

Addendum to the Report on the Northam Neighbourhood Plan 2024 – 2031

**A supplementary assessment undertaken for Torridge District Council,
with the support of Northam Town Council, on the implications of
Sections 98 and 99 of the Levelling-up and Regeneration Act 2023.**

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Date of Addendum: 4 June 2026

1. Background and Introduction

- 1.1 I completed the Examination of the draft Northam Neighbourhood Plan (NNP/the Plan) on 10 February 2026. Following receipt of my report, Torrridge District Council (TDC) is now considering my recommendations in its determination of whether and, in what form, the Plan should proceed to a referendum. However, since completing my final report, changes to the legal compliance and Basic Conditions for neighborhood plans came into effect on 25 March 2026.
- 1.2 It is noted that there are no transitional provisions in the new regulations¹, which bring the legal changes into effect. This means that until the authority resolves to send the Plan to referendum (or not), a 'decision' has not been made. In the absence of a formal decision, the legal changes must now be taken into account by the District Council, prior to making its determination.
- 1.3 In seeking a pragmatic, open and fair process to address these changes, TDC, with the endorsement of Northam Town Council (NTC), has undertaken a focused public engagement exercise, seeking comments relating to any implications arising out of the recent changes to the legal compliance and Basic Conditions against which the NNP was examined.
- 1.4 This consultation has been brought to the public's attention by the District Council placing a notice on its website, advising that anyone with an interest in the NNP may, should they wish, comment on the legal changes. In addition, those who made representations at the Regulation 16 stage have been contacted directly by email to alert them to this opportunity to submit comments. A formal notice of the consultation was published in the print version of the North Devon Gazette on 15 April 2026 and a less formal article was published on their website on 16 April 2026 as a result of TDC's press notice.
- 1.5 Given the very focused nature of this additional exercise, a period of 2 weeks was provided to submit comments, between 16 April 2026 and 1 May 2026.² No requests to extend the closing date were received.

2. Scope of Assessment

Examiner Role

- 2.1 Notwithstanding that my formal statutory appointment ceased upon the issue of the final report in February this year, I have been engaged by TDC (with the agreement of NTC) to provide an opinion, by way of an addendum to my final report, based on a desk based assessment of the

¹ View at: <https://www.legislation.gov.uk/ukxi/2026/169/made#top>

² Details of the focused consultation and all documents referred to in this addendum may be viewed at:

<https://www.torrridge.gov.uk/article/22296/Northam-Neighbourhood-Plan-Proposal>

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draft Plan against the revised legal requirements coupled with, and informed by, the responses submitted as a result of the further consultation.

- 2.2 The purpose of this assessment is to advise the TDC whether any Revised Modifications (**RM**s) should be made by the District Council as a result of the legal changes and responses received.

Legislative Changes

- 2.3 The Levelling-up and Regeneration Act 2023 (Commencement No. 11 and Saving and Transitional Provisions) Regulations 2026³, commence sections 98⁴ and 99⁵ of the Levelling-up and Regeneration Act 2023 (the 2023 Act), which came into effect on 25 March 2026.
- 2.4 These amend the Planning and Compulsory Purchase Act 2004⁶ and the Town and Country Planning Act 1990⁷ in respect of the legal compliance and the Basic Conditions requirements for neighbourhood plans.
- 2.5 In summary, the further legal compliance requirements are as follows:
- so far as the qualifying body considers appropriate, and having regard to the subject matter of the plan, the plan must be designed to secure that the development and use of land in the neighbourhood area contribute to the mitigation of, and adaptation to, climate change; and
 - so far as the qualifying body considers appropriate and having regard to the subject matter of the plan, the plan must be designed to take account of any local nature recovery strategy under section 104 of the Environment Act 2021 that relates to all or part of the neighbourhood plan area.
- 2.6 In addition, there is a new Basic Condition requirement:
- the making of the neighbourhood development plan would not result in the development plan for the area of the authority proposing that less housing is provided by means of development taking place in that area than if the neighbourhood development plan were not to be made.

This replaces the former Basic Condition that the neighbourhood plan must be in general conformity with the strategic policies contained in the development plan for the area.⁸

³ View at: <https://www.legislation.gov.uk/ukxi/2026/169/made#top>

⁴ View at: <https://www.legislation.gov.uk/ukpga/2023/55/section/98>

⁵ View at: <https://www.legislation.gov.uk/ukpga/2023/55/section/99>

⁶ Section 38B of the 2004 Act:

<https://www.legislation.gov.uk/ukpga/2004/5/section/38B>

⁷ Paragraph 8(2), Schedule 4B to the 1990 Act (and s.38C to the 2004 Act):

<https://www.legislation.gov.uk/ukpga/1990/8/schedule/4B> and

<https://www.legislation.gov.uk/ukpga/2004/5/section/38C>

⁸ Basic Condition '(e)' is replaced by '(ea)'.

- 2.7 A further Basic Condition⁹ related to the new environmental assessment framework¹⁰ is commenced albeit, until such time as a completed framework for the implementation of Environmental Assessment Reports is in place, compliance with this Basic Condition cannot be assessed.
- 2.8 Finally, for completeness, section 98 of the 2023 Act sets out the scope of the provision that may be made by a neighbourhood development plan.¹¹ This places the scope on a legislative footing, providing clarification, as opposed to introducing anything wholly new. In summary, it confirms that a neighbourhood plan may include policies in relation to the amount, type, location and timetable for development; policies in relation to the use or development of land in the neighbourhood area to address particular characteristics or circumstances of that area; details of any infrastructure requirements or requirements for affordable housing arising through the plan; and design requirements in the neighbourhood area which the qualifying body considers should be met for planning permission to be granted.

