

Report to: Strategic Planning Committee



Date of Meeting 6 January 2025

Document classification: Part A Public Document

Exemption applied: None

Review date for release N/A

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## **Proposed response to consultation on the evolving local plan for Torbay**

### **Report summary:**

Torbay Council have issued a Regulation 18 draft local plan for consultation. Regulation 18 being the plan preparation stage that precedes the more formal Regulation 19 stage. The Torbay plan sets out a series of proposed draft policies for accommodating development in the Torbay council area. We would not typically bring a report to committee for a local plan in a planning authority area that does not abut East Devon, but the Torbay plan is of some significance in that the plan does not provide for meeting all standard housing method numbers in the plan area but rather, at paragraph 1.65, sets out a case that housing numbers are a “*sub-regional matter that needs to be resolved in cooperation with wider Devon Authorities*”. It is considered that it is important that East Devon District Council responds on this matter highlighting concerns around the (in)appropriateness of seeking to accommodate any of Torbay’s unmet housing needs within East Devon.

### **Is the proposed decision in accordance with:**

Budget Yes ☒ No ☐

Policy Framework Yes ☒ No ☐

### **Recommendation:**

That Strategic Planning Committee agree that this Council respond to the Torbay local plan consultation (using the text set out in this committee report) advising of our concerns around their current policy position in respect of housing provision.

### **Reason for recommendation:**

To secure members endorsement of the proposed response by this council to the Torbay consultation and thereby ensuring the views of East Devon District Council are appropriately heard and we trust taken into account.

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Portfolio(s) (check which apply):

- ☐ Assets and Economy
- ☐ Communications and Democracy
- ☐ Council, Corporate and External Engagement
- ☐ Culture, Leisure, Sport and Tourism

- ☐ Environment - Nature and Climate
- ☐ Environment - Operational
- ☐ Finance
- ☒ Place, Infrastructure and Strategic Planning
- ☐ Sustainable Homes and Communities

**Equalities impact** Low Impact

**Climate change** Low Impact

**Risk:** Medium Risk;

**Links to background information** Links are contained in the body of the report.

**Link to [Council Plan](#)**

Priorities (check which apply)

- ☒ A supported and engaged community
- ☐ Carbon neutrality and ecological recovery
- ☐ Resilient economy that supports local business
- ☐ Financially secure and improving quality of services

## 1 Introduction

- 1.1 Torbay Council have issued a draft Torbay Local Plan 2025–2045 (Regulation 18 Version) for public consultation which started on Friday 28 November 2025 and is closing at 11:59pm on Monday 26 January 2026. In communication they advise *“We are inviting residents, businesses, developers, landowners, statutory consultees, and community groups to “have your say” on the draft plan. The consultation is for eight weeks to allow for the Christmas period.”*
- 1.2 The Torbay plan, at Regulation 18, is at a regulatory stage of plan making at which issues and preferred approaches can be set out and explored. The Torbay plan web site can be viewed at [Torbay Council - Consultations](#) and a pdf of their plan is at [Torbay Council - PDF Version of the Draft Torbay Local Plan 2025-45](#). Torbay Council advise that they plan to consult on a Regulation 19 plan (this is the point the East Devon local plan is currently at) in the Summer of 2026 and that it is their intention to submit the Local Plan to the Secretary of State for Examination before the end of 2026. Torbay have set themselves a challenging timetable.
- 1.3 The Torbay plan contains a full suite of planning policies and is structured in a conventional topic-based chapter approach, as most local plans are, including the East Devon local plan.
- 1.4 Torbay lies some distance from East Devon and is not an adjoining local planning authority. Typically we would not bring reports to committee from authorities that do not abut East Devon, but we make an exception for this plan as Torbay Council have highlighted that they do not see it as reasonable/possible to accommodate all of their housing needs within their boundaries. At paragraph 1.65 of the plan they set out a case that housing numbers are a

*“sub-regional matter that needs to be resolved in cooperation with wider Devon Authorities”.* The case is made (or at least implied) that some Torbay housing should go to other locations in Devon.

