



Friday, 30 August 2019

## PLANNING COMMITTEE

A meeting of **Planning Committee** will be held on

**Monday, 9 September 2019**

commencing at **5.30 pm**

The meeting will be held in the Riviera International Conference Centre, Chestnut Avenue, Torquay, TQ2 5LZ

### **Members of the Committee**

Councillor Pentney (Chairman)

Councillor Barrand

Councillor Hill

Councillor Brown

Councillor Barbara Lewis

Councillor Dart

Councillor Manning

Councillor Dudley

Councillor Jacqueline Thomas

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## **A prosperous and healthy Torbay**

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For information relating to this meeting or to request a copy in another format or language please contact:

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Email: [governance.support@torbay.gov.uk](mailto:governance.support@torbay.gov.uk)

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# **PLANNING COMMITTEE AGENDA**

- 1. Apologies for absence**  
To receive apologies for absence, including notifications of any changes to the membership of the Committee.
- 2. Minutes** (Pages 4 - 7)  
To confirm as a correct record the Minutes of the meeting of this Committee held on 12 August 2019.
- 3. Disclosure of Interests**  
(a) To receive declarations of non pecuniary interests in respect of items on this agenda.  
  
**For reference:** Having declared their non pecuniary interest members may remain in the meeting and speak and, vote on the matter in question. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.  
  
(b) To receive declarations of disclosable pecuniary interests in respect of items on this agenda.  
  
**For reference:** Where a Member has a disclosable pecuniary interest he/she must leave the meeting during consideration of the item. However, the Member may remain in the meeting to make representations, answer questions or give evidence if the public have a right to do so, but having done so the Member must then immediately leave the meeting, may not vote and must not improperly seek to influence the outcome of the matter. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.  
  
**(Please Note:** If Members and Officers wish to seek advice on any potential interests they may have, they should contact Governance Support or Legal Services prior to the meeting.)
- 4. Urgent Items**  
To consider any other items that the Chairman decides are urgent.
- 5. Land To The North Of Totnes Road, Collaton St Mary, Paignton (P/2019/0604)** (Pages 8 - 42)  
Outline application for up to 73 dwellings with all matters reserved except access, new access onto the Totnes Road
- 6. Little Blagdon Farm, Totnes Road, Paignton (P/2019/0478)** (Pages 43 - 77)  
Demolition of nine disused farm buildings and construction of new vehicular access.
- 7. 11 Tamar Avenue, Torquay (P/2019/0598)** (Pages 78 - 85)  
First floor side extension

**8. Public speaking**

If you wish to speak on any applications shown on this agenda, please contact Governance Support on 207087 or email [governance.support@torbay.gov.uk](mailto:governance.support@torbay.gov.uk) before 11 am on the day of the meeting.

**9. Site visits**

If Members consider that site visits are required on any of the applications they are requested to let Governance Support know by 5.00 p.m. on Wednesday, 3 September 2019. Site visits will then take place prior to the meeting of the Committee at a time to be notified.



## Minutes of the Planning Committee

12 August 2019

-: Present :-

Councillor Pentney (Chairman)

Councillors Barrand, Brown, Dudley, Hill, Brooks and Bye

(Also in attendance: Councillors O'Dwyer and Sykes)

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### 23. Apologies for absence

Apologies for absence were received from Councillors Dart and Manning. It was also reported that, in accordance with the wishes of the Conservative Group, the membership of the Committee had been amended to include Councillors Brooks and Bye instead of Councillors Barbara Lewis and Jacqueline Thomas.

### 24. Minutes

The Minutes of the meetings of the Planning Committee held on 8 and 16 July 2019 were confirmed as a correct record and signed by the Chairman.

### 25. Land North of Shorton Manor, Shorton Road, Paignton (P/2019/0019/PA)

The Committee considered an application for the construction of a single detached dwelling within the curtilage of a listed building.

Prior to the meeting, Members of the Planning Committee undertook a site visit and written representations were available on the Council's website. At the meeting Mark Pountney and Katie Giles addressed the Committee against the application and Nicola Burley spoke in support of the application.

Resolved:

Approved, subject to the conditions set out in the submitted report and the final drafting of conditions and addressing any further material considerations that may come to light being delegated to the Assistant Director of Planning and Transport.

### 26. Land North of Shorton Manor, Shorton Road, Paignton (P/2019/0020/LB)

The Committee considered an application for listed building consent for the construction of a single detached dwelling within the curtilage of a listed building.

Prior to the meeting, Members of the Planning Committee undertook a site visit and written representations were available on the Council's website. At the

meeting Mark Pountney and Katie Giles addressed the Committee against the application and Nicola Burley spoke in support of the application.

Resolved:

That Listed Building Consent be granted, subject to the conditions set out in the submitted report and the final drafting of conditions and addressing any further material considerations that may come to light being delegated to the Assistant Director of Planning and Transport.

## **27. The Anchorage, Headland Road, Torquay (P/2019/0261/VC)**

The Committee considered an application to vary or remove conditions in relation to Planning Application P/2018/0348 – variation of condition 9 - Balustrade.

Prior to the meeting, Members of the Planning Committee undertook at site visit and written representations were available on the Council's website. At the meeting Graham Kenny addressed the Committee in support of the application.

Resolved:

Approved, subject to:

- (i) the conditions set out in the submitted report;
- (ii) an additional condition to secure the implementation of a scheme of planting, boundary, and hard landscape features in relation to the "roof garden" as detailed on the submitted plans. This is intended to ensure that the roof garden area is used as previously approved, and not used for recreational purposes and that the details of this approval would be required within four weeks of a planning permission; and
- (iii) the final drafting of conditions and addressing any further material considerations that may come to light being delegated to the Assistant Director of Planning and Transport.

## **28. Land at The Terrace car park, corner of Montpellier Road and The Terrace, Torquay (P/2019/0348/MPA)**

The Committee considered an application for the formation of a 120 bedroom hotel and ancillary restaurant and associated works, partial demolition and reconfiguration of existing car par to provide stairs, lift and a ramp.

Prior to the meeting, Members of the Planning Committee undertook at site visit and written representations were available on the Council's website. At the meeting Adam Aslett and Matthew Sherwood addressed the Committee against the application and Ian Roach spoke in support of the application.

Resolved:

Approved, subject to the conditions set out in the submitted report and the final drafting of conditions and addressing any further material considerations that may come to light being delegated to the Assistant Director of Planning and Transport.

**29. 90 - 96 Union Street, Torquay (P/2019/0358)**

The Committee considered an application for the change of use from A1 (shops) to D2 (cinema) including restaurant.

Resolved:

Approved, subject to:

- a) the conditions set out in the submitted report;
- b) the completion of a legal agreement resolving any outstanding flood risk matters; and
- c) the final drafting of conditions and addressing any further material considerations that may come to light being delegated to the Assistant Director of Planning and Transport.

**30. Former Torwood Conservative Club, 28 Parkhill Road, Torquay (P/2019/0423/PA)**

The Committee considered an application for the change of use from Conservative Club to three self-contained dwellings.

Prior to the meeting, Members of the Planning Committee undertook at site visit and written representations were available on the Council's website. At the meeting Councillor O'Dwyer addressed the Committee in support of the application.

Resolved:

Approved, subject to the conditions set out in the submitted report and the final drafting of conditions and addressing any further material considerations that may come to light being delegated to the Assistant Director of Planning and Transport.

(Note 1: Councillor O'Dwyer declared a pecuniary interest in the application, in accordance with the Local Protocol for Officers and Members involved in the Planning Process, Councillor O'Dwyer remained in the audience for the officer presentation, public speaking and then withdrew from the meeting room prior to the debate and vote.)

**31. Former Torwood Conservative Club, 28 Parkhill Road, Torquay  
(P/2019/0423/LB)**

The Committee considered an application for Listed Building Consent for the change of use from Conservative Club to three self-contained dwellings.

Prior to the meeting, Members of the Planning Committee undertook at site visit and written representations were available on the Council's website. At the meeting Councillor O'Dwyer addressed the Committee in support of the application.

Resolved:

That Listed Building Consent be granted, subject to the conditions set out in the submitted report and the final drafting of conditions and addressing any further material considerations that may come to light being delegated to the Assistant Director of Planning and Transport.

(Note 2: Councillor O'Dwyer declared a pecuniary interest in the application, in accordance with the Local Protocol for Officers and Members involved in the Planning Process, Councillor O'Dwyer remained in the audience for the officer presentation, public speaking and then withdrew from the meeting room prior to the debate and vote.)

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Chairman

# Agenda Item 5



Application Site Address	Land To The North Of Totnes Road, Collaton St Mary Paignton
Proposal	Outline application for up to 73 dwellings with all matters reserved except access, new access onto the Totnes Road
Application Number	P/2019/0604
Applicant	Taylor Wimpey UK Ltd
Agent	Peter Brett Associates
Date Application Valid	18.06.2019
Decision Due date	17.09.2019
Extension of Time Date	
Recommendation	Approval: Subject to planning conditions as outlined within the report, with the final drafting of conditions delegated to the Assistant Director of Planning and Transport, and; the completion of a S106 Legal Agreement to secure Affordable Housing and other identified obligations, as outlined within the report.
Reason for Referral to Planning Committee	Major Development
Planning Case Officer	Scott Jones

Location Plan –



## **Site Details**

The application site is part (approximately half) of a triangular field adjacent to the Totnes Road (A385) close to Collaton St Mary on the western outskirts of Paignton. The site has historically been known locally as the "Car Boot Field". The eastern half of the field which the application relates to is the lower half, where the land drops from west to east. The field measures approximately 7.2 hectares in area and the application site is 4.5 hectares.

The northern and eastern boundaries of the site are clearly defined by existing hedges. The southern boundary that runs along the edge of the Totnes Road is a mixture of rural estate railings, scrub hedging and intermittent trees adjacent to a linear grass verge, which permits public views across the field to the rising rural landscape to the north and east. The western boundary of the application site dissects the open field.

There is currently no vehicular access to the application site as the sole access point to the wider field is to the west within the upper part of the wider field. There is a pavement along the southern side of the Totnes Road however the northern side, along the site boundary, is a grass verge with no pavement.

On the opposite side of Totnes Road there is existing residential development in a predominantly linear ribbon form. These dwellings are generally set back from the road and the street form is broken up by large trees and landscaping, to the extent that the run of properties does not overtly read in close or distant views as an urban edge. To the west of the site there is a camping and caravan park. To the north and east there is open countryside land.

There are a number of heritage assets nearby. To the east off Blagdon Road there is the Grade 2\* listed Church of St Mary, and Grade 2 Old School House and Old Vicarage. Again to the east on the south side of Totnes Road close to the junction of Blagdon Road there are a further four Grade 2 listed properties, 391-397 Totnes Road. 300 metres to the west of the site is another Grade 2\* listed building, the 15<sup>th</sup> Century Blagdon Manor.

In the Torbay Local Plan the site is identified as part of the wider Collaton St Mary (Paignton North and West Area) Future Growth Area. It is also a site identified for housing within the Collaton St Mary Masterplan, which is an Adopted Supplementary Planning Document for the area (adopted February 2016). In terms of other relevant context the valley floor to the north/east of the site (close to the Blagdon Road) is a linear area with an identified risk of flooding.

## **Description of Development**

The application seeks outline planning permission for up to 73 dwellings with all matters reserved except for access.

The proposal includes the creation of a single vehicular access off the Totnes Road (A385) with proposed highway works to re-align the Paignton-bound carriageway in order to facilitate a designated right hand turn lane into the site. Pedestrian access is proposed at three points adjacent to the Totnes Road. There is an access towards the western corner close to a proposed play area within the site and adjacent to existing bus stops on the A385. There is also an access to the east close to the nearby

school on to the highway verge. These two access points supplement a central pedestrian access that sits aside the proposed vehicular entrance. A linear pedestrian route is proposed within the site along the length of the border adjacent to the A385 that also links these access points.

The indicative detail submitted to support the proposal for 73 dwellings seeks to show that the level of development proposal could be appropriately achieved on the site, and this includes a masterplan layout. This shows a potential residential layout set around a loop-type arrangement with small clusters of units within short off-shoots to the north and south of the site. The submitted masterplan shows what appears to be a mix of detached, semi-detached and short terraces, with off-road and courtyard parking facilities appearing to show designated parking for all properties. Garden divisions that provide private space for all properties are also shown. In terms of wider detail, the indicative layout also includes a Locally Equipped Area of Play (LEAP) in the south west corner of the site adjacent to the Totnes Road, an informal green area to the south-east corner that is proposed to provide attenuation ponds and some informal space, and further pockets of what appears to be public green space within the layout.

### **Pre-Application Enquiry**

N/A.

### **Relevant Planning Policy Context**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 places a duty on local planning authorities to determine proposals in accordance with the development plan unless material considerations indicate otherwise. The following development plan policies and material considerations are relevant to this application:

#### **Development Plan**

- The Adopted Torbay Local Plan 2012-2030 ("The Local Plan")
- The Paignton Neighbourhood Plan

#### **Material Considerations**

- Referendum version of the Paignton Neighbourhood Plan\*
- National Planning Policy Framework (NPPF)
- Planning Policy Guidance (PPG)
- Published Standing Advice
- Planning matters relevant to the case under consideration, including the following advice and representations, planning history, and other matters referred to in this report.

### **Relevant Planning History**

#### **Pre-Applications**

DE/2015/0454: Development of 95 dwellings including associated access, car parking, landscaping and drainage infrastructure. Decision: Split decision, principle of residential accepted, design and other concerns raised.

#### **Applications**

P/2017/1304: Full application for 94 (reduced from 97) dwellings, with access, landscaping and infrastructure. Officer Recommendation: Refusal, for reasons of design, amenity, landscape impact, impact upon heritage assets, highway safety, and flood risk. Application withdrawn prior to committee and not considered by Members.

P/2013/0572: Outline application for proposed residential development (up to 175 units) and associated development including provision of open space, landscaping, ponds and other associated development. All matters reserved for further consideration except access. This is a departure from the Local Plan. Refused 14.08.2013. Appeal Withdrawn.

Refusal Reasons: (1) Principle, (2) Landscape Impact, (3) Protected Species (4) Flood Risk, (5) Lack of signed S106, (6) Highway Impact.

P/2012/1037: Full application for development to include 197 residential units, a local centre building (ground floor only) comprising Use Class A1 floor space of 460sqm new vehicular access to Totnes Road , internal road layout, car parking, open space, landscaping, ponds, services and infrastructure and all other associated development. Refused 12.12.2012.

Refusal Reasons: (1) Principle, (2) Design and Layout, (3) Landscape Impact, (4) Lack of signed S106.

### **Design Review Panels**

*March 2016 DRP (Pre-application DE/2015/0454):*

Summary of key points:

There appears to be a gap between the analysis of the site and the vision projected for the development - the essential proposition needs to be rural rather than suburban.

The layout needs to be influenced and informed by a 'place-making' approach, rather than one led by the road layout. Roads need to become streets, parking needs sensitive handling and landscape design needs to reinforce the character of the development. If the form of the streets become less regular then their character becomes more rural and opportunities are created along them for parking, etc.

Once a more successful layout has been developed then clear parameter plans ought to be prepared and adopted through a condition in the planning permission which capture the essential strategies of the layout and ensure that there is no slippage between an outline consent and any reserved matters submissions.

The way in which the layout and individual house types respond to the slope should be assured and effortless - it ought to be an ambition of the development to achieve the least amount of earth-moving and levelling of the site in order to make a viable development.

The site continues to be in a sensitive location and accurate landscape and visual impact assessments should be used to test the revised ideas before submission.

The connections from this new community to the other parts of Collaton St Mary need to be more confidently attempted - in order that active modes of travel (walking and cycling) are firmly promoted.

See great potential in this residential development and believe that it could be a highly desirable and therefore high-value opportunity - providing that the design ambition captures all the opportunities of this potentially beautiful site.

*September 2012 DRP (Application P/2012/1037):*

Summary of key points:

The design does not make a good case for a major incursion into this relatively unspoilt valley setting.

Perceive the proposals to be a fairly standard suburban character is being imposed on a landscape setting which is essentially rural.

The architectural design is undistinguished.

The landscape strategy needs to integrate more successfully and could be used to sub-divide and reduce the scale.

Anticipate that the quantum of development would need to be reduced dramatically.

### **Summary of Representations**

37 Objections. The following provides a summary of the main issues identified and where appropriate a summary response is provided by the planning officer. Where appropriate the issues raised are discussed further in the Key Issues / Material Considerations section of this report.

The concerns raised in the objections are as follows:

- Impact on bats
- Increased flood risk
- Not in keeping with the local area
- Too many homes for the site
- Overdevelopment
- Too suburban
- Doesn't respond to the rural context
- Highway safety concerns – inadequate infrastructure in terms of vehicular, cycle and pedestrian movement in the area
- Loss of farmland
- Impact upon the sewer system
- Impact upon the South Hams SAC (bats)
- Impact upon the setting of the church
- Light pollution
- Noise pollution
- Raises the same issues as previous schemes that have been rejected
- Inconsistent with the Local Plan

- Inconsistent with the Neighbourhood Plan.
- Inconsistent with the Collaton St Mary Masterplan
- Inconsistent with the NPPF
- Unbalanced in terms of the need for jobs and homes
- Loss of habitat
- Presumption in favour of sustainable development should not apply due to the South Hams SAC
- Indistinct housing sprawl that would ruin the character of Collaton St Mary
- Local school already over-subscribed
- Impact on healthcare

Objections include those from the Collaton St Mary Residents Association and the Torbay Green Party, which both include a number of concerns including need, conflict with the development plan and NPPF, over-development, impact on ecology, poor access and highway impacts, and impact upon drainage infrastructure.

### **Summary of Consultation Responses**

**Joint Neighbourhood Forums:** A joint response of all 3 Neighbourhood Plan Forums expressing why there is already a supply of housing land in excess of the NPPF and adopted Local Plan requirement.

The Neighbourhood Forums find the draft land supply statement published by Council officers does not take sufficiently into account the following:

- The assessment finds a not less than 3 year supply to be identified against the 5 year requirement given the 100% coverage of Torbay by the Neighbourhood Plans recently approved.
- The supply of deliverable dwellings exceeds 3.28 years shown in the draft.
- Review of the Local Plan housing trajectory is about to formally commence.

In conclusion, the Forums' finding is that more than a sufficient supply exists until the required Local Plan Review has been completed. They conclude that continued use of the existing Local Plan housing trajectory is no longer justifiable. A supply of at least 3 years exists that meets the requirement of NPPF14 for the purpose of decision taking as allowed for by the NPPF pending the Local Plan Review that is about to commence.

**Paignton Neighbourhood Forum:** The Forum objects to the application as it fails to resolve the harm that would result to the locality and occupants due to overdevelopment in direct conflict with the policies of the adopted Development Plan. It is viewed that the change in approach to an outline application for up to 73 dwellings in place of the previous detailed proposal for up to 94 dwellings has not overcome the fundamental problems (P/2017/1304). As such the proposal conflicts with the approved statutory Development Plan and all other material planning considerations for the following reasons:

**Principle:** It is not correct as implied in the application to assume inclusion of the site in the 'Future Growth Area' means that development of the site has approval in

principle status. The adopted Torbay Local Plan designation is conditional upon the strategic policies of SS1, SS2, SS5 and SS12 being met.

