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24th September 2026

Dear Planning Policy Team,

Torbay (Reg 19) Consultation Dec 2025- Feb 2026

1. Thank you for consulting with the Home Builders Federation (HBF) on the Torbay Local Plan (Reg 19) Consultation Dec which ends today, 24th September 2026.
2. 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.
3. HBF welcomes the Council's efforts to ensure that they have an up to date Local Plan. Plan-making is a fundamental part of a Local Authority's role and is essential to support the delivery new homes and jobs. However, we are very concerned about the consequences of the Council's intention to fail to meet the standard method housing requirement for the Torbay area. Government policy has clearly set out the for a significant increase in house building in order to deliver the 1.5 million new homes in this Parliament.
4. The fact that the new standard method results in higher housing requirements in many areas is an important part of that increased delivery and planning for these new homes. Although the constraints facing Torbay are acknowledged and long standing, it is still important that all efforts are made to maximise housing delivery within the Torbay area and clear plans are in place to ensure any unmet needs of the area addressed.

Impact of new NPPF on this Plan

5. HBF notes a new NPPF was published on 17th August. This sets out national planning policy in a new way, separating policies for plan-making from those for determining planning applications. Although the Torbay Local Plan is being progressed under transitional arrangements, these new national policies, especially the DM policies will be relevant in determining planning applications. HBF would therefore suggest that the Council needs to review this Local Plan, and that some changes to the policy and supporting text wording may be needed, in light of the new NPPF to ensure that both the Local Plan and the determination of applications can be understood in this new context.
6. HBF have therefore set out our broader observations first on the impact of developments in national planning and other policy areas and then our specific comments on the Local Plan policies themselves.

7. HBF is keen to ensure that any Local Plan for Torbay is both sound and legally complaint. If it is not, it simply cannot be taken through to adoption. We therefore offer the following comments on the policies in the draft Plan. We have not commented on every policy only those of most relevance to our members. However, our concerns about the cumulative impact obviously relate to of all the policies in the Plan when taken together. Our representations begin with some overarching comments around the impact of changes to national policy, legal compliance and soundness, before moving on to comments on specific policies.
8. We also note that the new NPPF introduces a new category of medium sites of 10-49 dwellings and we have referred to this concept in our comments.

LEGAL COMPLIANCE

The problems of numerous missing evidence base documents

9. HBF are very concerned that not all of the relevant evidence base documents have been made available as part of this consultation, for example we have been unable to locate an up to date SHLAA, Infrastructure Delivery Plan, or any signed statements of common ground/joint working. The lack of an up-to-date whole plan viability assessment is also a significant cause for concern.

Concerns about the consultation process, and compliance with SCI

10. HBF and others spent considerable time and effort responding to the Regulation 18 consultation back in January 2026. It is therefore frustrating that this appears to have no impact at all on the resulting Reg 19 proposed Plan and that the Council did not take us up on our offer to have further conversations with them about the challenges facing the development industry at this time.
11. We are also very concerned that the consultation process chosen disenfranchises the development industry. As a membership organisation HBF comments need to be agreed with our members, as a result HBF normally find we have to respond to consultations via a letter sent by email. As we are forced to do in this case.
12. In order for developers to better engage with digital consultation platforms the technology needs to recognise how companies using planning consultants or other representatives work, and ensure the platforms enable them to engage. For example, clients would expect a copy of a representations submitted by their consultant to be available to them once it has been submitted.
13. Only offering linear online surveys or pin-a-comment type consultations does not support developer engagement. A full version of this consultation survey needs to be available to download in order to enable the preparation of a response.
14. Although HBF welcome efforts to increase engagement from local residents, local businesses and others in plan-making this must not be at the expense retention and innovation around methods to engage with developers. Indeed, we would encourage more engagement with the development sector in the preparation of Local Plans.
15. It is important to recognise that many developers use planning agents who would require sign off from the clients before representations can be submitted. Many online consultation platforms do not allow for this functionality. We also note that many people who wish to engage with the Local Plan,

including the HBF, need to read the whole local plan and wish to make comments on various sections of it. Access to full documentation and the ability to move between chapters and sections is essential.

16. In order for meaningful engagement with consultees, consultation platforms need to allow for overarching comments, and for respondents to look at the whole plan, rather than being limited to having to go through section-by-section chapter-by-chapter or requiring comments to be pinned to a paragraph or policy. At the moment HBF find we need to submit letters to LPAs as there is no way to properly capture the range of our comments within the consultation engagement platforms.

The need for more transparency around evidence provided in response to the SoS intervention

17. HBF are also disappointed by the Council's response to the SoS's intervention on the Torbay Local Plan. The SoS's letter to the Council's leader asked pertinent questions and requested the evidence to support the Council's intention to only to Plan for 400 homes a year. The Council's response does not include a clear list of the documents and evidence that were shared with the SoS in response to the intervention letter.
18. We note that a Topic Paper has been included in the consultation documentation. The Torbay Local Plan 2025 - 2045: A Landscape to Thrive Spatial Strategy and Justification for Proposed Growth Level Topic Paper doesn't explicitly reference the SoS intervention or the work taken in response. It explicitly states that is an interim version that will be updated before submission. These seem to suggest the final version will not be publicly available for comment. The fact that (as para 4.15 of the topic paper says) additional evidence work is still being prepared during the Reg 19 consultation is also troubling, particularly as the whole plan viability assessment is essential to assessing the deliverability and viability of the Plan and should have formed a key part of this Reg 19 consultation.
19. We note the latest correspondence from SoS seems to indicate that it will before PINS to assess the adequacy of the Plan through the EIP process. HBF note that the EIP will result in robust scrutiny of the Plan but remain disappointed that the failure of the Council to clearly state an unmet housing needs figure for many years has meant opportunities for neighboring authorities to assist Torbay Council have been missed.
20. The adoption of an undeliverable and unviable Local Plan is of no help to anyone. A plan that would mean nearly every application has to go through a site-specific viability appraisal does not support the plan-led system. The purpose of the plan-led system is to guide where development should go. This plan simply does not adequately do that in that there not clearly set out level of unmet need and no Plan or agreement on how this will be addressed.

