

Application Number

P/2015/1092

Site AddressLand Off
Berry Head Road
Berry Head
Brixham
Torbay**Case Officer**

Carly Perkins

Ward

Berry Head With Furzeham

Description

Formation of 8 holiday chalets and a reception/pool building. This application is accompanied by an Environmental Statement. This is a departure from the Torbay Local Plan.

Executive Summary/Key Outcomes:

The proposal is for the provision of seven one and a half storey holiday chalets, a two storey manager's chalet together with ancillary accommodation and a reception and leisure chalet building, resulting in a total of nine chalets on the site. The holiday chalets and reception and leisure chalet are to be located around a circular cinder track with a recreational communal area to the centre. The manager's accommodation is located south of the holiday accommodation circle to the south of a band of trees. The remainder of the site would become a managed wildlife area.

The application site is in a very environmentally sensitive location. It is within the Area of Outstanding Natural Beauty and Countryside Zone, and adjacent to the Berry Head to Sharkham Point component of the South Hams Special Area of Conservation (SAC). The site is within the Greater Horseshoe Bat Sustenance Zone with the majority of the site also falling within the Greater Horseshoe Bat Strategic Flyaway. The site is also designated as an Other Site of Wildlife Interest within the Torbay Local Plan 2012-2030.

A footpath is located to the north of the site that connects Wall Park Road and Victoria Road to the South West Coast Path.

The application site is a former ministry of defence site, which was cleared in the 1970s, is now heavily vegetated. There are a number of trees subject to tree preservation orders within the site. At the time of the officer site visit an existing hardstanding close to the entrance to the north west of the site was noted. The site has two access points, one from the junction of Wall Park Road and Victoria Road and one from Berry Head Road.

A considerable amount of the information submitted in support of the application is largely out of date or incomplete. This means there is a lack of clarity about the potential effect of the development. In these instances it is reasonable for the Council to assume that there will be an adverse affect from the proposed development.

Areas of Outstanding Natural Beauty have the highest status of protection in relation to landscape and scenic beauty, and great weight should be given to their conservation. Advice in para. 116 of the NPPF is that planning permission should be refused for major developments in these areas except in exceptional circumstances and where it can be demonstrated that they are in the public interest. The proposal as submitted fails to demonstrate that the development can be implemented without harm to the character of the open countryside and the Area of Outstanding Natural Beauty. There is no evidence of overriding public interest resulting from the proposal to outweigh the effect of the development.

The presence of Greater Horseshoe Bats at Berry Head is of European nature conservation importance. The Council (as the competent authority) is required to meet the statutory obligations associated with the greater horseshoe bat conservation interest. A Habitat Regulation Assessment is required to assess the affect of the proposed development on the South Hams SAC. If it is concluded that there is likely to be a significant effect the Council will then have to make an appropriate assessment of the implications of the proposal for the site in view of the site's conservation objectives. These assessments are needed before a decision can be taken on the application. European case law (Wadenzee) has ruled that a plan or project may be authorised only if the competent authority (the Council in this case) has made certain that the plan or project will not adversely affect the integrity of the site.

In addition to the above points insufficient information has been submitted to confirm that the site is suitable for the proposed use in terms of contamination, that the mitigation measures required ensuring pedestrian safety can be implemented, that there will be no harm from the loss of trees on the site or that sustainable urban drainage measures can be implemented in light of the Critical Drainage designation. It is also likely that the proposal will be unacceptable on the basis of its impact on the landscape character of the area.

On the basis of the submitted application the applicant has failed to demonstrate that the proposed development will meet the objectives of the policies in the Torbay Local Plan 2012-2030 and the NPPF and as such planning permission should be refused.

Recommendation:

Refusal (reasons at end of report).

Statutory Determination Period:

16 weeks, the determination date is the 22nd March 2016.

Site Details:

The application site is located within the Countryside Zone and Area of Outstanding Natural Beauty and adjacent to the Berry Head to Sharkham Point component of the South Hams Special Area of Conservation (Sites of Special Scientific Interest and National Nature Reserve designations also cover the Berry Head area). The site is within the Greater Horseshoe Bat Sustenance Zone with the majority of the site also falling within the Greater Horseshoe Bat Strategic Flyaway. The site is designated as an Other Site of Wildlife Interest within the Torbay Local Plan 2012-2030. A footpath is located to the north of the site that connects Wall Park Road and Victoria Road to the South West Coast Path.

