

## neighbourhood plans

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**From:** beatrice.scott [REDACTED]  
**Sent:** 15 December 2017 17:39  
**To:** neighbourhood plans  
**Cc:** robin.upton; Mike Smith  
**Subject:** Torquay Neighbourhood Plan - Representations  
**Attachments:** Torquay Neighbourhood Plan Representations 15.12.17.pdf

Dear Sir/Madam,

Please find attached representations on behalf of our client, Cavanna Homes, in connection with the draft Torquay Neighbourhood Plan.

We look forward to receiving confirmation of receipt of the representations in due course.

Kind regards

**Beatrice Scott** MRTPI  
Senior Planner

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Ref: X012/BS/bs  
Date: 15 December 2017

Neighbourhood Plans  
Torbay Council  
Spatial Planning  
Electric House  
Castle Circus  
Torquay  
TQ1 3DR

## By Email and Post

Dear Sirs,

**CAVANNA HOMES  
TORBAY COUNCIL  
TORQUAY NEIGHBOURHOOD PLAN**

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### Introduction

We write on behalf of our client, Cavanna Homes, concerning your current consultation on the draft Torquay Neighbourhood Plan (the Plan).

As you are aware, our client is a long-established housebuilder in the South West which has seen renewed expansion and investment in the firm over the past few years. The Cavanna Group of companies is now actively involved in housing projects throughout the West Country, making them the largest independent housebuilder in the region.

We therefore have a number of comments in relation to the draft Torquay Neighbourhood Plan which we set out below. As per the requirements of the NPPG, it is important that the policies contained within the Plan are clear and unambiguous. They should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. Furthermore, the policies should be concise, precise and supported by appropriate evidence.

### General Policies, Aspirations and Definitions

At the outset, it is noted that the Plan defines 'easy walking distance' as *'not more than 400m on level even ground and substantially less if walk involves gradients or physical barriers or uncontrolled road crossing, typically 5 minutes duration'*. 'Easy walking distance' is then referenced within a number of policies throughout the Plan, such as Policy HW3 (Community Hub Facilities) requiring all developments of more than 20 residential units to provide community hub facilities or there must be existing community hub facilities within an easy walk of 50% of the units, and Policy TR2 (Sustainable Communities) which notes that planning permission will not be granted for residential development over 20 units on a greenfield site if 80% of the development is more than an easy walk from a purpose built employment site or community hub facilities.





The Department for Transport's (DfT) document titled 'Manual for Streets' dated 2007 provides guidance in relation to walking distances. Section 4.4 gives the following advice:

*'Walkable neighbourhoods are typically characterised by having a range of facilities within 10 minutes (up to 800m) walking distance of residential areas which residents may access comfortably on foot'.*

Table 3.2 of The Institute of Highways and Transportation (IHT) guidance document titled 'Providing for Journeys on Foot' identifies a maximum walk distance of 2km for commuter, school and sightseeing walk trips, 800m for town centre walk trips and 1.2km for trips elsewhere. Whilst, the actual distance that people will be prepared to walk will vary depending on the trip purpose and other factors such as the presence of road crossings and terrain, it is clear that 800m is a reasonable walking distance on which to base the Plan definition on. Therefore, in order to ensure consistency with national guidance, we would suggest that the definition of easy walking distance is amended to 800m.

On a related matter, we would also suggest the definition of community hub is reviewed simultaneously, i.e. what is classified as a food shop and what is the required minimum floorspace? Moreover, it is pertinent to note that number of Post Offices has declined over most of the last 30 years (source: House of Commons Library Briefing Paper – Post Office Numbers (July 2017)) so it is likely that there will be far fewer Post Offices over the plan period. It is important that these definitions are clarified so as to ensure that the relevant policies (such as Policies HW3 and TR2) are not overly onerous and that development is deliverable in the Torquay area.

Additionally, both these policies cite a 20 unit threshold which requires further justification as this appears to be an arbitrary figure. There is unlikely to be demand for a shop or post office pursuant to a 20 unit scheme. Applying such a blanket approach to community facilities is not the most efficient way to ensure that developments are served by adequate services. Each site will have different constraints to the provision of services and walking distances to existing services. A better approach would be for the masterplan process to review the access to services for each development site and then propose targeted and specific requirements for additional services where needed. It is important that proposals for new services should be achievable, deliverable and viable. If these planned services do not come forward due to a lack of market demand, development sites should not be prevented from coming forward.

Also, it is noted that community aspiration is defined as *'how the community would like to see Torquay and their local area development. Aspirations are not Planning Policies but give stakeholders an insight into the wishes of that community'*. In this regard, we would highlight the requirement to clarify within the Plan what weight the Community Aspirations have as they are cited alongside a number of policies.

Turning to Policy S3 (Masterplans) and the requirement for a planning application within a Masterplan SPD area to be in conformity with the adopted Masterplan. As the policy text infers, there are legitimate circumstances where the requirements for sites change with time. The policy however merely states that any proposals that do not confirm with the masterplans should not be approved. The policy should instead be amended to refer to the need for updated masterplans to accompany any applications in order to justify changes to any outdated masterplans.