Concerns about SA and SEA- the challenge of housing numbers and environmental capacity

21. Although HBF recognise the challenges of meeting housing needs in full within the Torbay area, we are concerned that the Council has already arrived at a figure of 400 homes per year without having updated its evidence base in full or fully explored if there are other policy changes, and indeed funding, which could increase the amount of housing that could be delivered within the Torbay. This is a key requirement of current national planning policy.
22. The Sustainability Appraisal should have played an important role to play in considering different levels of housing and employment growth for Torbay, including properly assessing the implications of

planning or the full standard method annual requirement. However, instead the report suggests that the Council is starting from the decision to set the housing requirement of 400 homes per year rather than testing different options through the SA, as they are required to do.

23. As we said in our response to the Reg 18 consultation, even if the whole of the National Landscape is excluded from the consideration of any new housing growth, other undeveloped parts of the district can and should still have be considered, and our experience from elsewhere has shown such evidence will be subject to very robust testing during the Examination in Public.
24. The ability to consider properly consider any potential trade-offs between housing numbers and environmental capacity needs to be understood within the context of the deliverability and viability of the Plan. This simply cannot have occurred as the whole plan viability appraisal has yet to be completed.

Worsening Viability

25. HBF are also mindful of the recent ministerial letter around viability and Local Plans. However, our members experience suggests that the viability challenges facing developers are not just a short-term issue triggered by geo-political events. Although this has undoubtedly made viability worse, even without this recent turmoil viability would be difficult due to increasing cost burdens and policy requirements. As such HBF support the Council in not seeking to introduce policies that require higher than Building Regulations requirements in relation to water consumption, carbon and energy.
26. HBF recently published our 'Viability Crunch report' <https://www.hbf.co.uk/research-insight/viability-crunch/> which details the cumulative impact of increasing regulatory, and other requirements, on the viability and deliverability of development. This has added an average of £76,000 to the cost of a new home over compared to five years ago. We remain concerned that the ever-increasing regulatory burden will have an impact on both the viability and deliverability of this Plan.

The requirements for cross-boundary working

27. As the Duty to Cooperate (DTC) requirement was not saved it is no longer one of the legal test for new Local Plans. However, there is clearly still an expectation that Councils will work together on effective plan-making and there remains a clear expectation that the housing needs of an area will still be met in full. This is therefore still an issue of soundness.
28. As we said at the Reg 18 consultation stage the amount of Torbay's unmet needs still needs to be firstly minimised, and then expressly and clearly quantified. It is essential for the Torbay Plan to clearly set out more detail on the issue of unmet housing needs. Even without the Duty to Cooperate as a legal test, there is clearly still a requirement for the Torbay Plan to maximise housing provision within the plan area, clearly set out the unmet need that remain, and work with neighboring authorities to ensure that this unmet need is addressed. This Plan does not do that.
29. HBF would have expected this Plan to be supported with a clearly set out agreed approach to addressing any unmet need in Torbay, or at the very least a Statement of Common Ground setting out where agreement has been reached and where there remain disagreements and issues outstanding. There are no cross-boundary statements, and as such consultees do not know the detail of discussions have been undertaken and what, if anything, has been agreed. This lack of evidence means that it is therefore unclear what the results of any approach of asking neighbouring authorities to help to meet Torbay's housing needs has been, or would be going forward.

30. Our attendance at the Teignbridge and Exeter Local Plans EIP has shown that the failure of Torbay Council to quantify and explicitly request that neighbouring authorities take some of their unmet need has exacerbated the problems they now face as there is not a clearly agreed way to address any housing that Torbay. This meant other neighbouring authorities did not have a specific figure that they were being asked to accommodate in their Local Plans and therefore were not required to do so. The inclusion of a vaguely worded policy in Teignbridge's Local Plan that committed them to maybe do something if Torbay confirmed was there a problem was found to be unsound. However, the issue of Torbay's housing needs still not being met remains. This underlines the importance of Torbay doing all it can to meet Torbay's needs within its own Plan. A point that the uncertainty of LGR only magnifies.
31. Any strategy that relies on an SDS to address this issue is essentially a mechanism of delay to those needs being addressed. Any contributions to evidenced unmet needs into a strategic plan that does not allocate sites, only delays and compounds these matters when it comes to addressing unmet needs. Indeed, work is already beginning in neighbouring authorities on their new Local Plans before there has been opportunities for discussion, let alone consensus or agreement, on any approach to addressing unmet needs from Torbay. This risks this issue remaining unaddressed in the next round of Local Plan plan-making, which is simply not acceptable. This all underlines the importance of the Torbay Plan to do all it can to meet Torbay's needs and the need for engagement with neighbouring authorities at this stage.

Revision to National Biodiversity Net Gain (BNG) Policy

32. As you will know the Government published its responses to the BNG consultation on 15th April 2026. See the links below:
[Improving the implementation of BNG for minor, medium and brownfield development](#)
[Biodiversity net gain for nationally significant infrastructure projects](#)
33. The first raft of intended changes has now been implemented with the introduction of a 0.2 Ha exemption and small sites being able to deliver off-site. Further changes, including revisions to the statutory metric are expected shortly. To be legal complaint the Plan will need to reflect the policy, guidance and implementation of the BNG policy in the Environment Act.

