

Council Planning Application Ref: P/2017/1133
PINS Ref: APP/X1165/W/20/3245011

Appeal under section 78 of the Town and Country Planning Act 1990 by Abacus Projects Limited/Deeley Freed Limited, relating to:

LAND TO THE SOUTH OF WHITE ROCK ADJACENT TO BRIXHAM ROAD, AKA INGLEWOOD PAIGNTON, TQ4 7BQ

Statement of Common and Uncommon Ground in Relation to Five Year Housing Land Supply

	Issue	Brixham Town Council	Torbay Council	Appellant
1. Housing Requirement and Calculation of 5 Year Housing Land Supply				
1	The housing requirement is currently set by the Torbay Local Plan, adopted in December 2015.	<p>The housing requirement is inflated as the only conclusion of the overdue Local Plan review would be to reduce housing requirements in line with the reductions in net new job creation;</p> <p>The housing requirement is currently set by the Torbay Local Plan, adopted in 2015.</p> <p>The intention was to achieve what the Council describes as a “step change” in the local economy and to link this with an appropriate level of growth in the supply of housing. However there were uncertainties</p>	<p>The Torbay Local Plan 2012-30 was adopted on 10th December, so is five years post adoption on 10th December 2020.</p> <p>The Council notes that the Standard Methodology local housing need figure is different from the Local Plan’s Housing requirement, which necessitates an update to policies for the supply of housing.</p>	Agree with the Torbay Council (TC) commentary. The housing requirement is set by the LP until 10 December 2020 when it will be five years old and the five year requirement will divert to the standard methodology.

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		<p>the “step change” would be realised and accordingly the planned housing growth needed to be monitored and reviewed.</p> <p>The following 3 complete paragraphs from the Report of Keith Holland from December 2014 succinctly capture the issue:</p> <p><i>25. Unsurprisingly, given the recent past, a number of those making representations do not believe that the Council's economic ambitions will be realised. At its most extreme the view is that there has been no job growth in the recent past and that there is no prospect of net new jobs in the foreseeable future. The argument is advanced that rather than promoting economic development, the SDLR will turn Torbay into a dormitory area for Plymouth and Exeter. Others, including the Neighbourhood Forum Groups, while agreeing about the importance of seeking economic recovery, argue that there is a danger that more homes will be built than the area needs or can be justified on the basis of job creation. These people want what they describe as a “jobs led” strategy in which housing will follow job creation.</i></p>		

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			<p><i>41. Detailed monitoring and review are important considerations in the development plan process and the Council is committed to regular reviews of the Plan. There will be ample opportunity to increase housing numbers if justified by jobs growth. Alternatively it may be necessary to reduce housing numbers over the plan period if the Council's jobs growth strategy is less successful than is hoped. At the present it is regarded as sensible and pragmatic to plan for 8,900 additional dwellings over the plan period.</i></p> <p><i>A21. The Council has quite rightly stressed that it will monitor the situation carefully and will revise the Plan as and when necessary. Monitoring of plans is always important but especially so in Torbay where there is a high degree of volatility and uncertainty about critical factors such as job creation and migration trends. The development plan system provides for a considerable degree of flexibility to allow for uncertainties and changing circumstances. The Council is</i></p>		

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	<p><i>currently thinking in terms of 5 yearly reviews of the plan. Given the importance of the “tandem” approach to jobs/homes and the reliance that the Council is placing on Neighbourhood Plans it is important that the Council adopts a flexible and highly responsive approach which will allow for reviews whenever necessary. This type of approach may give some comfort to those who fear that the Council’s “tandem” approach to homes/jobs will not be successful.</i></p> <p>The Torbay Local Plan period runs 2012 to 2030. Nomis state the number of jobs in Torbay as at 2012 to be 59,000¹. Nomis also state the number of jobs as in Torbay as at 2018 to be 57,000. Accordingly, in the time since adoption of the plan, jobs in Torbay appear to have fallen. It is noted that this is a worse outcome than the “extreme” view identified by Inspector Holland, where jobs merely remained static.</p> <p>The disruption caused by the Covid 19 pandemic in terms of its effect on reductions in demand levels</p>		

¹ https://www.nomisweb.co.uk/reports/lmp/la/1946157356/subreports/id_time_series/report.aspx?

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			<p>across the economy generally and specifically in sectors which dominate the local Torbay economy, means actual jobs in Torbay will indisputably have fallen below the Nomis 2018 figures by the time of the hearing.</p> <p>It is unclear why the Local Plan review has not commenced. However, when considering the delivery of jobs against the strategy in the adopted plan there can only be one conclusion.</p>		
2	The implication for the Five Year Housing Land Requirement (5YHLR) after December 2020		As above	The 5YHLS will revert to the "standard method" as specified by paragraph 73 of the NPPF, after 10 th December 2020.	As per TC comment, with the addition of the relevant buffer.
3	The 5 Year housing land requirement at April 2020			3,395 (as set out in the Five year Supply Statement, July 2020. This is comprised of 2,655 dwellings baseline requirement, plus shortfall (2012-20) of 578 dwellings, plus a 5% buffer.	As per TC comment..
4	The 5 Year housing land requirement post 10 December 2020			The 5 year requirement will become 586 dwellings per year x 5= 2,930 plus the applicable buffer.	As per TC comment. The addition of a 5% buffer would result in a requirement 3,076 of homes, a 20% buffer equates to 3,556 homes. Due to a significant shortfall in completions in the past three years, a 20% buffer will be confirmed when the Housing Delivery Test

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				results are published.
5	The relevance of the TLP Inspectors Report on the 5 year housing requirement	As above	This will be a consideration as part of an assessment of the appropriate (policy-on) housing requirement as part of an update of the Local Plan.	Whether it is the Local Plan requirement or that derived from the standard method, the means in which the requirement was formulated (and past Inspector's consideration thereof) is not relevant to this Inquiry.
5	The relationship between jobs (as measured by NOMIS), economic projections and other economic indicators and 5YHLS	As above	<p>The local plan's housing requirement will need to be considered as part of the Local Plan review/update. Because the Standard Methodology LHN figure is substantially different from the Local Plan baseline requirement and recent completions, an update to the Plan is required. Accordingly the standard methodology figure must be used as per NPPF paragraph 73 and footnote 37.</p> <p>Matters such as the job market, house price signals etc. may be taken into account if there are exceptional circumstances at a plan making (or updating) stage as per paragraph 60 of the NPPF. However the Standard Methodology does not assess jobs (or the likely need for economically active people), and</p>	<p>This is not a relevant consideration at this Inquiry. Whether exceptional circumstances exist to justify departure from the standard method is a matter for the preparation of strategic policies (i.e. the Local Plan) to consider. It does not have a bearing on the 5YHLR.</p> <p>As an aside the Nomis figures BTC quotes have been updated. At December 2019 there were 60,700 jobs (out of an economically active population of 63,200)*</p> <p>*https://www.nomisweb.co.uk/reports/lmp/la/1946157356/report.aspx#tabempunemp</p>

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				are very difficult to take into account on an individual application basis: Government Policy as set out in the NPPF requires the standard methodology to be followed.	
9	The Local Plan Review Timetable		As above	<p>The Local Plan Review must be carried out by December 2020. Officer assessment is that most of the Local Plan remains reasonably consistent with the 2019 NPPF. However the Standard Methodology local housing need figure is sufficiently different from the Local Plan Requirement to trigger a need to partially update policies for the supply of housing.</p> <p>A timescale for this is set out in the report to the Local Plan Working Party on 5th November.</p>	As expressed in the May 2020 Local Development Scheme and updated at Cabinet on 17 November.
10	The relevance of the LP Review to the determination of the appeal.		As above	<p>The LPA considers Inglewood to be of strategic importance, and should be considered as part of the Local Plan review/update. This would allow full consideration of need and alternative ways of meeting this need. It would allow the Rule 6 Party's concerns about lack of</p>	<p>The LP review process has yet to begin.</p> <p>NPPF paragraph 50 establishes that prematurity will seldom be justified where a draft plan has yet to be submitted for examination. In this case, no draft plan exists.</p>

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				<p>jobs, sluggish house prices and vacant homes to be taken into account.</p> <p>However the appellants have (understandably) sought for the scheme to be determined outside of the plan-making process. As such the LPA accepts that the Inspector will determine it against the standard methodology as per the NPPF.</p>	
11	2019 Housing Delivery Test results			93%	93%
12	2020 Likely Housing Delivery Test results			The 2020 HDT is awaited. Until confirmed otherwise a 5% buffer is applicable. However the Appellant's completion figures are taken from the Council's housing monitor.	Requirement of 1,485 (495x3) vs delivery of 1,133 (414+531+188) = 76%
13	Implications for the appropriate buffer			Footnote 39 of the NPPF will apply.	TC will be required to add a 20% buffer to the 5YHLS.
14	Five Year Land Supply at April 2020			At April 2020 the Council considered that there were 2,039 deliverable dwellings, divided by an annual requirement of 679 dwellings per year (3395/5) = 3.00 years' supply.	1,391 dwellings equivalent to 2.05 years, as per submitted representations.