The application site is a former ministry of defence site and is a total of 3.5 hectares in size. The MOD site was used as a Second World War Refuelling Base then later as a commercial marine refuelling depot until decommissioning which is estimated as being in the 1970s. At this time the pipes and fuel tanks on the site were removed. The site is noted as being within private ownership since the 1980s.

The site is now heavily vegetated; the submitted Updated Phase 1 Habitat Survey Report notes this as being made up of scrub, horse-grazed semi-improved grassland and mature trees. There are a number of trees subject to tree preservation orders within the site. At the time of the officer site visit an existing hardstanding close to the entrance to the north west of the site was noted, there was a caravan and portable toilet together with a number of vehicles positioned on this area of hardstanding. There were no other obvious signs of development noted during the officer site visit.

The application submission indicates that the site is brownfield land and so previously developed however this view is not shared and for the purposes of this recommendation the application site has been considered as greenfield land. This is considered further within the key considerations section at the end of this report.

The site has two access points, one from the junction of Wall Park Road and Victoria Road and one from Berry Head Road.

Detailed Proposals:

The proposal is for the provision of seven single storey holiday chalets, a single manager's chalet together with ancillary accommodation and a reception and leisure chalet building, resulting in a total of nine chalets on the site. The holiday chalets and reception and leisure chalet are to be located around a circular cinder track with a recreational communal area to the centre. The manager's

accommodation is located south of the holiday accommodation circle to the south of a band of trees. The remainder of the site is noted within the submitted information as becoming a managed wildlife area.

The chalets are one and a half storey and feature pine logs to the walls and living turf roofs. The application submission includes details of features to be included within the lodges including passive solar heating using argon filled double glazed windows and doors, ground core heat pumps for heating and hot water, grey rainwater harvesting and solar photovoltaic panels.

Summary Of Consultation Responses:

Arboricultural Officer: Vegetation within the proposed development area is primarily self set native trees and mature shrubs that are colonising the site following the cessation of the previous use, indicating scope may exist for sensitive management and change of land use. Extant Tree Preservation Orders are present either directly within or closely adjacent to the proposed development area. If approved without due consideration of these TPO's as constraints, potential would be created for loss of protected trees, contrary to the visual amenities of the area. The supporting tree report is now 7 years old and is not likely to now accurately describe the trees in terms of height, diameter, canopy spread. Applications of this scope, where constraining arboricultural features are encountered must be supported by a full tree survey in accordance with B.S.5837:2012 Trees in relation to design, demolition and construction - Recommendations. It is not possible to comment on the arboricultural implications of the site until the above points are addressed, this would allow consideration of efficacy of management plans, level of mitigation required, access pruning constraints, installation of root protective fencing and so on if approval were to follow on planning merit.

Torbay Coast and Countryside Trust: TCCT raise significant concerns about the development proposed in this application due to the potential for adverse impacts on a highly protected wildlife site arising from the close proximity of the development, potential for adverse impact on the Greater Horseshoe Bat colony at Berry Head and potential for adverse impact on other protected species (Cirl Buntings, Reptiles and Hazel Dormouse). The development forms part of a vital dark corridor that facilitates movement by the Greater Horseshoe Bats from their roost at Berry Head to feeding areas. As the access to foraging habitat for this roost is already highly restricted due to its coastal nature, any reduction in the habitat facilitating such movement has the potential to jeopardise its future viability. TCCT consider the ecological information provided in support of this application to be insufficient. Some of the data used in the ecological report is at least 5 years old and should not be relied upon to accurately represent the current situation, given changes to habitat both on the site and locally. The site is considered to offer additional habitat for other protected species including Cirl Bunting, reptiles (slow worm, common lizard) and potentially, the Hazel Dormouse. The significance of the site for these species requires further

investigation. TCCT are concerned that the proposed development would give rise to additional recreational pressure and consequently adverse impacts on the limestone grasslands at Berry Head. All proposed developments within Torbay should deliver an overall net gain for biodiversity and not just compensate for loss. Based upon the potential adverse impacts on biodiversity arising from this development, TCCT object to this application.

