

# **Teignmouth Neighbourhood Plan**

## **Submission Version 2018 – 2033**

**Report of Examination**

**February 2024**

**Undertaken for Teignbridge District Council with the support of  
Teignmouth Town Council on the submission version of the plan.**



**Independent Examiner:**

Liz Beth BA (Hons) MA Dip Design in the Built Environment MRTPI

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### **Abbreviations used in the text of this report:**

The Teignmouth Neighbourhood Plan is referred to as ‘the Plan’ or ‘TNP’.

Teignmouth Town Council, the qualifying body, is abbreviated to the ‘Town Council or QB’.

Teignbridge District Council, the local planning authority, is abbreviated to ‘Teignbridge DC or LPA’.

The National Planning Policy Framework is abbreviated to ‘NPPF’.

The National Planning Practice Guidance is abbreviated to ‘NPPG’.

The Teignbridge Local Plan 2013-2033 is abbreviated to ‘TLP2014’.

The key Neighbourhood Plan Regulations are abbreviated to ‘Reg14’ and ‘Reg16’ respectively.

Habitat Regulation and Strategic Environmental Assessment are abbreviated to ‘HRA’ AND ‘SEA’.

## Summary

- I have undertaken the examination of the Teignmouth Neighbourhood Plan during January 2024 and detail the results of that examination in this report.
- The Town Council have undertaken extensive consultation on this Plan, and it complies with legislative requirements. The Plan provides a good, locally relevant development plan for the town. The Teignbridge Local Plan, currently at an advanced stage of review, provides a comprehensive strategic policy framework.
- I have considered the comments made at the Regulation 16 Publicity Stage, and where relevant these have to an extent informed some of the recommended modifications.
- Subject to the modifications recommended, the Plan meets the basic conditions and may proceed to referendum.
- I recommend the referendum boundary is the designated neighbourhood plan area.

**Acknowledgements:** Thanks to Local Authority and qualifying body staff for their assistance with this examination. My compliments to the local community volunteers and Teignmouth Town Council, who have produced a comprehensive and well-evidenced Plan.

# 1. Introduction and Background

## 1.1 Neighbourhood Development Plans

1.1.1 The Localism Act 2011 empowered local communities to develop planning policy for their area by drawing up neighbourhood plans. For the first time, a community-led plan that is successful at referendum becomes part of the statutory development plan for their planning authority.

1.1.2 Giving communities greater control over planning policy in this way is intended to encourage positive planning for sustainable development. The National Planning Policy Framework (NPPF para 29) states that:

“neighbourhood planning gives communities the power to develop a shared vision for their area. Neighbourhood Plans can ... help to deliver sustainable development”.

Further advice on the preparation of neighbourhood plans is contained in the Government’s Planning Practice Guidance website:

<http://planningguidance.planningportal.gov.uk/blog/guidance/neighbourhood-planning/>

1.1.3 Neighbourhood plans can only be prepared by a ‘qualifying body’, and in Teignmouth parish that is the Teignmouth Town Council. Drawing up the Neighbourhood Plan was undertaken by a Steering Group, working to the Town Council with the assistance of Stuart Todd Associates.

## 1.2 Independent Examination

1.2.1 Once the Town Council had prepared their neighbourhood plan and consulted on it, they submitted it to the LPA. After publicising the plan with a further opportunity for comment, Teignbridge DC were required to appoint an Independent Examiner, with the agreement of Teignmouth TC to that appointment.

1.2.2 I have been appointed to be the Independent Examiner for this Plan. I am a chartered Town Planner with over thirty years of local authority and voluntary sector planning experience in development management, planning policy and project management. I have been working with communities for many years, and have supported many groups producing neighbourhood plans. I have undertaken over 30 neighbourhood plan examinations to date. I am independent of any local connections to Teignmouth and Teignbridge DC, and have no conflict of interest that would exclude me from examining this plan.

1.2.3 As the Independent Examiner I am required to produce this report and recommend either:

- (a) That the neighbourhood plan is submitted to a referendum without changes; or
- (b) That modifications are made and that the modified neighbourhood plan is submitted to a referendum; or
- (c) That the neighbourhood plan does not proceed to a referendum on the basis that it does not meet the necessary legal requirements.

1.2.4 The legal requirements are firstly that the Plan meets the 'Basic Conditions', which I consider in sections 3 and 4 below. The Plan also needs to meet the following requirements under Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990:

- It has been prepared and submitted for examination by a qualifying body;
- It has been prepared for an area that has been properly designated by the Local Planning Authority;
- It specifies the period during which it has effect;
- It does not include provisions and policies for excluded development;
- It does not relate to land outside the designated neighbourhood area.

The Teignmouth Neighbourhood Plan (TNP) complies with the requirements of Paragraph 8(1). The Neighbourhood Area was designated on 13<sup>th</sup> February 2013 by Teignbridge DC. The plan does not relate to land outside the designated Neighbourhood Area. It specifies the period during which it has effect as 2018 – 2033 and has been submitted and prepared by a qualifying body and people working to that qualifying body. It does not include policies about excluded development; effectively mineral and waste development or strategic infrastructure.

1.2.5 I made an unaccompanied site visit to Teignmouth to familiarise myself with the area and visit relevant sites and areas affected by the policies. This examination has been dealt with by written representations, as I did not consider a hearing necessary.