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15	Five Year land supply post 10 December 2020			<p>2,039 deliverable dwellings divided by (586 standard method LHN +5% = 615.3= 3.31 years' supply.</p> <p>The LPA has considered rolling the figure forward (i.e. December 2020 to December 2025 but this would be unduly complicated and mid-year assessments of delivery have in the past proved to be inaccurate).</p>	<p>Agree with the Council's baseline assessment of the implication of the standard method. The Housing Delivery Test figure of 76% will mean that a 20% buffer must be applied. This will push the 5 year supply figure below 3 years even if the LPA's stock of deliverable sites were accepted (which it is not). The 5 year supply becomes: 586 +20% = 703 dwellings per year requirement = 2.9 years' supply.</p>
16	Should the 5YHLR or the 5YHLS calculations be considered at a neighbourhood plan level?		<p>The Brixham Peninsula Neighbourhood Plan has been given a requirement of 660 dwellings over the period 2012-30 (36.6 pa). Policy BH3 sets out a clear strategy for meeting that target. At April 2020 there were 370 completed dwellings against a requirement of 36.6 x 8 years= 293.</p> <p>This equals an over-supply of 26% against the Local Plan Requirement.</p> <p>The BPNP meets all of the criteria in Paragraph 14 of the NPPF to enjoy full protection.</p>	<p>The 5 Year supply relates to Torbay. The Brixham Peninsula Neighbourhood Plan has additional protection under paragraph 14 of the NPPF.</p> <p>The Torbay Local Plan does set a housing requirement for the BPNP area of at least 660 dwellings over the period 2012-30. This figure has been exceeded.</p>	<p>No, there is no context for consideration of the calculations at anything other than a district-wide level.</p>

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		<p>Of the 3 neighbourhood plan areas the Brixham Peninsula is the most constrained by way of both ecology and infrastructure.</p> <p>However despite these difficulties the Brixham Peninsula has maintained a positive approach to development: allocating more homes than set out in the spatial distribution in the Local Plan; working with developers through the Neighbourhood Forum process; and securing neighbourhood area delivery rates which are the best in Torbay.</p> <p>Therefore, even if a Torbay wide housing shortfall exists, and it is not accepted one does, such a large allocation of housing towards the Brixham Peninsula area is an inappropriate solution. The Brixham Peninsula Neighbourhood Plan provides a policy framework which seeks to direct development away from the most sensitive areas and towards sustainable locations which will have the least impact on the characteristics which make the area special. Not only can this be seen through the specific environmental and landscape policies set out in detail elsewhere,</p>		

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			<p>but it can be seen in Policy BH9: Exception Sites. It is of note that in this policy no development within a Settlement Gap would be policy compliant, but minor development in an AONB could be policy compliant. This highlights the importance of the Policy E3.</p> <p>In addition to the specific allocation of sites in the Neighbourhood Plan, the Housing Site Assessment provides detail on those sites which were rejected at allocation stage so as to signpost those which are the most promising for future development and/or which would already have been allocated should housing requirements dictate a lower threshold for regards environmental and other safeguards. It can clearly be seen from the Housing Site Assessment that, for example, the site referred to as H3 – R11: Pilgrim’s Friend Land (“Archery Field”) is highlighted for potential development as an exception site whereas the H3 – R7: White Rock Extensions site, which includes the land which is the subject of the current proposals, is not.</p>		

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			<p>Therefore, even if it is appropriate that the Brixham Peninsula area takes such a large allocation of housing to make up for a Torbay wide housing shortfall, this particular site is an inappropriate choice.</p> <p>Indeed, this development threatens delivery of the planned regeneration of Brixham and community trust and engagement in the planning system, particularly at the Neighbourhood Plan level.</p> <p>Should it proceed, how can the Forum encourage developers to engage with the community at neighbourhood plan making stage or indeed how can the Forum encourage the many volunteers to become involved in plan making in the first place. Other than producing an obsolete historical document, what will the efforts of previous volunteers have achieved?</p>		
17	Definition of deliverable in the NPPF			The LPA has significant concerns about the definition of deliverable set out in the glossary to the NPPF (p66) but	As per the NPPF Glossary and reflecting on any relevant case law.

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				<p>acknowledges that this will be the test that is applied.</p> <p>The LPA notes that the Secretary of State has clarified that the categories (a) and (b) in the definition are not exhaustive of all the categories of sites that are capable of meeting the definition of being deliverable. (East Northamptonshire Council and S of S MHCLG CO/917/2020)</p>	
2. Specific Sites in dispute between the parties.					
	<p><u>BTCs Position Statement references three sites (that the appellant also contests): Note that three sites are disputed by the appellant: Preston Down Road, Paignton, Victoria Square, Paignton and Collaton St Mary. Whilst the Edginswell Valley, Torquay is not referenced by BTC, it is considered in this schedule in order to assist the Inspector. Further consideration of these sites (and any others) may be contained within each party's proof of evidence. The Rule 6 Party considers that the LPA's build out rate at Collaton St Mary, Paignton is</u></p>	<p><u>BTC has responded to the deliverable sites disputed by the appellants and has prepared its case in the time since the appeal was first launched accordingly. BTC is concerned by the late stage comment from appellants "and any others" which implies there is to be a Proof of Evidence disputing sites not currently identified as in dispute thereby negating wholesale the purpose of this statement. BTC hopes it has misunderstood the comment and seeks clarification as a matter of priority.</u></p>			

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	too conservative.			
	Preston Down Road, Paignton			
15	Is the site allocated for development in the Local Plan?	See below <u>The site is not allocated in the Local Plan but the principle of development is evidenced by the successful Land Release Fund (LRF) bid. See below</u>	The sites are identified in the Local Plan as a pool of sites from which the Paignton Neighbourhood Plan could allocate sites. (PNPH1 and PNPH2).	It is clear that the site is not subject to any allocation and the principle of development here has not been established.
16	Is the site allocated for development in the Paignton NP?	See below <u>The Paignton Neighbourhood Plan sought to identify sites as at that stage there was insufficient resource within the community Neighbourhood Plan group to undertake the scale of environmental work required for a HRA. Setting aside the semantic language difference of 'identify' or 'allocate' the intention of the community to bring the site forward is clear. See below</u>	No. But it is identified in Table 8.1 of the PNP as a developable site. Whilst the table suggests it will be built between 2027-30, this cannot be taken as a phasing lock.	No. Policy PNP27 does not allocate the land for development; the objectives of the policy confirm that it is the intention not to build at Preston Down Road. Table 8.1 does not suggest that the site is deliverable but is identified as a broad location that should not come forward until after the Local Plan Review.
17	Has a planning application for development been submitted?	See below <u>No. But the sites are owned by TC, and an undertaking was made for TorVista (the Torbay Development Agency's housing arm) to develop the site to deliver it. Although a Planning application will need to be determined on its merits, the principle of development</u>	No. But the sites are owned by Torbay Council, and an undertaking was made for TorVista (the Torbay Development Agency's housing arm) to develop the site to deliver it. <u>This was confirmed by Council on 8th October 2020 and</u>	No.

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			<p><u>has been established by the above. See below</u></p>	<p><u>Tor Vista's board on 16th October 2020.</u></p> <p><u>The site has Land Release Funding. A Planning Performance Agreement should be entered into in December 2020, which Tor Vista will undertake to submit a detailed planning application within 12 months and start on site within 8 months of permission being granted.</u></p> <p><u>Site surveys into drainage, ground conditions and ecology have been carried out. Greater Horseshoe Bat surveys have been carried out in liaison with Natural England, for 17 months starting in late 2018. No GHB activity on the site was identified.</u></p> <p><u>A formal decision to de-designate the site as a local nature reserve was taken by Council on 15th July 2020.</u></p> <p>Although a Planning application will need to be determined on its merits, the principle of development has been established by the above.</p>	

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18	<p>Other category that would qualify the site as having a reasonable prospect of housing delivery within the next five years. /</p> <p>Has clear evidence that housing completions will begin on site within five years been presented?</p>	<p><u>Yes.</u></p> <p><u>Government awarded £1.1 million of Land Release Funding to TC to bring the site forward for development for housing.</u></p> <p><u>Having received the award there TC have at all times maintained to The availability of representations to HM Government stating that TC is making good progress in delivering Victoria Square, Preston Down Road or (to the full extent) Collaton St Mary. "The only reasonable conclusion from considering the material is that the delivery of the Preston Down Road site is supported by Torbay Council as a corporate body and according the local planning authority."</u></p> <p><u>On 15 October 2019 Torbay Council determined to de-registered the site as a Local Nature Reserve. The decision notice says "The de-registration of the site is required to bring the site forward for residential development".</u></p> <p><u>On 8 October 2020 TC determined to transfer the site to its wholly owned housing company TorVista and provide a further £23 million of funding towards the delivery of the site. The transfer includes</u></p>	<p>Yes. The site will be transferred to TorVista (the TDA's housing company) as agreed by Council on 8th October 2020, with a requirement that TorVista deliver a fully policy compliant planning application.</p> <p><u>Details of the proposed PPA are set out above.</u></p>	<p>No. The appellants do not accept the contention that simply because the intention is now to deliver the site via Tor Vista means that there is any certainty that planning permission will be forthcoming.</p> <p>The marketing particulars that BTC refers to establish that "the Council intends to allocate further sites for development through a review of the Local Plan. Sites which have been identified for development within the Torbay Local Plan but have not been allocated such as Preston Down Road will form a starting point for the consideration of new housing allocations."</p> <p>The planning application will need to go through due process; to suggest that it will achieve consent against the clear intention of the PNP and local community is presumptuous at best. It cannot be a policy compliant scheme as it will not be in conformity with Policy PNP27.</p>

