

Minutes

22 August 2018

Function Room, Brixham Town Hall

Forum Members Present:

Vice Chairman Adam Billings and 19 Forum members.

Guests Present i.e., from Torbay Council

4. David Watts (National Neighbourhood Planning Champion and Paignton Forum Chairman); Patrick Cope; Mike Dixon; and Robin Hill.

DRAFT MINUTES

1. Welcome and Apologies

- 1.1 Adam Billings (AB), Forum Vice Chairman, opened the meeting, asked everyone to sign in, and whether they had any interests to declare.
- 1.2 AB announced he, Cllr Richard Haddock (RH) and Roger Richards (RR) had all declared interests in (different) land.
- 1.3 Cllr Jackie Stockman (JS), Forum Chairman, attending family commitments up country. JS, Sue Dawes and Cllr Di Stubley sent apologies.

2. Approval of previous meeting minutes.

- 2.1 AB referred to the draft Minutes of 8 August 2017 meeting and outlined progress since then on the key items namely that the Forum meeting had been appraised of the proposed Plan and agreement it should be submitted. The plan had accordingly been submitted. He proposed the minutes be approved, be published on the website, and with any person not present who disagreed with the minutes having the opportunity to raise this within 14 days of publication. There was consent to this approach.

3. Report on progress so far and the key recommendations made by the Examiner.

Progress so far

- 3.1 AB confirmed the Plan had been submitted to Torbay Council in August 2017. Following this, Torbay Council launched a consultation ending in December 2018 in accordance with the relevant regulations.
- 3.2 Torbay Council had also launched a bespoke procurement process, against Forum advice, to find 3 suitable Examiners. The bespoke procurement failed.

- 3.3 Torbay Council then used the standard NPIERS procurement, as recommended by the Forums. 2 NPIERS Examiners with suitable experience of large plans were available within the time frame.
- 3.4 The Examiners were contracted by Torbay Council and agreed by the relevant Forum. Mr Nigel McGurk was selected as the Examiner for the Torquay Neighbourhood Plan, and Mrs Deborah McCann for the Paignton and Brixham Neighbourhood Plans.
- 3.5 The 3 Plans were then examined using 3 different procedures. For the Torquay plan there was a formal Hearing in public on 14 May 2018. For the Paignton Plan there was an Exploratory Meeting in public on 10 May 2018. For the Brixham Plan it was by written correspondence only. All 3 Examiner reports were now available on the Council website.
- 3.6 The next step, as per the process in Schedule 4B to the 1990 Town and Country Planning Act, will be for the Council to consider each of the Examiner's recommendations. The Council then has to decide either to accept the decisions as recommended, or, due to new evidence, a new fact or a different view taken as to a fact, whether to make a different decision to ensure compliance with the 'Basic Conditions' requirement. The special Full Council meeting where this will take place has so far been identified as 27 September 2018, but could change if the Forums and Council agree.

Key recommendations made by the Examiner

- 3.7 AB stated that he wished for the meeting to consider the recommendations made by the Examiner, especially the key recommendations.
- 3.8 Brian Payne (BP), working group member, explained that the working group had attempted to quantify the proportion of recommendations which did not amount to substantive alteration and found it was over 80%. He suggested the meeting could therefore best use time to concentrate on the key recommendations. There was general consensus to this approach.
- 3.9 AB explained there had been a series of 'reference group' meetings between representatives of all 3 Forums and Councillors and Officers. He expressed appreciation to Cllr Richard Haddock (RH) present, and Cllr Derek Mills not present, for their involvement in facilitating these meetings and getting joint working even though at the last meeting, on 8 August 2018, Officer's had not attended.
- 3.10 AB explained that at the last meeting the 3 Forums had identified 5 cross boundary issues of importance. AB proposed these be identified as a way of highlighting key recommendations. There was general consensus.
- 3.11 RH confirmed it is very necessary to get joint working and that a previous lack of joint working was a concern discussed in the Mayor's Executive, resulting in his being asked to assist the Planning Portfolio Holder Cllr Derek Mills and deputise at this very important time during holidays. RH explained there were

efforts to get joint working between Officers and the Forums. He thanked Cllr Mike Morey (MM), in attendance, for his support. He explained only that morning there had been a discussion involving David Watts (DW), National Neighbourhood Planning Champion and Chairman of the Paignton Forum, in attendance, regarding the 5 year land supply position and that there had been encouraging signs of the joint working as wanted.

- 3.12 DW explained the meeting that morning had been constructive and that through joint working it had been identified that limited Council resources meant it was agreed to prioritise the Neighbourhood Plan process in preference to updating the 5 year land supply. This because it was agreed by officers any 5 year land supply will become obsolete after the 27 September 2018 meeting; a revised NPPF and housing assessment has been published by the government; and there was more pressing Officer resource needed to complete the Neighbourhood Plan process.

