or work here.

- 1.11 The Localism Act<sup>2</sup> provided the legal framework to inspire a sense of devolution of decision-making powers from central government to communities and individuals. When considering how this can be achieved within finite boundaries, geographic, environmental and economic, it becomes obvious that a holistic approach is needed.
- 1.12 All developments on a peninsula present particular constraints, not least that of being surrounded by the sea on three sides. Hence movement of people on and off and around the Peninsula, the limited amount of land available for housing development, opportunities for commercial and industrial development (more jobs) and population growth are all severely restricted by the lack of available space.
- 1.13 Combined with a fierce community spirit of protection (not just nimbyism!) of what it is that makes the Peninsula desirable and most appealing to visitors who inject so much into the local economy, conservation and preservation are high on the agenda for everyone.
- 1.14 Only by linking this to health and wellbeing, community vitality and the need to ensure space for better opportunities for both education, culture and play for all age groups can we assess how best to allocate the space we have left. Only in this way can we devise a plan that is genuinely sustainable.

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<sup>2</sup> The Localism Act 2011.



## **2 New jobs and new homes for the Brixham Peninsula**

### **2.1 The Local Plan states that:**

Brixham is expected to provide sufficient land to enable delivery of at least 2,700 square metres (sqm) of employment floor space and 660 new homes over the Plan period.

Such development will only be acceptable if it can be accommodated without prejudicing the integrity of the Area of Outstanding Natural Beauty (AONB) and Special Areas of Conservation, and provided that the interests of priority species, such as the Greater Horseshoe Bat and Cirl Buntings, can be safeguarded.<sup>3</sup>

### **2.2 Over the following chapters and recognising our holistic approach this Neighbourhood Plan sets out a series of policies in relation to this. Policies are denoted by the shading blue of the boxes around the text.**

### **2.3 In determining the most suitable locations for new dwellings, the local population has expressed a preference that a sequential approach should be taken with regard to preferred sites for housing development, brownfield sites being preferred in the first instance only followed by greenfield sites that have the least environmental impact. Again this is covered in our Neighbourhood Plan policies.**

### **2.4 Our green environment of the Brixham Peninsula should be protected from development to maintain our outstanding landscape. In particular, the AONB should be protected in accordance with the local planning guidance<sup>4</sup> and national policy.<sup>5</sup> The settlement gaps between our villages will be protected from development to preserve the individual village characteristics, retain settlement boundaries and retain the semi-rural nature of their surroundings. Vitally, they are often the only space left for agricultural development that ensures local production of food can continue.**

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<sup>3</sup> Adopted Torbay Local Plan 2012–2030, page 126.

<sup>4</sup> South Devon Area of Outstanding Natural Beauty Planning Guidance 2016.

<sup>5</sup> Areas of Outstanding Natural Beauty: Natural England's role (published 6 January 2015).

2.5 With regard to the type of housing, the local population has expressed a preference for:

- The delivery of more affordable units in major developments so that the young people of the Peninsula are not forced out of the area by rising house prices.
- Good design which is deemed essential to all new build. This demand is fully in accord with the NPPF where it states that: "Good design is a key aspect of sustainable development, is indivisible from planning, and should contribute positively to making places better for people".<sup>6</sup>
- An appropriate mix of housing types, family homes, bungalows and flats, in certain locations to meet the needs of the community.
- The regulation of housing colours, materials, quality of buildings, height and character.

2.6 This Neighbourhood Plan seeks to achieve this balance between the demand for growth and the requirement to retain the special characteristics of our Peninsula that define its potential and its unique status.

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<sup>6</sup> National Planning Policy Framework 2012, page 14, para56.

### 3 Employment policies to create jobs (J)

#### 3.1 Employment policies for the Brixham Peninsula as a whole

- 3.1.1 Our extensive consultation has identified a number of priority projects to for the Brixham Peninsula. These are set out at **Appendix 2** to this document. It is anticipated many of these projects will bring substantial employment benefits. To provide a framework for planning decisions on employment development proposals this section sets out a series of policies as follows.

##### **Policy J1:**

##### **Employment land – proposed, retained and refurbished**

- J1.1 **Employment development will be promoted appropriate to meet the local and strategic needs set out in the Torbay Local Plan 2012-2030 SDB1 area,** particularly that which generates permanent jobs; increases the diversity of industries across the peninsula; or promotes key industries. Development on brownfield sites in preference to greenfield sites will be promoted and supported. Application of this policy will be subject to compliance with the other policies of this Neighbourhood Plan and not prejudicing the integrity of the AONB, Special Areas of Conservation and the Undeveloped Coast.

**Table 1<sup>7</sup>: Identified employment sites.**

Site Address	Yield (sqm)
J1 – 1: Brixham Town Centre (identified site)	500
<b>J1 – 2 Oxen Cove and Freshwater Quarry (identified site)</b>	2,000
J1 – 3: Torbay Trading Estate (identified site)	200
J1 – 4: 74 New Road (committed site)	220

- J1.2 The sites listed in Table 1 below and shown on the accompanying Policy Maps (Document 2) are identified for employment development at the plan making stage in this Neighbourhood Plan. Detailed evidence will be required at the project stage as regards the compliance of any development planning application with environmental legislative requirements.

J1.3 Employment land, commercial and business premises are to be retained unless there is no reasonable prospect of the site being used for employment purposes on grounds of viability. **A lack of viability is to be established by clear evidence from an active marketing effort that it would not be possible to achieve a lease or sale of the premises at a reasonable market rate.**

J1.4 In the event of a lack of viability being established under J1.3 above, subject to compliance with the other policies of this Neighbourhood Plan, for appropriate sites a change of use will be supported where the alternative use will contribute to the needs of the community by addressing an identified Brixham Peninsula need for

- affordable housing in accordance with the definition in the NPPF;
- purpose-built accommodation for older people (with a minimum age of 60); or
- purpose-built accommodation for the disabled.

Where the proposed loss of employment space is agreed contributions will be sought to mitigate the loss of employment in accordance with the tests set out in the CIL Regulations.

<sup>7</sup>Policy J1 Footnote: Table 1

'Identified' J1 employment sites: These are not allocated sites and do not have policy weight but recognise a potential development site for consideration through the development management process primarily for employment investment subject to other policies in the Development Plan. Committed J1 employment sites: Have extant planning permission. If this planning permission expires, any proposal will be considered on the basis of the Development Plan unless material considerations indicate otherwise. A site's planning history is likely to be a material consideration.

### Justification for Policy J1

3.1.2 Local Plan Policy SDB1 expects that the Brixham Peninsula will provide sufficient land to enable delivery of 2,700 sqm of employment floor-space over the 18-year period from 2012 to 2030. In response, this Neighbourhood Plan has found sufficient land to enable the delivery of 2,920 sqm of employment floor-space.<sup>8</sup> This is set out in more detail in the Employment Site Assessment (Document 4), which informs Policy J1.

<sup>8</sup>See Table 3 of the Employment Site Assessment (Document 4).

- 3.1.3 Much of the present employment space in the Brixham Peninsula is old and in need of upgrading and refurbishment. However, by retaining what space we have and adding new, income will be generated and the economy can grow.
- 3.1.4 The Brixham Peninsula has sufficient space for new employment areas without building on the land which separates our settlements, ensuring the retention of the rural character and agricultural activity which makes the southern end of the Bay unique.
- 3.1.5 Equally, this can also be achieved whilst protecting the habitats of our protected wildlife and rare flora and fauna.

**Policy J2:**

**Provision of information and communication technology**

All proposals for new employment and residential development should be designed to be connected to high-quality communications infrastructure to ensure that fibre optic or other cabling does not need to be retro-fitted. If not possible then evidence to show that development cannot be directly connected to high-quality communications infrastructure due to viability or technical reasons must be provided.

**Justification for Policy J2**

- 3.1.6 Quality digital communication infrastructure is an essential tool for modern businesses including home-working. The peripheral and rural nature of the Peninsula adds weight to the need to provide super-fast broadband or subsequent technologies as a requirement for all major development proposals and a priority requirement in any new or refurbished employment space.
- 3.1.7 The position of the Peninsula within the UK and its valley setting has for some time meant that new communication methods and coverage have been slow to arrive. For any business to be able to compete in their own markets these systems are imperative. The latest communications infrastructures for our businesses are essential to attract, equally, new employers and start-up businesses to the area.

**Policy J3:****Local employment – training and skills**

Subject to compliance with the other policies of this Neighbourhood Plan, applications for development proposals that include any or all of the following will be welcomed:

- Raise skills levels and increase employability.
- Link with local educational/training facilities, including South Devon College.
- Tackle skills shortages in existing and potential business sector clusters that are, or have the potential to be, strengths in the local economy.
- Address barriers to employment for economically inactive people, and
- Provide for the development of childcare facilities within or in close proximity to employment sites.

**Justification for Policy J3**

- 3.1.8 Creating opportunities for apprenticeships, training and future job opportunities in our key industries, fishing and related marine industry, agriculture and tourism, are essential to the reduction in unemployment as well as the re-balancing of our community. To continue to draw tourists to the area, our heritage must be protected and promoted. This Neighbourhood Plan supports traditional marine employment, agriculture and a wide mix of skills training including hospitality training for the tourism industry. The provision of skilled jobs and apprenticeships is crucial to our economic development. This policy aims to increase the breadth of training opportunities so that local crafts, traditional industries as well as high-quality skill development in the building trade, hospitality, local produce and healthcare industries will all flourish.
- 3.1.9 It is recognised that many of the jobs in the tourist industry in particular are seasonal, minimum waged and part-time. However, much of the drain of people

away from the area for better job opportunities can be stemmed by investing in these areas. Diversification in all these employment training areas, including that in our high-tech industries, is needed in order to create better opportunities, especially for our young people.

- 3.1.10 It will also reduce the need for outward commuting if promoted in tandem with our policies for new housing.

**Policy J4:**

**Local employment – increased employment and local amenity**

- J4.1 Subject to compliance with the other policies of this Neighbourhood Plan, new start-up businesses or incubation units will be supported within the defined settlement boundaries and home-based jobs, web-based commerce, live/work units and work hubs providing/facilitating an increase in employment will be particularly welcomed.
- J4.2 Development will not be allowed which generates unacceptable noise, air pollution, levels of traffic or where the residential amenity of the area will be adversely affected.
- J4.3 Where a new employment development has 10 or more workers, travel planning is strongly encouraged to ensure that staff travel is made sustainable (e.g. via car share, public transport, bicycle, use of park and ride and walking).

**Justification for Policy J4**

- 3.1.11 As stated elsewhere in the Plan, the transport infrastructure within the Peninsula is poor in relation to other areas. The roads are narrow and limited and traffic volume is high, especially during the tourist season. Whilst we seek to increase local employment we do not wish to see an unmanageable increase in traffic volumes or higher demand for the already limited parking places, on-street and in the local car parks.
- 3.1.12 There is a strong desire to see residents living and working within the Peninsula and this policy will enhance the strategic aims of Local Plan Policies SS4

(The economy and employment) and SS5 (Employment space) by promoting local industry in this way. Home-working and live/work units will become commonplace rather than scarce.

### 3.2 Employment policies for the Town of Brixham

#### **Policy J5:**

#### **Sustaining a vibrant harbour-side economy**

- J5.1 Brixham Harbour shall be maintained and further developed as a working harbour, to support the harbour-based economy and harbour-side businesses, and to safeguard the town's heritage and image.
- J5.2 Subject to compliance with the other policies of this Neighbourhood Plan, support will be given to applications for a range of fishing and marine-related developments, including shellfish processing on the Harbour Estate that would benefit the fishing industry and harbour-side economy while paying due regard to resident and visitor amenity. Developments around the harbour **should be in conformity** with Local Plan **Policies T01 (Tourism, events and culture)**, TO3 (Marine economy) and DE3 (Development amenity), and will address Local Plan Policies SS6 (Strategic Transport Improvements) and SS6.6 (Ferry Transport Links) but will not rely on the construction of a Northern Arm Breakwater as a prerequisite to new developments. They will also observe where relevant the requirements of Neighbourhood Plan Policy BE1 in respect of Heritage assets and any requirements relating to **preservation** or enhancement of the Brixham Town Conservation Area in the development plan.

#### **Justification for Policy J5.**

- 3.2.1 As stated above, the working harbour is a major industry in the town and as such, along with the town's heritage, character and beauty, is a draw for tourism, the other major industry. Without investing in these valuable assets the town and surrounding areas would markedly decline economically.



- 3.2.2 All of the current industrial areas throughout the town, with the exception of the Harbour, are surrounded by residential developments. It has been an ongoing concern for the residents local to these industrial areas that fish processing should be kept away from their homes due to smells and associated problems.

The processing of shellfish which requires sea water processing should be restricted to the Harbour Estate area alone within Brixham. Any associated environmental controls can be monitored more effectively by the industry and Environment Agency. **The Policy area is shown on the Policy Maps Document 2.**

#### **Policy J6:**

##### **Brixham Town Centre**

A full planning brief/master plan, proportionate in breadth and detail to the size and complexity of any development proposal, should be undertaken for any development of the identified Brixham Town Centre site (see reference J1 – 1 in Table 1 above and the Policy Maps (Document 2)). This planning brief/master plan should ideally be made public at the earliest possible, hence pre-application or preliminary consultation, stage. This document should detail how heritage assets and the designated conservation area are to be safeguarded and how the local character and the town's attractiveness as a major tourist destination is to be maintained. Access, connectivity, transport issues and design characteristics should also be addressed.

#### **Justification of Policy J6**

- 3.2.3 For many years the car park which has occupied a prominent position of Brixham Town Centre has been underutilised and unsightly. Various plans have been suggested and failed, having been found not to be viable on either financial or design grounds.
- 3.2.4 This land (an area of 500 sqm) has now been identified for employment development. See Table 3 contained in the Employment Site Assessment, Document 4. The development is to include a mix of retail premises, a hotel, affordable housing (see also Policy Bh3-I1 for 25 units), multi-level car parking, a transport hub and a town square.

- 3.2.5 The development will enhance the character and heritage of the town, improve the connectivity of the shopping areas, provide new transport facilities and could provide new employment opportunities. Much needed affordable housing will be included.
- 3.2.6 The Town Centre Master Plan sets out how a mixed-use development can address the current issues of poor transport arrangements, aesthetics and connectivity problems of the two main shopping streets. It will include space for new employment, housing and a town square.

For more detailed policies, specific reference should be made to the Town Centre Policies contained in this Plan.

#### **Policy J7:**

##### **Oxen Cove and Freshwater Quarry**

- J7.1 A full planning brief/master plan, proportionate in breadth and detail to the size and complexity of any development proposal, should be undertaken for any development of the identified Oxen Cove and Freshwater Quarry site (see reference J1 – 2 in Table 1 above and the Policy Maps (Document 2)). This planning brief/master plan should ideally be made public at the earliest possible, hence pre-application or preliminary consultation, stage. This document should detail how heritage assets and environmental assets are to be safeguarded and how the local character and the town's attractiveness as a tourist destination is to be maintained. Access and transport issues will be expected to be addressed in any initial development proposal and should include the potential short re-alignment route of the South Devon Coastal Path.
- J7.2 Design and development options should be informed by the Port Master Plan and the Brixham Town Centre Master Plan and have regard to resident and tourist amenity issues. Appropriate Ecology surveys will need to be undertaken at the project stage for any planning application as set out in the HRA to this Neighbourhood Plan.

