**SUMMARY OF TOTNES NEIGHBOURHOOD PLAN EXAMINERS REPORT**

Examiner finds:

* that the Totnes Neighbourhood Plan and the policies within it, subject to the recommended modifications does meet the Basic Conditions; and
* that the Totnes Neighbourhood Plan can, subject to the recommended modifications [detailed below] can proceed to Referendum.

Comments and modifications to policies as follows:

|  |  |  |
| --- | --- | --- |
| **Totnes Neighbourhood Plan Policy** | **Examiners Comment** | **Modification/Action Required (new wording in italics and deletions struck through)** |
| V1: Local Identity | No comment. | None |
| V2: Health and Well-being | No comment. | None |
| En1: Sustainable Development and the Settlement Boundary | I have carefully considered the proposed settlement boundary and am satisfied that the process to establish the boundary was thorough and consistent.  Development in the countryside is covered by JLP Policy TTV26 and to avoid confusion it would be helpful to make reference to that policy. The decision-making authority for planning applications is the local planning authority and therefore the term "permitted" should be replaced with "supported". For clarity and to meet the Basic Conditions, the policy should be modified. | 1. Within the settlement boundary development will only be ~~permitted provided~~ *supported in accordance with the development plan and where*: [a-e text unchanged]  2. Outside the settlement boundary development will be ~~permitted only~~ *supported in accordance with the development plan where*: [a & b text unchanged] |
| En2: Development and Design | No comment. | None |
| En3: Historic and Built Character | No comment. | None |
| En4: Landscape Setting of Totnes | I have concerns in relation to this policy. Firstly, as I set out in my general comments, Planning Guidance on preparing neighbourhood plans and policies is clear, it states:  “A policy in a neighbourhood plan should be clear and unambiguous. It should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. It should be concise, precise and supported by appropriate evidence. It should be distinct to reflect and respond to the unique characteristics and planning context of the specific neighbourhood area for which it has been prepared.”  Assessing whether or not a development proposal has an "adverse impact" is subjective and is not sufficiently clear for a decision maker to apply consistently. For clarity the policy should be modified as follows: | 1. ~~New development should have no adverse impact on the landscape setting of Totnes or on its historic landscape features.~~ *New development should protect the landscape setting of Totnes and its historic landscape features in accordance with national policy and the development plan.*  2. New building should not be of a height or mass to obscure important views shown on the Proposals Map, nor of a height to break the historic skyline.  3. New development should ~~not damage but~~ *protect and where possible* enhance the contribution the town makes to the landscape character of the wider area. |
| En5: The River Dart | The requirement for Biodiversity Net Gain is now part of national policy and this policy should reflect that requirement. For clarity and to meet the Basic Conditions, the policy should be modified as follows: | Development on or adjacent to the river should:  a. conserve or improve local identity and the appearance of the riverside;  b. ~~maintain or enhance local biodiversity~~ *provide biodiversity net gain in accordance with national policy*; and  c. create increased opportunities for improved public access for all, leisure and community use. |
| En6: Enhancing Environmental Capacity | No comment. | None |
| En7: Renewable Energy Generation | No comment. | None |
| En8: Domestic and Small Scale Waste Management | No comment. | None |
| En9: Local Food Growing | No comment. | None |
| E1: The Local Economy | No comment. | None |
| E2: Existing Employment Land and Premises | No comment. | None |
| E3: The Town Centre | The CIL priorities identified in POLICY E3: THE TOWN CENTRE do not form part of planning policy. They should be deleted from the policy but can be included in the supporting text for the policy. | Remove the following from the policy and insert into the supporting text for the policy:  5. New development in the town centre will be required, where appropriate, to contribute, either through a Section 106 obligation or through CIL, towards the following priorities:  a. improved vehicle, bicycle and car parking provision;  b. enhancements to public squares and spaces and the public realm in general;  c. improvements to pedestrian safety and facilities;  d. improved signage, information and interpretation for visitors;  e. maintaining the offer for convenience and everyday goods;  f. support for local markets, community and arts events; and  g. monitoring and improving air quality. |
| E4: Training and Education | No comment. | None |
| E5: The Industrial Estate | The decision-making authority for planning applications is the local planning authority and therefore the term "permitted" should be replaced with "supported" in part 1. of this policy. | 1. New development increasing the amount and quality of industrial floor space on the industrial estate will be supported and must include adequate parking and servicing arrangements. Retail use will only be ~~permitted~~ *supported* where it is ancillary and subsidiary to the business. |
| E6: The Green Economy | No comment. | None |
| E7: Sustainable Transport | No comment. | None |
| E8: Walking and Cycling | No comment. | None |
| E9: Public and Community Transport | No comment. | None |
| E10: Car Parking | The decision-making authority for planning applications is the local planning authority and therefore the term "permitted" should be replaced with "supported" in part 2. of this policy. | 2. Development that would involve the loss of public car parking will not be ~~permitted~~ *supported* unless that loss is made up for elsewhere which will be of equal benefit to the overall functional sustainability of the town, or it can be demonstrated that the parking is no longer needed due to changes in vehicle use. |
| C1: The Public Realm | No comment. | None |
