

Record of Officer Decision

Five Year Land Supply Statement

Decision Taker and Date Decision Taken:

Assistant Director Planning & Transport, in consultation with the Cabinet Member for Infrastructure, Environment and Culture and the Cabinet Member for Economic Regeneration, Tourism and Housing, on 25 February 2020.

Summary of Matter or Issue Requiring Decision:

The government has a clearly stated policy of increasing the supply of housing. As part of this, it requires local planning authorities to identify and update annually a supply of five years' worth of deliverable housing set against a target in the local plan where such a plan is not more than 5 years old. The definition of deliverable is set out in the National Planning Policy Framework (NPPF). A more restrictive definition of deliverable was introduced in the 2019 NPPF, which replaced the 2012 version. Major sites which do not enjoy full planning permission cannot be treated as deliverable unless there is clear evidence that housing will be completed within five years. Inspectors' decisions have taken a hard line on what sites may be considered deliverable. It is also no longer sufficient for a housing site, of any size, just to be allocated in a plan in order for it to be treated as deliverable.

Where a five year supply cannot be demonstrated, the "presumption in favour of sustainable development" must be treated as a material consideration when determining planning applications. Applications involving the provision of housing should be approved unless:

- i. The application of NPPF policies relating to land designated as local green space, area of outstanding natural beauty, irreplaceable habitats, designated heritage assets (etc.) and areas at risk of flooding or coastal change, that provide a clear reason for refusing the development proposed, or
- ii. Any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

This is referred to as a "tilted balance" in favour of granting permission.

Where housing supply falls below three years', the weight that may be given to Neighbourhood Plans may also be potentially reduced.

This does not change the statutory status of the development plan (i.e. the Torbay Local Plan and the three Neighbourhood Plans) as the starting point for decision making. However, a five year supply shortfall is often given significant weight by Inspectors at appeal. The operation of the presumption in favour of sustainable development is set out in paragraphs 11-14 of the NPPF.

Torbay Council consulted on its five year supply position between 4 July-5 August 2019. Based on responses from the development industry, including evidence from recent appeal decisions, it is officers' advice that Torbay has around 2.5 years' land supply. This triggers the presumption in favour of sustainable development.

Decision Taken:

That the Five Year Land Supply Statement for 2019 attached to this Record of Decision be approved and published accordingly alongside a consultation response document.

Summary of Reason(s) for Decision Taken:

To meet the Council's statutory requirements to publish a Five Year Land Supply Statement.

Summary of Alternatives or Options considered and rejected and Background Papers:

The Council's five year supply position is based on the 2018/19 Housing monitoring and upon officer assessments of what sites are deliverable.

A draft position statement indicating 3.3 years land supply was consulted on between 5 July and 4 August 2019. The Neighbourhood Forums have jointly argued that the housing land supply is at least 4.4 years' and that Torbay's housing need is exaggerated and should be reduced because job growth has not kept pace with housing numbers. The housebuilding industry has argued that supply is as low as 1.25 years, largely based on the interpretation of the National Planning Policy Framework (NPPF) definition of deliverability in recent appeals, which in their view discounts several sites as they are not deliverable.

Based on a detailed assessment of the representations, revised Planning Policy Guidance (PPG) and other matters, officers advice to members is that there is around 2.5 years' supply, within the NPPF definition and the approach currently being taken by Inspectors. Seeking to argue that there is more than 3 years' supply is unlikely to be supported at appeal.

As set out above, accepting that there is a shortfall against five year land supply does not commit the Council to approving unsustainable development. Nor is the NPPF legally capable of directing any part of the development plan to be supplanted. However, decision makers must give proper weight to the five year supply shortfall as a material consideration.

Measures that the Council is taking to boost housing supply are set out in its Housing Delivery test Action Plan <https://www.torbay.gov.uk/media/13237/torbay-housing-delivery-test-action-plan.pdf>

This includes the Torbay Housing Company's promotion of sites in Collaton St Mary, Preston Down Road and Victoria Square, the emerging Housing Strategy, and the urgent need to review the Torbay Local Plan. In view of the number of potential housing developments in the pipeline the intention is to undertake a review of the housing position as at April 2020 in order to bring the housing supply position up to date as soon as possible. The intention is to seek to publish a Torbay Housing Supply 2020 Draft Statement for Consultation during April 2020.

Details of any conflict of interest and dispensation granted to the Officer taking the decision or by any Member of the Council in delegating responsibility for any specific express delegation:

None

Implementation:

This decision will come into force immediately.

A copy of this decision and any supporting documentation considered by the Officer taking this decision may also be available for inspection by the public at the Council's offices or posted upon payment of any copying and postage charges. Any member of the public wishing to take up either of these options is asked to please ring (01803) 207087 or email governance.support@torbay.gov.uk

Signed: _____ Date: 25 February 2020
Assistant Director Planning & Transport