1 of 5: Local Green Space ('LGS') disparities

- 3.13 AB explained advice received from one of the Forum's consultants had been to be conservative in terms of the number of LGS sites proposed.
- 3.14 In contrast, Torquay had proposed 100 sites and 98 have been accepted by the Examiner as meeting the LGS requirements. These included large sites (i.e., Cockington accepted at 270Ha). Although Paignton had proposed fewer sites, most were recommended to be accepted, some were recommended to be rejected as 'extensive tracts of land'. This included sites one-twentieth of the size of accepted Torquay sites (e.g, Primley Woods and Meadows rejected at 13 Ha).
- 3.15 Brixham proposed 15 LGS sites in Policy E4 and all but part of one site, the 1st and 18th holes of Churston Golf Course, have been accepted by the Examiner.
- 3.16 In relation to reasoning, the Examiner confirmed a test of development potential is not a valid test for LGS sites and the schedule approved of allocated housing is in excess of the requirement. However, a test of development potential then seems to have been applied to the Golf Course site because it is suggested the number of houses allocated might not be realised believing the NPPF requires sites allocated to be 'both deliverable and developable'.
- 3.17 Discussion queried whether using a test deemed invalid was lawful ?
- 3.18 AB suggested the question was not that simple. Having apparently used a test indicated to be invalid, the application of the test itself was of concern, because evidence the site had development potential appeared to be based on a one sentence statement by Officers. In contrast, there were 5 pages of detailed Forum evidence to the contrary. This evidence highlighted the same Officers had told the Local Plan Examiner the site had no development potential.

- 3.19 AB asked if there was a shared concern on the procedure adopted and the facts identified, and asked whether other's had alterative views. None were expressed.

2 of 5: Housing Occupancy

- 3.20 AB explained Brixham had been successful and secured an '*in perpetuity*' local occupancy restriction on all new affordable housing.
- 3.21 In contrast, both Paignton, and Torquay, had been unable to secure similar restrictions even though evidence supporting their policy proposals had been provided.
- 3.22 AB highlighted the Brixham evidence relied on was succinct and limited to 2 short paragraphs which explained that local work opportunities in agriculture and fishing were often low wage and local homes are needed for local people to maintain local industries.
- 3.23 AB queried whether Torbay Council would wish to explore whether the Brixham evidence could be applied to Paignton and Torquay because of the financial benefits that would result to the Council and community in the provision of affordable housing across all of Torbay. It was suggested from the floor the Council budget suffered because Children's Services was such a large component and was expanding at such a fast rate. If this was caused by families moving into the area, the Council could benefit from the occupancy restriction identified for Paignton and Torquay as well as Brixham.
- 3.24 Town Cllr David Giles (DG), expressed caution regarding making conclusions on why the Children's Services budget was expanding, suggesting it was not that simple.
- 3.25 AB confirmed the discussion was not suggesting what the reason was, merely indicating potential mitigation that merited consideration given the magnitude of the problem. This was accepted by DG and agreed.
- 3.26 AB proposed there was an opportunity on the facts identified for Torbay Council to make similar provision for Paignton and Torquay as already secured for Brixham and asked the meeting whether others had alterative views. None were expressed.

3 of 5: Approach to Policy Maps

- 3.27 AB explained that in Torquay, the Examiner has recommended the policy maps be included in the plan. In Paignton, following a request by Officers, it was recommended an overall policy map be included.
- 3.28 In Paignton, a different map recommended to be included by the Examiner for Policy PNP13 was that of the defined Local Plan Town Centre Shopping area only. This was smaller than the area shown in the submitted plan to be covered by the Policy PNP13, with the result the Paignton Harbour site which was intended to be included was in fact excluded.

- 3.29 In Brixham, following a request by Officers, it has been recommended by the Examiner that the submitted maps at 1:1250 scale were not big enough. This despite the maps being up to 4x the size of the Local Plan policy maps at 1:2500 and 1:5000 scale.
- 3.30 DW was concerned these issues were the result of the '*spraying*' of extensive objections during the Examination's without sufficiently considering the consequences.
- 3.31 Richard Ryl asked why Officers appeared to be acting independently and working against, rather than serving, the public.

