

neighbourhood plans

From: Mike Harris [REDACTED]
Sent: 15 December 2017 16:10
To: neighbourhood plans
Subject: Paignton Neighbourhood Plan Regulation 16 Consultation Response
Attachments: 15230_T_170530_Paignton NP Reg 14 Rep_FINAL.pdf; 151509_T_171215_Reg 16 Representation PNP_FINAL.pdf

Importance: High

Dear Sir/Madam

In accordance with the Neighbourhood Planning regulations, please find attached a Regulation 16 consultation response in respect of the Paignton Neighbourhood Plan, submitted on behalf of my client Abacus Projects/Deeley Freed Estates.

In addition to the Regulation 16 representation, I attach a copy of the Regulation 14 representation as the current response makes a number of references to it.

If there are any issues opening this submission please contact me as soon as possible.

Kind regards

Mike

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15th December 2017

151509_T_171215_Reg 16 Representation PNP

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

By email only to neighbourhood.plans@torbay.gov.uk

Dear Sir/Madam

Paignton Neighbourhood Plan Regulation 16 Consultation response

We act for Abacus Projects/Deeley Freed Estates (AP/DFE) in respect of their interests in the Torbay area. AP/DFE are a landowner/development promoter with interests in Torbay, principally in the Blatchcombe and Churston-with-Galmpton wards. In recent weeks, Stride Treglown, on behalf of AP/DFE, have submitted an outline planning application for a residential-led development on land south of the White Rock area (ref. P/2017/1133), adjacent to Brixham Road.

This letter addresses a number of issues:

- It acts as a representation in accordance with Regulation 16 of The Neighbourhood Planning (General) Regulations 2012;
- In accordance with the provisions set out in Regulation 16(a)(iv) this letter also acts as a request to be notified of the decision made on the plan proposal under Regulation 19; and,
- Finally, in the event that the appointed Examiner(s) elect to hold a hearing(s) on the subject of the proposals, either solely in respect of the Paignton Neighbourhood Plan or in combination with the draft Torquay and/or Brixham Peninsula Neighbourhood Plans, we request to be notified of this and request, in advance, the opportunity to participate.

This representation follows our previous representations to the Paignton Neighbourhood Forum in respect of their Regulation 14 consultation. These are appended to this submission for completeness and are not repeated in detail here other than to highlight that it was, at that time, clear in our professional opinion that the draft Plan published for consultation could not be considered to meet the basic conditions tests and did not, in our professional opinion, follow the lead of the adopted Local Plan which is noted to be *"a Plan for growth, within environmental limits"* (adopted Torbay Local Plan, paragraph 1.1.1).

In the context of this Regulation 16 submission, the following points are those which are worthy of being repeated.

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The planning policy framework for neighbourhood planning is set out in the National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG). The latter notes 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)” (ref. 004 41-004-20140303).

Paragraph 16 of the NPPF confirms that this relates to policies for housing and economic development and further that neighbourhoods should, *“plan positively to support local development, shaping and directing development in their area that is outside the strategic elements of the Local Plan”*.

Specific policy in relation to neighbourhood planning is set out in paragraphs 183-185 of NPPF. In particular, paragraph 184 states that:

*“The ambition of the neighbourhood should be aligned with the strategic needs and priorities of the wider local area. Neighbourhood plans must be in general conformity with the strategic policies of the Local Plan... Neighbourhood plans should reflect these policies and neighbourhoods should plan positively to support them. Neighbourhood plans and orders **should not promote less development than set out in the Local Plan or undermine its strategic policies.**”* (our emphasis).

PPG reinforces this, noting that *“A neighbourhood plan or Order must not constrain the delivery of important national policy objectives”* (ref. 069 41-069-20140306).

In respect of local planning policy for neighbourhood plans, it is recognised that the adopted Torbay Local Plan (December 2015) places great emphasis on the role of the three proposed neighbourhood plans in the detailed delivery of the Local Plan's policies.

The following policies are directly relevant to the proposed PNP:

- SS1: *“In years 6-10 of the Plan (2017/18-2021/22), development will come from completion of committed sites and developable sites identified in Neighbourhood Plans” and that;*
 - 4.1.29: *“...neighbourhood plans... need to identify sufficient sites to maintain a rolling five year housing supply from 2017, with broad locations for longer term growth”*
- SS4: *“The Local Plan supports the creation of at least 5,000-5,500 net additional jobs by 2030.”*
 - 4.2.18: *“detailed mechanisms for delivering employment-led development, including the quantum, layout and phasing, will be determined through a combination of neighbourhood planning, masterplanning, and supplementary planning documents.”*
- SS5: *“Specific sites will be identified through Neighbourhood Plans... The Council, in conjunction with Torbay Development Agency and Neighbourhood Planning Forums, will use Local Enterprise Areas and Local Development Orders to encourage provision of high quality*

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employment space, environmental improvements, and better facilities serving employment within existing and proposed employment areas, so long as this is consistent with other Policies in this Plan”.