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		<p><u>obligations of delivery milestones including obtaining planning permissions and undertaking access and infrastructure works which demonstrate the site will be delivered within 5 years.</u></p> <p><u>BTC understands the LRF funding has financed all the necessary work to submit a planning application including bat surveys and drainage studies etc and this work has been completed.</u></p> <p><u>While the extensive marketing material to support the tender process notes that Preston Down Road is "identified" rather than "allocated" in the local plan overall the only reasonable conclusion from considering the material is that the delivery of the site is supported by Torbay Council as a corporate body and according to the local planning authority.</u></p> <p>The Council has confirmed at both Officer and Elected Councillor level that it wishes to deliver housing on its own land. Clearly, not doing so would have repercussions on the Council's success in obtaining other <u>central government funding. The 8</u></p>		

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		<p><u>October 2020 decision was supported by both main political groups and as it is full known to Councillors refusing an application would mean the LRF funds would need to be paid back to government BTC considers this outcome highly unlikely. on other projects in the future.</u></p> <p><u>Regards the appellant's statement the site is contrary to PNP27 it is hoped Proofs will further detail this statement as BTC cannot reconcile the statement with the policy.</u></p>		
20	Victoria Square, Paignton			
	Is the site allocated for / development in the Local Plan?	<p><u>No. However, the site is identified for redevelopment in the Paignton Town Centre Masterplan (Adopted 2015) and in the Housing Delivery Test Action Plans for 2019 and 2020.</u></p> <p><u>The principle of development is also evidenced by the successful Land Release Fund (LRF) bid. See below</u></p>	<p>No. The site is identified as a pool of sites from which the Neighbourhood Plan could allocate sites (PNPH13). The Neighbourhood Plan Table 8.1 identifies it as coming forward for development post 2027. However this table cannot be taken as a phasing policy.</p> <p>The site is identified for redevelopment in the Paignton Town Centre Masterplan (Adopted 2015) and in the Housing Delivery Test Action</p>	<p>Yes, for town centre/retail use. It is also identified as a 'potential development site for consideration in the NP – primarily housing.' The site is not subject to any allocation and the principle for residential development here has not been established.</p>

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			Plans for 2019 and 2020.	
21	Is the site allocated for development in the Paignton NP?	The Paignton Neighbourhood Plan sought to identify sites as at that stage there was insufficient resource within the community Neighbourhood Plan group to undertake the scale of environmental work required for a HRA. Setting aside the semantic language difference of 'identify' or 'allocate' the intention of the community to bring the site forward is clear. This is especially the case for an urban brownfield site.	The Paignton Neighbourhood Plan does not allocate the site, but Table 8.1 notes the site as being suitable for 60 dwellings Policy PNP7 sets out considerations that would apply to redevelopment proposals. PNP13 b) v) promotes housing on the site.	No. Policy PNP7 does not allocate the site for residential development. There is no specific reference to support for residential development within the policy or supporting text. Table 8.1 does not suggest that the site is deliverable but is identified within the category of 'constrained urban' and as a broad location that should not come forward until after the Local Plan Review.
22	Has a planning application for development been submitted?	In part yes. Application P/2020/0327 for demolition of existing car park, the first essential step in development, was approved on 9 July 2020.	Not for development. However application P/2020/0327 for demolition of existing car park was approved on 9 July 2020. Whilst the site is within Flood Zone 3, the Council's Drainage Engineer has confirmed that redevelopment is not dependent on the Paignton Town Centre Flood Relief scheme.	No
23	Is the site identified in the 2020 5YHLS?	Yes, as Victoria Centre for 85 dwellings.	Yes, as "Victoria Centre" for 85 dwellings. This is on part of the site currently occupied by a vacant car park, which has permission for demolition. This part of the redevelopment does not depend on the wider Victoria	Yes, as Victoria Centre for 85 dwellings.

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				<p>Square redevelopment scheme or the relocation of the Lidl Supermarket.</p> <p><u>The site has Land release Fund money to assist its redevelopment.</u></p> <p><u>Most of the site is vacant. The only current users of the site are two telecommunications operators who have equipment on the building. The TDA is on course to get full vacant possession of the site by April 2021.</u></p> <p><u>Demolition contractors have been appointed with demolition likely late summer/Early Autumn 2021. Asbestos, tree and ecology surveys have been carried out.</u></p> <p>Whilst the site is within Flood Zone 3, the Council's Drainage Engineer has confirmed that redevelopment is not dependent on the Paignton Town Centre Flood Relief scheme.</p>	
25	Have flooding issues been resolved? Has a sequential		<u>In part.</u> <u>Whilst the site is within Flood Zone</u>	Whilst the site is within Flood Zone 3, the Council's Drainage	No. The sequential and exceptions test will need to be carried out and

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	and exceptions test been undertaken?	<p><u>3. the Council's Drainage Engineer has confirmed that redevelopment is not dependent on the Paignton Town Centre Flood Relief scheme.</u></p> <p><u>A sequential and exceptions test will need to be submitted as part of the planning application for redevelopment, but no reason has been put forward by the appellant as to why this procedural step leads to a conclusion the site is undeliverable.</u></p>	<p>Engineer has confirmed that redevelopment is not dependent on the Paignton Town Centre Flood Relief scheme.</p> <p>A sequential and exceptions test will need to be submitted as part of the planning application for redevelopment.</p>	<p>confirmation that safe routes of escape exist. These are critical issues that need to be thoroughly tested through the planning application process.</p>
26	<p>Should the site be included within the 2020 5YHLS/</p> <p>Has clear evidence that housing completions will begin on site within five years been presented?</p>	<p>Yes-</p> <p><u>Government awarded £0.9 million of Land Release Funding to TC to bring the site forward for development for housing.</u></p> <p><u>Having received the award there TC have at all times maintained to Government stating that TC is making good progress.</u></p> <p><u>BTC understands that of the tenanted space TC has secured vacant possession in 2 of the 4 units and is on target to secure vacant possession on the remaining 2 units by April 2021.</u></p> <p><u>Further that TC has identified its preferred demolition contractor who is able to start imminently thereafter. see above</u></p>	<p>Yes- as above. The site is an urban brownfield regeneration opportunity in a highly sustainable town centre location. It is owned by Torbay Council and there is a realistic prospect of delivery within five years.</p>	<p>No. TC has not demonstrated that the site is deliverable.</p>

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	Collaton St Mary (Little Blagdon Farm and land r/o), Paignton.			
27	Is the land allocated for development in the Local Plan?	Yes. Policy SS2 and SPD3.3 of the Adopted Local Plan allocate the land as a Future Growth Area	Yes. Policy SS2 and SPD3.3 of the Adopted Local Plan allocate the land as a Future Growth Area. There is an adopted masterplan prepared by Stride Treglown and adopted as SPD in February 2016.	The land is identified as a Future Growth Area where development is not anticipated until post 2024.
28	Is the land allocated for development in the Paignton NP?	The Paignton Neighbourhood Plan sought to identify sites as at that stage there was insufficient resource within the community Neighbourhood Plan group to undertake the scale of environmental work required for a HRA. Setting aside the semantic language difference of 'identify' or 'allocate' the intention of the community to bring the site forward is clear.	The Paignton Neighbourhood Plan does not allocate the site, but Table 8.1 notes the site as being suitable for residential development. It anticipates development coming forward post 2027, but this cannot be regarded as a phasing requirement.	Not specifically but is referred to in Policy PNP24 where development is only supported subject to adherence to the masterplan and inclusion of necessary details identified in the policy. Table 8.1 does not suggest that the site is deliverable but is identified as a broad location that should not come forward until after the Local Plan Review.
29	Has a planning application for development been submitted?	Yes in part. Application P/2019/0478 for a principal access onto Totnes Road was approved on 12 September 2019 and survived subsequent legal challenge. BTC understands the junction is suitable for 400 homes.	Not for housing. However, application P/2019/0478 for the principal access onto Totnes Road was approved on 12 September 2019 and survived subsequent legal challenge in the High Court.	As per TC comment.
29	Is the land identified in the 2020 5YHLS?	Yes albeit not to the full extent it should be.	35 dwellings in 2023/4 and 40 in 2024/5 i.e. 75 in total (out of a	As per TC comment.

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	Issue	Brixham Town Council	Torbay Council	Appellant
			likely 180 dwellings in total on the site).	
	Should the site be included within the 2020 5YHLS/ Has clear evidence that housing completions will begin on site within five years been presented?	<p>The full extent of land at Collaton St Mary should be shown as part of the five year supply.</p> <p>Torbay Council was awarded some £1.976 million4.0m by government to bring these sites forward. It is further understood that Torbay Council has made representations to HM Government stating that it is making good progress in delivering them.</p> <p>Contract documents on the OUEJ website show the Council has launched a tender for a wholesale disposal of the site. This followed a previous tender for a partner to deliver 350 homes at Collaton St Mary and 135 homes at Preston Down Road within the next 5 years. As part of the disposal Torbay will commute to any purchaser £1.25million of funding for site enabling works and grant access for ecology works to take place on 10 hectares of adjacent land which it secured in February 2020.</p>	<p>Yes. The site is council owned with a resolution (2020) to dispose to a private developer. The site has had to go through a second tender process, but it is expected that a development partner will be in place in December 2020.</p> <p>The TDA has secured £1.9 m of Land Release Fund to assist with its release for housing. Of the LRF funding, £800K remains available to assist with the delivery of infrastructure, ecological mitigation etc. An additional £400K (not LRF) is budgeted to assist with flooding alleviation.</p> <p>Adjacent land has been acquired by the TDA for cirl bunting mitigation.</p>	No. The site is being actively marketed but the end developer's intentions are unknown in terms of timing of a planning application (and whether it is outline, full or a hybrid) and therefore delivery.
30	Bloor Homes , Collaton St Mary, Paignton (70 dwellings in 5YHLS)	BTC requests the appellants explain why they consider the site is undeliverable if this is their case. BTC will respond accordingly.	The site is allocated in Policy SS2/SDP3.3. of the Local Plan. It is controlled by a major housebuilder. The site has a	Up to date evidence is required to demonstrate that the trajectory is robust.