- 1.5 On review officers of East Devon District Council regard it as appropriate to raise concerns in respect of housing distribution matters as noted in the Torbay plan. In so doing it is highlighted that these concerns mirror those in past Torbay local plan consultations and feedback from this council – see a report to committee in 2022 where we highlighted Torbay housing considerations referencing back to previously raised objection to their then evolving thinking: [4. Response to Torbay Local Plan Consultation Nov 2022.pdf](#)
- 1.6 Leaving aside housing numbers it is noted that Torbay have issued a well-reasoned and positive document for consultation and whilst we would not suggest feeding back to Torbay on matters beyond housing number considerations it is relevant to highlight the otherwise coherence and quality of Torbay council work.

## **2 Housing numbers in the Torbay plan**

- 2.1 In their plan Torbay Council reiterate their now long-standing position that environmental, land capacity and infrastructure constraints place limits on their ability to accommodate future housing growth. In this context it is reasonable to note that Torbay is a small local authority, as measured by administrative area, and one in which there is a quite sharp divide between areas that are built up and developed on the eastern side of the authority area and some adjoining much smaller and predominantly rural area to the west of this, parts of which fall in the South Devon National Landscape area.

- 2.2 In paragraph 3.1 of their plan Torbay council state:

*“The Local Plan deals with much more than housing. However, meeting objectively assessed housing needs is an important test of soundness for the Local Plan. Torbay’s substantial environmental, infrastructure and market-capacity constraints mean that it is not able to accommodate its full Local Housing Need (LHN) as calculated by the December 2024 Standard Method (which at Autumn 2025 is 950 dwellings a year). The council has applied the Presumption in Favour of Sustainable Development (at paragraph 11(a-b) of the framework). It has sought to identify the best development strategy it is able to within the environmental, infrastructural and viability constraints it faces. It accepts that the proposed shortfall against LHN will require robust justification, which will be set out in a supporting Topic Paper.”*

- 2.3 In their plan they state that they seek to accommodate at least 400 homes a year, noting in paragraph 1.53 that this *“is around the long-term average achieved since 1980 and will require a significant uptick in urban regeneration and increased urban living.”* Notwithstanding the ‘at least’ reference this 400 figure is some way less than half (42%) of their standard method 950 a year requirement. To make up the shortfall, and although Torbay do not quote numbers, it may be readily inferred that the Torbay council position is that some or more likely all of the residual element of 550 new homes a year should be accommodated elsewhere in Devon. Leaving aside issues of whether 950 homes a year

could reasonably or acceptably be accommodated in Torbay the Council do not set out commentary around whether this number is statistically flawed. Nor do they seek to apply a case that says that there is not capacity in Torbay but the shortfall should **not** go elsewhere. Albeit to not seek agreement with other authorities over accommodating shortfalls leaves a plan making authority very vulnerable at Examination (though see commentary further in this report to Duty to Cooperate). It is better, therefore, for an authority if it believes it cannot accommodate its housing numbers to seek agreement with others, and document the fact, even if in due course the others do not actually agree to the request and challenge any logic that underpins it.

- 2.4 It is recognised that Torbay does face development constraints, though as a Council it is far from unique in this respect. It is also recognised that current standard method numbers for Torbay are high, specifically when compared to housing numbers that have gone before, and also are higher than those that our council previously commented on. They are though not unique in this respect. To date Torbay Council has not published a Topic Paper on housing numbers, as paragraph 3.1 of their plan advises they will.

### **3 Proposed comments on Previous objection to Torbay Council on housing numbers**

- 3.1 We have highlighted that East Devon District Council has already raised objection to Torbay Council in respect of the potential and lack of appropriateness for accommodation of Torbay housing in East Devon - [4. Response to Torbay Local Plan Consultation Nov 2022.pdf](#)
- 3.2 The position that previously applies remains the same now and as such it is not suggested that we substantively alter the response previously made. We set out below the recommended response to the Torbay plan consultation, with minor amendments from what went before.