Impacts of the new (Aug 2026) NPPF

34. HBF notes a new NPPF was published on 17th August. This sets out national planning policy in a new way, separating policies for plan-making from those for determining planning applications. Although the Torbay Local Plan is being progressed under transitional arrangements, these new national policies, especially the DM policies will be relevant in determining planning applications. HBF would therefore suggest that the Council needs to review this Local Plan, and that some changes to the policy and supporting text wording may be needed, in light of the new NPPF, to ensure that both the Local Plan and the determination of applications can be understood in this new context.
35. The new NPPF clearly shows the importance that is being placed on addressing the housing crisis and the clear move towards a more rules-based planning system that provides more certainty for everyone. It is very clear that the Government is expecting Local Plan to do more to help to address the housing crisis and there is a clear expectation that all Councils should be planning to meet their housing needs in full.

36. Although we recognise that in the longer term it is anticipated that sub-regional housing numbers and issues of redistribution of any unmet housing needs where they occur will be addressed through SDSs. However, in the interim it is still essential that work with neighbouring authorities to address unmet needs continues. We continue to encourage the Council to consider, and properly address, this matter carefully. Failure to do so will result in an unsound plan.
37. Although we recognise the longstanding challenges and constraints facing Torbay in terms of meeting its housing needs in full, the Council still needs to provide clear and robust evidence of why this is not possible and demonstrate that everything possible has been done to maximise housing delivery within the area. The Local Plan and its evidence base will also need to clearly show the level of unmet need that remains and how this is being addressed through partnership working with neighbouring authorities. This Reg 19 consultation has not achieved this.
38. HBF also notes the Government's intention to move towards a new more rules-based approach as set out in the new NPPF seek to create more consistency across standard common matters through this being provided at the national level. HBF therefore strongly encourages the Council, once again, to fully consider the scope and content of this Plan. The new NPPF is clear that Local Policies which conflict with the new NPPF should not be taken into account in decision-making. HBF remain of the view that spending time and resources on trying to progress to adoption a suite of Development Management policies that have in effect been made redundant by the new NPPF is still not the best way to proceed, especially in a time of scarce resources.

The need to be clearer about references to the NPPF

39. The Torbay Plan makes frequent reference to the NPPF. It needs to be clear if this is a reference to the 2024 NPPF or the new 20206 NPPF to avoid any confusion in the future that would undermine the effectiveness of the Plan and make it unsound.

POLICIES AND THE TESTS OF SOUNDNESS

Chapter 1: Our shared vision - A healthy, happy and prosperous Torbay

This chapter is not considered to be sound as it is not positively prepared or consistent with national policy

40. This section of the Plan also needs updating to at the very least reference the wider changes to plan-making and the introduction of the new 30 month planning system which will replace the system under which this Plan is being prepared. Reference must also be made to the existence of the new 2026 NNF which is already relevant for decision-making.

Strategic Priorities

The Strategic Priorities for this Plan are not considered to be sound as they are not positively prepared, not justified, not effective and not consistent with national policy

41. HBF requests that the aim of ensuring housing needs are met should be both an objective and a priority for this Plan. This section should be revised to be more explicit about the housing requirement of the Plan and the role of site allocations to meet housing need. If there is robust evidence about the inability of Torbay to meet their housing needs in full the vision for the Plan must also reference the wider area and clearly set out the level of any unmet need and what would be done to address

this. So, in relation to paragraph 1.38 and 1.39, HBF do not support the Plan only seeking to provide 8,000 homes over the Plan period.

42. HBF supports the need for more housing in the Torbay area for a variety of reasons including addressing the current housing crisis, meeting housing need, providing affordable housing, to support small and medium house builders and to support employment growth. HBF would request that the Council considers the standard method as only the minimum starting point and fully considers all of the issues that may result in a need for a higher housing requirement, including the need to provide a range and choice of sites, the need for flexibility, viability considerations and whether higher levels of open-market housing are required in order to secure increased delivery of affordable housing. The housing requirement should be established before any consideration is given to supply and constraints that may affect deliverability of that requirement.
43. HBF would note that even if the whole of the National Landscape is excluded from the consideration of any new housing growth, other undeveloped parts of the district can and should still be considered. HBF would wish to see, and comment on, the evidence that supports the conclusion that the full needs of the district cannot be met within its boundaries. Our experience elsewhere has shown such evidence will be subject to very robust testing during the Examination in Public.
44. We also still think that the Plan needs to do more the set out a timetable for delivery of the further work that would be needed to deliver this Plan. For example, when will the Masterplans for the key delivery sites will be updated. We continue to encourage the Council to set out a clear timetable for this work and use it to fully explore if, and how, the whole range of different housing types, sizes and tenures can be maximised within the regeneration areas. HBF are still concerned that although much needed family housing can be delivered on brownfield sites but may encounter viability issues, for example if remediation, s106 ask or BNG land take and/or costs are too high. The Vision and Strategic Objectives for this Plan must be set within the commercial reality of development.
45. The Plan need to commit to, and set out, what action would be undertaken if housing numbers, and other policy requirements were not delivering as expected. As such The Monitoring Framework should be included within the Plan.