4 of 5: Housing Requirements

- 3.32 AB reminded the meeting that Forum members might recall the extensive statements by Officers that the Neighbourhood Plans had to '*allocate*' sites. There was consensus to this recollection.
- 3.33 In Paignton, these statements had not been accepted. They had set out that the Local Plan requirement was to '*identify*' sites not '*allocate*' them. Further, having considered the need to identify sites there was no need to identify further sites as sufficient sites had already been identified in the Local Plan or been committed through planning applications granted. The Examiners' report recommended this view to be correct. AB explained this was his summary in his words, but DW indicated general agreement.
- 3.34 In Torquay, the Examiner had also confirmed there was no requirement for Neighbourhood Plans to allocate previously allocated sites. The report recommended that everything in the Local Plan for years 1 to 6 in Torquay had been '*allocated*' correctly.
- 3.35 In Brixham, the Examiner confirmed post modifications the Plan has allocated 685 homes compared to a Local Plan expectation of identifying 660. However, the Examiner also determined allocated sites had to be both '*deliverable and developable*' as apparently '*the NPPF was clear on this*'. AB explained the Forum had been unable to find where the NPPF apparently says this. The concern is seen to be important because the report suggests part of the Golf Course should not be designated as Local Green Space because the housing allocation might not be achieved but with no evidence given to justify the conclusion in preference to the evidence supplied.
- 3.36 Ian Russell (IR), queried if this had been raised with the Examiner.
- 3.37 AB explained that Examiner reports were provided in draft first for 'fact checking' and the Brixham report had been through 2 separate fact check stages with 2 fact check drafts published to the Council and Forum in accordance with requirements. He confirmed the Forum had challenged the Examiner in the comments returned but the matter remained unresolved.
- 3.38 Brian Harland (BH), working group member, developed the point to explain the wider concern regarding the revised policy text at Policy BH3 regard to the

unqualified support extended for the strategic policies of the Local Plan, as recommended by the Examiner. This was supported by BP.

5 of 5: HRA (Habitats Regulation Assessment)

- 3.39 AB explained the next point involved Policy BH3 and declared an interest and declined to take part, and passed the role of the meeting Chairman to BP.
- 3.40 BP explained there was an issue as the Examiner had recommended changes to the way Habitats were provided for in the plan at Policy E8 and Policy BH3. He explained that because of remaining uncertainty on Habitats, every site allocation was made conditional on further Ecology surveys at 'project' stage, which in plain language means planning application stage. However because of the same remaining uncertainty one site, Waterside Quarry, has been excluded. He explained the reasons for the approach were unclear having regard to the evidence presented and appeared to be inconsistent.
- 3.41 Pat Cope (PC), guest, stated it was his view the Forum were trying to put Waterside Quarry back in the plan and this was not acceptable. He stated the Forum needed to consider the views of the local residents who were strongly opposed to Waterside Quarry.
- 3.42 A discussion followed. BP and Roger Richards (RR) confirmed that in the Plan the Forum had taken account of all feedback and this included the view of the local residents. The issue was not about putting the site back in, but rather resolving the conflict in the way different sites had been dealt with seemingly inconsistently.
- 3.43 Mike Dixon (MD), guest, stated that 20% of the room comprised representatives of the Waterside Residents Association. He explained this was a properly constituted association, that it did in fact exist, and that it was wholly opposed to allocating Waterside Quarry. He also asked why Forum Chairman Jackie Stockman was not present.
- 3.44 RH clarified there had been a family bereavement.
- 3.45 PC asserted that the views of local residents were not being listened too. He explained his view the land had been disposed of as amenity land by the Council and it was not for building on and that this had been confirmed to him by 'the Council's Head of Assets, Liam Montgomery'.
- 3.46 RH clarified Liam Montgomery worked for the TDA not Torbay Council.
- 3.47 DW noted the conflict had been properly addressed. The Examiner had agreed the consultation had met requirements and noted that not all information presented by residents was valid to the process involved. He observed AB had not partaken and that was why in this case the role of meeting chairman had quite properly been passed to BP. He concluded the meeting should refer back to the Examiners' report as the issues being discussed had been considered by the Examiner and the reason relied on by the Examiner was Habitats evidence and that was the relevant point for consideration.