#### **Text recommended by officers as the formal comment of East Devon District Council on the Torbay Plan**

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In making representation on the consultation of the Regulation 18 Torbay plan (November 2025) East Devon District Council recognise the challenges that are faced by Torbay in accommodating standard method housing numbers, but we would highlight that these challenges are not unique. East Devon also has substantial landscape, environmental and bio-diversity constraints as well as an extensive coastline and yet is seeking to meet its own housing needs even though this entails developing significant areas of green field land, including sites that fall in National Landscape designated areas and otherwise generate environmental challenges.

At this stage we remain unconvinced that all options for accommodating housing development in Torbay have been fully explored. As such we consider that further work

should be undertaken by Torbay Council before finalising any conclusions around accommodating housing needs.

We would encourage further discussion with Torbay and other planning authorities and in particular would stress the importance of consistency of approach to any work undertaken in respect of assessment of development options.

East Devon District Council specifically consider that:

- a. Should Torbay Council accept the Government methodology for calculating housing need then they should firstly, and rigorously, examine every opportunity to accommodate this provision inside Torbay boundaries. From available evidence it appears that this exercise has not been undertaken to date (capacity concerns appear to be anecdotal rather than evidence led).
  - b. In exploring potential for housing development Torbay Council should be more active in identifying potentially suitable land for development, for example actively contacting land owners to encourage them to bring forward suitable sites for development and if necessary explore further options as a Council to seek to acquire land for development themselves in order to provide for housing needs.
  - c. Should Torbay Council regard it as appropriate to seek to accommodate Torbay needs in other planning authority areas, then they should ensure a consistent approach to reviewing the strategic logic for distribution of development and ensure site assessment work is undertaken in a compatible manner so that like for like comparisons are secured to inform possible site selections.
  - d. Should Torbay Council regard it as appropriate to seek to accommodate Torbay growth in other local authority areas then account should be taken of wider than just environmental site constraints considerations. Specific account should be taken of the impacts of accommodating people with ties to Torbay living in locations that might be remote from Torbay itself and account taken on whether remote locations will meet such peoples needs and also account taken of any adverse impacts, such as increased travel (with resultant carbon emission), that could result.
  - e. Before seeking to accommodate Torbay growth outside of Torbay, the Government housing requirement methodology and specifically its application in Torbay should be rigorously re-examined.
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## **4 Duty to Cooperate and its future**

- 4.1 In making comments on the Torbay Plan these are done so in the context of existing Duty to Cooperate considerations and their relevance in plan making. However, the current Duty to Cooperate may, in the near future, be dropped as a legal requirement in plan making. A written ministerial statement of the 27 November 2025 [Written statements - Written](#)

[questions, answers and statements - UK Parliament](#) advise of this in the context of the new plan-making system provided for by the Levelling-Up and Regeneration Act 2023. This could lessen the future burden in respect of cross-boundary considerations in plan making, including for plan's currently in production under the 'old-system'. However, the written ministerial statement does state:

*“Local planning authorities should continue to collaborate across their boundaries, including on unmet development needs from neighbouring areas, and we expect Planning Inspectors to continue to examine plans in line with the policies in the NPPF on ‘maintaining effective co-operation’.”*

- 4.2 The presumed abolition of the Duty to Cooperate has been highlighted as a change that should ensure less plans fail at Examination and can/should progress through to adoption. The matter being that meeting the duty is an absolute test an inspector has to apply, for a plan to proceed through examination, and is not a concern that can be addressed through an inspector's recommended plan changes. Though in line with the ministerial statement and very importantly in respect of coherent good quality plan making, there is and will remain a need to consider matters beyond administrative boundaries and to jointly work with neighbouring planning authorities.
- 4.3 Therefore, it is regarded as appropriate that we do continue to engage with other local planning authorities, including Torbay, and in the run up to and implementation of local government reorganisation this consideration potentially has a wider relevance.

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### **Financial implications:**

There are no direct financial implications identified within the report. (AB-12/12/2025)

### **Legal implications:**

There are no direct legal implications identified within the report (DH – 15.12.25 – 002533)