Devon Wildlife Trust: DWT raise concerns about the potential effect of the proposed development on the Greater Horseshoe Bat population, a European Protected Species. The application site is directly adjacent to the Berry Head National Nature Reserve which has national status as a Site of Special Scientific Interest, and European status as part of the South Hams Special Area of Conservation.. The application site lies within the Greater Horseshoe Bat sustenance zone and strategic flyway. The applicant's Environmental Statement (page 68) states that the potential significant negative effect of the development on the greater horseshoe bat, caused by the removal of vegetation and lighting disturbance, can be mitigated to produce a slight negative effect. DWT however do not have confidence that a significant effect can be avoided. DWT believe that the proposed development will certainly not help to restore the greater horseshoe bat population and, given the 'slight negative' effects, will not help to maintain it. There is a great deal of uncertainty as to whether the proposed development will satisfy Regulation 61 of The Conservation of Habitats and Species Regulations 2010 (the Habitats Regulations) and whether the proposed mitigation will prevent an adverse effect on the integrity of the European site. In these circumstances DWT believe that an Appropriate Assessment under Regulation 61(1) and 61(5) should be carried out.

South Devon AONB Manager/Office: The AONB Office objects to the planning application. A defining feature of the South Devon AONB is its nationally important extent of fine undeveloped coastal scenery. That quality has been significantly diminished in the AONB area surrounding Brixham since the date of AONB designation in 1960 as a result of successive encroachment by built development. The remaining extent of undeveloped countryside and coast around Brixham is declining and confined to increasingly narrow corridors and margins. This planning application needs to be considered against that context, and against the cumulative impact of recent and current built development at nearby sites such as Riviera Bay holiday park, Landscope holiday park, Wall Park holiday camp and Dolphin village. The current application, although not large in extent, nevertheless represents a further unacceptable incursion into the undeveloped AONB landscape in a particularly sensitive locality, and is objectionable for that reason. The AONB office also considers that the strategic justification for the provision of additional chalet accommodation at this location is questionable, given the recent and current expansion in capacity at the Landscope and Riviera holiday parks nearby. In considering this planning application, the Planning Authority is reminded of its overriding statutory duty of regard for the purpose of conserving and enhancing the natural beauty of the

AONB (Countryside and Rights of Way Act 2000, s 85) and of the policies in the Council's adopted statutory management plan for the South Devon AONB which is a material consideration (including policy Mar/P1 The tranquil and undeveloped character of the coast will be protected and Lan/P1 The special qualities distinctive character and key features of the South Devon AONB landscape will be conserved and enhanced.)

Landscape Consultant: Comments awaited.

Natural England: The consultation documents provided do not include information to demonstrate that the requirements of Regulations 61 and 62 of the Habitats Regulations have been considered by the authority, i.e. the consultation does not include a Habitats Regulations Assessment. Natural England therefore advises that your authority should not grant planning permission at this stage. An Appropriate Assessment should now be undertaken, in order to assess the implications of the proposal for the European site(s), in view of the site conservation objectives.

Greater horseshoe bats are among the rarest and most threatened bats in Europe. During the last 100 years, numbers have declined significantly throughout northern Europe. South Devon represents an international stronghold for the species supporting the largest recorded roost in northern Europe. The proposed development site is adjacent to the designated site boundary for the Berry Head South Hams Special Area of Conservation (SAC), and falls within a greater horseshoe bat sustenance zone and strategic flyway associated with the Berry Head SAC roost. Further, the proposed development is approximately 400 metres from the Berry Head SAC roost. Radio-tracking (English Nature Research Reports No.344) evidence has shown that the proposed development site is used by greater horseshoe bats for commuting, roosting, and foraging. Due to the sensitivity associated with this species, the proposed development site is considered a high risk location. Sustenance zones are key feeding and foraging areas for greater horseshoe bats associated with the South Hams SAC. In addition, research has shown that juvenile greater horseshoe bats (ENNR publications - NE) tend to forage within a 1km radius of the maternity roost. The 1km radius surrounding the Berry Head roost is subject to very limited foraging opportunities and it is likely that juveniles will be forced to seek safe foraging opportunities beyond this radius. The permanent loss of existing or potential habitat within the sustenance zone and in proximity to Berry Head has the scope to adversely affect the favourable conservation status of the Berry Head maternity colony. Strategic flyways are a key network of flight path zones connecting the component roosts of the South Hams SAC. The strategic flyways have been made 500 metres wide to provide a combination of alternative suitable routes. In addition, commuting routes provide a critical network allowing access to suitable foraging habitats. NE note that the greater horseshoe bat survey effort that has been undertaken falls short of the survey specification associated with local best practice guidance. The proposed development site was excluded from

