

TORBAY LOCAL PLAN

A landscape for success

The Plan for Torbay – 2012 to 2032 and beyond

SUBMISSION PLAN

STATEMENT OF LEGAL COMPLIANCE

Torbay Council - July 2014

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National context

Central government legislation

The legislative context for the preparation of the Torbay Local Plan is provided by the Planning and Compulsory Purchase Act 2004 (as amended) and the Localism Act 2011. Details of the legal obligations relating to plan preparation are enshrined in The Town and Country Planning (Local Planning) (England) Regulations 2012 [Statutory Instrument 2012 No. 767] (as amended) (referred to as the “Local Planning Regulations”).

National planning policy

Planning policy at a national level is set out in the National Planning Policy Framework (NPPF) published in March 2012. Paragraphs 150 to 185 deal specifically with ‘Plan-making’.

Paragraph 182 deals with the examination of local plans and makes specific reference to the need for legal and procedural compliance in plan making. Details of how the Council has met key elements of these requirements are illustrated in ‘Regulation 18 Plan Preparation: Statement of Consultation and Engagement (February 2014)’ [Submission Document SD10] and ‘Regulation 20 Statement: Publication of Proposed Submission Plan and representations made’ (July 2014) [Submission Document SD14]. Further reference to legal compliance and procedure is made below with regard to the Local Plan Regulations.

The Submission Torbay Local Plan has been prepared with close regard to the NPPF and its supporting documents, ‘Technical Guidance to the National Planning Policy Framework’ (now superseded) and ‘Planning policy for traveller sites’. It is considered to be consistent with the principles and policies set out in the NPPF, in particular the need to meet the presumption in favour of sustainable development.

The Plan is considered by the Council to meet the NPPF’s tests of soundness in that it is compliant with the four bullet points set out in Paragraph 182, namely that a submission plan should be positively prepared, justified, effective and consistent with national policy. A separate statement (‘Duty to Cooperate Statement (July 2014)’ [Submission Document SD15]) has been submitted to demonstrate that the Council has fulfilled its duty to cooperate during plan making, with regard to cross-boundary planning issues of a strategic nature. This work confirms the Council’s compliance with the relevant parts of Section 33A of the 2004 Act, introduced by the Localism Act 2011 (see also *Regulation 4 – Duty to co-operate* below).

Torbay Council has fully embraced the Government's aspirations to empower local communities in the plan making process through the preparation of Neighbourhood Plans. Three such Plans are being produced in Torbay, one for each of the three towns of Torquay, Paignton and Brixham, giving full coverage of the local planning authority's area. These Plans play a key part in the delivery of the aspirations and policies of the Local Plan. Their preparation, mentored by the Council, has been consistent with the steer provided by Paragraphs 183 to 185 of the NPPF entitled 'Neighbourhood plans', the National Planning Practice Guidance (NPPG) and the detailed requirements contained in The Neighbourhood Planning (General) Regulations 2012 [Statutory Instrument 2012 No. 637] (as amended).

Further details concerning the role and preparation of Torbay's three Neighbourhood Plans are provided in 'Parallel-tracking Local Plan and Neighbourhood Plan preparation in Torbay – Torbay Council Position Statement (July 2014)' [Submission Document SD25].

National planning guidance

Publication of the final version of the National Planning Practice Guidance (NPPG) in 2013 provided further detailed information and guidance on preparation of Torbay's Local Plan. In line with this advice, the Council has produced a Plan that has, in summary, addressed the future needs and opportunities of the Torbay area; developed options for addressing them, including a preferred approach; gathered appropriate and proportionate evidence; carried out a Sustainability Appraisal of the options; produced a Habitats Regulations Assessment to consider impact on sites of European importance; and had effective discussion and consultation with local communities, businesses and interested parties. Commitments set out in the Council's Statement of Community Involvement have been met and publicity, consultation and engagement have been carried out in accordance with the relevant Regulations. This programme of work has been carried out in accordance with the Council's published Local Development Scheme. The implementation of these procedures is considered in more detail below.

