

Local Protocol – Consultation Arrangements with Town/Parish Councils and Neighbourhood Forums for Planning Applications

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1. Introduction

- 1.1 Torbay Council is the statutory Local Planning Authority ('LPA') with responsibility for implementing planning legislation contained in the Town and Country Planning Act 1990, and subsequent related legislation.
- 1.2 Planning applications are determined by Torbay Council's Planning Committee, by officers using powers delegated to them by the Council and (in exceptional circumstances) by Council.
- 1.3 By Council resolutions made on 19 June 2019, the Torquay, Paignton and Brixham Peninsula neighbourhood plans were made (adopted) by Torbay Council and now form part of the Development Plan.
- 1.4 For the purpose of this protocol Brixham Town Council is automatically the Qualifying body for the area covered by the adopted Brixham Peninsula Neighbourhood Plan (BPNP) with Breadsands, Churston and Galmpton Neighbourhood Forum (BCG NF) for the unparished parts of the BPNP. Torquay Neighbourhood Forum is the 'Qualifying Body' for the Torquay Neighbourhood Plan. Forums have formal status for five years from the date of Designation. Paignton Neighbourhood Forum's status has expired.
- 1.5 Under the provisions of Paragraphs 8 and 8A Schedule 1 of the Town and Country Planning Act 1990 the Qualifying Body authorised to act in relation to a neighbourhood area for which a neighbourhood plan has been 'made' must be notified of all:
 - (a) planning applications;
 - (b) alterations to planning applications which have been accepted by the LPA, unless they are trivial; and
 - (c) applications for approval of a matter reserved under an outline planning permission;

that relate to land in its area unless the Qualifying Body in question has notified the LPA in writing that it does not wish to be notified of any such application.

(Note: The Forum status does not affect the status of any adopted Neighbourhood Plan, which will remain part of the Development Plan.)

2. Notification Procedures

- 2.1 The LPA will fulfil the obligations detailed above by forwarding to the relevant Qualifying Body an email alert with links to the Council's website.
- 2.2 Where the Qualifying Body have been notified of applications they are required to let the LPA know as soon as practicable whether or not they wish to make representations as to the way a particular application should be determined and in any case, to make those representations within 21 days of being notified.

- 2.3 There is no statutory requirement for the LPA to notify a Qualifying Body of applications outside its neighbourhood area, although as a matter of good practice this will be done with more significant applications which adjoin the boundary of another neighbourhood area.
- 2.4 In addition to notifying Qualifying Bodies, the LPA will continue to advertise details of applications as it did before the neighbourhood plans were made. Applications are currently advertised by either site notice, neighbour letters and/or advertisement in the Herald newspaper depending on the application type.
- 2.5 If the LPA allows an application to be amended before it is determined, the Qualifying Body shall be notified of any significant amendments. Whether or not an amendment is significant shall be determined by the LPA.
- 2.6 The Qualifying Body may request an extension of time should it be unable to make representations within the 21 day period. Any reasonable requests to delay consideration of applications so as to allow full representation to be made by the Qualifying Body will be at the discretion of the Divisional Director, Planning, Housing and Climate Emergency (in the case of major applications, following consultation with the Chair of the Planning Committee), but will not be permitted to prejudice statutory determination times.
- 2.7 When a Qualifying Body submits representations within the time allowed, the LPA must take them into account when determining the application. If a Qualifying Body makes representations with respect to an application, it shall receive details of the decision made.
- 2.8 The LPA must not determine any application before the first of the following to occur;
- (a) notification by the Qualifying Body for the area in which the application site is situated that no representations are to be made, or
 - (b) receipt of written representations from the Qualifying Body, or
 - (c) the expiry of the 21 day period.
- 2.9 Torbay Council will only accept a formally-constituted representation (this being a written representation and/or verbal representation) from a Qualifying Body in response to a planning application. Torbay Council will consider a representation 'formally constituted' if it reflects the views of the Qualifying Body as agreed
- (a) at a formal meeting of the Qualifying Body; or
 - (b) following an alternative protocol adopted at a formal meeting of the Qualifying Body and where details of the adopted protocol have been provided to and approved by the Divisional Director for Planning, Housing and Climate Emergency.