3. Main Assessment

Focused Consultation

- 3.1 6 responses were submitted to the focused consultation, including formal comments from both NTC and TDC.¹² No requests to extend the deadline for submitting responses were received. I have taken these responses fully into account as part of my assessment that follows.
- 3.2 Based on the consultative steps that have been taken by TDC (see paragraphs 1.3-1.5 above), I am content that a fair and proportionate approach has been taken to highlight the main legal changes and invite views on any potential implications for the NNP from all those that may have an interest. All reasonable steps have been taken to ensure that no party has been prejudiced.

Scope of the Neighbourhood Plan

- 3.3 As part of my Examination, I noted that the NNP does not include provision for excluded development and sets out policies in relation to the development and use of land (see main report paragraphs 3.6 & 3.7).
- 3.4 As summarised in paragraph 2.8 above, the newly implemented legislation further clarifies the permitted scope of the policies in a neighbourhood

⁹ New Basic Condition '(fa)'.

¹⁰ Part 6, Levelling-up and Regeneration Act 2023:

<https://www.legislation.gov.uk/ukpga/2023/55/part/6>

¹¹ See section 98(2), which inserts new provision "A1" into section 38B of the Planning and Compulsory Purchase Act 2004.

¹² Responses of "No comments" were received from Historic England (28 April 2026), National Highways (27 April 2026) and the Coal Authority (16 April 2026).

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plan. Based on my assessment, the NNP does not exceed the appropriate statutory scope of a neighbourhood plan.¹³

Local Nature Recovery Strategy

- 3.5 TDC indicated that although there is a draft Local Nature Recovery Strategy (LNRS) (under section 104 of the Environment Act 2021) for Devon, it is not yet in force.¹⁴ NTC considered that the provisions of Policy EN2 (Protecting the Identity of Settlements), Policy EN5 (Protecting Green Corridors and Biodiversity Enhancement) and Policy TR2 (Cycling and Pedestrian Routes) enable the LNRS legal requirement to be met. TDC agrees that the policies within the proposed NNP would be compatible with the LNRS, adding that no sites are allocated for development in the Plan. In addition, Mr K Goodred (also acting on behalf of the Campaign to Protect Appledore (CPA)) noted that Policy EN5 enables the legal requirement to be met. TDC considers that the proposed NNP would not prevent the achievement of the overall aims, objectives and management strategies of the various items identified within the LNRS. In my assessment, I consider that none of the Plan's policies are in direct conflict with the LNRS strategy.

Climate Change

- 3.6 NTC submitted that the Plan fulfils the legal requirements of the climate change issue by seeking to deliver the planning component of the Council's Climate Emergency Action Plan through the provisions and supporting text of policies DE1 (Quality of Design), DE2 (Renewable Energy) and the recreation and environment policies EN1a (Open Space and Recreation), EN2 and EN5. The transport policies TR2 and TR3 (Public Car Parking) provide additional evidence that the Plan fulfils the legal requirement. Mr Goodred echoed those conclusions. TDC had no further comments to make. Having regard to the responses received, I am satisfied that, overall, the Plan policies do not conflict with the aims of securing development which contributes to the mitigation of, and adaptation to, climate change.

Revised Basic Condition

- 3.7 NTC submitted that the NNP does not propose fewer homes than the number set out in the strategic policies of the North Devon and Torridge Local Plan (NDTLP). It does not block housing development on sites that would be considered suitable for housing development under the spatial strategy and relevant policies of the NDTLP. Mr Goodred made similar comments. Furthermore, NTC submitted that there is no evidence that the NNP seeks to reduce the total amount of housing that would be provided in the NNP area by the NDTLP. TDC agreed that the proposed NNP would

¹³ See s.38B(A1) and s.38B(2C)(a) of the 2004 Act.

¹⁴ The draft LNRS has since been finalised on 13 May 2026.

not result in less housing in the Plan area than has been proposed in the NDTLP.

- 3.8 However, the revised Basic Condition has resulted in the effective deletion of the former Basic Condition that the neighbourhood plan be in general conformity with the strategic policies contained in the development plan for the area. In paragraph 4.33 of my main report of the Examination of the NNP, I concluded that: *"Given the lack of general conformity indicated by TDC of Policy ED1 with Policies ST09 and DM13 of the NDTLP, I shall recommend the deletion of Clause 3"*. See PM14 in the Appendix to the main report.
- 3.9 NNP Policy ED1 (Business) Clause 3 states: *"Loss of existing employment uses will only be supported where it can be demonstrated that the existing use is no longer required or viable, and that the premises/site/business has been actively marketed for at least twelve months at an appropriate market price"*. In its Regulation 16 representation about NNP Policy ED1 Clause 3, TDC submitted that, in addition to the lack of conformity with Local Plan Policies ST09 and DM13 of the NDTLP, there was a failure to comply with guidance in paragraphs 16d and 16f of the NPPF. I agree that Policy ED1 Clause 3 does not have regard to national guidance and, notwithstanding the lack of conformity with Policies ST09 and DM13 of the NDTLP should be deleted. Therefore, I shall maintain my Proposed Modification PM14 as drafted in my main report.

4. Conclusion

- 4.1 Notwithstanding the important issues covered by the new legislation, it is unfortunate that the timing of the implementation of the neighbourhood planning provisions in the 2023 Act have served to cause a delay to progressing the NNP to a referendum. However, as noted in my main report, the submitted NNP is a comprehensive response to the land use planning issues arising in the Parish and this is reflected in my conclusion that no further modifications are necessary to the NNP as a result of the revised legal compliance and Basic Conditions requirements.
- 4.2 All the recommendations in my main report remain unaltered. Therefore, I very much hope that TDC can now make a timely determination that allows the modified Plan to proceed to a referendum.

Andrew Mead

Examiner