1.2.6 I am also required to consider whether the referendum boundary should be extended beyond the designated area, should the Plan proceed to a referendum. I make my recommendation on this in section 5 at the end of this report.

### **1.3 Planning Policy Context**

1.3.1 The Development Plan for Teignmouth, not including documents relating to excluded mineral and waste development, is the Teignbridge Local Plan 2013-2033. I am advised by the LPA that strategic policies in the Local Plan are S1A and S1-S25 (pages 13-39).

1.3.2 The National Planning Policy Framework 2023 (NPPF) sets out government planning policy for England, and the National Planning Practice Guidance (NPPG) website offers guidance on how this policy should be implemented. I am referring to the December 2023 version of the NPPF for numbering purposes, but the TNP was submitted before the September 2023 revised version of the NPPF had been released. The revised NPPF of Dec 2023 does not allow for neighbourhood development plans to be examined under previous versions of the NPPF, so that this examination will use the Dec 2023 version of the NPPF despite the fact that it has been issued after the TNP was submitted to the LPA. Fortunately the changes to the NPPF are not directly relevant to this Plan, so although references to paragraphs in the NPPF will need updating to the Dec2023 version, the policy environment for the purposes of this examination has not significantly changed.

1.3.3 During my examination of the TNP I have considered the following documents:

- National Planning Policy Framework (NPPF) Dec 2023
- National Planning Practice Guidance 2014 and as updated
- Town and Country Planning Act 1990 (as amended)
- Planning and Compulsory Purchase Act 2004
- The Localism Act 2011
- The Neighbourhood Planning Regulations 2012 (as amended)
- Written Ministerial Statement March 2015
- Historic England Advice Note 7 (2<sup>nd</sup> edn): Local Heritage Listing 2021
- Submission version of the Teignmouth Neighbourhood Plan
- The Basic Conditions Statement submitted with the TNP
- The Consultation Statement submitted with the TNP
- The Strategic Environmental Assessment Screening Decision for the TNP
- The HRA Screening for Appropriate Assessment Report for the TNP
- Neighbourhood Area Designation (map)
- Teignbridge Local Plan 2013 – 2033: Adopted May 2014
- Teignbridge Local Plan 2020 – 2040 Proposed Submission Addendum version Nov2023
- Representations received during the publicity period (reg16 consultation)

## 2. Plan Preparation and Consultation

### 2.1 Pre-submission Process and Consultation

2.1.1 The town of Teignmouth is located on the south coast of Devon and, as the name suggests, on the estuary of the River Teign. Dartmoor, where the River Teign rises, is to the west, beyond Newton Abbot - which is about 5 miles west of Teignmouth. Exeter is 11 miles to the north of the town.

2.1.2 A Steering Group, organised the work of developing the Plan, beginning work a few years after the neighbourhood area was designated. Planning Consultants were engaged, and were available to advise on consultation process throughout. The Steering Group comprised both town councillors and volunteers from the local community. The Town Council prioritised consultation from the start of the process, and set up a dedicated web page on their website and used social media. The pandemic caused some delay, but a comprehensive programme is detailed in the Consultation Statement. Continued efforts to include feedback from a range of stakeholders is evident, including a survey aimed at young people.

2.1.3 As required by regulation 14 of the Neighbourhood Planning Regulations 2012, the formal consultation for six weeks on the pre-submission Teignmouth Draft Neighbourhood Plan ran from Wednesday the 5<sup>th</sup> July to Saturday the 19<sup>th</sup> August 2022. The draft Plan, response form and plan summary were available on the website, and some paper copies were also available to view. Besides statutory consultees, all on the neighbourhood email list were advised of the consultation. Social media, a newspaper article and posters were used for publicity, as well as the services of the Town Crier!

2.1.4 Twenty six Representations were received during the Reg14 consultation. 12 from local residents, 12 from statutory bodies and 2 from a local business and a landowner during the Reg14 consultation period. The twelve statutory responses include several from different sections of institutions such as the County Council. Several amendments have been made to the Plan as a result of constructive suggestions for changes. I am satisfied that due process has been followed during the consultation undertaken on the Plan. The Consultation Statement details all consultation activities, and the record of comments and objections received during the regulation 14 consultation shows that these were properly considered, and where appropriate resulted in amendments to the plan to accommodate points raised.

2.1.5 As required, the amended plan, together with a Basic Conditions Statement, a Consultation Statement, the SEA and HRA Screening Opinion Reports and a plan showing the neighbourhood area was submitted to Teignbridge DC on the 2<sup>nd</sup> September 2023.

## **2.2 Regulation 16 Consultation Responses**

2.2.1 Teignbridge DC undertook the Reg 16 consultation and publicity on the TNP for six weeks, from Wednesday the 4<sup>th</sup> October 2023 to Wednesday the 15<sup>th</sup> November 2023. Seventeen representations were received during this consultation, nine from statutory consultees, including two from Devon CC. Other comments came from residents and from planning consultants for a local landowner. Issues they raise that are pertinent to my consideration of whether the Plan meets the basic conditions are considered in sections 3 and 4 of this report below.

