

# **TORBAY LOCAL PLAN**

A landscape for success

The Plan for Torbay – 2012 to 2032 and beyond

PROPOSED SUBMISSION PLAN (FEBRUARY 2014)

# **SCHEDULE OF PROPOSED CHANGES TO THE FEBRUARY 2014 HABITATS REGULATIONS ASSESSMENT**

Torbay Council – June 2015

## Note

For background information on the additional changes made to the Habitats Regulations Assessment, please see introductory text set out in the Council's Proposed Replacement Main Modifications (RMMs) and Proposed Replacement Additional Modifications (RAMs) documents.

## Interpretation of this document

The black text represents changes to the HRA to address Natural England objections in April 2014.

The red text represents changes to the HRA to address Natural England objections between August and November 2014.

The blue text represents changes to the HRA to address Natural England objections and the Examination Inspector's request for clarification, the Inspector's 'Initial Findings', the Inspector's 'Further Findings' and the need for other editorial clarification (November 2014 to February 2015)

The purple text represents changes to the HRA made in association with the drafting and development of the Replacement Main Modifications (RMMs) and Replacement Additional Modifications (RAMs) (June 2015) – new text in **bold**

Collectively, the above series of changes represent the current position regarding proposed changes to the February 2014 SA.

Page No.	Section	Paragraph / Policy	Editorial modification suggested to address NE objection (unless Identified by *)	Additional notes
10	3	3.2.1	*Insert new sentence, following first sentence, as follows: The Lyme Bay and Torbay Marine cSAC site lies off the south coast of England off the counties of Dorset and Devon (Figure 3.3). <b>The boundary extends up to the Mean Low Water Mark.</b>	Editorial change, to add clarity
13	3	Fig.3.2	Update Strategic Delivery Area for SDB3.1 – amend indicative boundary slightly to reflect local settlement pattern more accurately.	Key Diagram amendment to SDB3.1  RAM
17	5	5.1.5	Replace <i>unacceptable recreational pressure</i> with <i>additional recreational</i>	NE Comments



Page No.	Section	Paragraph / Policy	Editorial modification suggested to address NE objection (unless Identified by *)	Additional notes
			<i>from the new development.</i>	
21	7	7.1.5	Delete <i>this guidance will eventually be replaced by</i> and add instead <i>"this guidance will be supplemented with.</i>	
22	7	7.1.6	Amend Text: The Local Plan includes Policy SS9 (Green Infrastructure) <b>and NC1 (Biodiversity &amp; Geodiversity)</b> , which would address the impact of development on bats through promoting a landscape led approach to planning and design for new development	Natural England Comments (April to Nov14) – editorial change
22	7	7.1.8	Delete "does not" in the first line and add a reference to the HRA Site Appraisal Report of Torbay Local Plan Strategic Delivery Areas (Proposed Submission Plan) 2014.  Replace <i>Devon County Council</i> with <i>Torbay Council</i> in the second bullet point.	
22	7	New paragraph 7.1.10	The HRA Site Appraisal Report of Torbay Local Plan Strategic Delivery Area (2014) <sup>2</sup> has been prepared in support of the HRA of the Local Plan, and provides an appraisal of key site proposals within the Plan. It also identifies the likely effects arising from those proposals (e.g. their likely effect on the integrity of South Hams SAC in relation to greater horseshoe bats), and makes recommendations, where required, for appropriate mitigation measures (commensurate with levels of information and certainty available at the Plan-making stage of the planning process)	
22	7	7.2.4, 7.2.5 & 7.2.6	Add new text following NE marine advice: <i>There are a number of measures contained within the Local Plan Policies and Evidence Base that would reduce the impact of development proposed by the Local Plan on coastal waters. The Strategic Flood Risk Assessment Level 2 (SFRA2) recommends considering the potential benefits that an appropriately designed sustainable drainage system could have on the biodiversity, amenity</i>	Natural England Comments (March 2015) Also links with changes to SA recommendations

<sup>2</sup> M. Oxford/ Kestrel Wildlife Consultants Ltd. (2014) - HRA Site Appraisal of Torbay Local Plan Strategic Delivery Areas

