



## Part 2 Specification

**Contract Reference**

**TCORP1017**

**Contract Title**

**Independent Examination of Torquay,  
Paignton and Brixham Peninsula  
Neighbourhood Plans**

# Contents

A.	Overall Scope and Nature of the Requirement .....	3
B.	Minimum Requirements.....	7
C.	Desirable Requirements .....	8
D.	Contract and Performance Review Requirements .....	8
E.	Further Information .....	9

# A. Overall Scope and Nature of the Requirement

Torbay Council, in agreement with the Qualifying Bodies (Torquay Neighbourhood Forum, Paignton Neighbourhood Forum, Brixham Peninsula Neighbourhood Forum), is seeking to procure independent examiners to undertake the examination of each of the submitted Neighbourhood Plans.

## Background



Figure 1

Torbay's three Neighbourhood Forums were initially formed at the end of 2011, ahead of the Neighbourhood Planning Regulations 2012, with a desire from the network of sixteen local community partnerships within Torbay to produce Neighbourhood Plans to cover their areas. Neighbourhood Forums were therefore formed and designated in Torquay, Paignton and Brixham Peninsula (see Figure 1) and were officially designated in late 2012 after the introduction of Regulations.

Torbay Council and the Forums have embraced the concept and opportunity of Neighbourhood Plan making. It has been a particularly significant undertaking on the part of the community and the local authority due to the scale and complexity of the areas and plans.

Together the three Neighbourhood Plan areas cover 100% of the administrative area of Torbay. The areas are amongst the most populous and complex Neighbourhood Plan areas in the country – Torquay (65,000), Paignton (49,000), Brixham (17,000).

Each Forum has also evolved democratically to reflect more closely the distinct differences in each community area.

The Neighbourhood Plan making process began at the same time as work started on the production of a new Local Plan. In Torbay, the approach taken has been one of parallel tracking the Local Plan production process and the Neighbourhood Plan making process so that both could inform, influence and strengthen each other. In some instances, this has led to legitimate tension between the two types of Plans and between the Authority and the Forums. This will require particular care to be applied in the examination to ensure that where appropriate the Neighbourhood Plans are able to fulfil their intended roles as reflecting the wishes of their respective communities as well as being in general conformity with the strategic policies of the adopted Local Plan.

## **The Local Plan**

Torbay is planning for success. The Torbay Local Plan 2012-2030 (adopted December 2015) promotes a step change in Torbay's economic performance. The plan supports the creation of 5,000-5,500 net additional jobs, delivery of at least 17 hectares of employment land, and about 8,900 new homes over the plan period of 2012-2030. Coupled with the Neighbourhood Plans (when 'made'), the plan provides the framework to bring about sustainable growth and change in the short, medium and longer term within Torbay's remaining environmental capacity.

The Local Plan sets the Strategic Framework for Neighbourhood Plan Areas in order to meet the requirements of the Local Plan.

Further information on the Torbay Local Plan can be found at:  
<http://www.torbay.gov.uk/local-plan>

## **The Forums**

Each of the forums were initially designated as Qualifying Bodies in December 2012, and were re-designated by full Council on 7 December 2017. The designation lasts, in accordance with the regulations, for 5 years.

Paignton and Torquay do not have Parish Councils to lead on the process. In addition, Brixham has widened its scope outside of the Brixham Town Council boundary (to cover Galmpton, Churston and Broadsands) and its Neighbourhood Forum reflects this.

The three Forums have carried out their pre-submission consultations and submitted their Plans to the Council (Paignton and Brixham Peninsula in August and Torquay in October 2017). The Council published these for consultation on 1 November 2017, with a consultation period end date of 18 December 2017.

Further information on the Neighbourhood Plans can be found at  
<http://www.torbay.gov.uk/neighbourhood-plans> or on their individual respective webpages:

Torquay – [www.torquaynp.org](http://www.torquaynp.org)

Paignton – [www.paigntonneighbourhoodplan.org.uk](http://www.paigntonneighbourhoodplan.org.uk)

Brixham – [www.brixhampeninsula.com](http://www.brixhampeninsula.com)

## **Scope and Nature of Requirements**

Each Neighbourhood Forum has produced large, complex plans containing aspects relating to housing, employment, economy, community cohesion and environment – including Strategic Environmental Appraisal (SEA) and Habitats Regulations Assessment (HRA) considerations.

Torbay has a number of sensitive environmental designations including the Area of Outstanding Natural Beauty (AONB), South Hams Special Area of Conservation (SAC) (Berry Head in Brixham), and Marine SAC in Tor Bay. These have necessitated the need for SEA and HRA work by the Forums and the Authority.