Chapter 2: Shaping our places - Local identity and community-led planning

This chapter is not considered to be sound as it is not positively prepared or consistent with national policy

Spatial Strategy and Area Policies

Strategic Policy SS1: Torbay Growth Strategy - Prioritising our communities through improved health, housing, place making and opportunities for all

Policy SS1 Is not considered to be sound as it is not positively prepared, not justified, not effective and not consistent with national policy

46. As we have said in our comments on legal compliance and the Strategic Priorities, HBF does not believe that the Torbay Plan is doing all it can to deliver housing within the Torbay area. As such the spatial strategy vision for both Torbay, and the three constituent parts of Torquay, Paignton and Brixham all needs amending to include and reflect this objective.

47. With regards to the Spatial Strategy itself, although HBF does not comment on individual sites but we would expect the Plan to set out a logical settlement hierarchy which meets all the housing needs and addresses all areas of the housing market, with a range of sites proposed for allocation. The Plan will need to provide for a wide range of deliverable and developable sites across the area in order to provide competition and choice to ensure that housing needs are met in full, or where this is not possible a clear strategy exists that will deliver any unmet needs elsewhere.
48. HBF therefore cannot and do not support the housing requirement being only 8,000 new dwellings over the Plan period with an average of 400 dwellings a year over a 20-year Plan. We are also concerned about stepped trajectory as this will not deliver the uptick in housing numbers Government policy expects or support the Government's target of 1.5 million new homes within this Parliament.
49. The wording of the policy in relation to brownfield sites also needs updating to reflect the national presumption in favour of development within settlement boundaries that is now included in the 2026 NPPF. The reference to 'even where the Local's Plans target is exceeded' within the policy wording is potentially unhelpful and needs revising to be more positive.
50. HBF do not comment on individual sites, but our wider concerns about the failure of the Plan to include clear timeframe for the production of updated masterplans for the Future Growth Areas, undermines the deliverability and viability of this Plan, which we know is already very difficult. There is currently no evidence to suggest that affordable housing policy requirements and the need for 25% of the growth areas to be employment land is achievable.
51. We are also very concerned that specific policy requirements to provide 25% of this as employment space seems to be an unreasonable burden and one that places greater emphasis on bringing forward employment than housing, despite the current housing crisis and the requirements for the Council to do all it can towards meeting its housing needs in full. HBF are very concerned that this policy will have a significant impact on the Council's ability to meet the housing needs of Torbay.
52. At Reg 18 stage HBF expressed our concern about the lack of evidence and justification for this policy and that there was a lack of detail on how this policy was intended to work in practice. We also highlighted that it was unclear how the 25% was to be calculated or provided. These concerns remain. Any onsite employment requirements will have implications for the housing capacity for each site and we remain very concerned that this policy will render many developments unviable, especially given the requirements to meet other local and national policy requirements such as SUDs and Biodiversity Net Gain (BNG) which take up space when they are delivered on-site.
53. HBF remain concerned about the role of neighbourhood plans in allocating viable sites that enable the actual delivery housing and due to their voluntary nature of their production. Due to the different standards they are tested against they simply cannot provide the same certainty as an allocation in a Local Plan.

Strategic Policy SDT1: Torquay – A strategy for sustainable growth

Policy SDt1 Is not considered to be sound as it is not positively prepared, not justified, not effective and not consistent with national policy

54. As we have said in response to Policy SS1 HBF believes more should be done to support housing delivery in Torbay. This includes additional housing allocations and a full assessment of the implica-

tions of the range of Local Plan policies on the deliverability and viability of development. The housing requirement for Torquay should be greater than 180 dwellings per year, and more than at least 3,600 homes over the Plan period. We also question if 30% affordable housing is deliverable.

Strategic Policy SDP1: Paignton – A strategy for sustainable growth

Policy SDP1 is not considered to be sound as it is not positively prepared, not justified, not effective and not consistent with national policy

55. As we have said in response to Policy SS1 HBF believes more should be done to support housing delivery in Torbay. This includes additional housing allocations and a full assessment of the implications of the range of Local Plan policies on the deliverability and viability of development. The housing requirement for Paignton should be greater than 170 dwellings per year, and more than at least 3,400 homes over the Plan period. We also question if 30% affordable housing is deliverable.

Strategic Policy SDB1: Brixham – A strategy for sustainable growth

Policy SDB1 is not considered to be sound as it is not positively prepared, not justified, not effective and not consistent with national policy

56. As we have said in response to Policy SS1 HBF believes more should be done to support housing delivery in Torbay. This includes additional housing allocations and a full assessment of the implications of the range of Local Plan policies on the deliverability and viability of development. The housing requirement should be greater and homes should be planned for over the Plan period.

Chapter 3: Housing and Regeneration Policies

Strategic Policy HS: Overall Housing Strategy and Presumption in favour of Urban Regeneration

Policy HS is not considered to be sound as it is not positively prepared, not justified, not effective and not consistent with national policy

57. HBF agree that meeting the objectively assessed housing needs is an important test of soundness for the Local Plan. Although we are sympathetic to the closely bounded nature of Torbay and the potential for environmental, infrastructure and market capacity to serve as a constraint on meeting the housing need of the area in full, the Council must show it is proactively doing all it can to provide as much housing as within its area. We do not believe a figure of 8000 homes over the Plan period is enough and do not support the stepped trajectory.
58. While HBF recognises that PPG allows for stepped trajectories, a key starting point for any spatial strategy should be to ensure that the plan delivers homes consistently across the plan period and does not seek to unnecessarily delay the delivery of new homes on the basis of the sites that are selected to meet housing needs. HBF suggest that with the right mix of small, medium and large sites the Council could be doing more to deliver homes consistently cross the plan period. The Council should be doing all it can to avoid pushing back the delivery to new homes to later in the plan period. If the Plan's strategy means it cannot meet needs and does not have a five-year land supply on adoption it should seek to allocate additional sites not to amend the trajectory. A stepped trajectory should only be entertained once all other steps to ensure a consistent supply of homes

across the plan period have been considered to show that the Council is not, as required by paragraph 68-12 of PPG, unnecessarily delaying meeting identified development needs.