| C2: Public Open Spaces | The protection for open space and recreation is set out in the NPPF 2021 as follows:  "Open space and recreation  98. Access to a network of high-quality open spaces and opportunities for sport and physical activity is important for the health and well-being of communities and can deliver wider benefits for nature and support efforts to address climate change. Planning policies should be based on robust and up-to-date assessments of the need for open space, sport and recreation facilities (including quantitative or qualitative deficits or surpluses) and opportunities for new provision. Information gained from the assessments should be used to determine what open space, sport and recreational provision is needed, which plans should then seek to accommodate.  99. Existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:  a) an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or  b) the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or  c) the development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use."  For clarity Policy C2 should be modified to reflect national policy: | 1. The open spaces, amenity spaces, growing spaces and civic spaces shown on the Proposals Map are protected and should be retained in their current use, ~~and~~ enhanced to raise their usefulness ~~as such. Only development associated with and which will enhance the value of their current use will be permitted.~~*and should not be built on unless:*  *a) an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or*  *b) the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or*  *c) the development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use.*  ~~2. Any loss of open space should be replaced by alternative provision which is of equal or greater value to the community and local environment.~~  [Points 3-5 are unchanged] |
| C3: Local Green Spaces | …I have carefully considered the evidence put before me for the designations proposed. The decision to designate a particular site is a matter of planning balance and I have made my decision based on whether or not I consider the proposed designations meet the NPPF tests and I find that the proposed LGSs do meet the requirements of the NPPF. | None |
| C4: Housing | Policy DEV8 of the JLP Meeting local housing need in the Thriving Towns and Villages Policy Area sets out the strategic policy in relation to housing delivery. This policy states:  "The following provisions will apply:  1. A mix of housing sizes, types and tenure appropriate to the area and as supported by local housing evidence should be provided, to ensure that there is a range of housing, broadening choice and meeting specialist needs for existing and future residents. The most particular needs in the policy area are:  i. Homes that redress an imbalance within the existing housing stock.  ii. Housing suitable for households with specific need."  iii. Dwellings most suited to younger people, working families and older people who wish to retain a sense of self-sufficiency.  i have not been provided with adequate evidence to support the requirement under 3. of this policy for:  "3. Developments of 11 dwellings or more should include 75% one and two bedroom homes, for smaller developments (apart from single dwellings) the target is at least 50%."  Whilst I acknowledge there is very likely to be a local need for smaller homes, the precise percentage and housing mix should be determined for any application. in accordance with appropriate evidence. for clarity and to meet the Basic Conditions, the policy should be modified as follows: | 1. New housing development should address housing needs, particularly in terms of tenure and size, with priority given to meeting local housing needs.  2. Affordable homes should be included at least in line with adopted targets and arrangements should be made to ensure that they remain affordable in perpetuity.  ~~3. Developments of 11 dwellings or more should include 75% one and two bedroom homes, for smaller developments (apart from single dwellings) the target is at least 50%.~~  *3*. New homes should be designed for sustainable living, incorporate carbon reduction and energy efficiency measures, minimise waste, complement their setting and enhance the locality. Incorporation of the latest energy efficiency measures and sustainable construction methods will be supported. |
| C5: Services and Facilities | The decision-making authority for planning applications is the local planning authority and therefore the term "permitted" should be replaced with "supported" in the second sentence of this policy. | New development is expected to maintain or enhance community services and facilities as a whole within the town. Proposals involving the loss of community services or facilities will not be ~~permitted~~ *supported* unless: |
| C6: New Services and Facilities | No comment. | None |
| C7: Educational Improvement at KEVICC | No comment. | None |
| C8: Development of land at KEVICC as identified in the JLP | There are requirements for consultation on proposals affecting schools which fall outside the control of the planning system and whilst good community consultation on planning proposals is supported and encouraged through national policy it is not an absolute requirement. Elements of this policy repeat requirements set out in JLP Policy TTV20. For clarity and to meet the Basic Conditions, the policy should be modified as follows: | *Residential development will be supported on land at KEVICC in accordance with Policy TTV20 of the JLP and Paragraph 99 of the NPPF 2021.*  *Widespread inclusive community consultation which encompasses all of the KEVICC site and the Sheepfield is encouraged.*  ~~Residential development will be supported on land no longer required for educational or recreational purposes at KEVICC providing it:~~  ~~a. is pursued through widespread inclusive community consultation which encompasses all of the KEVICC site and the Sheepfield;~~  ~~b. is demonstrated how the proposals will facilitate the upgrading of the school facilities and can be integrated satisfactorily with the school; and~~  *~~c.~~* ~~will contribute to the broader objectives of the NP, particularly for continuous riverside access and associated community facilities.~~ |