the sites that were allocated for development in the adopted Torbay Local Plan (December 2015). The greater horseshoe bat habitats associated with Berry Head are subject to a number of physical, climatic, and manmade constraints, and consistent with the adopted Torbay Local Plan NE consider that the site is located in a highly sensitive location for greater horseshoe bats and that it is unlikely that development at this location would be possible due to limited opportunities to provide adequate mitigation. In addition, the calcareous grassland associated with Berry Head is a notified SAC feature and supports many rare and local plants. In the Berry Head Conservation Management Plan 2007-2017 (TCCT), the impact of trampling and dog fouling has been highlighted as an important management issue. In addition, NE note that Footprint Ecology have recently completed a report that identifies similar impacts upon the Berry Head calcareous grassland.

The proposed development is within proximity to Lyme Bay and Torbay cSAC, with potential for water pollution and recreational impacts upon by the notified features: reef habitats and submerged or partially submerged sea caves. NE advise that the applicant provides further information in order to understand potential impacts upon Lyme Bay and Torbay cSAC.

The proposed development site falls within the South Devon Area of Outstanding Natural Beauty (AONB), and consequently, has the potential to adversely impact on the natural beauty of the South Devon AONB. NE consider that the Landscape and Visual Appraisal has not been adequately undertaken and there is a potential for a significant impact on the purposes of designation of South Devon AONB. NE therefore object to this development. NE suggest that the authority seek comments from the AONB Unit/Partnership with respect to landscape matters. NE concerns regarding the proposals and impacts upon the South Devon AONB are outlined below:-

- 1) The applicant has resubmitted the Landscape and Visual Appraisal (2008, Swan Paul) that supported the previous application relating to 12 timber cabins and is based on 2nd edition of the Landscape and Visual Impact Assessment (LVIA) guidelines published by the Landscape Institute. Not only does the Landscape and Visual Appraisal relate to a different development, it is not based upon current best practice (3rd edition of the LVIA guidance - 2013).
- 2) The proposals would extend the built area of Brixham onto the finite area of undeveloped grassland associated with Berry Head, and are not consistent with the recommendations of the Brixham Urban Fringe Landscape Study (Enderby Associated 2011).
- 3) The NPPF affords these places (e.g. AONBs) the highest protection. Reference has been made to paragraphs 109, 115 and 116 of the NPPF. (

This application may provide opportunities to incorporate features into the design

which are beneficial to wildlife. The authority should consider securing measures to enhance the biodiversity of the site from the applicant, if it is minded to grant permission for this application. This is in accordance with Paragraph 118 of the NPPF. Additionally, NE draw the authority's attention to Section 40 of the Natural Environment and Rural Communities Act (2006) which states that 'Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity'. Section 40(3) of the same Act also states that 'conserving biodiversity includes, in relation to a living organism or type of habitat, restoring or enhancing a population or habitat'.