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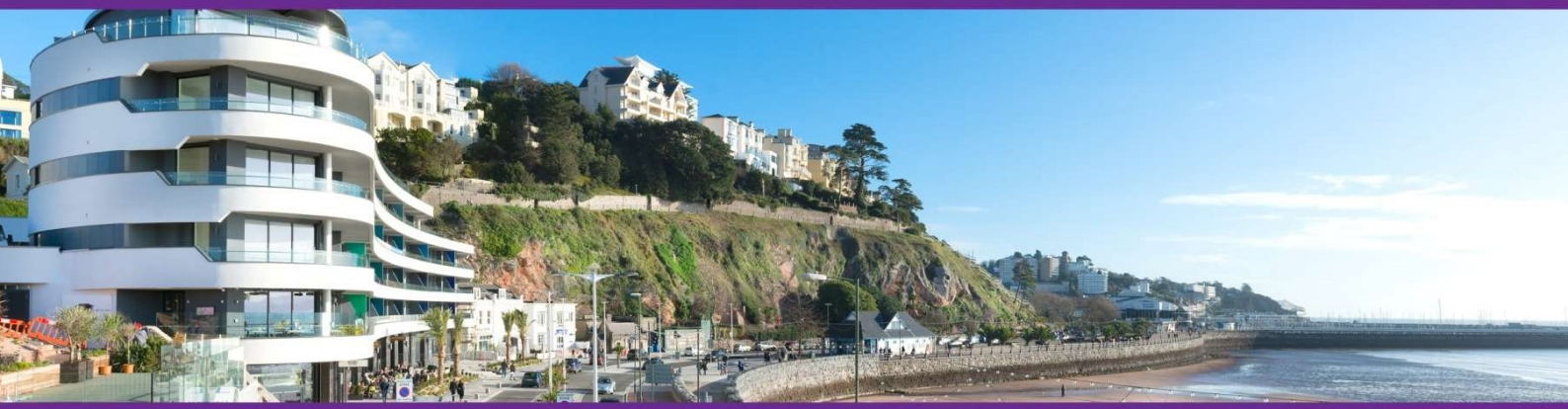
	Issue	Brixham Town Council	Torbay Council	Appellant
			resolution to approve outline application for 100 dwellings. (P/2019/0281) at Committee on 27 July 2020.	
31	Taylor Wimpey , Collaton St Mary, Paignton (40 dwellings in 5YHLS)	BTC requests the appellants explain why they consider the site is undeliverable if this is their case. BTC will respond accordingly.	The site is allocated in Policy SS2/SDP3.3. of the Local Plan. It is controlled by a major housebuilder. The site has a resolution to approve outline application for 73 dwellings (P/2020/0405) at Committee on 10 August 2020.	Up to date evidence is required to demonstrate that the trajectory is robust.
	Edginswell, Torquay (AKA Torquay Gateway).			
	Is the site allocated for development in the Local Plan?	As per TC comment.	Yes- Policies SS2.1 and SDT3 for up to 550 dwellings. A masterplan was adopted as Supplementary Planning Guidance in December 2015.	The land is identified as a Future Growth Area where development is not anticipated until post 2024.
	Is the site allocated for development in the Torquay NP?	As per TC comment.	Noted in Policy TH1 and TH3 of the Torquay Neighbourhood Plan. (Note that the Local Plan allocates Future Growth Area sites.	As per TC comment.
	Has a planning application for development been submitted?	No.	No	No.
	Has clear evidence that housing completions will begin on site within five years been	BTC requests the appellants explain what it is about the trajectory they consider to be	Yes. The site is owned by a large local housebuilder (Cavanna Homes) who are	The representations made by Cavanna require further investigation since the trajectory

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	Issue	Brixham Town Council	Torbay Council	Appellant
	presented?	<u>unrealistic if this is their case. BTC will respond accordingly.</u>	preparing a planning application.	appears unrealistic.

Appendices

- 1) Torbay 5 Year Supply Statement 2019/20
- 2) Torbay 5 Year Supply Spreadsheet 2019/20
- 3) Torbay 5 Year Supply: Deliverability Evidence 2019/20
- 4) (Draft 5 Year Supply Representation by Brixham Town Council)
- 5) (Draft 5 Year Supply Representation by Alder King on behalf of Abacus/Deeley Freed).



TORBAY FIVE YEAR HOUSING SUPPLY 2020

July 2020

This document is available...

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

and at Torbay Council's Spatial Planning Office at:
2nd Floor, Tor Hill House, Castle Circus, Torquay TQ2 5QW

If you would like any further information about this document or any aspect of the Local Plan please use the contact details below:

telephone: (01803) 208804
email: future.planning@torbay.gov.uk

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>

To request this document in an alternative format or language, please contact the Strategy and Project Delivery Team on (01803) 208804

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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
--	-------------------------------

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.

TORBAY FIVE YEAR LAND SUPPLY

A. Major Sites (10+ dwellings) with Detailed Planning Permission									
Site	5 Yr Yield	2020/21	2021/22	2022/23	2023/24	2024/25	Application Number	Date Permitted	Total Units
Land South of Yalberton Road (Berry Acres)	160		40	40	40	40	P/2019/0173	20.03.20	187
White Rock, Paignton	81	31	25	25			P/2013/1229	17.04.14	310
Torre Marine, Torquay	75			75			P/2016/1047	17.11.17	75
Land off Luscombe Road	68	22	23	23			P/2019/0291	12.06.19	68
Former Paignton Police Station, Southfield Road	36				36		P/2018/0881	04.03.19	36
Roebuck House, Abbey Road	43		43				P/2018/0468	02.07.18	43
Palace Hotel, Babbacombe Road	38			10	10	18	P/2019/0716	07.02.20	38
Brixham Paint Station, Kings Drive	22			12	10		P/2006/1066	30.08.07	35
South Devon Hotel, St Margarets Road	9	9					P/2017/0888	13.02.18	30
213 St Marychurch Road	17	17					P/2018/0962	01.08.19	17
Former B&Q, 41 Tor Hill Road	14	14					P/2019/0131	15.04.19	14
Land R/O 107 Teignmouth Road	12	12					P/2016/0599	31.05.17	12
Exmouth View Hotel, St Albans Road	12		12				P/2018/1283	20.06.19	12
15 Esplanade Road	12	12					P/2019/1018	21.04.20	12
Queensway, Torquay	5	5					P/2007/2095	20.05.08	12
Shelley Court Hotel, 29 Croft Road	11		11				P/2019/0337	25.10.19	11
21 Old Mill Road	11			7	4		P/2019/0919	04.02.20	11
38-40 Palace Avenue	11			11			P/2019/1158	04.12.19	11
Suite Dreams Hotel, Steep Hill, Maidencombe	10	10					P/2018/1216	15.02.19	10
18 Babbacombe Road	10	10					P/2017/0178 & P/2017/0729	05.05.17 & 23.08.17	10
Land R/O Broadway, Dartmouth Road	10		5	5			P/2018/0332 & P/2019/0420	20.08.18	10
Land R/O 16-26 Castor Road	10		5	5			P/2016/0947	03.08.17	10
	677	142	164	213	100	58			

B. Other Major Sites with demonstrated intent shown and a realistic prospect of delivery										
Site	5 Yr Yield	2020/21	2021/22	2022/23	2023/24	2024/25	Allocated?	Outline Permission?	Brownfield Register	Total Units
Devonshire Park, off Brixham Road	100			20	40	40	Yes	P/2014/0947	Yes	up to 255
Collaton St Mary (Little Blagdon)	75				35	40	Yes	P/2019/0478 (Access in accordance with Masterplan)	No	circa 180 (Masterplan)
Land to the North of Totnes Road (Taylor Wimpey)	40				20	20	Yes	P/2019/0604 - Appeal pending P/2020/0405 - pending	No	circa 40 (Masterplan) Application was for 73
Edginswell Gateway	75			15	25	35	Yes	No - signed Planning Performance Agreement in place	No	circa 550 (Masterplan)
Stoodley Knowle	69			22	25	22	No	P/2019/1330	No	90
Dairy Crest Site, Parkfield Road	43					43	Yes	P/2019/0283	Yes	43
Land North of Totnes Road (Bloor Homes)	80			15	30	35	Yes	P/2019/0281 pending	No	circa 70 (Masterplan) Application for up to 100
Former Torbay Holiday Motel, Totnes Road	39				14	25	Yes	P/2019/0615 pending	Yes	up to 39 (Masterplan)
Preston Down Road North	50				25	25	No	No	No	circa 50 units (Local & Neighbourhood Plan)
Preston Down Road South	50				25	25	No	No	No	circa 50 units (Local & Neighbourhood Plan)
St Kildas	20			20			Yes	No - pre-application pending	Yes	circa 20
14-16 Midvale Road	10			10			No	P/2020/0128	No	10
Victoria Car Park	85					85	No	No - P/2020/0327 for demolition pending, design brief online	Yes	circa 85 (Masterplan)
Total	736	0	0	102	239	395				

