



Torbay Local Plan
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SENT BY E-MAIL AND POST

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Dear Sir / Madam

TORBAY LOCAL PLAN PROPOSED REPLACEMENT MAIN MODIFICATIONS CONSULTATION

Introduction

Thank you for consulting with the Home Builders Federation (HBF) on the above mentioned consultation. The HBF is the principal representative body of the house-building industry in England and Wales. Our representations reflect the views of our membership, which includes multi-national PLC's, regional developers and small, local builders. In any one year, our members account for over 80% of all new "for sale" market housing built in England and Wales as well as a large proportion of newly built affordable housing. We would like to submit the following representations and appear at any resumed Examination Hearing Sessions to discuss these matters in greater detail.

Housing Needs

In the previous Main Modifications consultation in March 2015 **MM1** increased the housing requirement to 10,000 dwellings (500 dwellings per annum) over the plan period 2012 – 2032 in line with the Inspector's Interim Findings dated 15 December 2014. Now however **RMM1** to **Policy SS1** and **RMM5** to **Policy SS11** propose to reduce the housing requirement to the delivery of around 480 dwellings per annum (8,900 dwellings) over the shorter plan period of 2012 – 2030 contrary to the Inspector's Interim Findings. Accordingly **RMM9** to **Policy SDT1**, **RMM10** to **Policy SDP1** and **RMM11** to **Policy SDB1** change the housing requirements in the sub-areas of Torquay (3,955 dwellings), Paignton (4,290 dwellings) and Brixham (660 dwellings).

It is also noted that **Policy SS1** continues to refer to "around" 480 dwellings per annum as commented upon in the previous HBF representation to the

Main Modification consultation in March 2015 it is recommended that the housing requirement is expressed as a minimum.

From the Schedule of Proposed Replacement Main Modifications to the Proposed Submission Local Plan and supporting evidence it is no longer apparent what the Council considers to be its OAHN. There is no reference to OAHN in the Replacement Modifications. **RMM6** and **RAM10** refer to 2012 household projections which are acknowledged by NPPG (ID 2a-016-20150227) as just the starting point for OAHN. It is stated that the 2012 Household Projections indicate between 2012 – 2030 household growth of 7,190 (400 household growth per annum) and between 2012 – 2032 household growth of 8,342 (417 household growth per annum). The Council has not provided any supporting evidence as set out in “Torbay Council Technical Paper relating to Objectively Assessed Need and Job Projections” dated July 2015 on the translation of household growth based on the 2012 projections into the proposed reduced housing requirement of only 8,900 dwellings (480 dwellings per annum).

In **RAM54** to paragraph 4.5.34 the Council state that the 2012 household projections plus an allowance for economic prosperity and hidden households have been used but no allowance is made for short term or long term vacant dwellings as these cancel each other out. In **RMM6** to paragraph 4.5.36 the Council also state that as the 2012 household projections are based on pre recessionary migration patterns then it is implicit that economic success is built into the household projections.

However such statements by the Council do not demonstrated that its OAHN and / or housing requirement should be any less than that determined by the Inspector’s in his Interim Findings. Indeed the reduced housing requirement figure and shortened plan period could be interpreted as a tactic on behalf of the Council to avoid responsibility for meeting its OAHN as illustrated by the Council’s own Press Release which appears to dismiss the Inspector’s Interim Findings on OAHN by stating “... *the Bay could be considered as having a housing need of 12,300 new homes*”. As set out in the Inspector’s Interim Findings the OAHN for Torbay is 5,430 jobs and 12,300 dwellings (paragraph 13) but he felt it was prudent to plan for 10,000 dwellings over the twenty year period (paragraph 19).