### **Justification of Policy J7**

- 3.2.7 An area of 2,000 sqm has been identified for employment at Oxen Cove, (see Policy J1 and footnote defining 'identified' status) primarily marine related, to support the working harbour and town's regeneration. The area could provide enough space for new marine engineering and boat repair facilities and boat storage, and enable shellfish processing on the Harbour Estate.
- 3.2.8 The land at Freshwater Quarry could also provide a multi-level car park; some surface level parking is to be made available for high-sided vehicles, coaches, cars with boat trailers etc., together with some residential. Sufficient space will be allowed for a new slipway for public use and associated public facilities along with access to the Northern Arm breakwater, when finance is available for its construction.
- 3.2.9 Currently there is a lack of boat repair and maintenance facilities in Brixham harbour, or for that matter anywhere else in the Bay. Combined with very limited space for cold storage, this means that both the fishing fleet and yachtsmen are forced to go elsewhere at considerable expense to all boat users. Developing the Oxen Cove area in this way will provide local employment and increase the local economy.
- 3.2.10 Proposals will be subject to any environmental constraints. More specific information and drawings are included in the Town Centre Master Plan (Document 10) and the Tor Bay Harbour Port Master Plan.
- 3.2.11 The land at Freshwater Quarry and Oxen Cove is also allocated for residential development in Policy BH3-I6

### 3.3 Employment policies for Churston, Galmpton and Broadsands

#### **Policy J8:**

#### **Employment in Churston, Galmpton and Broadsands**

- J8.1 New employment development within the Settlement Boundaries (Policy E2) of the three villages should respect the sensitive countryside and coastal setting of the Peninsula, and the character assessment and design guidance in the Village Design Statement (Policy BH5). Employment proposals should relate to the scale and nature of the existing communities and villages of Churston, Galmpton and Broadsands.
- J8.2 Subject to compliance with the other policies of this Neighbourhood Plan, small-scale (defined as set out at Table 21 in Local Plan Policy SDB3 for Brixham Urban Fringe), sensitively designed proposals which provide local employment opportunities appropriate to the countryside and the rural economy (such as rural crafts, farming, heritage, marine, tourism, outdoor leisure and recreation) will be supported. There should be no adverse impact on the character of the village or amenity of residents. Any traffic generated should not adversely impact on the villages, either through impacts on their tranquillity and rural character, their environment or through impacts on the narrow lanes including the safety of all road users.

#### **Justification for Policy J8**

- 3.3.1 The villages are set in rural surroundings with a green area of separation keeping their identities distinct. They have minor and narrow roads and traffic through them is by necessity slow. They are principally residential with employment land minimal. Although increase in employment within the village envelopes will be welcome subject to meeting conservation requirements and policy requirements, there is a strong local demand that it does not impact adversely on the community life, environment and the special areas of conservation.

## 4 Housing policies (BH)

### Policy BH1:

#### Affordable housing **site allocations**

- BH1.1 Affordable homes will be provided in new developments as a proportion of new open market homes in line with the ratios set out in Local Plan Policy H2. Provision of affordable homes is preferred on-site and integrated into the new development. However, where the calculated provision requires provision of part of a house, that partial provision is to be provided by payment of a commuted sum to fund the provision of affordable housing within the Brixham Peninsula defined neighbourhood area.
- BH1.2 **An off-site contribution will be considered where it would result in a larger number of affordable houses being delivered than through on-site provision** but only if it is directly allocated to the physical provision of affordable homes within the Brixham Peninsula defined neighbourhood area.
- BH1.3 Where a commuted sum has not been used to fund the physical provision of affordable housing within the Brixham Peninsula defined neighbourhood area by the 3rd anniversary of its payment date, that sum will be released to fund the physical provision of affordable housing across the wider area served by the Local Planning Authority. Where a commuted sum has not been used to fund the physical provision of affordable housing within the wider area served by the Local Planning Authority by the 5th anniversary of its payment date, that sum will be released back to the developer.

### Justification for Policy BH1

- 4.1 Torbay has an ageing population where 31% are aged over 60, whereas the Brixham Peninsula has an even higher average of 42% over 60.<sup>10</sup> Between the census points 2001 and 2011, the Peninsula population fell by 3.4% or 821

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<sup>10</sup>South Devon and Torbay Knowledge and Intelligence Joint Strategic Needs Assessment, 2014

people (Office for National Statistics, figures for Furzeham and Berry Head, St Mary's and Summercombe, Churston and Galmpton wards). <sup>11</sup>

- 4.2 Whilst some of this will be attributable to deaths, migration rates are the largest cause for this decline, especially in young people who find it impossible to obtain affordable housing anywhere on the Brixham Peninsula and therefore have to leave to find a home elsewhere.
- 4.3 To reverse this trend and to try and make the population of the Peninsula more balanced with regard to age and hence more vibrant, the amount of affordable housing should be significantly increased. Whilst opportunities to create jobs are on the horizon, the average local salary is unlikely to enable our working populace to afford average house prices, so accommodating our workforce in affordable homes is our highest priority.

#### **Policy BH2:**

##### **Occupation of new affordable homes**

BH2.1 **New affordable homes** in the Peninsula shall only be occupied by persons (and their dependants) whose housing needs are not met by the market and:

- who have had a minimum period of 5 years in the last 10 years of permanent and continuous residence in the Peninsula and are currently living in the Peninsula; or
- who have lived in the Peninsula for at least 5 years and whose parents or children are currently living here and have at least 10 years continuous residency; or
- who are a key worker as defined by the UK Government and are working within the Peninsula.

<sup>11</sup> [www.ons.gov.uk/peoplepopulationandcommunity](http://www.ons.gov.uk/peoplepopulationandcommunity).

BH2.2 Where persons cannot be found to meet these criteria, affordable housing may be occupied by people and their dependants **identified on the Torbay Housing Waiting List**.

These occupancy requirements shall apply in perpetuity, and be the subject of a legal agreement negotiated during the planning process on any development of affordable housing.

### **Justification for Policy BH2**

- 4.4 Average earnings across South Devon and Torbay are considerably lower than the average across England.<sup>13</sup> Torbay's Housing Strategy 2015–2020 states that, "[Torbay's] Housing and Health Needs assessment evidences the un-affordability of housing to many. It costs over 7 times the average Torbay salary to buy the average Torbay home. There is a higher proportion of households living in the private rented sector (23% compared to 17% across England) and a lower proportion of social housing."<sup>14</sup> Other Council documents have cited a higher figure of 11 times average earnings.<sup>15</sup>
- 4.5 It is considered essential to seek ways to strengthen our community which in recent years has become increasingly unbalanced in its age distribution. We must provide more affordable housing for our essential workforce, young families, those who have family roots here and those low-paid workers on whom our tourist, health, agriculture and fishing industries are so dependent.
- 4.6 There is a need for a significant part of any affordable housing to be restricted to local people to maintain a strong community and assist the retention of local young people and families. This need also arises because many traditional industries are not high wage industries, but it is necessary to retain in the local area people who have the skills to work in these industries. Hence in the absence of an allocation policy, it is considered there could be both a social and an economic impact.

<sup>13</sup> 2014/15 South Devon and Torbay Joint Strategic Needs Assessment (JSNA), Living and working well, [www.southdevonandtorbay.info](http://www.southdevonandtorbay.info), page 43.

<sup>14</sup> For the full report data, see <http://www.torbay.gov.uk/media/6757/housing-and-hna.pdf>

<sup>15</sup> The Housing Evidence Study for the Local Plan, 2012.

**Policy BH3:****Delivery of new homes**

The sites listed in Table 2 below and shown in the Policy Maps (Document 2) are allocated for **residential** development in this Neighbourhood Plan. **Proposals will need to demonstrate there is no likely significant effect, either alone or in combination with other plans or projects on the integrity of European sites; appropriate ecology surveys will need to be undertaken at the project stage for any planning application where the Plan's accompanying HRA has indicated this is necessary.**

	Neighbourhood Plan Reference	Site Name	Homes
<b>Committed Sites</b>			
<b>Brixham Town</b>			
	H3 – C1	Wall Park Holiday Camp	173
	H3 – C2	Sharkham Village	31
	H3 – C3	Fishcombe	30
	H3 – C4	Kings Drive	22
	H3 – C5	Douglas Avenue	12
	H3 – C6	Bakers Hill	6
<b>Churston, Galmpton and Broadsands</b>			
	H3 – C7	Churston Court Barns	9
	H3 – C8	Gliddon Ford	9
	H3 – C9	5 Broadsands Road	8
	H3 – C10	Broadsands House	6
<b>Total</b>			<b>306</b>
<b>Windfall Sites</b>			<b>234</b>
<b>Allocated Sites</b>			
<b>Brixham Town</b>			
	H3 – I1	Brixham Town Centre	25
	H3 – I2	St Mary's/Old Dairy	25
	H3 – I3	St Kilda <sup>17</sup>	12
	H3 – I4	Northcliffe Hotel	15
	H3 – I5	Torbay Trading Estate	15
	H3 – I6	Oxen Cove and Freshwater Quarry	10
	H3 – I7	Brixham Police Station	7
	H3 – I8	Former Jewson <sup>18</sup>	20
	H3 – I9	Castor Road	10
<b>Churston, Galmpton and Broadsands</b>			
	<b>H3 – I10</b>	<b>Knapman's Yard</b>	<b>6</b>
<b>Total</b>			<b>145</b>
<b>Total Sites</b>			<b>685</b>



<sup>16</sup> Note Table 2 :

'Identified' BH3 housing sites: These sites have been identified by the Forum (Brixham Town Council) and are allocated housing sites.

Committed housing sites: These sites have extant planning permission. If this planning permission expires, any proposal will be considered on the basis of the Development Plan unless material considerations indicate otherwise. A site's planning history is likely to be a material consideration. Windfall Sites" are sites which are usually not identified or allocated within the development plan but that are still required to be considered on the basis of the Development Plan unless material considerations indicate otherwise. The figure in table 2 refers specifically to windfall sites of 5 or fewer new dwellings.

<sup>17</sup> Note: Allocated for assisted living (not open market) housing in accordance with Policy HW1.

<sup>18</sup> Note: Allocated for affordable (not open market) housing in accordance with Policy J1 at para J1.2.

### Justification for Policy BH3

- 4.7 The Brixham Neighbourhood Plan supports housing growth appropriate to meet local needs and the strategic needs set out in the Torbay Local Plan 2012-2030, Policy SDB1, including affordable housing. Local Plan Policy SDB1 expects that the Brixham Peninsula will provide sufficient land to enable delivery of 660 new homes over the 18-year period from 2012 to 2030. In response, this Neighbourhood Plan has found sufficient land to enable the delivery of 685 new homes.<sup>19</sup> This is set out in more detail in the Housing Site Assessment (Document 3), which informs Policy BH3.
- 4.8 At a more detailed level, the Local Plan states that 234 windfall sites can be relied on to come forward. At time of writing, there are 316 existing committed sites.<sup>20</sup> Consequently, it has been interpreted that the Local Plan expects the Neighbourhood Plan to allocate sites for at least 123 new homes. In response, this Neighbourhood Plan has allocated sites for 145 new homes.
- 4.9 Policy BH9 (Exception Sites) is intended to deliver affordable (including older person, and disabled person) housing on sites that otherwise could not come forward. In the Regulation 14 consultation a proposal was brought to attention which it appears could delivery on a policy compliant basis 20 homes, or more subject to community consultation. Accordingly, through Policy BH9 it is expected that more homes than set out above will come forward.

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<sup>19</sup> See Table 1 of the Housing Site Assessment (Document 3).

<sup>20</sup> These are sites where there are planning permissions in place which are considered "deliverable" in accordance with the definition at note 11 to paragraph 47 of the NPPF

**Policy BH4:****Housing Development -brownfield (previously developed) and greenfield (not previously developed) sites**

- BH4.1 Subject to compliance with the other policies of this Neighbourhood Plan, **residential** development on brownfield (or previously developed) sites in preference to greenfield sites will be encouraged and supported.
- BH4.2 Brownfield sites within the defined Settlement Boundaries (Policy E2) are the preferred locations for development.
- BH4.3 Development that extends settlements on to adjoining greenfield **sites will be considered in the context of Torbay Local Plan Policy C1 and Exception Site development that may meet Local Need through local affordable housing (including self- build) provision (BH9) .**

**Justification for Policy BH4**

- 4.10 A sequential approach to development should be taken, with brownfield sites being developed in preference to the use of greenfield sites. This approach should apply to all development types, not just housing development, and is supported by the Core Principles of the NPPF.<sup>21</sup>

**Policy BH5:****Good design and the town and village Design Statements**

- BH5.1 All new development should demonstrate good quality design and respect the character and appearance of the surrounding area.
- BH5.2 The character and appearance of Brixham Town and the villages of Churston, Galmpton and Breadsands are set out in detail in the relevant Design Statement (Documents 6, 7, 8 and 9) which include both general and area-specific design guidelines (as denoted by the shading pink of the boxes around text), as well as photographic examples of community views on good and bad design. Design statements apply to their respective area as set out on the Policy Maps (Document 2) by a dashed brown line.

<sup>21</sup> National Planning Policy Framework 2012, para 17.

BH5.3 A central part of achieving good design is responding to and integrating with local character and landscape context as well as the built environment.

BH5.4 Planning permission will not be granted for development of poor design that fails to take opportunities available for improving local character<sup>22&23</sup> and quality of an area and the way it functions.

BH5.5 The design of new development and altered buildings or areas in the following categories should adequately take into account the safety and security of the users of the facilities and that of neighbouring residents:

- Major housing schemes of 10 or more homes
- Major commercial office, industrial, retail or leisure schemes
- New neighbourhood or district community facilities
- Shop Front improvements
- Proposals which include significant areas of open space/landscaping as part of a development, including linkage footpaths
- Proposals incorporating significant off street car parking provisions
- Improvements such as cycle lanes and new or improved footpaths
- All developments involving Class A3, A4 and A5 food and drink uses
- new or redeveloped schools/education premises Where intended occupants are particularly vulnerable and require
- higher standards of security to ensure their personal safety e.g. care homes and drug rehabilitation centres

### **Justification of Policy BH5**

4.11 All local consultation exercises and events, carried out since initial evidence gathering for the first Brixham Town Design Statement, have identified a very strong community aspiration to do all we can to retain the local character of our neighbourhood. By linking this policy to our Design Statements we offer clear guidance to proposers of all developments, large or small, on how to assimilate

their plans and design specifications, both traditional and modern, into the existing character of our town and village settlements. New developments which are shaped and inspired by the surrounding local character are clearly favoured by our communities. Further evidence on landscape character and appearance is also set out in the Landscape Character Assessment of Torbay<sup>22</sup> and the Brixham Urban Fringe Landscape Study<sup>23</sup>..

- 4.12 “Designing out crime” has been a function of the planning process since The Crime and Disorder Act 1998 established that the responsibility of reducing crime does not fall solely on the police. That concept extends to designing out opportunities for crime, fear of crime, antisocial and unacceptable behaviour and conflict in the built environment.

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<sup>22</sup> Landscape Character Assessment of Torbay, Enderby Associates, May 2010.

<sup>23</sup> Brixham Urban Fringe Landscape Study, Enderby Associates, September 2011.

**Policy BH6:**

**Roofscape and dormer management**

**BH6.1** To protect local amenity, where planning permission is required:  
Dormers will only be approved where they:

- are modestly scaled;
- are subservient to the roofscape, by being below the ridge line and set in from the sides and eaves lines;
- are sympathetic to the original fascia and eaves and retain traditional roof features (such as chimney stacks);
- do not include inappropriate projecting roof features (such as Juliette balconies or extractor fans);
- use traditional materials and methods of fixing which are consistent with the local character of the area;
- include windows that are subordinate in size, aligned to the windows below and sympathetic to traditional fenestration in materials, form and expression; and
- do not result in a detrimental impact to neighbouring residential amenity.