| C9: Steamer Quay | Whilst the NPPF 2021 is supportive of community involvement and consultation it is not an absolute requirement for the positive support of a planning application. For clarity and to meet the Basic Conditions, the policy should be modified as follows: | At Steamer Quay only leisure or river related development will be supported, providing it has no adverse impact on the South Hams Special Area of Conservation’s population of greater horseshoe bats *and where they* ~~. Any such development must~~:  a. maintain or enhance leisure and river related facilities and activities on the site;  b. maintain or enhance existing services, uses, facilities, public areas and rights of way;  ~~c. is pursued through widespread inclusive community consultation;~~  ~~d~~*c*. *do* not harm the character, amenity, wellbeing, historic, environmental, nature conversation or archaeological values of the area and its surroundings;  ~~e~~*d*. respect the site's scenic quality and distinctive sense of place and the setting of the adjacent Conservation Area; and  ~~f~~*e*. adopt a high standard of design reflecting the prominence of the location and enhancing the riverside scene.  *Widespread, inclusive community consultation in developing proposals is encouraged.* |
| C10: Market Square and the Civic Hall | Whilst the NPPF 2021 is supportive of community involvement and consultation it is not an absolute requirement for the positive support of a planning application. For clarity and to meet the Basic Conditions, the policy should be modified as follows: | Proposals for positive change to the Market Square and Civic Hall will be supported ~~providing~~ *where* they ~~will~~:  ~~a. be pursued through widespread inclusive community consultation;~~  ~~b~~*a*. support and complement the economic and social functioning of Totnes town centre;  ~~c~~*b*. ensure continuity of market operations;  ~~d~~*c*. ~~at least~~ *as a minimum,* maintain the number of trading pitches available;  ~~e~~*d*. ~~at least~~ *as a minimum,* maintain current levels of town centre parking; and  ~~f~~*e*. reflect the sensitive historic nature of the location.  *Widespread, inclusive community consultation in developing proposals is encouraged.* |
| C11: Town Centre Car Parks | Whilst the NPPF 2021 is supportive of community involvement and consultation it is not an absolute requirement for the positive support of a planning application. For clarity and to meet the Basic Conditions, the policy should be modified as follows: | Proposals for redevelopment of any land currently used for town centre car parking (Victoria Street, Heath’s Nursery, North Street, the Lamb, Heath Way and the Nursery) will only be supported ~~providing it~~ *where*:  ~~a.is pursued through widespread inclusive community consultation;~~  ~~b~~*a*. ~~at least maintains~~ the current levels of parking *are maintained* with sufficient resident and visitor car parking within easy walking distance of the town centre;  ~~c~~*b*. ~~makes~~ *there is* provision for the introduction of electric cars and car sharing technologies;  ~~d~~*c*. ~~enhances~~ the visual appearance of town centre parking *is enhanced* through the introduction of hard and soft landscaping; such as permeable surfaces, tree planting and flower beds;  ~~e~~*d*. ~~respects~~ local amenity, especially for neighbours *is respected*; and  ~~f~~*e*. *it* contributes to the vitality, viability and functioning of the town centre.  *Widespread, inclusive community consultation in developing proposals is encouraged.* |
| C12: Former Dairy Crest Site | Summary [for full comments on this policy see annex A]:  I am clear that the policy as submitted [in Oct 2021] does not meet the Basic Conditions, it is overly prescriptive and would not have regard for national policy and guidance or be in general conformity with strategic policy TTV22 of the JLP.  Whilst this [autumn 2022] modification does go some way to addressing my concerns, it would, in my opinion require further modification to meet the Basic Conditions.  I have considered the representations made in connection with this policy, both in writing and at the Hearing. I have concluded that there is sufficient uncertainty with regard to whether or not the process followed for the inclusion of both Policy C12, and the accompanying design brief meet the regulations and should therefore be deleted from the Plan.  However, due to the evident importance of the site to the community, text relating to the site and the community’s aspirations for it can be included in the body of the Plan as follows (I suggest that this text is most appropriately located within the Town Centre section of the plan at paragraph 5.2.6): | For inclusion in the body of text of the Town Centre section 5.2.6:  *Former Dairy Crest Site*  *The former Dairy Crest site is allocated for ‘Mixed use - including 62 new homes and a range of business, commercial and community uses’ in policy TTV22 of the Joint Local Plan. 62 homes are identified as the estimated provision of housing.*  *The Community Right to Build Order for the site has now lapsed and therefore a separate grant of planning permission is now needed for redevelopment of the site. Whilst the Community Right to Build Order has lapsed the placemaking principles it was founded on remain relevant to the redevelopment of the site. This plan carries them forward, recognising that what may now be achievable on the site may differ from the detail contained in the Community Right to Build Order as a result of policy, site and viability*  *Constraints.*  *The site is of strategic importance to Totnes, being adjacent to the railway station, bounded by the river Dart and close to existing housing and employment development. This is why TTV22 focuses on mixed use, maximising benefits for the local community, economy and environment and the community have aspirations to see the site contribute to the promotion of low carbon transport and create an important opportunity for the to be one of Totnes's exemplars of sustainable development.*  *Specific material considerations also identified in TTV22 are:*  *• Appropriate flood risk mitigation measures (including improvements to the leat to protect existing development downstream)*  *• Remediation of contaminated land*  *• Habitat enhancement*  *• Sensitive and high-quality design which integrates with the existing area and the setting of nearby heritage assets.* |