Page No.	Section	Paragraph / Policy	Editorial modification suggested to address NE objection (unless Identified by *)	Additional notes
			<p><i>value, water quality and resource value of development and/or surrounding area. It also recommends considering the vulnerability and importance of ecological resources when determining the suitability of drainage strategies / sustainable drainage systems.</i></p> <p><i>Policy W5 states that development proposed by the Local Plan may be required to provide a financial contribution towards the enhancement of the waste water treatment works (WWTW). <b>Policies SDT1 and SDT2 could emphasise that Proposals in Torquay need to meet the requirements of Policy ER1 and Policy ER2 which state</b> that the Council will require development proposals to provide appropriate sewerage systems and support measures to reduce the amount of storm water and grey water going into the shared sewer. The Council will also consider the use of natural sewage treatment methods and sustainable urban drainage measure as promoted in the Torbay Green Infrastructure Delivery Plan, which have informed Local Plan Policies.</i></p> <p><i>South West Water <b>has constructed</b> a 2,000 cubic meter underground storm storage tank in the south-east corner of Abbey Park, on Torquay Seafront, to provide extra capacity in the sewerage system and reduce discharges from the network in extremely wet weather. The work is part of a £5 million investment designed to improve bathing water quality in Torbay <b>for</b> the European Union's revised Bathing Water Directive which comes into effect in 2015. These might include increasing storm water storage capacity in the sewerage network and improving combined sewer capacity at key locations including Cockington Lane, Abbey Park, Cary Parade, Old Mill Road, Roundham Road and Beacon Hill in Torquay and Littlegate Road in Paignton.</i></p>	<p>RAM</p> <p>Editorial change</p>
25	8	8.1.1	<ul style="list-style-type: none"> <li>Requiring provision or enhancement of <del>to the accessible natural greenspace standard</del> may help to minimise the need for which may help reduce recreational resources pressure on the South Hams SAC that they are if delivered within a timescale linked to that of the development and will fulfil if the greenspace provides a function similar to that of the SAC.</li> </ul>	
26	8	8.2.5	Delete Policy TO3 from the list.	

Page No.	Section	Paragraph / Policy	Editorial modification suggested to address NE objection (unless Identified by *)	Additional notes
26	8	8.2.6.	Add ' <b>Policy DE5 - Domestic extensions</b> ' to the list	Natural England comments (March 2015) in Conjunction with AECOM Hydraulic Modelling of Sewer Capacity in Torbay (September 2014 SD/88)
26	8	8.2.6	Add the following Policies to the list: SDT3, SDP3, SDP4, SDB1 and SDB3.  Add <b>Policy SDT1 (Torquay)</b> and <b>SDB1 (Brixham Peninsula)</b> to the Case-Specific Caveats list	Editorial change  Natural England comments (March 2015) Also links with changes to SA recommendations  RAMs
26	8	8.2.7	Replace the second bullet point with <i>Paignton North and West Area Including Collaton St Mary</i> ;  Delete last bullet point (Wall Park, Brixham) under 'SS2 – Future Growth Areas'	RMM - no longer a FGA.
27	8	New paragraph	Add a new paragraph that reflects the findings of the Recreational Impact on Berry Head Report: <i>A report by Footprint Ecology (2014) produced evidence to suggest that additional impacts on the Berry Head to Sharkham Point component of the SAC, arising from the level of growth proposed by the Local Plan, are a realistic possibility. The data available suggests that there is a zone of influence of approximately 5km driving distance. The report concluded that the possibility of</i>	Editorial change

Page No.	Section	Paragraph / Policy	Editorial modification suggested to address NE objection (unless Identified by *)	Additional notes
			<p><i>significant effects cannot be ruled out and mitigation measures will be necessary. The potential mitigation measures identified include:</i></p> <ul style="list-style-type: none"> <li><i>(i) the development of a detailed management plan addressing habitat management and visitor use;</i></li> <li><i>(ii) habitat management required to increase the resilience of the site over and above that already required to maintain the interest features of the site; and</i></li> <li><i>(iii) increased visitor engagement work;</i></li> <li><i>(iv) management work at Sharkham Point to provide an alternative location for dog-walkers if visitor work suggests this may be effective.</i></li> </ul>	
28	9	9.0.3	<p>Delete <i>This will eventually replace the guidance published by Natural England in 2010.</i></p> <p>Revise Text*: The Council, in collaboration with the other planning authorities with responsibilities for the South Hams SAC, has commissioned preparation of the South Hams Greater Horseshoe Bat Special Area of Conservation <b>Planning Guidance</b>'</p>	Editorial.change
28	9	9.0.4	<p>Replace the paragraph with the following text:</p> <p><i>Further work will be undertaken by the Council and associated stakeholders to develop, and provide costs for, the mitigation measures identified by the Footprint Ecology report to mitigate increased recreational pressure on the South Hams SAC within the SDB1 policy area. The Council will produce a Supplementary Planning Document to set out the evidence base, mitigation costs and approach for securing developer contributions.</i></p> <p><i>As part of this work, a detailed, up-to-date management plan for the Berry Head to Sharkham Point component of the South Hams SAC, addressing habitat</i></p>	