**BH6.2** Design construction should reflect the traditional, intrinsic qualities of the original building.

**BH6.3** Large roof-lights or solar panels can be as visually harmful as poorly designed dormer windows. They should be carefully designed and positioned to avoid impacting on the appearance of a building, particularly where they are not a characteristic feature in the area.

### **Justification for Policy BH6**

- 4.13 Developments within the conservation zones of both town and villages are already subject to robust design constraints. However, strong support has been expressed towards ensuring that the remainder of our settlements are not subject to inappropriate design. Especially for those areas in proximity to conservation zones, or those that are viewed either from within or without the zones themselves, constraints as specified in this policy are required to ensure that widely approved local design characteristics are preserved or enhanced.
- 4.14 This policy also directs the proposer of developments that involve both the alteration/restoration of existing buildings or new builds towards the planning guidance contained in the Design Statements (documents 6, 7, 8 and 9 of the Neighbourhood Plan).

### **Policy BH7:**

#### **Sustainable construction**

New development is encouraged to, on a basis proportionate to the scale of the development, incorporate the latest in sustainable construction, adaptive technologies, eco-innovation and other measures to combat climate change and enable sustainable lifestyles. Development orientation, design and layout should minimise energy use and maximise energy efficiency.

### **Justification for Policy BH7**

- 4.15 It is estimated that poor insulation means around £1 in every £4 currently spent heating UK homes is wasted.<sup>24</sup> Our community have expressed clear frustration with the slow response of the Department of Communities and Local Government to strengthen building regulations in ways that tackle climate change. Widespread concern around the need for more sustainable methods of construction, use of sustainable building materials, solar energy, better insulation and means of conserving household energy usage in new builds has been strongly expressed. This would also assist in combating fuel poverty.

<sup>24</sup> Energy and Climate Change Strategy 2014–2019, Torbay Council, 2014.

**Policy BH8:**

**Access to new dwellings**

Access to new developments should comply with the relevant adopted standards.

**Justification for Policy BH8**

- 4.16 Un-adopted<sup>25</sup> highways are highways not maintainable at public expense, i.e. they have not been “adopted” by the Local Highways Authority. Such highways often have design or construction features which are below those which would be required by the Local Highways Authority, i.e. weaker construction, poorer drainage or reduced visibility. However, they often serve a useful purpose by adding to the character of an area by providing a means of access which is less urban than would otherwise have been the case, i.e. absence of road kerbs or loose gravel rather than asphalt surfacing.
- 4.17 These highways can present problems where new development increases the volume of traffic using them without associated improvements being undertaken to bring it up to the standard required for adoption by the Local Highways Authority (see Torbay Highways Design Guide for New Developments and Torbay Council Highways Development Control Standing Advice).

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<sup>25</sup> Parliamentary Briefing Paper, SN/BT/40218, “Roads: unadopted”, October 2010.

**Policy BH9:****Exception sites**

Subject to compliance with the other policies of this Neighbourhood Plan and in particular the Conservation of Habitats & Species Regulations 2017, proposals for rural exception housing schemes, may be permitted where the development:

- a. Addresses an identified Brixham Peninsula need for affordable housing in accordance with the definition in the NPPF and the developer has evidenced that scale of the need for that type of housing within the Brixham Peninsula area the time that Planning Permission is sought is sufficient to justify a development on a site which would otherwise not be able to be developed; and;
- b. Is subject to planning obligations and safeguards that provide legal certainty that the need will continue to be served in perpetuity; and
- c. Is adjacent to a Settlement Boundary (Policy E2) or otherwise demonstrably well related to existing residential development and amenities; and
- d. Is **not** located within a Settlement Gap (Policy E3); and
- e. does not constitute major development if within the AONB; and
- f. Is considered to be a small site;



### **Justification for Policy BH9**

- 4.18 The purpose of the exception sites policy is to enable certain forms of housing which are less profitable than full open market housing to be viably brought forward over the plan period where there is a need for that type of housing.
- 4.19 Policy BH9 (Exception Sites) is intended to deliver affordable, housing on "small" sites that otherwise could not come forward including houses for older person, and disabled persons. It is for the Local planning Authority to determine what constitutes a "small" site however a proposal for 20 homes could not be considered small. In the Regulation 14 consultation a proposal was brought to attention which it appears could deliver a rural exception site, subject to community consultation. Accordingly, through Policy BH9 it is expected that more homes than set out above will come forward.
- 4.20 However, these needs for certain forms of housing have to be balanced carefully against environmental concerns. This Policy provides a framework of where development would not be appropriate and also where it could be appropriate subject to meeting certain criteria.

## 5 The natural environment (E)

### Policy E1:

#### Landscape beauty and protected areas

- E1.1 The natural beauty, landscape character, tranquillity and biodiversity of the Brixham Peninsula, as set out in the Design Statements (Policy BH5), the Landscape Character Assessment<sup>28</sup> or the Brixham Urban Fringe Landscape Assessment<sup>29</sup> will be preserved and enhanced. New development will respect these qualities and wherever possible enhance them.
- E1.2 The internationally designated Special Area of Conservation (SAC), the nationally designated National Nature Reserve (NNR) or Area of Outstanding Natural Beauty (AONB), and the locally designated Undeveloped Coast (Local Plan Policy C2) or Countryside Area (Local Plan Policy C1) will all be protected. The English Riviera Global Geopark will be protected to ensure the retention of the area's status as an urban geopark. As a minimum, prevailing international, national and local policies will be applied.
- E1.3 Development within or impacting on the AONB must demonstrate that great weight has been given to conserving and enhancing landscape and scenic beauty and must comply with the requirements of the National Planning Policy Framework<sup>30</sup> and other statutory documents including the AONB Management Plan<sup>31,32,33</sup>.
- E1.4 Priority will be given to protecting and enhancing the countryside from inappropriate development in accordance with Policy C1 of the Torbay Local Plan.
- E1.5 Development should not harm protected landscape characteristics including dark night skies and tranquillity.

<sup>28</sup> Landscape Character Assessment of Torbay, Enderby Associates, May 2010.

<sup>29</sup> Brixham Urban Fringe Landscape Study, Enderby Associates, September 2011.

<sup>30</sup> National Planning Policy Framework 2012, paragraph 115.

<sup>31</sup> Planning for the South Devon AONB: Planning Guidance Version 1.

<sup>32</sup> **Non-statutory Report:** AONBs and Development, National Trust, September 2015.

<sup>33</sup> **Non-statutory Report:** Development in and Affecting Areas of Outstanding Natural Beauty, Green Balance for National Trust, September 2015.

## **Justification for Policy E1**

- 5.1 The national importance and uniqueness of our environmental assets are well documented.
- 5.2 The Brixham Urban Fringe Landscape Study provides sound landscape-based guidance on ways in which the Local Authority can help to conserve and enhance the various areas of land within the Peninsula which are subject to statutory environmental designations. These principles are reflected in the statutory AONB Management Plan<sup>34</sup> and underpinned by the Torbay Green Infrastructure Delivery Plan.<sup>35</sup>
- 5.3 In addition, supplementary to the AONB Management Plan, the South Devon AONB Planning Guidance currently under review provides detailed guidance for all types of development. This plan accords with the aims of this guidance as far as it goes.
- 5.4 The state of the AONB has been summarised in the Brixham Urban Fringe Landscape Study which has identified the whole of the currently undeveloped section of AONB between and including Berry Head and Sharkham Point as an area of critical environmental value which needs to be restored as well as conserved. It extols its importance as being of major conservation significance, with its designations of Special Area of Conservation (SAC) (a European designation reflecting the international importance of the site) and a National Nature Reserve, and therefore subject to a high degree of protection.<sup>36</sup>
- 5.5 The AONB is protected by both national and local policies. In particular, the NPPF asserts the principle of conserving and enhancing the natural environment in several sections.<sup>37</sup> It states that "plans should allocate land with the least environmental or amenity value, where consistent with other policies in this

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<sup>34</sup> South Devon AONB Management Plan, 2014.

<sup>35</sup> Torbay Green Infrastructure Delivery Plan, "Building a Sustainable Future for Torbay", 2011.

<sup>36</sup> Brixham Urban Fringe Landscape Study, Enderby Associates, 2011, page 12.

<sup>37</sup> National Planning Policy Framework 2012, paras 14 (footnote 9), 17, 110, 115 and 116.

Framework”<sup>38</sup> and that an AONB has “the highest status of protection in relation to landscape and scenic beauty”.<sup>39</sup>

- 5.6 The English Riviera Global Geopark stretches along the coastal area of Torbay and an important part is that from Berry Head to Sharkham Point. UNESCO Global Geoparks are single, unified geographical areas where sites and landscapes of international geological significance are managed with a holistic concept of protection, education and sustainable development. It is the only urban Geopark and was declared a Geopark in 2007.
- 5.7 Sites within the Geopark include Churston Cove/Churston Point (proposed Centre on Global-Scale, CGS), Breakwater Quarry, Brixham Cavern (proposed CGS), Berry Head to Sharkham Point (proposed CGS), Sharkham iron Mine (proposed CGS) and Shoalstone Permian-Triassic (No 1494). It is envisaged that “the Geopark will mean more people understand how the world around them came to be, and deepen their appreciation of the natural world”.<sup>40</sup>
- 5.8 Local Green Spaces are designated in this Neighbourhood Plan as they are of particular importance to the local community. All designated as such within this plan meet the criteria as laid out in the NPPF.<sup>41</sup> By designating land as Local Green Space, communities are able to rule out development other than in special circumstances.
- 5.9 The Communities of both Brixham town and the surrounding villages have all expressed strongly the view that development of any kind should only be permitted within the largely agricultural land between these settlements where it will enhance the area aesthetically. It must not have a detrimental impact. Neither can it be detrimental to the distinctive views from public vantage points, when viewed from both land and sea, within and adjacent to the built-up area. Development need not destroy the beauty of our landscape.

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<sup>38</sup> National Planning Policy Framework 2012, page 26, para 110.

<sup>39</sup> National Planning Policy Framework 2012, page 26, para 115.

<sup>40</sup> Professor Malcolm Hart, Plymouth University, [news.bbc.co.uk/local/devon/hi/people\\_and\\_places/history](http://news.bbc.co.uk/local/devon/hi/people_and_places/history), 2010.

<sup>41</sup> National Planning Policy Framework 2012, page 18, paras 76 and 77.

**Policy E2:**

**Settlement boundaries**

- E2.1 Settlement boundaries are defined by this Neighbourhood Plan for the respective settlements of the Town of Brixham and the three villages of Churston, Galmpton and Broadsands. These boundaries are shown in the Policy Maps (Document 2).
- E2.2 Subject to compliance with the other policies of this Neighbourhood Plan, proposals for sustainable developments within settlement boundaries will be supported where developments demonstrate good design and follow the guidance in the relevant Design Statement (Policy BH5).
- E2.3 **Development** outside settlement boundaries will **need to meet the criteria in Torbay Local Plan Policy C1.**

**Justification of Policy E2**

- 5.10 **Policy E2 is a development of the “village envelope” concept proposed by the Local Plan. This Neighbourhood Plan policy hence provides supporting detail to a Local Plan policy C1.**
- 5.11 Settlement boundaries are just that; they are boundaries around built development which has formed settlements and inform planning policy. They are not boundaries around named areas, albeit in places they equate to the same thing. Settlement Boundaries are shown in the Policy Maps (Document 2) by a solid red line. Area boundaries for the Town of Brixham and the Villages of Churston, Galmpton and Broadsands are shown in the Policy Maps (Document 2) by a dashed brown line.
- 5.12 In this Neighbourhood Plan, across the Brixham Peninsula residential dwellings and curtilage are included within settlement boundaries unless curtilage includes land that is larger than the average size of rear garden for the local area of that settlement such as land which is better described as paddock rather than garden. Also excluded are Local Green Spaces, Public Open Spaces

and playing fields. All current planning permissions, and committed and allocated sites are situated within these settlement boundaries.

- 5.13 **Brixham Town** comprises a single settlement. The boundary is primarily defined by the coastline and the countryside area and it should be noted that the greater majority of the countryside area surrounding the town lies within the South Devon AONB. Newly committed developments of significant size that previously could have been considered to lie outside a settlement boundary for Brixham have been included within the boundary and these include the development at Fishcombe and the residential part of the developments at Wall Park Holiday Camp and Sharkham Village.
- 5.14 Some areas of important green space have been designated to lie outside of the settlement boundary where they would have formed the edge of that boundary. These are: Battery Gardens (Local Green Space), Wishings Field (Village Green), the allotments, adjoining Brixham AFC's football ground, and another field (SHLAA 13233) at Wall Park, Ash Hole Woods and Shoalstone (Local Green Spaces).
- 5.15 A small part of Brixham town (notably the North Boundary Road area) included within the settlement boundary is actually situated within the AONB. This shows how historically the existing urban sprawl has infringed upon the AONB.
- 5.16 **Churston**, comprises several distinct settlements separated by open space and open countryside which is an intrinsic part of the character of the area and part of what makes the area special. A settlement boundary which included this space and open countryside would be misleading when compared to the way the area is understood by the local community. Accordingly, the village of Churston includes the four distinct settlements:
- ☐ A settlement which relates to the old village of Churston along Churston Road including Ferrers Green;
  - ☐ A settlement along Bascombe Road and Bascombe Close;
  - ☐ A settlement around Green Lane and Links Close; and
  - ☐ A settlement around Warborough Road and Brakeridge Close.
- 5.17 In addition, Churston Station is in the village of Churston as are certain houses to the north east of Churston Golf Course. These are included within

settlements which predominantly form the villages of Galmpton and Broadsands as set out below.

5.18 **Galmpton**, in contrast to Churston, is formed by single settlement. This contrast between the two adjacent villages adds to local character and distinctiveness. The settlement boundary of Galmpton is defined in large part, to the north and the east, by Warborough Common (E4 – 15) and the main Dartmouth Road.

5.19 **Broadsands** is also formed by a single settlement. The boundary is defined on the landward side by the Dartmouth Road and on the seaward side by the edge of the existing built development. This ensures further encroachment of the narrow undeveloped coastal strip does not occur but rather development is continued within the settlement in a sustainable way.

### **Policy E3:**

#### **Settlement gaps**

E3.1 Settlement gaps have been defined between Paignton, Galmpton, Churston and Brixham. They are shown at **Appendix 3** and on the Policy Maps (Document 2). Countryside around Brixham is largely AONB (Policy E1 at para E1.3). Settlement Gaps relate to areas outside of the AONB where the countryside which forms the “gap” is Undeveloped Coast (Local Plan Policy C2) or Countryside Area (Local Plan Policy C1).

E3.2 Within the settlement gaps **development proposals must meet the criteria set out in Policy C1 of the Torbay Local Plan. No development** that visually and or actually closes the gaps between these urban areas will be **supported**.

### **Justification for Policy E3**

5.20 The main urban area of Paignton is separated from the urban area of the Town of Brixham by a band of “rolling Devon farmland” which forms part of the Countryside Zone in the Torbay Local Plan and which stretches from the coast to the river Dart.

- 5.21 Within this area, settlements which comprise the villages of Churston and Galmpton are separated from the urban areas of Paignton and Brixham respectively by countryside comprising both agricultural land and other green infrastructure.
- 5.22 Discrete patches of built development within those settlements are then further separated from each other by further narrow strips of countryside.
- 5.23 These separating countryside strips, or “settlement gaps”, provide:
- an open characteristic to the area which draws in views of distant landscapes;
  - separation which prevents coalescence and the merging of settlements; or
  - corridors which physically connect to and interact with the wider countryside.
- 5.24 Settlement gaps are highly sensitive to change and must be retained as valued open countryside. They are essential in retaining local character, preserving the discrete identity of the individual villages in this tourist location.