2.2.2 I am specifically limited by legislation to correcting with recommended modifications the Plan's compliance with the Basic Conditions and other legal requirements. One response suggested that the Plan should have allocated a site for residential development. The site suggested however is not within the parish of Teignmouth, the designated neighbourhood area, and so could not be considered in this neighbourhood plan - as explained in para 1.2.4 of this report above. I have not considered this submission further therefore.

2.2.3 Notification of minor corrections needed to the text are very useful, but again cannot be the subject of any modifications I recommend as they are not Basic Condition issues. The LPA will be aware however that it is authorised to correct minor errors that may have been missed so far [Town and Country Planning Act 1990 Schedule 4B section 12(6)].



### 3. Compliance with the Basic Conditions Part 1

3.1 General legislative requirements of the 1990 Town and Country Planning Act (TCPA) other than the Basic Conditions are set out in paragraph 1.2.4 above. The same section of this report considers that the TNP has complied with these requirements. What this examination must now consider is whether the Plan complies with the Basic Conditions, which state it must:

- Have regard to national policies and advice contained in guidance issued by the Secretary of State;
- Contribute to the achievement of sustainable development;
- Be in general conformity with the strategic policies of the development plan for the area;
- Be compatible with and not breach European Union (EU) obligations and comply with human rights law; and
- Not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017 (*prescribed basic condition since December 2018*).

3.2 The Basic Conditions Statement includes an audit of how each of the Plan's policies promote the social, economic and environmental goals of sustainable development as defined in the NPPF and the TLP2014. Most of the policies are assessed as having a positive or neutral impact on sustainability, with two of the transport policies only having a negative environmental impact, and neutral or positive social and economic impacts. I accept the assessment that the Plan does contribute to sustainable development in line with the Basic Conditions.

3.3 Screening opinions have been issued by the LPA, which consider whether Strategic Environmental Assessment (SEA) and Habitat Regulations Appropriate Assessment (HRA) are required for the TNP. These environmental requirements are incorporated into UK law by the Environmental Assessment of Plans and Programmes Regulations 2004, and implement the main EU Directive that neighbourhood plans still need to comply with. The SEA Screening opinion has been revised, after the Plan had incorporated comments received at the Reg14 stage from Historic England. Historic England felt prior to the Plan revisions that a full SEA should have been undertaken, but with post-Reg14 amendments the LPA has still concluded that:

- SEA is not required as the plan in its current form is not likely to have significant environmental effects;

The HRA Screening for Appropriate Assessment concludes that:

- Further HRA is not required because the TNP has no potential significant effects upon European sites.

I accept therefore that relevant EU Directives have been complied with.

3.4 The TNP in my view complies with Human Rights Legislation. It has not been challenged with regard to this, and the consultation statement stated a commitment to gather views from all regardless of their status and any protected characteristics (Section 5 page 6). The consultation process was extensive, despite the intervention of the pandemic restrictions during the process.

## 4. Compliance with the Basic Conditions Part 2: National Policy and the Development Plan

4.1 The final and most complex aspect of the Basic Conditions to consider is whether the TNP meets the requirements as regards national policy and the development plan. This means firstly that the Plan must have regard to national policy and guidance, which for this neighbourhood plan is the NPPF 2023 and the NPPG. Secondly the Plan must be in general conformity with the strategic policies of the development plan. The phrase 'general conformity' allows for some flexibility. If I determine that the Plan as submitted does not comply with the Basic Conditions, I may recommend modifications that would rectify the non-compliance.

4.2 The Plan and its policies are considered below in terms of whether they comply with the Basic Conditions as regards national policy and the development plan. If not, then modifications required to bring the plan into conformity are recommended.

Modifications are boxed in this report, with text to *remain in italics*, new text **highlighted in Bold** and text to be deleted ~~shown but struck through~~. Instructions for alterations are underlined.

4.3 The Plan is generally well laid out with clear maps and some illustration. Occasionally a Policy runs over two pages unnecessarily, a practice best avoided. Although I can see why Community Projects have been listed at the end of each policy section, the NPPG (ID:41-004-20190509) is clear that issues that are not land-use should not be included within the main policy document. In order that the TNP complies with the Basic Conditions and has due regard to government guidance therefore, I recommend this aspect of the layout is amended as stated in Modification 1.

**Modification 1:** The Community Projects listed in the Plan to be removed from their current locations in the policy document. Their inclusion in Appendix C of the Executive Summary is in order, and could be referenced in the policy document proper.

4.4 **Policy BE1: Heritage and the Historic Environment** Devon County Council have suggested that the policy makes it clear that these heritage assets should form a local list for the town. The LPA agree with this proposal. English Heritage advise (advice note 7 2<sup>nd</sup> edition – page 2) that neighbourhood plans can be a vehicle for designation of heritage assets suitable for local listing status if based on sound evidence and assessment criteria, reflecting guidance in the NPPG. The

TNP evidence base includes a report on heritage assets that complies with these requirements, and is supported by work done by the LPA on Conservation Area Appraisals. As local listing status for assets listed in the policy is supported by the LPA and Council Council, I consider this policy can legitimately designate the identified assets as forming a local list of heritage assets for Teignmouth.