The following observations are submitted to illustrate that there is no justification to reduce the OAHN or housing requirement :-

Firstly the 2012 household projections are derived from the 2012 SNPP which use 5 year migration trends rather than 10 year or longer trends. It is interesting to note that in preparing the Gloucestershire SHMA the well-respected demographer Neil McDonald commented that “*the case for adjusting the population projections to reflect 10-migration flows within the UK is based on the ONS’s 2012-based projections (2012 SNPP) having taken 2007-12 as their trend period, a period that included the deepest and longest recession for more than a generation (our emphasis). During this period in many areas flows were significantly different from the preceding 5-year period: for 60% of authorities the net flow in 2007-12 was more than 50%*

larger or smaller than in the period 2002-07. This would suggest that using that period as the trend period is likely to result in population projections that are either too high or too low". So it is contended that the Council's statement in RMM6 is incorrect. The 2012 household projections are not based on pre recessionary trends and do not build in economic success. Therefore the Inspector's Finding which states "I do not consider that migration projections based on recent trends are appropriate in the context of the Council's economic aspirations" (paragraph 11) is correct.

Secondly there is the added complication of the exclusion of Unattributable Population Change (UPC) from the latest official statistics. As highlighted by demographers Ludi Simpson and Neil McDonald "ONS has therefore not taken UPC into account in producing the 2012-based population projections. This may be a reasonable judgement for England as a whole since, as the ONS explains, the UPC for England is within the confidence interval for the international migration estimates and the sum of the confidence intervals for the 2001 and 2011 Censuses. However, that argument is less persuasive at the local authority level, where for many local authority areas UPC is large compared with both the population change recorded between the two Censuses and the confidence intervals on the Census numbers. There are 91 local authority areas for which UPC is more than 50% of the recorded population change between the two Censuses and 85 for which it is more than twice the confidence interval in the 2011 Census population counts. This makes discounting UPC at the local authority level difficult to justify in those areas. At very least, a sensitivity test should be carried out to determine how much difference adjusting for UPC might make" (extract from Town & Country Planning April 2015 article Making Sense of the New English Household Projections). If the exclusion of UPC has reduced the OAHN for Torbay then this would be inappropriate.

Thirdly it is widely accepted that household projections are only projections of past trends and not forecasts. So such projections reflect past influences on household formation and under-estimate future requirements by building into future housing provision the adverse impacts of undersupply over the last two decades and very weak economic and market conditions between 2008 and 2012. Indeed as poor housing affordability has restricted the ability of many young people to form independent households the household projections reflect a built in deterioration of household formation rates (HFR) for younger age groups. Whilst a small adjustment to HFR is built into the 2012 household projections it is still appropriate to consider an adjustment to HFR to counter the inability of households to form and the growing number of concealed households. The 2012 household projections should not be used as an excuse to reduce OAHN and / or the housing requirement for Torbay.

Fourthly household growth should be converted into dwelling numbers using a vacancy rate allowance. Therefore the 917 short term vacant dwellings identified by the Council should be included in the calculations. It is not agreed as suggested by the Council that short term and long term vacant dwellings can be ignored as these figures cancel each other out. Moreover the Council should demonstrate that its programme for bringing into use long term empty dwellings is realistic and feasible. It is also noted that there is no

reference to an allowance for second homes. In September 2012 2.5% of all properties in Torbay were second homes (Source : DCLG Council Tax Base Data).

If household growth is converted into dwellings using a vacancy and second home allowance the resultant figures are 8,309 dwellings (461 dwellings per annum) for the period 2012 – 2030 and 9,259 dwellings (474 dwellings per annum) for the period 2012 – 2032 before any adjustments for longer term migration patterns, UPC, HFR in younger age groups as discussed above or uplifts for economic growth, affordable housing needs and market signals including affordability. It is contended that this simplistic calculation demonstrates that the Council's proposed reduction to its housing requirement to only 8,900 dwellings between 2012 – 2030 is insufficient, inappropriate and will not address economic growth nor significantly boost housing supply as required by the NPPF.

