

TORBAY LOCAL PLAN

A landscape for success:

The Plan for Torbay – 2012 to 2032 and beyond

PROPOSED SUBMISSION PLAN (FEBRUARY 2014)

TORBAY COUNCIL RESPONSE TO REPRESENTATIONS ON SCHEDULE OF PROPOSED CHANGES TO THE FEBRUARY 2014 HABITATS REGULATIONS ASSESSMENT

REPRESENTATIONS BY CONSULTEE/ORGANISATION

Torbay Council - 14 August 2015

Explanatory note: Torbay Council Response to Representations on Schedule of Proposed Changes to the February 2014 Habitats Regulations Assessment

Summary of this document

This document sets out the Council's comments on the consultation responses to the Proposed Changes to the February 2014 Habitats Regulations Assessment that accompanied the Proposed Replacement Modifications to the Torbay Local Plan 2012-32 and beyond "A landscape for success". It summarises these by Replacement Modification / Editorial Modification and provides a brief response to the points made. These were the subject of public consultation between Monday 22nd June and Monday 3rd August 2015.

Representations on the Replacement Modifications and comments of the Council will be considered by the Inspector conducting the Examination of the Local Plan.

Background to the new Local Plan

The Local Plan was considered at an Examination Hearing between 18 - 20 November 2014. The Inspector's Initial Findings were received on 15th December 2014, with Further Findings received on 23rd December 2014.

The Council published a Schedule of Proposed Main Modifications for consultation in February 2015, drawing on the Inspectors' Initial and Further Findings. The Proposed Main Modifications related to matters that went to the heart of the Local Plan's soundness, particularly relating to increasing the overall housing numbers to 10,000 dwellings between 2012-32 and the identification of additional potential housing sites. The Modifications also sought to clarify the mechanism to bring forward site allocations plans if Neighbourhood Plans did not identify sufficient land.

Representations to the Main Modifications raised a number of significant issues, particularly around Habitats Regulations constraints (see TC/MOD/10- TC/MOD17). The Council has produced schedules of issues raised by the Modifications and its response to them: www.torbay.gov.uk/tcmod12.doc. Following consideration of these, and correspondence with the Inspector (PH/16-P/H18 <http://www.torbay.gov.uk/ph16.pdf> <http://www.torbay.gov.uk/ph17.pdf> <http://www.torbay.gov.uk/ph18.pdf>), the Council resolved to publish Replacement Modifications.

Replacement Modifications

As the name implies, the **Replacement Modifications** replace the Modifications published in February 2015. Accordingly the original Modifications have been withdrawn. However, a number of representations on the Modifications, and issues noted in the **SA and HRA (TCRMOD/7 www.torbay.gov.uk/tcrmod7.pdf and TCRMOD/8 www.torbay.gov.uk/tcrmod8.pdf)**, have influenced the content of the Replacement Modifications.

The **Replacement Main Modifications** (RMMs) deal with matters that are central to the Local Plan's soundness. In summary they propose 8,900 dwellings and 5,000-5,500 new jobs over a reduced Plan period of 2012-30 (a reduction of 1 year). They undertake that the Council will produce site allocations documents if Neighbourhood Plans are not submitted by 31 March 2016, and also set out details on monitoring of jobs and homes.

A companion schedule of **Replacement Additional Modifications** (RAMs) has been prepared for consultation at the same time as the Replacement Main Modifications. These deal with matters that do not go to the heart of the Local Plan's soundness. In particular they strengthen the environmental safeguards set out in the Proposed Submission Plan and update the Plan to reflect new government guidance on matters such as affordable housing thresholds, space standards and allowable solutions for carbon reduction.

In association with publication of the Proposed Replacement Modifications for the New Local Plan, schedules of Proposed Changes to the **Sustainability Appraisal** and **Habitats Regulations Assessment** were also the subject of public consultation between Monday 22nd June and Monday 3rd August 2015.

Issues raised by representations on the Proposed Changes to the Habitats Regulations Assessment and Council's conclusions on them:

The Council received one response from the Statutory Consultation Bodies (Natural England) and four from other bodies or individuals making representations. These are similar to the **Sustainability Appraisal**. With the exception of Natural England, the matters raised were usually linked to comments on the overarching growth strategy and potential development sites, which were made as representations on the Replacement Main and Additional Modifications and not about the HRA per se. None of the Proposed Editorial Modifications (purple text) set out in the Proposed Changes to the Habitats Regulations Assessment document were the subject of specific HRA-related representations.