- SS13 (Table 4 – Local Plan phasing and housing trajectory):

Plan Years	Financial Years	Paignton
1 – 5	2012/13 – 2016/17	960
6 – 10	2017/18 – 2021/22	1,190
11 – 15	2022/23 – 2026/27	1,330
16 – 18	2027/28 – 2029/30	800
Total		4,280

- 5.1.2: *"Emerging Neighbourhood Plans are already identifying sites and projects for future development. One of the roles of Neighbourhood Plans is to identify sites for employment and new homes to come forward over the medium to long term... Neighbourhood Plans will add detail to the way in which these sites might come forward."*
- SDP1: Source of Employment and Housing Land (Extract of Table 11)

Policy / Site Name	Commitments (mainly years 1-5 and 6-10 of Plan)	Deliverable urban/Neighbourhood Plan sites (mainly years 6-10 of Plan)
SDP3 Paignton North and Western Area	White Rock: 8.8ha (36,800 sq m) Claylands – 6.8ha (27,000 sq m)	Yalberton (Jackson Land) 3.7ha (14,800 sq m) Devonshire Park (former Nortel Site) 1ha (4,000 sq m)

In simple terms, the published draft Neighbourhood Plan failed to allocate sites, in line with the above, something which is a fundamental requirement set by the adopted Local Plan. On this basis, we consider that the draft Neighbourhood Plan failed at that time to accord with the NPPF or the strategic policy framework set in the adopted Local Plan and, as a result, did not contribute to the achievement of sustainable development to meet the needs of current and future generations. This position remains valid in respect of the submitted Plan for the reasons set out later.

In addition to our own representations, the Council as a statutory consultee made comment at the Regulation 14 stage. Whilst those representations will be before the Examiner, and may be withdrawn, edited or expanded upon by the Council, we consider it important to flag in this representation some particular matters which, in our judgement, remain relevant.

The overriding concern expressed by the Council at the Regulation 14 stage was that the draft Neighbourhood Plan failed to accord or be in general conformity with the Local Plan as it did not allocate sites to meet the housing need for years 6-10. As such, the draft Plan was in direct conflict with the NPPF (para 47) and the wider aspiration of Government to see a step change in the delivery of housing to meet need.

The consequence of this is that the draft Plan places the Council in a position of potentially not being able to demonstrate a 5 year deliverable housing land supply, either now or on a rolling basis going forward. The Council also highlighted that the Forum had inappropriately sought to reopen issues considered at the Local Plan examination in respect of the Council's growth agenda; in simple terms whether jobs or housing should come first.

The Inspector considering the Local Plan had addressed the jobs/housing delivery timing point, put simply, recognising that *"it would be illogical to have a strategy that did not support increases in both housing and employment"* and that *"there is a danger that firms would be reluctant to move to the area or expand in the area if they fear that housing to support job creation will not be provided in a timely fashion"* (Inspector's Report, para 26). We recognise that there are others, including the Paignton Neighbourhood Forum that consider this to be selective quoting from the Inspector's Report therefore, in order to ensure that a balanced opinion is formulated, we would direct the Examiner(s) to paragraphs 20 – 29 for a full consideration as to how the adopted Local Plan strategy was determined.

In addition to his commentary on the strategic approach to housing and jobs growth, the Inspector made specific comments on the role of Neighbourhood Plans in supporting the delivery of the strategy. In particular, whilst paragraph 28 of the Inspector's Report notes that the principle of leaving medium term planning, and in particular allocation/identification of sites, to the Neighbourhood Plans is a sound one, (which accords with Government commitments to the function of Neighbourhood Planning), this was with caveats, including:

"[To ensure that the Plan is in accordance] with paragraph 184 of the NPPF, the Plan must contain a clear strategic framework for the NP to work within";

"In the case of Torbay this will need to quantify the scale and timing of the development needed to fulfil the Council's housing growth ambitions", and,

"the Plan needs to include a clear policy commitment that the Council will undertake the necessary development work if the neighbourhood planning process does not successfully deliver the Local Plan strategy".

Expanding upon this, the Inspector notes at paragraphs 54 and 55 that:

“The Brixham and Torquay Forums have undertaken to submit NP that conform with the Torbay Local Plan... The Paignton Forum has not given that commitment and objects to the Council’s approach on the grounds that it undermines the Forum’s authority”, and,

“The resistance of the Paignton Forum to both the Council’s approach and the strategic housing numbers is a major concern.”