In conclusion the OAHN for Torbay has not changed from the Inspector's Interim Findings therefore the Replacement Main Modifications proposal to reduce the housing requirement figure and shorten the plan period are inappropriate representing negative rather than positive planning. The housing requirement should be 10,000 dwellings as set out in the previous Main Modifications consultation. Although the Inspector raised queries about the previous Main Modification consultation and representations received to that consultation the most appropriate response to the Inspector's concerns set out in Document PH/16 should have been for the Council to undertake further sustainability work rather than reduce the housing requirement figure. Indeed it was confirmed in the Inspector's Interim Findings that "*the figure of 9,300 promoted by the Council may not reflect a reasonable balance between environmental, social and economic considerations*" (paragraph 17) "... *environmental capacity is greater than 9,300*" (paragraph 19). Therefore 8,900 dwellings is not an acceptable housing requirement.

The matter of unmet housing needs also remains unresolved. Neither the previous Main Modifications consultation nor this Proposed Replacement Main Modifications consultation deal with the provision of unmet housing need (the difference between OAHN of 12,300 and the housing requirement of either 8,900 or 10,000 dwellings). The consequence of reducing the housing requirement only increases the quantum of unmet needs to be resolved. The resolution of accommodating unmet housing needs elsewhere in neighbouring authorities (South Hams and Teignbridge District Councils) remains a critical factor in finding the Torbay Local Plan sound.

Land Supply

The Council confirms that a Site Allocations Development Plan Document (DPD) will be adopted if sites are not identified in Neighbourhood Plans or if there is a shortfall in the 5 Years Housing Land Supply (YHLS) as per the Inspector's Findings. However **RMM2** extends the deadline for the submission of Neighbourhood Plans to 31st March 2016 unfortunately this proposed deadline is too long to be effective as the Site Allocations DPD should be prepared, examined and adopted by April 2017.

RMM7 amends **Policy SS12** which deals with 5 YHLS whereby instead of an annualised housing requirement of 480 dwellings per annum **Policy SS12** proposes a back loaded trajectory over the plan period of :-

- 400 dwellings per annum between 2012/13 – 2016/17 ;
- 460 dwellings per annum between 2017/18 – 2021/22 ;
- 510 dwellings per annum between 2022/23 – 2030/31.

As the fundamental thrust of Government policy is “*to boost significantly the supply of housing*” as stated in paragraph 47 of the NPPF the question remains whether or not the Local Plan is sound in only proposing to deliver annual housing figures below full OAHN and an even lower housing requirement in the early years of the plan period. Indeed the Council has not demonstrated that the need for housing is any less in the early years of the plan period than in the later years.

Whilst HBF do not comment on merits or otherwise of specific sites the evidence on land supply contained in Appendix 2 is not convincing as pointed out in the Inspector’s letter (Document PH/16). It is noted that existing car parks are included in the supply of available sites. It is questionable if this is a reliable source of future land as it is conditional upon maintenance of adequate parking provision. Moreover it is unknown if there will be further Mayoral Referendums on these redevelopment proposals. It is also noted that the Council has withdrawn a number of additional housing sites included in the previous Main Modifications consultation.

In the previous consultation the Council provided a 5 YHLS position statement however a re-calculated 5 YHLS position does not appear to be provided with the Replacement Main Modifications consultation. Therefore it has not been possible to check if when rolled forward there is or is not a 5 YHLS. The calculation for 2015/16 to 2019/20 should comprise :-

- 400 dwellings per annum x 2 years (2015/16 – 2016/17) plus 460 dwellings per annum x 3 years (2017/18 – 2019/20) if using the trajectory in **RMM7** ;
- Plus any shortfalls in delivery between 2012/13 to 2014/15 ;
- Plus 5% buffer on both the housing requirement and the shortfall.

This equals 2,180 dwellings to which any shortfall and 5% buffer should be added.