Local Planning Regulations

The Town and Country Planning (Local Planning) (England) Regulations 2012 [Statutory Instrument 2012 No. 767] (as amended) outline the form and content of local development documents and prescribe how the local planning authority should progress the preparation of the key stages of the Torbay Local Plan.

The Council has met the key legal and procedural obligations set out in the Regulations during preparation of the Submission Plan in the following ways:

Regulation 4 – Duty to co-operate: The manner in which the Council has addressed this matter is described in ‘Duty to Cooperate Statement (July 2014)’ [Submission Document SD15])

Regulation 5 – Local development documents: The Submission Local Plan embraces criteria outlined in 5(1) and 5(2) and has been prepared as a local development document. It is accompanied by a submission Key Diagram and Policies Map, illustrating changes brought about by the emerging new Local Plan to the existing 2004 Adopted Torbay Local Plan Proposals Map.

Regulation 8 – Form and content of local plans and supplementary planning documents; general: The Submission Local Plan has been prepared to embrace the criteria set out.

Regulation 9 – Form and content of the adopted policies map: The Key Diagram and Policies Map accompanying the Submission Local Plan have been produced in such a way to ensure that the versions finally adopted will meet the requirements set out.

Regulation 10 – Local plans and supplementary planning documents: additional matters to which regard is to be had: Where matters specified are of relevance to Torbay, they have been embraced by the Submission Plan

Regulation 18 – Preparation of a local plan: The manner in which the Council has addressed these plan preparation requirements (consistent with complimentary additional detailed requirements set out in *Regulation 17 – Application and interpretation*) is described in ‘Regulation 18 Plan Preparation: Statement of Consultation and Engagement (February 2014)’ [Submission Document SD10].

Regulation 19 – Publication of a local plan: The way in which the Council has addressed this stage of the plan making process has been outlined in ‘Regulation 20 Statement: Publication of Proposed Submission Plan and representations made’ (July 2014) [Submission Document SD14].

Regulation 20 – Representations relating to a local plan: The way in which the Council has addressed this stage of the plan making process has also been outlined in ‘Regulation 20 Statement: Publication of Proposed Submission Plan and representations made’ (July 2014) [Submission Document SD14].

Regulation 22 – Submission of documents and information to the Secretary of State: The Council has submitted each of the documents prescribed in 22(1) and (2) and these are itemised in the ‘Schedule of Submission Documents (July 2014)’. The post-submission

consultation arrangements outlined in 22(3) will be met during the week immediately following formal submission of the Torbay Local Plan.

Regulation 34 – Authorities’ monitoring reports: Torbay has been producing Annual Monitoring Reports, subsequently redefined as Authority Monitoring Reports, annually since 2005. The Council regards the AMR as an important Local Plan supporting document, which is used to monitor and report on progress on plan preparation, updated as appropriate - see SD100 ‘Authority Monitoring Report (Torbay Council, December 2013)’. The findings arising from the established Sustainability Appraisal Monitoring Framework will feed in to the AMR at appropriate stages.

Regulation 35 – Availability of documents: general: The Council has met the requirements of this Regulation where applicable, as described in ‘Regulation 18 Plan Preparation: Statement of Consultation and Engagement (February 2014)’ and ‘Regulation 20 Statement: Publication of Proposed Submission Plan and representations made (July 2014)’ (see documents SD10 and SD14 respectively).

Regulation 36 – Copies of documents: Where requests for documents have been made during the various stages of preparation of the Torbay Local Plan, these have been (and will continue to be) met by the Council in accordance with these requirements.

Torbay Local Development Documents

Statement of Community Involvement

Torbay Council has supported the requirement for local planning authorities to produce a Statement of Community Involvement since its introduction in the Planning and Compulsory Purchase Act 2004. Consistent with S.18 of the Act, the Council’s first SCI was adopted in July 2007. The most recent fully revised version of the SCI was approved by the Council on 3 March 2014 (Directors Decision No.7/2014) and subsequently published on the Council’s website.

During their evolution, both the various local development documents comprising the earlier Torbay Local Development Framework and the subsequent Torbay Local Plan have been prepared in accordance with the previous (2007) and current (2014) Torbay Statement of Community Involvement. At key stages, consultation and engagement carried out has reflected the relevant sections of these documents.