## **Policy E4:**

### **Local Green Spaces**

The sites set out in Table 3 below and shown in the Policy Maps (Document 2) and the Greenspace Site Assessment (Document 5) are designated Local Green Spaces (LGS), as defined in the NPPF.<sup>42</sup>

Having regard to the NPPF, these Local Greenspace Designations are considered to be capable of enduring beyond the end of the Plan period.

Development within a LGS will only be permitted in “very special circumstances”<sup>43</sup> and would require robust justification on grounds of specific benefit to the community. For example, where the proposal would enhance recreational, sport or leisure facilities and provided it met stringent design and environmental requirements it might be viewed favourably.

Some land designated as Local Green Space is already protected by higher level international and national protection, for example, the Berry Head Special Area of Conservation (SAC). This policy provides additional protection for such areas; it does not dilute existing protection.

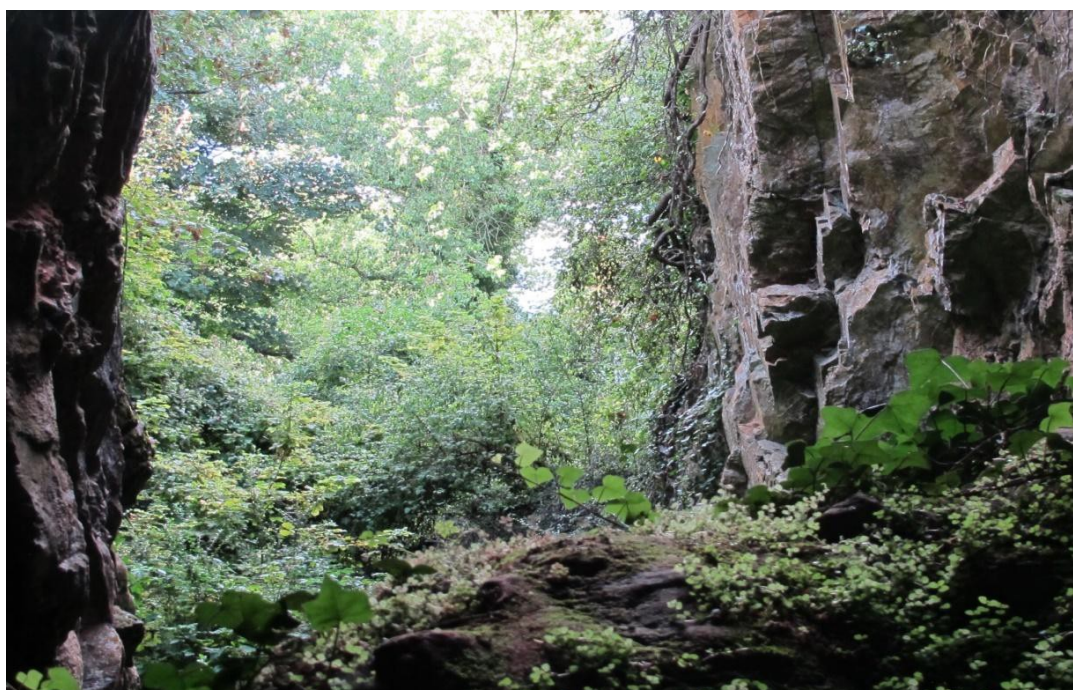
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<sup>42</sup>National Planning Policy Framework 2012, page 18, paras 76 and 77.

<sup>43</sup>National Planning Policy Framework 2012, page 18, para 76.

**Table 3: LGS sites and the justification for their designation.****Brixham Local Green Space Sites**

**E4 – 1: Ash Hole Woods.** A small woodland area which encloses the entrance to Ash Hole Cavern, a Devonian period limestone cave of great archaeological and geological importance. As such the cavern itself was designated as a Scheduled Ancient Monument (No 33206), and the surrounding woodland designated as an Urban Landscape Protection Area in light of its unspoilt character and conservation interest. It is of importance as a buffer between the built-up areas and the designated Berry Head coastal landscape and is of ecological significance.

*E4 –1: Ash Hole Woods and Cavern entrance.*

**E4 – 2: Astley Park.** A well-used recreational area on level ground, home to the thriving Brixham Rugby Club since 1896, with pitches for match play and adjacent training grounds. This ground has special historical significance to the game, as rugby was first played in the town in 1875 (formerly on Furzeham Green) when Brixham became a founder member of the Devon RFU. In 1934 the ground was donated by local landowners to the club for its use in perpetuity. The park is also the site for many community events.



*E4 – 2: Astley Park, home to Brixham Rugby Football Club.*

**E4 – 3: Battery Gardens.** A site of great historical importance as well as aesthetic, natural and ecological value, home to the Brixham Battery Heritage Centre and coastal defences built in 1940. The whole area also commands stunning views across Torbay and to the west to Churston Cove to which it connects via the South West Coast Path.



*E4 –3: Battery Gardens.*



**E4 – 4: Berry Head.** A unique area with many special designations to protect its rare species of flora and fauna of international and national importance as well as its geological status as part of Torbay's "Geopark", its historic siting of two Napoleonic forts that command fine views across Torbay to the north and as far as Portland Bill to the east, ensuring its significance as a SAC in perpetuity. The area includes the SAC, as well as other parts of the AONB which National England suggested be considered for protection after their rejection for housing by this Neighbourhood Plan.



*E4 –4: Berry Head National Nature Reserve. Sharkham looking towards Mansands.*

**E4 – 5: Bonsey Rose Gardens.** A small area of cultivated garden treasured by all due to its cliff-edge position which commands incomparable stunning views across Torbay.



*E4 – 5: Bonsey Rose Gardens.*

**E4 – 6: Brixham Cricket Ground.** Occupying a unique location on specially levelled ground, a scarce resource in or around the Town Council boundary, the new home to a thriving cricket club which was founded in 1934. Its facilities are used by local schools and youth organisations as well as match play, the ground also being used for family fun days and other community activities.



*E4 – 6: Brixham Cricket Club Ground.*

**E4 – 7: Furzeham Greens.** These three linked recreation areas are of exceptional community value, not least for their incomparable uninterrupted views eastwards across the outer harbour towards Berry Head cliffs and the open sea. As a community voluntary group, the award winning “Friends of Furzeham Green” are dedicated to caring for these areas by developing management policies, protecting them against misuse, notifying the community of all events related to the greens and, at a practical level, taking full responsibility for the planting and upkeep of the flower beds when local authority funding was withdrawn. The Higher Green also accommodates Furzeham Bowling Club green, a children’s play area funded by Section 106 monies and has functioned as the Furzeham Primary School playing field since 1889.





*E4 – 7: Middle Green Furzeham.*

**E4 – 8: Jubilee Gardens.** Commanding irreplaceable panoramic views across the Bay, this small area of garden is much used by tourist and resident alike as an enclave of peace and tranquillity in close proximity to Breakwater Beach and the Ranscombe area of the town.



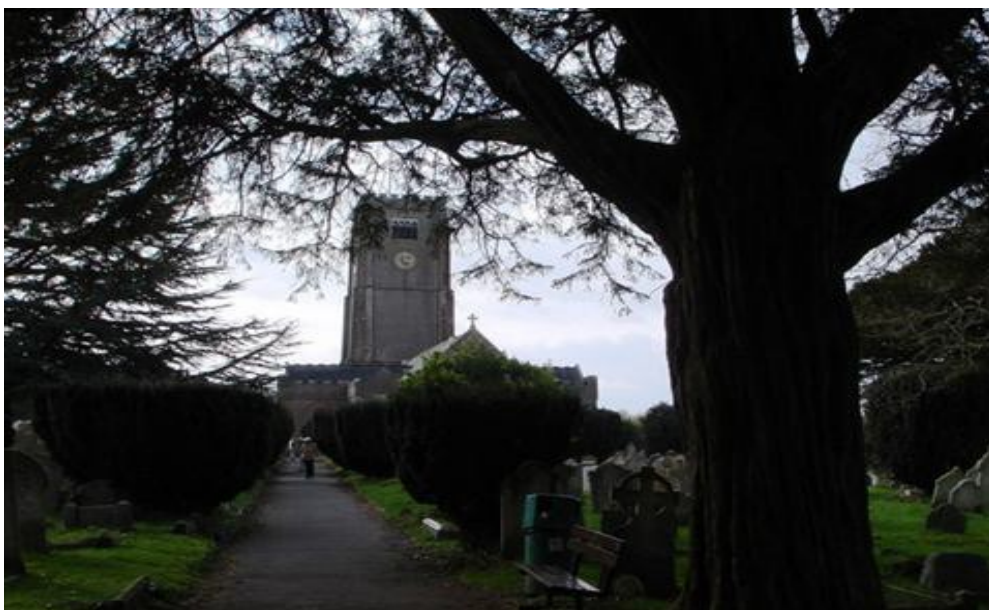
*E4 – 8: Jubilee Gardens, Berry Head Road.*

**E4 – 9: Shoalstone.** This area surrounds a stunning “Art Deco” icon of the South Devon coastline, Shoalstone Pool. This has been a much used recreational amenity for locals and visitors alike since its construction in 1926. Throughout its history, its survival has been entirely dependent on practical and financial support from generations of local communities, none more than today where its very existence owes itself to massive community support.



*E4 – 9: Shoalstone Pool.*

**E4 – 10: St Mary's Churchyard.** A site of huge community importance and historic value used daily as an area of peace, tranquillity and reverence to families of those buried there.



*E4 – 10: St Mary's Church and Churchyard.*



**E4 – 11: St Mary's Park.** Adjoining the Higher Brixham Conservation Area, commanding panoramic views across the town towards the sea, this much-used park is the most important recreational area in Higher Brixham. Comprising sports field, bowling club, tennis courts and outdoor exercise equipment, it is used by members of the community of all ages. It also hosts the annual Hap'nin music festival, a well-established community organised event that could not be sited elsewhere.



*E4 – 11: St. Mary's Park Wild Flower Meadow.*



**E4 – 12: Stoney Park Allotments.** Founded by a charity set up in 1912, this allotment for “The Labouring Poor” of Brixham has been managed ever since by trustees of the Charity. While the primary purpose of the site is vegetable growing with approx. 50 plots (a waiting list currently exists), the site also contains a wide range of “micro-habitats”, including hedges, dry stone walls and two ponds.



*E12 – 4: Stoney Park Allotment Gardens.*

## Churston, Galmpton and Broadsands Local Green Space Sites

**E4 – 13: Churston Golf Course.** Founded in 1890, subsequently re-designed by the great Harry Colt, Churston Golf Course is of international importance to the sport, of enormous landscape value, commanding irreplaceable panoramic views and harbouring a wide array of flora and fauna including several protected species. Of huge value to golfers, naturalists, casual walkers as well as being of exceptional amenity value to all, including those tackling the South West Coast Path which delineates its seaward boundary.



*E13 – 4: Fairways across Churston Golf Course.*

**E4 – 14: Elberry Headland.** This large area of uninterrupted coastal landscape falls within the South Devon AONB and commands outstanding views across Torbay. Its eastern boundary being a section of the South West Coast Path, the area is used daily all year round for recreational purposes and also contains the Broadsands pitch-and-putt golf course.





*E4 – 14: Broadsands beach with the Elberry grassy headland behind the row of trees, which leads to Elberry Cove and beach.*

**E4 – 15: Warborough Common.** This area of unmanaged rich calcareous grassland has been Common Land since 1604. It is prized by locals and visitors for its recreational, historical and ecological value, it functions as the gateway to Galmpton. It boasts natural beauty and outstanding views.



*E4 – 15: Galmpton Warborough Common and the War Memorial.*

**E4 – 16: Sugar Loaf Hill.** A renowned landmark, vantage point and amenity open space situated to the south of Goodrington beach, traversed by the South West Coast Path, and adjacent to the South Devon Steam Railway Line and Saltern Cove Local Nature Reserve (LNR). Its unique conical shape is attributable to its past as a volcanic vent and it sits in a highly important geological area. It is also defined as an Other Site of Wildlife Interest (OSWI) and an Urban Landscape Protection Area (it is bounded by housing on three sides) in the Local Plan.



*E4 – 17: Sugar loaf Hill and caravans at Waterside.*

## **Policy E5:**

### **Public Open Spaces**

- E5.1 The sites set out in the Table in **Appendix 4** to this document and shown in the Policy Maps (Document 2) and the Greenspace Site Assessment (Document 5) **are identified as Open Spaces and should not be built on unless:**
- **an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or**
  - **the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or**
  - **the development is for alternative sports and recreational provision, the needs for which clearly outweigh the loss.**

### **Justification of Policy E5**

- 5.25 Each site has been carefully assessed according to criteria as specified in the NPPF.<sup>44</sup>
- 5.26 The links between sport and recreation and health and wellbeing are further discussed later in this plan. It is evident (e.g. by several schools having to share playing fields) that across our Peninsula there is barely sufficient sports grounds, play areas and recreational areas to meet current requirements. Hence all the above contribute to wellbeing, especially that of our children, and will be robustly protected by the communities that have invested in them and value them well beyond the financial value that might be realised from other types of development. If any site were replaceable, still in close proximity to the communities that use them, the trading of one area for another that could provide the same, or perhaps better facilities, may be acceptable to local residents. Local knowledge shows that the general dearth of undeveloped land within our Peninsula urban development make this highly unlikely.

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<sup>44</sup>National Planning Policy Framework 2012, page 18, paras 73 and 74.

**Policy E6:****Views and vistas**

Views and vistas, particularly those to and from the sea or the **River Dart**, **public views** of the townscape, seascape, landscape and skyline that are valued by residents and visitors alike. **Examples of such views are given in the Brixham Town, Churston, Galmpton and Broadsands Design Statements (Documents 6, 7, 8 and 9); the Landscape Character Assessment and the Brixham Urban Fringe Landscape Assessment. Proposals for developments which affect these views and vistas should demonstrate that landscapes are safeguarded with their importance and be accompanied by a visual impact assessment appropriate to the size and scale of the proposal.**

**Justification for Policy E6**

- 5.27 Sea views, including those across the Bay to distant landscapes, as well as those inland views to Dartmoor are all of critical value to the environmental wealth of our Peninsula. The fact that sea views are an essential characteristic of our Peninsula has been acknowledged in the Landscape Character Assessment.
- 5.28 The Brixham Urban Fringe Landscape Study expounds the importance of the South West AONB to the landscape value of the whole Brixham Peninsula, both from the position of how it is viewed from within the developed areas as well as how those developed areas are viewed from the AONB. It concludes that in relation to the AONB, "The proximity to Brixham has been perceived as a threat to the landscape, with concerns that development or re-development can spoil the value of the AONB. This is undoubtedly possible and considerable co-ordinated efforts are now required to protect and enhance the designated landscape which has clearly suffered in recent years".<sup>45</sup> Both the conclusion from this study and the ethos of paragraph 74 of the NPPF are now supported and enhanced by the South Devon AONB Planning Guidance, so much of which focuses on the need to protect and enhance the natural beauty of the Brixham Peninsula.

<sup>45</sup>Brixham Urban Fringe Landscape Study, Enderby Associates, 2011, page 10, Figure 3: Landscape Character Assessment.

- 5.29 Views have been an important characteristic which has informed the allocation of Local Green Space (Policy E4) sites. Some of these sites have exceptional views while others are inherently prominent when viewed from other parts of the Peninsula or from across the Bay.