Overdevelopment: The density of development proposed conflicts directly with the adopted Local Plan and Collaton St Mary Masterplan which shows the site for 40 dwellings having regard to the importance of the landscape, biodiversity and infrastructure constraints that apply. The submitted application masterplan will create a dense urban development out of keeping with the setting of the village and nearby listed building contrary to adopted Local Plan, adopted Collaton St Mary Masterplan and Policy PNP1 (Area wide) and Policy PNP1(c) (Design Principles) of the Paignton Neighbourhood Plan.

Biodiversity: The latest proposal continues to rely on an outdated biodiversity survey (of 2016), fails to present up to date survey information that shows the ‘in-combination’ effect with all other plans and projects in the Collaton St Mary Area. The revised proposals therefore fail to meet the requirement of the Habitats and Wild Birds Directives, Conservation of Habitats and Species Regulations 2017, and local policy. It is critically important to accord with the Local Plan Habitat Regulation Assessment adopted by the Council in December 2015 which states that no proposal will be approved unless it can be “categorically proven” there will be no adverse impacts on European sites.

Landscape: The level of replacement and additional planting remains inadequate to compensate for the effect the proposal would have on the natural landscape views into and across the site and its contribution to biodiversity in direct conflict with adopted Local Plan Policy C4 (Trees, hedgerows and natural landscape features) and would undermine implementation of Policy PNP1 (a) (Rural Character Area) of the Paignton Neighbourhood Plan. Insufficient space is provided for within the submitted masterplan to provide for landscaping due to the density of development proposed.

Impact on transport: The access proposed and assumptions made about the impact it would have of additional turning movements and capacity of Totnes Road as a principal highway take insufficient account of the congestion and accident record that already affect the adjacent highway network. The internal road layout shown in the application masterplan will also create major conflict between cars, pedestrians and calling delivery vehicles made worse by the density of development. The resulting impact would be contrary to Local Plan Policy TA1/TA2 and Policy PNP24 (Collaton St. Mary Village) of the Paignton Neighbourhood Plan.

Impact on drainage and flooding: The proposal fails to demonstrate sufficient regard has been given to flash flooding that occurs immediately to the south east of the site which results in the water course breaching its banks and combining with foul water to the detriment of the area. For surface water disposal the SUDS scheme proposed fails to demonstrate there will be no increase in risk to existing properties. For waste water disposal (sewage) inadequate information is presented that demonstrates there is capacity to accommodate the additional flow as vague and insufficient details are given in the application of the foul water connection point proposed in Totnes Road where existing problems of foul water flooding occur.

In conclusion: There are no benefits or other material considerations in the proposal that either alone or taken together would outweigh the harm that would result. On the contrary, the proposal fails to make provision for a balance of jobs and homes, and provision for sustainable development contrary to the National Planning Policy Framework and key purpose of the adopted Local Plan, Collaton St. Mary Masterplan and Paignton Neighbourhood Plan.

**Torbay Council Strategic Planning (Policy):** The Development Plan for the area comprises of the Adopted Torbay Local Plan 2012-30 (December 2015), and the Adopted Paignton Neighbourhood Plan (June 2019). The Collaton St Mary Masterplan was adopted as SPD in 2016 and is a material consideration, along with the explanatory and justification text in the Local Plan and Paignton Neighbourhood Plan policy documents.

The site is part of a wider strategic allocation within the Local Plan and Policy PNP24 of the Paignton Neighbourhood Plan sets out that development is “supported where the proposals are in accordance with the adopted Masterplan for the area”. There are additional caveats and requirements across the Development Plan policies to consider, particularly in relation to the detail.

The current proposal does appear to be fairly consistent with the adopted Masterplan proposal. Although a larger number of dwellings are proposed, the layout and number shown within the Masterplan are indicative. The indicative layouts in the Masterplan are highly schematic and should not be taken as a ceiling on the number of dwellings that can be achieved so long as access, sustainable drainage, landscaping etc. matters can be satisfactorily addressed.

In regard to objections on the grounds of need it is argued within representations that the Local Plan's level of growth is not justified. Such matters would need to be considered through the upcoming review of the Local Plan and it is not appropriate to consider these through a planning application on a strategically allocated site such as this. The Neighbourhood Plan has been through independent examination and Council approval process very recently which confirmed that it met the Basic Conditions including not revising strategic growth figures or undermining strategic policies. As set out above, the Neighbourhood Plan supports the growth set out in the Local Plan. If the Local Plan was considered to be out of date (as argued in the representations), then the Presumption in Favour of Sustainable Development in paragraph 14 of the NPPF is triggered.

In regard to objections re phasing it is not considered that the phasing in part 8 (and Table 8.1) of the Paignton Neighbourhood Plan can be taken as a phasing policy as it is not upper case policy. It is therefore to be considered as a material consideration. Treating it as a “phasing lock” policy would be tantamount to promoting less development than the Local Plan, contrary to the basic conditions governing neighbourhood plans and the guidance on Neighbourhood Plans in the NPPF which, by virtue of being adopted, the Neighbourhood Plan has been agreed by the Council not to do.

With regards to housing supply, we recently published our initial assessment that showed there was currently less than 5 years' housing supply in Torbay, which does

trigger the presumption in favour of sustainable development, particularly against the Local Plan policies. A consultation has been undertaken and a range of responses received. It is not likely that the final outcome will increase the housing supply above 5 years but I am not able to confirm the precise outcome at this time.

Objectors have raised a number of concerns about details of the applications, but the level of conflict would need to be “significant and demonstrable” given the tilted balance in favour of granting planning permission. As discussed the site is allocated for development in the Development Plan, and can therefore be considered broadly in accordance with the Development Plan taken as a whole. As stated, Policies SS2 and SDP3 are strategic policies, and Policy PNP24 seeks to tie in development with the Masterplan principles.

Residents have reasonably been very concerned about surface water flooding and sewer overflows arising from storm water. The proposals will need to ensure that they do not worsen the situation either through surface water run off or placing additional pressure on the shared sewer but this will be for the drainage lead to comment on. Similarly there are a number of detailed design, access, ecology, heritage etc. issues that need to be considered. However, as set out above, both sites are allocated in the adopted Local Plan for residential development, and the presumption in favour of sustainable development applies to them.

In summary the presumption in favour of sustainable development applies to proposals in the Future Growth Area. This does not mean that poor quality developments or those that divert significantly from the Masterplan should be approved. However, the bar to resist proposals is much higher, because the principle of development has been established.

**Torbay Council Strategic Planning (Transport) - Incorporating the views of the Highway Authority:** The revised access has responded to concerns on having a visibility of 2.4x70m and now accords with the Torbay Council Highways Design Guide (page 24) in that for strategic routes with a speed of around 35-41mph the visibility should be 90m as a minimum. The resubmitted access plan has resolved this initial concern and the main vehicular access arrangement is now considered acceptable.

In regard to wider access and movement matters the NPPF is clear that any proposal should ensure that: appropriate opportunities to promote sustainable transport modes can be – or have been – taken up; safe and suitable access can be achieved for all users; and any significant impacts on the transport network, or on highway safety, can be mitigated (Para 108 NPPF 2019). In this case the wider pedestrian, cycle and bus access opportunities require improvement. It is therefore herein highlighted that improved access across that A385 should be achieved towards the top of the site in the area of the bus stops by with an extended footway and crossing point. In addition pedestrian access should be secured towards Blagdon Road (and school and church) through the provision of a foot/cycle path within the highway verge as there is no current footpath in this location. These works should be achieved through condition or similar.

In terms of other matters Torbay Local Plan Policy SS7 and the Planning Contributions and Affordable Housing SPD will also apply (to the non affordable dwellings). In the

case of Sustainable transport it is indicated as “trip rate x £171” per dwelling. In this case the trip rate is equal to 4.854 (Appendix F of the Transport Assessment – TRICS output page 5) per dwelling, multiplied by £171 equals £830 per non affordable dwelling built following any reserved matters or full planning consent. Alternatively the SPD also makes an assumption on a trip rate specific to different sized dwellings. This method could be used but can only be calculated following the detail planning application. This funding would support strategic connectivity from Collaton St Mary to employment areas along the Western Corridor and into Paignton Town Centre. An obligation should be secured via a S106.

In addition Torbay Local Plan Policy SS6.2 and SDP3, indicates that development along the Totnes Road area (SDP3.3) will require infrastructure improvement works to the A385 Totnes Road. As noted in the Planning Contributions and Affordable Housing SPD, this is estimated at £1m (para 4.2.7) and it is appropriate to divide that amongst the properties proposed, using the numbers as set out in the Adopted Masterplan. In total, the Adopted Masterplan supports approximately 460 homes (£2,174 per dwelling). That same Adopted Masterplan estimates 55 dwellings on this site. Therefore £119,500 towards the development and implementation of the scheme.

Finally in order to relocate the 30/40mph speed limit a contribution is required as this cannot be delivered under S278. The estimate to undertake this work is £8,000. These matters should be secured within the decision making process.

**Torbay Council Drainage Engineer:** The revised submitted flood risk assessment identifies that infiltration testing has been undertaken on the development site and the proposed surface water drainage strategy for the development incorporates the use of SUDS features. In addition the assessment identifies a controlled discharge to the Yalberton watercourse.

The hydraulic designs are based on the current masterplan layout for the site and these demonstrate that there is no risk of flooding for the critical 1 in 100 year storm event plus 40% for climate change.

As the final layout for the development and hence design for the surface water drainage system may change between the current outline and detailed design any changes to the surface water drainage during detailed design must be submitted to the planning authority for approval prior to construction works commencing on site.

It should be noted that Torbay Council have identified a flood alleviation scheme immediately downstream of this development on the Yalberton watercourse. The scheme is currently identified on the Environment Agency's six year financial plan. As the surface water run-off from the proposed development is likely to impact on this watercourse upstream of the flood alleviation scheme a contribution to the funding for the flood alleviation scheme should be secured from the developer through S106 funding. In accordance with previous correspondence relating to a section 106 contribution a previously agreed figure of £915 per dwelling has been identified. As a result the S106 contribution from this development to the flood alleviation scheme should be in the sum of £66,795 ( $73 \times £915$ ).

Based on the above comments there is no objection to planning permission being granted for the above development subject to a condition requiring the developer to submit their final drainage design for approval, together with the funding above being secured.

**Torbay Council Interim Heritage Officer:** Of the heritage assets potentially affected the Church of St Mary is of high significance, reflected by its designation at Grade II\* listed. In relation to the impact upon the setting of this building, the proposed development will introduce new built form into a part of the Church's wider setting and will extend the built area of Collaton St Mary. The western part of the Site currently has some limited, partial views of the Church. The heritage assessment fairly acknowledges that the proposed development and associated landscaping will block localised experience of the asset's significance from within the application site, although some views of the Church will still be maintained from within the site between new housing units and over those units set at a lower level.

The submitted heritage assessment suggests that the proposed development is considered to cause a minor level of harm within the spectrum of less than substantial harm to the significance of the Church of St Mary. In my view this is a reasonable conclusion, nevertheless the conclusion remains that some harm will still result. The latest proposal is a clear improvement over that previously withdrawn however there remains some adverse impact upon the setting of the Church of St. Mary, by virtue of the erosion of the rural context, which will be replaced by a more suburban development, although the Design and Access statement illustrates how the form of development has been planned to better respect the village character. However, it is accepted that the degree of impact is limited in terms of the wider context of the Church. The layout now proposed also includes a designed 'framed view of the church' and is more respectful of importance of the building and more akin to a traditional pattern of development where the status of church would have apparent.

The current outline layout has taken into consideration the heritage sensitivity (and other issues) placed on the site due to its contribution to the setting of the church. The Design and Access statement submitted with the application illustrates how such factors have been considered and as a consequence how the scheme has evolved considerable and now acknowledges the importance of the constraints and seeks to respond to them. Whilst in outline form the design and access statement provides a degree of confidence that the importance of responding to the special character of the locality has been recognised.

Paragraph 196 of the National Planning Policy Framework NPPF) provides for 'where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal'. Thus the decision process will need to weigh the benefits of the proposal against the harm arising, which in this case are considered to fall in the less than substantial category.

**Torbay Council Planning/Ecology Advisor:** The site is dominated by species-poor semi-improved grassland. It is bordered by species-rich hedgerows on the north-eastern and north-western boundaries; scattered trees and scrub occur along the

southern boundary. The site is located within a South Hams SAC Greater Horseshoe Bats 'Sustenance Zone' and 'Strategic Flyway'.

Ecological Constraints include the use of site by foraging and commuting bats (including greater horseshoe bats), a low population of reptiles, a hedgehog population, a badger sett located adjacent to the north western boundary and three outlier setts along the northern boundary, breeding birds using the site.

I concur with the assessment of the likely effects on ecology set out in the submitted EclA and are satisfied that the key ecological issues will be addressed by the applicant through the proposed mitigation and management.

There are currently no ecological grounds for the objection to the above outline application, subject to the proposed mitigation, monitoring and suggested additional bat monitoring being secured.

Future reserved matters application should:

- Seek to identify and pursue opportunities for securing measurable net gains for biodiversity through on and off-site biodiversity offsetting in order to comply with the guidance contained within the NPPF, Torbay Local Plan Policy NC1.
- Incorporate the delivery of enhanced green infrastructure. Green infrastructure can relate directly to place-making and enhancing local character. By incorporating it within the design of the development it can provide more meaningful landscape spaces and it can link areas of the development through common ground.
- Consider the connectivity of the landscape and context of the wider environment – sympathetic planting of natural features prevents fragmentation of the habitat and allows many species to continue to move about the site freely. Native-species hedges should be used rather than fences to define property boundaries. Opportunities to improve/maintain habitat connectivity should be considered early in the design stage.
- Include a Lighting Assessment, including a lux contour plan, for both public-realm and domestic lighting to demonstrate compliance with the submitted external lighting plan, this should be secured via a planning condition.
- Include a CEMP and LEMP detailing the proposed delivery of the mitigation and management measures set out in the EclA report which should be secured via a planning condition.
- Secure the provision of the construction phase and operation phase ecological mitigation measures detailed in the EAD ecology Shadow HRA report.
- Secure the post-construction monitoring of the dark bat corridor to ensure that light levels below 0.5 lux are being achieved.

- The applicant should also undertake monitoring of the bat dark corridor during the construction phase which is not included within the current proposed mitigation/monitoring measures. This, along with the post construction monitoring should also include the use of automated bat surveys rather than purely lux level monitoring so that the success of the proposed mitigation can be reviewed.

**Habitat Regulations Assessment Ecology Advisor:** In regard to the South Hams SAC (with respect of the greater horseshoe bat feature only) it is concluded that in light of the mitigation measures identified and consideration of the implications for the sites Conservation Objectives in Section 16 and 17 of the HRA/AA the application will not adversely affect the Integrity of the South Hams SAC - alone or in combination with other plans or projects.

Mitigation, as outlined in the HRA/AA will ensure that the likely significant effects on the greater horseshoe bat foraging/commuting habitats around the site and in combination with other plans or projects are avoided.

The various mitigation measures should be secured through conditions and/or appropriate clauses in the Section 106 Agreement attached to any planning consent. It is therefore concluded that this proposal will not adversely affect the integrity of the South Hams SAC.

Proposed conditions:

- Control of External Light Spill to Maintain Dark Areas on Site and in Surrounding Areas
- Construction Environmental Management Plan – Biodiversity
- Landscape and Ecological Management Plan (LEMP) or equivalent
- Ecological monitoring to provide early warning of threats to bat commuting routes

**Torbay Council Affordable Housing Team:** Torbay Council's affordable housing policy requires 30% affordable housing to be provided on a scheme of this size. As a result we will expect to see 22 of the 73 homes on this site as affordable housing. Furthermore, the expected mix on bedroom numbers should be proportionate to the mix as a whole.

**Torbay Council Education Team:** The latest published position statements reiterate that the need and demand for school places in Paignton remains high and particularly now in the secondary sector.

S106 contributions should be sought in-line with the Adopted SPD for education particularly to address the shortfall in the older year groups in primary and across the whole of the secondary sector.

**Torbay Council Natural Environment Services Team:** No comment supplied

**Natural England:** Summary of Natural England's advice; no objection - subject to appropriate mitigation being secured, to avoid having an adverse effect on the integrity of South Hams Special Area of Conservation (SAC).

Natural England notes that the Authority, as competent authority, has undertaken an appropriate assessment of the proposal in accordance with Regulation 63 of the Conservation of Species and Habitats Regulations 2017 (as amended). Your appropriate assessment concludes that your authority is able to ascertain that the proposal will not result in adverse effects on the integrity of any of the sites in question. Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England advises that we concur with the assessment conclusions, providing that all mitigation measures are appropriately secured in any permission given.

Further matters include that the proposed development is within an area that Natural England considers could benefit from enhanced green infrastructure (GI) provision. Multi-functional green infrastructure can perform a range of functions including improved flood risk management, provision of accessible green space, climate change adaptation and biodiversity enhancement. As part of Torbay Council's commitment towards Green Infrastructure, we are keen to see the integration of this important element into the proposals. This will facilitate a holistic approach and ensure that the development proposals are capable of delivering an environmentally sustainable package. If you have not already done so, we would encourage you to liaise with Torbay Council's green infrastructure officer, to explore opportunities to strengthen Green Infrastructure.

**South West Water:** South West Water has no objection. A public water main lies within the site (running parallel to the A385), this must be retained either in the new road layout or areas of public open space. Its retention in private garden areas or beneath the potential surface water attenuation ponds shown on the master plan will not be permitted.

**Environment Agency:** No comment supplied.

**RSPB:** No comment supplied.

**Devon Wildlife Trust:** No comment supplied

**Police Designing Out Crime Officer:** Thank you for requesting consultation on the above application which is for access only to be determined at this time as such I would like to advise that I have nothing further to add to comments previously submitted within the previous application, the contents of which remain valid where relevant and should be considered in the decision making process for the above.

The illustrative masterplan for the above proposed development is noted but should the planning process evolve I would welcome early consultation with regard to a detailed design and layout of the proposed scheme to ensure that opportunity for crime, fear of crime, antisocial behaviour and conflict are minimised.

## **Key Issues/Material Considerations**

### **Planning Officer Assessment**

1. Principle of Residential Development
2. Design and Visual Impact
3. Impact on Heritage Assets
4. Impact on Residential Amenity.
5. Impact on Highway Safety.
6. Ecology and Biodiversity
7. Drainage and Flood Risk

#### **1. Principle of Residential Development**

The application site is located within a wider Strategic Delivery Area (SDA), as designated in the Torbay Local Plan under Policy SS1, which identifies areas for the delivery of growth and change in Torbay for the period of the Local Plan. In addition to the above the site is also part of a wider Future Growth Area as identified within Policy SS2 of the Torbay Local Plan, where it sits in the identified *Paignton North and West Area, including Collaton St Mary* (Policy SS2.2). The site forms part of the Paignton North and Western Area SDA and Policy SDP3 of the Torbay Local Plan identifies that 460 houses could be provided within the Totnes Road / Collaton St Mary Future Growth Area over the plan period. Policies SS1 and SS2 identifies that Future Growth Areas are areas within SDAs that show broad locations where the Council will seek to work with landowners and the community, through neighbourhood planning and/or master-planning, to identify in more detail the sites, scale of growth, infrastructure etc that is required to help deliver the aspirations of the Local Plan.

The site is also subject to an adopted masterplan for the wider Future Growth Area (adopted February 2016). The Collaton St Mary Masterplan identifies the application site for residential development with some areas of green space to the south of the site near to the A385. The Masterplan identifies the site as being phase 4, the final phase of the wider Collaton St Mary Masterplan area. However the Masterplan also states that these elements of the Masterplan can be delivered earlier without negatively impacting upon other phases should the need or desire to develop these areas arise sooner.