The Torbay Local Plan 2012-2030 (Policies SS1 and SS5) additionally sought for Neighbourhood Plans to include sites for housing and employment land, with sites identified for consideration by the respective Forums.

Officers of the Council have submitted objections to all three Plans but on the basis of accepting that modifications can be made that would make each Plan acceptable. There remains significant disagreement between the Forums and LPA about a number of matters. The appointing Authority (i.e. the LPA) and the Forums agree that this issue will require clarification and resolution through a public hearing and expects that one will take place. If it is determined by an Examiner that a hearing will not be required, it must be made clear in writing why a hearing is deemed not necessary to the appointing Authority and Forums.

The Authority is seeking to appoint three Examiners, one for each Plan area.

Applicants may submit Tenders for one or more “Lots” (i.e. Neighbourhood Plan Area). Applicants must indicate in Part 4 Award Questionnaire which Lot(s)(Areas) they are applying for. If an Applicant wishes to apply for more than one Lot, this must be indicated on Part 4 Award Questionnaire, but only one Questionnaire needs to be submitted. However an individual Examiner will be limited to examining one particular Lot only (see Part 1 Section 2.4).

Each Neighbourhood Plan will have a different lead Examiner who will be fully responsible for the Plan assigned but all examiners will be expected to confer with each other to ensure consistency and share knowledge/advice on common elements (which are at this stage housing sites, employment sites, habitats and local green space) while assessing the Plans in parallel. If the circumstance arises where there is a disagreement between examiners, the final report recommendation drafted and signed by the lead Examiner responsible for that plan must set out both arguments for clarity and the reason for the conclusion reached. The report may include recommended modifications, and it is expected that each report will also contain a recommendation on the referendum area. Importantly, it is not expected that all three plans would be in accordance with each other in terms of style or presentation.

This methodology is likely to provide the consistency needed across Torbay, balanced against the overlapping background workload arising from the three large neighbourhood plans within a single Unitary Authority area and the necessity of completing the task in the shortest possible time. Importantly, each Examiner must ensure that their report contains clear recommendations, with reasons in response to each matter of dispute that has arisen where they fall within the scope of the ‘Basic Conditions’ required to be assessed.

Demonstrable experience of, and understanding in, the difference between examination of a Local Plan for ‘soundness’ and assessment of a Neighbourhood Plan for compliance with the ‘basic conditions’ is essential.

Applicants must also be able to demonstrate experience in dealing with Habitat Regulation Assessment matters at plan making and individual project level.

Examination of the Plans is expected to accord with the timetable below as far as possible. Whilst the conduct of the Examinations, including the need for hearings, is at the discretion

---

of the Examiners, the LPA and Forums anticipate that a joint hearing will be necessary. This should be attended by all three examiners to provide consistency and efficient use of time.

Due to the scale and complex nature of the plans, it may be necessary to have some further public hearings as part of the Examination Process but this will be the decision of the appointed examiners. If further public hearings are considered necessary by the examiner, due to the complexity of the Plans and the level of volunteer community involvement, it is expected that some written submissions will be allowed where the examiner considers it appropriate to do so and/or it is requested. For the avoidance of doubt, this is not expected to provide opportunity for additional representations.

The Examination of the three Neighbourhood Plans is expected to follow the timetable stages set out below, as far as possible. Examiners may choose to carry out site visits. It would be expected that these are unaccompanied but where accompaniment is required (for instance site access) all relevant parties shall be notified. It is noted that the need for accompanied site visits that would require notification to relevant parties has not been accommodated in the timetable below.

For avoidance of doubt, the date of the report issued to the Forums and LPA may be sooner than shown in the Contract Timetable below. It is expected that examiners will submit the report at the earliest opportunity and there is no requirement or expectation for the reports to be issued collectively. However, if further time is required by any Examiner, the reason for this must be given in writing and agreed by the Local Planning Authority, in consultation with the Forums.