Page No.	Section	Paragraph / Policy	Editorial modification suggested to address NE objection (unless Identified by *)	Additional notes
			<i>management and visitor use, will be developed. This plan will consider existing recreational impact and ensure that management to meet the conservation objectives of the site is progressed in order to fulfil legal obligations relating to the maintenance and restoration of the site interest. The plan will also provide a baseline for the mitigation required to take account of the additional pressure that new housing is likely to bring.</i>	
30	10	References	<p>Include the following in the list of references:</p> <p>Footprint Ecology (2014) - The Recreational Impacts on Berry Head - Additional HRA Work for the Torbay Local Plan by Footprint Ecology;</p> <p>Kestrel Wildlife Consultants Ltd. (2014) HRA Site Appraisal of Torbay Local Plan Strategic Delivery Areas.</p> <p><b>Kestrel Wildlife Consultants Ltd. (February 2015) Habitats Regulations Assessment Site Appraisal Report of Proposed Additional sites to be included as Proposed Main Modifications (February 2015)</b></p> <p><b>Kestrel Wildlife Ltd,( March 2015) Further HRA site assessment of St. Marys Campsite, Brixham</b></p>	Editorial changes in the context of Natural England comments (March 2015)
xxxix	Appendix 5	Policy SS2	<p>Add the following sentence to column 4:  <i>The level of growth <b>within the SDB1 policy area</b> could cause <b>additional</b> recreational pressure on the calcareous grassland and European dry heath at the Berry Head component of the South Hams SAC.</i></p> <p><i>In column 5, replace <b>all Future Growth Areas</b> with <b>all development within:</b></i></p> <ul style="list-style-type: none"> <li><i>• SDP3.2 - Great Park;</i></li> <li><i>• SDP3.3 -Totnes Road Future Growth Area;</i></li> <li><i>• SDP 3.4 - Brixham Road Future Growth Area;</i></li> <li><i>• SDB 3.2 - Wall Park <del>Future Growth Area.</del></i></li> </ul> <p>Replace the second paragraph in column 5 with <b>development within the SDB1</b></p>	Natural England

Page No.	Section	Paragraph / Policy	Editorial modification suggested to address NE objection (unless Identified by *)	Additional notes
			<i>policy area should have regard to Policies NC1,SS7 and SS8 concerning the need to mitigate the impact of additional recreational pressure on the SAC.</i>	comments (March 2015)
xl	Appendix 5	Policy SS11	Add to column 2 - South Hams SAC. Add the following sentence to column 4: <i>The level of growth within the SDB1 policy area could cause additional recreational pressure on the calcareous grassland and European dry heath at the Berry Head component of the South Hams SAC.</i>  <i>Replace the second paragraph in column 5 with development within the SDB1 policy area should have regard to Policy NC1 concerning the need to mitigate the impact of additional recreational pressure on the SAC.</i>	
xlii	Appendix 6	SDT1	Replace category A5 with <b>C4</b> in column 2.  Replace N/A in column 3 with <b>South Hams SAC</b> .  In column 4, delete 'N/A' and insert the following text: <i>The level of growth suggested in SDT1 area could potentially have negative impacts on the reefs of the Marine cSAC as a result of potential increase in use of Hope's Nose CSO. Add text to Policy SDT1 to emphasise that proposals in Torquay need to meet the requirements of Policy ER1, Policy ER2 and Policy W5.</i>	Natural England comments (March 2015)
xlii	Appendix 6	SDT2	Replace the text in Column 4: <i>The level of growth suggested in this area could potentially have negative impacts on the reefs of the Marine cSAC as a result of potential increase in use of Hope's Nose CSO.</i>	
xlii	Appendix 6	SDT3	Add Edginswell mitigation objectives to column 5 as follows:  <i>1. Any detailed proposals for development in the area should first be informed by appropriate bat surveys undertaken during a suitable time of</i>	