The minutes of the meeting (or details of compliance with the alternative protocol) including details of the representations should be available on the Qualifying Body's website (Torbay Council may in other circumstances require confirmation that any representations are formally constituted).

2.10 Written Representations from Qualifying Bodies will normally be from:

- (a) the Town Clerk or Chair of the Planning Committee of Brixham Town Council;
or
- (b) the Chair/Vice-chair of the Broadsands, Churston and Galmpton Neighbourhood Forum or Torquay Neighbourhood Forum;

following a formal meeting, or other adopted protocol contained within the approved Neighbourhood Forum Constitution which is approved by the Council/Local Planning Authority. Written Representations shall be the collective opinion of a Qualifying Body and not solely the view of an individual nominated member.

2.11 A town councillor/individual member of a neighbourhood forum may make written representations in a personal capacity, but in doing so must not seek to associate the Qualifying Body in question with those views.

3. Access to Information

3.1 Torbay Council will provide access to all public information held on planning application files (on request), and will provide photocopies of relevant documents subject to copying charges applicable at the time. Such information is also provided free of charge on the Council's website.

4. Public Participation at Meetings of Planning Committee

4.1 The meetings of the Council's Planning Committee are open to the public and therefore members of the Qualifying Bodies may attend all or part of these meetings (except for confidential and exempt items where the public are excluded).

4.2 Where a Qualifying Body agrees and record its views on a planning application following a formal meeting or other adopted protocol, a representative of the Qualifying Body may speak on a planning application in accordance with paragraph A22 of the Standing Orders – Council Meetings.

4.3 If a Qualifying Body agrees and records its views on a planning application in accordance with paragraph 4.2, it may nominate a representative to speak on its behalf at a meeting of the Planning Committee when that application is considered. Where possible written representations should be submitted to the Local Planning Authority within the statutory timeframe so that they can be considered by the Planning Officer as part of their Report to the Planning Committee. However, where representations have not been submitted in advance The Qualifying Body may still register to speak at the Planning Committee. The Qualifying Body shall notify the Council's Head of Governance Support or his/her representative of this fact by 11.00 am on the day of the meeting, providing details of the person nominated to speak, the agenda item(s) on which the representations will be made and details of the meeting of the Qualifying Body at which the application was considered. Members of Qualifying Bodies will only be permitted to make representations/answer questions on behalf of the Qualifying Body if prior notification has been given in accordance with this paragraph.

4.4 Persons who have a personal or financial interest in the outcome of a planning application (as applicant or otherwise) shall not speak as a representative of a

Qualifying Body when representations are made to the Planning Committee although such persons may apply to make representations in their personal capacity, in the same way as other members of the public can. Where a member of a Qualifying Body has a personal interest in a planning application the Qualifying Body may nominate a member without a personal or financial interest in the application to make representations on its behalf, providing the requirements of paragraphs 4.2 and 4.3 above have been followed.

5. Determination of Planning Applications

- 5.1 Torbay Council's Planning Committee will determine all 'major' applications, as defined in the terms of reference for that Committee. In exceptional circumstances, major applications may be referred to Council for determination or may be delegated to the Divisional Director of Planning, Housing and Climate Change in consultation with the Chair of Planning Committee. All other applications may be determined by an officer under delegated powers [*subject to 5.2 below*].
- 5.2 Torbay Council will notify the relevant Qualifying Body of every planning decision made by the Planning Committee, Council or by an officer who has authority to determine a planning application under delegated powers.
- 5.3 Torbay Council will notify the Qualifying Body for a neighbourhood area of any planning appeal its area.

6. Training

- 6.1 Torbay Council will when practicable arrange for training on planning matters for members of Qualifying Bodies