On the supply side Annex 2 Housing Policy Tables dated June 2015 identify only 2,247 dwellings from existing commitments for the period 2012/13 to 2017/18 which is insufficient to maintain a 5 YHLS on a rolling forward 5 year basis. Until the Neighbourhood Plans are made there is a gap in 5 YHLS for the period 2015/16 – 2019/20 meaning proposals under **RMM1** and **RMM7** for a Site Allocations DPD should be enacted immediately.

Moreover Annex 2 Housing Policy Tables show an overall supply of only 8,905 dwellings against a proposed housing requirement of 8,900 dwellings over the plan period of 2012 - 2030. So there is no headroom to provide flexibility to deal with any unforeseen circumstances.

In summary if there is not reasonable certainty that the Council has a 5 YHLS the Local Plan is not sound because it is neither effective nor consistent with national policy as set out in paragraph 47 of the NPPF. Moreover if the Local Plan is not to be out of date on adoption it is critical that the land supply requirement is achieved as under paragraph 49 of the NPPF *“relevant policies for the supply of housing will not be considered up to date if the LPA cannot demonstrate a five year supply of deliverable housing sites”*. The Council has not demonstrated that 5 YHLS calculated on either an annualised housing requirement nor stepped trajectory basis is available from adoption of the Local Plan. The short and long term land supply position is subject to too many uncertainties relating to future use of car parks, future allocations in Neighbourhood Plans yet to be “made”, resolution of Natural England objections and possible Mayoral referendums.

Neighbourhood Planning

Paragraph 184 of the NPPF requires that Neighbourhood Plans should be aligned with the strategic needs and priorities of the wider area therefore Neighbourhood Plans must be in general conformity with the strategic policies of the Local Plan. A Neighbourhood Plan only takes precedence over non-strategic policies of the Local Plan (paragraph 185 of the NPPF) in the determination of decisions on planning applications (paragraph 183 of the NPPF). Therefore if the Neighbourhood Plans do not comply with the timetable set out by the Local Plan nor identify sufficient sites to provide for the housing requirement determined in the Local Plan development sites must be brought forward in the proposed Site Allocations DPD (**RMM1** and **RMM7**).

Plan Period and Review Mechanism

RMM1 to **Policy SS1** and **RMM5** to **Policy SS11** propose to reduce the plan period from 2012 – 2032 to 2012 – 2030 but the Council has not provided any evidence to justify this shortened plan period.

There will be 5 yearly reviews of the plan as specified in **RMM7**. Furthermore **RMM7** to **Policy SS12** and **RMM8** to paragraph 4.5.40 propose an early review of the Local Plan if triggered by market signals such as a high level of unmet demand for housing and / or failure of Neighbourhood Plans to provide sufficient land to maintain a 5 YHLS. The Written Ministerial Statement dated 22nd July 2015 confirms that Local Plans can be adopted subject to an early review within 5 years of adoption. Already it is evident that if the Torbay Local Plan proceeds to adoption a review will be necessary within 5 years.

Minor Modifications

It is noted that a number of the proposed Minor Modifications cover topics not yet discussed at Examination Hearing Sessions. It is also noted that a number of these Modifications are likely to be Main rather than Minor Modifications.

Affordable Housing

Policy H2 on Affordable Housing is amended by **RAM129** to comply with national policy as set out in the Written Ministerial Statement dated 28th November 2014.

Self Build

The HBF supports self build in principle for its potential contribution to overall housing supply however the Council's approach to self build should be positively undertaken to increase the total amount of new housing developed rather than by a restrictive policy requirement for inclusion of such housing on large development sites. Such a policy approach only changes the house building delivery mechanism from one form of house building company to another without any consequential additional contribution to boosting housing supply. Under **RAM134** the Council has not provided any evidence that 12 months as the starting point for the timing of the cascade mechanism to change from self build to an alternative form of housing delivery is reasonable. If plots are not developed by self builders then the Council has effectively caused an unnecessary delay to the delivery of these homes. The Council should also give detailed consideration to the practicalities, for example, health & safety implications, working hours, length of build programme, etc. of implementing any this policy.