C. Minor Sites (Under 10 dwellings) with Planning Permission									
N/S SITES (SITES OF 6-9)	45	Where 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, these are not included in the figures to the left.							
N/S SITES (SITES OF UNDER 6)	142								
U/C SITES (SITES OF 6-9)	51								
U/C SITES (SITES OF UNDER 6)	152								
Total	390								

D. Minor Sites (Under 10 dwellings) without Planning Permission									
SITES OF 6-9	64	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.							
SITES OF UNDER 6	171								
Total	235								

FIVE YEAR REQUIREMENT	3395
AVERAGE ANNUAL REQUIREMENT	679
FIVE YEAR SUPPLY	2038
SUPPLY (YEARS)	3.00

DEFINITIONS
N/S = Not Started
U/C = Under Construction

Kunaszkiwicz, Zdzislawa

From: Jackson, Susanne
Sent: 22 June 2020 12:04
To: Kunaszkiwicz, Zdzislawa
Subject: RE: Housing Sites/5yr Supply

Hello,

It will be a detailed submission for both and 78 units at Torre Marine.

Best wishes
Susanne

Susanne Jackson
Housing Delivery Officer
TDA
Tor Hill House
Union Street
Torquay
TQ2 5QW

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From: Kunaszkiwicz, Zdzislawa
Sent: 17 June 2020 14:29
To: Jackson, Susanne
Subject: RE: Housing Sites/5yr Supply

Thanks Susanne. How many units would the application at Torre Marine be for and do you know if it will be an outline or full application? Is the St Kildas application likely to be in full or outline?

From: Jackson, Susanne
Sent: 17 June 2020 14:11
To: Kunaszkiwicz, Zdzislawa
Subject: RE: Housing Sites/5yr Supply

Hi,

Sorry for the delay.

Please see below in blue.

Best wishes
Susanne

Susanne Jackson
Housing Delivery Officer

TDA
Tor Hill House
Union Street
Torquay
TQ2 5QW

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From: Kunaszkiwicz, Zdzislawa
Sent: 12 June 2020 11:51
To: Jackson, Susanne
Subject: Housing Sites/5yr Supply

Montgomery, Liam

Hi Liam/Susanne,

As we have come to the end of the consultation period for our five year supply, I just wanted to clarify the position in relation to Torre Marine and St Kildas and any dates for submission of planning applications/commencement on site/build out rates. According to previous correspondence, we have the following information which I'd be grateful if you could confirm/answer?;

Torre Marine;

- Site currently owned by Torbay Council but will be transferred to its housing company – has this happened yet/when is this likely to happen? – [we are expecting the transfer to happen once TorVista have received their RP status which we believe to be around 3 months' time.](#)
- The current approval (P/2016/1047/MOA) is due to expire in November 2020, but I understand a new planning application is due to be submitted? Please could you let me know the timescale for this, whether it will be a reserved matters, an outline or full application and how many units it will be for please? – [we are hoping an application will be submitted around Oct 2020.](#)
- Likely commencement on site when? – [around March 21](#)

St Kildas;

- Pre-app submitted for 23 units
- Previously suggested planning application submitted within 2-3 months – so July/Aug 2020, is that still right? Is this likely to be a full planning application and for the 23 units? – [we are expecting this to be around July/August 2020](#)
- 60 week build programme, starting on site when? – [hoping for SOS to be Q4 20/21 but could be sooner subject to determination.](#)

Thanks
Zdzisia

Kunaszkiwicz, Zdzislawa

Subject: FW: Delivery Evidence email - Victoria Centre/5 Year Supply

From: Steward, Pat

Sent: 26 June 2020 16:36

To: Kunaszkiwicz, Zdzislawa

Cc: Edmondson, David

Mills, Nigel

Subject: Re: Victoria Centre/5 Year Supply

Hi Zdzisia

I was talking to David Edmondson about this site earlier this week and promised to put something in writing. Thank you for reminding me.

So, I think the public / publishable position is as follows:

“Redevelopment of Victoria Centre is included in the Council’s Transformation Strategy for Torbay’s Town Centres (April 2017). That part of the Strategy relating to Paignton is based on the Local Plan, Paignton town centre masterplan SPD and Paignton Neighbourhood Plan. The Strategy makes it clear that the Council is seeking redevelopment, of the whole of Victoria Centre or just the Garfield Road site, and is exploring options to enable redevelopment to come forward.

Consequently, the Council has received £900,000 to unlock the site, enabling residential development to be brought forward. Good progress has been made to achieve that objective.

The Council has agreed to dispose of the site. As such, the site is being transferred from the Council to its Housing Company, TorVista. This will add to TorVista’s portfolio of sites and will help ensure residential development on the site is delivered at pace.

A planning application for demolition has been submitted (P/2020/0327) and is due for determination in early July 2020.

In parallel, a development brief for the site has been produced and published (see <https://www.torbay.gov.uk/council/policies/planning-policies/local-plan/victoria-centre/>)

Subject to planning permission, demolition of the car park will be undertaken between Oct ‘20 and Mar ‘21, depending on timing of vacant possession by two telecoms operators. Wrings have been awarded the contract for demolition.

The site and its redevelopment is included within the Council’s Future High Street Funding bid (see <https://www.investintorbay.com/wp-content/uploads/2020/03/Summary-of-FHSF-Draft-Full-Business-Case.pdf>)

Since submission of the draft business case, for Future High Streets Funding, further work has shown that the site can accommodate an 85 bed residential & nursing home and 30 one and two bed apartments. This responds well to market demand and demographics in Paignton.

An announcement on Future High Streets Funding is expected in Autumn 2020.

A full planning application for development is scheduled to be submitted in April 2021.”

Hope that helps.

Pat

Pat Steward
Town Centre Regeneration Director
TDA
3rd Floor, Tor Hill House
Union Street
Torquay
TQ2 5QW

TDA is a trading name of Torbay Economic Development Company Limited, a company registered in England and Wales [No. 7604855 Registered Office Tor Hill House, Union Street, Torquay, Devon TQ2 5QW](#)

For investment opportunities in Torbay see <http://www.investintorbay.com/wp-content/uploads/2016/10/Torbay-Inward-Investment.pdf>

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Kunaszkiwicz, Zdzislawa

From: Cushion, Claire
Sent: 12 June 2020 11:23
To: Kunaszkiwicz, Zdzislawa
Subject: RE: Housing Sites/5yr Supply

Follow Up Flag: Follow up
Flag Status: Flagged

Morning Zdzisia

Please see comments below in blue.

Kind regards

Claire Cushion MRICS
Senior Development Surveyor

Please note that I will not be working on Mondays and Wednesdays during the Corona Virus outbreak. If the matter is urgent and you need to contact me on these days please email me marking the subject title as "URGENT" and I will endeavour to pick up your message and respond asap.

From: Kunaszkiwicz, Zdzislawa
Sent: 12 June 2020 11:13
To: Cushion, Claire
Subject: Housing Sites/5yr Supply

Hi Claire,

As we have come to the end of the consultation period for our five year supply, I just wanted to clarify the position in relation to some sites and any dates for submission of planning applications/commencement on site/build out rates. According to previous correspondence, we have the following information which I'd be grateful if you could confirm/answer?;

Little Blagdon Farm, Collaton St Mary

- Development partner confirmed by Sept 2020 - [confirmed](#)
- Planning application for c.300 units due to be submitted by March 2021 (full or outline?) – [confirmed](#). Full.
- Likely commencement in 2023? – [We haven't received final bids yet \(due 12th July\) but this seems realistic.](#)
- Likely build out rate? [We haven't received final bids yet \(due 12th July\) so I don't have updated figures.](#)
[However, it is proposed that the development be built in a number of phases. Also, I can't give you the build rates for a single bidder whilst the procurement is live.](#)

Preston Down Road

- Development partner confirmed by Sept 2020 - [confirmed](#)
- C. 100 units likely (in total) - [confirmed](#)
- Likely timeline for submission of application (full or outline)? – [confirmed](#). Full.
- Likely commencement/build out rate? [PDR is likely to be developed as a single phase. When development commences will depend on whether any challenges to planning etc, however, 2023 seems reasonable.](#)

Thanks
Zdzisia

TORBAY COUNCIL

Zdzisia Kunaszkiwicz | Strategy and Project Delivery Officer |
Spatial Planning
Tor Hill House (2nd Floor), Union Street, Torquay TQ2 5QW

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Kunaszkiwicz, Zdzislawa

From: Coyde Construction
Sent: 30 April 2020 00:13
To: Kunaszkiwicz, Zdzislawa
Subject: RE: Land at Kings Drive, Brixham

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Zdzisia

Many thanks for your email, you are correct we are now the owners of this land (just to note there are further applications with this site and the actual total number of units is 25). we are hoping to complete our building regulation drawings with in the next month and enable us to be on site to start with in the year (obviously depending on what the economic outfall will be after the Covid-19 pandemic)

Just out of interest this is the first time we have been asked this sort of question from the council is there any more insight you can give us on the email?

