



TORBAY FIVE YEAR HOUSING SUPPLY 2020

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on the Torbay Council Website:
www.torbay.gov.uk/strategicplanning

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Other links that will provide more detailed background information on the spatial planning system include:

National Planning Policy Framework
<https://www.gov.uk/government/publications/national-planning-policy-framework--2>

Planning Practice Guidance
<https://www.gov.uk/government/collections/planning-practice-guidance>

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1. INTRODUCTION

- 1.1. This document sets out an assessment of Torbay's five year housing supply position for April 2020 to March 2025. In summary the council, as the Local Planning Authority (LPA), assess that there is around 3.00 years' housing supply.
- 1.2. LPAs are required to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against the housing requirement. The National Planning Policy Framework (NPPF) sets out this requirement (paragraph 73) and defines which sites may be treated as "deliverable". The (National) Planning Practice Guidance (PPG) provides additional advice.
- 1.3. This five year housing supply position from April 2020 is based on housing monitoring completed in March 2020 (prior to the Covid-19 restrictions imposed on 23rd March 2020), and the housing requirement in the Torbay Local Plan 2012-30, which was adopted in December 2015.
- 1.4. This statement will be updated annually or where there is a significant change in circumstances affecting its accuracy. Calculating 5 year supply is not an exact science and inevitably involves a planning judgement.
- 1.5. This document has been prepared at a time of unprecedented social and economic upheaval and uncertainty. It is considered that the most appropriate course in calculating future supply at 2020 is to assume a status quo ante situation with regard to market conditions, supply chains and builders' ability and willingness to build.
- 1.6. The Council carried out a technical consultation on its 5 year supply position between 15th May and 8th June 2020. Fourteen responses were received, the majority from developers along with each of the three neighbourhood forums. This is the final document having regard to the responses received during consultation.

2. FIVE YEAR HOUSING SUPPLY TARGET

- 2.1 The Torbay Local Plan was adopted in December 2015 and is currently less than 5 years old. The NPPF (para 73) and PPG (3-030-20180913) indicate that the local plan housing trajectory may be used to calculate five year housing supply where the strategic policies are less than five years old. After December 2020, the assessment of five year supply will change and on the basis of current government policy will need to be based upon a local housing need figure derived using a standard method set out in national planning guidance. It is too early to say what this will be at December 2020.
- 2.2 It is not the purpose of this paper to consider the validity of the local plan trajectory. This will be reviewed at the appropriate time as part of the Local Plan Review, which is due by December 2020.

Five year housing supply requirement: Torbay Local Plan

- 2.3 Policy SS12 'Housing' and Policy SS13 'Five year housing land supply' set out a trajectory of 8,900 dwellings over the Plan period 2012-2030 with stepped targets;

400 dwellings per year for the period 2012/13 – 2016/17

495 dwellings per year for the period 2017/18 – 2021/22

555 dwellings per year for the period 2022/23 – 2029/30

- 2.4 The baseline requirement for April 2020 to March 2025 is therefore 495 dwellings x 2 years plus 555 dwellings x 3 years i.e. a total of 2,655 dwellings.

Shortfalls

- 2.5 In calculating the five year supply, under-completions since the start of the Plan period should be added to the housing target. The shortfall should be met over five years ("the Sedgefield method").
- 2.6 Over the 8 years of the Plan period so far (2012/13 – 2019/20), there were 2,907 completions, against a target of 3,485, i.e. a shortfall of 578 dwellings. This shortfall is significantly higher than at 2019 (when it stood at 271 dwellings), as there were only 188 completions for 2019/20. Meeting this backlog over 5 years results in an additional 115.6 dwellings per year.

Buffer

- 2.7 The NPPF requires a buffer to be added to the housing requirement (moved forward from later in the plan period) "to ensure choice and competition in the market for land". This is 5% unless there has been significant under delivery of housing over the previous three years. The most recently published Housing Delivery Test published by MHCLG in February 2020 indicates a Torbay figure of 93% over the previous 3 years, and accordingly a 5% buffer has been added, as prescribed by footnote 39 of the NPPF.

3. SUPPLY REQUIREMENT

- 3.1 The overall five year supply requirement figure is calculated as 3,395 dwellings, on the LPA's assessment. This is made up of the Local Plan Requirement (2,655 dwellings), plus shortfall (578 dwellings), plus 5% buffer (162 dwellings). The table below summarises completions, calculation of the buffer and the five year requirement. We recognise that adding the five years separately it is equal to 3,394 dwellings – this is a rounding issue and to be clear the total requirement is 3,395 across the five years.