The adopted Local Plan addresses these points, committing at paragraph 4.1.29 to start to prepare site allocations documents after the end of March 2016. This work has not been advanced, owing it is understood to the expectation at that time of imminent submission of the Neighbourhood Plans. However, the Council have since adopted a new Local Development Scheme (March 2017) which notes (paragraph 3.5.2) that:

“Where there appears to be a lack of deliverable housing sites to provide for the 5 year requirement, the Council will seek to bring forward additional housing sites through a number of mechanisms, including... Promotion of outline planning applications, or a Local Development Order, for the land south of White Rock, as per Policy SS1 (Growth strategy for a prosperous Torbay), paragraph 4.1.41 and the Local Plan Inspector’s Report.”

It is clear therefore that the Council recognises the importance of protecting, via policy or the consideration of planning applications, their long term strategy for the delivery of sustainable growth.

Turning now to this Regulation 16 representation, we have given consideration to the suite of documents which have been produced as the formal Paignton Neighbourhood Plan submission. Of these, the Forum’s Consultation Statement is a key document, noting as it does how the Forum have responded to Regulation 14 representations and either amended the Neighbourhood Plan on submission or retained aspects. This Statement therefore demonstrates where potential conflict remains.

Whilst it is for the appointed Examiner to consider the matters arising from the submitted Neighbourhood Plan, it is clear from the legislative framework that the role is limited to testing whether the Plan meets the basic conditions. The following comments are therefore made within this context.

The first of the basic conditions (a) is that the Plan should have regard to national policy and advice. Planning Practice Guidance (Paragraph: 069 Reference ID: 41-069-20140306) notes that a neighbourhood plan

“must not constrain the delivery of national policy objectives” with the subsequent paragraph noting that they “should not promote less development than set out in the Local Plan or undermine its strategic policies”.

This relates closely to basic condition (e) which requires a plan to be in *“general conformity with the strategic policies contained in the development plan”.*

Considering the above, there are a number of instances where we consider that the submitted draft Neighbourhood Plan fails to meet the above referenced tests. This is most notable in the context of the failure to allocate sites for housing to meet the long term needs of residents of the Bay together with supporting the wider growth strategy. In effect, the points made at Regulation 14 stage remain valid, in particular that it is not appropriate for the Neighbourhood Plan to attempt to reopen strategic issues which are for the Local Plan to resolve.

It is worth noting our Regulation 14 position on this which identified that the Forum are attempting, as was the case at the Local Plan examination, to suggest that:

“the level of need is lower than that which has been identified and therefore it should not be met. In effect, the draft PNP appears to be undertaking a review of the Local Plan strategy in this respect and adopting the Neighbourhood Forum's position that was rejected by the Inspector in the Local Plan Examination.

It is our view that such an approach is fundamentally flawed. Whilst the PNP Forum may be in receipt of evidence on the current local circumstances, this does not negate the requirements to be in conformity with the Development Plan.”

Advancing this position, we noted that:

“In respect of delivery, the PNP Forum argument appears essentially to be one which suggests that additional housing is not required within the draft PNP because the anticipated jobs growth has not occurred. The lack of jobs growth is not disputed, but it is important to recognise that the local jobs position in this century has fluctuated from a low of 55,000 in 2000 to a peak of 60,000 in 2001 and 2003. Given this long term position, the Inspector's conclusion set out above that without housing growth job creation will not materialise, must still be the correct approach.

In this context, the implicit conclusion of the "review" that a reduction in the new start/completion rate is a signal that land supply should be reduced is clearly illogical. Moreover, it is contrary to emerging policy in the Housing White Paper which clearly points to a future position where low completion rates will lead to a requirement for higher, and not lower, land supply levels.”

The view expressed above (i.e. at Regulation 14 stage) remains the case now and is supported by a review (at this Regulation 16 stage) of the submitted Consultation Report which makes it clear that there is a significant difference of opinion between the Forum and many others, ourselves included. It is plainly the case that the approach taken by the Forum is one that results in the very real possibility of Torbay Council not being able to demonstrate a 5 year housing land supply going forward and it cannot be considered reasonable for the Forum to overreach their position and advance a position which places the Local Plan, and the Council, in a position of failing to deliver against adopted policy.

Before returning to the matter of 5 year housing land supply, it is important to make an observation in respect of jobs provision. Whilst the Inspector correctly noted that jobs growth may not pick up “until after 2016” (Inspector’s Report para 22) there is evidence that, where infrastructure is provided or the general conditions for successful trading exist, jobs are being created within the Bay area.

One such example is at White Rock where, since the 2013 outline planning permission for the mixed-use development of housing and employment land was granted (P/2011/0197), further applications/development have followed creating roles, or the prospects, for circa 350 jobs in the Western Bowl area.

Furthermore, on the site of the White Rock Local Centre, recent planning applications for new development provide positive indications of further employment growth, including:

- EPIC Innovation centre providing 160 FTE roles (P/2017/0685);
- Lidl foodstore proposal providing 40 FTE roles (P/2017/1019). The application is due before committee in January 2018; and,
- Extension to the existing Premier Inn to provide further accommodation, providing an additional 5 FTE roles above the existing 45 roles (P/2017/0855).