Annex A

**POLICY C12: FORMER DAIRY CREST SITE (EXAMINER’S COMMENT IN FULL)**

[note: black = original policy, blue = examiner’s comments, red = modified policy]

The Plan supports improvements to the former Dairy Crest site which develop further the aims of JLP Spatial Policy SP6 and Policy TTV 22.

The improvements and qualities include:

a. restoration and reuse of the listed Brunel Building for community and public use;

b. mixed use development to meet local housing need, sustainable businesses and increase employment opportunities;

c. live/work and other employment units with a development threshold of no more than 6500m25000 m2;

d. a sustainable transport hub for non-fossil fuel modes of transport;

e. on site low carbon energy centre with the most appropriate technologies;

f. low cost, low energy hotel development with approximately 60 beds;

g. homes in the order of 60 plus units addressing local needs;

h. appropriate flood risk mitigation and management measures (including improvements to the leat to protect existing development downstream);

i. the wildlife corridor that follows the river Dart and associated natural habitat heritage assets are fully respected, protected and enhanced;

j. overall enhancement of the public realm while retaining the existing links.

A development brief expanding on the above qualities is included in Appendix E. All redevelopment of the former Dairy Crest site should respect this brief. The area covered by this policy is illustrated in Figure 3.

Re-development of the former Dairy Crest site should be subject to a comprehensive survey of the existing heritage assets and associated natural habitat assets and must avoid harm to these assets and protect and enhance the natural and built historic environment as set out in national and local policy. All proposals must also address the level 3 flood risks, the Sequential Test must first be successfully applied. The Exception Test may also need to be applied for certain components of the proposed redevelopment.