The Paignton Neighbourhood Plan does not identify housing sites however Policy PNP24 (*Collaton St Mary Village*) does outline that any further development beyond the currently developed areas will only be supported where the proposals are in accordance with the adopted masterplan for the area. As the application site is identified as a potential site for housing within the adopted masterplan the Neighbourhood Plan is considered to support the principle of housing development on this site. The current proposal is considered to be generally consistent with the Masterplan proposal, as although a larger number of dwellings are proposed, the layout and number shown on the masterplan are indicative and the indicative layouts in the Masterplan are highly schematic and should not be taken as a ceiling on the number of dwellings that can be achieved.

The Paignton Neighbourhood Forum states that it is not correct to assume that the inclusion of the site in the ‘Future Growth Area’ makes the proposal acceptable in principle, as the adopted Torbay Local Plan designation is conditional upon the strategic policies of SS1, SS2, SS5 and SS12 being met. This opinion is not shared by the Council’s Strategic Planning Policy Team, where the advice is that the Policy landscape within the Development Plan, as outlined above, establishes the principle of the development. Wider considerations will be discussed in more detail within this report but it is concluded that the proposal accords with the strategic policies SS1, SS2, SS5 and SS12.

Due to the reasons stated above the principle of residential development on this site is accepted, when considering the Development Plan as a whole, subject to other material considerations, which will again be discussed in more detail below.

## **2. Design and Visual Impact**

Whilst the proposal only seeks detailed consent for the proposed access, being in outline with all matters reserved for future consideration, the submitted information does include an indication of a proposed site layout and further detail on the likely character and appearance of the development. It is necessary to consider whether the submitted detail indicates and ultimately provides sufficient comfort that the amount of development (up to 73 dwellings) could be appropriately achieved in terms of its layout, design and character, without undue visual impact.

Achieving good design is a central thread within government guidance and Part 12 of the NPPF “Achieving well-designed places” offers key guidance. Paras 124, 127, 129 and 130 are particularly relevant and accumulatively inform that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve, that good design is a key aspect of sustainable development, and the importance of design being sympathetic to local character (built environment and landscape setting). Para 130 offers that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

In regard to the Local Plan Policy SS2 (TLP) states that development delivered within each of the Future Growth Areas must be integrated with existing communities, and reflect the landscape character of the area as informed by Torbay’s Landscape Character Assessment (2010). Policy SS8 (TLP) states that development proposals outside of the AONB designation (the site is not within the AONB) will be supported where they conserve or enhance the distinctive character of Torbay, or where the impact is commensurate with the landscape importance. Policy SS11 (TLP) states in part that development should be of an appropriate type, scale, quality, mix and density in relation to its location. In terms of non-strategic policies Policy DE1 (TLP) outlines a number of factors towards securing development that is well-designed and that respects Torbay’s special qualities. Further to these Local Plan policies Policy PNP1 (c ) and (d) of the Paignton Neighbourhood Plan sets out local design criteria, whilst PNP24 seeks development to be designed in such a way that it re-establishes the village character (of Collaton St Mary) and respects prominent landscape and other features.

Consultee comments received from the Paignton Neighbourhood Forum cite a concern that the proposal is an overdevelopment of the site that conflicts with the indicative lower number of dwellings within the adopted Masterplan, that will create a dense urban development out of keeping with the setting of the village, and also that the level of replacement and additional planting would be inadequate to compensate for the effect the proposal would have on the natural landscape views, with insufficient space provided for within the submitted masterplan to provide for landscaping due to the density of development proposed. A number of public objections similarly raise concerns in terms of the landscape and character impacts, generally citing the scheme as an overdevelopment of the site that would harm the character of the village and wider area.

In terms of the proposal the application is supported by an indicative masterplan that presents how the amount of development could be laid out within the site, together with a design and access statement that seeks to recognise the local character and suggest design strategies to resolve an acceptable form of development that could form part of a future reserved matters application. There is also a supporting landscape and visual impact assessment which concludes on the suggested developments' likely visual impact. This concludes that the character of the current proposals will ensure that the scheme is well related to its edge-of-settlement character, and will provide an appropriate rural – urban interface, and that the proposed development will not give rise to any significant landscape or visual effects, and will be well related to the surrounding landscape and townscape.

It is considered that the indicative masterplan submitted within the application presents a broadly similar layout to that shown for the site within the adopted Masterplan, with a single access point and a circular road arrangement that loops to the far northern edge of the site. The most observable divergence that the indicative layout has with the adopted Masterplan layout is the greater extent of development adjacent to the Totnes Road, where rather than a continuous green edge there is proposed development within the central section of the frontage, separating a proposed play space to the west and a proposed open space (including attenuation pond) to the east along this frontage. The accompanying design and access statement explores the design process that has informed the indicative masterplan and suggests how the layout and future form of development could reflect South Devon village vernacular, with 'village mews', 'village street', 'village edge' and 'rural courtyard' forming four concepts for character areas within the development.

The indicative layout and supporting information seeks to tackle the various design concerns that Officers held on the previous application for 94 (reduced from 97), which was ultimately withdrawn by the applicant prior to a decision being made on the application. Previous concerns in terms of design and visual impact centred on the development presenting an incongruous suburban form development that related poorly to the rural context, together with it presenting a poor residential environment for future occupiers due to the close proximity of properties and resultant potential levels of overlooking and loss of privacy.

The number of units sought within this current application has been reduced to 73, which in terms of the layout has principally removed a linear street from the development, returning it broadly to a singular loop towards the north edge akin to the

adopted masterplan layout. The removal of a road and the provision of 21 less dwellings presents a less dense form of development with more public open space, larger gardens, and greater separation distances between buildings, which in turn presents greater internal planting potential than previously shown. On balance the reduced density and additional potential for substantive planting of trees, and for larger areas of public open space, will help to break up the built form and soften views of the development both internally and externally. The proposal would provide a basis for the form and character of a future reserved matters scheme to be well related to its edge-of-settlement location, and thus provide an appropriate rural – urban interface as concluded within the submitted landscape assessment.

In regard to design and residential environment the proposal seeks to respond to Officers previous concerns (on the scheme for 94 dwelling) regarding overdevelopment and a cramped form of development, which was considered to present a poor residential environment for future occupiers due to the close proximity of properties and resultant potential levels of overlooking and loss of privacy.

The indicative masterplan appears to present a more appropriately resolved layout with a demonstrable easing of the previous pressure upon space. The layout suggests that garden space could be adequately resolved to meet the standard expected within the Development Plan of 55sqm whilst also reflecting the more spacious character of the rural edge development. The more specious layout also largely resolves previous concerns on the inter-relationships between properties and plots and the potential impact of proximity on the privacy afforded future occupiers. The suggested distances between properties are largely in excess of the 20m guide for back-to-back plus an allowance for likely level changes, which indicates that the 20m guide should be increased to secure suitable levels of privacy. The suggestion of planting within areas of the development has further potential to remove direct sight-lines, which is welcomed in principle. It should be noted however that these distances are illustrative only, but serve to demonstrate what could be achieved. A detailed layout and residential relationships would be considered in detail at the reserved matters stage.

In terms of other matters the indicative masterplan appears to contain adequate parking to meet the expected levels of 2 spaces per dwelling. Further details will be required as part of a reserved matters submission to enable the precise parking arrangement to be properly scrutinised, but it appears, based on the space available, that an adequate parking arrangement could be provided for the proposed number of units without needing to significantly compromise on other important aspects of the scheme, such as dwelling sizes, the availability of landscaping and amenity space etc.

In the absence of more detailed information relating to building levels, the siting of openings within the proposed buildings, and other information concerning the proposal's layout, appearance and scale, it is not possible at this time to ultimately determine the acceptability of the proposal in these respects. These matters will need to be addressed at the reserved matters stage, and a range of conditions are recommended to ensure that adequate details are submitted for the Council's consideration. These include details such as boundary treatment, refuse storage, landscaping, and so on. However, based on the indicative information submitted, it appears that a development of up to 73 dwellings could, in principle, be achieved at the site in terms of its layout, appearance, scale, and the associated impacts on visual

and residential amenity, based on the indicative masterplan and supporting information currently available.

It is considered that the proposed access arrangements would not result in unacceptable harm to the character of the area. Based on the indicative information provided, the proposed development is, for the reasons above, considered to demonstrate the potential to provide a satisfactory form of development in terms of layout, in accordance with Policies SS2, SS3, H1 and DE1 of the Torbay Local Plan, Policies PNP1 and PNP24 of the Paignton Neighbourhood Plan, the adopted Masterplan for Collaton St Mary, and the NPPF.

### **3. Impact on Heritage Assets**

As an outline proposal with all other matters reserved for future consideration except for the access, it is necessary to consider the likely impact upon heritage assets of the expected scheme, informed by the submitted supporting information.

The NPPF guides that when considering the impact of a proposed development on the significance of a designated heritage asset, that great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance (Para 193). The NPPF further states that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification (Para 194). It guides that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use (Para 196).

In terms of the local Development Plan it is guided that development proposals should have special regard to the desirability of preserving any listed building and its setting (Policy HE1 of the TLP). This is aligned with the duties for decisions as laid out within the Planning (Listed Buildings and Conservation Areas) Act 1990 c.9 para 66, where decisions shall have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses.

In terms of the heritage context for this proposal there are a number of heritage assets nearby. To the east off Bladgon Road there is the Grade 2\* Parish Church of St Mary, and Grade 2 Old School House and Old Vicarage buildings, in addition to a further four Grade 2 listed properties set off the Totnes Road (No.s 391-397). To the west (approximately 300 metres) of the site is another Grade 2\* listed building, which is the 15<sup>th</sup> Century Bladgon Manor.

In terms of consultee comments the Paignton Neighbourhood Forum has raised concern on the potential harm on the setting of the nearby listed Church, and similar concerns have been raised within a number of the public objections. Historic England were consulted but have not provided comments, but it is noted that they previously objected to the scheme for 94 dwellings due to the likely impact upon the setting of the Grade 2\* Church on grounds of the likely impact upon the rural setting of this building.

In terms of context around the church and the organic cluster of surrounding historic buildings the rural character and setting is largely retained, and notably the surrounding green fields reinforce the relationship between the church and the rural hinterland and ultimately how it is experienced as a rural village church.

The previous proposal for the development of the site submitted under planning reference P/2017/1304 (for up to 94 dwellings) attracted significant concerns regarding the impact upon heritage assets both from the Council's Conservation Officer and also Historic England. As mentioned above Historic England advised that they were not convinced that the previous proposal had taken into consideration the sensitivity placed on it through its contribution to the setting of the church and they suggested that further steps should be taken to understand what the contribution of the site is to the significance of the asset derived from its setting.

The current application seeks to resolve these previous concerns and notably the application proposes 21 less dwellings and has removed a road from the layout within an outline proposition for up to 73 dwellings, which presents a marked reduction from the previous scheme and a far less dense form of development. In addition additional planting has been introduced within the centre of the development in order to present a stronger landscape concept that will help break up and soften the form of development. In addition the contextual village character has been more greatly assessed within the current Design and Access Statement, also to present a concept for a less suburban form of development within a future reserved matters application.

In relation to the resulting impact upon the setting of the church although the proposal will still introduce development into a part of the Church's wider setting and will extend the built area of Collaton St Mary, the impact is considered to have lessened over that of the previous scheme considered under application reference P/2017/1304. The submitted heritage assessment acknowledges the relationship and concludes that the proposed development is likely to cause a minor level of harm within the spectrum of less than substantial harm to the significance of the Church of St Mary. This conclusion is not challenged by the Council's interim conservation advisor and is considered a reasonable conclusion

Considering the submitted detail and the advice received it is considered that, in terms of layout, the latest proposal is a clear improvement over the previously withdrawn scheme, notwithstanding that there remains some adverse impact upon the setting of the Church of St. Mary (by virtue of the erosion of the rural context). However it is accepted that the degree of impact is now limited in terms of the wider context of the church as the development parameters are more respectful to the rural context and the importance of the building and its setting, and thus presents a framework for a more appropriate pattern of development within a future reserved matters application.

Para 196 of the NPPF guides that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, the harm should be weighed against the public benefits of the proposal. Thus the decision process should weigh the benefits of the proposal against the harm arising, which in this case are considered to fall in the less than substantial category. This balancing exercise also needs to consider further advice contained within the NPPF that where a development proposal will lead to less than substantial harm to the significance of a

designated heritage asset, this harm should also consider an optimum viable use of a site (Para 196).

Considering the conclusions above in this instance the impact on the setting of the Grade 2\* Parish Church of St Mary and the other listed buildings needs to be weighed against the public benefits of the proposal. In this instance the public benefits being the provision of up to 73 dwellings, of which 30% will be affordable, in addition to the delivery of construction jobs and the resultant households and their expenditure within the local economy. Officers are mindful that the site is identified for housing and the principle of housing is not objected to per-se. Officers are also mindful that the adopted masterplan for the area identifies the site for housing with a similar indicative form of development.

On balance, with a less than substantial level of harm, when considering the Development Plan and the NPPF, the proposed access arrangements and indicative layout, in terms of heritage assets, are considered suitable for approval in accordance with Policy HE1 of the Torbay Local Plan and Paragraphs 193, 194 and 196 of the NPPF.

In reaching this conclusion Officers have duly considered the general duties as respects listed buildings under the Planning (Listed Buildings and Conservation Areas) Act 1990 c.9 para 66.

#### **4. Impact on Residential Amenity**

Policy DE3 of the Torbay Local Plan states that development should not unduly impact upon the amenity of neighbouring and surrounding occupiers. The Paignton Neighbourhood Plan is largely silent on the matter of amenity but expectations aligned with elements of DE3 are stipulated within Policy PNP1.

The construction phase will naturally have some temporary impacts however such impacts are not unusual and can be limited through restricting hours of construction and agreeing processes to limit delivery and construction movement and parking impacts through the use of a planning condition. As the site lies across a busy road from the nearest residential properties the impact is likely to be limited, certainly towards the rear of these buildings and their plots, where quieter areas are more likely to exist away from the road.

In terms of the finished development the residential use aligns with the residential uses nearby and the additional dwellings would not result in undue noise or general disturbance for existing occupiers in the area or the school.

In terms of scale and appearance this will be established within a future reserved matters application, but there is unlikely to be any loss of outlook or light due to the modest scale of residential development and the fact that properties are expected to be set some distance away across a relatively wide public road. The school is also likely to be unaffected.

In terms of privacy, inter-visibility and overlooking, again when considering the distances involved, and taking into account the topography, the relationships across

the Totnes Road are considered acceptable in terms of the likely impact of the development upon existing occupiers. The school is also likely to be unaffected.

In summary the proposed access arrangements and indicative layout and supporting information are considered to demonstrate the potential to provide a satisfactory form of development in terms of protecting the amenities of adjacent occupiers or the school, in accordance with Policies DE1 and DE3 of the Torbay Local Plan, Policy PNP1 of the Paignton Neighbourhood Plan, the adopted Masterplan for Collaton St Mary, and the NPPF.

## **5. Impact on Highway Safety**

The NPPF guides that in assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that *a)* appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location; *b)* safe and suitable access to the site can be achieved for all users; and *c)* any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree (Para 108). It also furthers (Para 109) that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Policy TA2 of the Torbay Local Plan states that all development should make appropriate provision for works and/or contributions to ensure an adequate level of accessibility and safety, and to satisfy the transport needs of the development. For major developments this means that a good standard of access for walking, cycling, public and private transport should be provided.

The Paignton Neighbourhood Plan is largely silent on access and highway matters beyond guiding that appropriate infrastructure should be in place for development, that sustainable modes should be encouraged and that suitable parking and cycle facilities should be provided within residential development.

Comments received have raised objections to the proposal. The Paignton Neighbourhood Forum have raised concern about the access proposed and assumptions made about the impact it would have, including the capacity of Totnes Road, offering that the scheme takes insufficient account of the congestion and accident record that already affect the adjacent highway network. There are also concerns on the internal road layout shown in the application masterplan. Various public objections also raise highway concerns in terms of congestion and highway safety.

In regard to vehicular access the development would be served by a single new access junction which includes a right hand turn lane off the Totnes Road. Through revised plans the visibility standard accords with the Council's design criteria for the road speed, with 90m visibility in both directions. The Councils' Highway Engineers and Strategic Transport Officer have considered the junction detail and supporting transport information and has raised no objections in relation to the proposed vehicular access arrangements. It is considered that the proposal would not result in significant harm to highway safety or amenity and would accord with local and national guidance.

The proposed site layout is not being applied for at this time however indicative details have been provided, including the proposed pedestrian and cycle links. The layout details provided indicate a network of pedestrian and cycling links through the proposed public open space areas, with connections to the wider highway network at two further points along the Totnes Road to the eastern and western edges of the site frontage, together with a potential pedestrian/cycle link to the school grounds. On the information provided the wider pedestrian, cycle and bus access opportunities shown are considered to require improvement. It is highlighted that improved access across the A385 should be achieved towards the top of the site in the area of the bus stops, with an extended footway and provision of a crossing point. In addition to this pedestrian access should be secured towards Blagdon Road (and school and church) through the provision of a foot/cycle path within the highway verge linking to the pedestrian exit rout shown within the masterplan, as there is no current footpath in this location. Although these details are not shown on the submitted plans these works could be secured through a planning condition and should these be secured the indicative layout does not raise any significant concerns at this stage. Ultimately further scrutiny will be given to the internal layout at reserved matters stage.

In regard to other matters Torbay Local Plan Policy SS6.2 and SDP3, indicates that development along the Totnes Road area (SDP3.3) will require infrastructure improvement works to the A385 Totnes Road. As noted within the Councils combined highway and transport comments the Planning Contributions and Affordable Housing SPD estimates improvement works to circa £1m (para 4.2.7) and based on the scale of the development proposed a proportionate funding level of £119,500 towards the development and implementation of this scheme should be secured (via S106 legal agreement).

In terms of other matters funding to secure improved sustainable transport links should be secured in accordance with Torbay Local Plan Policy SS7 and the Planning Contributions and Affordable Housing SPD (to the open market dwellings). In this case the trip rate presented within the submitted Transport Assessment equals an obligation level of £830 per open market dwelling following any reserved matters approval. This funding would support strategic connectivity from Collaton St Mary to employment areas along the Western Corridor and into Paignton Town Centre. Again this obligation should be secured via a S106 legal agreement.

Finally the proposal indicates that the 30/40mph speed limit boundary should be relocated. In order to relocate the 30/40mph speed limit a contribution is required as this cannot be delivered under S278 and should be secured via a S106 legal agreement. The estimate to undertake this work is £8,000.

Considering the points above, and having regard to guidance contained within the NPPF which states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe (Para 109), the proposal is, subject to securing the identified off-site sustainable transport links and financial transport obligations towards the western corridor improvements, sustainable travel and a local traffic order, considered acceptable on highway and movements

grounds, and in accordance with the Policy TA2 of the Torbay Local Plan, The Paignton Neighbourhood Plan and the NPPF.

## **6. Ecology & Biodiversity**

Policy NC1 of the Torbay Local Plan and guidance within the NPPF seeks for development to duly consider biodiversity and take opportunities for enhancement, proportionate to the context and development.