**Policy E7:**

**Protecting semi-natural and other landscape features**

Development should where-ever possible ensure the retention, integration or enhancement of local semi-natural, cultural, historic or man-made features and their contribution to the special character, wildlife habitats and biodiversity of the Peninsula, such as:

- Devon banks (stone-clad hedges often over 800 years old)
- dry-stone walls and gateposts
- village orchards
- field barns
- lime kilns

**Justification for Policy E7**

- 5.30 Development proposals provide many opportunities for building in beneficial biodiversity or geological features as part of good design. There are natural and semi-natural features such as streams, rock exposures, veteran trees, hedge-banks and hedgerows, and other natural networks that help create local character. These should be considered in planning for development. Other heritage and cultural components, such as stone walls, field barns and village orchards, should also be treated thoughtfully. Where they still exist, their contribution to local amenity, biodiversity and cultural heritage should be respected. Sensitive landscaping schemes or other enhancement measures can do much to conserve or improve local landscape quality.



- 5.31 This year, Berry Head became the site where the 600th bird species to be officially added to the British Ornithological Society's Records was spotted, namely the Yelkouan Shearwater. That such vulnerable and rare species, as well as the protected Cirl Bunting, are seen across the Brixham Peninsula is an indicator of how important our wildlife is regarded to be by naturalists and enthusiasts. Consultation feedback has shown that a significant draw for “eco-tourists” is the large number of rare plants, including the rare White Rock-rose, Portland Spurge, Rock Sea-lavender, Goldilocks Aster, Rock Stonecrop and Autumn Squill.
- 5.32 The Ramblers Association notes that £307 million is spent annually in Devon by walkers visiting the coastal paths and linked areas. These are sound economic reasons as well as environmental ones to preserve our landscapes and its wildlife.
- 5.33 Our hedges and banks have a tremendously important historical role, preserving as they do past decisions about man's use of the landscape, which often go back hundreds or even thousands of years. They are characteristically very old, rich in wildlife and visually very attractive, and most of them date from the Medieval period, although some 25% date back even further by some 800 years.
- 5.34 Devon banks in particular are a unique feature in the area, consisting of an earth hedge bank, clad with stones that are laid either flat or vertically, the shrubs and hedge plants growing on top rooted in the soil between the stonework. Medieval strip fields with ancient hedges are still farmed around Churston Village.
- 5.35 As such they form habitats for a wide range of flora and fauna, becoming superhighways for wildlife such as dormice, voles, shrews, stoats and weasels, bats, with many bird species including the rare Cirl Buntings being regular visitors. In spring the roadside hedges are ablaze with primroses, bluebells and stitchwort. Many hedges have blackthorn, hazel, wild rose and hawthorn shrubs growing on top. Some have taller trees such as oak, ash and sycamore interspersed along their length.



- 5.36 Preserving and repairing these hedgerows complies with Local Plan Policies NC1 and C4. In close conformity with these policies, Policy E7 seeks to ensure that new developments pose no serious threat to our surrounding countryside, especially that within the AONB, but including all areas between our settlements that we are often not consciously aware of until they are gone.

**Policy E8:**

**Internationally and nationally important ecological sites and species**

- E8.1 Internationally important sites and species will be protected. Development affecting internationally protected sites and species will only be approved where it can be demonstrated there is no likely significant effect, either alone or in combination with other plans or projects and regard has been given to National Planning Policy Framework and conforms with policy NC1 of the Torbay Local Plan (2012-2030). Internationally protected sites (designations within Torbay are shown on the Local Plan Policies Map) include the following:
- South Hams Special Area of Conservation (SAC)
  - Lyme Bay and Torbay Marine SAC
- E8.2 Nationally important sites and species will be protected. Development on or likely to have an adverse effect on nationally important sites and species will not normally be permitted. Development proposals should have regard to the National Planning Policy Framework and be in conformity with policy NC1 of the Torbay Local Plan (2012-2030). Nationally protected sites (designations within Torbay are shown on the Local Plan Policies Map) and species include the following: Sites of Special Scientific Interest (SSSI), including Berry Head to Sharkham Point and Saltern Cove;
- National Nature Reserves, including Berry Head;
  - Torbay Marine Conservation Zone (MCZ), which includes coastal waters around Torbay from Babbacombe to Sharkham Point;
  - recommended Dart Estuary Marine Conservation Zone (MCZ), which includes the upper waters of the River Dart to below Dittisham; and
  - the Cirl Bunting and its habitat and territories.

47 South Hams SAC Greater Horseshoe Bat Planning Guidance, Natural England, 2010.

48 to address the concern in the Local Plan HRA December 2015 at page 69 regarding Policy SS9.

49 to address the concern in the Local Plan HRA December 2015 at page 72 regarding Policy NC1.

50 to address the concern in the Local Plan HRA December 2015 at page 77 regarding Policy W5

## Justification for Policy E8

- 5.37 This Neighbourhood Plan seeks to draw attention to the importance of internationally protected sites and species given their high level of legal protection and local connection, as well as the need to protect the many rare flora and fauna and other protected species. The South Hams SAC and the Lyme Bay and Torbay Marine SAC are protected in law by the Conservation of Habitats and Species Regulations (2017) whilst many other species, such as the Cirl Bunting, are protected in law by the Wildlife and Conservation Act (1981). That legal protection weighs more heavily than protection which can be afforded by a planning policy, but this policy seeks to draw attention to the importance of the environmental assets protected and signpost to how compliance with the legislation and hence protection of the environmental assets is achieved.
- 5.38 The **Greater Horseshoe Bats** have a roost at Berry Head. Torbay Coast and Countryside Manager, Chris Lingard recently said, "The Greater Horseshoe Bat colony at Berry Head is already fragile, due to changing conditions inside the caves where they roost and the loss of foraging habitat to development and changes in farming. We have to be much more careful now not to jeopardise the colony's ongoing survival." This roost is particularly important in cold winters as it is the warmest roost in the South Hams SAC. Flyways and sustenance zones are very important particularly up to 4 km from the roost. The pressure on this area is much greater for the Berry Head roost as it is surrounded by the sea, north, east and south.
- 5.39 The protection of sustenance zones covers a segment of land extending north and westwards beyond the Peninsula Neighbourhood Plan boundaries . Juvenile bats are known to forage within an area less than about 3km from their roost, at a time when they are most vulnerable.<sup>53</sup>
- 5.40 However, the need to protect flyways and "pinch points" extends considerably further. In urban or "pinch-point" situations, existing strategic flyway habitat is particularly susceptible to development pressures due to the relatively limited routes available for commuting.<sup>54</sup>

<sup>53</sup>South Hams SAC Greater Horseshoe Bat Consultation Zone Planning Guidance, Natural England, 2010.

<sup>54</sup>South Hams SAC Greater Horseshoe Bat Consultation Zone Planning Guidance, Natural England, 2010, para 7.

- 5.41 In relation the **Greater Horseshoe Bat**, survey evidence as set out in the South Hams SAC guidance may be required to inform any development proposal, to allow it to be determined whether there is no likely significant adverse effect, either alone or in combination with other development on the integrity of the SAC. Proper application of this policy in the case of a major development could see survey evidence being collected from beyond the boundaries of a proposed development site.
- 5.42 In 2004, the entire UK population of 700 pairs of **Cirl Buntings** were found solely along the South Devon coastal hinterland.<sup>55</sup> In 2006 Cirl Buntings were re-introduced to the Roseland Peninsula in Cornwall from young captive birds reared at Paignton Zoo, where 65 pairs have now been recorded. The story for South Devon is even better as the RSPB now believe there to be well over 1,000 pairs throughout the South West Peninsula, a remarkable conservation achievement by farmers and conservationists working together. The area between Exeter and Plymouth remains their most prevalent habitat.
- 5.43 Over the last two years from spring 2015, a survey has been conducted under the joint aegis of the National Trust and the RSPB with the active support of local Galmpton residents to ascertain the breeding population of the nationally endangered but locally successful Cirl Bunting. Building on the earlier surveys by National Trust ranger Mike Ingram in 2004, the survey has revealed an established population of breeding Cirl Buntings in the area surrounding Galmpton and the village itself. In addition, Cirl Buntings have been recorded in healthy numbers on farmland in Churston and on Berry Head and its vicinity. For confirmation of breeding success and numbers consult the 2016 RSPB National Cirl Bunting Survey.
- 5.44 The Cirl Bunting population is supported by the traditional agricultural pattern of small, mixed sown and fallow arable fields divided by dense hedges which characterises farming practice in the Brixham Peninsula. The birds are sedentary by nature and become attached to localities which ideally match their specific needs. Displacement results in number reduction or loss, rather than re-

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<sup>55</sup>Devon Biodiversity and Geodiversity Action Plan, Devon County Council, 2006.

a fact that explains their progressive disappearance from the rest of the country which they had once comfortably colonised before large-scale urbanisation. We are privileged, within the Brixham Peninsula, to be able to support one of the few remaining healthy populations of this bird.

- 5.45 Much of this success is attributable to the mixed farming that is prevalent along the edge of the coastal strip which encourages winter stubble and spring cropping, making the ideal habitat for them.
- 5.46 The outstanding landscape character of much of the Brixham Peninsula that is located outside the AONB and its potential for development are well described in Part 2 of the Landscape Character Assessment of Torbay.<sup>56</sup> The habitats and fly zones of both bats and Cirl Buntings are not restricted to the AONB, hence the need for their protection needs to be assessed carefully under the European Habitats Regulations regardless of whether or not specifically designated area boundaries are crossed. Similar consideration is required whether proposed development falls within the SAC or not. This policy is in close conformity with Local Plan Policy SS8.
- 5.47 In relation to the **dry heaths and calcareous grassland** at Berry Head (part of the South Hams SAC) this policy seeks to ensure additional recreational pressure from development can be mitigated to an acceptable level. Major developments are likely to need to provide more detailed evidence to justify a conclusion that additional recreational pressure can be mitigated to an acceptable level in combination with all other development. The need for enhanced levels of evidence being available for consideration of the in combination effects or mitigation measures for major developments is considered probable.
- 5.48 In relation to the **Lyme Bay and Torbay Marine SAC** there is heightened concern following sewage overflows into Brixham Harbour (3 September 2016) that the South West Water treatment works at Brokenbury and the associated pipework and storm water storage capacity may be unable to cope with surge rainfall particularly in peak season. As a result this policy seeks to ensure there is no likely significant effect to the protected site from new development.

<sup>56</sup>Landscape Character Assessment of Torbay, Torbay Council, 2010.

- 5.49 **It will be necessary to evidence** no increase in the levels of pollutants likely to have an adverse effect on the integrity of the Lyme Bay and Torbay Marine SAC.
- 5.50 **At** the planning stage, **it** is considered appropriate to ensure decision makers have clarity about the matters they are determining at the time of taking decisions and give clarity to developers about what is expected at what stage. This will avoid reliance on planning conditions which could result in consents being granted where the conditions attached could not be discharged. This could result in an under delivery of the amount of jobs and homes expected in the **Torbay** Local Plan.
- 5.51 In addition this Neighbourhood Plan supports the local ongoing work in promoting an environmental code of conduct for the Lyme Bay and Torbay Marine SAC.

## 6 The built environment (BE)

- 6.1 The Peninsular has a distinct character and heritage that is of a very high value, to both residents and visitors alike. It is our duty to care for this heritage as a legacy for future generations.
- 6.2 "The strong heritage of Torbay is an asset in supporting the development of the economy. The quality of life of Torbay is widely recognised by local business as a positive factor for their businesses and is also important to inward investors. Heritage can also act as a driver to shopper and visitor numbers with characterful shopping centres within Torbay having the potential to further develop that aspect as a hook, particularly for independent businesses."<sup>57</sup>
- 6.3 The Heritage Count by Historic England provides evidence that shows £1 of investment in the historic environment generates £1.6 of additional economic activity over a 10-year period. The Count found that 1 in 4 businesses agree that the historic environment is an important factor in deciding where to locate. It also found that approximately 1 in 5 visitors to areas which have invested in their historic environment spend more in the local area than before and 1 in 4 businesses had seen the number of customers increase.<sup>58</sup>
- 6.4 A subsequent Heritage Count found that built heritage tourism generates £5.1 billion in gross domestic product (GDP) across the UK annually and supports around 180,000 full-time-equivalent jobs in England alone. If the heritage construction sector is included in the picture for England, a figure of £11 billion in GDP is contributed.<sup>59</sup> Whilst figures for the Brixham Peninsula itself are not easily extrapolated, given the richness and abundance of our listed buildings and historic sites it is evident that our built heritage is a huge contributor both to our economy and to the jobs sector created from their maintenance and protection.

<sup>57</sup>The Torbay Economic Strategy 2010–2015, 2010, page 6, para 9.

<sup>58</sup>The Heritage Count, Historic England, 2010.

<sup>59</sup>The Heritage Count, Historic England, 2015.

- 6.5 Given the Peninsula's central role as a tourist area, the finding that a third of all international tourists cite heritage as the main reason why they come to the UK gives an even stronger argument for the need to fiercely protect our built heritage.
- 6.6 While designated heritage assets and conservation areas are vitally important, it is also recognised that the historic character of the Peninsula has a value far beyond just its potential to contribute to economic regeneration. Hence it is vital that the wider historic fabric and character of the Peninsular is maintained and enhanced.
- 6.7 Having successful spaces to exercise, socialise, communicate and share experiences helps people to have a positive approach to life and to enjoy their surroundings. There is a direct link between the enjoyment of heritage and health and wellbeing, which will be discussed further.
- 6.8 Suffice to state here that the study of environmental psychology and the relationship between environment and health provide more than sufficient evidence of the importance of heritage to us all. Roger Ulrich's representation of the "determinants of health" highlights the way in which our surroundings and lifestyles impact our health. In a similar vein, R. Buckminster Fuller's definition of sustainability, that "the conscious design of our total environment, in order to help make the Earth's finite resources meet the needs of all humanity without disrupting the ecological processes of the planet",<sup>60</sup> confers upon us a responsibility to take care of the whole of our environment, both natural and built.

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<sup>60</sup>Buckminster-Fuller R. Cited in [www.ecomii.com/building/meaning-of-sustainability](http://www.ecomii.com/building/meaning-of-sustainability), 2012.

**Policy BE1:****Heritage assets and their setting**

- BE1.1 **Proposals which affect Designated and Non Designated Heritage Assets must comply with the requirements of the National Planning Policy Framework and the relevant policies of the Torbay Local Plan.**
- BE1.2 The Design Guidelines in the relevant Design Statement should be taken into consideration in all developments to ensure a high quality of design that respects the specific character and historic legacy of each settlement and the surrounding area.

**Justification for Policy BE1**

- 6.9 Brixham has two designated conservation areas: Higher Brixham and Brixham Town. They recognise the important historic value and individual character of these two distinct areas of the town. Torbay Council have produced detailed Conservation Area Character Appraisals for both areas which provide highly detailed description of the local history, historic architectural features, prominent trees, surrounding character and special features of the built environment. These character appraisals, along with Policy HE1 of the Local Plan, provide clear justification for this.



## 7 Transport (T)

- 7.1 **Strategic aims.** To tackle the problems of road safety and traffic congestion by linking highway improvements to all new development in ways that will encourage sustainable modes of transport, improve public transport, reduce congestion and enhance the character and appeal of the Brixham Peninsula for residents and tourists alike.
- 7.2 This section recognises that planning matters and highway improvements fall under separate departments of local government and that Neighbourhood Plans cannot usurp highway proposals which will likely have far-reaching effects that extend well beyond our plan area.
- 7.3 However, as a land use document, this plan seeks to promote and support highway improvements and sustainable modes of transport as an integral part of planning, especially for employment and housing developments. Rather than simply objecting to new development proposals on the grounds that overstretched infrastructure cannot cope, we see it as entirely appropriate that the community should be able to influence how proposals can be integrated with highway improvements from the onset.
- 7.4 Local community opinion has expressed strong support for reducing traffic congestion and improving journey times as the primary objective. Central to the above documents is a common strategic intent to consider the needs of the motorist against the promotion of sustainable healthier modes of transport.
- 7.5 Whilst this may suggest conflict between the wishes of the community and the requirement to place less emphasis on the needs of the motorist, it may be better viewed as a dialectic, whereby one view need not obfuscate the other.
- 7.6 For example, ensuring that a busy junction is redesigned to better cater for the needs of pedestrians and cyclists will benefit the motorist as well if traffic flows for all users can be assimilated intelligently. The more user-friendly and safer we can make things for those able to walk and cycle to school or work, the fewer will be solely dependent on motor transport.