Torbay Council 5yr Requirement @ 2020 (Target = 3395) (LP Figures + 5%)														
Year	1	2	3	4	5	6	7	8	9	10	11	12	13	5yr Requirement
	12/13	13/14	14/15	15/16	16/17	17/18	18/19	19/20	20/21	21/22	22/23	23/24	24/25	
Local Plan Target	400	400	400	400	400	495	495	495	495	495	555	555	555	
Target + Shortfall (annualised over 5 yrs) + 5%									641	641	704	704	704	3395
Cumulative Target	400	800	1200	1600	2000	2495	2990	3485	3980	4475	5030	5585	6140	
Completions	249	446	349	408	326	410	531	188						
Cumulative Completions	249	695	1044	1452	1778	2188	2719	2907						
Cumulative Undersupply	151	105	156	148	222	307	271	578						

4. THE DEFINITION OF DELIVERABLE

4.1 The NPPF (2019) defines “deliverable” as follows:

Deliverable: To be considered deliverable, sites for housing should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years. In particular:

- a) sites which do not involve major development and have planning permission, and all sites with detailed planning permission, should be considered deliverable until permission expires, unless there is clear evidence that homes will not be delivered within five years (for example because they are no longer viable, there is no longer a demand for the type of units or sites have long term phasing plans).
- b) where a site has outline planning permission for major development, has been allocated in a development plan, has a grant of permission in principle, or is identified on a brownfield register, it should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years.

4.2 The PPG paragraph 007 ID: 68-007-20190722 indicates that such evidence may include:

- *current planning status – for example, on larger scale sites with outline or hybrid permission how much progress has been made towards approving reserved matters, or whether these link to a planning performance agreement that sets out the timescale for approval of reserved matters applications and discharge of conditions;*
- *firm progress being made towards the submission of an application – for example, a written agreement between the local planning authority and the site developer(s) which confirms the developers’ delivery intentions and anticipated start and build-out rates;*
- *firm progress with site assessment work; or*
- *clear relevant information about site viability, ownership constraints or infrastructure provision, such as successful participation in bids for large-scale infrastructure funding or other similar projects.*

- 4.3 On 12th May 2020 the Secretary of State issued a clarification that the NPPF definition of developable sites was not a closed list¹. He stated that: *“The proper interpretation of the definition is that any site which can be shown to be ‘available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years’ will meet the definition; and that the examples given in categories (a) and (b) are not exhaustive of all the categories of site which are capable of meeting that definition. Whether a site does or does not meet the definition is a matter of planning judgment on the evidence available”*.
- 4.4 In assessing its five year supply, the above tests have been applied to sites in Torbay as far as the information is available at the time of writing. Assessing site deliverability often entails a planning decision to be made about whether a site has a realistic prospect of completions occurring within five years. This is a lower threshold than “certainty of completion”. Nevertheless the above guidance indicates that where major sites have less than full (detailed) planning permission they may only be counted as deliverable where there is clear evidence that completions will begin in five years. The above noted clarification, does however allow a wider range of sites to be considered than if the NPPF is taken as setting out a closed list.
- 4.5 Torbay has neighbourhood plans for Torquay, Paignton and Brixham Peninsula. All three Plans were “made” by full Council on 19th June 2019, having succeeded at referendum on 2nd May 2019. Neighbourhood Plan site allocations have been assessed, and included in the five year supply where it is considered that they meet the NPPF definition of deliverable.
- 4.6 Following the challenge of achieving a five year supply that was recognised last year, Torbay Council Leader Cllr Steve Darling wrote to the Secretary of State for Housing, Communities and Local Government Rt Hon Robert Jenrick MP to express the concerns over the impact in particular on Neighbourhood Planning. It was noted that during a recent visit to Torbay he had expressed the view that Neighbourhood Plans need to be respected. However, concerns were raised from the community, and passed on by Cllr Darling, that Neighbourhood Plans were being undermined by the more rigorous definition of ‘deliverable’ in the revised NPPF making it harder for local authorities to demonstrate supply.
- 4.7 Cllr Darling received a reply from Luke Hall MP on behalf of the Secretary of State. In his response he noted the definition as set out within the NPPF but accompanied that with recognition of the impact development can have on communities and the environment, as well as expecting locally led plans to tackle difficult issues such as meeting housing needs. He was encouraged by the hard work done by everyone involved locally. Luke Hall MP also explained that once a neighbourhood plan comes into force, it becomes part of the statutory development plan and must form a starting point for decisions on planning applications. He did though recognise that Neighbourhood Plans may benefit from protections against speculative development under certain circumstance. These include where the neighbourhood plan contains policies and allocations to meet its identified housing requirement and where the local planning authority has at least a three year supply of deliverable housings sites; and where housing delivery was at least 45% of that required over the previous three years.