4.4.1. The NPPF is clear (para 195) that heritage assets should be conserved in proportion to their acknowledged importance and status. As Policy BE1 is specifically dealing with assets of local significance, it is not appropriate to include reference to nationally listed assets within it, as they will have a greater level of protection. The reference to the identification of the assets in the first paragraph of policy BE1 is vague with reference to the maps, and this needs tightening up to have the clarity required of development plans in the NPPF (para 16d). Also for clarity, the policy will make it clear that this is a local list for Teignmouth as I am advised there is no current local list for the district that they can be added to. In order that Policy BE1 complies with the Basic Conditions and pays due regard to government guidance and policy, I recommend it is amended as set out in Modification 2.

**Modification 2:** Policy BE1 to be amended as follows:

Policy BE1: Heritage and the Historic Environment **Local List**

1. *In addition to existing listed buildings and scheduled monuments, development proposals (including alteration and refurbishment) affecting the following local heritage assets and their setting (identified in the Local Heritage Assets Report Dec2022 and where possible ~~most of which are identified on Maps 7 and 8, pages 27 and 28 of this plan~~) will take account of their significance, character, setting and local distinctiveness:*

*i) Fisherman's Light, Back Beach; ... and all in the list as currently shown ....*

2. *Where relevant, proposals affecting these local ~~and other nationally recognised~~ heritage assets and / or their settings should ~~take into account adopted Conservation Area Appraisal(s) and the Historic Environment Record and are encouraged to~~ have regard to additional local evidence documenting local historic and heritage assets **including the Conservation Area Appraisal documents and the Historic Environment Record.***

3. *Proposals for changes and alterations to shopfronts with a recognised heritage value should be framed by and respond positively to policy TCR3: Active Shopfronts.*

4. ~~The Town Council will work with Teignbridge District Council to secure these locally recognised heritage assets form the designation on the Local Authority's local list for Teignbridge~~ **and may be added to in future reviews of this plan or by Teignbridge District Council.**

**4.5 Policy BE2: High-quality Design** The Policy is drawing in guidance from the Teignmouth Design Code, an evidence base drawn up for the Plan, and is generally well framed to do this. There are a few points where minor textual alterations are required however in order that the Plan meets the Basic Conditions. In bullet iii) the reference should be to ‘unacceptable’ adverse impact, as there is always likely to be a minor impact and requiring no impact would put an unacceptable burden on development and delivery contrary to government guidance in the NPPG (ID 41-005-20190509).

4.5.1 In Bullet v) there is a requirement that provision for pedestrians and cycles be segregated. This however is a highway issue not a land-use issue, and neighbourhood plans can only deal with land-use issues (NPPG ID 41-004-20190509). It is a fine point, the provision of a path is a land-use issue, but whether it is segregated or not is determined by highway law and requirements.

4.5.2 Design requirements in the policy have been criticised in the Reg16 comments for being ambiguous. The policy is quite prescriptive about requirements for design review, however the emerging Teignbridge Local Plan is proposing similar requirements and has some planning weight now that it will shortly be submitted to the Secretary of State. I am content that with the proposed minor changes the policy will meet the Basic Conditions and be in general conformity with the development plan and have due regard to government guidance. I recommend therefore that it is amended as set out in Modification 3:

**Modification 3:** Policy BE2 to be amended as follows:

Bullet iii) to read as follows: “*have no **unacceptable** adverse impact on the amenity of .....*”

Bullet v) to read as follows: “*..... and provide ~~segregated,~~ direct, safe routes to enable good connectivity...*”

**4.6 Policy BE3: Sustainable Design** The Policy is repeating requirements of the Building Regulations in bullet vii) and is effectively requiring higher standards of energy efficiency than those in the Building Regulations in bullet viii). Repetition of non-land-use regulatory requirements in policy is not acceptable in a development plan, which can only engage with landuse issues (NPPG ID 41-004-20190509). A policy in a neighbourhood plan can encourage higher standards of energy efficiency, but the Ministerial Statement of March 2015 is clear that neighbourhood plans may not require higher standards than those of the current building regulations, as they would effectively be

'local technical standards'. As presently worded bullet viii) is requiring higher standards, with the use of the word 'should' in the first paragraph. In order that Policy BE3 complies with the Basic Conditions, and pays due regard to government policy and guidance, I recommend it is amended as shown in Modification 4.

**Modification 4:** Bullet vii) to be deleted.

Bullet viii) delete existing text and substitute the following: “Consider if and how statutory requirements for the energy efficiency of buildings may be exceeded;”

Bullets to be renumbered as required.

**4.7 Policy BE4: Location of New Development** The policy has been criticised for being unclear as to which sort of development is being referred to. However I do not find there is a lack of clarity to the degree that the Basic Conditions have not been met. The settlement boundary is not just concerned with residential and employment development. The first sentence would be more accurate if it read “... *where most new homes and other development should be focused*” and could be tidied up grammatically in other ways, but this is a minor correction. The policy complies with the Basic Conditions.

**4.8 Policy BE5: Civic Spaces and the Public Realm** Complies with the Basic Conditions.

**4.9 Policy BE6: Flood Risk** The Plan outlines well the particular vulnerability of Teignmouth to flooding from varying sources. Bullet 3 of this policy requires development to contribute to reducing the overall flood risk of the town. It is reasonable to require development in the flood plain to not increase local flood risk, as the first sentence of the policy requires. However it is not reasonable for any development to be expected to improve conditions outside of the proposed development’s boundary that it does not offer any increased threat to. In areas susceptible to flooding it may be that measures may be required beyond the development’s boundary in order to ensure the development does not increase flood risk, and it is legitimate for Policy BE6 to mention this as a

possibility. In order that Policy complies with government guidance on policy deliverability (NPPG ID 41-005-20190509) I recommend it is amended as shown in Modification 5.