7.7 This plan will support short-term highway improvements for planned developments within a longer-term aspiration for the future of sustainable transport throughout our Peninsula. The following criteria should be addressed in any development proposal:

- How will it affect road safety for all users?
- Will any necessary changes to highways, urban or rural routes for all types of traveller be environmentally sustainable, such that short-term highway management projects can be easily assimilated into longer-term improvements that may be needed within the plan period?
- Where a planned development might inhibit the free movement of people going about their daily business, commuting to work etc., by whatever mode of transport, does the proposal contain features that will mitigate against any negative effects; or will it actually enhance travel throughout and beyond the neighbourhood area?

7.8 **Sustainable Transport developments.** In planning changes to highways and other modes of transport to support new development, the following checks and balances are needed to ensure a robust approach is used that will address both the pros and cons of any proposal:

- the balance between ensuring easy access to our town centre (*increasing economic vitality*) and the need to reduce pollution and traffic congestion (*improving the environment*)
- the balance between ensuring highways, railways and waterways are fit for purpose to ensure safe and efficient transport of goods and people within and beyond the Peninsula (*supporting social cohesion and economic prosperity*) and improving provision for cyclists, walkers, those with disabilities and horse-riders (*improving road safety and encouraging healthier more sustainable means of getting about for all*)
- reducing public transport fares, improving routes, with accessibility and facilities to be prioritised over private vehicle requirements when

- reconfiguring highways and changing traffic flows (*reducing unnecessary car journeys and ensuring easy movement for non-drivers, both young and old*)
- investing in other means of bringing tourists and visitors into the town centre, including ferries, whilst recognising the need to reduce congestion and ensure better access for local traffic including emergency vehicles (*improving transport systems which foster improvement in all three dimensions: economic, social and environmental*).

7.9 The policies herein aim to encourage the reduction of unnecessary car journeys without penalising motorists, by improving the travel network and enhancing road **safety so that more sustainable ways of moving both people and goods will be** chosen. Some difficult choices will have to be made in order to achieve these aims. Many of these policy aims identified by local communities may not be strictly land use matters, but many policy aims can be met with Section 106 or Community Infrastructure Levy (CIL) monies. They will be achieved via the following policy framework.

**Policy T1:**

**Linking of new developments to travel improvements**

- T1.1 All developments should include safe walking and cycling access.
- T1.2 **Developments** should provide a travel plan proportionate in breadth and detail to the size and complexity of any development proposal to address the impact of travel associated with the development. **This should include information on how** the carbon footprint from travel has been minimised and the health and well-being of travellers (in particular commuters) maximised.
- T1.3 All development should seek to minimise commuting distances and seek to include improvements to the safety of **pedestrians** and **cyclists**.

## Justification for Policy T1

- 7.10 This policy reciprocates with Employment Policy J4. Wherever possible it makes sense to encourage industrial or commercial developers to seek sites close to a potential workforce. Apart from the obvious benefits to health and wellbeing for workers to be able to spend less time commuting in heavy traffic, cycling or walking to work, whole communities will benefit where jobs can be provided close to home. Where space for new development is scarce, this aspect needs careful consideration where available sites for new employment premises are in close competition with space for housing developments.
- 7.11 This is entirely in line with all the documents cited in the Strategic Aims opening paragraph of this chapter. It also supports the Department of Transport in that it seeks "to promote long-term modal shift and change attitudes towards the way we travel".<sup>61</sup>

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<sup>61</sup>Building Sustainable Transport into New Developments, Department of Transport, 2008, page 4, para 2.

## **8 The health and wellbeing (HW) of the community**

8.1 For the first time in strategic spatial planning, Neighbourhood Planning has given us an opportunity to consider the implications for the health of our community when examining proposals for land development. The relationship between employment, poverty, housing and infrastructure cannot be given space here, except to point the planner towards the work of Michael Marmot, whose authoritative book *The Health Gap*<sup>62</sup> provides more than enough evidence to support this premise. The NPPF directs us towards holistic thinking around the economy, our environment and our community in all strategic planning.

### **8.2 Considerations when planning for new residential development**

8.2.1 Within this approach, the health and wellbeing of our community is crucial in determining how we want to shape local development in several ways:

- finding affordable homes, where the average house price is 11 times the average person's salary is a key priority
- our health and social care workers, many of whom are low paid, require affordable housing; e.g. a band 6 qualified nurse in charge of a hospital ward or a specialist physiotherapist earns from just over £26,000, whereas many community support and care workers that now form the backbone of our services earn far less (circa £15,000 full-time equivalent)
- assurance of high-quality build in housing throughout the neighbourhood (the relationship between housing quality and public health is well evidenced)
- the preservation of green areas for recreation, play, leisure and health promoting activities of all kinds

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<sup>62</sup>Marmot M. *The Health Gap: The Challenge of an Unequal World*. Bloomsbury Publishing, 2015.

- provision of available space for service developments, e.g. health and wellbeing hubs with accessible medical centres
- specialist housing developments for a range of vulnerable people or those with disabilities or other long-term health needs

### 8.3 The way forward

8.3.1 As a newly Integrated Care Organisation (ICO), Torbay and South Devon NHS Trust has a unique opportunity to explore how best the social, medical and nursing care needs of all in our neighbourhood can best be met. By combining a public health approach to health and wellbeing with a local plan for how to utilise the space and resources available to us for development, we can attempt to plan our future requirements.

8.3.2 When proposing specific use of space for healthcare provision, this section of the plan attempts to encompass a number of competing issues that require careful balancing when proposing a way forward:

- the need to balance promoting healthier lives (*a public health approach*) with meeting current local healthcare needs, especially in light of areas of social deprivation (*service reconfiguration*)
- the need to offer equal resource in terms of accessible buildings and space for provision of local services to those with mental health or physical health problems or both, across the life cycle (*"parity of esteem" between mental health and physical healthcare needs*<sup>63</sup>)
- the need to balance the increasing of health and social care services that are provided directly in people's homes (*current NHS policy*) and local accessible provision of care and treatment for those with more complex healthcare needs (*rationalisation and redesign of treatment centres as part of the ICO's plans*)

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<sup>63</sup>NHS England, 2016, "Valuing mental health equally with physical health or 'Parity of Esteem'", [www.england.nhs.uk/mentalhealth/parity/](http://www.england.nhs.uk/mentalhealth/parity/).

- the need to balance provision of comprehensive services for maternity care, infant and child development, vulnerable children/young people and all those with special needs against the burgeoning requirements of an ageing population.

8.3.3 The last issue is crucial in understanding how the neighbourhood develops demographically. Just as the availability of quality housing and good schools can be a major factor in families deciding whether to move into the area, it is equally important that the best in health and social care facilities for both young and old are available to prospective residents.

8.3.4 We endorse Torbay's Joint Health and Wellbeing Strategy 2015–2020.<sup>64</sup>

8.3.5 We recognise that evaluating approaches to improving health and wellbeing by attempting to shape people's behaviour is extremely difficult. In contrast, evaluating the outcomes of broader public health actions is relatively simple. For example, dealing with the threat of pollutants (e.g. exhaust gases) in the atmosphere nowadays is as vital to public health today as was John Snow's identification of the Broad Street pump as the source of cholera in 1854.

8.3.6 Hence this section of the Neighbourhood Plan can only address the narrower issues of what resources are available in the neighbourhood, what can be made better use of and what anticipated need might be expected as a result of planned developments. Issues linking the importance of environmental conservation and nurture, housing quality and availability, healthy sustainable modes of transport and a strategy for employment, all of which impact directly on our health, are dealt with elsewhere in the plan, see e.g. the importance of open space and sports fields to the health of all.

8.3.7 Improving health and wellbeing will be pursued via the following policies.

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<sup>64</sup>Torbay's Joint Health and Wellbeing Strategy 2015–2020, Torbay Council Version, "Building a Healthy Community".

**Policy HW1:****Retention of current health and social care estates**

Facilities currently providing health and social care will be strongly encouraged to be retained for such purposes unless the service provided can be demonstrated not to be viable, either financially or clinically at that location. Where the current locations of facilities cannot be retained, an alternative facility within the Brixham Peninsula with as good accessibility will need to be provided. Subject to compliance with the other policies of this Neighbourhood Plan, developments to health facilities that reduce travel and improve accessibility both for our town and village communities will be favoured.

**Justification for Policy HW1**

- 8.4 With available land for development at such a premium across the Peninsula, the resources we have must be protected against the intrusion of other types of local development. We recognise that the function of buildings will change radically according to changes in local health policy. Land on which health and social care facilities currently operate needs to be retained for such purposes, such as primary care medical centres, health and wellbeing hubs, and social respite, intermediate, acute medicine and end-of-life care. Given the scarcity of resources to meet current service demand, with the predicted population growth and associated health needs of many new residents beyond working age, we cannot afford to lose any existing space for health or social care developments to other types of development. Available land on which new facilities could be built within the settlement boundaries of the Peninsula does not exist.
- 8.5 We recognise that socialisation, befriending and sharing healthcare experience are as important to the welfare of mothers and babies at the health clinic as the reminiscence and reality orientation groups are to those relatives, carers and sufferers of dementia who attend day care. All such resources require adequate space to operate.
- 8.6 For example, in the case of St Kilda's residential care home, whilst there may be economic as well as practical reasons for its closure in its current function, the



site must not be lost to developments that are unrelated to health and social care need. A strongly held view of the local community favours offering the site for development for supported living accommodation for adults with a range of special needs.

**Policy HW2:**

**Operational space for voluntary support organisations**

Given the increasing role of the voluntary sector in promoting strong and healthy communities across the Peninsula, **the provision of new operational space for voluntary organisations will be supported. Proposals resulting in the loss of operational space for voluntary organisations will only be supported where it can be demonstrated that the facility is not practically or financially viable at that location, or an alternative facility within the Brixham Peninsula has been provided.**<sup>66</sup>

**Justification of Policy HW2**

- 8.7 We recognise the vital and expanding role of the voluntary sector, especially including Brixham Does Care, in identifying need, sustaining independence for the isolated, preventing crises and generally keeping the community informed about the general health and social care of its residents.
- 8.8 In light of the expressed policy of all the statutory services to encourage and support the aspiration of residents to avoid hospitalisation and institutionalisation as far as possible, the domiciliary social care needs as well as healthcare support needs are set to increase significantly. Whilst care is needed to avoid placing too much responsibility on the voluntary sector considering the radical change in health and social policy, it is recognised that the local community is highly committed to its people, especially its more vulnerable or isolated members. However, if social inclusion, the cementing of working relationships between local provider agencies and bringing people together for social events are to work effectively, all need space to operate.

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<sup>66</sup>National Planning Policy Framework 2012, page 17, para 69.

## 9 Education and learning for all (L)

9.1 No future projection for a community could be complete without a consideration of the education that will underpin it. The Brixham Peninsula is currently home to a strong network of schools that are going a long way to meeting the educational needs of our community, but there is still much to be done to plan for the future.

### 9.2 Current provision

9.2.1 Within the Brixham Peninsula, there are four Nurseries and Pre-School facilities, five Primary Schools and two Secondary Schools (both with attached sixth forms).

9.2.2 There is also a centre for primary age students with complex social and emotional needs. Situated in the former Chestnut Primary School building, this is part of Mayfield special school and serves the whole of Torbay.

9.2.3 Within mainstream provision, there is currently a surplus of 73 places in Primary and 105 places in Secondary. In the Primary sector, these places are spread unevenly across the schools and year groups, averaging out at two places per year group. In Secondary, these places are almost exclusively available at Brixham College where they are concentrated in current years 9 and 10 (age 13–14).

9.2.4 Whilst Churston Grammar does serve the Brixham Peninsula, a very large number of its students come from out of area. Admission is guided by the 11+, so places are not guaranteed to students coming through Primary schools in the area.

9.2.5 Torbay Council figures do not cover Early Years provision, but there are approximately 130 full-time places available in this sector for children aged 0–5. Only one provider caters for children under 2, with a maximum of 9 places for children in this age range.

- 9.2.6 Torbay Council figures also do not cover 16–18 provision, but there are approximately 430 places available in this sector.<sup>67</sup>

### **9.3 Considerations when planning for new residential developments**

- 9.3.1 An underpinning principle contained within the policies of this plan is that they all contain elements aimed towards redressing the age imbalance across the Peninsula. Whereas approximately 31% of residents in Torbay are over 60 years of age, on the Brixham Peninsula the number of over 60s rises to over 42%.<sup>68</sup>
- 9.3.2 Children and young people are the future of our area: we need to give careful thought as to how they, and their educational provision, can best be integrated into our community so that they and their families have a sense of belonging and opportunities to contribute to community life.
- 9.3.3 Just as the reputation of local healthcare services can influence families considering moving into the Bay, for those families with children, the provision and quality of educational services can be an even stronger determinant. The state of the local education sector is critical to all future developments, both for future residents and for businesses and industries considering moving their operations into the Bay. Whilst the new by-pass is hailed as a motivator for all types of investment in the area, education provision must be high on everybody's list of priorities. Hence there is a need for adequate provision of educational facilities for children of all ages to ensure that sufficient capacity has been provided in time for any extra demand created by new developments.

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<sup>67</sup>Schools Capital & Planning Team, Children's Services, Torbay Development Agency, January 2015.

<sup>68</sup>South Devon and Torbay Interactive Joint Strategic Needs Assessment, 2014/15.

**Policy L1:****Protection of existing educational facilities**

School buildings, associated playing fields and other educational facilities will be expected to be retained for these purposes. Any proposal to develop these facilities for other purposes should clearly demonstrate that they are either not required to meet either current or anticipated need or that they are no longer viable for appropriate reasons, such as educational policy, financial support, or health and safety.

**Justification for Policy L1**

- 9.4 The current status of provision shows an apparent surplus of places in some age groups. This is a fluid situation, the exact trend being difficult to identify as there are too many variables. This policy clearly states that we must not lose any educational facilities to other forms of development. The current situation is especially vulnerable in relation to existing playing fields, given that Eden Park, Brixham and Galmpton C of E Primaries are inadequately provided for, such that young children are required to be marched to other school sites to benefit from the full range of outdoor sporting and learning activities.
- 9.5 The current position with the Chestnut Primary School site provides a good example for making appropriate use, by the community, of a purpose-built educational facility, which is not currently required as a primary school. Its current use by the community ensures that it is well maintained, benefits the community yet still retains its purpose-built facilities for use as a primary school when required in the future, as it surely will be.

**Policy L2:****Matching educational provision to local need**

Subject to compliance with the other policies of this Neighbourhood Plan, the development of Early Years and Primary School facilities will be supported to ensure excellence in educational provision that is easily accessible to local communities and fully responsive to future demand.

## **Justification of Policy L2**

### **9.6 Early Years future needs**

- 9.6.1 Many Early Years places will currently be accessed on a part-time basis, with 15 hours a week free nursery provision currently available to all children aged 3+ and some aged 2+. The government have, however, pledged to increase this allowance to 30 hours a week which will have a huge impact on demand and capacity.
- 9.6.2 Currently there are a total of 130 full-time places available in the area for Early Years provision. Given that from 2015 to 2016 the projected demand for 4 year olds entering full-time school education is 172, there is a significant shortfall here. At least that number of 3 year olds would be eligible for 30 hours of free nursery provision, and factoring in the whole age range we are looking at approximately 500 children who may require Early Years childcare.
- 9.6.3 There is also the scope for Early Years education in the area to follow a more creative path – with a forest school or a beach school for example – to maximise the potential of the geographical area.