The above applications at the Local Centre have the potential to provide 205 FTE positions, demonstrating that there is genuine investor/business interest in delivering economic development in Torbay where the right conditions exist.

Returning to housing supply, whilst it is anticipated that the Council will confirm their understanding of the 5 year housing land supply position in the coming month(s), on publication of their Annual Monitoring Report, there are external indications that the Council already has a significant supply problem.

A recent publication from The Gracechurch Group (report¹ and article discussing conclusions²) considers the supply position in the context of emerging Brownfield Land Registers. In short, the report highlights that whilst it is right to focus on the use of brownfield land, where appropriate, to meet housing needs, this is not always the most appropriate option nor does it constitute sufficient land to meet housing needs. Torbay Council were a pilot authority and published their own register³ identifying the potential capacity to deliver 1,970 homes.

Whilst this is clearly a positive position for the Council to be in, the report also considers the potential supply position in light of the Government’s ongoing consultation on a standardised methodology for the calculation of objectively assessed need (OAN). Whilst this is recognised to be an ongoing and evolving exercise, it is considered to be broadly representative of the wider drive to

¹ <http://www.palatium.com/brownfield-housing-crisis-solved/>

² <https://www.theplanner.co.uk/news/report-brownfield-sites-alone-cannot-solve-housing-crisis> (article behind paywall therefore replicated as annex)

³ <http://www.torbay.gov.uk/council/policies/planning-policies/local-plan/brownfield-register/>

support an uplift in housing delivery to address the widening crisis. This approach is one which mirrors the adopted position of Torbay Council as demonstrated by the ambitious tandem jobs/housing growth strategy to deliver an uplift in the local economy.

In respect of Torbay, the report highlights, drawing on the emerging method for calculating OAN, that there is an annual requirement of 588 dwellings (against a Local Plan target of 400pa 2012/13 - 2016/17, 495pa 2017/18 - 2021/22 & 555pa 2022/23 – 2029/30). On this basis, considering identified supply in the Local Plan/brownfield land register (some of which either has planning permission or is already identified in the Local Plan or other draft Neighbourhood Plans), it is anticipated that the Council has a 3.35 year housing land supply (a reasonable assumption is made that this considers the Local Plan allocations/identification of sites as a starting point i.e. that those sites identified for the Forums to allocate are considered; if not, the supply position could be significantly worse).

As noted above, an Annual Monitoring Report is due to be published by the Council in the near future which is expected to clarify this position. In any event, it is clear that a failure on the part of the submitted Paignton Neighbourhood Plan to allocate any housing sites will exacerbate this problem.

Summary

It is clear from this representation, together with earlier Regulation 14 representations and the Paignton Neighbourhood Forum's dismissive response to them, that there are significant and detailed concerns about the draft Paignton Neighbourhood Plan as submitted, specifically the extent to which it complies with Local and National policy.

If the Examiner is at all unconvinced of the complete lack of conformity with the Local Plan or National policy that we believe this draft Plan represents, then we would request that there are two options available, either:

1. Move to dismiss the draft Plan having considered the written representations received; or,
2. Hold a public hearing to consider the issues and the evidence. If a hearing is to be held then, as noted above, we respectfully request that this representation is considered as a holding request to participate at such a hearing.

We would also advocate that, given the strategic responsibility which the adopted Torbay Local Plan places on the three Neighbourhood Plans within its area, all three plans should be considered at a joint hearing(s). It is clear that the issues faced by each of the Neighbourhood Forums and covered in their respective draft Neighbourhood Plans are of a significance that is at a level greater than the neighbourhood. This is, in short, a consequence of the unique nature of Neighbourhood Planning in the Torbay area, specifically the full Local Plan area coverage by designated Neighbourhood Plan areas and the means by which the adopted Torbay Local Plan places the onus on each of the three Neighbourhood Plans to allocate housing numbers for delivery to meet the housing requirement of years 6-10 of the Local Plan period.

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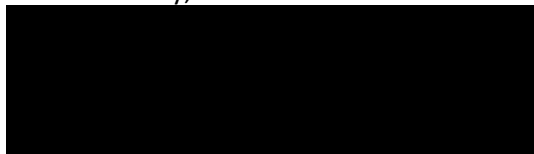
We note also that the Examiner will need to consider (in accordance with paragraph 8(1)(d) of Schedule 4 of the Town & County Planning Act 1990) whether the area for any referendum should extend beyond the neighbourhood area to which the draft plan relates. In view of the strategic interdependence of the three draft Neighbourhood Plans in Torbay, this issue will require particular consideration and our view is that a joint hearing would assist in doing this.