**Modification 5:** Bullet 3 of Policy BE6 to be amended as follows:

~~3. Within the context of national and Local Plan policies pertaining to flood risk, Where necessary development is proposed in the floodplain, in addition to being safe from flooding over its lifetime, development may be required to implement measures at other locations in the neighbourhood area in order that it does not increase~~ **development must also contribute to reducing the overall flood risk of the town.**

**4.10 Policy BE7: Protecting Local Amenity.** As for Policy BE2 above, the reference to adverse impact will need to qualify this to be 'unacceptable' impact, in order that guidance in the NPPG is followed and the Basic Conditions complied with. I therefore recommend Policy BE7 is amended as shown in Modification 6.

**Modification 6: The first sentence of Policy BE7 to read as follows:**

*"Where relevant, development proposals will need to demonstrate that they do not introduce uses which have an **unacceptable** adverse impact on local amenity enjoyed ...."*

**4.11 Policy HO1: Engaging with the Community on Major Housing Proposals** Complies with the Basic Conditions.

**4.12 Policy HO2: Flats Above Retail and Other Town Centre Premises** The requirements for parking have been described as too onerous, however I consider the wording to be flexible enough to allow for consideration of the particular needs and circumstances of the town centre, and the possibility of alternative arrangements for access to private vehicles. The policy complies with the Basic Conditions.

**4.13 Policy HO3: Annexes to Dwellings** The LPA has concerns about bullets i) and ii), and I share these concerns. The design criteria of i) are not always going to be consistent with Policy WE8 of the TLP2014, which stipulates that overbearing impact on the street scene is to be avoided. The prescriptive nature of bullet ii) goes beyond the definition of a single household in the Use Classes Order, and would restrict beyond that legislation who may legitimately occupy an annex that was ancillary to the dwelling house. A policy document cannot change legislation, and conditions to implement such a policy would not comply with the NPPF (para56) requirement that planning conditions are enforceable and reasonable. In order that Policy HO3 is in general conformity with the development plan for Teignbridge, and pays due regard to government policy, and thus complies with the Basic Conditions, I recommend it is amended as shown in Modification 7.

**Modification 7:** Bullet 1 i) of Policy HO3 to be amended as follows:

*i) are developed as infill, ~~located between existing dwellings rather than in back gardens and include separate driveways, or,~~ where located within the curtilage of an existing dwellinghouse, applicants should provide an analysis of the proposal's plot size and building footprint in relation to dwelling density and garden areas in the surrounding area to demonstrate that the character of the built environment will not be eroded;*

Bullet 1 ii) of Policy HO3 to be deleted. Bullet 1 iii) to become bullet 1 ii).

**4.14 Policy SLR1: Local Green Space** Once designated, Local Green Space (LGS) will have a similar level of protection to the green belt, and will not be acceptable for development should an alternative site be provided. LGS is special because it is not replaceable, and criteria 3iii) is therefore contrary to government policy in the NPPF (para 107). Additionally legal decisions have decided that LGS designation policies that are too restrictive concerning development are contrary to government policy in the NPPF where they increase protection beyond that afforded to Green Belts. Para 107 of the NPPF states that policies for managing development in a LGS should be consistent with those for Green Belts.

4.14.1 There are identified sites included in this policy and Policy SLR2 which protects existing sport, leisure and recreation facilities. Given the extra level of protection given to LGS, it is not internally consistent to designate a facility as LGS and also as a recreation facility with less protection in Policy SLR2. I have visited the sites, and consider that the following sites designated in both policies should



remain only identified in Policy SLR2, being not special enough for the LGS designation but deserving of protection as a local sport and recreation facility:

- xviii) Teignmouth AFC Playing Field;
- xix) Teignmouth & Shaldon Cricket Club (Hazeldown Oval);
- xx) Teignmouth RFC Playing Field

The following sites have been proposed as LGS but are not in my view special enough in any of the attributes LGS needs to excel in, as defined in NPPF para 106. They are however suitable for protection as a leisure and recreation facility, and should be added to Policy SLR2. This is dealt with in Modification 9 below.

- x) Lower Kingsdown Road Play Area;
- xi) Milford Park;

4.14.2 In order that Policy SLR1 complies with the Basic Conditions and has due regard to government policy and guidance, I recommend it is amended as shown in Modification 8.

**Modification 8:** Policy SLR1 to be amended as follows:

Bullet 2 to include the following sites and be renumbered appropriately:

- Bitton Brook Park and Coombe Valley Nature Reserve;
- Bitton House Grounds;
- The Dell (East Cliff Park);
- The Den Green;
- Frobisher Wood;
- Kingsway Allotments;
- Kingsway Park;
- North of New Road;
- Mules Park (East Cliff Park);
- The Old Cemetery (East);
- The Old Cemetery (West);
- The Orchard (East Cliff Park);
- Paddons Lane Allotments;
- The Rowdens (East Cliff Park);
- Market Cross.