Green Infrastructure Co-ordinator: The site is in a very sensitive location adjacent to the Berry Head to Sharkham Point component of the South Hams SAC. Both the greater horseshoe bat colony and limestone grassland associated with the SAC, as well as other protected species, have the potential to be impacted by the development. Further information is required as follows prior to determination:

- Confirmation from Natural England that the bat survey effort is sufficient. If not, the level of further survey should be agreed and surveys undertaken prior to determination.
- Confirmation from Natural England and Mike Oxford that sufficient information has been provided to allow a HRA Screening to be undertaken. If not, further information should be agreed and provided prior to determination.
- Implications of correct greater horseshoe bat strategic flyway (as shown on attached map versus that shown on Figure 4, Appendix A of the Bat Activity Survey) to be assessed.
- Confirmation from RSPB that the cirl bunting survey effort is sufficient; cirl buntings are known to be present in adjacent fields.
- Further justification regarding the lack of full survey for hazel dormouse.
- Clarification regarding the intention for chalet 8 to be a permanent residence.

The bat survey effort is not in accordance with the Natural England guidance 'South Hams SAC - greater horseshoe bat consultation zone planning guidance'. The justification for not undertaking the surveys in accordance with the Natural England guidance is that "the surveys in combination with the previous data would be considered sufficient". Given the location adjacent to the Greater Horseshoe Bat roost at Berry Head and within the Sustenance Zone and a Strategic Flyway it is considered that further surveys, in accordance with the guidance, are required.

Natural England and Mike Oxford should also be consulted with regard to whether there is sufficient information to be able to undertake HRA Screening. It is considered that further information with regard to lighting will be required to ensure that dark corridors with light levels of less than 0.5lux can be achieved. In

addition it is considered that both an Outline Construction Environmental Management (providing details of mitigation during construction) and an Outline Landscape and Ecological Management Plan (providing further details, including on-going management, of new and retained habitats) are likely to be required prior to determination with final versions secured by condition.

It should be noted that the Strategic Flyway is not shown correctly on Figure 4, Appendix A of the Bat Activity Survey Report. The Strategic Flyway covers a significantly larger area of the site than is shown on Figure 4 (see attached map) and the implications of this should be assessed.

The findings and recommendations of the Badger report are agreed with and conditions should be included to require a re-survey of the site prior to commencement and the submission of a copy of the badger licence issued by Natural England or a statement from Natural England or a qualified ecologist stating that a licence isn't required. The locations of the badger sett entrances must be shown on the map prior to determination.

Ecological Consultant: Comments awaited.

RSPB: The RSPB objects to built development at this site because of its proximity to statutorily designated sites at Berry Head and its being functionally linked habitat for one of the designated features (greater horseshoe bats) of those sites. RSPB also object because in their view the ecological information is inadequate, with no complete and up to date surveys to enable comprehensive assessment of protected species using the site (including bats, reptiles and possibly dormice) or with potential to be using the site (cirl buntings). There needs to be a Habitats Regulation Assessment in relation to greater horseshoe bats and the South Hams SAC. Potential mitigation is presented as several recommendations in the various ecological reports but there is no coherent set of firm proposals (such as a draft Construction and Ecological Management Plan and Landscape and Ecological Management Plan) that would give confidence that the measures proposed for construction and operation will be effective. While RSPB note the stated intention (Former MOD site, Berry Head Section 106 Agreement - Heads of Terms (WYG, undated)) to provide an Ecological Management Plan, it seems unlikely that mitigation measures could avoid adverse impacts of development at this site, particularly in relation to greater horseshoe bats. There are also aspects of the proposal that are not clear (e.g., much stress is laid upon development being confined to the northern part of the site but various maps clearly show one chalet/house in the southern part), adding to the difficulty of assessing the impact of the proposed development. In the RSPB's view, it would be most appropriate to safeguard all of this site from built development so it continues to be an undeveloped, unlit buffer adjacent to the designated sites and furthermore for Torbay Council to facilitate its sympathetic management and enhancement for a range of protected and priority species, including greater horseshoe and other bats.

The RSPB objects to the proposed development and recommend that this site should be protected from development for the long term and managed to retain and enhance its value for bats and other protected species and complement and buffer the adjacent protected - but sub-optimal - sites. Torbay Council will not be in a position to determine this application until it has received a completed Habitats Regulations Assessment in relation to impacts on greater horseshoe bats and the limestone grasslands that are both designated features of the SAC. In RSPB's view, refusal of the application will accord with European and national legislation and national and Torbay planning policy.