Indicative Contract Timetable	
Task	Date
Invitation to tenders published	Monday 8 <sup>th</sup> January 2018
Tenders returned	Monday 5 <sup>th</sup> February 2018
Appointment of Examiners	Monday 19 <sup>th</sup> February 2018
Contract meeting (if necessary)	Monday 5 <sup>th</sup> March 2018 (or a convenient date to be agreed).
Contract begins	Monday 5 <sup>th</sup> March 2018
Notification by Examiners if additional Public Hearings are required	Friday 16 <sup>th</sup> March 2018
Public Hearings commence.	Between 9 <sup>th</sup> April and 27 <sup>th</sup> April 2018
Report issued to Forum and Council	Before Friday 11 <sup>th</sup> May 2018

## B. Minimum Requirements

The persons carrying out the examination must:

- Be independent of the Qualifying Bodies and Torbay Council, and any other interested party involved in the Plans.
- Be able to work collaboratively with two other Independent Examiners (whether they are known to each other or not) to come to a decision on the respective plans assigned to each Examiner within the set timetable set out above in the same time period;
- Act independently and transparently;
- Not have any pecuniary or non-pecuniary interest in land or assets within Torbay or the immediate surrounding area where the Plans could reasonably have an impact;
- Have professional indemnity insurance/public liability insurance (suitable cover); See Part 3 Selection Questionnaire, Section 8.1.
- Applicants will be required to have had no involvement with the Local Authority, or other parties connected with the Neighbourhood Plans, within the last 10 years.
- Applicants shall not have had any involvement with the Torbay Local Plan 2012-2030, or any of the current Development Plan and Supplementary Planning Documents.
- Applicants shall not have had any involvement with the submitted Neighbourhood Plans, or any of the respective evidence base.
- Applicants shall not be members of an organisation that is not freely open to all members of the public unless that organisation is an acknowledged professional body.
- All applicants must meet competencies to at least the standard required by NPIERS, including;
  - Have at least 5 years' experience in planning;
  - Have a relevant Degree in planning at graduate or post graduate level;
  - Be a Chartered Member of the RTPI, or equivalent relevant professional body involved in the planning system;
  - Have relevant experience and knowledge of the planning/political system, particularly the relevance of the National Planning Policy Framework (NPPF) to Neighbourhood Planning and the ability to understand the need to examine the Neighbourhood Plan for compliance with the 'basic conditions' rather than 'soundness'; and
  - Knowledge of the legal administrative environment.

See: <http://www.rics.org/uk/join/member-accreditations-list/dispute-resolution-service/drs-products/neighbourhood-planning-independent-examiner-referral-service-npiers/>

- Have relevant and demonstrable experience, ideally providing up to three examples, in managing the process of examining large scale neighbourhood plans, including matters such as housing/employment sites, environmental designations, HRA and Sustainability Appraisals/SEA (please see Part 1 Stage Two Award, and Part 3 Selection Questionnaire, Section 6.1).

- Be able to evidence involvement with and understanding of the difference between examination of a Local Plan for 'soundness' and assessment of a Neighbourhood Plan for compliance with the 'basic conditions'
- Be able to meet the timetable set out in Section A and complete the examination within the 'contract period'.

## C. Desirable Requirements

Applicants should also demonstrate, where possible, the following relevant skills and personal qualities;

- An in depth understanding of the Localism agenda and the practicalities of developing Plans from a community perspective (examples may have been included in section B above);
- Understanding of policy intentions/landscape as well as legal implications;
- Understanding the Neighbourhood Planning process as a tool to deliver sustainable development.
- A full appreciation of the challenges facing community led Forums with differing levels of skills and professional knowledge;
- Able to determine and use behaviour which is appropriate to the situation and to exercise tact and diplomacy and able to chair public hearings effectively and harmoniously
- Ability to be flexible and to manage the process efficiently (including working hours) as well as the ability to work with other examiners;
- Excellent communication skills (oral, written and electronic) – must be able to write reports in a plain English, accessible, coherent and consistent style;
- Ability to travel efficiently to and around Torbay in order to carry out duties.

## D. Contract and Performance Review Requirements

The successful Applicants will be expected to attend Contract review meetings with the Authority at a frequency to be agreed at the initial Contract meeting if such a meeting is necessary. These meetings are only expected to be held for the purposes of agreeing the contract and, should the circumstance arise, contract issues. These meetings will not involve any matter that relates to the content of the submitted Plans or their assessment.

Any meeting regarding the content of the Plans and/or their examination will only be held with representatives of the Authority and Forums in attendance. Any exchange of correspondence (including by email) between an appointed examiner and the Authority or any other party must be recorded in writing and a copy will be provided to the LPA and placed on the Council's website in a timely manner.

There may be a need for the successful Applicants to attend a progress meeting prior to the joint hearing so that the appointing Authority and Forums can discuss and agree the venue requirements and operational procedure.



# Further Information.

## **D1 Awarding the Contract on Behalf of Other Contracting Authorities**

The Authority is not purchasing on behalf of other contracting authorities.