COMMENT

Having examined this policy, the accompanying development brief and representations submitted I concluded that I would hold a hearing. The Hearing held on Tuesday 6 September at the Guildhall, Totnes enabled me to explore the issues raised through representation in relation to this policy. The purpose of the hearing was to ask questions in relation to Policy C12 Former Dairy Crest Site, and to assist understanding on matters of procedure, the reason for its inclusion after the Regulation 14 stage, and whether Policy C12 meets the Basic Conditions with regard to strategic policy in the JLP, Habitats Regulations Assessment and Human Rights criteria or could be modified to do so. The full transcript of the Hearing is available to read on the SHDC website. The participants were given the opportunity to clarify issues raised by their representations and to explore whether there was an opportunity for the parties to reach agreement on a way forward, including a possible policy modification.

The two main issues considered in relation to this policy and the associated design brief were:

1. Did the process carried out by the Town Council to introduce Policy C12 and associated development brief, meet the legal requirements?

2. Does Policy C12 meet the Basic Conditions, or could it do so by modification?

1. The process.

To understand the process followed it is important to understand the chronology of events. The Totnes Neighbourhood Development Plan was initially submitted under Regulation 15 in 2021 and Regulation 16 consultation was undertaken between 28 June 2021 and 22 August 2021, and I was appointed to examine the Plan in September 2021. Totnes Town Council became aware that the Community Right to Build Order that had been in place for the former Dairy Crest site had lapsed. At that point the Town Council became concerned that with the lapse of the Community Right to Build Order there was no policy in the TNDP reflecting or addressing the community’s aspirations for the site. The Town Council made the decision to draft a policy for the site and go through a process of additional consultation equivalent to a Regulation 16 consultation process, run by Totnes Town Council rather than SHDC, but supported by them. On the 7 October 2021 (and before I had commenced my examination) Totnes Town Council wrote to me requesting that the examination be paused for up to four months to give the opportunity for this additional consultation to take place. This effectively resulted in a rerun of the Regulation 16 policy focused on the draft policy. This consultation period ran from 18 October to 28 November 2021. Following the end of the additional 6-week consultation period I commenced my examination.

In addition, SHDC were approached regarding a rescreening of the plan for SEA and HRA to reflect the inclusion of the former Dairy Crest site within the Plan.

The concerns raised in connection with this process can be summarised as follows:

1. That the process of inclusion of Policy C12 was flawed:

* Incorporation of Policy C12 and Appendix E into the Draft NP would not comply with reg. 14 of the Neighbourhood Planning (General) Regulations 2012 ("the 2012 Regulations")
* incorporation of Policy C12 and Appendix E into the Draft NP would not comply with reg. 15 of the 2012 Regulations:
* incorporation of Policy C12 and Appendix E into the Draft NP would not comply with reg. 106 of the Conservation of the Habitats and Species Regulations 2017 ("the Habitats Regulations") and it is not possible in present circumstances for the Council to comply with reg. 105 of the Habitats Regulations, para. 1 of Sch. 2 to the 2012 Regulations and para. 8(2)(g) of Sch. 4B TCPA 1990.

MY response to the issues raised in connection with process and compliance with the legal requirements are as follows:

The Neighbourhood Planning process is an iterative one, which responds to consultation outcomes and changes in circumstance. Most neighbourhood plans are modified between Regulation 14 and examination. This can be very minor changes but is often more substantive. I see nothing in `Regulation 14 that precludes changes occurring and indeed it could be argued that the additional consultation at Regulation 16 is specifically there to enable statutory consultees and the wider community to make comment prior to examination and ultimately aa referendum should a plan reach that stage.

It is clear that there was considerable support within the community for the Community Right to Build Order and it is not unreasonable to conclude that had the community been aware, at an earlier date that this had lapsed, Policy C12 (or a version of it) would have been included in the Regulation 14 version of the Plan.

I cannot see how any prejudice has arisen the process in connection with Regulation 14.

TTC did submit the necessary documents in compliance with Regulation 15 and sought to address the policy gap for the site in a reasonable and pragmatic way, in discussion with SHDC. I believe that there has been a mixing of issues in relation to the inclusion of the policy and a misunderstanding of the process of examination in terms of the scope of policy modification, in particular. I do not consider that anyone has been prejudiced by the process, in terms of natural justice. I have however concluded that there is sufficient uncertainty around the compliance of the process with the relevant Regulations to make the likelihood of the Plan proceeding to referendum unlikely and in agreement with Totnes Town Council recommend deletion of Policy C12 and the associated development brief from the Plan.