This matter is further compounded by the fact that the Torbay area constitutes a single housing market area and thus the Neighbourhood Plans have a significant responsibility to support the maintenance of a rolling deliverable 5 year housing land supply, as required by paragraph 47 of the National Planning Policy Framework. In addition to the responsibility in respect of delivering housing supply, the Neighbourhood Plans are required to give full consideration to matters relating to European protected species and habitats, in particular Greater Horseshoe Bats which are present across the authority area, principally in relation to the roost at Berry Head.

It is evident from both this representation, a number of Regulation 14 representations and, critically, the Forum's entrenched view, that failure to allocate sites in the Paignton Neighbourhood Plan would have a significant negative impact on the ability of the Council to deliver much needed housing to support the Council's ambitions to drive economic growth across the Bay area. These issues are of such significance that we believe the examination of the proposed Neighbourhood Plans to be a matter of greater than neighbourhood importance. The plans, if made, are critical to the delivery of the Council's wider strategy and as such their examinations should be held together and by a single Examiner who is then able to consider the strategic planning issues at play in these cases.

If however the appointed Examiner considers that a hearing is not required, we submit that the only reasonable course of action is to recommend that the Plan is refused.

Yours sincerely,



Mike Harris MRTPI
Senior Associate Town Planner
For
STRIDE TREGLOWN LIMITED

cc. Andrew Maltby, Deeley Freed Estates
Enc. Regulation 14 Representation
Article discussing *Brownfield: The Housing Crisis Solved?*

11/12/2017

Report: Brownfield sites alone cannot solve housing crisis

Words: [Laura Edgar](#)

Greenfield sites will be necessary if enough homes are to be delivered to meet demand, the authors of a new study have said.

Brownfield: The Housing Crisis Solved? considers the areas with pilot brownfield registers, comparing them with their five-year housing demand.

The pilot areas have the potential for 200,000 homes, net of normal planning attrition. But the five-year demand for housing in these areas is 275,000 homes, while 550,000 are needed over 10 years.

“The housing shortfall from brownfield is even greater than these numbers suggest,” said Neil Lawson-May of The Gracechurch Group, which sponsored the study.

According to the report, most brownfield land is not in areas of high housing need, therefore, the headline numbers present “a less accurate picture than the regional analysis”.

Lawson-May said just two regions taking part in the pilot have sufficient capacity to accommodate their five-year housing requirement once planning attrition has been factored in.

“Brownfield land can make a significant impact on the housing crisis, but it cannot solve it.”

He added that “hard evidence about brownfield site availability through the registers can help politicians and planning authorities explain to communities more effectively why greenfield development is necessary”.

The report looked at the sites identified on the brownfield registers created by local planning authorities.

The government’s new formula for assessing housing need was laid over this to see how far brownfield and can go towards meeting housing needs.

Of the 73 pilot local authorities, 67 have published their registers; the deadline for local authorities is 31 December 2017. In total, the registers identify 4,894 brownfield sites, covering

12,960 hectares, which could provide around 300,000 new homes – but this falls to 200,000 once the normal one-third attrition rate for the planning process is accounted for.

Lawson-May noted that most brownfield sites can accommodate 15 homes or fewer. “The collapse of many small housebuilders during the credit crunch is a problem for developing small brownfield sites,” continued Lawson-May. “The government should consider expanding its successful Home Building Fund.”

Just 25 sites on the registers could provide 22 per cent of all brownfield homes, notes the report. Such sites should be “targeted urgently and centrally” to determine if they are sustainable. If not, “it would be better to return them to nature and build on greenfield than spend many years debating their future,” said Lawson May.

Recommendations in *Brownfield: The Housing Crisis Solved?* include:

- Local people and interest groups should be encouraged to put forward sites for inclusion on brownfield registers and if sites are not to be included on those registers then an explanation should be given.
- The registers take no account of the attrition rate between grant of planning permission and the start of development which, according to the Department for Communities and Local Government, is about one-third. The report suggests that local planning authorities publish total brownfield housing numbers from the register alongside total expected (i.e. after normal attrition) numbers.
- The small size of most brownfield sites limits the density at which they can be built if the existing streetscape and neighbourliness are to be preserved. Where greater density is possible this is best left as a matter for local communities through the local planning authority.

** The Gracechurch Group includes Palatium Investment Management, Dominic Lawson Bespoke Planning, Crocus Valley and Bonnar Allan.*

30th May 2017

Paignton Neighbourhood Forum

By email only - submissions@paigntonneighbourhoodplan.org.uk

Dear Sir/Madam

Paignton Neighbourhood Plan Draft Plan - Regulation 14 Pre-submission Consultation

We are writing in response to the publication of the Paignton Neighbourhood Plan Pre-Submission Consultation Draft (hereafter cited as the PNP) in accordance with Regulation 14 of the Town and Country Planning Neighbourhood Planning (General) Regulations 2012 (hereafter referred to as 'the Regs'). As provided for within Regulation 14, this letter constitutes a representation on the proposed draft Plan, submitted on behalf of our clients, Deeley Freed/Abacus Projects (DF/AP). It is accompanied by a copy of the Forum's Response Form.

