

Dear Sir/Madam

Regulation 19 Draft of the Torbay Plan

Thankyou for consulting us on the above Plan. Overall, we welcome the Local Plan and have been pleased to work with Torbay Council in its creation. In our view the plan is positive, achievable and deliverable with a focus on regeneration, town centre vibrancy and maximising its built environment. It recognises and promotes innovative ways to maximise sustainable growth within a relatively constrained area whilst rightly acknowledging and reflecting the area's sensitivity and environmental capacity.

Please find below our formal response;

Soundness

In accordance with Section PM15 of the NPPF, the soundness tests must be applied to an emerging plan. We consider the plan to be sound in principle, and support it in relation to the tests regarding a Positive and an Effective Plan. However at the time of writing, the regulation 19 consultation was not accompanied by a revised Water Cycle Study (WCS), Strategic Flood Risk Assessment (SFRA) or the technical methodology explaining the Coastal Change Management Area (CCMA) or Coastal Vulnerability Zone designation or an Infrastructure Delivery Plan. As such, and with concerns raised at Reg 18 relating to water resources, water quality, and some allocated sites remaining within the coastal zone and flood zones, we consider this may bring into question the soundness of the Plan in relation to it being 'consistent with national policy' and 'appropriate' in relation to the growth being sustainable and evidenced.

Relevant sections of the NPPF (NPPF updated since the Regulation 18 consultation) include:

SFRA -

Paragraph CC1: Development plans should...a. Proposing development patterns through their spatial strategy and allocations which: ... ii) Avoid increased vulnerability and improve resilience to the effects of climate change (including through providing for necessary infrastructure improvements and the future relocation of homes and other uses where public safety would be at risk, for example as a consequence of coastal change).

Chapter 18, F1: 'Assessing flood risk for plan-making 1. In order to manage development in ways which minimise the risk of flooding to people and property, development plans should: a. Be informed by an up-to-date strategic flood risk assessment which considers current and future flood risk from all sources, including cumulative impacts in, or affecting, areas susceptible to flooding;'

CCMA –

F3 2. 'Inappropriate development in vulnerable coastal areas should be avoided when identifying suitable locations for development, so that risks arising from coastal change are not exacerbated. In order to do this development plans should: a. Identify as a Coastal Change Management Area any area likely to be affected by physical changes to the coast, estuaries or tidal rivers, over the next century'

WCS

W1: Planning for energy and water 1. The development plan should be informed by early engagement between the relevant plan-making authority, utility providers, regulators and network operators, so that there is a clear understanding of energy supply and network capacity, water supply, drainage and wastewater capacity, and associated requirements for additional infrastructure provision. This engagement should consider the impacts of planned growth, changing consumption patterns and climate change, as well as relevant strategic infrastructure plans 33, and be used to address potential constraints to development arising from current or anticipated infrastructure shortfalls.

P1, 1a(iii) Development proposals will not cause unacceptable levels of pollution, either alone or in combination with other pollution sources, taking into account communities which may be particularly vulnerable to its effects, such as children and older people, as well as habitats and species which may be vulnerable to pollution

We consider that, without the full evidence to satisfy the above areas of consideration these aspects are not currently demonstrated to be in accordance with National Guidance or the principles of sustainable development.

Mitigation:

In order to overcome these issues:

At the time of writing, the Environment Agency remains in discussion with Torbay Council in relation to the completion of the above documents (and is currently forming its response to the recently published updated Water Cycle Study).

We anticipate that the SFRA 1 and 2 including Sequential and Exceptions tests will be acceptable, however detailed comments on sites in relation to flood risk are included below at appendix 1.

We have previously advised on the data and methods for designation of the CCMA and have been verbally appraised of the approach taken which would appear sound and in line with our advice, however we reserve final comment until we are able to fully review and formally comment on this information.

Regarding concerns raised at Reg 18 in relation to water quality and water resource. We welcome the revised 400/p.a. delivery figure as this is more realistic when considered in the context of the environmental capacity of this area. We anticipate that the revised WCS will have addressed the majority of our queries with the initial WCS, as TDC has continued to work with us on progressing the WCS to completion. However it is likely

that we will still have some concerns in relation to the possible implications for water quality posed by this level of growth without a clear and committed plan to WWTW capacity increase and a route for offsetting surface water connections to the network where this is absolutely essential. Similarly the high reliance on increased water efficiency and reduced water use of the area in arriving at acceptable water resource availability, and a lack of information relating to additional water resource infrastructure to the area, could remain a concern.