In terms of the ecology context the site is an open grass field with tree lined borders and the application is supported by a number of ecology-based documents. These include a shadow Habitat Regulations Assessment as the site lies within a known flyway of the Greater Horseshoe Bat (GHB) associated with the South Hams Special Area of Conservation (SAC).

Considering the context the key ecological issues relate to the use of the site by GHBs and the consideration of the likelihood of a significant effect, along with broader ecology considerations regarding reptiles (principally slow worms), and foraging badgers (as there is a sett in the north-west corner), together with broader biodiversity enhancement aspirations.

In regard to the potential impact upon GHBs associated with the South Hams SAC the proposals include the creation of a 10m wide 'dark' wildlife corridor (<0.5 lux) along the northern and eastern boundaries, incorporating existing landscaping and further planting. In addition the supporting information details construction phase managing to limit impacts, and operation-phase mitigation through additional planting and ongoing management to principally limit light-spill. The Council's ecology advisor has undertaken a Habitat Regulations Assessment / Appropriate Assessment which concluded that subject to achieving the outlined mitigation through planning conditions the development would not have a likely significant effect on the South Hams SAC. The Council's HRA has been submitted to Natural England for comment and Natural England support the findings, that subject to achievable mitigation the proposal is considered acceptable with the conclusion of no likely significant effect.

In regard to wider ecology considerations the submitted information proposes a mitigation strategy that includes creating an exclusion zone around the badger sett, retaining and enhancing hedgerows, suitable habitat/ tree planting, installation of a range of bird and bat boxes on new residential builds, garden fence small mammal passes, and wetland planting in association with the sustainable urban drainage area. The Council's ecology advisor has concluded that that there is no reason for refusal of the planning application on broader ecological grounds provided the proposals are implemented and maintained in accordance with the ecology documents that have been produced.

In terms of broader biodiversity aspirations in-line with advice from Natural England and the Council's ecology advisor future reserved matters should duly consider and propose measures to enhance biodiversity.

In-line with advice from Natural England and the Council's ecology advisors the proposal is considered acceptable on ecological and biodiversity grounds for the reasons stated above, in-line with the aspirations of Policies NC1 and C4 of the Local

Plan, The Paignton Neighbourhood Plan, and advice contained within the NPPF.

## **7. Flood Risk and Drainage**

The site sits in an area with a low risk (Flood Zone 1) of flooding, however there is a linear area of heightened flood risk to the north that follows the valley floor from west to east. The site is also within a Critical Drainage Area as designated by the Environment Agency.

A revised flood risk assessment has been submitted with the development and there are accompanying surface water drainage plans that illustrate a drainage solution that utilises attenuation tanks and balancing ponds. These are situated in the eastern corner of the site and integrate into a wider area of public open space.

The Council's drainage engineer has reviewed the revised detail and has concluded that the submitted detail demonstrates that there is no risk of flooding for the critical 1 in 100 year storm event plus 40% for climate change, subject to a final layout for the development and design being submitted to the planning authority for approval prior to construction works commencing on site. This can be achieved by a planning condition.

In terms of other matters there is an identified flood alleviation scheme immediately downstream of the development on the Yalberton watercourse and the council's drainage engineer has identified that as the surface water run-off from the proposed development is likely to impact on this watercourse a contribution to the funding for the flood alleviation scheme should be secured from the developer through S106 funding. In accordance with previous correspondence relating to a section 106 contribution a figure of £915 per dwelling has been identified, which would present an obligation from this development to the flood alleviation scheme to the sum of £66,795 (73 x £915).

Based on the above comments there is no objection to planning permission being granted for the above development subject to a condition requiring the developer to submit their final drainage design for approval, together with the funding above being secured.

The proposal is considered, subject to the above, in accordance with Policies ER1, ER2, SS2 and SS7 of the Local Plan, the Paignton Neighbourhood Plan, and advice contained within the NPPF.

## **8. Other Considerations**

### *Housing Supply*

The Council cannot currently demonstrate a 5 year housing land supply, as sought by Government, and the proposal will help with the delivery of housing with a form of development that is considered to accord with the Development Plan. As stated within this report the site is allocated and the proposals are in broad accordance with the adopted masterplan for the area. Paragraph 11 of the NPPF outlines that decisions should apply a presumption in favour of sustainable development, which means approving development proposals that accord with an up-to-date development plan

without delay.

It is concluded that the development accords with the Development Plan and hence there is support for the grant of permission, in-line with the guidance within the NPPF (Para 11). Were this judgment different and the proposal considered to conflict with the Development Plan it should be noted that the absence of a 5 year housing supply principally sets a higher benchmark to resist development. In such a circumstance development should only be refused where any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits. As stated the land is allocated for housing and the development broadly accords with an adopted masterplan for the area, that is itself supported within the Neighbourhood Plan, the conclusion would in such a circumstance be that the adverse impacts are not significant and demonstrable in this context, and the tilted balance in favour of granting permission should apply.

### **Sustainability**

Policy SS3 of the Local Plan establishes the presumption in favour of sustainable development.

The site is identified for housing within the Development Plan and is hence broadly considered a sustainable site for future residential development.

The proposal is supported by a travel plan that seeks to provide the parameters to help the development minimise the use of the private car. This for example includes providing cycle parking facilities for all dwellings and good quality pedestrian and cycle networks within the development.

The proposal is supported by an energy statement that presents proposed measures by the developer to reduced CO<sub>2</sub> emissions, delivered through a combination of passive and active design measures, in the form of demand-reduction measures and energy-efficiency measures.

### **Local Finance Considerations**

#### **S106:**

The following are draft Heads of Terms for a legal agreement, which should be completed prior to a planning consent being issued. Triggers and instalments in relation to the proposed financial contributions are to be agreed as part of the detailed negotiation of the legal agreement. It is recommended that authority to progress and complete the legal agreement be delegated to officers.

#### **Highway works**

In-line with Torbay Local Plan Policy SS6.2 and SDP3 development along the Totnes Road area (SDP3.3) will require infrastructure improvement works to the A385 Totnes Road. Based on the scale of the development expected within the area and within this site a proportionate funding level of £119,500 towards the development and implementation of this scheme should be secured.

In order to relocate the 30/40mph speed limit a contribution is required. The estimate to undertake this work is £8,000.

### **Flood Works**

Strategic flood alleviation works are required to secure a flood alleviation scheme on the Yalberton watercourse. As there are proposed to be approximately 500 new properties constructed within the catchment drainage to the Yalberton Watercourse the contribution for each property should be secured. The level of funding should be secured based on a figure of £915 per dwelling. As a result the S106 contribution from this development to the flood alleviation scheme should be in the sum of £66,795 (73 x £915).

### **Affordable Housing**

Affordable housing provision should be secured from this development in accordance with Policy H2 of the Torbay Local Plan, which states that for development of greenfield sites for schemes of 30+ dwellings that 30% should be affordable housing. At 30% the scheme is expected to secure 22 affordable units.

The provision should be secured via a S106 with elements of the provision, such as location and mix, being agreed through the reserved matters stage when the form and layout is progressed beyond the current indicative stage.

### **Sustainable Transport**

In accordance with Torbay Local Plan Policy SS7 and the Planning Contributions and Affordable Housing SPD (to open market housing only) Sustainable Transport obligations should be secured at a rate of £830 per eligible dwelling. Based on “trip rate x £171” per dwelling where the trip rate is equal to 4.854 (Appendix F of the Transport Assessment – TRICS output page 5) or other alternative method as agreed. This funding would support strategic connectivity from Collaton St Mary to employment areas along the Western Corridor and into Paignton Town Centre.

### **Greenspace and Recreation**

No obligation request raised by Natural Environment Services. It is noted that the indicative masterplan includes a LEAP to provide local plan space together with more informal space. The provision of a LEAP is considered commensurate for the scale of development in the absence of further comment from the Councils Natural Environment Services Team.

### **Education**

Obligations in-line with the adopted SPD should be sought to secure increased school capacity within Paignton, based on the provision of open market housing, the detail of which will come forward at reserved matters stage.

### **Lifelong Learning Obligations**

Obligations in-line with the adopted SPD should be sought to secure library improvements within the area, based on the provision of open market housing, the detail of which will come forward at reserved matters stage.

### **Waste and Recycling**

Obligations in-line with the SPD should be secured to provide waste and recycling

facilities for properties that will be served by the Local Authority waste collection provider.

**CIL:**

The CIL liability for this development is Nil.

**EIA/HRA**

**EIA:**

Due to the scale, nature and location this development will not have significant effects on the environment and therefore is not considered to be EIA development.

**HRA:**

The application site is within a strategic flyway/sustenance zone associated with the South Hams SAC.

A Habitat Regulations Assessment / Appropriate Assessment has been carried out for this development. The proposed development is unlikely to have a significant effect on the South Hams SAC. Natural England have been consulted and concur with the Council's conclusions, subject to securing the proposed mitigation measures.

**Planning Balance**

The planning assessment considers the policy and material considerations in detail. It is considered that the scheme in terms of addressing the Development Plan aspiration to provide housing would produce a significantly positive impact overall and help with the supply of much needed housing. It is acknowledged that there are concerns about the potential impact upon setting of the listed church and broader landscape impact, however on the information available this is not unacceptable, subject to the planning conditions and obligations detailed below, and bearing in mind that a number of elements, including the layout, scale, appearance and landscaping for the development will need to be the subject of reserved matters applications.

**Statement on Human Rights and Equalities Issues**

Human Rights Act: The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance

Equalities Act - In arriving at this recommendation, due regard has been given to the provisions of the Equalities Act 2010, particularly the Public Sector Equality Duty and Section 149. The Equality Act 2010 requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. Protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race/ethnicity, religion or belief (or lack of), sex and sexual orientation.

## **Proactive Working**

In accordance with the requirements of Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order, 2015, in determining this application, Torbay Council has worked positively with the applicant to ensure that all relevant planning concerns have been appropriately resolved. The Council has concluded that this application is acceptable for planning approval.

## **Conclusions and Reasons for Decision**

The site is identified for housing within the Development Plan and the proposal does appear to be fairly consistent with the associated adopted Masterplan for the area.

Key public concerns regarding the impact upon the Greater Horseshoe Bats and flooding are resolved to the satisfaction of the statutory consultees on these matters, and the highway authority does not object to the access or impact upon the road network.

There is a degree of impact upon the landscape and setting of the nearby listed church, however these impacts are not considered significant and are outweighed by public benefits.

In-line with the above conclusions, and the detail contained within this report, the proposals are considered to be in accordance with the provisions of the Development Plan. The NPPF states that development proposals that accord with an up-to-date development plan should be approved without delay.

Due to the level of accordance with the Development Plan and in the absence of material considerations that weigh sufficiently against the proposal, the Officer recommendation is one of approval, subject to suitable conditions, and securing a S106 Legal Agreement to secure the identified mitigation and affordable housing in-line with adopted policy.

The proposal is ultimately considered a good use of an identified site that would provide much needed housing to help meet local need.

## **Officer Recommendation**

Approval: Subject to;

1. The conditions outlined below, with the final drafting of conditions delegated to the Assistant Director of Planning and Transport;
2. The completion of a S106 Legal Agreement to secure the heads of terms above, in accordance with the adopted Planning Contributions and Affordable Housing Supplementary Planning Document, on terms acceptable to Officers.

The resolution of any new material considerations that may come to light following Planning Committee to be delegated to the Assistant Director of Planning and Transport, including the addition of any necessary further planning conditions or obligations.

## **Conditions**

**Standard time condition:**

That in the case of any reserved matter, an application for approval must be made not later than the expiration of three years beginning with the date of the grant of outline planning permission; and

That the development to which this permission relates must be begun not later than two years from the date of the final approval of the reserved matters, or in the case of approval on different dates, the final approval of the last such matter to be approved.

Reason: To comply with Section 91 of the Town and Country Planning Act, 1990.

**1. Reserved Matters condition**

An application for the following reserved matters shall be submitted to the Local Planning Authority for its approval in writing:

- (i) layout,
- (ii) scale,
- (iii) appearance; and
- (iv) landscaping.

The details of the reserved matters shall be consistent with the details submitted and approved pursuant to the outline consent.

Approval of all reserved matters shall be obtained from the Local Planning Authority in writing before any development is commenced, and the development shall be undertaken in accordance with the approved reserved matters.

Reason: To enable the Local Planning Authority to control the development in detail and to comply with Section 92 of the Town and Country Planning Act 1990 (as amended).

**2. Control of External Light Spill to Maintain Dark Areas on Site and in Surrounding Areas**

All reserved matters applications shall include a Lighting Assessment, including lux contour plan, for both public-realm and domestic lighting in combination with any existing light sources in the locality to demonstrate compliance with the 0.5lux design parameter set out in the Shadow HRA (EAD Ecology, May 2019).

Reason: To secure a satisfactory form of development in accordance with Policies SS2, SS8 and NC1 of the Torbay Local Plan 2012-2030.

**3. Construction Environmental Management Plan – Biodiversity**

All reserved matters applications shall include a Construction Environmental Management Plan (*CEMP: Biodiversity*), which shall have been prepared in accordance with specifications in BS42020; clause 10.2 and shall include the following.

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of 'biodiversity protection zones'.

- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- d) The location and timing of sensitive works to avoid harm to biodiversity features. This includes the use of protective fences, exclusion barriers and warning signs.
- e) The times during construction when specialist ecologists need to be present on site to monitor works to ensure compliance with the CEMP: Biodiversity, and the actions that will be undertaken.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.

Reason: To secure a satisfactory form of development in accordance with Policies SS2, SS8 and NC1 of the Torbay Local Plan 2012-2030.

#### **4. Landscape and Ecological Management Plan (LEMP) or equivalent**

All reserved matters applications shall include a Landscape and Ecological Management Plan (LEMP), prepared in accordance with the specifications in BS42020; clause 11.1, which shall be submitted and shall include, but not be limited to, the following.

- a) Description and evaluation of features to be managed, which shall include all of the mitigation measures set out in the assessment documents.
- b) Ecological trends and constraints on site that might influence management.
- c) A habitat phasing plan to ensure habitat is established and functional in advance of impacts.
- d) Aims and objectives of management.
- e) Appropriate management options for achieving aims and objectives. Noting the comments from Natural England with regards to preferred hedgerow management options.
- f) Prescriptions for management actions.
- g) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five year period).
- h) Details of the body or organisation responsible for implementation of the plan.
- i) On-going monitoring and remedial measures for biodiversity features included in the LEMP.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(s) responsible for its delivery.

All post-construction site management shall be undertaken in accordance with the LEMP.

Reason: To secure a satisfactory form of development in accordance with Policies SS2, SS8 and NC1 of the Torbay Local Plan 2012-2030.

## **5. Ecological monitoring to provide early warning of threats to bat commuting routes**

All reserved matters applications shall include a monitoring strategy which shall be prepared with the purpose '*provide early warning of any change in site conditions (such as those brought about by loss of suitable habitat features or adverse light spill) that are likely to impair or disturb greater horseshoe bats being able to commute through the site adjacent to the site boundary*'. The strategy will be prepared in accordance with the specifications in BS42020; clause 11.2.3 and shall include the following.

- a) Aims and objectives of monitoring to match the stated purpose;
- b) Identification of adequate baseline conditions prior to the start of development (including light levels within the dark areas);
- c) Appropriate success criteria, thresholds, triggers and targets against which the continued effectiveness of the bats' commuting routes can be judged;
- d) Methods for data gathering and analysis (to include appropriate bat surveys and light monitoring);
- e) Location of monitoring/sampling points;
- f) Timing and duration of monitoring;
- g) Responsible persons and lines of communication;
- h) Contingencies and remedial measures that will be triggered should monitoring detect a change in site conditions;
- i) Review, and where appropriate, publication of results and outcomes.

A report describing the results of monitoring shall be submitted to the Local Planning Authority at intervals as identified in the Strategy. The report shall also set out where the results from monitoring show that site conditions are changing and consequently how contingencies and/or remedial action will be identified, agreed with the local planning authority, and then implemented so that the development still delivers the fully functioning bat commuting routes associated with the originally approved scheme. The monitoring strategy will be implemented in accordance with the approved details.

Reason: To secure a satisfactory form of development in accordance with Policies SS2, SS8 and NC1 of the Torbay Local Plan 2012-2030.

## **6. Highway Works**

Prior to commencement of development, a S278 Agreement shall be entered into with the Highway Authority to secure pedestrian crossing facilities adjacent to the existing bus stops to the west of the site within the vicinity of the proposed LEAP and adjacent to the proposed vehicular junction, together with works to create a foot/cycle route that connects the eastern edge of the site to the junction/crossing of Blagdon Road. The agreed works shall be delivered in accordance with the Agreement.

Reason: To ensure highway safety is not impaired, in accordance with Policies TA1, TA2 and DE1 of the Torbay Local Plan 2012-2030, the Paignton Neighbourhood Plan and the NPPF.

## **7. Flood risk**

As part of any reserved matters application a scheme for the treatment of surface water that demonstrates that the risk of flooding would not be increased, which is in-line with the design parameters outlined within the submitted and approved Flood Risk Assessment, shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in full prior to the first occupation of the development unless a phasing plan has been submitted to and approved by the Local Planning Authority, and shall be subsequently maintained thereafter.

Reason: To ensure that there are no increased flood risk, in accordance with Policies ER1 and ER2 of the Torbay Local Plan, the Paignton Neighbourhood Plan, and advice contained within the NPPF.

## **8. Affordable Housing**

As part of any application for reserved matters relating to the proposal's layout and scale, a scheme of affordable housing shall be submitted for the written approval of the Local Planning Authority. The submitted details shall include information about the siting, size, and tenure type of the affordable units. The development shall be undertaken in accordance with the approved details.

Reason: In accordance with Policy H2 of the Torbay Local Plan 2012-2030.

## **9. Biodiversity enhancement measures**

As part of any reserved matters relating to layout, appearance and landscaping proposed measures to enhance biodiversity, including the assessment principals that have informed the proposals, shall be submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented in full prior to the first occupation of the development, unless a phasing strategy has otherwise been agreed in writing, and shall be permanently managed and maintained at all times thereafter in accordance with the approved detail.

Reason: in the interests of biodiversity, in accordance with Policies SS8 and NC1 of the Torbay local Plan 2012-2030, the Paignton Neighbourhood Plan and the NPPF.

## **10. Construction method statement**

No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the Local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- a) The parking of vehicles of site operatives and visitors.
- b) Loading and unloading of plant and materials.
- c) Storage of plant and materials used in constructing the development.
- d) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate.
- e) Wheel washing facilities.
- f) Measures to control the emission of dust and dirt during construction.
- g) A scheme for recycling/disposing of waste resulting from demolition and construction works, with priority given to reuse of building materials on site wherever practicable.

- h) Measures to minimise noise nuisance to neighbours from plant and machinery.
- i) Construction working hours from 8:00 to 18:00 Monday to Friday, 8:00 to 13:00 on Saturdays and at no time on Sundays or Bank Holidays.

Reason: In the interests of highway safety and local neighbour amenity, in accordance with Policy TA2 and DE3 of the Torbay Local Plan 2012-2030.

### **11. Travel plan**

The submitted Travel Plan shall be implemented in full. Should the annual review show that the development is failing to secure a modal shift of 30% of potential users to sustainable modes of travel, additional measures, in discussion with the Local Planning Authority, shall be agreed and implemented.

Reason: To reduce the impact of the development upon the transport network, in accordance with Policy TA2 of the Torbay Local Plan 2012-2030.