Bullet 3 to be deleted. Mapping to be altered in line with the amended Policy

**4.15 Policy SLR2: Improving Opportunities for Sports, Leisure and Recreation (Land and Water)**

Where I have considered that sites and facilities were not special enough for designation as a LGS, but they are important to local residents including young ones, I am recommending that they are added to assets identified in this policy. In order that sites are properly identified as either LGS or recreational assets, and comply with government policy in the NPPF, I recommend that Policy SLR2 is amended as shown in Modification 9.

**Modification 9:** The identified sites in bullet 1 of Policy SLR2 to additionally include the following sites and Map 14 to be amended accordingly:

- Lower Kingsdown Road Play Area;
- Milford Park.

**4.16 Policy SLR3: Marine-related Activities** Complies with the Basic Conditions.

**4.17 Policy SLR4: Water Sports Centre** Complies with the Basic Conditions.

**4.18 Policy SLR5: Supporting Provision for a Multi-use, Multi-sports Indoor Community Space**  
Complies with the Basic Conditions.

**4.19 Policy COM1: Protecting Community and Health Facilities, Amenities and Assets** Complies with the Basic Conditions.

**4.20 Policy COM2: Maintaining and Enhancing Community and Health Facilities, Amenities and Assets** The policy requires that the use will continue in perpetuity for community use, and that viability is demonstrated as a condition of obtaining planning permission. Both of these bullet points exceed the powers of the planning system. Demanding perpetuity of use is contrary to the (human) right to change the use or ownership of a site in the future.

4.20.1 The viability of a proposal is also not an acceptable factor to take into account when deciding whether to grant planning permission or not. The viability of a proposal is protected in the NPPF from policies that threaten deliverability of schemes (para 34), and a developer may attempt to show with a viability assessment that a policy requirement renders the proposal unviable. Viability is an issue for planning where land-use policies may threaten it, but it is not a land-use issue in itself, and cannot be a requirement of development in a planning policy. It is legitimate to protect community facilities and assets from development, and require that non-viability is proven before any removal of the community use is allowed. Policy COM1 is doing this quite legitimately.

4.20.2. In order that Policy COM2 meets the Basic Conditions and pays due regard to government policy and the role of the planning system, I recommend it is amended as shown in Modification 10.

<b>Modification 10:</b> <u>Bullets ii) and iii) in Policy COM2 to be deleted and policy re-numbered.</u>
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**4.21 Policy COM3: Telecommunications** Complies with the Basic Conditions.

**4.22 Policy COM4: Safeguarding Land at Park Hill for Enhancements to Facilities for Children and Young People** This policy is attempting to regulate financial matters such as rent levels and the terms of leases via the planning system, which is not a land-use issue. Similarly, as discussed in para 4.20 above, demanding that a scheme be maintained in perpetuity is not a land-use issue (NPPG ID 41-004-20190509). In order that Policy COM4 complies with the Basic Conditions and has paid due regard to government guidance, I recommend it is amended as shown in Modification 11 below.

**Modification 11: Policy COM4 to be amended as follows:**

Bullet 1 to read: “1. The area adjacent to Park Hill, identified in Map 17, page 69, which includes existing children’s and young people’s facilities (including the Scouts’ and Sea Scouts’ Hut and Teignmouth Air Training Corps) will be protected from loss and opportunities taken to improve or replace provision on-site or elsewhere ~~with long term leases, at affordable rents to non-profit or charitable organisations~~”

Bullet 2 ii) to be deleted and policy re-numbered as required.

**4.23 Policy Policy COM5: Development of Facilities for Children and Young People** As discussed in para 4.20.1 of this report above, it is not the role of the planning system to oversee the financial viability of development proposals. In order that Policy COM5 complies with government policy and guidance and thus complies with the Basic Conditions, I recommend it is amended as shown in Modification 12.

**Modification 12:** Bullet 3 of Policy COM5 to be deleted.

**4.24 Policy COM6: Education and Learning Facilities** Complies with the Basic Conditions.

**4.25 Policy TCR1: Protecting and Enhancing the Pier** As discussed above, requiring viability to be demonstrated is not a legitimate part of assessing development proposals. In order that Policy TCR1 complies with the Basic Conditions and pays due regard to government policy and guidance I recommend it is amended as shown in Modification 13 below.

**Modification 13:** Bullet 2 of Policy TCR1 to be amended as follows:

*2. Proposals for the development, refurbishment and / or regeneration of the Pier to improve its quality and contribution to the local economy and leisure activities, on both the land and sea side, will be supported in principle where they demonstrate a positive contribution to the local economy and leisure offer.* ~~, through a business plan or other means of demonstrating viability, the long-term viability of the scheme as part of the planning application.~~

4.26 **Policy TCR2: Change of Use from Commercial to Residential Use in the Heart of the Town Centre** Complies with the Basic Conditions.

4.27 **Policy TCR3: Active Shopfronts** Complies with the Basic Conditions.

4.28 **Policy TCR4: Enhancing the Townscape and Civic Spaces with New Trees and Planting** A useful policy with specific local relevance. However, as discussed several times above, the policy cannot engage with the viability of the proposed tree-planting. It is however acceptable to require a maintenance plan be submitted with the planning application in order that this can be assessed and conditioned if necessary. In order that Policy TCR4 complies with the Basic Conditions and has due regard to government policy and guidance I recommend it is amended as shown in Modification 14.