Page No.	Section	Paragraph / Policy	Editorial modification suggested to address NE objection (unless Identified by *)	Additional notes
			<p><i>year.</i></p> <p><i>2. If the site is developed, consideration should be given to seeking a biodiversity offset for loss of grassland (foraging) habitat and internal hedgerows.</i></p> <p><i>3. The provision of a western buffer would be consistent with the four principles set out in the proposed modified Local Plan NC1 Policy.</i></p>	
xlii	Appendix 6	SDT4	<p>Replace the text in column 4 with:</p> <p>The level of growth suggested in this area could potentially have negative impacts on the reefs of the Marine cSAC as a result of potential increase in use of Hope's Nose CSO.</p>	
xliii	Appendix 6	Policy SDP3	<p>Add mitigation objectives to column 5 as follows:</p> <p><i>Greater horseshoe bat Mitigation objectives for Great Parks, Totnes Road FGA, Yalberton Industrial Estate and Claylands Brixham Road GFA and SDB1 should be implemented as recommended by the HRA Site Appraisal Report of Torbay Local Plan Strategic Delivery Areas (Proposed Submission Plan) 2014</i></p>	
xliii	Appendix 6	Policy SDP4	<p>Add Clennon Valley mitigation objectives to column 5 as follows:</p> <p><i>1. Leisure related development within the valley and tourism related development along its margins should provide appropriate mitigation measures based upon all of the principles set out in modified NC1 Policy.</i></p> <p><i>2. Provision of landscape buffers between development and areas of semi-natural vegetation in the valley; control of light spill; mitigation for the loss of potential foraging and commuting habitat to ensure retention of connectivity along the valley; retention, where appropriate, of features through development that are likely to be used by GHBs; and developer contributions towards the provision of bespoke purpose-built roosts in appropriate locations along the valley.</i></p>	
xliii	Appendix 6	Policy SDB1	<p>Replace category A5 with C4 in column 2.</p> <p>Replace N/A in column 3 with <i>South Hams SAC</i>.</p>	<p>Consistent with RMMs &amp; RAMs, and Natural</p>

Page No.	Section	Paragraph / Policy	Editorial modification suggested to address NE objection (unless Identified by *)	Additional notes
			<p>Replace the text in column 4 with the following text:  <i>The strategic area lies within the sustenance zone and strategic flyways for GHBs, without appropriate design and mitigation, is likely to have significant effects on the integrity of the South Hams SAC both alone and in combination with other projects.</i></p> <p><i>The level of growth within the SDB1 policy area could cause additional recreational pressure on the calcareous grassland and European dry heath at the Berry Head component of the South Hams SAC.</i></p> <p><del><i>The level of growth suggested in this area could potentially have negative impacts on water quality from contaminated run-off.</i></del></p> <p>Delete N/A in column 5 and add the following text:  <i>Greater horseshoe bat mitigation objectives for Fishcombe Cove and Wall Park Future Growth Area should be implemented as recommended by the HRA Site Appraisal Report of Torbay Local Plan Strategic Delivery Areas (Proposed Submission Plan) 2014</i></p> <p>Add the following mitigation measures for sites within Brixham built up area:</p> <ol style="list-style-type: none"> <li>1. Protection and management of existing trees</li> <li>2. Retention of former hedge-lines, managed as part of the development</li> <li>3. No increase in lighting in these areas to greater than 0.5 lux</li> </ol> <p>Add the following sentence to column 5:  <i>Development within the SDB1 policy area should have regard to Policies NC1, SS7 and SS8 concerning the need to mitigate the impact of additional recreational pressure on the SAC.</i></p>	England comments (March 2015)
xliv	Appendix 6	Policy SDB2	<p>Add the following sentence to column 4:  <i>The level of growth within the SDB1 policy area could cause additional recreational pressure on the calcareous grassland and European dry heath at</i></p>	