### **12. Energy**

As part of any application for reserved matters relating to the proposal's layout, scale and appearance, details of energy efficiency measures shall be submitted for the approval in writing by the Local Planning Authority. The measures in relation to each residential unit shall be completed, in accordance with the approved details, prior to the first occupation of that unit.

Reason: In the interests of sustainable development and in accordance with Policy PNP1 of the Paignton Neighbourhood Plan and Policy SS14 of the Torbay Local Plan 2012-2030.

### **Development Plan Relevant Policies**

- SS1 - Growth Strategy for a prosperous Torbay
- SS2 – Future Growth Areas
- SS3 - Presumption in favour of sustainable dev
- SS8 - Natural Environment
- SS9 – Green infrastructure
- SS10 – Conservation and the historic environment
- SS11 - Sustainable Communities Strategy
- SS12 - Housing
- SS13 - Five Year Housing Land Supply
- SDP3 – Paignton North and Western Area
- TA1 - Transport and accessibility
- TA2 - Development access
- TA3 - Parking requirements
- C4 - Trees, hedgerows and natural landscape
- H1LFS - Applications for new homes\_
- H2LFS - Affordable Housing\_
- DE1 - Design
- DE3 - Development Amenity
- ER1 - Flood Risk
- ER2 - Water Management

W1 - Waste management facilities

PNP1 – Area Wide

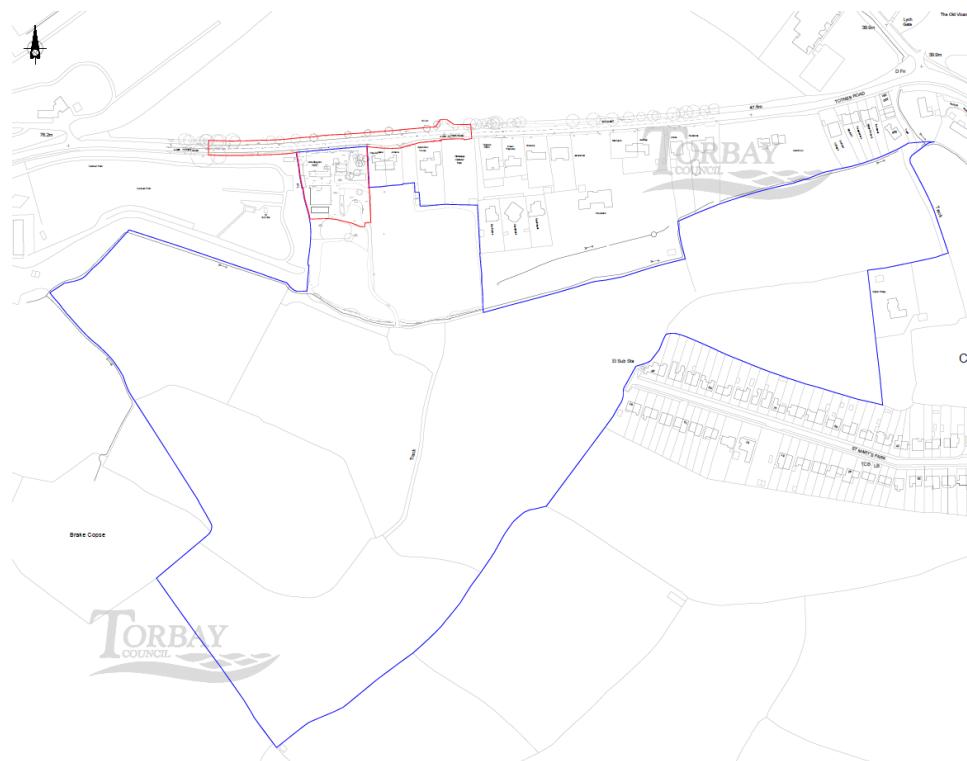
PNP24 – Collaton St Mary Village

# Agenda Item 6



Application Site Address	Little Blagdon Farm Totnes Road Paignton TQ4 7PW
Proposal	Demolition of nine disused farm buildings and construction of new vehicular access.
Application Number	P/2019/0478
Applicant	Mrs Anne-Marie Bond
Agent	Mr David Stewart – Torbay Development Agency
Date Application Valid	10/05/2019
Decision Due date	05/07/2019
Extension of Time Date	13/09/2019
Recommendation	That planning permission is granted, subject to the conditions detailed below. The final drafting of conditions and addressing any further material considerations that may come to light to be delegated to the Assistant Director of Planning and Transport.
Reason for Referral to Planning Committee	The application has been referred to Planning Committee as the proposed development is on land owned by Torbay Council, is not a minor variation to an existing planning permission, and the application has received objections.
Planning Case Officer	Emily Elliott

**Location Plan:**



## **Site Details**

The site comprises a 0.45ha parcel of land with nine disused farm buildings. The site lies adjacent to Beachdown Park, which is to the west of the site, the A385 (Totnes Road) is to the north, and there are residential dwellings located to the east. The site has an existing vehicular and pedestrian access. The site levels vary, with ground levels near the existing entrance being around 68.65m AOD in the north-west corner, which falls to 64.33m AOD in the south-east corner of the site. The site has been vacant since April 2004. The site forms part of a larger area of land allocated in the Local Plan for housing development.

## **Description of Development**

This planning application proposes the demolition of the nine existing disused farm buildings and the construction of a new vehicular access from the A385 (Totnes Road).

## **Pre-Application Enquiry**

None sought.

## **Relevant Planning Policy Context**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 places a duty on local planning authorities to determine proposals in accordance with the development plan unless material considerations indicate otherwise. The following development plan policies and material considerations are relevant to this application:

### **Development Plan**

- The Adopted Torbay Local Plan 2012-2030 ("The Local Plan")
- The Adopted Paignton Neighbourhood Plan 2012-2030

### **Material Considerations**

- National Planning Policy Framework (NPPF)
- Planning Policy Guidance (PPG)
- Published standing Advice
- Planning matters relevant to the case under consideration, including the following advice and representations, planning history, and other matters referred to in this report:

## **Relevant Planning History**

There are no previous planning decisions of particular relevance to the proposal.

## **Summary of Representations**

The application was publicised through a site notice and neighbour notification letters were sent to sixty neighbours. 103 letters of objection have been received.

A summary of the concerns raised in objection include:

- Not in keeping with local area

- Noise
- Privacy/overlooking
- Residential amenity
- Sets a precedent
- Drainage
- Traffic and access
- Trees and wildlife
- Overdevelopment
- Impact on local area
- Conflicts with the Torbay Local Plan
- Conflicts with the Paignton Neighbourhood Plan
- Conflicts with the Collaton St Mary Masterplan

### **Summary of Consultation Responses**

**Torbay Council Strategy and Project Delivery Team (Planning and Transport) Service Manager:**

*The development plan for the area comprises of the Adopted Torbay Local Plan 2012-30 (December 2015), and the Adopted Paignton Neighbourhood Plan (June 2019). The Collaton St Mary Masterplan was adopted as an SPD in 2016 and is a material consideration along with the explanatory and justification text in the Local Plan and Paignton Neighbourhood Plan policy documents.*

*To be clear, as this is an application for the access alone, I have only addressed matters that concern it and not any future development.*

*The access is needed to serve strategic housing development allocated in Policy SS2 and SDP3 of the Local Plan. The Masterplan indicates an access through Little Blagdon Farm as proposed by the application. The Paignton Neighbourhood Plan seeks for proposals to help provide housing growth as set out in the Local Plan (PNP1) and supports development in Collaton where proposals are in accordance with the Masterplan (PNP24). Therefore the proposal is in accordance with the adopted Development Plan and Masterplan and indeed an important part of the strategic infrastructure (noted in Local Plan policy SS6) needed to deliver the strategic policies of the Development Plan.*

*A point I have noted in the representations is with regards to phasing. I do not consider that the phasing in part 8 (and Table 8.1) of the Paignton Neighbourhood Plan can be taken as a phasing policy as it is not upper case policy. It is therefore to be considered as a material consideration. Treating it as a “phasing lock” policy would be tantamount to promoting less development than the Local Plan in my opinion, contrary to the basic conditions governing neighbourhood plans and the guidance on Neighbourhood Plans in the NPPF which, by virtue of being adopted, the Neighbourhood Plan has been agreed by the Council not to do.*

*There is a concern raised that the proposed access is leapfrogging the brownfield development identified in Phase 1 of the Masterplan and, as noted above, the Neighbourhood Plan in particular notes that development should accord with the Masterplan (PNP24). The Masterplan envisages that development of brownfield sites at Ocean Marine Garage and Torbay Holiday Motel will take place before phase 2, which is facilitated by this proposed access. The Motel site is subject to a current planning application. The Ocean Marine site is not currently understood to be available. The Masterplan states that phase 2 will "happen" post 2024. For the purposes of this application, although it provides the access, there is no detail about the delivery of the wider development and it is therefore difficult to provide a clear answer as to whether it is being brought forward too early or not. Realistically, even with the access constructed imminently, there will be a lead in time before housing can be delivered, and the need to boost housing supply over-rides adhering strictly to the phasing set out in the Masterplan. As stated, the access is in the location identified by the Masterplan.*

*For the above reasons, I do not advise that Phasing considerations in the PNP or Masterplan can be used to withhold planning permission in this case.*

*I don't think it is necessary to come to a definitive view of paragraph 14 of the NPPF, which provides safeguards to recently made neighbourhood plans where the Authority is not able to demonstrate 5 years' of housing land supply. The access is needed to meet the Local Plan's housing requirement and provide access to an allocated site and the Neighbourhood Plan contains policies to support development in accordance with the Masterplan.*

*However, with regards to housing supply, we recently published our initial assessment that showed there was currently less than 5 years' housing supply in Torbay, which does trigger the presumption in favour of sustainable development, particularly against the Local Plan policies. A consultation has been undertaken and a range of responses received. It is not likely that the final outcome will increase the housing supply above 5 years but I am not able to confirm the precise outcome at this time.*

*It is reasonable to require the proposed layout, landscaping, drainage and ecological matters to accord with the detailed design requirements of the Neighbourhood Plan, within the constraints of the site. These requirements are mainly contained in the various sub policies of PNP1 and PNP24. Whilst I note that the access is located within flood zone 1, there is a watercourse to the rear of the site, and it may be reasonable that the application should show more details of soakaways, as required by Policies PNP1(iv) and PNP1(i). I would recommend the drainage lead is consulted and provides a view on this.*

*It is an important principle that development should be linked to the village centre. However the current proposal simply seeks to establish an access and the layout and permeability with the village will need to be addressed through a planning application for the layout of the site. That said, some alterations can be made at the access to ensure it meets with the policies and provides access to the Village Centre. The proposal should contribute to and make provision for a safe, continuous and separated cycleway/pedestrian pathway insofar as this is achievable within the highway land available. The proposal does include a footpath and pedestrian access to the village centre. In order to achieve a safe and continuous route the paths indicated into the junction will need widening. This is addressed further through the transport comments.*

*I recommend that details of landscaping are required (in accordance with PNP1(c)), particularly as the hedgerow to the north of Totnes Road is being removed. The landscaping proposal should seek to replace hedgerows and enhance natural features (as required by PNP1(c)).*

*I note that there are also, amongst the representations, objections on the grounds of need. It is argued that the Local Plan's level of growth is not justified. Such matters would need to be considered through the upcoming review of the Local Plan and it is not appropriate to consider these through a planning application on a strategically allocated site such as this. The Neighbourhood Plan has been through independent examination and Council approval process very recently which confirmed that it met the Basic Conditions including not revising strategic growth figures or undermining strategic policies. As set out above, the Neighbourhood Plan supports the growth set out in the Local Plan. If the Local Plan was considered to be out of date (as argued in the representations), then the Presumption in Favour of Sustainable Development in paragraph 14 of the NPPF is triggered.*

*In summary, the proposal is needed to deliver an important strategic part of the Allocated Future Growth Area in the Development Plan. Many issues can be dealt with when considering specific applications that follow, however, some details can be addressed at this stage and should be considered.*

**Torbay Council Strategic Appraisal Officer:**

*The demolition of the 9 vacant farm buildings will **not** result in any changes in the local environment that could affect the European sites (see the attached HRA, dated December 18). However, the construction of a new vehicular access would result in changes to the environment that could affect horseshoe bats, e.g. increased lighting or vegetation loss, alone or in-combination with other plans or projects and therefore it will require a Habitat Regulations Assessment.*

**Natural England:**

*Natural England has reviewed your Habitats Regulations Appropriate Assessment (17 July 2019).*

### South Hams Special Area of Conservation (SAC)

We note that 3 greater horseshoe bat passes over 38 nights were recorded with automated detectors at the site. Similar low levels were recorded with the manual survey effort, and no greater horseshoe bats were recorded in the buildings that are to be demolished. On this basis, we struggle to understand why your Authority considers that the low level of greater horseshoe bat activity recorded at the site is likely to represent a risk to the greater horseshoe bat population associated with the South Hams SAC. In assessing impacts upon the SAC, a proportionate and reasonable approach should be applied that reflects the risk to the greater horseshoe bat population.

In this instance, we consider that a likely significant effect screening would suffice to demonstrate that impacts to the SAC have been fully considered in your decision making.

### **Devon County Council Senior Ecologist:**

Habitats Regulations Assessment completed. The proposal would not result in adverse effects to the South Hams SAC, subject to mitigation.

### **RSPB:**

The RSPB recommends that, if your authority is minded to grant permission, it ensures the development proceeds in accordance with all recommended mitigation measures, including adhering to all conditions on the Natural England European Protected Species Licence for bats that needs to be obtained prior to demolition of those buildings found to host roosting bats. We note that, while bat surveys were updated in 2018 and 2019, other habitat and species assessments date from the Phase 1 Habitat and Protected Species Surveys carried out in 2016.

We further recommend that:

- An ecological clerk of works is on site prior to and during works and reports to Torbay Council on outcomes.
- The number of replacement roost sites for bats is increased to four, and that suitable artificial roost sites are placed in appropriate locations prior to demolition of any buildings.
- Any active bird nests (those being built or in use by eggs or unfledged chicks) are protected from destruction during works. Vegetation (eg, ivy and bramble, and trees that may be affected by construction of the new access) and structures (disused buildings) can host nesting birds. Building 4/4a was used by nesting swallows in 2018; this species is site faithful, has several broods in a season and can still have unfledged chicks in the nest into early September. It was not clear from the information presented how works would proceed if active birds' nests were

- found (the proposal is to carry out works during spring/summer for least impact on bats but this timing is not ideal if birds are nesting in the buildings).*
- *Machinery and materials (eg, from demolished buildings) are not stored on the fields south of the application site; these fields are valuable habitat for wildlife, including cirl buntings and should be safeguarded by erection of heras type fencing as necessary (but such fencing must not impact on field hedgerows).*
  - *Mitigation measures for reptiles (slowworms) are implemented as set out in Results of Phase 1 Habitat and Protected Species Surveys 2016 (Andrew McCarthy Ecology).*
  - *No artificial lighting is provided as part of this development.*
  - *Appropriate compensation for habitats lost to this proposed development.*

*In accordance with Policy NC1 Biodiversity and geodiversity of Torbay Local Plan 2012-2030, all development should positively incorporate and promote biodiversity features. It is no longer acceptable simply to avoid net loss; developments are expected to provide net gain for biodiversity (the Chancellor's Spring Statement 2019). In our view, the mitigation measures proposed for this development are unlikely to deliver any net gain so we consider it appropriate that your authority requires such delivery as part of any permission. This could, for example, be enhanced provision for roosting, foraging and commuting bats within Torbay or other positive measures to enhance biodiversity.*

*The RSPB is aware of proposals for residential development on fields to the south of the application site. Our comments above are separate from comments we will make as those proposals come forward.*

**Torbay Council Senior Tree and Landscape Officer:**

*The comments do not include any further discussion on the potential wider development and are concentrated on the creation of the new access.*

*The following comments are based on a review of the following documents:*

- 05190 TCP 01.07.19 (Plan)
- 01590 TCP 01.07.2019 (Tree Survey)
- 8-21-10-01 (General arrangement)

**Update**

*A previous review of the arboricultural element of the proposal highlighted the fact that some trees had not been included within the survey/plans. The above arboricultural documents now include the extra trees along the north of the road that will be affected by the proposal for the new vehicular access for the future development at Little Blagdon.*

**Overview**

*The revised tree survey identifies a number of B category trees along the north edge of the A385. Reference to the preliminary general arrangement plan indicated that 5 trees are to be removed – 4 ‘B’ category trees and a single ‘C’ category trees. No further trees appear to be removed to facilitate the development of the entrance. It may be that G33 and G1 through to T5 will be removed to facilitate the demolition of the existing buildings/structures.*

#### Conclusion

- *Should the above assumptions, made in the overview be correct, to create the new access will require the loss of 4 ‘B’ category trees and 7 ‘C’ category trees.*
- *This loss of the trees will require mitigation should the project proceed*

#### Recommendation

- *An arboricultural impact assessment be submitted and agreed prior to commencement*
- *Landscape scheme be submitted and agreed prior to commencement*
- *Tree Protection Plan be submitted and agreed prior to commencement*

*Note: The above recommendations can be conditioned.*

#### **South West Water:**

*No comment.*

#### **Torbay Council Drainage Engineer:**

*The development is located in Flood Zone 1 and the developer is proposing to discharge their surface water drainage using soakaways, please use the recently agreed standing advice for this planning application.*

#### **Torbay Council Senior Environmental Health Officer:**

*I have no concerns, the Lden is below 55dB for the site. That’s the daily traffic noise (07:00 to 23:00). Although we should request a CEMP to deal with hours of work, noise and vibration and hours of work.*

#### **Torbay Council Highways Engineer:**

*Highways technical issues would be:*

- *A request for provision of a shared pedestrian / cycle way link on to Totnes Road from the Development.*
- *A request for Clearway markings on the adjacent Bus Stop.*
- *A request for Double Yellow lines through Traffic Regulation orders in and around the proposed Junction and other areas on Totnes Road.*
- *The Stacking of seven cars in the right turn lane is probably adequate at this stage, but should be reassessed when / if future growth occurs.*

**Torbay Council Strategy and Project Delivery Team (Planning and Transport)  
Service Manager:**

*In order to accord with policies in both the Local and Neighbourhood Plans (specifically TA1, TA2, PNP1(f) and PNP1(h)) there is a need to improve the cycling connectivity of the site. The recommendation is that the east side of the access has a shared path and that the new path on the north side of Totnes Road is widened to become a shared path as well. The proposal for development on the opposite side of Totnes Road is seeking to provide shared path provision adjacent to Totnes Road that this proposal should connect to.*

*I am concerned about the width of the access road given that the TA states the junction has been designed for up to 350 dwellings. The Highways Design Guide sets out that a Major Access Road (as per the submitted design) should provide for a maximum of 300 dwellings and, even then only 200 if it is a cul-de-sac. Therefore the designed access is suitable for up to 200 dwellings (so long as an alternative emergency access can also be provided) but any additional dwellings would require either a widening of this access or an additional access, that latter being preferable. My recommendation would be to accept the design as submitted (subject to the above shared path minor alterations), given it accords with the Masterplan and strategic Local Plan policy, but to make clear that land may need to be reserved to allow for the widening of the road at a future date if additional access points are not made available.*

*With regards to visibility from the junction, there is at least 2.4m x 120m which is appropriate for this road. It is recognised that a bus stopped in the layby bus stop will reduce the visibility towards Paignton but this will be very temporary and occasional, and in any case around 50-60m will be maintained at all times – this is considered acceptable.*