59. HBF point to Bristol City's Local Plan which is subject to similar constraints of a tightly drawn boundary, and a long established, but not fully quantified unmet housing need. This has created difficulties for the Council at Examination in relation whether it had sufficiently demonstrated how much housing can be delivered in Bristol. This has caused problems for their Plan at Examination.
60. In contrast Leicester City, which is also a city whose urban area goes beyond the City Council boundary engaged in constructive dialogues with the neighbouring authorities in Leicester and Leicestershire. The unmet need was quantified and a clearly established an agreement was reached on a distribution of that unmet need amongst the neighbouring authorities. This is how good spatial planning is intended to work, and despite the changes to the legal requirement for DTC, HBF would suggest that this approach represents a sensible way to plan for the unmet need of Torbay in advance of an SDS under the new system.
61. Although HBF appreciate the challenges facing Torbay that may mean that it is not able to accommodate its full Local Housing Need as calculated by the new Standard Method (especially as it is significantly increased figure) we are concerned that planning for less than half of the requirement of the standard method is unlikely to meet the test of soundness or be justified. The Government is committed to delivering 1.5 million new homes within this Parliament. The Council will need to be provide clear evidence that the Plan has is doing all it can to deliver the significant uptick in housing delivery expected by the changes to the standard method. HFB would strongly suggest that ruling out all new major new greenfield development unless brought forward through Neighbourhood Plan is simply not an appropriate way to proceed
62. Although we do not comment on specific sites, in HBF's view that the Torbay Plan and its supporting evidence does not include a clear, robust and realistic housing trajectory which demonstrates a sufficient supply of new homes over the plan period, and the Council has not demonstrated that it can achieve and maintain a five year supply of deliverable sites.
63. The Council should also set out in the Plan's policies and evidence base to set out how the plan will deliver 10% of homes on sites of less than one hectare, as required by the current NPPF. Indeed, HBF would advocate that a higher percentage of small sites are allocated if possible. Such sites are important for encouraging the growth in SME housebuilders who will tend to develop these sites but rarely see the benefits that arise from the allocation of sites in a local plan. Up until the 1980s, small developers once accounted for the construction of half of all homes built in this country resulting in greater variety of product, more competition, and faster build-out rates. Since then, the number of small companies has fallen by 80%. There is no reason some of these sites could not be within the national landscape.
64. HBF note that support for small and medium builders need not be limited to only small sites of less than 1Ha. SMEs also deliver on other types of non-strategic sites (for example up to 100 units). The inclusion of a range of sites including non-strategic allocations could be used to expand the range of choice in the market and be of a scale that can come forward and make a contribution to housing numbers earlier in the plan period.
65. HBF suggests that the definition of medium sized sites in the 2026 offers an opportunity for the Council to both consider sites at this scale for allocation, and to assess and address the cumulative

impact of the policy burden on medium sites. HBF also notes that the new (2026) NPPF is more explicit that it intends for the small and medium sites national policy requirement to be delivered through allocations (not windfalls or any other means). HBF would encourage the Council to fully consider the need to support SMEs in this Plan, and to seek to do more.

66. Ultimately there currently remains a failure of this Plan to plan properly for the full housing needs of Torbay, which is contrary to national planning policy. This plan needs to either meet its housing needs in full, or, set out very clearly how they will be met in some other way.
67. HBF also suggest that this policy and/or the supporting text will need to be updated for the Plan to be consistent with, and better reflect, the new NPPF DM policies which will affect decision-making in practice, including the presumption in favour of development within settlement boundaries
68. In relation to housing supply HBF is concerned that much of the supply remains currently unidentified and linked to regeneration aspirations or broad areas of growth. More allocations and more certainty is needed.
69. In relation to windfalls, the NPPF only permits an allowance for windfall sites if there is compelling evidence that such sites have consistently become available and will continue to be a reliable source of supply. HBF is of the view that any supply provided by windfall sites should be in addition to the buffer added to the housing need figures derived from the Standard Method to provide choice and competition in the land market. However, by including windfalls within the Plan's housing requirement supply, any opportunity for windfalls to provide some additional housing numbers and flexibility is removed. Windfalls do not provide the same choice and flexibility in the market as additional allocations. HBF is therefore concerned about the Council's reliance on windfall in place of allocating housing sites.
70. HBF are also of the view that any allowance for windfall should not be included until the fourth year of a housing trajectory, given the likelihood that dwellings being completed within the next three years will already be known about (as they are likely to need to have already received planning permission to be completed within that timeframe). Further, these may already be included in commitments which therefore risks accounting for sites as both windfall and commitments (i.e. double counting).

Policy H4: Achieving Optimal density

Policy H4 is not considered to be sound as it is not justified, not effective and not consistent with national policy

71. HBF highlight the challenges the delivery on some other policies including on-site BNG, and the new SUDS guidance are having on achievable densities. Some flexibility may also be needed to address site specific issues. Policies that seeks to maximise housing density must recognise the interaction between this policy and the new mandatory national requirement for 10% BNG which will impact on densities as under the BNG hierarchy on-site BNG is preferred where possible. HBF question whether optimum densities and high-density development are always synonymous. There will clearly be a trade-off to be made between what land is used for new green space and what land is used for new built forms. The policy and supporting text should be amended to include reference to these considerations.