We have been engaged by DF/AP since 2008/09, providing town planning and masterplanning design services in respect of their land holdings in the Torbay area.

Since 2014, we have represented DF/AP in respect of their land holding to the south of land locally referred to as White Rock. During this time we took an active role in the examination of the *Torbay Local Plan 2012 to 2030* (the Local Plan). During the Local Plan examination, the Council recommended that our client's landholding south of White Rock (the Site) be allocated for development under a Main Modification.

The proposed allocation was aligned with the identification of surrounding land within a Future Growth Area and in order to support the Council's need to identify capacity to accommodate long term housing needs. The Inspector concluded that the site has merit in meeting strategic housing needs and the agreed that it can be delivered in a comprehensive manner. However, at the time of the Examination Hearings (which are now some two and a half years ago), there was insufficient ecology and landscape survey data/assessment so as to be able to confirm an allocation and it therefore did not proceed to the final adopted Local Plan.

1. Recent Work

Since the Inspector's report on the soundness of the Local Plan we have been actively engaged in preparing baseline assessment work to underpin decisions on how to bring forward development proposals to meet long term housing needs. This has been predicated on the basis of what, in our view, are clear indications from the Inspector that the Site has potential to be considered for allocation / a grant of planning permission, subject to satisfying concerns relating to ecology and landscape impacts.

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In support of this strategy, Torbay Council have adopted (16th February 2017) an Environmental Impact Assessment (EIA) Scoping Opinion for the Site, confirming the scope of any future EIA and Environmental Statement. This opinion clarifies, amongst other matters, the scope of Landscape and Visual Impact Assessment work (including key viewpoints to be assessed) and the scope of survey, and likely mitigation required, in respect of ecology.

We have also been engaged in early pre-application discussions with Officers of Torbay Council, South Hams District Council and the office of the South Hams Area of Outstanding Natural Beauty (AONB).

Most recently, we have undertaken public consultation on emerging proposals. This was launched on 11th May 2017 with two key stakeholder sessions and a public event together with a further public event on 13th May 2017. A website which hosts the consultation material together with a link to a feedback survey was launched on 11th May 2017. The consultation period closed at 23:59 on 26th May 2017.

2. Neighbourhood Planning Policy

Planning policy is a fundamental component of the Basic Conditions set out in paragraph 8 of Schedule 4B of the Town and Country Planning Act 1990 (as qualified by section 38C of the Planning and Compulsory Purchase Act 2004 in respect of Neighbourhood Plans). Specifically, a draft neighbourhood plan must be appropriate, "*having regard to national policies and advice contained in guidance issued by the Secretary of State*" (sub-paragraph (a)) and be, "*in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area)*" (sub-paragraph (e)).

National Policy Context

The basic premise of Neighbourhood Planning is summarised in Planning Practice Guidance (PPG) which notes that:

*Neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and shape the development and growth of their local area. They are able to choose where they want new homes, shops and offices to be built...Neighbourhood planning provides a powerful set of tools for local people to ensure that they get the right types of development for their community **where the ambition of the neighbourhood is aligned with the strategic needs and priorities of the wider local area.** (our emphasis) (ref. 001 41-001-20140306)*

PPG continues, noting 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).* (ref. 004 41-004-20140303). Paragraph 16 of the NPPF confirms that this relates to policies for housing and economic development and further that neighbourhoods should, "*plan positively to support local development, shaping and directing development in their area that is outside the strategic elements of the Local Plan*".

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Specific policy in relation to neighbourhood planning is set out in paragraphs 183-185 of NPPF. In particular, paragraph 184 states that:

*The ambition of the neighbourhood should be aligned with the strategic needs and priorities of the wider local area. Neighbourhood plans must be in general conformity with the strategic policies of the Local Plan... Neighbourhood plans should reflect these policies and neighbourhoods should plan positively to support them. Neighbourhood plans and orders **should not promote less development than set out in the Local Plan or undermine its strategic policies.** (our emphasis)*

This context is important in all neighbourhood plan areas, but particularly so in Torbay due to the unique situation where the proposed neighbourhood plans for Torquay, Brixham and Paignton cover the entire area of the local planning authority.

Local Policy Context

The strategy set out in the adopted Torbay Local Plan (December 2015) places great emphasis on the role of the three proposed neighbourhood plans in the detailed delivery of the Local Plan's policies. This role is encapsulated in both the strategic policies in section 4 of the Local Plan and the delivery area policies in section 5 (in relation to Paignton, section 5.3 specifically.) These policies establish clear expectations for how each neighbourhood plan will meet needs within its respective Forum area, including those relating to the supply of land for housing and employment.