We like to carry out as many developments as possible in Torbay however it does seem that development land in and around the area is becoming difficult to find.

Kind Regards,

*Shane Coyde
Director*



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Registered in England No. 4307038

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In the matter of an appeal under section 78 of the Town and Country Planning Act 1990 by Abacus Projects Limited/Deeley Freed Limited, relating to:

**LAND TO THE SOUTH OF WHITE ROCK ADJACENT TO BRIXHAM ROAD
AKA INGLEWOOD PAIGNTON, TQ4 7BQ**

**POSITION STATEMENT ON:
LAND SUPPLY**

BRIXHAM TOWN COUNCIL [RULE 6 PARTY]

1. Background

1.1 The Rule 6 Party takes 3 issues with the position of the main parties in the following areas:

1. the housing requirement is inflated as the only conclusion of the overdue Local Plan review would be to reduce housing requirements in line with the reductions in net new job creation;
2. the housing supply is suppressed as the Council has been overly restrictive in failing to account for all deliverable sites, in particular those which it is responsible for delivering; and
3. even if a Torbay wide housing shortfall exists, such a large development in this sensitive areas is an inappropriate solution.

2. Inflated housing requirement

2.1 The housing requirement is currently set by the Torbay Local Plan, adopted in 2015.

2.2 The intention was to achieve what the Council describes as a “step change” in the local economy and to link this with an appropriate level of growth in the supply of

housing. However there were uncertainties the “step change” would be realised and accordingly the planned housing growth needed to be monitored and reviewed.

2.3 The following 3 complete paragraphs from the [Report of Keith Holland from December 2014](#) succinctly capture the issue:

25. *Unsurprisingly, given the recent past, a number of those making representations do not believe that the Council’s economic ambitions will be realised. At its most extreme the view is that there has been no job growth in the recent past and that there is no prospect of net new jobs in the foreseeable future. The argument is advanced that rather than promoting economic development, the SDLR will turn Torbay into a dormitory area for Plymouth and Exeter. Others, including the Neighbourhood Forum Groups, while agreeing about the importance of seeking economic recovery, argue that there is a danger that more homes will be built than the area needs or can be justified on the basis of job creation. These people want what they describe as a “jobs led” strategy in which housing will follow job creation.*
41. *Detailed monitoring and review are important considerations in the development plan process and the Council is committed to regular reviews of the Plan. There will be ample opportunity to increase housing numbers if justified by jobs growth. Alternatively it may be necessary to reduce housing numbers over the plan period if the Council’s jobs growth strategy is less successful than is hoped. At the present it is regarded as sensible and pragmatic to plan for 8,900 additional dwellings over the plan period.*
- A21. *The Council has quite rightly stressed that it will monitor the situation carefully and will revise the Plan as and when necessary. Monitoring of plans is always important but especially so in Torbay where there is a high degree of volatility and uncertainty about critical factors such as job creation and migration trends. The development plan system provides for a considerable degree of flexibility to allow for uncertainties and changing circumstances. The Council is currently thinking in terms of 5 yearly reviews of the plan. Given the importance of the “tandem” approach to jobs/homes and the reliance that the Council is placing on Neighbourhood Plans it is important that the Council adopts a flexible and highly responsive approach which will allow for reviews whenever necessary. This type of approach may give some comfort to those who fear that the Council’s “tandem” approach to homes/jobs will not be successful.*

- 2.4 The Torbay Local Plan period runs 2012 to 2030. Nomis state the number of jobs in Torbay as at 2012 to be 59,000¹. Nomis also state the number of jobs as in Torbay as at 2018 to be 57,000. Accordingly, in the time since adoption of the plan, jobs in Torbay appear to have fallen. It is noted that this is a worse outcome than the “extreme” view identified by Inspector Holland, where jobs merely remained static.
- 2.5 The disruption caused by the Covid 19 pandemic in terms of its effect on reductions in demand levels across the economy generally and specifically in sectors which dominate the local Torbay economy, means actual jobs in Torbay will indisputably have fallen below the Nomis 2018 figures by the time of the hearing.
- 2.6 It is unclear why the Local Plan review has not commenced. However, when considering the delivery of jobs against the strategy in the adopted plan there can only be one conclusion.

3. Suppressed housing supply

- 3.1 The housing supply position set out by Torbay Council does not include land at Victoria Square, Preston Down Road or (to the full extent) Collaton St Mary.
- 3.2 However, Torbay Council was awarded some £4.0m by government to bring these sites forward.
- 3.3 It is further understood that Torbay Council has made representations to HM Government stating that it is making good progress in delivering them.
- 3.4 [Contract documents on the OUEJ website](#) show the Council has launched a tender for a partner to deliver 350 homes at Collaton St Mary and 135 homes at Preston Down Road within the next 5 years.
- 3.5 While the [extensive marketing material to support the tender process](#) notes that Preston Down Road is “identified” rather than “allocated” in the local plan overall the only reasonable conclusion from considering the material is that the delivery of the site is supported by Torbay Council as a corporate body and according the local planning authority.
- 3.6 It is unclear why these sites have not been included in the land supply. However, the Council has confirmed at both Officer and Elected Councillor level that it wishes to deliver housing on its own land. Clearly, not doing so would have repercussions on the Council’s success in obtaining other central government funding on other projects in the future.

¹ https://www.nomisweb.co.uk/reports/lmp/la/1946157356/subreports/id_time_series/report.aspx?

4. Inappropriate solution

- 4.1 Of the 3 neighbourhood plan areas the Brixham Peninsula is the most constrained by way of both ecology and infrastructure.
- 4.2 However despite these difficulties the Brixham Peninsula has maintained a positive approach to development: allocating more homes than set out in the spatial distribution in the Local Plan; working with developers through the Neighbourhood Forum process; and securing neighbourhood area delivery rates which are the best in Torbay.
- 4.3 Therefore, even if a Torbay wide housing shortfall exists, and it is not accepted one does, such a large allocation of housing towards the Brixham Peninsula area is an inappropriate solution.
- 4.4 The Brixham Peninsula Neighbourhood Plan provides a policy framework which seeks to direct development away from the most sensitive areas and towards sustainable locations which will have the least impact on the characteristics which make the area special. Not only can this be seen through the specific environmental and landscape policies set out in detail elsewhere, but it can be seen in Policy BH9: Exception Sites. It is of note that in this policy no development within a Settlement Gap would be policy compliant, but minor development in an AONB could be policy compliant. This highlights the importance of the Policy E3.
- 4.5 In addition to the specific allocation of sites in the Neighbourhood Plan, the Housing Site Assessment provides detail on those sites which were rejected at allocation stage so as to signpost those which are the most promising for future development and/or which would already have been allocated should housing requirements dictate a lower threshold for regards environmental and other safeguards. It can clearly be seen from the Housing Site Assessment that, for example, the site referred to as H3 – R11: Pilgrim’s Friend Land (“Archery Field”) is highlighted for potential development as an exception site whereas the H3 – R7: White Rock Extensions site, which includes the land which is the subject of the current proposals, is not.
- 4.6 Therefore, even if it is appropriate that the Brixham Peninsula area takes such a large allocation of housing to make up for a Torbay wide housing shortfall, this particular site is an inappropriate choice.

- 4.7 Indeed, this development threatens delivery of the planned regeneration of Brixham and community trust and engagement in the planning system, particularly at the Neighbourhood Plan level.
- 4.8 Should it proceed, how can the Forum encourage developers to engage with the community at neighbourhood plan making stage or indeed how can the Forum encourage the many volunteers to become involved in plan making in the first place. Other than producing an obsolete historical document, what will the efforts of previous volunteers have achieved?



Torbay Five Year Housing Supply 2020: Draft Statement for Consultation

Representations submitted on behalf of Abacus Projects Limited and Deeley Freed Estates Limited

8 June 2020

Prepared by: Simon Fitton

Alder King Planning Consultants

Pembroke House, 15 Pembroke Road, Clifton, Bristol BS8 3BA

Email: sfitton@alderking.com



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Appendices

Appendix 1: Appeal Reference APP/Z1510/W/16/3162004: Secretary of State Decision and IR

Appendix 2: Braintree Essex Housing Supply Statement (April 2019)

Appendix 3: Counsel Opinion (January 2020)

1.0 Introduction

- 1.1 These representations are prepared and submitted on behalf of Abacus Projects Limited and Deeley Freed Estates Limited. The representations seek to establish the robustness of the five year land supply position as presented in Torbay Council's May 2020 Consultation Statement against the nationally prescribed methodology.
- 1.2 The statement establishes that the Council cannot identify a robust land supply against the five year requirement and estimates the supply to be 2.77 years. Paragraph 6.1 of the Paper correctly identifies the relevant paragraphs of the NPPF that are engaged in the event that a five year supply cannot be demonstrated. It goes on to acknowledge that the protection afforded to Neighbourhood Plan areas by NPPF paragraph 14 does not apply given the supply is less than three years.
- 1.3 For the reasons set out below, Alder King does not consider the 2.77 years estimate to be a robust position.