72. As we have said in response to Policy SS1 HBF believes more should be done to support housing delivery in Torbay. This includes additional housing allocations and a full assessment of the implications of the range of Local Plan policies on the deliverability and viability of development. The housing requirement for Torbay should be greater than 180 dwellings per year, and more than at least 3,600 homes over the Plan period. We also question if 30% affordable housing is deliverable.

Strategic Policy H7: Affordable Housing

Policy H7 Is not considered to be sound as it is not positively prepared, not justified, not effective and not consistent with national policy

73. As an up-to-date whole plan viability appraisal of the Torbay Local Plan is currently not available, even though one should have been published as part of this Regulation 19 consultation. As such HBF are unable to comment on the specifics of the Torbay viability at assessment, although we would wish to do so.
74. HBF have significant concerns about viability challenge facing house builders. As we have mentioned elsewhere in our response, in general terms viability is becoming more challenging. The Council should be mindful that it is unrealistic to negotiate every site on a one-by-one basis. If the base-line aspiration of a policy or combination of policies is set too high, this will jeopardise future housing delivery.
75. For example, HBF information suggests that complying with the current new part L is costing £3500 per plot. The Future Homes Standard Part L is anticipated to cost up to £7500+ per plot. There will also be the addition of the Building Safety Levy that is coming in pay for cladding. Other factors that need to be taken into account include increasing costs of materials and labour due to inflation and the costs of mandatory BNG. There is also a need to consider the costs of delivering the policy requiring housing to M4(2) and the requirements for accessible and adaptable dwellings policy which references M4(3)a and b.
76. The introduction of mandatory BNG is significant new requirement and it is important for the viability implications of this new policy is considered in the whole plan viability assessment for the Local Plan. It will be important to understand if this non-negotiable national policy requirement has any knock-on implications for other policy areas 'asks', notably the amount of affordable housing that can be delivered.
77. HBF also note that the viability of older person's housing is different to other forms of housing as such should be considered separately in the Whole Plan Viability Assessment.
78. Without the whole plan viability assessment being available the Plan has not demonstrated that its policies are deliverable and viable and as such is unsound.
79. HBF therefore continues to suggest that the Council should consider if a higher housing requirement is needed to help deliver the amount of affordable housing the Council is seeking to provide. The issue is one of viability, as there is a finite amount of developer contributions that can be provided per scheme. Rising costs, including for example the costs of delivering the new Regulations and the Future Homes Standards, combined with increasing requests for section 106 contributions for other community benefits, such as transport, education and mandatory BNG will all impact of viability, and reduce the amount of affordable housing than can be delivered on a site by site basis. Therefore, more sites will be needed to deliver the same quantum of affordable housing.

80. HBF also question the appropriateness of referring to the Councils validation list within a Local Plan policy, as this would give is Local Plan status which is unsound. Any reference should only be in the supporting text.
81. The whole plan viability assessment should have covered the whole Torbay Plan area, but HBF also note that large areas of Torbay suffer significant deprivation, and this is reflected in property values. As such this will also affect viability. There are also notoriously difficult geological conditions in the Bay which result in greatly increased abnormal build costs means that development viability is already difficult.

Strategic Policy H8: Self-build housing in Future Growth Areas

Policy H8 s not considered to be sound as it is not justified, not effective and not consistent with national policy

82. This policy states that 1% custom and self-build housing plots will be required on developments in Future Growth Zones. HBF would be keen to understand the evidence to support the need for custom and self-build housing in Torbay. HBF is concerned that as currently proposed this policy will not assist in boosting the supply of housing and may even limit the deliverability of some sites and homes. HBF considers that the Council's evidence does not show that there is a demand from custom and self-builders to live on sites within a larger residential development scheme.
83. HBF does not consider that requiring development sites to provide for self-builders is appropriate. Instead, HBF advocates for self and custom-build policies that encourage self and custom-build development by setting out where it will be supported in principle. HBF considers that Councils can play a key role in facilitating the provision of land as set in the PPG. This could be done, for example, by using the Councils' own land for such purposes and/or allocating sites specifically for self and custom-build home builders- although this would need to be done through discussion and negotiation with landowners.
84. It is considered unlikely that the provision of self and custom build plots on new housing developments can be co-ordinated with the development of the wider site. At any one time, there are often multiple contractors and large machinery operating on-site from both a practical and health and safety perspective, it is difficult to envisage the development of single plots by individuals operating alongside this construction activity.
85. However, if a self-build policy is be pursued, then HBF asks that if demand for plots is not realised, it is important that plots should not be left empty to the detriment of neighbouring properties or the whole development. The timescale for reversion of these plots to the original housebuilder should be as short as possible from the commencement of development because the consequential delay in developing those plots presents further practical difficulties in terms of co-ordinating their development with construction activity on the wider site. There are even greater logistical problems created if the original housebuilder has completed the development and is forced to return to site to build out plots which have not been sold to self and custom builders. HBF would therefore suggest that any unsold plots should revert to the original developer after a six-month marketing period. As self-build homes are a different way of delivering market housing, HBF do not support policies that require any unsold self-build plots becoming affordable housing. This is unreasonable and unsound.

86. The PPG¹ sets out how local authorities can increase the number of planning permissions which are suitable for self and custom build housing. These include supporting neighbourhood planning groups to include sites in their plans, effective joint working, using Council owned land and working with Homes England. HBF considers that alternative policy mechanisms could be used to ensure a reliable and sufficient provision of self and custom build opportunities across Torbay including allocation of small and medium scale sites specifically for self and custom build housing and permitting self and custom build outside but adjacent to settlement boundaries on sustainable sites especially if the proposal would round off the developed form.