¹ As a consent order in the case of East Northamptonshire Council and S of S MHCLG CO/917/2020.

5. SUPPLY POSITION

5.1 Torbay's five year housing supply is made up of the following:

- Box A: Major sites (10+ dwellings) with detailed planning permission
- Box B: Other Major Sites (10+ dwellings) with demonstrated intent shown and a realistic prospect of delivery
- Box C: All minor sites (9 or fewer dwellings) with planning permission (unless there is clear evidence that sites will not be delivered within 5 years e.g. because they are no longer viable, there is no longer demand for the type of unit, there has been no activity on site within the last 10 years)
- Box D: Windfall allowance for minor sites (9 or fewer dwellings) assuming average delivery rates

5.2 Figures across boxes C and D are calculated using an average per annum delivery rate over the plan period (32 for 6-9 and 93 for under 6) to provide evidence of a reliable source of windfall sites in accordance with NPPF para 70. Using these averages, over the 5yrs the figure for sites of 6-9 units is to equal 160 (32x5) and under 6 units is equal to 465 (93x5). Figures in Box C (known permissions) are deducted from these totals with difference providing the figures for Box D as additional windfalls with a realistic prospect.

5.3 It is assessed that there are 2,039 dwellings which would have a realistic prospect of being delivered between April 2020 and March 2025, (assuming a status quo ante market). Against a target of 3,395 (average 679 dwellings per year over the 5 years) this equates to 3.00 years' worth of deliverable sites.

Five year housing land supply calculation	2,039/679 = 3.00 years
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6. NEXT STEPS

6.1 Because there is a shortfall against the five year supply requirement, the NPPF regards Local Plan policies most relevant to the determination of applications involving the provision of housing as being out of date. The Courts have held that out of date policies may still carry significant weight. Moreover, where they meet the tests in Paragraph 14 of the NPPF, Neighbourhood Plans continue to have full weight.

6.2 The NPPF does not change the statutory status of the development plan (both Local and Neighbourhood Plans) as the starting point for decision making, but is a material consideration. Accepting that there is a shortfall against five year land supply does not commit the Council to approving unsustainable development.

6.3 The NPPF requires an action plan to be prepared where housing delivery is below 95% of the housing requirement over three years, to assess the causes of under delivery and identify actions to increase delivery in future years. This is available on our website via www.torbay.gov.uk/evidence-base-and-monitoring.

- 6.4 Measures include the promotion of sites in Collaton St Mary, Preston Down Road and Victoria Square, the Housing Strategy and the urgent need to review the Local Plan. Spatial Planning is also seeking to contact developers /owners of allocated sites to try to expedite their development.
- 6.5 The 2019 Housing Delivery Test was published in February 2020, and indicates Torbay's Housing Delivery test figure being 93%. This is an improvement on the 2018 figure of 90%. Accordingly, the Action Plan will be updated.
- 6.6 Local Plan Policy SS13 "Five year housing land supply" sets out that:

"Where the supply of deliverable sites (plus windfall allowance) falls below this (five year supply) figure, or Neighbourhood Plans do not identify sufficient sites to meet the five year requirement...the Council will either:

- 1) Bring forward additional housing land from the later stages of the Plan, working closely with landowners, developers and Neighbourhood Forums; or*
- 2) Identify additional sites through new site allocation development plan documents; or*
- 3) Consider favourably applications for new housing, consistent with Policy SS2, H1 and other Policies of this Plan.*

- 6.7 Local Plans must be reviewed every five years: i.e. in the case of the Torbay Local Plan by December 2020. The requirement is not for the update of the Plan to have been completed in five years, but for the plan to be assessed to determine whether the policies need updating. The PPG indicates that consideration should be given to changes in local circumstances and national policy. Work on the evidence base for the Local Plan is currently underway.