In addition, PCL Planning on behalf of Fast Globe raised the issue that they had not been consulted directly in connection with the inclusion of Policy C12 and were therefore disadvantaged in some way. However, it is clear that the landowners were aware of the proposed policy inclusion and additional consultation, making written representation. Whilst it is strongly advised and good practice for a neighbourhood plan group to engage with any landowners affected by policies within a neighbourhood plan there is no requirement to do so. It is unfortunate that the Town Council did not engage directly with the Iandowners as there may have been an opportunity to advance the community's aspirations for the site however, I am satisfied that the landowners were not disadvantaged in this instance.

2. That the content of Policy C12 and the associated development brief does not meet the Basic Conditions.

* the incorporation of Policy C12 and Appendix E into the Draft NP will prevent compliance with the basic conditions, specifically para. 8(2)(a) of Sch. 4B TCPA 1990;
* the incorporation of Policy C12 and Appendix E into the Draft NP will prevent compliance with the basic conditions, specifically para. 8(2)(d) of Sch. 4B TCPA 1990;
* the incorporation of Policy C12 and Appendix E into the Draft NP will prevent compliance with the basic conditions, specifically para. 8(2)(e) of Sch. 4B TCPA 1990.

My response to the issues raised in connection with meeting the Basic Conditions is as follows:

I agree that without modification, Policy C12 would fail to meet the Basic Conditions on a number of issues. I do not agree that a policy for the site, that would meet the Basic Conditions couldn't be arrived at through the scope of modification available to an examiner.

There was a rescreening of the Plan for SEA and HRA including Policy C12, and the conclusion was that an SEA and Appropriate Assessment was not required. The Statutory Consultees agreed with this conclusion with the exception of HE who raised some concerns regarding heritage impact. The consultation comment from HE concluded with the following sentence: “An alternative approach, and perhaps more attractive expedient given the advanced status of the Plan, may be to remove from the policy the additional development quantum if evidence for it doesn’t exist.” The Town Council addressed this concern in a revision to the policy.

There is an existing strategic policy within the JLP which includes criteria for the development of the site, JLP Policy TTV22.The relevance of this policy and how it relates to Policy C12, and the development of the Former Dairy Crest site was discussed at the Hearing. I am satisfied that Policy does set out criteria for shaping development of the site and that with modification, Policy C12 could be in general conformity with that policy. There was also discussion as to whether or not JLP Policy TTV22 is out of date following the lapse of the Community Right to Build Order. I accept that reference to the Community Right to Build Order in this policy is no longer relevant however I consider that the remainder of the policy would still be relevant to the consideration of any proposal.

I am clear that the policy as submitted does not meet the Basic Conditions, it is overly prescriptive and would not have regard for national policy and guidance or be in general conformity with strategic policy TTV22 of the JLP.

However, I do not agree that the policy could not be modified to meet the Basic Conditions. Responding to my request to the parties for a suggested modification to the policy post Hearing, the Town Council proposed the following modification to the policy and supporting text:

"Former Dairy Crest Site

The former Dairy Crest site is designated for ‘Mixed use - including 62 new homes and a range of business, commercial and community uses’ in policy TTV22 of the Joint Local Plan. 62 homes are identified as the estimated provision of housing.

The Community Right to Build Order for the site has now lapsed and therefore a separate grant of planning permission is now needed for redevelopment of the site.

The site is of strategic importance to Totnes, being adjacent to the railway station, bounded by the river Dart and close to existing housing and employment development. This is why TTV22 focuses on mixed use, maximising benefits for the local community, economy and environment. Specific material considerations also identified in TTV22 are:

• Appropriate flood risk mitigation measures (including improvements to the leat to protect existing development downstream)

• Remediation of contaminated land

• Habitat enhancement

• Sensitive and high-quality design which integrates with the existing area and the setting of nearby heritage assets.