**Paignton Neighbourhood Forum (06.06.2019):**

*The Forum objects to the proposal because it:*

- *Fails to accord with the Torbay Local Plan adopted by the Council in December 2015*
- *Conflicts directly with the Collaton St Mary Masterplan adopted by the Council as Supplementary Planning Guidance for the area in February 2016*
- *Departs from the Paignton Neighbourhood Plan approved by Referendum in May 2019*

*The reasons for coming to this view are as follows:*

- 1) *Fails to accord with the Torbay Local Plan adopted in 2015.*

*The Local Plan expressly states it is based on a ‘plan monitor and manage’ approach, not ‘predict and provide’ (LP 7.5.10) and will be monitored annually with overall*

*Reviews every 5 years (due now). To ensure only sustainable development occurs, the Local Plan requires net growth in job provision of 5,500 to be achieved within Torbay from a base of 59,000 in 2012 alongside housing growth allowed. The published information (Office of National Statistics) shows there has been no net growth in jobs in Torbay since 2012 even though additional housing has been permitted and built.*

*The Local Plan recognises that housing need in Torbay is due to assumed net inward migration, not natural increase. We are in year 8 of the adopted Local Plan and a clear imbalance now exists between lack of job growth and housing allowed which means new residents having to find work outside Torbay contrary to the sustainable development policy at the core of the Local Plan and national planning policy.*

*Curtailing further release of greenfield land and encouraging re-use of brownfield land has now become a critical priority of the Local Plan to ensure any remaining land is not squandered having regard to the recognised limited environmental capacity for further development that remains.*

*This is why the Local Plan Inspector noted in his Report (para 41):*

*"Detailed monitoring and review are important considerations in the development plan process and the Council is committed to regular reviews of the Plan. There will be ample opportunity to increase housing numbers if justified by jobs growth. Alternatively it may be necessary to reduce housing numbers over the plan period if the Council's job growth strategy is less successful than hoped. At the present it is regarded as sensible and pragmatic to plan for 8,900 additional dwellings over the plan period."*

*In sharp contrast, the proposal fails to accord with the prevailing situation and seeks to advance yet further greenfield development when the clear evidence shows there has been no increase in net job growth since 2012. Also without satisfactory evidence being presented in the application to justify the continuing detriment that will result to securing affordable housing in particular from key brownfield locations in more sustainable locations such as redevelopment of Crossways in the town centre.*

*In consequence, the proposal fails to accord with:*

*Policy SS1 – as it will not result in a step change in economic performance;*

*Policy SS2 – as it does not result in landscape and biodiversity integration required;*

*Policy SS3 – as it does not meet the requirement of sustainable development;*

*Policy SS6 – as it does not provide strategic transport improvement;*

*Policy SS7 – as it does not provide ecological/environmental improvement as required;*

*Policy SS8 – as it does not contribute positively to natural assets as required;*

2) *Conflicts directly with the Collaton St Mary Masterplan adopted in 2016.*

*The purpose of the Masterplan adopted by the Council has been to end the piecemeal approach to development that Collaton St Mary has suffered for decades. At the heart of the Masterplan is the need for a more cohesive approach based on creating a village centre to end the current lack of facilities.*

*Accordingly, the Masterplan adopted expressly states it is based on the approach of ‘development radiating outwards from the village centre’ (p.23).*

*The proposal does not accord with this. Three access points are shown on the adopted Masterplan to serve 350 homes on the south side of Totnes Road. The access points being at ‘Woodlands’ located first from the village centre, then at Little Blagdon Farm, and a third from the site of Torbay Motel to the west.*

*In sharp conflict with the Masterplan, the application perpetuates a piecemeal approach and is based on unsatisfactory information for the following reasons:*

*Traffic Impact – Totnes Road is an ‘A’ route that provides the main commercial and holiday traffic link between Torbay and all areas to the west. The issue of unsatisfactory access impact on Totnes Road traffic has been a reason for refusal of other proposals nearby in previous years. The importance of the link has not diminished, as evidenced when traffic tails back from Tweenaway junction, especially during the holiday season.*

*The submitted application assumes a level of vehicular traffic generation based on very limited days information from locations in Cambridgeshire and Sussex. It states no comparable information could be found anywhere in South West England. It further states the assumption has been made that less than 75% of the dwellings would be houses. The generated data is then mixed with very limited duration traffic count data for an out of holiday season period along the main highway of Totnes Road. It is not felt the resulting information is sufficiently robust on which to grant a planning approval.*

*Landscape Impact – all existing trees are shown to be removed from the north side in order to accommodate the assumed level of turning movements. No replacement landscaping is proposed which conflicts directly with the Masterplan objective of enhancing the landscape character of the area as required also by the approved Neighbourhood Plan (below).*

*Habitat Impact – the habitat survey is more than 3 years old and relates only to part of Collaton St Mary. It fails to meet the requirement of Local Plan Policy SS2 and NC1 and does not address satisfactorily the ‘in-combination’ assessment required of all other project sites in the vicinity to accord with the requirement of the Habitat Regulations.*

*The Habitat Regulation Assessment of December 2015 which accompanies the adopted Local Plan expressly states that no application must be approved until it is categorically proven that there will be no adverse impacts on protected sites (LP HRA 9.1.6).*

*The application fails to meet this requirement. Instead it refers to reduced recordings of protected species from the last survey baseline. No reference is made to the removal of extensive areas of undergrowth by the Council earlier this year and livestock transfer that contributed to the sustenance zone importance of the area. The application fails to address the need to protect and enhance the protected species.*

### *3) Departs from the Paignton Neighbourhood Plan approved in 2019*

*As supported by the Council in November 2018, the approved Neighbourhood Plan requires in all parts of the Neighbourhood Area a balanced delivery of growth, biodiversity enhancement, satisfactory infrastructure provision and securing sustainable development by job led growth and housing provision being kept in balance.*

*The proposal departs from the following policies of the approved Neighbourhood Plan:*  
*Policy PNP1 – as it will impact on protected species of a European protected site;*  
*Policy PNP1(a) – as removal of the trees fails to value the existing treescape as required;*  
*Policy PNP1(c) – as it fails to include new tree planting;*  
*Policy PNP1(i) – as it fails to show how surface water will be accommodated satisfactorily;*  
*Policy PNP22 – as it fails to make provision for separated cycling and pedestrian pathways;*  
*Policy PNP24 – as it does not accord with the adopted Masterplan as required (see above).*

### *In conclusion*

*The application is required by law to be decided in accordance with the statutory development plan unless material considerations indicate otherwise. The proposal does not accord with the development plan and there are no material planning considerations where the benefit would outweigh the harm caused.*

*The Forum notes with concern the proposal was submitted by officers on behalf of the former Council after the local elections on 3 May 2019 and before the new Council coalition administration came into being.*

*From enquires made it is understood the application is felt to be necessary to meet the requirement of a Land Release Fund award by Central Government. Given the*

*implications arising from the proposal it is of concern to the community that no prior formal approval to submit the current application seems to have been obtained from elected Members of the former Council nor from the new administration.*

*Request made on behalf of local residents under the Freedom of Information Act and Environmental Regulations for related monitoring reports has so far met with refusal by officers because it is considered they are not in the public interest to release. This response is currently being reassessed by officers prior to likely reference to the Information Commissioner and Local Government Ombudsman in view of the response so far given and considerable delay in receiving a reply to the formal requests to date.*

*In conclusion it is felt by the community there are fundamental problems with this application that go beyond the conflict with the approved development plan for the area and the application should be withdrawn, or refused, because:*

- *The proposal perpetuates an unjustified and piecemeal release of Greenfield land to the detriment of sustainable development;*
- *The proposal undermines the ability to secure redevelopment of underutilised brownfield land in more appropriate locations such as Crossways in the town centre that is more able to provide for housing needs in a significantly more sustainable location;*
- *The access proposed can be provided more appropriately as part of a comprehensive application if and when the required Local Plan Review has confirmed release of the land would be justified.*

**Paignton Neighbourhood Forum (05.08.2019):**

*This letter is in addition to our objection letter to you of 6 June 2019.*

*No doubt you will be aware the Council's consultation on the housing land supply position in Torbay closed yesterday.*

*Please see attached the joint response of all 3 Neighbourhood Plan Forums which shows why there is already a supply of housing land in excess of the NPPF and adopted Local Plan requirement.*

This is appended to this report, see Appendix A.

**Key Issues/Material Considerations**

1. Principle of Development
2. Impact on Visual Amenity
3. Impact on Residential Amenity

4. Impact on Highway Safety
5. Ecology and Biodiversity
6. Flood Risk and Drainage
7. Other Considerations

## **Planning Officer Assessment**

### **1. Principle of Development**

The proposal is to demolish the nine existing disused farm buildings at Little Blagdon Farm and construct a new vehicular access from the A385 (Totnes Road).

Policy SS2 of the Local Plan allocates Future Growth Areas, such as Paignton North and West Area, including Collaton St Mary. The site forms part of a larger area of land, which is designated within Policy SS2 as a Future Growth Area.

Policy SDP1 of the Local Plan states that development sites to the west of Paignton will be delivered through neighbourhood planning and masterplanning to provide employment and family housing opportunities. This will be underpinned by enhanced transport infrastructure along the Western Corridor and A385 Totnes Road. The proposed new vehicular access is needed to serve strategic housing development identified in Policy SS2 and SDP3 of the Local Plan. The Collaton St Mary Masterplan indicates an access through Little Blagdon Farm. Therefore, the proposed development is in accordance with the Local Plan and Collaton St Mary Masterplan. Policy PNP1 of the Paignton Neighbourhood Plan seeks for proposals to help provide housing growth as set out in the Local Plan and Policy PNP24 supports development in Collaton where proposals are in accordance with the Masterplan. The proposal is in accordance with the Local Plan and Collaton St Mary Masterplan.

Representations received in relation to the proposed development state that the proposal conflicts with the Torbay Local Plan, Paignton Neighbourhood Plan, and Collaton St Mary Masterplan. Some of these comments, which concern housing land supply are addressed later in this report. It is important to bear in mind that the proposal is only for the creation of an access to serve an allocated housing site. Any future housing development would need to be the subject of further planning applications.

In conclusion, the proposed development is needed to deliver an Allocated Future Growth Area in the Local Plan; the proposal is considered policy compliant and therefore the principle of development is considered acceptable.

### **2. Impact on Visual Amenity**

Paragraph 124 of the National Planning Policy Framework (NPPF) states that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. In addition,

paragraph 130 states that 'permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions'. Policy DE1 of the Local Plan states that proposals will be assessed against a range of criteria relating to their function, visual appeal, and quality of public space. Policy PNP1(c) of the Paignton Neighbourhood Plan states that development proposals should where possible and appropriate to the scale and size of the proposal to be in keeping with the surroundings respecting scale, design, height, density, landscaping, use and colour of local materials.

The proposal seeks to demolish the nine existing disused farm buildings at the site and to construct a new vehicular access from the A385 (Totnes Road). The existing disused farm buildings range in size and scale, and some appear dilapidated. The proposed new vehicular access from the A385 would include a new junction and a length of road through the site measuring approximately 25.5 metres in length.

Objectors have raised concerns that the proposal is a form of overdevelopment; it is not in keeping with the local area; it sets a precedent; and it would have a negative impact on the local area.

The Council's Strategy and Project Delivery Team (Planning and Transport) and Senior Tree and Landscape Officer both recommend conditioning a suitable landscaping scheme to mitigate the loss of vegetation, particularly with regard to the removal of the hedgerow which skirts the A385 and to enhance the natural features on site.

As previously discussed, the proposal under consideration is for the removal of existing buildings and the creation of an access and roadway; any associated housing development that may come forward in future, would need to be the subject of separate planning applications. It is considered that the proposed removal of nine disused buildings, some of which are in an unsightly condition, along with the creation of an upgraded junction and length of road would not result in any unacceptable visual harm.

Subject to the aforementioned landscaping condition, the proposal's siting, scale, and visual appearance are considered to be acceptable and without unacceptable detriment to the character and appearance of the locality or streetscene in accordance with the NPPF, Policy DE1 of the Local Plan and Policy PNP1(c) of the Paignton Neighbourhood Plan.

### **3. Impact on Residential Amenity**

Policy DE3 Development Amenity of the Local Plan states that development proposals should be designed to ensure an acceptable level of amenity.

Objectors have raised concerns in relation to noise, privacy/overlooking, and the proposed development having a negative impact on residential amenity. The Council's Senior Environmental Health Officer has raised no objections to the proposed development, concluding that there would be no harm over and above the existing situation. The Council's Senior Environmental Health Officer has requested that a Construction Method Statement be secured to manage the hours of work, noise and vibration on site. A construction method statement will be required through the use of a planning condition to ensure that the construction works are undertaken in a manner that is not injurious to local amenity, this will mitigate any concerns raised regarding noise and vibration. The proposed removal of buildings and creation of an access and road would not result in other harm to neighbouring amenity.

Subject to the use of the aforementioned planning condition, given its siting, scale, and design, it is considered that the proposal would not result in any unacceptable harm to the amenities of neighbours. The proposal is considered to be in accordance with Policy DE3 of the Local Plan.

#### **4. Impact on Highway Safety**

Policy TA1 of the Local Plan sets out promoting improvements to road safety. Policy TA2 of the Local Plan states all development proposals should make appropriate provision for works and/or contributions to ensure an adequate level of accessibility and safety, and to satisfy the transport needs of the development. Policy PNP1(f) of the Paignton Neighbourhood Plan states that new development should aim to achieve where appropriate and subject to viability, connecting cycleways and footpaths where development involves new road infrastructure. Policy PNP1(h) of the Paignton Neighbourhood Plan states new development should aim to achieve where appropriate and subject to viability, comprehensive direct networks for walking, cycling and public transport within and beyond the development.

The Council's Highways Engineer has requested the proposed access and roadway make provision for a shared pedestrian/cycle way link on to the A385 from the proposed development. The Council's Strategy and Project Delivery Team (Planning and Transport) has recommended that the eastern side of the access has a shared path and that the proposed path on the northern side of Totnes Road is widened to become a shared path.

The Council's Highways Engineer has also requested clearway marking on the adjacent bus stop and double yellow lines through Traffic Regulation Orders in and around the proposed junction and other areas of the A385. The Council's Highways Engineer considers that the stacking of seven vehicles in the proposed right-hand turn lane is adequate at this stage, but will require a reassessment should future growth occur. Such requirements can be secured through the use of planning conditions.

Objectors have raised concerns regarding traffic and access in relation to the proposed development, however, it is important to bear in mind that the proposal under consideration is only for the demolition of buildings and creation of an access, not for housing. The Council's Strategy and Project Delivery Team (Planning and Transport) has raised a concern about the width of the proposed access road, in relation to the number of dwellings it may serve in the future. It is noted that the designed access would be suitable to serve up to 200 future dwellings, subject to an alternative emergency access also being provided, but for any additional dwellings beyond 200, it would require either widening the proposed access or providing an additional access.

The proposed access onto Totnes Road should have a visibility splay of 120 metres x 2.4 metres x 120 metres, which is the requirement for a 40mph access road. The proposal is able to meet this requirement. There is a bus stop layby nearby, it is recognised that when in use it would reduce the visibility towards Paignton, however this will be very temporary and occasional and in any case around 50-60 metres of visibility will be maintained at all times. The Council's Strategy and Project Delivery Team (Planning and Transport) considers the visibility splays to be acceptable. The proposal accords with the Local Plan and the Collaton St Mary Masterplan.

Subject to the use of planning conditions to secure works to the public highway, and the required specification for the proposed roadway and achieve the required visibility splays, it is considered that the proposed development complies with Policies TA1 and TA2 of the Local Plan and Policy PNP1(f) and PNP1(h) of the Paignton Neighbourhood Plan.

## **5. Ecology and Biodiversity**

Policy NC1 of the Local Plan states that all development should positively incorporate and promote biodiversity features, proportionate to their scale. The site lies within the South Hams SAC greater horseshoe bat Sustenance Zone of the Berry Head to Sharkham Point SSSI roost (hibernation and maternity) and is within 100 metres of a Strategic Flyway (Natural England, 2010). The application site is approximately 8km north west of the South Hams Special Area of Conservation (SAC) and 3km west of the Lyme Bay and Torbay SAC.

The application is supported by a Phase 1 Habitat and Protected Species Survey (February 2017), a Final Bat Report (November 2018), a Greater Horseshoe Bat Activity Report (May 2019) and Information to Support a Habitat Regulations Assessment Report (May 2019). Objectors have raised concerns regarding the impacts on wildlife. Natural England, the RSPB, Torbay Council's Strategic Appraisal Officer and Devon County Council's Senior Ecologist have been consulted about this application. A Habitat Regulations Assessment (HRA) was commissioned and undertaken by Devon County Council's Senior Ecologist.

The Council's Strategic Appraisal Officer has stated that the demolition of the 9 vacant farm buildings will not result in any changes in the local environment that could affect the European sites. However, the construction of a new vehicular access would result in changes to the environment that could affect horseshoe bats, e.g. increased lighting or vegetation loss, alone or in-combination with other plans or projects and therefore it will require a Habitat Regulations Assessment. From the advice given by the Council's Strategic Appraisal Officer, a Habitat Regulations Assessment was commissioned and undertaken by Devon County Council's Senior Ecologist.

The habitats within the site boundary comprise primarily disused buildings and hardstanding with surrounding scrub vegetation. The western edge of the site is bounded by a hedge with adjacent park homes beyond and with arable fields to the south and adjacent properties to the east. The A385 runs along the northern boundary of the site. The adjacent fields to the south are managed by Torbay Coast and Countryside Trust under a low-intensity arable regime. This application is solely in relation to the demolition of farm buildings and farmyard and the construction of a Highway spur from the A385 to allow access to the wider housing allocation to the south which would be the subject of future planning applications. The proposal does not include any additional lighting.

The site is approximately 8 km from the South Hams SAC. The site is within a greater horseshoe bat 'Sustenance Zone' and within 100m of a greater horseshoe bat 'Strategic Flyway' to the north of the site, as defined by Natural England (2010). The proposed works would result in the permanent loss of bat roosts at the site and their development is therefore subject to compliance with European Protected Species requirements under Natural England's licensing regime. The submitted reports confirm that none of the bat roosts identified within the buildings are associated with greater horseshoe bats and therefore the buildings are screened out of this HRA assessment.

Mitigation measures outlined in Section 16 of the HRA, will ensure that likely significant effects on the greater horseshoe bat commuting/foraging habitats around the site and in combination with other projects are avoided. The mitigation measures will be secured through a planning condition. It is therefore concluded that this proposal will not have an adverse effect on the integrity of the South Hams SAC.

Natural England have raised no objections. The RSPB has recommended a number of mitigation measures which will be employed through planning conditions.

Subject to the proposed planning conditions, it is considered that the proposal would not result in unacceptable ecological harm and the proposed development is considered acceptable with regard to Policy NC1 of the Local Plan and the guidance contained in the NPPF.

Policy C4 of the Local Plan states that development will not be permitted where it would seriously harm, either directly or indirectly, protected trees or veteran trees, hedgerows, ancient woodlands or other natural features of significant landscape, historic or nature conservation value. Policy C4 goes on to state that development proposals should seek to retain and protect existing hedgerows, trees and natural landscape features wherever possible, particularly where they serve an important biodiversity role.