### **9.7 Primary and Secondary future needs**

- 9.7.1 There appear to be several spikes in pupil numbers which will lead to demand exceeding available places in several age groups over the years to come. This can be seen in the Primary figures from age 7+ in 2016–17 and beyond, and in the Secondary figures from age 11+ in 2018–19 and beyond.
- 9.7.2 The proposed new housing may have a significant impact on the need for school places, particularly in the Primary sector. Taking an estimate of 0.5 children per household, 340 additional school places may be needed in the life of this plan. The current surplus would go some way towards meeting this demand, but only if the age of new residents correlated with the available capacity: there is not much flexibility.

- 9.7.3 Torbay Council currently uses a lower estimate of between 0.25 and 0.33 children per household due to ageing population and projected older person inward migration. It is not acceptable to merely plan on this basis, when there is a demonstrable need for our educational establishments to plan provision for the needs of a “Landscape for Success”.

### **Policy L3:**

#### **Providing for 16–18 years and beyond**

Subject to compliance with the other policies of this Neighbourhood Plan, educational and training developments will be supported where they are within, or in close proximity, to our schools, colleges and work places. The latter will include horticultural, maritime establishments and farms, where training and education can be provided within or close to the Brixham Peninsula.

### **Justification for Policy L3**

- 9.8 Lifelong learning is strongly encouraged by national policy,<sup>69</sup> by increasing the school leaving age so that all under the age of 19 can benefit from education and training. Combined with increasing opportunities for adult learning for all ages, these policies are a fundamental aspect of re-balancing our local community. Apart from schools and colleges many workplaces will play an increasing role in provision. Whilst distance learning and e-learning cater for some needs, work-based or college learning will remain a fundamental part of community life.
- 9.9 In September 2015 the compulsory education leaving age in the UK was raised to 18. The obvious increase in requirement for 16–18 year olds is currently met largely by students having to travel beyond the Peninsula, although Brixham College has already responded with 48 additional places for “A”-Level students.
- 9.10 Currently most vocational training is only available beyond the Peninsula at South Devon College, the Studio School or further afield. Whilst Brixham College

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<sup>69</sup>Education, Fourth Report, Participation by 16–19 year olds in Education and Training 2011, Education and Skills Act 2008.

and Churston Grammar cater for some of the increased demand, a shortfall of around 200 places is still predicted.

- 9.11 Availability of land for additional places is scarce, hence a range of new possibilities for increasing vocational courses and apprenticeships is required if we are to prevent so many of our young adults having to commute far and wide to access suitable courses.
- 9.12 This plan acknowledges the need for flexibility in planning provision for education and training, especially in light of frequent changes in national education policy. Hence there is a clear need to protect all of our sites in order to facilitate future developments required to respond to changing demand.
- 9.13 With the restricted options available for new employment opportunities, we can expect that home-based small businesses may provide a significant income stream for people hoping to make a future in the Brixham area. Thus childcare provision should be flexible, and should be geographically aligned to existing provision such as the work hub provided by Brixham SeaWorks.
- 9.14 Careful consideration will be given to how additional school facilities can be of benefit to and accessed by the whole community, particularly out of hours or to help the delivery of adult educational needs. The ability to accommodate dual use will be particularly important when considering the development of sports or arts facilities.

## 10 Tourism (TO)

10.1 Tourism is one of Brixham's main economic drivers and a major sector of employment across the Peninsula. It has been estimated<sup>70</sup> that in 2013 there were in Brixham:

- 124,500 staying visitor trips spending £32,580,500
- 483,100 day visitors spending £17,255,200
- a £49.8 million direct visitor spend for the year
- 942 full-time equivalent jobs supported by visitor-related spending.

Of those visitors that stayed in Brixham, 35% stayed in static vans/holiday centre type accommodation and 27% stayed with friends or relatives.

10.2 In 2014, English Riviera Tourism Company (ERTC) statistics show that across Torbay the average spend per night for a staying UK visitor was £68.47. For a visitor from overseas to Brixham, this was £72.83, but the number of nights stay per trip has been declining since 2010.

10.3 Whilst the number of day visitors to the Bay has increased by a huge 36% since 2010, their average spend per trip in 2014 was only £36.04, which is almost a 25% reduction from the 2010 spending figure of £47.64 per visitor. Whilst choosing dates to compare can be subjective, these figures do highlight the recent downward trend.

10.4 Four key needs to improve Brixham's tourist offer have been identified:<sup>71</sup>

- the need for better marketing
- the need for higher quality accommodation

<sup>70</sup>The English Riviera Tourism Company, Brixham 2013 Report.

<sup>71</sup>Torbay Development Agency, The Turning the Tide for Tourism Strategy, 2010–2015.



- the need for higher quality food outlets
- the need for more indoor and outdoor leisure facilities.

10.5 During the compilation of the Neighbourhood Plan and the consultations undertaken, many thoughts and ideas have been expressed about what needs to/could be done to stem and reverse the downturn in spending by visitors and increase the numbers of tourists to Torbay, particularly those who stay in our Peninsula.

10.6 What is clear is that this industry is critical to the whole economy of the Brixham Peninsula and as such needs special consideration when considering the future use of available land. Without protection of a sustainable economy our community, our heritage, our environment and our whole way of life are at risk.

10.7 Accommodation supply has diminished significantly in recent years. The closure of Pontin's Dolphin Holiday Camp following a fire in 1991 and its redevelopment into Sharkham Village, the current change of Wall Park Holiday Village into a housing estate, development of "The Cove" from holiday camp to investment homes and many changes of use from bed and breakfast businesses to residential dwellings all represent a huge loss of available beds for visitors.

10.8 This trend needs to be reversed if our tourist industry is to survive. It is recognised that the type, quality and culture of tourism is changing but we need to respond to such change with investment in the kind of holiday experience and facilities required for the 21st century. It is not acceptable to see all our tourist accommodation disappear either from lack of investment in the industry or demand for land to meet the pressure for housing development. We risk a tragedy for our whole economy if we fail to improve and increase our tourist accommodation, especially at a time when the domestic holiday industry is showing an upturn across the UK.

**Policy TO1:****Support for of tourism**

- TO1.1 Subject to compliance with the other policies of this Neighbourhood Plan, developments that increase the quality and range of tourist accommodation and leisure potential in the Peninsula area will be supported, especially where it can be demonstrated that the development will lead to the creation of local jobs.
- TO1.2 **Proposals for the redevelopment for non-tourism use of any "holiday camp" or self-catering tourism accommodation site within the Brixham Peninsula will only be supported where it can be demonstrated that the use is not practically or financially viable, at that location. A lack of viability is to be established by clear evidence from an active marketing effort that it would not be possible to achieve a lease or sale of the premises at a reasonable market rate.**
- TO1.3 Where there is no reasonable prospect of a tourist facility or amenity being re-developed explicitly for tourism purposes change of use will be supported subject to the following criteria:
- the alternative use will also support local tourism, including self catering accommodation; or
  - the alternative use will otherwise support the local economy by providing employment; or
  - the alternative use will contribute to the needs of the community by **providing affordable, housing in accordance with Policy BH9.**

**Justification for Policy TO1**

- 10.9 Over recent years the number of tourist beds in the Peninsula area has declined greatly and as tourism remains a key employment area and driver of the local economy, this decline needs to be reversed with better quality and year-round availability along with further all-weather leisure facilities. In line with the Local

Plan,<sup>72</sup> this policy seeks to tighten previous planning policy that has resulted in the loss of so much tourist accommodation or amenity in recent years. From community consultation events, concern has repeatedly been expressed that the lack of land availability for tourism will make it impossible for the industry to respond positively to any economic upturn or change in pattern of holidaymaking behaviour. Economic regeneration is dependent on scope for expansion of our tourist industry.

- 10.10 In addition to this key policy, all consultation has indicated a virtually unanimous view that to regenerate our tourist economy, many projects and practical ideas need to be strongly promoted and supported by the whole community as well as Torbay Council and the ERTC. Evidence gathered from our community consultations, often provided by those employed in the tourist industry, demonstrated a strong need to use planning policy wherever possible, to support and enhance an industry that, whilst vulnerable to market changes and holiday trends, still plays a crucial role, if not the predominant one, in the economic fortunes of our whole Peninsula.
- 10.11 Brixham lacks the stock of larger housing enjoyed by the rest of Torbay which provides bed spaces in key tourism zones and so needs to protect as far as it can its scarce accommodation resource and take every opportunity to both increase and improve the quality of it.
- 10.12 Tourists come to Brixham not for a single attraction but because the town itself is the attraction. When visitors were shown images of Brixham, they found its characteristics appealing. Therefore, there is a need to keep the quaint feel of the town for tourism, to build upon Brixham's unique identity and heritage aspects and develop a Brixham brand.
- 10.13 Brixham has been awarded the UK Port of the Year title in 2016 and 2017. It is also placed in the top 10 of the best seaside tourist destinations in the UK and it remains the highest earning port in England.

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<sup>72</sup>Adopted Torbay Local Plan, Policy TO2, "Change of use of tourism accommodation or facilities", 2016.

- 10.14 The Peninsula community run many excellent annual events and festivals, from the smaller Gooseberry Pie Fair in Galmpton, to larger events such as the Pirate Festival, Fishstock, the Trawler Race, BrixFest, the Hap'nin and the Torbay Steam Fair. Themes vary and cover fish, trawler racing, music, heritage sailing and regattas, the arts, steam and the RNLI. They are all very popular and attract thousands of visitors, local and international, who fill the town's bed and breakfasts every year.
- 10.15 Marketing of Brixham has been carried out by the Tourism Partnership who rely on volunteers. The ERTC has a regularly updated website for the whole of Torbay, but it is felt that a website just for Brixham is essential.
- 10.16 Overseas visitors stay longer and spend more per trip than UK visitors, and currently Torbay is receiving a large number of German-speaking visitors. Advice to businesses to include language translation options when modernising their websites would perhaps help them to compete on the international tourism stage.

## 11 Sport and leisure (S&L)

- 11.1 Whilst the competition is fierce for how remaining land on the Brixham Peninsula is allocated, whether for employment or housing, this section addresses the community's expression of need for improved facilities for sport and leisure. It is deemed vital to the sustainability of our community that, just as high-quality schools and healthcare services are needed if we are to encourage more families to move into the area, it is essential that improvements in provision of sport and leisure facilities are built into the plan. Whilst we, the communities of our town and villages, have done much to improve things by building skate-parks and swimming pools and encouraged private enterprise with amenities such as the Cayman Golf, land still available in Torbay Council ownership needs to be assessed for these purposes prior to offering it for other kinds of development.
- 11.2 Loss of putting greens at Furzeham and St Mary's as well as loss of tennis courts resulting from Torbay Council withdrawing maintenance and operational funding at the south side of the Bay has been damaging to the wellbeing of both local youngsters and visitors. To address these deficits and recent trends the following policies are needed.

### **Policy S&L1:**

#### **Increase available space for outdoor sport and leisure**

- S&L1.1 Notwithstanding areas already designated as Local Green Spaces or Public Open Spaces, additional and better quality outdoor playing space is required in the Peninsula. Subject to compliance with the other policies of this Neighbourhood Plan, proposals for developments within and adjacent to settlements (but excluding Settlement Gaps) which provide outdoor pursuits will be encouraged. These pursuits will embrace a range of activities and sports including formal games pitches, tracks, courts, parks (e.g., skateboarding) and facilities, signposted walking routes and "Trim Trails", and more informal "free play" and "free activity" areas.

S&L1.2 The approval of any new, enhanced or improved sport or leisure facility will be subject to assessment of the design and impact, amenity and light emission of the proposed development in relation to its setting and other policies in this Plan. It would not be appropriate to introduce flood-lighting into dark areas or cause larger volumes of traffic to need to negotiate minor rural roads.

### **Justification for Policy S&L1**

- 11.3 According to minimum guidelines set by the National Playing Fields Association there should be 40.8 hectares of outdoor playing space for a town of our size (27.2 allocated to outdoor sport, 13.6 for children's' play areas). Brixham currently falls way short of this (approx. 13 ha total), and whilst our geographical location goes some way to mitigating the impact of this there is much work to be done in improving the opportunities and facilities for outdoor play.<sup>73</sup>

### **Policy S&L2:**

#### **Sport and recreational facilities in new developments**

New residential development proposals **will be required to provide sport and recreational facilities integrated into the development in accordance with Torbay Council adopted standards.** Where appropriate the financial contributions to the improvement of existing or provision of new off-site facilities will be acceptable as an alternative.

### **Justification for Policy S&L2**

- 11.4 Both YES and Indigos Go Wild have been recognised nationally for the work they have been doing with young people. They should be supported in expanding their operations to reach a larger number of younger residents and their families.
- 11.5 For such work to continue alongside future development, merely commending voluntary groups for such extraordinary achievements is not enough. Crucially,

<sup>73</sup>National Playing Fields Association, 2001,PPS 8: Open Space, Sport and Outdoor Recreation – Summary of the National Playing fields, Association Minimum Standard for Outdoor Playing Space, cited in Torbay Council's Planning Portal.

the use of land in and around new development must include clearly defined space for recreation purposes. Wherever possible easily supervised space for children's outdoor play areas or parks will be provided.

11.6 Careful consideration from the local community must be given to the desirability or otherwise of including dog-walking within these areas.

11.7 Public open space, sports and recreational standards are set out in the Torbay Council Planning Contributions and Affordable Housing Supplementary Planning Document (2017). Wherever possible Section 106 or CIL monies will be sought through the planning process to provide high-quality equipment or resources for such purposes.

## 12 Art and culture (A&C)

### Policy A&C1:

#### Promotion and protection for the arts and local culture

Subject to compliance with the other policies of this Neighbourhood Plan, proposals for developments **supporting artists, activity, places and the use of heritage assets** and promote or create new space for cultural activity will be supported. Developments that threaten the cultural activities and/or facilities of our communities will be resisted.

### Justification for Policy A&C1

- 12.1 The communities of Brixham Town and its satellite villages, including Kingswear, both support and benefit from a diversity of cultural and artistic activities. Many are directly linked to our rich heritage.
- 12.2 This Neighbourhood Plan strongly promotes and celebrates this aspect of community life in full realisation of its vitality to our thriving communities, both for those who just want to enjoy and watch events as well as those who participate so brilliantly in so many of our activities and events.
- 12.3 The health, wellbeing and educational benefits seem obvious, but proposals for other types of development may threaten the sustainability of this aspect of community life, especially where available land or suitable space are at such a premium. Hence, there is a great need to protect our theatre, performance areas, display sites and outdoor space for all our festivals, celebrations and cultural events.



## **Appendix 1**

### **Important aspirations**

#### **Aspiration 1 - To encourage more people into town by sustainable means**

Achieving this Aspiration will require:

- **A greatly improved park and ride facility to create a central transport hub for the peninsula, that includes a range of on-site amenities and facilities**
- **Development of cheap, family friendly alternative means of getting into town to encourage its use**
- **A new town centre public transport hub as described in the Town Centre Master Plan**

Difficult choices are required to increase vibrancy and boost the economy of our town centre. Bolton Cross, having been identified as a priority Air Quality Management Area, one of only two in the whole of Torbay, has recently undergone significant improvement to increase traffic flows through the junction, though with no discernible benefit to pedestrians crossing. This is somewhat in conflict with the wishes of the business community's goal of attracting more people, mostly in cars, to the town centre to increase business for local traders. There seems little sense in making these environmental gains only to flood the town centre with more motor traffic. Hence this policy seeks to increase footfall to all our businesses and attractions whilst avoiding further harm to the environment. By linking Neighbourhood Plan aspiration with our Highways Department's strategic intent we hope to ensure that new developments do not place even greater strain upon our infrastructure which is already the source of so much dissatisfaction amongst residents and visitors alike. Evidence from many coastal towns in the South West shows that restricting motor traffic from town centres and increasing pedestrian zones by introducing good quality park-and-ride schemes significantly boosts the local economy.