The following policies are directly relevant to the proposed PNP:

- SS1 – *"In years 6-10 of the Plan (2017/18-2021/22), development will come from completion of committed sites and developable sites identified in Neighbourhood Plans."*
 - 4.1.29 – *"...neighbourhood plans...only need to identify sufficient sites to maintain a rolling five year housing supply from 2017"*
- SS2 – *"Major development outside of [Future Growth Areas] will only be permitted where the site has been identified by the relevant Neighbourhood Plan..."*
- SS4 – *"The Local Plan supports the creation of at least 5,000-5,500 net additional jobs by 2030."*
 - 4.2.18 – *"detailed mechanisms for delivering employment-led development, including the quantum, layout and phasing, will be determined through a combination of neighbourhood planning, masterplanning, and supplementary planning documents."*
- SS5 - *"Specific sites will be identified through Neighbourhood Plans... The Council, in conjunction with Torbay Development Agency and Neighbourhood Planning Forums, will use Local Enterprise Areas and Local Development Orders to encourage provision of high quality employment space, environmental improvements, and better facilities serving employment"*

within existing and proposed employment areas, so long as this is consistent with other Policies in this Plan”.

- SS13 (Table 4 – Local Plan phasing and housing trajectory):

Plan Years	Financial Years	Paignton
1 – 5	2012/13 – 2016/17	960
6 – 10	2017/18 – 2021/22	1,190
11 – 15	2022/23 – 2026/27	1,330
16 – 18	2027/28 – 2029/30	800
	Total	4,280

- 5.1.2 – *“Emerging Neighbourhood Plans are already identifying sites and projects for future development. One of the roles of Neighbourhood Plans is to identify sites for employment and new homes to come forward over the medium to long term... Neighbourhood Plans will add detail to the way in which these sites might come forward.”*
- SDP1 – Source of Employment and Housing Land

(Extract of Table 11)

Policy/Site Name	Commitments (mainly years 1-5 and 6-10 of Plan)	Deliverable urban/Neighbourhood Plan sites (mainly years 6-10 of Plan)
SDP3 Paignton North and Western Area	White Rock – 8.8ha (36,800 sq m) Claylands – 6.8ha (27,000 sq m)	Yalberton (Jackson Land) 3.7ha (14,800 sq m) Devonshire Park (former Nortel Site) 1ha (4,000 sq m)

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(Extract of Table 12)

Estimated delivery period (years)	1-5	6-10	11-15	16-18	
Policy/Site Name	Commitments and other deliverable sites	Commitments (continued delivery), Neighbourhood Plan sites and Future Growth Area			Total
SDP2 Paignton Town Centre and seafront	68	165	43	314	590
SDP3 Paignton North and Western Area	433	1,022	500	294	2,249
SHLAA sites elsewhere within SDP1	358	150		142	650
Windfalls	121	260	260	156	797
Total Paignton	980	1,597	803	906	4,286

Local Plan Examination

The adopted Local Plan has already been subjected to independent scrutiny through the Examination process, which provides important context for the rationale behind the strategy and policies in the Local Plan and how these operate together to meet the test of soundness. In this respect, we feel that two aspects of the Inspector's findings in particular must be borne in mind.

Firstly, he noted that there was a likelihood that jobs growth would not begin until *after* 2016 (paragraph 22, Inspector's Report on the Torbay Local Plan). Whilst this is clearly a challenge for the local economy, the Inspector endorsed the Council's proposed tandem strategy of linking housing and jobs delivery, specifically noting that:

“with a plan based on a strong growth agenda it would be illogical to have a strategy that did not support increases in both housing and employment. Critically, in an area like Torbay where economic performance has been poor in recent years, there is a danger that firms would be

reluctant to move to the area or expand in the area if they fear that housing to support job creation will not be provided in a timely fashion” (para 26 Inspector’s Report on the Torbay Local Plan).

The second point relates specifically to the role of PNP and others. Whilst not repeating in full those matters discussed during the Examination Hearing sessions, it is important to recognise that the Inspector had specific concerns about the overall strategic approach to delivery, insofar as it relates to Neighbourhood Planning.

Whilst paragraph 28 of the Inspector's Report notes that the principle of leaving medium term planning, and in particular allocation/identification of sites, to the Neighbourhood Plans is a sound one, which accords with Government commitments to the function of Neighbourhood Planning, this was with caveats, including:

“[To ensure that the Plan is in accordance] with paragraph 184 of the NPPF, the Plan must contain a clear strategic framework for the NP to work within”;

“In the case of Torbay this will need to quantify the scale and timing of the development needed to fulfil the Council’s housing growth ambitions”, and,

“the Plan needs to include a clear policy commitment that the Council will undertake the necessary development work if the neighbourhood planning process does not successfully deliver the Local Plan strategy”.