The site includes a section of the A385, which is subject to individual Tree Protection Orders (TPO) (2013.006), the TPO affords statutory protection to the trees on site. Objectors have raised concerns with regards to the proposals effects on protected trees. The application is supported by a Tree Survey and Plan. The Council's Senior Tree and Landscape Officer has stated that the revised Tree Survey identifies a number of B category trees along the northern edge of the A385. It is concluded that the proposed development will entail the loss of 4 'B' category trees and 7 'C' category trees, of which this loss will require mitigation and therefore has recommended a number of pre-commencement planning conditions, including the submission of an arboricultural impact assessment, a landscaping scheme and a tree protection plan.

Subject to the aforementioned planning conditions, the proposed development is considered in accordance with Policy C4 of the Local Plan.

## **6. Flood Risk and Drainage**

Policy ER1 of the Local Plan states that proposals should maintain or enhance the prevailing water flow regime on-site, including an allowance for climate change, and ensure the risk of flooding is not increased elsewhere. Policy PNP1(i) of the Paignton Neighbourhood Plan states that developments will be required to comply with all relevant drainage and flood risk policy.

The site is located within the Critical Drainage Area and the application is accompanied by a Flood Risk Assessment. Surface water drainage would be via soakaways. Objectors have raised concerns with regards to drainage. The Council's Drainage Engineer has considered the submitted information and raised no objections.

Given the nature of the proposal, the intended means of surface water drainage are considered acceptable having regard to the adopted Standing Advice, and the proposal is therefore considered to be in accordance with Policy ER1 of the Local Plan and Policy PNP1(i) of the Paignton Neighbourhood Plan.

## **7. Other Considerations**

### *Housing Land Supply and the Development Plan*

Objectors have stated that the Local Plan's level of growth is not justified, the Council's Strategy and Project Delivery Team (Planning and Transport) has stated that it is not appropriate to consider these through a planning application on a strategically allocated site such as this.

In terms of Torbay Council's housing supply, a recent initial assessment has shown there is currently less than 5 years' housing supply in Torbay, which does trigger the presumption in favour of sustainable development, particularly against the Local Plan policies. The Council's Strategy and Project Delivery Team has stated that a consultation has been undertaken and a range of responses received to the initial assessment, but they are unable to confirm the precise outcome at this time.

The Neighbourhood Plan has been through independent examination and Council approval process very recently which confirmed that it met the Basic Conditions including not revising strategic growth figures or undermining strategic policies. As set out above, the Neighbourhood Plan supports the growth set out in the Local Plan. If the Local Plan was considered to be out of date, which is stated in the objections received, then the Presumption in Favour of Sustainable Development in paragraph 14 of the NPPF is triggered.

Objectors have stated that the proposed development conflicts with the Local Plan, the Paignton Neighbourhood Plan and the Collaton St Mary Masterplan. Objectors have raised concerns regarding the effect a housing development would have in terms of the phasing in part 8, Table 8.1 of the Paignton Neighbourhood Plan. The Council's Strategy and Project Delivery Team has stated that treating Table 8.1 as a "phasing lock" policy would be tantamount to promoting less development than the Local Plan, which would be contrary to the basic conditions governing Neighbourhood Plans and the guidance on Neighbourhood Plans in the NPPF which, by virtue of being adopted, the Neighbourhood Plan has been agreed by the Council not to do.

The proposal is for an access and road to provide access to a site allocated in the Local Plan is considered to be in accordance with the Development Plan. It is noted that some of the objections raised really concern the provision of housing and whether the numbers are required, however, this is properly a matter for detailed consideration once planning applications come forward for the associated housing development in future.

### **Sustainability**

Policy SS3 of the Local Plan establishes the presumption in favour of sustainable development. The proposed development would result in the removal of disused and unsightly buildings and open up the potential development of a site allocated for

housing within the Local Plan. Provision would be made for improved pedestrian and bicycle access.

### **Statement on Human Rights and Equalities Issues**

Human Rights Act - The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance.

Equalities Act - In arriving at this recommendation, due regard has been given to the provisions of the Equalities Act 2010, particularly the Public Sector Equality Duty and Section 149. The Equality Act 2010 requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. Protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race/ethnicity, religion or belief (or lack of), sex and sexual orientation.

### **Local Finance Considerations**

S106:

Not applicable.

CIL:

The CIL liability for this development is Nil.

### **EIA/HRA**

EIA:

Due to the scale, nature and location this development will not have significant effects on the environment and therefore is not considered to be EIA development.

HRA:

The application site is within a strategic flyway/sustenance zone associated with the South Hams SAC.

A Habitat Regulations Assessment has been carried out for this development. The proposed development is unlikely to have a significant effect on the South Hams SAC.

The application is suitable for approval subject to any other relevant material planning considerations/subject to securing the mitigation measures by condition as may be appropriate and any other relevant material planning considerations.

### **Planning Balance**

The proposed development is solely for the demolition of existing buildings, the creation of an improved access onto the public highway, and the creation of a length of road through the site, along with associated works. The proposed development is intended to serve an allocated housing site for which planning applications may be submitted in future. Subject to the planning conditions detailed below, no unacceptable harm has been identified and the proposal is in accordance with Development Plan policies.

### **Conclusions and Reasons for Decision**

The proposal is acceptable in principle; would not result in unacceptable harm to the character of the area or local amenity; would provide acceptable arrangements in relation to highways, flood risk, and ecological constraints. The proposed development is considered acceptable, having regard to the Torbay Local Plan, the Paignton Neighbourhood Plan, and all other material considerations.

### **Officer Recommendation**

That planning permission is granted, subject to the conditions detailed below. The final drafting of conditions and addressing any further material considerations that may come to light to be delegated to the Assistant Director of Planning and Transport.

### **Conditions**

#### **Landscaping**

Prior to commencement of the development hereby permitted, a detailed Landscaping Scheme for the site shall be submitted to and approved in writing by the Local Planning Authority. The Scheme shall include details of hard and soft landscaping, including all boundary treatments. Where applicable, it shall specify tree and plant species and methods of planting. The approved soft landscaping shall be planted in the first planting season following the first use of the development. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next available planting season with others of similar size and species.

Reason: In the interests of amenity and design in accordance with Policy DE1 of the Adopted Torbay Local Plan 2012-2030.

Justification: These details are required pre-commencement as specified to ensure that an adequate landscaping scheme will be provided to mitigate any potential biodiversity loss.

### **Arboricultural Impact Assessment and Tree Protection Plan**

No development, including ground works or vegetation clearance, shall take place until an Arboricultural Impact Assessment and Tree Protection Plan has been submitted to and approved in writing by the Local Planning Authority. This information shall be prepared in accordance with BS 5837:2012 (or any superseding British Standard) and include details of tree protection fencing, which must be erected prior to the commencement of the development and retained until the completion of the development. No vehicles, plant or materials shall be driven or placed within the areas enclosed by the fences. The approved Arboricultural Impact Assessments and Tree Protection Plans shall be adhered to throughout the construction of the development.

Reason: To protect the trees to be retained in the interests of the amenities of the area and biodiversity, in accordance with Policies C4 and NC1 of the Adopted Torbay Local Plan 2012-2030.

Justification: These details are required pre-commencement as specified to ensure that trees to be retained are not damaged by building operations or vegetation removal, including their biodiversity interests.

### **Highways Agreements**

The development hereby approved shall not be brought into use until all relevant highways agreements, concerning works within the public highway and along the proposed roadway have been entered into and the associated works have been carried out to the satisfaction of the Local Highway Authority. These shall include a shared pedestrian/cycle way link on to Totnes Road from the proposed development; clearway markings on the adjacent Bus Stop on Totnes Road; double yellow lines on the proposed junction and other areas of Totnes Road; as well as other works shown on the approved plans, or otherwise deemed necessary to achieve an adoptable road layout.

Reason: To provide safe and sustainable access to, and around, the site for all users in accordance with Policies TA1, TA2 and DE1 of the Adopted Torbay Local Plan 2012-2030.

### **Construction and Environmental Management Plan (CEMP)**

No development (including demolition and ground works) or vegetation clearance works shall take place until a Construction and Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall be prepared in accordance with specifications in clause 10.2 of BS 42020:2013 (or any superseding British Standard) and shall include the following:

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of “biodiversity protection zones”.

- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction.
- d) The location and timing of sensitive works to avoid harm to biodiversity features. This includes the use of protective fences, exclusion barriers and warning signs.
- e) The times during construction when specialist ecologists need to be present on site to monitor works to ensure compliance with the CEMP, and the actions that will be undertaken.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.

The approved CEMP shall be adhered to and implemented throughout the construction period of the development strictly in accordance with the approved details.

**Reason:** In the interests of biodiversity and to minimise impacts on protected species in accordance with Policy NC1 of the Adopted Torbay Local Plan 2012-2030, and paragraphs 109 and 118 of the NPPF. These details are required pre-commencement as specified to ensure that biodiversity is not harmed by building operations or vegetation removal.

### **Dark Corridor**

The Western Site boundary will be maintained as a dark corridor and protected from any artificial light intrusion during the construction phase with a lighting level of no more than 0.5 LUX within 2 metres of the Western site boundary.

**Reason:** To ensure that the development proceeds in an appropriate manner, in accordance with Policy NC1 of the Adopted Torbay Local Plan 2012-2030.

### **Heras Fencing**

No development shall take place until details of Heras fencing (or similar) to be erected along the northern portion of the western boundary of the Site, have been submitted to and approved in writing by the Local Planning Authority. The fencing shall be to a height of at least 2 metres from the ground and at least 2 metres distance from the top of the existing bank. A high strength extruded plastic fencing mesh shall be fixed to one side of this fencing to provide a physical structure for bats to follow. The approved fencing shall be installed prior to the commencement of development and shall be inspected on a weekly basis during the construction process, and any defects repaired immediately.

**Reason:** To ensure that the development proceeds in an appropriate manner, in accordance with Policy NC1 of the Adopted Torbay Local Plan 2012-2030.

**Justification:** These details are required pre-commencement as specified to ensure acceptable effects in relation to bats during the construction phase of the development.

## **Hedgerow**

In accordance with the submitted ‘Information to support Habitat Regulations Assessment’ (plan reference ‘TE0271-MIT-B (Habitat Regulations) received 21<sup>st</sup> August 2019) details of a hedgerow of 70 metres on the western site boundary will be planted and managed to promote a denser growth of at least 2 metres in height shall be submitted and approved in writing to the Local Planning Authority.

Reason: To ensure that the development proceeds in an appropriate manner, in accordance with Policy NC1 of the Adopted Torbay Local Plan 2012-2030.

## **External Lighting**

Prior to the installation of any external lighting within the site, full details including their design, siting and levels/type of illumination shall be submitted to and approved in writing by the Local Planning Authority. The external lighting shall thereafter be installed in full accordance with the approved details.

Reason: To safeguard legally protected species, including safeguarding foraging paths for legally protected bats, and in the interests of biodiversity in accordance with Policy NC1 of the Adopted Torbay Local Plan 2012-2030.

## **Machinery and Materials**

No building related machinery or materials, including materials from demolished buildings are to be stored within the fields to the south of the application site at any time.

Reason: In the interests of protected species and in accordance with Policy NC1 of the Adopted Torbay Local Plan 2012-2030.

## **Bird Nesting**

No removal of hedgerows, trees or shrubs shall take place between 1st March and 31st August inclusive in any given year, unless prior to the commencement of works a detailed biodiversity survey by a competent ecologist has been submitted to and approved in writing by the Local Planning Authority. The survey shall include the details of the check of vegetation for active birds' nests immediately before the vegetation is cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting birds on the site. The development shall then be carried out in accordance with the details submitted.

Reason: In the interests of protected species and in accordance with Policy NC1 of the Adopted Torbay Local Plan 2012-2030.

### **Ecological Mitigation Measures**

The development hereby approved shall be carried out in strict accordance with the mitigation measures outlined on Pages 7-8 of the submitted 'Information to support Habitat Regulations Assessment' (plan reference 'TE0271-MIT-B (Habitat Regulations) received 21<sup>st</sup> August 2019).

Reason: In the interests of protected species and in accordance with Policy NC1 of the Adopted Torbay Local Plan 2012-2030.

### **Construction Method Statement**

No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the Local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- a) The parking of vehicles of site operatives and visitors.
- b) Loading and unloading of plant and materials.
- c) Storage of plant and materials used in constructing the development.
- d) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate.
- e) Wheel washing facilities.
- f) Measures to control the emission of dust and dirt during construction.
- g) A scheme for recycling/disposing of waste resulting from demolition and construction works, with priority given to reuse of building materials on site wherever practicable.
- h) Measures to minimise noise nuisance to neighbours from plant and machinery.
- i) Construction working hours from 8:00 to 18:00 Monday to Friday, 8:00 to 13:00 on Saturdays and at no time on Sundays or Bank Holidays.

Reason: This information is required prior to commencement to safeguard the amenity of the locality in accordance with Policy DE3 of the Adopted Torbay Local Plan 2012-2030.

### **Informative(s)**

01. For the avoidance of doubt, any works to be undertaken within the public highway will require the separate consent of the Highway Authority.

02. Responsibilities of the applicant / developer:

All bats are protected by law. If bats are found, works must immediately cease and further advice be obtained from Natural England and / or a licensed bat consultant. Works must not resume until their advice has been followed. Nesting birds are also protected by law. During site clearance and construction works, suitable safeguards must be put in place to prevent threat of harm to legally protected species, including nesting birds and reptiles all of which are protected under the Wildlife & Countryside Act 1981 (as amended). Where works are to involve cutting or clearance of shrubs, hedges or other vegetation, which can form nesting sites for birds, such operations should be carried out at a time other than in the bird breeding season (which lasts between 1 March - 15 September inclusive in any year). Schemes must be in place to avoid threat of killing or injuring reptiles, such as slow worms. Slow worms may shelter beneath vegetation as well as among any stored or discarded sheeting, building and other materials. Further details can be obtained from a suitably qualified and experienced ecological consultant, or please refer to published Natural England guidelines for protected species.

03. In accordance with the requirements of Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order, 2015, in determining this application, Torbay Council has worked positively with the applicant to ensure that all relevant planning concerns have been appropriately resolved. The Council has concluded that this application is acceptable for planning approval.

### **Relevant Policies**

C4 – Trees, Hedgerows and Natural Landscape Features

DE1 – Design

DE3 – Development Amenity

ER1 – Flood Risk

ER2 – Water Management

NC1 – Biodiversity and Geodiversity

SDP1 – Paignton

SDP3 – Paignton North and Western Area

SS2 – Future Growth Areas

SS3 – Presumption in Favour of Sustainable Development

SS6 – Strategic Transport Improvements

TA1 – Transport and Accessibility

TA2 – Development Access

PNP1(c) – Design Principles

PNP1(f) – Towards a Sustainable Low Carbon Energy Efficient Economy

PNP1(h) – Sustainable Transport

PNP1(i) – Surface Water

PNP24 – Collaton St Mary Village

### PAIGNTON NEIGHBOURHOOD FORUM

- Blatchcombe
- Clifton with Maidenway
- Goodrington, Roselands & Hookhills
- Paignton Town
- Preston



5 August 2019

By email to: [planning@torbay.gov.uk](mailto:planning@torbay.gov.uk)

Torbay Council

Planning Department (FAO Case Officer Miss Emily Elliot)

Tor Hill House

Castle Circus

Torquay

TQ2 5QW

Dear Miss Elliot

**Planning Application P/2019/0478.**

**Proposed demolition of nine disused farm buildings and construction of new vehicular access, Little Blagdon Farm, Totnes Road, Paignton TQ4 7PW.**

This letter is in addition to our objection letter to you of 6 June 2019.

No doubt you will be aware the Council's consultation on the housing land supply position in Torbay closed yesterday.

Please see attached the joint response of all 3 Neighbourhood Plan Forums which shows why there is already a supply of housing land in excess of the NPPF and adopted Local Plan requirement.

Yours sincerely

[Redacted]  
Chairman, Paignton Neighbourhood Forum

Enclosure:

Joint Forum response dated 3 August 2019

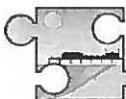
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Brixham  
neighbourhood  
forum



Paignton  
neighbourhood  
forum



Torquay  
neighbourhood  
forum

## Torbay Housing Land Supply 2019-2024

### 1. Introduction

- 1.1 These are the views of all 3 Neighbourhood Plan Forums on the Draft Land Supply Statement published by Council officers for technical comment by 4 August 2019.
- 1.2 We find the draft does not take sufficiently into account the following:
  - The requirement The assessment finds a not less than 3 year supply to be identified against the 5 year requirement given the 100% coverage of Torbay by the Neighbourhood Plans recently approved.
  - The supply of deliverable dwellings exceeds 3.28 years shown in the draft.
  - Review of the Local Plan housing trajectory is about to formally commence.
- 1.3 In conclusion our finding is that more than a sufficient supply exists until the required Local Plan Review has been completed for the following reasons:

### 2. Five year requirement

#### a) Local Plan

- 2.1 We agree the Local Plan is less than 5 years old since adoption and is the appropriate starting point for the assessment as stated (para. 3.1).
- 2.2 However, four of the five assessment years (80%) go beyond the Review required by December 2020 which the draft confirms is about to commence (2<sup>nd</sup> para. 7.3).
- 2.3 We note the draft states it is not the purpose of the assessment to consider the validity of the Local Plan trajectory (3.2).
- 2.4 Nevertheless it is already clear the Review will have to address the substantial mismatch that now exists between the provision of jobs and additional homes required by the strategic policies of the adopted Local Plan since 2012.
- 2.5 The draft assessment shows 2,719 additional homes have been built since the Local Plan start date of 2012 (para. 3.6). In comparison there has been no net job growth since 2012 as confirmed by the Office of National Statistics (ONS/NOMIS).
- 2.6 Continuation of this fundamental mismatch does not accord with the NPPF requirement to achieve sustainable development and adopted Local Plan and no benefit is resulting that outweighs the harm being caused.

2.7 As net job growth has not been achieved, use of the trajectory steps in the assessment from 400 through to 583 dwellings per annum does not accord with the adopted strategy of the Local Plan.

2.8 The Local Plan already allows the housing trajectory to be adjusted downward in this event (LP para 7.5.15). Such action will accord fully with the Local Plan Inspectors Report which stated (para. 41):

*"Detailed monitoring and review are important considerations in the development plan process and the Council is committed to regular reviews of the Plan. There will be ample opportunity to increase housing numbers if justified by jobs growth. Alternatively it may be necessary to reduce housing numbers over the plan period if the Council's job growth strategy is less successful than hoped. At the present it is regarded as sensible and pragmatic to plan for 8,900 additional dwellings over the plan period."*

2.9 For the draft assessment period in this instance it is therefore appropriate and justified to treat all parts of the assessment with extreme caution pending the Review outcome which the draft confirms will commence in two months time (para 7.3).

b) Neighbourhood Plan requirement.

2.10 The draft notes all parts of the Local Plan area now have in place recently approved Neighbourhood Plans which have been formally examined and approved in accordance with statutory requirements (para. 5.4).

2.11 The Brixham Peninsular and Torquay Neighbourhood Plans contain site allocations for development in their areas. The Paignton Neighbourhood Plan found no need to allocate further land following a comprehensive assessment and includes specific policies that expressly support allocations that meet the identified housing requirement.