Moreover, it raises the question as to who is producing the Masterplan and to what timescales. We assume masterplans would be developer led? It would be inappropriate otherwise, for example, for developers to wait for the Council to masterplan sites. This would lead to considerable delays. The masterplan process therefore requires more clarity.

It would also be beneficial to clarify what stakeholders are involved and what is the process for the documents being adopted. Lastly, the supporting text to the policy states that to be effective Masterplans must be kept up to date to reflect viability and other constraints, however this has not been carried forward to the policy and, as such, we would suggest the policy wording is amended accordingly.



## Housing

In the first instance, it is acknowledged that the Plan allocates specific sites for more than 1,232 dwellings, drawing almost entirely from the pool of identified/potential sites in the Local Plan, as well as a number of additional new sites. Table 1 on page 13 provides a breakdown of the housing provision in the area and in this regard, it is noted that 1,040 will be from windfall sites. Whilst it is recognised that this figure has been carried forward from the adopted Torbay Local Plan, the Neighbourhood Plan is silent on how it expects these dwellings to be delivered.

### Policy H3

Policy H3 states that viability arguments shall not be a planning consideration for the Edginswell Future Growth Area against obligations to build affordable housing and any community facilities identified in an adopted Masterplan for the area and any Highway works.

This requirement is contrary to Local Plan Policy SS7 'Infrastructure, phasing and delivery of development' which states that in seeking developer contributions and affordable housing, regard will be had to evidence of development viability. As the title of Policy SS7 confirms, the viability is an essential requirement to ensure that development can be delivered.

Policy H3 is also contrary to paragraph 173 of the NPPF, which states under the heading of 'Ensuring viability and deliverability' that:

*Pursuing sustainable development requires careful attention to viability and costs in plan-making and decision-taking. Plans should be deliverable. Therefore, the sites and the scale of development identified in the plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened. To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable.*

In order to ensure that developer contributions do not threaten the viability and consequently the deliverability of developments, the Council has prepared detailed guidance on its approach to development viability through the adopted Planning Contributions and Affordable Housing Supplementary Planning Document February 2017.

The Edginswell Future Growth Area has been identified in the adopted Torbay Local Plan for a large mixed use development which could deliver 550 homes and 37,600 sq m of employment floorspace. Local Plan Policy SS2 that allocates this site is clear that there are significant infrastructure requirements associated with the development, including protected species habitat mitigation, sewerage, highway infrastructure, green infrastructure, and healthcare/education facilities. Given these constraints and the proportion of the overall housing supply for Torbay reliant on this site, it is critical that it is deliverable, and in order for it to be deliverable, it needs to be viable.

Thus in our view, Policy H3 is fundamentally at odds with the requirements of Neighbourhood Plans to support the strategic development needs set out in Local Plans and to be planned positively. As drafted therefore, the Neighbourhood Plan is susceptible to legal challenge.

### Policy H4

As set out above in relation to policy H3, it is vital that the viability of developments is not threatened by planning obligations. The affordable housing requirements of Policy H4 should therefore be subject to viability considerations.

Policy H4 does not refer to any particular affordable housing tenure mix. Again with regard to viability, a high proportion of social rented units can place additional burden upon development sites compared to a more even mix with intermediate tenures such as low cost or shared equity units.



### Policy H5

This policy seeks to restrict occupancy of affordable homes to persons that have lived in Torbay for not less than 5 years. This requirement is contrary to the usual provision of affordable housing through Section 106 Agreements that contain a cascade mechanism, usually to allow occupancy from immediately surrounding areas.

The need for affordable housing is evidenced by the Devon Home Choice Register. A meaningful proportion of the need identified in Torbay will be for persons living outside of the area and travelling to work as they cannot afford to live in Torquay. Policy H5 would therefore reduce the ability for lower paid workers to live in the area that they work and may shut out, for example, key workers from the town. The policy should therefore be amended to meet the needs of evidenced affordable housing demand.

### Policy H8

We have a number of concerns with regard to Policy H8. This policy rigidly states that the Edginswell Future Growth Area shall not come forward before 2025. It is recognised that this site is likely to be delivered in the longer term, however Policy H8 is contrary to Local Plan SS2 which states that it is 'likely' to be post 2024. The policy also states that Neighbourhood Plans could bring forward developments in the growth area, however Policy H8 negatively sets a rigid extended delay in delivery.

Policy H8 states that developments in the growth area should also not come forward until more than 75% of homes have been granted consent **AND** the net increase in jobs exceeds job growth trends. To be positively prepared, this policy should be mutually exclusive, i.e. the development should proceed after 75% of homes have been granted **OR** job growth trends permit.

If jobs numbers exceed growth expectations then housing levels should be accelerated to sustainably match demand for housing in the area, otherwise travel to work distances would be exacerbated through a lack of housing in proximity to jobs.