- 3.48 BP and RR confirmed that AB had not taken part in Forum discussions regarding Waterside Quarry. Regarding not listening to local residents, RR queried if there was such a strength of feeling why, when the process had been going on for over 5 years, people had not got involved at an earlier stage.
- 3.49 Disparaging remarks were made towards the entire Forum. However, the views expressed were not supported by the majority of persons present.
- 3.50 RH stated such remarks were inappropriate.
- 3.51 PC decided to leave the meeting. MD explained the problem was that local residents did not feel they were being listened to. He explained the Waterside Residents Association had '*scrutinised*' the information of the Forum regarding the site and much of it was considered to be defective. A discussion followed during which Robin Hill left the meeting.
- 3.52 Carole Box (CB) noted that Waterside Quarry had been considered in detail in plan preparation over a 5 year period. She explained, that representing CPRE, she had opposed the site allocation and could clearly recall packed meetings with 50 plus people in attendance where she was the only person with that view. She queried why the local residents had not got involved.
- 3.53 MD explained his concern that local residents had not been properly informed and that they had been '*confused*' by the reference to Brixham when they did not consider they lived in Brixham. Further points were made about the local residents not being listened to.
- 3.54 Christine Batten (CB2) reminded the meeting that all local residents in Churston Galmpton and Broadsands area receive a copy of "The Gazette" magazine, published 4 times per year and that in almost every edition there is at least one article drawing attention to the Neighbourhood Plan process.
- 3.55 MD confirmed he did receive "The Gazette" but it was difficult for people to attend meetings to keep informed, using the example he spent half the year overseas. He said the problem in his view was that the Forum did not maintain adequate published Minutes. He said he had asked for all Minutes to be published but was still awaiting this.
- 3.56 DW again referred the discussion back to the Examiners' report which had considered the issues being discussed but it was the Habitats issue which was the basis for the Examiner's recommendation to remove the site, and hence again stressed it appeared to be the most relevant point for consideration.
- 3.57 Alan Jeavons (AJ) indicated that in relation to the point by CB, he had on one occasion recorded his objection to the Waterside Quarry site at a meeting and asked what happened to his comment.
- 3.58 RR assured AJ that all comments were taken account of during plan preparation stages and that all consultation comments were detailed in the Consultation Statement.

3.59 AB reminded the meeting that he had previously circulated an Agenda prepared by him as Vice Chairman with the Forum Chairman. As it was now 8:45p.m. the meeting had a choice it could either continue to discuss Waterside Quarry, an item which had been discussed in detail for three quarters of an hour, or continue with the remaining Agenda. He proposed BP as acting meeting Chairman put that to a vote.

3.60 BP held a vote. RH, MM and MD abstained. The clear majority wanted to continue with the Agenda listed.

4 Update on the Brixham Town Council meeting of 9 August 2018.

4.51 The role of meeting Chairman passed back to AB.

4.52 AB explained he had attended the Brixham Town Council meeting to provide an update on progress. He thanked the Council for the interest shown and the detailed level of their discussion. He explained the Council had: *'resolved to support the Forum to continue its work and where necessary challenge the Examiners recommendations and thanked the Forum for its hard work'*.

4.53 AB said he was recalling the motion from memory and asked DG whether his summary was 'broadly correct'. DG agreed it was.

5 Timetable and next steps

5.51 AB noted the earlier discussion had raised a number of controversial issues. Included amongst these was a concern about the Forum's decision making. He noted the role of the meeting was to consider next steps. AB identified he and the Chairman had called the Forum meeting because in their view having considered the issues, they had concluded the Forum would benefit from further external advice. He noted there was a remaining budget of circa £15,000 which could fund external advice, but there was a need for the Forum to decide if the expenditure was appropriate. He suggested, particularly in light of the concerns just expressed about the Forum's decision making, there was an even greater reason to seek external advice.

5.52 MM queried the timescales of the advice and whether it was proposed this would be in time to inform the Council decision meeting proposed for 27 September or whether the advice would be received after. MM expanded this question into a wider point about the importance of preparing for the 27 September meeting.

5.53 AB indicated he had anticipated the advice could be both before and after but having input prior was important.

5.54 IR and RR made points about the need to get appropriate advice.

5.55 RR proposed and BP seconded a proposal that *'the Forum provide the working group delegated authority to use the budget to obtain advice as appropriate subject to leaving sufficient funds for next stages'*.

- 5.56 BH explained he considered there was a need to get Liz Beth's input on the interpretation of policies. AB noted the proposal put was a general one that did not specify the exact advice sought and this enabled the working group to sensibly refine this further. BH indicated he was happy with this.
- 5.57 The proposal was voted on. The result was 13 for, 2 against, 5 abstentions. RH asked the abstentions be recorded and were: RH, MM, AB, DW, DG.
- 5.58 AB explained the meeting was that of the Forum in public and not a public meeting. He asked MD, whether having raised his hand to vote, but not had his vote counted as a Forum member, whether he wished to join the Forum.
- 5.59 MD indicated he '*wasn't sure*' for now and asked who was making notes for the Minutes. AB confirmed he was taking notes and invited MD to send him his own notes on e-mail if he so wished. CB2 volunteered she had also been taking notes and would assist AB.
- 5.60 AB explained the next matter was to set a date for the next meeting. The meeting he said needed to balance the need to keep everyone informed and included whilst recognising time was tight between now and 27 September.
- 5.61 RR proposed the date be set by the working group and advertised in the normal way. There was general consensus to this.
- 5.62 AB confirmed that in the interim he would ensure the minutes were made available as requested by MD and closed the meeting.

DRAFT MINUTES