**Aspiration 2 - The potential of our coastal location should be maximised**

**The excellent work already being done by local organisations in meeting the needs of young people should be recognized, and their experience and expertise used to support future development. Presumption will be in favour of new developments of watersport and coastal recreational facilities as well as proposals that enhance existing recreational and sporting amenities along our coastal hinterland.**

Several organisations including Brixham's Yacht Club, Gig Club, Swimming Club, British Sub-Aqua Club, Sea Angling Club and Ibex Canoe Club all organise water-based activities safely and expertly. Developments where these clubs seek to enable many more opportunities for people, young and old, local and tourist alike to get involved will be encouraged. Watersports could be developed at, for example, Breakwater, Shoalstone, Elberry and Broadsands in a way that would benefit tourism as well as the local community. Shoalstone Pool should also be recognised as a unique and prized aspect of our heritage and should not solely be reliant on the extraordinary community effort and commitment of volunteers for its future support and investment. This policy would also endorse the work of the Torbay Coast and Countryside Trust that encourages ecotourism, bird-watching and dolphin watching.

## Appendix 2

### Priority projects to evolve from Neighbourhood Plan policies

#### A1.1 Projects to support employment in the Brixham Peninsula

A1.1.1 The following projects have been identified during the consultations and work undertaken in preparing the Employment Site Assessment contained in this Neighbourhood Plan.

A1.1.2 **Construction of the Northern Arm.** This project has been on the table for many years and, in order to attract more investment into the town, particularly within the Harbour area, protection for the harbour is urgently required. It is paramount that as soon as the funds are available this project is given top priority.

A1.1.3 **Development of Brixham Town Centre car park land as per the Town Centre Master Plan.** This land has been underutilised for over 10 years and the Town Square has been used for additional car parking for a similar term. This open space is the last sizeable available brownfield site in the town available for employment and could support a mix of uses. The Town Centre Master Plan has been produced from community consultation and ideas.

A1.1.4 **Development of Oxen Cove land as per the Town Centre Master Plan.** During consultations it has been clear that the fishing industry needs more facilities in Brixham to be able to retain and develop their businesses. To maintain their boats, owners currently are forced to travel elsewhere, which is time consuming and costly. There is great potential to draw in business from other areas where working boat and leisure craft owners require maintenance.

A1.1.5 If the industry is to thrive here and for Brixham to retain its premier position as Best Port in the UK, investment and redevelopment need to be given priority.

A1.1.6 Guideline plans have been formulated and can be found in the Town Centre Master Plan and in the Harbour Authority Port Master Plan.

**A1.1.7 Broadsands Beach facilities for visitors.** Both the immediate community and those regular visitors to Broadsands from the rest of the Peninsula and beyond believe the dilapidated state, poor design and inadequate facilities of the existing beach-head buildings are long overdue major improvement or a complete rebuild. A project has been proposed by the Broadsands Community to hold a competition to design a building and associated facilities fit for the 21st century.

**A1.1.8** It is believed that if a plausible plan were on the table developers may show interest in building a facility fit for the requirements of an area where the natural amenity, high-quality beach, plentiful parking and easy accessibility are of such a standard that Broadsands Beach could easily become the most popular beach in the Bay.

## **A1.2 Projects to reduce the risk of flooding on the Brixham Peninsula**

**A1.2.1** Whilst improvements in drainage have lessened the frequency of flooding the loss of trees, including those felled due to disease near Strawberry Bend, and the developments at Summercombe and on both sides of New Road since the 1960s and 1970s, which have reduced infiltration, are all factors that may have increased risk, on top of the underlying climate change.

**A1.2.2** Given that properties in Churston Village have flooded in recent years (e.g., in 2014), there remains a high risk of flooding in Galmpton, and there remains a high risk of flooding in the Town of Brixham from the Higher Brixham watercourse (main river) and the Lupton watercourse, further study is required to investigate the most appropriate engineering solutions to flooding problems.

### **A1.3 Proposed projects to support transport policies**

A1.3.1 To **improve road safety** the following need attention.

A1.3.2 Milton Street, Drew Street, Monksbridge and Burton Street have become increasingly busy in recent years. All serve as main traffic artery routes for the populace of Berry Head, St Mary's and Summercombe.

A1.3.3 Public opinion expresses a variety of options for improvement, of which the widening of Monksbridge commands some support, which is also favoured by Torbay Highways Department. Others suggest this will merely speed up traffic, increasing pressure at the junction with Greenover Road and encouraging even more traffic in Burton Street.

A1.3.4 The proposal here is that the whole area requires further research as to whether piecemeal improvements will provide a sustainable solution or whether a more comprehensive solution is required. A one-way system, such as exists on the Furzeham side, including a variety of traffic calming measures combined with improved signage, widening of pavements and a dedicated cycling link from the area to the cycle path along the A3022 would be the preferred option for the longer term. This would include safe crossings at the bottom of Monksbridge and at the bottom of Laywell Road for pedestrians and cyclists alike.

A1.3.5 In order of priority the following are recommended:

- Priority must be given to road safety on Burton Street, with widening of pavements including build-outs supported by a 20mph speed limit and priority over on-coming vehicle road signs. Consideration must then be given to a 20mph speed limit along all four streets of Milton Street, Drew Street, Monksbridge and Burton Street.
- The Quay, The Strand, lower King Street all require urgent assessment for their suitability for "shared space" traffic management, to improve road safety, especially for pedestrians and cyclists. Whilst it is too early to assess the benefits, both to air management and congestion, from the

improvements just completed at Bolton Cross, this should also be assessed, either for “shared space” or other means of improving safety for all travellers including wheelchair users.

- As long as the main cycle route to Paignton directs users to leave the A3022 at Churston Cross, to travel through the village to complete the route to Windy Corner via the Bascombe Road, then a 20mph speed restriction is required right up to Windy Corner to protect walkers, cyclists and horse-riders.
- To address the significant increase of recent years in congestion along the A3022, a redesign of the Windy Corner junction is required. The preferred option on grounds of its least environmental impact on Churston Common may not prove a sustainable improvement. The current proposal will increase traffic flow from Brixham, by providing an increased length of dual carriageway as drivers choose to take the Dartmouth Road towards Paignton or the ring-road towards Yalberton. This is achieved by building a short length of additional carriageway on the Eastward side of the A3022 (for Brixham bound traffic) at the entrance to Bascombe Rd for about 150 metres before rejoining the existing carriageway. This enables a lengthening of both Paignton bound carriageways on the approach to the junction from the Brixham direction. The junction re-design will include safe provision for cyclists and walkers crossing all adjoining roads. Note that, currently, it is unclear how this will be achieved. Whilst funding has already been identified to take this proposal forwards this year, the Neighbourhood Forum advise waiting until the implication of completing the improvements to the ring-road are fully understood.
- To address a specific road safety problem, the length of southbound carriageway along the A3022 between Waterside bus stop and Broadsands Park Road junction needs revision of the usage of the inside lane. Currently, stipulated for exclusive use by buses and cyclists, this has been reported as a frequent danger, especially to southbound traffic wishing to turn left into Broadsands Park Road, which also accesses Waterside

Holiday Park and Blue Waters Drive. The danger is compounded by drivers seeking to exceed the 30mph speed limit by using the inside lane to undertake both the traffic observing the speed limit as well as vehicles queuing to turn right into Cherry Brook Drive.

A1.3.6 Such problems arise directly from the increased traffic flows throughout the year between Paignton and the Brixham Peninsula where new developments have not been integrated with appropriate improvements to highways.

A1.3.7 To **change preferred modes of transport** the following are needed.

A1.3.8 A park-and-ride scheme fit for the 21st century with:

- car parking provision for 350–500 vehicles at Churston
- improvement to the pick-up/drop-off facilities for the number 12 Stagecoach bus route offering a cheap transfer fare. Alternatively, a tramway option to be explored.
- a taxi rank
- bicycle hire, with clearly sign-posted family friendly cycle routes into town
- a tourist information centre if a town centre facility cannot be developed
- allocated parking and drop-off points for visiting coaches with their passengers utilising the linked bus service. Coach parking may be included on this site
- tourist operators to have allocated parking to pick up passengers and take them directly to the destination of their planned activity, i.e. Agatha Christie bus tour, Fishing or Sea Trip companies, Steam Train rides
- a café facility and toilets

- well-designed intrusive signage such as “Turn left for Park & Ride” along the A3022 combined with electronic signs indicating the current status of town centre parking spaces
- inexpensive parking and transfer fare, with negotiation with Stagecoach to secure cheap transfers in line with the charges made by similar schemes in Plymouth and Exeter. Depending on outcomes, parking rates yet to be determined but kept very inexpensive to ensure popular use
- in addition to the park-and-ride scheme, within Brixham itself, in association with the developing town centre plan, parking for local businesses, residents, commercial travellers and people with disabilities in the form of a “shoppers’ car-park”
- in light of the virtual absence of on-street parking in the town centre, free parking for half an hour with an escalating scale of reasonable charges up to a maximum of 3 hours.

A1.3.9 This provision will take the pressure off Brixham Town Centre as a parking destination, particularly where day visitors are concerned as it will be possible for visitors to reach whichever part of the Peninsula or beyond that they are heading for, from a single arrival location. Whilst not all components may be achievable in the short term, the long-term view of the Neighbourhood Plan is that all will be required to achieve these policy aims.

A1.3.10 Improvements for all users of **sustainable means of transport** to include:

- the provision of a cycle route to Churston, either along the old railway track or beside/along America Lane (originally Quay Lane), via Furzeham and Oxen Cove
- a cyclepath/walkway link from Higher Brixham, via Horsepool/Mathill Road or Summer Lane and alongside Laywell Road (on the other side of the west-side hedge) to link up with Laywell bus stop and cycle path towards Strawberry Bend, which could be created relatively easily



[Both the above would make the provision of a safe cycle route between either side of Brixham to Churston Grammar School and on to South Devon Technical College a reality.]

- an alternative aspiration to the bus mode of transferring visitors from the Park & Ride into town. Either a light-weight railway or tramway carrying passengers to the Furzeham side of town, using land alongside America Lane or the old railway line, combined with an innovative means of getting down to sea-level must be kept alive as a future project.

A1.3.11 The Association of Train Operating Companies included Brixham as one of 14 towns that, based on 2009 data, would benefit from a new railway service. This would be an extension of the First Great Western service on the Riviera Line from Exmouth as far as Churston, which would then act as a railhead for Brixham. It would also serve other housing developments in the area since the opening of the steam railway, and may require the doubling of that line between Paignton and Goodrington Sands.<sup>74</sup>

A1.3.12 In light of the above, negotiations with Network Rail and local train providers should be entered into, to explore bringing main line trains, currently terminating at Paignton, as far as Churston. With adequate parking provision and cycle routes to the station a substantial shift in commuter travel to Exeter, (also linking with Exeter Airport) and Plymouth can be achieved.

#### **A1.4 Projects to regenerate tourism on the Brixham Peninsula**

A1.4.1 To attract extra visitors, there needs to be a new unique reason for them to visit which is not just a place or an attraction but an “experience”. Over recent years the Agatha Christie experience has been developed within Torbay and has proved highly successful. Brixham has a unique marketing opportunity in its Fish Market tours and the Heritage Trawler fleet. Development of a combined

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<sup>74</sup><https://en.wikipedia.org/wiki/Brixham>.

package of a land and sailing experience could provide a unique experience to draw new visitors.

A1.4.2 Several specific projects and facilities to enhance the tourist offer will be featured in the Town Centre Master Plan currently under development.

A1.4.3 The following list of suggestions, whilst not by any means exhaustive, are all proposals that have received strong community support:

- a dedicated manned prominently situated Tourist Information Office, well sign-posted, providing a full tourist service including available accommodation
- a Town Square fit for the 21st century, as a community focal point and a space for outdoor events, fairs and markets
- a dedicated Town Centre Manager to co-ordinate marketing, promotion of the Town and liaison with the Council, Chamber of Commerce and local businesses
- improved information and directional signs, and electronic “information points”
- innovations that connect to international audiences, e.g. promotion of our William of Orange heritage to attract visitors from the Netherlands
- the establishment of our own brand through high-quality, locally made Brixham merchandise, or a “Made in Brixham” brand name
- replacement of the promenade building at Broadsands Beach with a sympathetically designed facility suitable for the 21st century
- enhancement and promotion of the nature trails, art trails and historical routes, for walkers and cyclists, with good signage and descriptions en-route, seating areas at viewpoints, dog bins and refreshment points where possible

- promotion of the historical Churston Golf Course designed by Harry Colt in 1929, known as one of the greatest course designers in history so that enthusiasts travel the world to play on his courses.

A1.4.4 Strong opinions have expressed a real sense that we are not making the best of so much of our tourism offer, ranging from the need for better promotion of our natural environment and heritage with all its special designations and protections, the wide range of outdoor activities on offer and especially the status as a Global Geopark. Many local residents as well as visitors are unaware of this extraordinary attraction. Much more can be made of our wonderful tourist and environmental capital that can both promote sustainable economic advantage at the same time as protecting what is so richly valued by all, residents and visitors alike.

## Appendix 3 Settlement Gaps

The following photographs show Settlement Gaps from principle viewpoints. The photograph numbers shown correspond to the numbers on the Policy Maps".

### **E3.1** View point 1.

View across to the river Dart and the Dart valley AONB



**E3.2 View point 2.**

View across Galmpton Warborough Common towards Hillhead



**E3.3 View point 3.**

View across Broadsands beach into Broadsands barrow





### **E3.4 View point 4.**

View across Churston Golf Course opposite Bridge Road looking right (south east) and left (north west).



### **E3.5 View point 5.**

View across pastureland towards Hillhead



### **E3.6 View point 6.**

View across land at Brokenbury towards Churston Village



## Appendix 4

### List of Public Open Spaces

#### Brixham Town

- E5 – 1: Brixham AFC Football Ground – Haycock Lane
- E5 – 2: Brixham College Playing Fields
- E5 – 3: Chestnut Heights School Playing Field
- E5 – 4: Churchill Memorial Gardens
- E5 – 5: Dixons Field Allotments
- E5 – 6: Drew Street Allotments
- E5 – 7: Field off Summercourt Way
- E5 – 8: Garlic Rea and North View Road Greens
- E5 – 9: Indigos Go Wild
- E5 – 10: Monksbridge Road Brixham Skate Park
- E5 – 11: Mount Pleasant Allotments
- E5 – 12: North Boundary Road Playpark
- E5 – 13: Parkham Field
- E5 – 14: Penn Meadows Allotments
- E5 – 15: Penn Meadows extended green verges
- E5 – 16: Rowan Way Play Area
- E5 – 17: St Margaret Clitheroe Primary School Playing Field
- E5 – 18: St Mary's Hill Play Area
- E5 – 19: Top of Queens Steps Kings Street
- E5 – 20: Wall Park Allotments
- E5 – 21: Washbourne Close Green
- E5 – 22: Wishings Field

#### Churston Galmpton and Broadsands

- E5 – 23: Brokenbury Field
- E5 – 24: Ferrers Green
- E5 – 25: Field off Blue Waters Drive
- E5 – 26: Galmpton Memorial Playing Field









