

From: Liddington, Stuart [<mailto:Stuart.Liddington@pins.gsi.gov.uk>]
Sent: 14 May 2015 14:05
To: Turner, Steve
Cc: Young, Robert
Subject: Torbay letter 140515

Dear Steve,

Please find attached letter from Inspector Keith Holland on the Torbay Local Plan. Please can you liaise with the Programme Officer to have the letter added to your Local Plan web page.

Thank you

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Our Ref: PINS/X1165/429/5

Date: 14 May 2015

Dear Mr Turner,

RE: TORBAY COUNCIL LOCAL PLAN

Please note that this correspondence does not attempt to deal comprehensively with the Council's Main Modifications or with the responses to the Main Modifications consultation. The note deals with the Council's suggestion regarding amending the Main Modifications and the implications for the examination.

The Council's desire to adopt their local plan as soon as possible is appreciated. However, as the Council acknowledges, the capacity of the area is a critical consideration

To be justified a plan must be based on adequate evidence. It is abundantly clear, particularly in the light of the view currently taken by Natural England and supported by the Council's consultant, Greenbridge Ltd, that adequate evidence about the environmental capacity of the additional sites being promoted by the Council is not yet available. In particular in the case of the land south of White Rock the Council's consultant advises that "in order to avoid a legal challenge, Torbay Council are advised not to include the Proposed Future Growth Area until it has undertaken a full Appropriate Assessment informed by adequate new field evidence..."

The suggestion from the Council is that the land south of White Rock and the St Mary's campsite be excluded to overcome the current objections from Natural England. This would, according to the Council, allow for the provision of 9430 new homes with the question of development on the land south of White Rock being considered when the Plan is reviewed in 5 years. The Council does not consider that such a change would require further consultation or a further hearing.

It would not be acceptable to proceed without consulting on the amendments that Council wishes to make to the published Main Modifications. The suggested amendments are material and interested parties must be given an opportunity to respond. To not do so would risk a legal challenge.

Excluding the land south of White Rock and St Mary's Campsite at this stage and leaving the matter of the South Rock land for consideration in a review in 5 years would not only reduce the quantum of development below that dealt with in the Main Modifications, it would also introduce a substantial degree of additional uncertainty into the plan.

There is already uncertainty regarding whether the proposed neighbourhood plans would deliver the scale of housing sought by the Council. It is appreciated that the Council is seeking to facilitate the Neighbourhood Planning process by listing potential housing sites and by undertaking master planning exercises. Unfortunately these master plans are not at a stage where they can provide certainty about the scale of development that can then be used by the Neighbourhood Forums in their planning work. Moreover the Neighbourhood Forums are still challenging the strategic approach favoured by the Council.

The potential housing sites identified by the Council for consideration in the Neighbourhood Plans include ones where there may be significant delivery/timing issues. This applies particularly to the various car park sites and land at Churston Golf Club.

For example the Temperance Street car park is seen in the Torquay Centre Master Plan as a possible "win" but only in the long term. Natural England are concerned that due to geology and topography deliverable mitigation to protect the marine candidate Special Area of Conservation will not be viable in the case of the car parks.

At Churston Golf Club there is the complication introduced by the Mayor's decision to hold a ward referendum. It is understood that the intention is that no development of the golf course will be allowed unless there is a majority of votes in favour at a ward referendum. The implications of this for further requests for covenants to be granted on Council owned land is not clear.

In addition a proposal from the golf club to build a new club house and change the use of 7.7 hectares of land to replace land that would be lost should part of the golf course be used for housing was refused by the Council and dismissed on appeal. The appeal was dismissed because of harm to highway safety, the effect on the character and appearance of the area, the integrity of the South Hams Special Area of Conservation and protected species. It is not clear whether these problems can be overcome.

The conclusion is that the Plan is not at this stage sound. The evidence required to justify the Plan is not complete and there is considerable uncertainty about how effective the Plan would be. Consequently the Plan does not meet the requirements of paragraph 182 of the National Planning Policy Framework.

The question of how to proceed arises. The Plan could be withdrawn and re-submitted once the current shortcomings have been addressed. Alternatively the examination could be suspended while additional evidence, particularly in relation to environmental considerations, is obtained and assessed. Once this has been done it should be possible for the Council to consider the implications for the Plan, review the Main Modifications, consult on these and then seek re-commencement of the examination. Given that the evidence required under the Habitats Regulations at White Rock cannot be produced until towards the end of the year and may possibly require further work in April 2016, it is unlikely that the examination could re-commence until the late spring or summer of 2016.

Such a delay is very regrettable but there is little point in proceeding at this point with the examination in the absence of crucial evidence and with very significant doubts about the effectiveness of the Plan. Suspending the examination would also serve 2 other useful purposes. First it would allow time for the master plan exercises to progress, hopefully to a point where more certainty can be introduced about what scale of development the Neighbourhood Plans should be providing for. Second, it would allow time for monitoring to give a better indication of the effectiveness of the Council's employment growth strategy. This is important because the strategy in the Plan is to closely link housing and employment.

Yours sincerely

Keith Holland

Keith Holland