



## Question to Torbay Council Meeting 22 February 2018

We thank the Monitoring Officer for being able to have prior sight of her report on the matters raised in our original Question to Council (attached at Appendix 1).

In our view the report has confirmed that only superficial involvement has taken place between officers and our elected representatives on all 3 Neighbourhood Plans and with no opportunity whatsoever for our communities to explain or discuss the proposals involved with any committee, working party or briefing session.

The situation is extraordinary when it is realised that these are three of the largest and most complex Neighbourhood Plans in the entire Country.

Instead, the approach taken has been one of officers submitting extensive objections to all three Neighbourhood Plans basically on the grounds that they do not, in their view, conform to the Council's core policy documents of the Local Plan and Asset Management Plan because, in their view, they do not provide sufficiently for more housing and seek only to frustrate further development by protecting Local Green Space against the Council's interest as landowner.

This is not actually the case, but we have never been given the opportunity to explain why, or how we have taken into account that we now have nearly 4,000 vacant homes in the Bay and 2,000 fewer jobs than when the Local Plan policy period started 6 years ago.

We therefore continue to believe that it is vitally important for our elected representatives to be involved with agreeing, or not, to the objections that have been submitted in your name before they are considered by the Independent Examiners.

To repeat our original question, at Appendix 1, we therefore wish to know this evening if the Council will agree that a meeting takes place of appointed Councilors from across the political spectrum with officers and Forum Chairs to consider and authorise the joint report to be produced for consideration by the Independent Examiners ?

*Leon Butler*  
Chair of Torquay  
Neighbourhood Forum

*David Watts*  
Chair of Paignton  
Neighbourhood Forum

*Jackie Stockman*  
Chair of Brixham  
Neighbourhood Forum

13 February 2018

## Appendix 1

### Original question to Torbay Council Meeting 22 February 2018

#### **The issue**

We are concerned that the decision to make Representations in the name of the Council in response to the consultation on the 3 Submitted Neighbourhood Plans has not been made in accordance with the Council's Standing Orders.

The Representations we refer to are those made by officers in response to the Regulation 16 consultation period that ended at 9am on 18 December 2017

Paragraph 1.17 of Schedule 6 (Officer Scheme of Delegation) delegates the authority to make consultation responses to the Chief Executive:

*"In consultation with the relevant member, to respond on behalf of the Council to Government and other consultation exercises in relation to proposed legislation and other matters relevant to the Council."*

The Schedule shows this delegated authority has been given by the Council and the Executive.

Paragraph 2.10 makes it clear that:

*"All decisions shall be in accordance with the Council's Standing Orders. Whether or not any decision or action is in accordance with the Council's Standing Orders may, if necessary be determined by the Council. However, no decision or action shall be taken by any employee which the Monitoring Officer reasonably considers to be contrary to the Council's Standing Orders."*

The Representations made run to nearly two hundred pages overall and have been submitted in the name of the Council as Local Planning Authority and as landowner.

They have not been submitted by the Chief Executive and we have been told have not been made in consultation with the relevant member.

To compound the problem, the Council has not received a report from officers that explains the Neighbourhood Plans formally submitted several months ago to enable the Council to come to a view on the policies and proposals the Plans contain.

We believe the resulting situation is of concern for three reasons.

First, the Representations for the most part take the form of formal objections to the 3 Neighbourhood Plans which the Examiners will assume have been made with the full knowledge and consent of the Council, which appears not to be the case.

Second, the Representations contain conflicting views in response to Local Green Space proposals in particular. The views submitted in the name of the Council as Local Planning Authority acknowledge that sites included are capable of being designated as Local Green Space. The view submitted in the name of the Council as landowner objects to any space being so designated and retracts from views previously submitted at the Regulation 14 consultation stage. There is no confirmation given in the Representations that the Council has delegated the resolution of this conflict to the Independent Examiners to avoid it becoming a matter of further dispute when the Examiner's Reports are received by the Council and Forums.

Third, the Representations in many cases do not in our view fall within the scope of the Basic Conditions that the Examination is governed by and could therefore be misleading to any view the Council may wish to come to.

We are of the view that the situation which exists exposes the Neighbourhood Plan making process open to challenge and further dispute that will not be in the interest of the Council and community.

## **The solution**

It is our understanding that only full Council can consider and rectify the situation in accordance with Standing Orders at paragraph 2.10 (referred to above) in order to remove the risk of procedural challenge that we consider now exists.

We have come to an agreement with officers to prepare a joint report with the Forums to identify where there is agreement on policy changes to overcome objections or better word policies to be robust within planning law or to agree that an objection should be for the examiner to determine; and to identify and remove objections that are not compliant with the current law.

However, the Council itself still needs to come to a view. We therefore request that a meeting takes place of appointed Councilors from across the political spectrum, with officers and Forum Chairs in attendance to consider and authorise the joint report produced for consideration by the Independent Examiners. The timescale is urgent because the Examiners will be starting their assessment shortly.

To help make progress, the problem was brought to the attention of officers at a meeting on 17 January 2018 so that a public question could be submitted in time for the Council meeting on 8 February 2018. We subsequently agreed to our question being put to the Council meeting on 22 February 2018 due to the pressure of business already on the Agenda of the meeting for 8 February.

29 January 2018