2.0 The Housing Requirement

- 2.1 Alder King (AK) agrees with Torbay Council's (TC) methodology for the calculation of the five year housing requirement; AK notes that TC has followed the methodology advanced in its July 2019 representations and considers the five year requirement calculation of 3,395 dwellings to be robust.
- 2.2 Paragraph 6.4 of the consultation paper references past under-delivery in Torbay and that an Action Plan has been prepared in accordance with the failure to meet the relevant thresholds in the 2018 Housing Delivery Test (HDT). Paragraph 6.4 references an improvement in the position from 2018 to 2019 which relates to a spike in completions in 2018/19, albeit an Action Plan is still required as it still falls short of expectation.
- 2.3 The statement is however silent on the implications of a significant drop in the level of completions in 2019/20. Completions of 188 is a poor return on a requirement of 495 and the implications are shown below:

	Requirement					Completions					HDT
	2016-2017	2017-2018	2018-2019	2019-2020	Total required	2016-2017	2017-2018	2018-2019	2019-2020	Total delivered	
2019	400	470*	495	-	1,365	326	414	531	-	1,271	93%
2020	-	495	495	495	1,485	-	414	531	188	1,133	76%

*This figure is taken from the published HDT but is incorrect

- 2.4 The HDT results for 2020 will mean that TC falls below the 85% threshold and will mean that a 20% buffer will need to be applied to the five year housing requirement. The Action Plan has failed to deliver. Completions in 2020/21 from major sites are anticipated to be 143 homes. At no stage in the five year period does the anticipated level of completions (not including small sites and windfalls as there is no trajectory) get close to the 495 homes per annum requirement.

- 2.5 The requirement of 3,395 dwellings is therefore somewhat of a false position. The HDT is a matter of simple arithmetic and since TC has published its completions for 2019/20 early the reality is clear. When the HDT is formally published the requirement will increase to 3,880. Against the claimed land supply of 1,881 dwellings, a supply of 2.42 years results. For the reasons set out below AK does not consider the supply of 1,881 dwellings to be robust.

3.0 The Housing Supply

- 3.1 Paragraph 1.4 of the statement states that calculating 5 year supply is not an exact science and inevitably involves a planning judgement. AK does not agree with this statement. The five year supply should be based on fact and certainty; of course it is hard to predict with complete accuracy the trajectory for any one site for any particular year; this is never more true in the current Covid-19 pandemic and it is impossible to predict how it will affect delivery over the next two to three years with any accuracy. However, over the course of a five year period, the total anticipated from any site should not really come down to a matter of planning judgement. This is an evidence-led exercise; if the evidence is robust then there is no need to exert any planning judgement. It cannot be based on hearsay or anecdotal evidence.

- 3.2 In some respects the NPPG extract highlighted at paragraph 4.2¹ of the consultation statement is a consolidated version of previous iterations, but does provide more clarity over the necessary tests. For any such site that falls within the categories of the first four bullet points, there is little doubt that the bar for inclusion in any LPA five year supply is a high one. Whilst paragraph 4.3 of the consultation paper states that the above tests (in the previous NPPG) have been applied to sites in Torbay ‘as far as the information is available at the time of writing’ the evidence presented falls woefully short of the standard required.

- 3.3 It is important to consider how those tests are being applied through appeal and Secretary of State decisions. A recent Secretary of State decision relating to a residential site in Braintree, Essex² is reproduced at **Appendix 1**. Paragraph 46 of the SoS decision states that,

“Having reviewed the housing trajectory published on 11 April 2019, the Secretary of State considers that the evidence provided to support some of the claimed supply in respect of sites with outline planning permission of 10 dwellings or more and sites without planning permission, does not meet the requirement in the Framework Glossary definition of “deliverable” that there be clear evidence that housing completions will begin on site within five years. He has therefore removed 10 sites from the housing trajectory, these are listed at Annex D to this letter.”

- 3.4 The Braintree Monitoring Report (April 2019 Addendum) is provided at **Appendix 2**. This follows a similar format to that presented by Torbay, however, further evidence is provided at Appendix 2 of the report containing pro-formas prepared by the LPA and completed by relevant developers/site promoters. This is

¹ Paragraph: 007 Reference ID: 68-007-20190722

² APP/Z1510/W/16/3162004

not an uncommon approach, and in some instances the SoS accepted the content of the responses to represent sufficiently clear evidence that outline consents will be delivered within the five year period.

3.5 However, the SoS discounted sites:

- Where no information (ie pro-formas/statement of common ground) was forthcoming;
- Where new full applications had been submitted (not determined) that sought to supersede the outline;
- Where reserved matters had not been submitted.

3.6 In relation to an adopted 'Growth Location' area (much the same as Torbay's Future Growth Areas), despite the fact that a hybrid planning application had been made and relevant pro-forma produced, the site was discounted from the five year supply. Evidently that site failed the test of *'a hybrid planning permission for large sites which links to a planning performance agreement that sets out the timescale for conclusion of reserved matters applications and discharge of conditions.'*

3.7 When these tests and 'rules' are applied to the Torbay supply, many sites within the trajectory fail. Indeed, in the context of NPPF Annex 2, any site that falls within the Torbay supply that is not subject to either full consent or reserved matters approval is automatically discounted on the basis that no clear evidence of the standard required is presented.

3.8 The two main components of supply are critiqued below.

4.0 Part A: Sites of 10+ units with full planning permission

4.1 AK accepts that the majority of sites within Part A should form part of the five year supply. For sites within this category it is accepted that it is not the Council's obligation to provide clear evidence; the onus is on any objector to demonstrate issues with deliverability. Nevertheless, AK does not consider that the following sites merit inclusion:

- **Former Paignton Police Station, Southfield Road:** Outline consent exists for 46 dwellings but reserved matters was granted for 36 dwellings in 2019. It is clear from the proposals that the scheme was revised down; the delegated report confirming that, *"the main divergence is that the scheme is for 10 fewer apartments to the number approved at outline stage and, principally as a result of this reduction, the proposal is also one storey less in height than indicatively shown at outline stage"*. Further reserved matters have been submitted (validated in February 2020) but still reflecting 36 units. Those 10 dwellings cannot be relied upon and should be discounted from the supply. The developer clearly does not intend to deliver 46 dwellings.
- **Queensway, Torquay, Southfield Road:** In February 2020 this site was identified with a supply of 6 dwellings. It is accepted that full permission exists for 12 dwellings but this dates back to an application submitted in 2007 and approved in May 2008. No other applications have been submitted since. It is assumed that the consent has been implemented and is still capable of delivery but it is not clear why the supply has increased to 11 in the space of 3 months (from

February 2020). Five units are anticipated for completion in 2020/21 so it is assumed that this is robust and developers are effectively onsite. There is no evidence to suggest that the remaining 6 units will be delivered given they are not anticipated until year 5 (2024/5). There is no logic to that estimate not least since the consent dates to 2008. Those six dwellings should therefore be discounted.

- **South Devon College (Torre Marine):** This site does not have full planning permission and to that end sits in the wrong section (ie it should fall into Category B). P/2016/1047 is an outline permission for which no reserved matters have been submitted. Clear evidence is required as a consequence and it must pass the tests. In accordance with the above SoS Decision, even where a pro-forma response is provided, since no RM submissions have been made and no conditions discharged, the site should be discounted from the supply. The commentary provides no comfort that the site is coming forward and the fact that the 75 units are programmed for year three provides no confidence. The outline consent will expire in November 2020 so there is a clear mismatch in terms of expectations for delivery.

Following the submission of representations in July 2019 the site was removed from the 2019 supply. There is no justification for its inclusion now as there has been no change in circumstance. The site should sit in category B but only if there is clear evidence of demonstrated intent; as it stands there is nothing.

- **Brixham Paint Station, Kings Drive:** Notably this site did not feature in the 2018 trajectory despite being subject to an implemented consent. It featured in the draft July 2019 consultation paper but was subsequently removed in the final February 2020 statement. The consent dates back to 2006. It is not appropriate to rely on a part implemented consent from 2006 without any evidence of delivery. The fact that it is programmed for delivery in years 3 and 4 suggests that the site has not progressed at all since the last update in February 2020. TC seems no further forward in advancing any evidence to suggest delivery will be forthcoming. It should therefore be discounted from the supply.