Comments for clarity/support:

The following table highlights specific policies, or wording in the Plan which we either wish to specifically support, would recommend a change to for clarity, or feel may need a correction. To reiterate these are comments and advice only and do not amount to any issues of soundness in our view:

Policy/Chapter	Paragraph	Comments	Alterations
SS1		We welcome the inclusion of this in line with our comments at reg 18	
HS		Welcome the changes and additions to wording in policy HS and supporting text as per our Reg 18 response	
H5		We support the incorporation of an additional bullet point setting out no net addition to the sewer – as per our request at Reg 18	
Ch6 table 15		Increase in EVCP provision welcomed	
Ch7 INS		changes around phasing and timely delivery of infrastructure delivery and ref to offsite NBS etc welcomed inline with reg 18 comments	

Ch 7 INS	Para 7.6	We strongly welcomed this para at Reg 18, highlighting that ‘Critical Drainage Area, and flooding, coastal change management and sewer capacity are increasingly important infrastructure issues in the Bay’ but it has been removed.	Please consider its reintroduction.
Ch8 climate		welcome our comments and changes to wording/strengthening being incorporated	
Ch8 Flooding		See Appendix 1below	
Ch8re flood		Overall support text of ER1 to ER3 and the explanatory text as per our rewording	
Ch8 Flood		<u>Strong concerns</u> re the statement that Paignton Town Centre is “sequentially preferable”	Please revisit this wording, although other materials considerations may be considered by TDC to outweigh the flood risk, the use of the word ‘sequentially’ suggests that its preference is related to flooding preference and the sequential test, rather than other sustainability

			benefits, which is not the case
8 ER5	'Point 2 risk to health'	Change to 'risk to health and sensitive receptors' as this may not always be about human health, could be the environment etc	We would still ask this is considered please
ER7 – CCMA		support the changes to this policy - far clearer and more accurate, overall reflects our advice and comments at Reg 18.	
L3	Add a bullet 4	A bullet allowing coastal change development such as defences or managed retreat etc	still advise these – could cause an issue in achieving something the Council wants that isn't complaint with these policies
L5		Suggest ULPAs and LGS gave a nod in the supporting text to the approval of their use to accommodate blue infrastructure esp where it supports sustainable surface water drainage features	still advise these – could cause an issue in achieving something the Council wants that isn't complaint with these policies
TH policies		Would just reiterate with the TH policies that landscaping schemes and replacement/new trees should be climate resilient and should be designed not to require watering through the summer months. This is beneficial given the water resource issues	

		facing the area but also as any excess water would enter the combined system adding to the Water Quality/CSO issues.	
NC2	List of enhancement provisions	Suggest hedgehog holes to boundaries as bullet 'd'	Please reconsider this inclusion, or at the least its inclusion in para 9.81
11 DE5, Bullet 6		Suggest 'combined sewers' instead of shared. 'Shared' suggests ownership rather than surface and foul	Please also reconsider reword to 'combined' from 'shared' as we feel this is confusing.

Overall we are pleased to see the Regulation 19 policy wording is clearer and more robust, with the majority of our Reg 18 suggestions and additions included.

Sustainability Appraisal

We appreciate the opportunity to follow up on our previous response regarding the Plan's performance against the sustainability appraisal objectives.

We have no substantial comments on this matter but welcome additional inclusion of water quality and wastewater issues.

We support the Regulation 19 Plan's aim of 400 homes a year rather than a higher quantum as we consider that the evidence suggests even 400 will require the innovative solutions and sensitive development set out in the Plan in order to not exceed environmental capacity. The evidence available suggests growth in excess of this would cause unacceptable environmental harm and be unsustainable.

Further comments:

Thankyou for the opportunity to comment on this Plan. We consider there is still work to be undertaken on the evidence base in relation to some allocated sites and SFRA to direct plan preparation to ensure the plan meets the tests of soundness in relation to flood risk and the completion of the WCS and IDP in relation to water resource/quality but we consider this can be overcome. We will be pleased to continue to work with you on this.

Yours faithfully
Sustainable Places Team

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Appendix 1: Flooding

As set out above, we are not currently in a position to confirm our agreement with the proposed site allocations from a flood-risk perspective, as the final SFRA has not yet been reviewed or agreed. Our position on individual allocations therefore remains subject to review of the completed SFRA and supporting site assessment evidence.

There are also a number of areas where greater clarity would be beneficial, either within the SFRA or the Local Plan, particularly where development or redevelopment is proposed within areas of recognised flood risk:

- 1-Safety and access requirements for site-specific FRAs. Provide clearer minimum requirements for demonstrating safe access and egress, including when refuge or stay-put arrangements may be acceptable. This should include the criteria for an acceptable refuge, appropriate design levels/freeboard and when an emergency plan would be required. These requirements should be developed in discussion with the Emergency Planner and reflect NPPF F7.
2. Appropriate use and layout requirements. Provide clearer direction on where more vulnerable uses should or should not be located within areas of flood risk, including how site layout should respond to differences in flood depth, hazard and climate change risk. NPPF F7 now expressly requires the most vulnerable development within a site to be located in the area of lowest flood risk.
3. Requirements for higher-risk areas. Provide clearer direction on which development should be avoided or restricted in areas of greater flood hazard and what additional evidence, justification and mitigation would be required where development is proposed in those areas.