Page No.	Section	Paragraph / Policy	Editorial modification suggested to address NE objection (unless Identified by *)	Additional notes
			<p><i>the Berry Head component of the South Hams SAC.</i></p> <p>Add the following sentence to column 5:  <i>Development within the SDB1 policy area should have regard to Policies NC1, SS7 and SS8 concerning the need to mitigate the impact of additional recreational pressure on the SAC.</i></p>	RAM
xliv	Appendix 6	Policy SDB3	<p>Add the following sentence to column 4:  <i>The level of growth within the SDB1 policy area could cause additional recreational pressure on the calcareous grassland and European dry heath at the Berry Head component of the South Hams SAC.</i></p> <p><del>Add Wall Park mitigation objectives to column 5 as follows:</del>  Adequate mitigation should be provided, in accordance with the HRA Site Appraisal Report, that ensures:</p> <ol style="list-style-type: none"> <li>1. there are no further restrictions on potential movement of GHBs along the strategic flyway through the future growth area; and</li> <li>2. the retention and enhancement of foraging and on-site roosting opportunities.</li> </ol> <p>Add the following sentence to column 5:  <i>Development within the SDB1 policy area should have regard to Policies NC1, SS7 and SS8 concerning the need to mitigate the impact of additional recreational pressure on the SAC.</i></p>	<p>Natural England comments (March 2015)</p> <p>RAM</p>
xlv	Appendix 7	Policy TO1	<p>Add the following sentence to Column 4:  <i>An increase in tourist accommodation, and therefore visitors, within the SDB1 policy area could cause additional recreational pressure on the calcareous grassland and European dry heath at the Berry Head component of the South Hams SAC and Lyme Bay and Torbay Marine cSAC.</i></p> <p>Replace the second paragraph in column 5 with:  <i>Development within the SDB1 policy area should have regard to Policies NC1, SS7 and SS8 concerning the need to mitigate the impact of additional</i></p>	<p>Natural England comments (March 2015)in  Conjunction with  Footprint Ecology  Report  (Recreational  Impacts on Berry  Head: Additional</p>

Page No.	Section	Paragraph / Policy	Editorial modification suggested to address NE objection (unless Identified by *)	Additional notes
			<i>recreational pressure on the SAC.</i>	HRA Work for the Torbay Local Plan (July2014 SD/26)  RAM
xliv	Appendix 7	Policy TO3	<p>Replace category C2 with B in column 2.</p> <p>Replace the text in column 4 with the following: <i>The proposed improvements and/or extension of the three harbours are not likely to have significant negative impact on the site.</i></p> <p>Remove the Policy restriction in column 5: <i>Any proposal that may lead to likely significant effects on sites protected under European legislation will only be permitted where no adverse effect on the integrity of the site can be shown.</i> And Replace YES with N/A</p>	
xlvi	Appendix 7	Policy C1	<p>Add the following sentence to column 4: <i>The level of growth <b>within SDB1 policy area</b>, could cause additional recreational pressure on the calcareous grassland and European dry heath at the Berry Head component of the South Hams SAC.</i></p> <p><b>Replace the second paragraph in column 5 with:</b> <i>Development within the SDB1 policy area should have regard to Policies NC1, SS7 and SS8 concerning the need to mitigate the impact of additional recreational pressure on the SAC.</i></p>	Natural England comments (March 2015)  RAM
xlvi	Appendix 7	Policy NC1	<p>Add the following sentence to column 4: <i>The level of growth suggested by the Local Plan, <b>within SDB1 policy area</b> could cause <b>additional</b> recreational pressure on the calcareous grassland and</i></p>	