It is noted that Self Build Housing has been defined in the Glossary under **RAM179 A**. However is this definition the same as proposals under **Policy H3** for Self Build Affordable Housing? The same question applies to **RAM134** which is an attempt to identify the need for self-build housing. It is suggested that **Policy H3** is given further consideration by the Council perhaps it would be most sensible to defer this matter until the next review of the Local Plan by which time the Self Build & Custom House Building Act 2015 should have bedded in.

Housing Standards

The Government wishes to streamline the planning system and to rationalise many differing existing standards into a simpler system which will reduce policy burdens and deliver more much needed housing. The Deregulation Bill 2015, which received Royal Assent in March 2015, specifies that Councils should not set any additional local technical standards or requirements relating to the construction, internal layout or performance of new dwellings. The only technical standards that can now be considered and incorporated into DPDs are restricted to the nationally described space standard, an optional requirement for water usage and optional requirements for adaptable / accessible dwellings.

RAM138 proposes on sites of 50 or more dwellings a minimum of 5% of new homes are built to Part M4(2) accessible and adaptable housing standards.

RAM143 to paragraph 6.4.2.10 and **RAM144** to Table 6.1 propose to introduce the nationally described space standard. However to do so the Council should provide supporting evidence on need, viability, affordability and timing in order to assess the impact and effect of this policy in the local area. The Written Ministerial Statement dated 25th March 2015 confirms that *“the optional new national technical standards should only be required through any new Local Plan policies if they address a clearly evidenced need, and where their impact on viability has been considered, in accordance with the NPPG”*. Paragraph ID: 56-020-20150327 of the NPPG sets out *“Where a need for internal space standards is identified, Local Planning Authorities (LPA) should provide justification for requiring internal space policies. LPAs should take account of the following areas :-*

- *need – evidence should be provided on the size and type of dwellings currently being built in the area, to ensure the impacts of adopting space standards can be properly assessed, for example, to consider any potential impact on meeting demand for starter homes.*
- *viability – the impact of adopting the space standard should be considered as part of a plan’s viability assessment with account taken of the impact of potentially larger dwellings on land supply. Local planning authorities will also need to consider impacts on affordability where a space standard is to be adopted.*
- *timing – there may need to be a reasonable transitional period following adoption of a new policy on space standards to enable developers to factor the cost of space standards into future land acquisitions”*.

However the Council has not provided evidence as outlined above to justify proposals under **RAM138**, **RAM143** and **RAM144**.

Energy / Allowable Solutions

It is noted that reference to allowable solutions is deleted under **RAM56A**. However whilst **RAM155** to paragraph 6.5.1.6 clarifies that specified standards are voluntary the Council should re-check **RAM155** for compliance with recent Government announcements including the Productivity Plan.

Conclusions

For the Torbay Local Plan to be found sound under the four tests of soundness as defined by paragraph 182 of the NPPF, the plan must be positively prepared, justified, effective and compliant with national policy. The proposed Replacement Main Modifications are fundamentally unsound as warned in correspondence from the Inspector (PH/18). There are too many uncertainties about OAHN, unmet housing needs and housing land supply in particular the Torbay Local Plan is unsound for :-

- failing to meet OAHN ;
- and lack of 5 YHLS.

Therefore the Local Plan has not been positively prepared and properly justified meaning it will be ineffective and non-compliant with the NPPF.

The Council has also failed to provide evidence to justify its proposed Replacement Minor Modifications in particular on housing standards.

It is hoped that these representations are of assistance to the Council in informing the next stages of the Torbay Local Plan. If any further information or assistance is required please contact the undersigned. In the meantime the HBF reserves its position to further discuss those parts of the Local Plan not yet examined.

Yours faithfully
for and on behalf of **HBF**



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