Broad Conclusions on the Representations Received

The Council considers that the Habitats Regulations Assessment should remain unchanged, with the exception of adding the HRA Site Appraisal documents as appendices to the HRA where appropriate. No further modifications are recommended to the Replacement Main Modifications or the Replacement Additional Modifications documents through the HRA.

What happens next?

The representations on the Proposed Replacement Modifications, along with the Council's response to them, will be considered by the Inspector conducting the Examination of the Local Plan, who will take them into account in the preparation of his final report on the soundness of the Local Plan.

Representations on Schedule of Proposed Changes to the February 2014 Habitats Regulations Assessment					
ID	File No.	Person / Organisation Consultee	Replacement Modification/ Policy No. / Editorial Modification	Summary of Representations Made	LPA Response
National organisations					
400188	NO1	Natural England	N/A	<p>NE considers the HRA to be compliant with legal requirements.</p> <p>NE agrees with conclusions of the HRA that mitigation measures in place will reduce significant effects to insignificant.</p> <p>NE also now supports the Replacement Main Modifications to the Plan and agrees with the Authority that the spatial distribution is within environmental limits.</p>	Support for the HRA welcomed.

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400188	NO1	Natural England	N/A	As the HRA Site Appraisal Report of the Torbay Strategic Delivery Areas (Proposed Submission Plan) 2014 sets out the fundamental mitigation for the strategic growth areas, we advise the Local Plan could be improved by making this document an appendix to the Plan.	<p>Appending this document to the Local Plan is not considered to be necessary. However, specific reference should be made to HRA Site Appraisal Report which is already available online (SD/26, Appendix B plus Addendum). This has already been proposed in the supporting text to SS2 [paragraph 4.1.32 addresses this point (RAMM19)].</p> <p>Recommended Further Change to HRA:</p> <p>Add HRA Site Assessment documents as appendices to the HRA, as appropriate (in particular Appendix B and Appendix B Addendum to SD/26)</p>
Neighbouring Local Authorities, Neighbourhood Forums, Community Partnerships, Parishes and Amenity Societies					
8228890	AFC 1	Brixham Neighbourhood Forum	Local Plan RMM1/SS1 (etal) Object	<p>BPNF recognise particular need to meet Habitats Regulations in the Peninsula area and that HRA constraints exist.</p> <p>Para 22. Suggests BPNF is the 'competent authority' in terms of Section 61 (and Section 7) The Conservation of Habitats and Species Regulations 2010.</p>	<p>The Council notes the comments concerning the significance of HRA considerations for development in the Brixham Peninsula.</p> <p>Brixham Peninsula Neighbourhood Forum is not a 'competent authority' as defined by Regulation 7 of The Conservation of Habitats and Species Regulations 2010. Whilst Brixham Town Council does fall within the definition of a 'competent authority' in Regulation 7, because the geographical limits of Brixham Peninsula Neighbourhood Plan exceeds its regulatory boundaries, the 'competent authority' for the purposes of the HRA</p>

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					<p>is Torbay Council.</p> <p>Any additional sites brought forward through the Neighbourhood Plan would need to be screened for the need for HRA. The ultimate acceptability in HRA terms would be the responsibility of Torbay Council.</p> <p>No change recommended to the HRA</p>
704914	AFC 5	Paignton Neighbourhood Forum	<p>Local Plan</p> <p>Object to RMM1 and RMM11</p> <p>RMM13 Support</p> <p>RMM14 Support</p>	<p>Critical drainage problems at the West of Paignton.</p> <p>Environmental Capacity</p> <p>Housing growth of 8,900 cannot be accommodated within environmental capacity. Presumption in favour of sustainable development does not apply to HRA matters.</p> <p>Specifically object to landscape harm, loss of agricultural land at Collaton St Mary.</p> <p>HRA</p> <p>Para 48 HRA comments in relation to Collaton St Mary FGA in relation to site capacity and in-</p>	<p>Infrastructure See discussion in introductory section to Council's response to representations on Replacement Main and Additional Modifications. SWW has confirmed that the Plan is deliverable so long as a programme of SuDS is implemented. Policies ER1, ER2 and W5 have previously been amended to incorporate comments by the Environment Agency, Natural England and others on the need for sustainable drainage.</p> <p>Environmental Capacity</p> <p>The Council agrees that environmental capacity is a critical issue. The Submission Local Plan and Proposed Replacement Additional Modifications seek to address sewerage capacity through sustainable drainage measures. It is noted that South West Water and Natural England have supported the Local Plan in this respect.</p>