Whilst the Community Right to Build Order has lapsed the placemaking principles it was founded on remain relevant to the redevelopment of the site. This plan carries them forward, recognising that what may now be achievable on the site may differ from the detail contained in the Community Right to Build Order. The strategic significance of the site, that it will be comprehensively redeveloped, and its potential to contribute to the promotion of low carbon transport, create an important opportunity for the site to me one of Totnes’s exemplars of sustainable development.

Policy C12: Former Dairy Crest Site

Mixed-use redevelopment of the former Dairy Crest site for a range of business, commercial and community uses will be supported.

Flood risk mitigation measures (including improvements to the leat) must be included to both protect development on the site from flooding and reduce the risk of flooding elsewhere in Totnes. Works necessary for flood risk mitigation must maximise the developable area of the site.

Any such development must satisfy the following requirements:

Masterplan

Redevelopment of the site will be in accordance with a site-wide masterplan for mixed use of the site, addressing the following:

a) Enhancement of biodiversity and habitats for the site as a whole and ecological connectivity with surrounding habitats including the ecological corridor of the River Dart and the South Hams Special Area of Conservation.

b) High standards of design to:

i. Create a strong sense of place within the site and around the Brunel Building and the railway station

ii. Enhance the contribution the site makes to the character and quality of development of the town as a whole and integrate with the existing area

iii. Enhance the setting of the Brunel Building, Totnes Signal Box, and local non-designated heritage assets

c) Provision of 62 homes, including live-work units, to meet local needs, including affordable housing in accordance with the other policies of this plan

d) Provision of small units for commercial use to the maximum extent possible whilst meeting the other requirements of this policy, to:

i. Meet the needs of the local economy

ii. Make best use of strategic functions of the site

iii. Be in keeping with the design approach required above

e) Restoration and reuse of the Brunel Building for community and public use.

Other Priorities

Where possible, existing rights of way adjacent to the site will be enhanced, including National Cycle Route 2, and new routes created within the site for pedestrians and cyclists, and access to open and green space increased.

Opportunities for promoting low carbon travel, employing low energy use materials and construction techniques, and incorporating renewable energy generation will be maximised across the site."

Whilst this modification does go some way to addressing my concerns, it would, in my opinion require further modification to meet the Basic Conditions.

Whilst all parties to the Hearing were invited to provide a suggested modification to the policy, I only received a suggested modification from Totnes Town Council. It is my hope that in the future the parties can work together to find an agreed solution for the site which will address the aspirations of the community and the reasonable commercial expectations of the owner in a mutually beneficial way.

I have considered the representations made in connection with this policy, both in writing and at the Hearing. I have concluded that there is sufficient uncertainty with regard to whether or not the process followed for the inclusion of both Policy C12, and the accompanying design brief meet the regulations and should therefore be deleted from the Plan.

However, due to the evident importance of the site to the community, text relating to the site and the community’s aspirations for it can be included in the body of the Plan as follows (I suggest that this text is most appropriately located within the Town Centre section of the plan at paragraph 5.2.6):

Former Dairy Crest Site

The former Dairy Crest site is allocated for ‘Mixed use - including 62 new homes and a range of business, commercial and community uses’ in policy TTV22 of the Joint Local Plan. 62 homes are identified as the estimated provision of housing.

The Community Right to Build Order for the site has now lapsed and therefore a separate grant of planning permission is now needed for redevelopment of the site. Whilst the Community Right to Build Order has lapsed the placemaking principles it was founded on remain relevant to the redevelopment of the site. This plan carries them forward, recognising that what may now be achievable on the site may differ from the detail contained in the Community Right to Build Order as a result of policy, site and viability

Constraints.

The site is of strategic importance to Totnes, being adjacent to the railway station, bounded by the river Dart and close to existing housing and employment development. This is why TTV22 focuses on mixed use, maximising benefits for the local community, economy and environment and the community have aspirations to see the site contribute to the promotion of low carbon transport and create an important opportunity for the to be one of Totnes's exemplars of sustainable development.

Specific material considerations also identified in TTV22 are:

• Appropriate flood risk mitigation measures (including improvements to the leat to protect existing development downstream)

• Remediation of contaminated land

• Habitat enhancement

• Sensitive and high-quality design which integrates with the existing area and the setting of nearby heritage assets.

Also, alongside any progress made through working with the landowner there is the opportunity to review the plan in the future and include a policy relating to the site.