**Modification 14:** Bullet v) of Policy TCR4 to be amended as follows:

~~v) the applicant has demonstrated that~~ **A maintenance plan is submitted with the proposal** ~~the proposed trees and planting areas have been subject to a viability test~~ *which shows that their maintenance by a responsible body can be sustained in the long-term.*

4.29 **Policy Policy TAC1: Supporting the Arts and Cultural Offer** Complies with the Basic Conditions.

4.30 **Policy TAC2: Maintaining and Enhancing Facilities and Amenities on the Sea-front** Complies with the Basic Conditions.

4.31 **Policy TAC3: Local Tourism Opportunities** As discussed above, the policy cannot engage with the financial viability of a development proposal. In order that the Basic Conditions are complied with, and the policy has paid due regard to government policy and guidance, I recommend it is amended as shown in modification 15.

<b>Modification 15:</b> <u>Bullet 2 of Policy TAC3 to be deleted.</u>
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4.32 **Policy TAC4: Loss of Tourism Facilities** Complies with the Basic Conditions.

4.33 **Policy TAC5: New Holiday Accommodation** Complies with the Basic Conditions.

4.34 **Policy TAC6: Loss of Public Houses** Complies with the Basic Conditions.

4.35 **Policy TAP1: Improving Transport, Accessibility and Connectivity** I am satisfied that the policy is not directly engaging with highway issues in bullet 3, as it is general guidance for the provision of disabled-friendly street design. However I consider the grammatical error in bullets i) and ii) to be significant enough to require amending in order that the policy meets the NPPF requirement that policy is clear and unambiguous (para 16d). As currently written it appears to support any development proposal that doesn't 'exacerbate identified constraints'. In order that Policy TAP1 complies with the Basic Conditions and has paid due regard to government policy, I recommend that it is amended as shown in modification 16 below.

**Modification 16:** Bullets i) and ii) to read as follows:

*i) deliver identified opportunities and / or resolve identified constraints; and ~~and~~,*

*ii) do not erode key features' contribution to the built and landscape character of Teignmouth; and ~~and~~,*

4.36 **Policy TAP2: Bitton Park Road Settlement Gateway Opportunity Area** Complies with the Basic Conditions.

4.37 **Policy TAP3: Exeter Road / A379 Settlement Gateway Opportunity Area** Complies with the Basic Conditions.

4.38 **Policy TAP4: Town Centre Access from Train Station Opportunity Area** Complies with the Basic Conditions.

4.39 **Policy TAP5: Junction between The Triangles, Regent Street, The Esplanade and Hollands Road** Complies with the Basic Conditions.

4.40 **Policy TAP6: Establishing a Dedicated Cycle and Multi-use Route through the Town Centre** Complies with the Basic Conditions.

4.41 **Policy TAP7: Traffic Arising from Major Development** Complies with the Basic Conditions.

**4.42 Policy TAP8: Parking in Residential Development** The policy is requiring electric vehicle charging points for each off-road parking space allocated to dwellings. Where a dwelling was required to provide more than one off-road parking space this requirement would be excessive, but in any case the building regulations now require electric charging points with all new dwellings. As discussed in para 4.6 of this report above, repetition of non-land-use regulatory requirements in policy is not needed or acceptable in development plan policy, which can only engage with landuse issues (NPPG ID 41-004-20190509). In order that Policy TAP8 complies with the Basic Conditions and has paid due regard to government policy and guidance, I recommend it is amended as shown in Modification 17.

**Modification 17:** Bullet 3 of Policy TAP8 to be deleted and policy re-numbered as required.

**4.43 Policy TAP9: Protecting Existing Off-street Car Parking Capacity for Public Use** Complies with the Basic Conditions.

**4.44 Policy TAP10: Preventing Loss of Car Parking Capacity** Complies with the Basic Conditions.

**4.45 Policy TAP11: Creating New Additional Off-street Car Parking Capacity** Complies with the Basic Conditions.

**4.46 Policy TAP12: Electric Charging Points for Plug-in Vehicles** Bullet 2 of this policy is dealing with non-land-use issues such as the charging system and operating system, as discussed above, development plans are only allowed to deal with land-use issues. In order that Policy TAP12 complies with the Basic Conditions and has paid due regard to government policy and guidance, I recommend that Policy TAP12 is amended as shown in Modification 18.

**Modification 18:** Bullet 2 of Policy TAP12 to be deleted



4.47 **Policy TAP13: Protecting the Footpath, Bridleway and Cyclepath Network** Complies with the Basic Conditions.

4.48 **Policy NE1: Locally Valued Landscape: Northern Ridgeline and Skyline** Complies with the Basic Conditions.

4.49 **Policy NE2: Locally Valued Areas of Biodiversity, Geodiversity and Habitat** Complies with the Basic Conditions.

4.50 **Policy NE3: Teignmouth – Holcombe and Southern Dawlish Local Gap** The policy is promoting a visual landscape definition of the town, at a point where coalescence with neighbouring Holcombe could be possible. The effectiveness of the policy is limited by the extent of the neighbourhood area, but it is legitimate to protect the visual definition of the town as far as this Plan is able. The area defined is included in the Undeveloped Coast Policy EN2 of the TLP2014, and although not considered a strategic policy by the LPA, this designation gives further legitimacy to this policy in this Plan. The area is also defined as Open Countryside in strategic policy S22 of the TLP2014.