Strategic Policy H11: Specialist housing for people in need of care or support

Policy H11 Is not considered to be sound as it is not justified, not effective and not consistent with national policy

87. There appears to be some confusion in the wording of the policy, between M4(2) and M4(3) standards. It is in fact M4(3)a which is the wheelchair adaptable housing standard and M4(3)b is for wheelchair accessible housing. There is therefore a need for the policy to be clear on this issue and also provide the distinction between M4(3) a and M(4)3b. The latter can only be sought on affordable housing where the Council has nominations and can be ten times more expensive than the former.
88. As we have said the viability of older person's housing is different to other forms of housing, and HBF is very concerned that seeking to impose both a age and a local residency restriction would make such units both unviable and un-mortgageable.

Chapter 4: Building a prosperous and inclusive Torbay - Unlocking opportunity for all

Chapter 4 is considered to be unsound because the focus on employment is at the expense of considering sites for housing and as such the Plan as is not positively prepared, not justified, not effective and not consistent with national policy

89. As we have said in response to Policy SS1 and elsewhere HBF believes more should be done to support housing delivery in Torbay. This includes additional housing allocations and a full assessment of the implications of the range of Local Plan policies on the deliverability and viability of development. This means proper consideration should have been given through the SA and SEA process, the allocations and the policies to the mix between employment and housing being proposed in the Plan.
90. Although HBF recognises the importance of employment space, policies requiring new employment land must be proportionate to need. The policy as it currently stands appears to be contrary to the clearly expresses the need for high quality, affordable housing. There is a real risk that the Plan's strategy will mean it is not possible for the Plans to deliver its ambitions for affordable housing because it is also making such a big ask on employment provision. HBF note that not every site is appropriate for employment development, especially where there are topographical or potential access issues.

Chapter 5: Thriving communities - Wellbeing, safety and belonging

¹ PPG ID: 57-025-20210508

Strategic Policy SCS: Sustainable and inclusive communities strategy

Policy SCS is not considered to be sound as it is not justified, not effective and not consistent with national policy

91. In order for the Plan to be justified and in compliance with national policy, it will be important for any s106 contributions to be assessed against the CIL tests at the time that a planning application is being determined. The policy wording throughout this chapter should be clearer that development can only be required to mitigate its own impact and cannot be required to address existing deficits or history underinvestment.
92. HBF would also draw attention to the High Court Decision on R (on the application of the University Hospitals of Leicester NHS Trust) versus Harborough District Council. This has drawn into question the legitimacy of asking for developer contributions for acute healthcare that is funded through general taxation.

Chapter 7: Building for the future - Resilient and smart infrastructure and developer contributions

Strategic Policy INS: Sustainable infrastructure

Policy INS is not considered to be sound as it is not justified, not effective and not consistent with national policy

93. In order for the Plan to be justified and in compliance with national policy, it will be important for any s106 contributions to be assessed against the CIL tests at the time that a planning application is being determined. The policy wording throughout this chapter should be clearer that development can only be required to mitigate its own impact and cannot be required to address existing deficits or history underinvestment.

Strategic Policy IN1: Prioritisation of planning obligations

Policy IN1 is not considered to be sound as it is not justified, not effective and not consistent with national policy

94. As we have said in order for the Plan to be justified and in compliance with national policy, it will be important for any s106 contributions to be assessed against the CIL tests at the time that a planning application is being determined. However, even then, owing to the anticipated viability challenges facing developers some schemes may still not be viable. Where viability is substantially affected and significant efforts have been taken to help make a scheme deliverable the assumption that viability will improve over time would often be incorrect. Whilst a clear prioritisation of s106 asks is welcomed, as this help offset any misunderstandings in the community, HBF are concerned that a claw-back agreement should not be required in all cases.
95. To be most useful HBF suggest viability appraisals should be used in an iterative manner to test different policy combinations. HBF suggest that the whole plan viability assessment should be produced in tandem with the different stages of plan-making. HBF already concerned that a whole-plan viability is not available to support this Plan, it is therefore all the more concerning that para 7.18 of the supporting text seems to indicate that the Council may seek to review and increase contributions sought through revisions to their SPD guidance, rather than through the plan-making

process. In HBF's view such changes would be inappropriate and contrary to national policy and guidance.

Policy IN2: High quality communications and digital connectivity

Policy IN2 is not considered to be sound as it is not justified, not effective and not consistent with national policy

96. The Local Plan policy requirement for residential digital connectivity has been superseded by Building Regulations and so no policy on this is needed in the Plan. This shows the danger of including local policies on matters that are addressed at a national level, including through other regulatory regimes.
97. The whole plan viability assessment should have covered the whole Torbay Plan area, but HBF also note that large areas of Torbay suffer significant deprivation, and this is reflected in property values. As such this will also affect viability. There are also notoriously difficult geological conditions in the Bay which result in greatly increased abnormal build costs means that development viability is already difficult. Any additional contributions are likely to undermine the likelihood of housing delivery at all. The SA process and the whole plan viability assessment therefore need to robustly test the implications of this policy.

Chapter 8: Climate Change - Our sustainable and resilient future

Strategic Policy CERS: Climate resilient, net zero carbon developments

Policy CERS is not considered to be sound as it is not justified, not effective and not consistent with national policy

98. HBF notes the significant viability challenges facing development that result from seemingly ever increasing cost burdens and policy requirements. As such HBF does not support Council seeking to introduce policies that require higher than Building Regulations requirements in relation to water consumption, carbon and energy. We believe these issues, including water efficiency, should be matter addressed through Building Regulations.
99. Building Regulations already requires all new dwellings to achieve a mandatory level of water efficiency of 125 litres per day per person, which is a higher standard than that achieved by much of the existing housing stock. This mandatory standard already represents an effective demand management measure, and many development achieve above this. There is an optional water standard of 110 litres per person per day which HBF have seen Councils seek to apply with clear evidence in water stressed areas. However, there is no need or justification for setting a Local Plan standard for Torbay of 100 litres per person per day, especially as this matter is already being revisited nationally.