Page No.	Section	Paragraph / Policy	Editorial modification suggested to address NE objection (unless Identified by *)	Additional notes
			<p>European dry heath at the Berry Head component of the South Hams SAC.</p> <p>Add the following to column 5:  <i>Development around the edge of the built up area that is within the Berry Head SAC Sustenance Zone and/or is coincident with any of the Strategic Flyways will, as appropriate, be required to provide:</i></p> <ol style="list-style-type: none"> <li>1. <i>'A belt of linear features' and 'stepping stones' in order to maintain and improve the ecological coherence of the landscape necessary to maintain in 'favourable conservation status' for the Torbay population of greater horseshoe bats.</i></li> <li>2. <i>To ensure this, development likely to have a significant effect on the integrity of the South Hams SAC will be required to provide biodiversity conservation measures that contribute to the overall enhancement of the greater horseshoe bat habitat this 'favourable buffer' for GHBs in Torbay. Such measures should be based on the following principles:</i> <ul style="list-style-type: none"> <li>• <i>The maintenance of GHB dark and unlit habitat connectivity across the landscape;</i></li> <li>• <i>The provision of adequate foraging habitat;</i></li> <li>• <i>The provision, where appropriate, of adequate permeability through built development following existing and new flight paths;</i></li> <li>• <i>The provision of new bespoke roosts where they will provide 'stepping stones' across the landscape.</i></li> </ul> </li> </ol> <p>Replace the second paragraph in column 5 with:  <i>Developer contributions to fund the mitigation measures needed to manage increased recreational pressure on the South Hams SAC resulting from residential development and tourist accommodation within the SDB1 policy area will be sought. Refer to Policy SS7and SS8.</i></p>	RAM
xivii	Appendix 7	Policy DE5	<p>Amend column 3: delete 'N/A' and insert new text – <b>Lyme Bay and Torbay Marine cSAC</b></p> <p>Amend column 4: delete 'No negative effects' and replace with new text -</p>	Natural England comments (March 2015)

Page No.	Section	Paragraph / Policy	Editorial modification suggested to address NE objection (unless Identified by *)	Additional notes
			<p><b>Strengthen Policy</b> Add following new text to column 5: <b>New criterion 6: No net additional surface water should drain into shared sewers - refer to ER1 &amp; ER2</b></p>	RAM
xlvi	Appendix 7	Policy ER1	<p>Replace N/A with Lyme Bay and Torbay Marine cSAC in column 3</p> <p>Replace <i>No negative effects</i> with <i>Steps must be taken to reduce the amount of stormwater in CSOs</i> in column 4.</p> <p>Add policy restriction to column 5: <i>The Council should produce SUDS or WSUD SPD to support the existing Torbay Flood Management Strategy.</i></p> <p><i>Development that contributes directly to downstream flooding and increased discharge from Ilsham CSO during flood events will not be permitted until the appropriate flood protection measures are put in place. Development which is unable to provide surface water management measures (where not feasible on-site) will not be permitted until the appropriate measures are provided upstream. Developers will be required to contribute to these works as appropriate (see also Policy SS7).</i></p> <p><i>A flood risk assessment will also be required for development close to sea fronts within Flood zone 1 where there may be a risk of flooding due to wave action.</i></p>	RAM Editorial change
xlvi	Appendix 7	Policy ER2	<p>Add policy restriction to column 5:</p> <p><i>All development should <del>seek to</del> <b>will be required to</b> minimise the generation of increased runoff, having regard to the drainage hierarchy, whereby surface water will discharge to one of the following listed in order of priority:</i></p> <ol style="list-style-type: none"> <li><i>a. an adequate infiltration system (e.g. swales, soakaways, infiltration basins, filter drains, rain gardens), or where that is not reasonably practicable;</i></li> <li><i>b. a main river or water course, or where that is not reasonably practicable;</i></li> <li><i>c. a surface water sewer or highway drain; or in the last resort where none</i></li> </ol>	Natural England comments (March 2015) RAM

Page No.	Section	Paragraph / Policy	Editorial modification suggested to address NE objection (unless Identified by *)	Additional notes
			<p><i>of the above are reasonably practicable.</i></p> <p><i>d. a combined (foul and surface water) sewer, where discharge is controlled to be at greenfield discharge rates.</i></p> <p><i>In Torquay, where development has not met a, b, c or d, it will be subject to the delivery of the River Fleet Flood Alleviation Scheme. <b>an individual Habitats Regulation Appropriate Assessment.</b></i></p> <p><i>The Council should prepare supplementary guidance that provides advice on the role of water management in the development process.</i></p>	
xlix	Appendix 7	Policy W5	<p>Add to column 4: <i>Development of previously developed land and permitted development (such as home extensions) could increase hard surface and consequently increase the amount of rainfall that enters the CSOs.</i></p> <p>Add policy restriction to column 5: <i>Development of previously developed land and permitted development should introduce SUDS to ensure they do not exacerbate sewer flooding and CSO spills. In particular brownfield development which may discharge into Hope's Nose CSO should deliver SUDS or WSUD.</i></p>	