2.12 The Paignton Neighbourhood Plan also now includes the requirement for job-led growth and housing provision being kept in balance in response to the imbalance referred to in paragraph 2.5 above (PNP Part 6 and Policy PNP1-Area Wide).

2.13 NPPF14 supports Neighbourhood Plans taking priority in decision taking provided they are less than 2 years old and the Local Plan area has at least a 3 year supply of deliverable housing sites measured against the 5 year housing requirement.

2.14 It is noted the draft concludes that even before Review of the Local Plan trajectory there is judged to be a 3.23 year supply for the assessment period (para 6.2).

2.15 This meets the requirement of NPPF14 and will shortly be overtaken by the Review outcome than can be expected will reduce the 5 year requirement significantly.

**3. Supply position**

3.1 Our response to the request for technical comment on the draft so far produced is as follows:

3.2 Lists A and B introduce a site delivery size of 10 or more dwellings that does not match site size thresholds in the adopted Local Plan or previous supply assessments.

3.3 This has the effect of underestimating the deliverable supply available from smaller sites with consent that sit between the adopted Local Plan 'Windfall' threshold of 5 dwellings

or less and 10 or more defined in Lists A and B as detailed further in paragraph 3.7 to 3.11 below.

- 3.4 Both Lists also exclude sites where the Council has stated its intention to achieve delivery within the 5 year assessment period.
- 3.5 Examples are redevelopment of Crossways in Paignton Town Centre shown for 150 dwellings in the adopted Local Plan and Preston Down Road where the Council has obtained Land Release Fund grant from Government on a Bid promise to deliver release of unallocated land for 150 dwellings by 2020.
- 3.6 These two locations alone total 300 dwellings that adds 15% to the supply shown in the draft (300/1,967).
- 3.7 List C does not identify the sites of 6-9 dwellings considered to be deliverable over the assessment period but confirms they are sites with planning permission which the NPPF allows to be included unless it can be demonstrated they will not be delivered.
- 3.8 Only 81 dwellings have been included for the entire 5 year period (List C showing 40 not started plus 41 under construction).
- 3.9 Over the last 2 years alone planning permission has been granted for 121 dwellings on sites across the assessment area that will each deliver from 6 to 9 dwellings (an average of 61 dwellings per annum).
- 3.10 In sharp contrast the draft includes only 81 dwellings for the entire 5 year period. No adequate detail has been provided to justify including only 16 per annum (List C 81/5 = 16 pa).
- 3.11 Omission of 224 dwellings (rounded) is significant ( $5 \times 61$  less  $5 \times 16 = 305 - 81 = 224$ ).
- 3.12 List D similarly underestimates the deliverable supply from the approved Local Plan 'Windfall' allowance of 130 dwellings per annum by restricting the supply artificially to 100 per annum.
- 3.13 As evidenced in Table 3 below account has already been taken of non delivery of 'Windfall' sites actually granted planning consent in the allowance permitted. Instead the permitted allowance of 650 dwellings ( $5 \times 130$ ) has been capped at only 500 ( $5 \times 100$ ). The omission of 150 is significant.

Table 3.1 Windfalls (of 5 or less dwellings)

Year	Local Plan allowance	Actual consents
2012/13	130	150
2013/14	130	167
2014/15	130	175
2015/16	130	142
2016/17	130	136
2017/18	130	151
2018/19	130	158
Total	910	1,079

Source: Torbay Council planning consents granted

- 3.14 As the housing trajectory Review is about to commence the following comparison is made at this stage:
- 3.15 In the very unlikely event that the present housing trajectory remains as high, inclusion of the above omissions increases the supply to not less than 4.4 years as shown in Table 3.2 below:

Table 3.2 Supply draft with the omissions included

Lists A+B	1,386
Omitted from Lists A+B (para. 3.6)	300
Lists C+D	581
Omitted from Lists C+D (para. 3.11 & 3.13)	374
Draft supply including the above omissions	2,641
Requirement shown in draft (para 4.1)	599 p.a.
Years supply @ 599 p.a. = 2,641 / 599	4.4 yrs minimum

#### 4. Conclusion

- 4.1 Continued use of the existing Local Plan housing trajectory is no longer justifiable. A supply of at least 3 years exists that meets the requirement of NPPF14 for the purpose of decision taking as allowed for by the NPPF pending the Local Plan Review about to commence.

[REDACTED]  
Chair of Torquay  
Neighbourhood Forum

[REDACTED]  
Chair of Paignton  
Neighbourhood Forum

[REDACTED]  
Chair of Brixham  
Neighbourhood Forum

3 August 2019

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# Agenda Item 7



Application Site Address	11 Tamar Avenue Torquay TQ2 7LW
Proposal	First floor side extension
Application Number	P/2019/0598
Applicant	Mr & Mrs Drake
Agent	MRM Design Studio
Date Application Valid	12/06/2019
Decision Due date	07/08/2019
Extension of Time Date	13/09/2019
Recommendation	That planning permission is refused.
Reason for Referral to Planning Committee	The application has been referred to Planning Committee following a request from the ward councillor.
Planning Case Officer	Craig Davies



## **Site Details**

The site comprises a double-storey, semi-detached, residential dwelling and its curtilage area, set in a residential street.

## **Description of Development**

This planning application proposes a first-floor side extension to the western elevation of the host dwelling (i.e. above the existing ground floor side extension). The proposed extension would have a hipped roof and would be finished with materials matching those of the host dwelling.

## **Relevant Planning Policy Context**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 places a duty on local planning authorities to determine proposals in accordance with the development plan unless material considerations indicate otherwise. The following development plan policies and material considerations are relevant to this application:

### **Development Plan**

- The Torbay Local Plan 2012-2030 ("The Local Plan")
- The Torquay Neighbourhood Plan

### **Material Considerations**

- National Planning Policy Framework (NPPF)
- Planning Policy Guidance (PPG)
- Published standing Advice
- Planning matters relevant to the case under consideration, including the following advice and representations, planning history, and other matters referred to in this report:

## **Relevant Planning History**

P/2019/0069 – Single storey rear extension. Approved 06/03/2019.

P/2018/0914 - 2 storey extension to side. Single storey extension to rear with raised terrace. Refused 14/12/2018.

Reason: "Tamar Avenue is characterised by semi-detached pairs of dwellings that present a consistent rhythm of development. The proposed first floor extension would reduce the existing gap between the host dwelling and the neighbouring semi-detached pair, and would contribute to the erosion of the area's spacious character, and the development of a terracing effect within the streetscene. As such, it is considered that the proposal would result in unacceptable harm to the character of the area, contrary to Policies DE1 and DE5 of the Torbay Local Plan 2012-2030."

P/2015/0895 – Proposed conversion of existing garage into playroom. Approved 17/11/2015.

DE/2014/0448 – Pre-application advice for a first floor extension over existing garage. (01/12/2014.)

"In my opinion if a planning application was to be submitted for the proposed two storey extension above the existing garage it would be unlikely to gain officer support. I would raise a concern with the impact the proposal would have on the neighbour amenity of the adjacent property; 13 Tamar Avenue. Due to the stepped building line of the properties in this location the garage is situated adjacent to Number 13's rear building line and garden area. I am therefore of the opinion that a two storey extension in this location would form an overbearing and overdominant addition and would impact upon the light levels to a degree that would significantly, negatively impact upon neighbouring amenity. I would also note that the character of Tamar Avenue is that of semi-detached residential properties with single storey side extensions and garages with noticeable gaps between the properties. These gaps lead to a spacious and open characteristic and I feel that the addition of a two storey side element would result in a loss of the gap between the properties and an erosion of this overall character leading to the potential of a terracing effect."

### **Summary of Representations**

The application was publicised through a site notice and notification letters sent to the adjoining neighbours. Two letters of support were received from the occupants of the neighbouring properties to the east and west (No.9 and No.13 Tamar Avenue).

### **Summary of Consultation Responses**

#### **Torquay Neighbourhood Plan Forum:**

The Torquay Neighbourhood Plan Forum indicated support for the application for the following reasons:

- Provides additional living space.
- Amounts to a sensitive extension in keeping with the area.
- Makes use of brownfield development and is compliant with Policy TS4 of the Neighbourhood Plan.
- Would be of a modest scale, would be below the existing roof level, and would be in accordance with Policy TH8 of the Neighbourhood Plan.
- Given the staggered layout of the dwellings, the proposal would not adversely impact on the streetscene through terracing.
- Provides sufficient parking for the extra bedroom so is compliant with Policy TH9 of the Neighbourhood Plan.
- There is plenty of outside space for the size of the property.
- Immediate neighbours have no objection to the application.
- Does not materially reduce the amenity value of its neighbours so is compliant with Policy DE3 of the Local Plan.
- Amounts to a reasonable and acceptable evolution to an established property.

### **Key Issues/Material Considerations**

1. Principle of Development
2. Impact on Visual Amenity
3. Impact on Residential Amenity
4. Impact on Highways
5. Ecology and Biodiversity

6. Flood Risk and Drainage
7. Other Considerations

## **Planning Officer Assessment**

### **1. Principle of Development**

The proposal is for an extension to a dwelling house. There are no Development Plan policies indicating that the proposal is not acceptable in principle.

### **2. Impact on Visual Amenity**

Paragraph 124 of the National Planning Policy Framework (NPPF) states that 'good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities'. In addition, paragraph 130 states that 'permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions'. Policy DE1 of the Local Plan states that proposals will be assessed against a range of criteria relating to their function, visual appeal, and quality of public space. Policy DE5 of the Local Plan states that extensions to domestic dwellings should not dominate or have other adverse effects on the character or appearance of the original dwelling or any neighbouring dwellings or on the streetscene in general. Policy TH8 of the Neighbourhood Plan states that developments should be of good quality design, respect the local character in terms of height, scale and bulk, and reflect the identity of its surroundings.

The application site is a semi-detached property which is part of a matching semi with No.9 Tamar Avenue. The street is characterised by other pairs of semi-detached properties with single-storey side extensions or garages. This provides clear gaps within the street which help to maintain a somewhat spacious and open character. The proposed first-floor side extension would result in a loss of the gap between the neighbouring semi-detached pairs and the erosion of this established character, and would result in a terracing effect within the streetscene.

The planning history of this street indicates that no first floor side extensions have been approved other than for number 38 which, due to its angled layout in relation to the neighbouring property, has a different context within the streetscene. The applicant's submission includes references to first floor side extensions which have been approved nearby at 36 Dart Avenue, 40 Torridge Avenue, and 2 Otter Road. It is important to note however that each of these sites presents a different context from that of the application site with mitigating factors that reduce the potential for a terracing effect: 36 Dart Avenue is sited on a street with a sloping topography that results in a visual distinction between the pairs of semis due to the differences in levels; 40 Torridge Avenue has a single-storey dwelling adjacent to the first-floor extension; 2 Otter Road has vacant land adjacent to the first-floor extension. Given that 11 Tamar Avenue is sited on a street with more of a level topography and with a consistent pattern of pairs of semi-detached dwellings, there would be a more pronounced terracing effect than the sites referred to by the applicant.

It is noted that the proposed extension would be larger than the previously refused scheme. The proposal would be less subservient to the host dwelling, coming

approximately 2.4m further forward and extending approximately 0.85m higher at the ridge. It is considered that the proposal would result in an unbalancing effect in relation to the semi-detached pair, and a terracing effect within a streetscene characterised by a clear rhythm of development characterised by distinct and separate semi-detached pairs of dwellings.

The proposal is therefore considered to be harmful to the character of the area and inconsistent with Policies DE1 and DE5 of the Local Plan, Policy TH8 of the Neighbourhood Plan, and the guidance contained in the NPPF.

### **3. Impact on Residential Amenity**

Policy DE3 of the Local Plan states that development proposals should be designed to ensure an acceptable level of amenity.

Given its siting, scale, and design, it is considered that the proposal would result in unacceptable harm to the amenities of the occupants of 13 Tamar Avenue. The proposed extension, which would extend the first floor of the host dwelling across the full width of the plot, would bring 2-storey development in close proximity to the shared boundary with No.13 and, due to the staggered positioning of the dwellings on their respective plots, would project around 7m beyond the rear elevation of the neighbour's property. It is considered that this would result in an overbearing impact and a loss of light for the rear patio and rear garden area of the neighbour's property.

It should be noted that the proposed extension is similar to a previous scheme for the site that was refused in December 2018, except that the proposed extension has an increased scale with a greater depth compared to that which was previously refused. The 2018 scheme, for which the impact on amenity was considered to be acceptable, was set back by 3.05m from the front elevation of the host dwelling, resulting in a clear gap at first floor level adjacent to the rear elevation and patio area of No.13. The current proposal is for an extension that would only be set back by approximately 0.65m from the front elevation of the host dwelling, resulting in a continuous projection at first floor level (with a height of more than 5m to the eaves) extending from the rear elevation of No.13 for a length of around 7m adjacent to the shared boundary. It is considered that this would contribute to an overbearing sense of enclosure where currently there is none.

While it is noted that the current occupants of 13 Tamar Avenue have submitted a letter of support, it is important to note that the intent of Policy DE3 is to preserve amenity standards in the general sense so as to ensure a high quality residential environment on an ongoing basis.

Given that the western elevation of the proposed extension includes a first floor window sited directly on the boundary, the proposal in its current form would also have a negative impact on privacy for No.13 due to overlooking. In the event that the proposal were to be approved, a condition would need to be imposed requiring that the first floor window be obscure-glazed, which would adequately mitigate the proposal's impact on privacy.

With regard to the nearby approved first floor side extensions referred to in the applicant's submission, it is again important to note that these sites present different

contexts from that of the application site: 36 Dart Avenue and 40 Torridge Avenue are on streets that have a very consistent setback from the street meaning that the respective first floor extensions do not project beyond the rear elevations of the neighbouring properties; 38 Tamar Avenue is set at an angle which means that the extension primarily impacts on the front garden area of the neighbouring property; 2 Otter Road has vacant land adjacent to the first-floor extension. The staggered positioning of the pairs of semi-detached dwellings along Tamar Avenue presents a specific context in which the potential for an overbearing impact is increased.

For the reasons set out above, the proposal considered to be inconsistent with Policy DE3 of the Local Plan and the guidance contained within the NPPF.

#### **4. Impact on Highways**

Policy TA3 and Appendix F of the Local Plan state that dwelling houses should be provided with 2 on-site parking spaces and storage for 2 cycles. Policy TH9 of the Neighbourhood Plan states that proposals for additional bedrooms should be assessed for their impact on on-site parking needs, and sufficient on-site parking should be provided. The existing dwelling has space for the on-site parking of at least 2 vehicles in the front curtilage area, and no changes to the on-site parking arrangements are proposed. It is considered that the proposed addition of 1 bedroom and en-suite bathroom would not necessitate the provision of any additional on-site parking spaces over and above the 2 spaces required in terms of the Local Plan, and the proposal is therefore considered to be in accordance with Policy TA3 of the Local Plan and Policy TH9 of the Neighbourhood Plan.

#### **5. Ecology and Biodiversity**

The application has been accompanied by an ecological survey report which states that a survey carried out on site revealed no evidence of bats and birds, and that no further surveys were deemed necessary. The report makes recommendations which, in the event that the application were to be approved, should be secured using a planning condition. Subject to this condition, the proposal would be in accordance with Policy NC1 of the Local Plan which relates to the conservation of biodiversity.

#### **6. Flood Risk and Drainage**

Policy ER1 of the Local Plan states that proposals should maintain or enhance the prevailing water flow regime on-site, including an allowance for climate change, and ensure the risk of flooding is not increased elsewhere.

The site is located within the Critical Drainage Area. Given that the proposal would not result in any increase to the impermeable built footprint of the site, there would be no notable impact on the prevailing water flow regime on site. The proposal is therefore considered to be in accordance with Policy ER1 of the Local Plan.

#### **7. Other Considerations**

The applicant states that the proposal should be considered in terms of Policy H6 of the Local Plan, which relates to the provision of housing for people in need of care. This is in relation to the fact that the applicants are fostering two children and require additional living space to enable each foster child, one of whom is said to have ADHD and struggles to fall asleep at night, to have their own bedroom. Policy H6 of the Local

Plan relates to development proposals involving new sheltered housing, new care homes, new retirement developments, and the physical adaptation of dwellings to accommodate people with physical disabilities (for example through the provision of ramps to enable wheelchair access), rather than to an extension to a dwelling house (albeit a dwelling house that is currently occupied by a foster family). Policy H6 is therefore not considered to be directly relevant to the proposal.

Officers consider that the amount of weight to be afforded to the personal circumstances of the applicants should be limited. Fostering is a life choice and the applicants may in future cease this activity or choose to move house. The stated need for the proposed extension is therefore not considered to overcome the harm identified elsewhere in this report.

### **Statement on Human Rights and Equalities Issues**

Human Rights Act - The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance.

Equalities Act - In arriving at this recommendation, due regard has been given to the provisions of the Equalities Act 2010, particularly the Public Sector Equality Duty and Section 149. The Equality Act 2010 requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. Protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race/ethnicity, religion or belief (or lack of), sex and sexual orientation.

### **Local Finance Considerations**

S106:

Not applicable.

CIL:

The CIL liability for this development is Nil.

### **EIA/HRA**

EIA:

Due to the scale, nature and location this development will not have significant effects on the environment and therefore is not considered to be EIA development.

### **Sustainability**

Policy SS3 of the Local Plan establishes the presumption in favour of sustainable development. Although the proposal would result in the creation of additional living space on a site within the existing urban area, the proposal would result in adverse impacts that would outweigh the benefits. It is therefore considered that the proposal does not constitute sustainable development.

## **Planning Balance**

The planning assessment considers the policy and material considerations in detail. For the reasons set out elsewhere in this report, it is considered that the proposal would have unacceptable impacts on the appearance of the host dwelling and the character of the area, and would negatively impact on the amenities of No.13 Tamar Avenue due to an overbearing impact and a loss of light.

## **Conclusions and Reasons for Decision**

The application is considered unacceptable, having regard to the Local Plan, the Neighbourhood Plan, and all other material considerations.

## **Officer Recommendation**

That planning permission is refused.

## **Refusal reasons**

1. Tamar Avenue is characterised by semi-detached pairs of dwellings that present a consistent rhythm of development. The proposed first floor extension would reduce the existing gap between the host dwelling and the neighbouring semi-detached pair, and would contribute to the erosion of the area's spacious character, and the development of a terracing effect within the streetscene. It is also considered that the proposal would unbalance the semi-detached pair that the host dwelling forms part of. As such, it is considered that the proposal would result in unacceptable harm to the character of the area, contrary to Policies DE1 and DE5 of the Adopted Torbay Local Plan 2012-2030, and Policy TH8 of the Torquay Neighbourhood Plan.
  
2. The proposed extension, which would extend the first floor of the host dwelling across the full width of the plot, would bring 2-storey development in very close proximity to the shared boundary with No.13 and, due to the staggered positioning of the dwellings on their respective plots, would project around 7m beyond the rear elevation of the neighbour's rear elevation. It is considered that this would result in an overbearing impact and a loss of light for the rear patio and rear garden area of the neighbour's property, contrary to Policy DE3 of the Adopted Torbay Local Plan 2012-2030.

## **Relevant Policies**

DE1 – Design

DE3 – Development Amenity

DE5 – Domestic Extensions

ER1 – Flood Risk

H6 – Housing for People in Need of Care

NC1 – Biodiversity and Geodiversity

SS3 – Presumption in Favour of Sustainable Development

TA3 – Parking Requirements

TH8 – Established Architecture