Policy CER1: Net zero carbon development standards

Policy CER1 is not considered to be sound as it is not justified, not effective and not consistent with national policy

100. Although HBF recognises the role that developers can play in helping to mitigate and address climate change and increase energy efficiency we would caution against policies that seek to go further and faster than national legislation and policy changes. This would lead to the creation of a patchwork of differing local policies which could inadvertently undermine the delivery of the wider environmental objectives the Council is seeking and create unnecessary delays to much needed new housing.
101. HBF does not consider that the Council setting its own standards is the appropriate. We are concerned about Councils adding to the complexity of policy, regulations and standards that housebuilders are already expected to comply with. The key to success is standardisation and avoidance of individual Councils specifying their own policy approach, which undermines economies of scale for product manufacturers, suppliers and developers. The impact of these cumulative local requirements along with others Section 106 asks may have considerable viability implication and may lead to the non-delivery homes. Any variations from national standards must be fully considered and tested within the Viability Assessment, and this has not occurred.
102. HBF do not support Local Plan policies on matters that are already addressed by Building Regulations and other regulatory regimes. A plethora of local standards can actually undermine the objectives the Council is seeking to achieve, for example by seeking to introduce uncertainty and variability to the timetable for the introduction of the national Future Homes Standard, which has been set nationally.

Policy CER2: Embodied Carbon reduction and assessment

Policy CERS is not considered to be sound as it is not justified, not effective and not consistent with national policy

103. HBF do not support Councils seeking to introduce policies that require higher than Building Regulations requirements in relation to water consumption, carbon and energy. See response to policy CERs and CER1 for more detailed explanation. In any event, HBF believe applying this policy to all sites over 10 homes as major development is disproportionate. A different approach to small and medium sized sites should be developed instead.

Policy ER4: Sustainable Drainage Systems and Water Sensitive Urban Design

HBF is concerned that the impact of this policy will make other parts of the plan ineffective

104. HBF are aware of the challenges that delivery of the new SUDs guidance is having on the deliverability of sites, include achievable densities, with knock on impacts for viability. Where viability is already challenged these issues exacerbate the problem.

Chapter 9: Our Natural Places - Protecting and enhancing Torbay's countryside, landscape and natural environment**Strategic Policy L1: Protecting our countryside and rural economy**

Policy CERS is not considered to be sound as it is not justified, not effective and not consistent with national policy

105. As HBF have said elsewhere in our representations, we do not believe the Plan is doing enough to allocate land for housing in Torbay. As such further allocations in the countryside are needed, and this will have consequential implications for the definition of countryside within the Plan.

Strategic Policy THS: Trees and hedgerows

Policy THS is not considered to be sound as it is not justified and not effective

106. The Plan needs to be clear how all the natural environment policies are intended to work together. For example, how does this policy on protecting trees and hedgerows and woodland interact with the requirement for the 10% national mandatory Biodiversity Net Gain.

Policy NC3: Biodiversity Net Gain

Policy NC3 is not considered to be sound as it is not justified, not effective and not consistent with national policy

107. This policy needs updating to reflect the current policy and practice in relation to BNG. The first raft of intended changes to national BNG policy and practice have already been implemented. This includes the introduction of a 0.2 Ha ex-emption and small sites being able to deliver off-site.

108. National policy is clear that there is no need for Local Plans to repeat national guidance, or to seek to augment and change the national BNG policy and practice. The proposed wording of this policy does not completely reflect how BNG works in practice. Off-site units can be purchased wherever they are available. There is not yet universal coverage of all types of off-site credits in all locations across the country. It may therefore be necessary to purchase units outside of Torbay and wider Devon area, and indeed the outside the wider region, in some cases. The statutory BNG metric already penalises schemes that need to buy off-site credits further away from the development schemes, and as such there is justification for any other preference of location within a Local Plan policy.

Strategic Policy GIS: Green and blue infrastructure

Policy GIS is not considered to be sound as it is not justified and not effective

109. The Plan needs to be clear how all the natural environment policies are intended to work together. For example, how does this policy on GI interact with the requirement for the 10% national mandatory Biodiversity Net Gain

Omission: Monitoring and Review

The lack of a Policy and a Monitoring Framework within the Plan is not considered to be sound as it is not justified, not effective and not consistent with national policy

110. The Plan needs to set out more clearly how and when monitoring will be undertaken, and more information is needed on what action(s) will be taken when if monitoring shows under delivery of housing. Not doing so means the plan will be ineffective and therefore unsound. A full monitoring framework should be included within the Local Plan.

Appearance at the EIP and Future Engagement

111. I trust that the Council will find these comments useful as it continues to progress its Local Plan. I would be happy to discuss these issues in greater detail or assist in facilitating discussions with the wider house building industry.
112. HBF would like to be kept informed of all forthcoming consultations upon the Local Plan and associated documents. Please use the contact details provided below for future correspondence.
113. At present the HBF does not consider that the Plan is sound, as measured against the tests of soundness set out in the NPPF, and as set out in our representations above. HBF would therefore like to participate in any hearing sessions associated with the examination of the Local Plan and related to our representations, as this will allow HBF to represent the industry and to address any relevant points raised at the examination. HBF would also like to be kept informed of the submission and examination of the Local Plan.

Yours sincerely,



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