4.2 AK does not consider that the above sites should contribute to the supply and has discounted all or parts of them as a consequence. The supply from major sites with planning permission should therefore be reduced by 113 dwellings from the stated 694 to 581 in accordance with a:

- reduction in 10 units from 46 to 36 at Former Paignton Police Station, Southfield Road;
- reduction in 6 units from 11 to 5 at Queensway, Torquay, Southfield Road;
- reduction in 75 units and deletion from supply at South Devon College (Torre Marine); and
- reduction in 22 units and deletion from supply at Brixham Paint Station, Kings Drive

5.0 Part B: Sites with demonstrated intent

- 5.1 On the basis of the above analysis describing how the methodology relating to the presentation of clear evidence should be applied, the majority of sites within this category should be discounted from the supply. In some circumstances should clear evidence be provided by TC then those sites could make a contribution to supply; in respect of others then in accordance with the SoS decision making process it is hard to see how they possibly could.
- 5.2 Not all sites are the subject of either outline or full planning permission. In some instances no planning application has been submitted. Whilst it is acknowledged that such sites can feature within the five year supply, given their status, clear and compelling evidence needs to be provided demonstrating certainty of delivery. It is acknowledged that an adopted allocation provides certainty in respect of the principle of development. In all other respects however, there is no certainty until such time as planning permission is forthcoming. There are many hundreds of examples of allocated sites across the country that have not come forward for development (or in the numbers anticipated), whether that is in part or at all, or in the timescales originally envisaged.
- 5.3 There are a number of sites that featured in the 2019 July HLS consultation paper that were subsequently removed in the final version published in February 2020. These are examined below to understand whether there has been a change in circumstance to justify inclusion now:

- Collaton St Mary (Blagdon Farm). In 2019 AK's representations stated that, *"This site cannot reasonably form part of the supply. No application is submitted and not due until next year. It is impossible to know whether it will accord with the adopted masterplan and thus whether the principle of development in the form ultimately presented will be acceptable. We do not know the nature of the application or how the 60 units has been derived. The site has no status as required by the NPPG (the FGA status is insufficient) and no clear evidence of delivery has been provided."*

Little appears to have changed. It is recognised that the Taunton Development Agency (TDA) controls the site but only a detailed consent for access exists and that is presently subject of a legal challenge; it remains to be seen how that process will unfold. TC sought to test the appropriateness of whether this site could be included within the 2019 HLS and sought Counsel's opinion on this and a number of other sites (**Appendix 3**). Counsel advised TC that:

"The existence of grant funding, and the permission for the spur road, are both relevant factors, as is the fact that the Council owns the site. They all point towards its deliverability. However, these factors alone are unlikely to persuade an inspector that "there is clear evidence that housing completions will begin on site within five years".

It is highly relevant that a planning application is expected in 2020. However, in order to persuade an inspector of the site's deliverability, more evidence is likely to be needed. When is that permission expected to be received? What pre-application discussions have there been? Is it likely

that the application will be in conformity with the adopted masterplan? Will the application be in outline or full? Is there 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 rate? And what evidence does the developer have to support their position?"

None of these questions have been addressed and no further evidence has been advanced; it is impossible to understand what justifies its inclusion now.

- **Collaton St Mary, North of Totnes Road (Taylor Wimpey):** The site was removed from the 2019 supply on the basis that a) only an outline application had been submitted, b) it was contrary to the approved masterplan (73 units against the masterplan of 40), and c) was refused planning permission at Committee.

Taylor Wimpey has subsequently appealed the refusal and on the basis that the Council clearly does not support the scheme it is difficult to understand how it could possibly feature in the supply. TW has submitted a duplicate application in April 2020 presumably to offer an olive branch and enable TC to determine the application favourably but there is no reason to suggest it will. Indeed, it is noted that the HLS only makes provision for 40 dwellings as per the masterplan but clearly this is not what TW intends to deliver. There are clear tensions between the intentions of the developer and those of the Council and until such time as they are resolved this site cannot feature.

- **Collaton St Mary, North of Totnes Road (Bloor):** Technically the site should not feature in the 5 year supply as an outline consent is not normally sufficient to represent a clear demonstration of delivery. However, on the basis that the site will be reported to committee in June, the fact that the application is promoted by a volume housebuilder would suggest there is a reasonable probability that reserved matters will be forthcoming soon. Of course, in the event that the application is refused at committee the site would not be eligible to feature in the five year supply.
- **Totnes Road (Motel Site):** Again whilst there has been some progression with an outline application (a revised pack being submitted in March 2020), consent has yet to be granted. There is no certainty of permission or when reserved matters will be submitted and on that basis should continue to be discounted.
- **St Kilda's:** Notably St Kilda's is the only one of three Neighbourhood Plan sites that were identified in 2019, subsequently removed in February 2020 and now re-instated (the other two being Hatchcombe Lane and Westhill Garage). All of these sites enjoy a similar status; allocated in Neighbourhood Plans but not subject to any planning application. The only evidence provided in the commentary was in relation 'pre-app discussions'. It is the same response in 2020. We have no knowledge of the nature or outcome of those discussions. We do not know whether the pre-application proposals have been positively or negatively received, or indeed whether any response has been provided.

The commentary falls woefully short of national requirements. When considered against the SoS criteria, there is no possibility that St Kilda's should be included within the supply. There is no compelling evidence to demonstrate that St Kilda's will be delivered; the fact that it is a Torbay Development Agency (TDA) controlled site gives it no more elevated status given no evidence has been presented. The site is not even referenced in the Housing Action Plan 2019.

- **Victoria Centre:** There is no certainty of delivery even though the principle of development might be acceptable. No application has been submitted. No clear evidence has been provided; whilst a successful bid for funding might have been achieved this in itself is not sufficient. An application submitted for demolition does not constitute meaningful progress.

This is a complex site that needs to go through the planning application process before any reliance in five year supply terms can be placed upon it. It is identified within the Housing Delivery Action Plan (2019) as a site now controlled by TDA but also identifies technical constraints with the site including the need to undertake a flood risk sequential test. There appears uncertainty over what the scheme could and should yield and quotes a range between 60 and 160 dwellings. TC also sought Counsel's advice on the inclusion of this site. Counsel's advice was that:

"It was included within the draft Statement with an indication that "Developer intends to deliver on site within 5 years", although it is not clear what evidence had been obtained from the developer. It was removed in the Statement following objections on the basis that there was no clear evidence that housing completions will begin on site within five years (see representations of Alder King and PBA).

On the basis of the evidence before me I consider it unlikely that an inspector would find that there was clear evidence of a realistic prospect of housing development taking place on the site within five years. However, if further evidence were available, including from the developer, of the type that I outline above in respect of the CSM Land, and that evidence pointed towards the possibility of housing development taking place within five years, it might be possible to persuade an inspector of its deliverability."

No further evidence has been presented and until such time as it has the site should be discounted from the supply. The fact that 85 dwellings have been identified and all programmed for year 5 suggests a complete lack of certainty.

5.4 The following sites are either new for 2020 or have been carried forward from the trajectory in 2019:

- **Dairy Crest site:** This site benefits from an outline consent that has a number of detailed matters also approved. Nevertheless, there is no clear evidence as required to demonstrate that the site can meaningfully contribute to the supply. There is no written agreement between the local planning authority and the site developer which confirms the developers' delivery intentions and anticipated start and build-out rates, or for that matter any information relating to the other tests in the NPPG.

It is programmed for delivery in year five suggesting that there is little confidence from the landowner/developer that delivery is expected anytime soon. With a site with so many technical issues to address, for it to be included in the supply there has to be compelling evidence as to how and when these matters are going to be addressed.

- Edingswell Gateway:** This is acknowledged to be a Future Growth Area but as we have established in the case of Collaton St Mary this is not enough for it to warrant automatic inclusion. It is understood that a planning performance agreement exists which is perhaps why the site now features in the supply, but no details of it are forthcoming. We do not know what commitment to delivery there is or the timescales associated with the planning application process.

One outline application has been submitted south of Moles Lane (P/2019/0710) in July 2019 for 90 dwellings but this is contrary to the Masterplan that identifies the land for employment purposes and is subject to an objection from the lead promoter Cavanna Homes on that basis. No dwellings can be relied upon from this location until such time as there is much greater certainty over delivery.

- Northcliffe:** This is understood to be the former hotel site demolished in the mid-1990s and identified in the Brixham Neighbourhood Plan. TC has correctly identified that the majority of allocated NP sites cannot feature in the supply as this is not sufficient status to guarantee delivery. There is no evidence presented in respect of this particular site and a target of ‘circa 15 units’ delivered in year five suggests there is none. The fact that it has been a vacant site for 25 years does not lead to any confidence that the position will change in the next five.

Summary

5.5 The table below sets out Alder King’s position in respect of the sites in Category B:

Major Sites with demonstrated intent	Torbay	Alder King
Devonshire Park	100	100
Collaton St Mary (Blagdon Farm)	75	0
Collaton St Mary. North of Totnes Road TW)	40	0
Edingswell Gateway	60	0
Dairy Crest Site	43	0
Collaton St Mary. North of Totnes Road (Bloor)	70	70*
Totnes Road (Motel Site)	39	0
St Kildas	20	0
14-16 Midvale Road	10	10*
Victoria Centre	85	0
Northcliffe	15	0
Totals	557	180

*assuming approved at committee

6.0 Conclusion

6.1 Given the lack of supply interim Policy SS13 is engaged, and given the urgency of the situation, TC must consider favourably applications for new housing, consistent with Policy SS2, H1 and other policies of the plan. This reflects the wording of Policy SS13, however, because the strategic policies are out of date given the paucity of supply. The tilted balance applies; the tests in the Local Plan are still material but so are those set out in the NPPF and NPPG.

6.2 A summary of Alder King's position is set out below:

Component	Torbay	Alder King
Five Year Requirement 2020 to 2025	3,223	3,223
Plus Shortfall and 5% Buffer	3,395	3,395
Plus Shortfall and 20% Buffer	3,880	3,880
Part A Supply (sites with full planning permission)	694	581
Part B Supply (allocated and other)	557	180
Part C Supply (small sites)	390	390
Part D Supply (windfall)	240	240
Total Supply	1,881	1,391
Number of Years Supply with 5% buffer	2.77 years	2.05 years
Number of Years Supply with 20% buffer	2.42 years	1.79 years

Appendix 1: Appeal Reference APP/Z1510/W/16/3162004: Secretary of State Decision and IR

Appendix 2: Braintree Essex Housing Supply Statement (April 2019)

Appendix 3: Counsel Opinion (January 2020)