Section/pages	EA position	Positive	Possible improvement
Paignton Town Centre and Waterfront, pp44-45	Amendment strongly recommended	Recognises sea-level rise, flood resilience, lifetime safety and prevents sleeping accommodation in basements.	The statement that Paignton Town Centre is “sequentially preferable” should be clearly supported by firm requirement of plans on access/egress requirement. residual risk assessment requirements and where exception test is required. Would benefit from a discussion with a local emergency planner.

ER1 Flood Risk and Safe Development, pp214-216	Support but room to be strengthened	Strong on all sources of flooding, climate change, lifetime safety, access/egress, third-party impacts, SuDS, WSUD, storage and exceedance routing	Sequential Test wording could be firmer. It would be better to explicitly require the Sequential Test and Exception Test in accordance with national policy. Safe access/egress could be more prescriptive. Could make reference to NPPF F7 requiring development in flood-risk areas to be appropriately flood resistant and resistant so that it can be brought back into use without significant refurbishment after flooding The wording about culverts and denaturalising watercourses is weaker than national policy NPPF8 consider revision.
Overall Housing Strategy, pp64-71	Amendment recommended	Recognises that flooding and coastal change is a strong reason for refusal	The strong presumption in favour of urban regeneration should not appear to override flood risk policy. Relationship with Sequential Test and Exception tests should be made clear.
H1a Town Centre Regeneration Areas, pp71-74	Amendment recommended	Requirement development to be safe for its lifetime and to avoid increasing water entering combines sewers.	Could be firmer on vulnerability, residual risk, safe access/egress and the need for Sequential/Exception test evidence where relevant.
H1c Housing within settlement boundary, pp75-78	Amendment recommended	Recognises flooding and drainage as relevant planning considerations despite support for brownfield development	Should clarify that brownfield status location within the settlement boundary does not remove the need to apply sequential approach where required
SDT4 Newton Road to Torre, pp40-41	Support	Includes WSUD and sustainable drainage within the regeneration corridor	
SDP5 Long Road/ Yalberton, pp48-50	Support, but desirable minor improvement	Recognises climate resilience and the role of green infrastructure	Flood risk requirements are fairly general. Could be firmer on watercourse corridors and natural flood management. Reference to ER1/ER3?
SDB2 Brixham Town Centre, harbour and waterfront, p55	Broadly support, but desirable minor improvement	Makes flood risk, sustainable drainage, mitigation and resilience central to development design	Adding clearer reference to coastal flood risk, safe access/egress and residual risk
ER4 SuDS and Water sensitive urban design, p223	Support, but desirable minor improvement	Strong emphasis on above ground biodiverse and multifunctional suds integrated with green-blue infrastructure	Long term maintained, management responsibility and exceedance arrangement requirements could be made prescriptive (NPPF F8)

ER7 Coastal Change Management Areas, pp 226-229	Support, but desirable minor improvement	Takes a precautionary approach to coastal change and limits more vulnerable development in CCMA's	Could strengthen links between coastal change, flood risk, defence dependence and lifetime safety (clarification only)
Sections where EA position is reserved pending the final SFRA			
Overall spatial strategy and site allocations pp29-35 and 64-81	Position reserved awaiting SFRA	The Plan recognizes flood risk, climate resilience and water management as strategic considerations	Cannot confirm the flood risk sustainability of the spatial strategy or allocations until the final SFRA and supporting Sequential Test evidence has been reviewed
SDT3 Torquay Gateway/Edginswell, pp38-40	Position reserved awaiting SFRA	Good recognition of sustainable water management and the need to minimize runoff to Aller Brook	Needs SFRA before suitability can be confirmed
SDP1 Paignton, pp42-44	Position reserved awaiting SFRA	Strong policy wording on flood resilience and lifetime safety	The conclusion that Paignton is 'sequentially preferable' needs evidence from SFRA and Sequential Test. Wider sustainability is important but under NPPF does not establish sequential preference.
SDP4 Collaton ST Mary, pp46-48	Position reserved awaiting SFRA	Very good wording on protecting watercourses and avoiding increased downstream flood risk	Needs SFRA confirming of surface-water pathways, cumulative effects and downstream flood risk before supporting the allocation
SPD5 Long Road/ White Rock/ Yalberton, pp48-50	Position reserved awaiting SFRA	Recognises climate change and green infrastructure	Needs final SFRA evidence on surface-water risk, runoff pathways and future climate change risk
H1a Town Centre regeneration sites, pp71-74	Position reserved awaiting SFRA	General policy framework includes lifetime safety and drainage controls	Needs SFRA before suitability can be confirmed before confirming their suitability for more vulnerable development
H1c Individual Housing Sites, pp75-78	Position reserved awaiting SFRA	Flooding is material considerations	Needs SFRA before suitability can be confirmed
H2 Future growth areas, pp78-80	Position reserved awaiting SFRA	Cross-refers to drainage and water management policies	Needs SFRA and Sequential test Evidence
H3 Additional Sites outside the	Position reserved awaiting SFRA	Provides a mechanism for additional allocations	Needs SFRA before suitability can be confirmed

settlement boundary, p81+			
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