The adopted Local Plan addresses these points, albeit further development plan work has not been taken despite the fact that the March 2016 deadline for submission of the Neighbourhood Plans has been missed by each Forum.

3. Representations

We have reviewed the draft PNP, supporting documents and evidence base, with particular reference to the draft Basic Conditions Statement and the associated summary at Part 3 of the draft PNP itself.

At the outset, we must note that neither the draft PNP nor the draft Basic Conditions Statement refer directly to paragraph 184 of NPPF, a policy specifically aimed at neighbourhood plan-making. Moreover, although the effect of a number of the policies in the draft PNP is ambiguous, our understanding of the overall position is that the draft PNP does in fact promote less development than set out in the local plan in direct contravention of paragraph 184.

Our view is, therefore, that the draft PNP is fundamentally flawed and could not be made in its current form. It is also so fundamentally flawed that the defects are not capable of rectification by modifications that would be within the power of an Examiner to recommend. It needs to be completely redrafted. We say this for the reasons set out below.

Paragraphs 3.11 and 3.12 of the draft PNP refer to trends in employment numbers, planning consents, housing new starts/completions and vacant homes since the Local Plan period started in 2012. Paragraph 3.13 then states that, "*Review of these 'signals'... is a legitimate step to take into account in preparing the Neighbourhood Plan*".

We understand that this refers to the work set out at A4.2 of the draft Basic Conditions Statement. This appears broadly to take the position previously proffered by the Paignton Neighbourhood Forum at the Examination of the Local Plan, namely that the level of need is lower than that which has been identified and therefore it should not be met. In effect, the draft PNP appears to be undertaking a review of the Local Plan strategy in this respect and adopting the Neighbourhood Forum's position that was rejected by the Inspector in the Local Plan Examination.

It is our view that such an approach is fundamentally flawed. Whilst the PNP Forum may be in receipt of evidence on the current local circumstances, this does not negate the requirements to be in conformity with the Development Plan. As the draft PNP itself sets out in a number of places (for example at Paragraph 3.7) mechanisms for review of the Local Plan strategy are already in place elsewhere and are the responsibility of the Council.

In respect of delivery, the PNP Forum argument appears essentially to be one which suggests that additional housing is not required within the draft PNP because the anticipated jobs growth has not occurred. The lack of jobs growth is not disputed, but it is important to recognise that the local jobs position in this century has fluctuated from a low of 55,000 in 2000 to a peak of 60,000 in 2001 and 2003. Given this long term position, the Inspector's conclusion set out above that without housing growth job creation will not materialise, must still be the correct approach.

In this context, the implicit conclusion of the "review" that a reduction in the new start/completion rate is a signal that land supply should be reduced is clearly illogical. Moreover, it is contrary to emerging policy in the Housing White Paper which clearly points to a future position where low completion rates will lead to a requirement for higher, and not lower, land supply levels.

Whatever the basis of the "review", it leads to the statement in paragraph 3.13 of the draft PNP that, "*[The Review] 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.*" This is simply wrong. It does not in any way reflect the status of sites listed in the Local Plan and the mechanisms set out in the Local Plan for ensuring adequate supply of land in this period, and does not give any indication of how the rolling 5 year housing land supply will be maintained by the PNP. As a result, the draft PNP inevitably promotes less development than set out in the Local Plan in contravention of paragraph 184 of NPPF.

As set out above, the Local Plan also sets out expectations in respect of the neighbourhood plans identifying employment land to support job creation. As with housing, the draft PNP also fails to meet this Torbay Local Plan strategic aim; we do not believe that the statement at A4.2.25 is borne out by the contents of the draft PNP itself. For the reasons set out by the Local Plan Inspector, no reliance can be placed on job growth in the period 2012-16 to conclude (as the draft PNP does) that the Local Plan strategy in this respect has failed. Accordingly, the draft PNP's lack of provision of employment land

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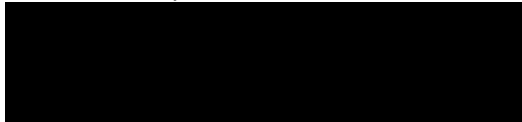
also constitutes promotion of less development than set out in the Local Plan in contravention of paragraph 184 of NPPF.

4. Summary

We are conscious that the Basic Conditions only require "general conformity" with local and national policies and that it is not a requirement that there be no tension whatsoever between the Neighbourhood Plan and other plan documents. Nevertheless, we feel that the items set out above reveal consistent and repeated failures by the draft PNP to conform with the strategic policies of the Local Plan. It is therefore so fundamentally flawed in its current form that it should not be permitted to proceed to the next stage in the neighbourhood plan-making process.

If in the meantime you have any questions relating to our representations please do not hesitate to contact us.

Yours sincerely,



Mike Harris, MRTPI
Senior Associate Town Planner
For
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cc. Andrew Maltby, Deeley Freed
Future Planning, Torbay Council