Whilst the 75% permissions granted trigger reflects the longer-term need for the growth area, there could be legitimate reasons to bring forward development such as where housing delivery has not kept up with the annual housing requirement in Torbay. In these circumstances it would be appropriate to bring forward available sites to make up any shortfall in housing delivery as required by Local Plan Policy SS13. Rather than the rigid current approach of Policy H8, the policy should be amended to allow flexibility in delivery allied to Policies SS2 and SS13.

Finally, Policy H8 places an undue burden upon the development in requiring community infrastructure delivered through a further masterplan process to be complete before more than 100 units can be occupied in accordance with Policy H10. As described in the following heading, such a burden is contrary to paragraph 173 of the NPPF quoted above in relation to Policy H3.

### Policy H10

This policy refers to vague strategic infrastructure requirements of an unknown quantum, which go beyond the requirements of Local Plan Policy SS2 that allocates the growth area for development. Reference is made to linking the named neighbourhoods. It is unclear if this refers to physical linkages, which may require third party land, or whether it refers to the shared provision of infrastructure such as schools and a community hub. There is no evidence provided in the NP for such requirements and the vagueness of this policy adds risk to the delivery of the development due to the uncertainty of whether its requirements are achievable.

As with Policy S3 there are also concerns with regard to the masterplan process described in Policy H10. The NP does not provide clarity as to who is responsible for preparing the masterplan, its preparation cost and timescales. This adds to the uncertainty of delivery and exposure to risk for any purchaser of the site.

### Policy H9

Policy H9 requires all homes sold within the Edginswell Future Growth Area to be the purchaser's sole residency. Firstly, the title of this policy 'Homes for Torbay Residents' implies that housing should be for existing residents (similar to Policy H5 in relation to affordable housing). The wording of the policy is such



however that anyone can own a home in the area provided that it is the primary address. The title of the policy should therefore be amended, if this policy does indeed go forward, to refer to control over second homes ownership.

Notwithstanding the ambiguity with the policy title, we do not consider that the policy meets the requirements of Neighbourhood Plans to support the strategic development needs set out in Local Plans and to be planned positively.

Whilst the NP correctly seeks to replicate the housing requirement of the Local Plan, this strategic requirement would have been informed by an Objectively Assessed Housing Need (OAN). It is a requirement of the OAN to include an assessment of the future population profile based upon factors such as the number and profile of people migrating to the area, which would have included an element of persons with a primary address elsewhere. The policy might therefore result in restrictions in meeting the evidenced demand for housing.

Whilst this policy is based upon the St Ives NP, that policy was informed by a detailed assessment of the quantum and effects of second home ownership levels upon the town. No such assessment of the impact of second home ownership has been undertaken to support Policy H9. For example, the policy would prevent the private rental market, whereby someone living elsewhere might own a property in Torquay and rent it to a local. This would frustrate residents that earn too much to be on the Devon Homes Choice Register, but can't afford to purchase a home. A lack of rented properties would also increase rental prices, exacerbating the problem. The economic effect on the town through preventing second home ownership has also not been assessed.

The circumstances in Torquay are likely therefore to be significantly different to St Ives and the proposed policy is likely to have negative economic effects in terms of reduced expenditure within the town. The policy restriction is also likely to affect the viability of developments that hasn't been considered. As drafted therefore, the Neighbourhood Plan is susceptible to legal challenge.

#### Policy H12

Policy H12 seeks to prevent HMO's, which is in direct conflict with Local Plan Policy H4 that encourages and supports the creation of HMO's provided that an appropriate standard of accommodation is provided. No evidence is provided within the NP for such a reversal of policy. Such accommodation is important for key workers and those with a low income that would be restricted by the policy. Given the direct conflict with this strategic aim of Local Plan Policy H4, NP Policy H12 should be deleted.

#### Policy H13

Whilst Cavanna Homes encourages high quality design, over-elaborate design standards can again threaten the viability of developments. This should be reflected in the accompanying text to the policy.

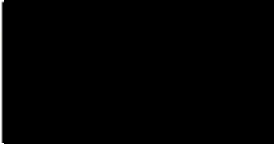
### **Concluding Remarks**

In its current form the Neighbourhood Plan is in direct conflict with a number of strategic development needs set out in the Local Plan. The Plan is not positively prepared and in fact would add risk and uncertainty to the delivery of development, whereas its intended purpose should be to support the delivery of development sites. The disregard to consider the viability of developments is clearly contrary to all local and national policy that positively supports housing delivery. There is also a distinct lack of evidence to support the numerous departures from the strategic aims of the Local Plan strategy. As drafted therefore, the Neighbourhood Plan is susceptible to legal challenge.

We request that we be kept fully informed on the progress of the Neighbourhood Plan and all other future development plan documents produced for consultation. In the meantime, we look forward to your confirmation of receipt of these representations. If you have any queries then please do not hesitate to contact us.



Yours faithfully



**Robin Upton**  
**Director - Planning**

Encs.