The current SCI can be accessed via the following link:

<http://www.torbay.gov.uk/index/yourservices/planning/strategicplanning/sci.htm>

Further details of consultation and engagement carried out in the context of the SCI can be found in 'Regulation 18 Plan Preparation: Statement of Consultation and Engagement (February 2014)' and 'Regulation 20 Statement: Publication of Proposed Submission Plan and representations made (July 2014)' (see documents SD10 and SD14 respectively in the Council's 'Schedule of Submission Documents').

Local Development Scheme

The Torbay LDS has been prepared in accordance with S.15 of the Planning and Compulsory Purchase Act 2004, as amended by S.111 of the Localism Act 2011. The Council's first LDS was adopted in December 2005 to provide context for the emerging Local Development Framework. In consultation with the then GOSW, the LDS was subsequently subject to revision on an informal basis.

The new LDS was approved by the Council with effect from 5 February 2014 (Directors Decision No.4/2014) and subsequently published on the Council's website. This followed publication of the National Planning Policy Framework (NPPF) and greater clarity over progression of the new Torbay Local Plan 'A landscape for success' and its relationship with Torbay's three emerging Neighbourhood Plans.

The current LDS can be accessed via the following link:

<http://www.torbay.gov.uk/index/yourservices/planning/strategicplanning/localdevelopmentscheme.htm>

(See also Submission Document SD28)

Recent stages of Local Plan preparation have taken place in accordance with the broad timescales set out in the current LDS. In particular, formal submission of the Proposed Submission Torbay Local Plan reflects the LDS programming for this specific plan preparation stage.

Sustainability Appraisal

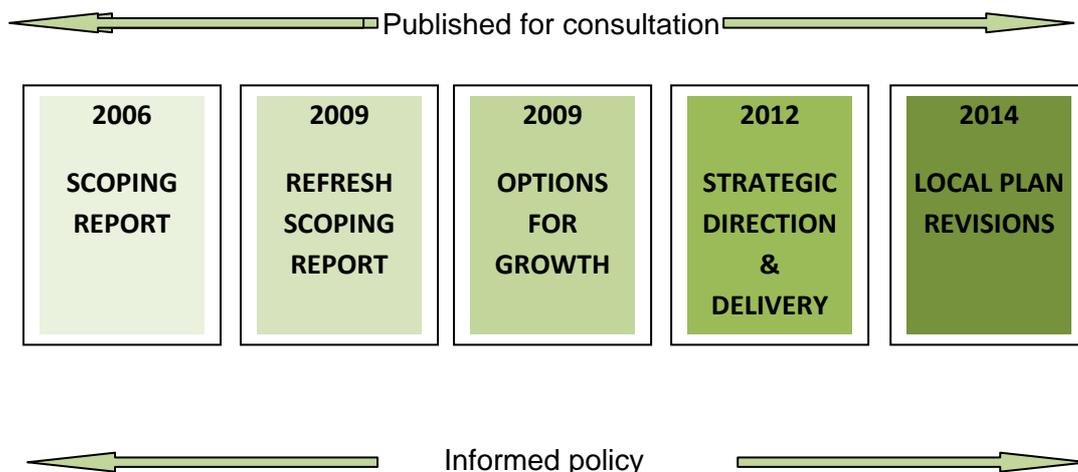
Sustainability appraisal is a systematic process undertaken during the preparation of a plan or strategy. Its role is to assess the extent to which the emerging policies and proposals will help to achieve sustainable development. The process is an opportunity to consider options in which the plan can contribute to improvements in environmental, social and economic

conditions, as well as a means of identifying and mitigating any potential adverse effects that the plan might otherwise have.

Under the Planning and Compulsory Purchase Act 2004, Sustainability Appraisal (SA) is a mandatory element of the Local Development Documents required by section 19 of the Act. Section 39 of the Act requires that the authority preparing a local plan must do so “with the objective of contributing to the achievement of sustainable development”.