4.50.1 Policy NE3 cannot effectively set up protection akin to green belt designation however, and some of the development criteria of this policy are excessively negative, contrary to the requirement in the NPPF that neighbourhood development plans be prepared positively (para 16b) and not promote less development than the development plan (para 29). Strategic policy S22 of the TLP2014 offers protection that does not need repeating in this policy, but Policy NE3 is locally relevant in that it defines a local gap between settlements and does not just repeat higher level planning policy. In order that the Plan complies with the Basic Conditions, and pays due regard to government policy, I recommend it is amended as shown in Modification 19 below.

**Modification 19:** Policy NE3 to be amended as follows:

*To ensure that Teignmouth maintains its separate identity, setting in the landscape, built character and extent, the designated settlement limits boundary will be reinforced to the north-east (as identified on Map 26, page 121) to prevent coalescence between Teignmouth, and Holcombe and Dawlish, and maintain a local green gap. Proposals for development (including change of use) which require planning permission will only be acceptable where they should ensure that they do not compromise the visual openness and landscape character of the gap and maintain the character of the undeveloped coast and open countryside as defined in the development plan.*

- ~~i) are for measures to prevent coastal erosion in line with policy NE6; or,~~
- ~~ii) propose improvements to access to the countryside in line with policy TAP13; or,~~
- ~~iii) are for essential agricultural uses; and,~~
- ~~iv) do not compromise the visual openness and landscape character of the gap;~~
- ~~v) maintain the character of the undeveloped coast; and,~~
- ~~vi) meet the requirements of policy NE1 (policy on landscape etc).~~

4.51 **Policy NE4: Protecting Trees from Loss as a Result of Development** Complies with the Basic Conditions.

4.52 **Policy NE5: Marine Conservation** Complies with the Basic Conditions.

4.53 **Policy NE6: Coastal Erosion** Complies with the Basic Conditions.

4.54 **Policy NE7: Sea Wall and Groynes** Complies with the Basic Conditions.

4.55 **Policy EEB1: Small Employment Starter / Incubator Units and Work Hubs to Support the Local Economy** Complies with the Basic Conditions.

4.56 **Policy EEB2: Live-work Units** Complies with the Basic Conditions.

4.57 **Policy EEB3: Supporting the High-tech Sector** Complies with the Basic Conditions.

4.58 **Policy EEB4: Teignmouth Port / Docks** Bullet iv) is requiring that a proposed use should be maintained in perpetuity. As discussed above in para 4.20 of this report, demanding perpetuity of use is contrary to the (human) right to change the use or ownership of a site in the future and exceeds the powers of the planning system. A planning condition requiring use in perpetuity would be contrary to NPPF para 56 in that it would not be reasonable. It would however be acceptable to indicate that a future change of use will not normally be granted unless non-viability has been demonstrated. In order that Policy EEB4 complies with the Basic Conditions and has paid due regard to government policy, I recommend it is amended as shown in Modification 20.

**Modification 20:** Bullet 1 iv) of Policy EEB to be amended as follows:

*iv) small scale live-work units where the proposals comply with policy EEB2 and demand for the number and size of units has been demonstrated. ~~and where the proposed use will be maintained in perpetuity.~~ **Future change of use of any live-work units will not be permitted unless the non-viability of the unit has been demonstrated by the unit having been publicly and openly marketed for sale or lease unsuccessfully for a minimum of 12 months consecutively.***

4.59 **Policy EEB5: Improvements to The Fish Quay** Complies with the Basic Conditions.

4.60 **Policy RLC1: Small-scale Renewable and Low Carbon Energy** Both bullet iii) and v) have reference to 'no adverse impact'. This is not reasonable, as any change to the built environment will have some impact of which some will be adverse, even if negligible. Reference to adverse impact needs to be qualified therefore by the clause 'unacceptable' or 'significant' in order that the

policy complies with the NPPF (para 16b) requirement that neighbourhood plans are deliverable and positive. In order that Policy RLC1 complies with the Basic Conditions and has paid due regard to government policy and guidance, I recommend that it is amended as shown in Modification 21.

**Modification 21:** Bullet iii) and v) of Policy RLC1 to be amended as follows:

*... iii) the proposal is sensitively sited and there are no **significant** adverse impacts on landscape character, seascape, wildlife, habitats and biodiversity, and residential amenity, or it can be demonstrated that **such** impacts can be satisfactorily mitigated; ...*

*... v) the number, siting, scale and design of installations and associated infrastructure and buildings have no **significant** adverse impact on (or any **such** adverse impacts can be mitigated): ...*

## 5. The Referendum Boundary

5.1 The Teignmouth Neighbourhood Plan has no policy or proposals that have a significant enough impact beyond the designated Neighbourhood Plan Boundary that would require the referendum boundary to extend beyond the Plan boundary. Therefore I recommend that the boundary for the purposes of any future referendum on the Teignmouth Neighbourhood Plan 2018 – 2033 shall be the boundary of the designated Neighbourhood Area for the Plan.