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				combination affects on the SH SAC.	<p>HRA</p> <p>The Council's HRA Site Assessment Appraisal (SD/26, Appendix B plus Addendum) sets out high level constraints and need for bespoke HRA mitigation plan prior to development. This is set out in Para 8.2.8 of the HRA in relation to Policy SS2.</p> <p>Recommended Further Change to HRA:</p> <p>Amend para 8.2.8 of the HRA and add specific reference to the Strategic Delivery Areas HRA Site Appraisal documents and requirements, and relevant HRA appendices.</p>
Development Industry - Housing					
Agent: 844863 Consultee : 844862	HB1	Abacus/ Deeley Freed (Stride Treglown on behalf of)	Local Plan RMM3 Object	<p>Object to removal of land south of White Rock, as this could provide a deliverable strategic site. The concerns raised by Natural England can be overcome.</p> <p>Reference made to HRA findings (TCMOD/16)</p>	<p>See more detailed discussion of land south of White Rock in the introductory section to Council's response to representations on Replacement Main and Additional Modifications. Whilst it is acknowledged that the site would be a deliverable and strategically significant site, there remain outstanding biodiversity and landscape matters that have not yet been satisfactorily resolved. These relate to effects on the AONB and HRA matters, both of which override the presumption in favour of sustainable development. It will be noted that the S of S refused development of the land for a business park in</p>

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					1997. No change recommended to the HRA <u>Note:</u> On this basis, the Council considers that the land south of White Rock should remain excluded from the Local Plan.
Agent 830010 Consultee 830289	HB5	Mrs Hosking (Savills/Smiths Gore on behalf of)	Local Plan RMM1 Object RMM14 Object	Land at St Marys campsite is subject to ecological assessments that will be available in September. The site should remain identified in the Local Plan.	The Council's HRA assessment by Kestrel Wildlife Limited (PH/10) and representations by Natural England etc have pointed to likely harm to greater horseshoe bats from the development of St Marys Campsite. It is noted that ecological testing is being carried out. However it seems likely that only a relatively small amount of development (if any) will be achievable on the campsite given its landscape and ecological constraints. On this basis any development of the site is unlikely to be strategic in nature and could be dealt with through the Neighbourhood Plan or as a departure from the Local Plan. No change recommended to the HRA
Agent 844351	HB7	Richmond Torquay (Jersey)	Local Plan	Sladnor Park: Object that too many sites have been removed- especially Sladnor Park , which has an extant planning permission	Sladnor Park. There is some question over whether permission P/2008/1418 has been lawfully commenced (which would keep the permission alive). The Council

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Consultee 844178		Limited (PCL Planning on behalf of)	RMM14 Object	(P/2008/1418) for a retirement village. The Council's ecological evidence (Greenbridge Ltd) suggests that Sladnor Park is deliverable.	<p>has suggested that the site owners should establish this through a Certificate of Lawfulness.</p> <p>Natural England's letter of 18 March 2015 indicates that additional information would be required to locate GHB roosting and assess its significance. The Greenbridge Report (TCMOD/16) indicated that development of Sladnor Park has the potential to effect adversely the integrity of the SAC, and as a minimum a Screening is necessary to establish any Likely Significant Effect.</p> <p>On this basis the Proposed Replacement Modifications removed the site because of uncertainty about likely significant effects on bats. The site is not a strategically significant one and could come forward for development should biodiversity and landscape issues be overcome.</p> <p>However, commensurate with the site's rural setting and relative remoteness, it is likely to remain more suitable for low density development such as a care home or tourism use (with enabling development) rather than medium- high density housing development.</p> <p>No change recommended to the HRA</p>