Sustainability Appraisal must meet the requirements of the European Union’s Strategic Environmental Assessment (SEA) Directive 2001/42/EC. The National Planning Policy Framework (NPPF) also requires that a Sustainability Appraisal, incorporating the requirements of the SEA Directive, should be integral to the plan making process.

The Figure below illustrates the key stages of the Council’s Sustainability Appraisal work in relation to the evolution of the emerging Torbay Core Strategy and, subsequently, the Torbay Local Plan:



This work has been documented and delivered through the relevant SA documents that have been published at key plan preparation stages (see Schedule of Submission Documents). The successive iterations of the Torbay Local Plan Sustainability Appraisal and accompanying Non-Technical Summary and Appendices can be accessed on the Council’s website <http://www.torbay.gov.uk/newlocalplan>

Habitats Regulations Assessment

The purpose of HRA is to assess the impacts of a land-use plan, in combination with the

effects of other plans and projects, against the conservation objectives of a European site and to ascertain whether it would adversely affect the integrity of that site. Where significant negative effects are identified, alternative options should be examined to avoid any potential damaging effects.

The European Directive (92/43/EEC) on the Conservation of Natural Habitats and Wild Flora and Fauna (the Habitats Directive) protects habitats and species of European nature conservation importance. The Habitats Directive establishes a network of internationally important sites designated for their ecological status. These are referred to as European Sites, and comprise Special Areas of Conservation (SACs), Special Protection Areas (SPAs) and Ramsar sites.

Work on the Council's obligations in relation to the HRA process for the Torbay Core Strategy / Local Plan began in 2006, when a draft HRA Screening Report was produced to outline the processes and information gathered up to that point. In 2009 the Screening Report had identified a range of direct and indirect impacts arising from the Torbay Core Strategy Growth Options that could possibly affect European sites within a 20 km radius from Torbay. The Local Plan Consultation Draft (2012) was also subject to HRA Screening and Appropriate Assessment (AA). Further screening and an Appropriate Assessment was carried out and the findings are presented in the HRA Report in 2014.

This work has been documented and delivered through the relevant HRA documents that have been published at key plan preparation stages (see Schedule of Submission Documents). The successive versions iterations of the Torbay Local Plan Habitats Regulations Assessment and accompanying Non-Technical Summary are available on the Council website <http://www.torbay.gov.uk/newlocalplan>

Public Sector Equality Duty (PSED)

Equality Impact Assessment

The Public Sector Equality Duty (PSED) derives from the Equality Act 2010, which came into force on 5 April 2011. It means that public bodies have to consider all individuals when carrying out their day-to-day work – in shaping policy, in delivering services and in relation to their own employees. It also requires that public bodies:

- have due regard to the need to eliminate discrimination
- advance equality of opportunity

- foster good relations between different people when carrying out their activities

The Equality Duty applies across Great Britain to the specified public bodies and to any other organisation when it is carrying out a public function.

The Equality Act 2010 (Specific Duties) Regulations 2011 came into force on 10 September 2011. The specific duties require public bodies to publish relevant, proportionate information showing compliance with the Equality Duty, and to set equality objectives.

Torbay Local Plan Equality Impact Assessment

The Council prepared its first Local Plan Equality Impact Assessment (EqIA) in tandem with the publication of the Torbay Local Plan Consultation Draft (September 2012 and the subsequent consultation period). The EqIA considered the various impacts of the Local Plan in some considerable detail, outlining how the Plan had considered available evidence, consulted on proposals, made appropriate amendments, and identified scope to eliminate discrimination. Positive and negative impacts of the Plan were identified, with an indication of any necessary action required. An indication of how the impact of the Local Plan's proposals would be monitored was also included.

The Local Plan EqIA has evolved on an iterative basis. Accordingly it has been subject to further review in February 2014 in parallel with the publication of the Proposed Submission Torbay Local Plan. The EqIA has had regard to the changes made in this latest version of the Plan; given its status as a live document, it will be the subject of additional monitoring at appropriate stages of the Plan preparation process. The current Torbay Local Plan Equality Impact Assessment is available via the Council's website (see Submission Document SD104).