Highways Engineer: Highways comments remain the same as the previous application. The access lane is private (not adopted) but is a public right of way and therefore any development must ensure that pedestrian enjoyment of the lane is not affected. It was agreed with the developer and a previous Highway officer that if the development goes ahead the developer would cut back vegetation on the access drive to allow sufficient width for two vehicles to pass, white line the access drive junction where it meets Victoria Road/Wall Park Road to provide adequate visibility and include the provision of a pavement along the access road to link to the existing footway network

Principal Environmental Health Officer: The submitted TSL Chemical Analysis report requires updating in line with current guidance. The four samples were sufficient at the time of the analysis but this was more of a screening exercise at that stage. Clarification around the in-house general assessment criteria (GACs) is required together with more detailed information with regard to how they have considered the source/pathway/receptor linkage to be broken as mentioned in TSL conclusion.

Environment Agency: The EA have reviewed the letter report by TSL dated 7/02/2011 and entitled Berry Head, Brixham Soil Sample Chemical Analysis. The report vaguely identifies the presence of hydrocarbon contamination in made ground. The location is situated upon a Principal Aquifer that may be regionally important for groundwater supplies, though there does not appear to be any local sources. Given that made ground and contamination is present and that the report does not include a risk assessment for controlled waters the following condition is necessary. The EA consider that planning permission could be granted to the proposed development as submitted subject to the inclusion of a condition relating to contamination of controlled waters. Without this condition, the proposed development on this site poses an unacceptable risk to the environment and the EA would object to the application.

South West Water: The applicant is advised to contact South West Water if they are unable to comply with South West Water's requirements. These requirements have been forwarded to agent.

Drainage Engineer: The applicant has indicated within his flood risk assessment that he intends to use green roofs, rainwater harvesting and soakaways to drain surface water from this development however no details of these have been submitted. There is no indication of where the soakaways are to be located and no details of any infiltration testing or soakaway design have been submitted. Before planning permission is approved for this development, the applicant must submit the detailed design for the soakaways in accordance with the details identified below. The developer must carry out trial holes and infiltration tests in accordance with BRE 365 at the locations and invert levels of the proposed soakaways. The design for these soakaways must be submitted showing that the proposed soakaways have been designed to cater for the critical 1 in 100 year storm event plus an allowance of 30% for climate change. Only if the results of the infiltration test indicate that the use of soakaways is not possible would the developer be allowed to discharge to the combined sewer system at a controlled rate. As Torbay is a Critical Drainage Area any surface water discharge rate from the site to the combined sewer must be limited to Greenfield run off rate for the 1 in 10 year storm event with attenuation designed so as there is no risk of flooding to properties or increased risk of flooding to adjacent land for the critical 1 in 100 year storm event plus 30% for climate change. It should be noted that where the Greenfield run-off rate for the site is below 1.5l/sec we would accept a discharge rate of 1.5l/sec. The applicant must demonstrate that surface water drainage design will not result in any increased risk of flooding to properties or land adjacent to his development for the critical 1 in 100 year storm event plus 30% for climate change. Before planning permission can be granted the applicant must supply details to address all the points identified above.

Building Control Officer: Ground investigation report will be required to support a structural design, B5 access and facilities for the fire service need to be considered to ensure sufficient minimum widths, clearance and turning circles exist, full radon measures need to be provided, solid waste storage should be provided to comply with approved document H6, none shown upon the plans to comment on compliance, no suitable drainage design submitted to make a meaningful assessment of foul and storm proposals, full compliance with access and use for approved document M will be required, the application will require Building Regulations approval.

Brixham Town Council: Brixham Town Council have deferred making a recommendation and requested further information. A recommendation will be made from the next planning meeting on 01.02.2016.

Summary Of Representations:

277 representations have been received (124 objections, 151 support, 2 neutral representations). Issues raised:

- Impact on AONB
- Impact on countryside

- Impact on biodiversity
- Impact on visual amenity
- Impact on bats and other protected species
- Impact on highway and pedestrian safety
- Contribution to tourism
- Contribution to the economy and job creation
- Comments regarding the future use of the site
- Comments regarding site ownership
- Impact on drainage
- Impact on local area
- Provision of dwellings
- Impact on residential amenity
- Overdevelopment
- Sets a precedent for further development
- Impact on trees.

Relevant Planning History:

P/2009/0336 12 holiday chalets WITHDRAWN

Key Issues/Material Considerations:

The relevant considerations are the principle of development within the area of outstanding natural beauty and countryside area, the impact of the development on the landscape character of the area, whether the site is classified as brownfield or greenfield land, the impact of the development of European, national and local biodiversity designations, the impact of the development on protected and unprotected trees within the site, the impact of the proposals on highway and pedestrian safety, the contribution of the development to the tourism industry and the economy generally and the impact of the development on residential amenity.

The Principle of Development within Area of Outstanding Natural Beauty and Countryside Zone:

The presumption in favour of sustainable development as described in paragraph 14 of the National Planning Policy Framework is noted. This however does not apply in cases where policies in the Framework indicate development should be restricted. This includes development which is within the AONB or development which requires appropriate assessment under the Habitats Directive. Paragraph 115 states that great weight should be given to conserving landscape and scenic beauty in Area of Outstanding Natural Beauty which have the highest status of protection. Paragraph 116 then goes on to state that planning permission should be refused for major developments in such areas except in exceptional circumstances and where it can be demonstrated that they are in the public interest. When considering such applications this should include an assessment of the need for the development, the cost of and scope for developing elsewhere outside of the designated area or meeting the need for it in some other way and any detrimental effect on the environment, landscape and recreational

opportunities and the extent to which that could be moderated. Paragraph 115 is applicable in all instances of development with an AONB with paragraph 116 being applicable in the case of 'major' developments. The identification of development that is 'major' in terms of its impact on the AONB is a matter of judgement for the decision taker taking into account the proposal in question and the local context. Similar aims and considerations are reflected in the Torbay Local Plan 2012-2030 policies SS8, Natural Environment and SDB3 Brixham Urban Fringe and AONB. However policy SS8 does not differentiate between 'major' and 'non-major' developments stating that development will only be permitted within the AONB in exceptional circumstances where it can be demonstrated to be in the public interest. Such applications should be submitted together with an assessment of need, economic impact, alternative locations and means, environmental, landscape and recreational impacts and the extent to which these impacts can be moderated. These policies also refer to the importance of considering applications in view of the Torbay Landscape Character Area Assessment, other relevant management plans including the Brixham Urban Fringe Study. The application is not supported by an assessment as required by policy SS8 and has not demonstrated that it would represent an exceptional circumstance nor that it is in the public interest and as such the principle of development would be contrary to policy.

There would be some benefits to the local economy from construction of the development and a tourism use on the site. However the applicant has provided very little detail of what these benefits would be. There is no evidence that has been submitted, that demonstrates that any benefits from the proposal would outweigh the harm resulting from the development. The adverse environmental impacts would not be offset by the economic and social gains from the development.

Effect on the Landscape Character of the Area

The submitted Landscape and Visual Appraisal is dated 2008 and supported a previous scheme for twelve chalets that was submitted in 2009 and concludes that the proposal does not constitute major development and is supported by policy. However the appraisal is based on an outdated best practice document and does not take into account or refer to the relevant paragraphs of the NPPF, the South Devon AONB Management Plan, the Torbay Landscape Character Assessment, Devon Landscape Character Assessment, the Brixham Urban Fringe Landscape Study or the relevant policies of the Torbay Local Plan 2012-2030. This was brought to the agent's attention at validation stage and revised and updated information has not been forthcoming.

The application site is noted in the Torbay Landscape Character Area Assessment as being of Type 5, Open Coastal Plateau (Area 5D) as specified on Figure 1. The Assessment states that any significant development would be highly visible and inappropriate and that mitigation would be extremely difficult. The Assessment refers specifically to Louville Camp but notes that any proposals

for holiday chalet development in this area will need to be carefully designed to ensure they respect the special qualities, and sensitive character and setting of the area and that any such proposals are beneficial overall. The area is noted as highly sensitive and the management strategy for this area is to enhance. This management strategy is also reflected within the Brixham Urban Fringe Landscape Study (Landscape Compartment 1). This study notes that this area forms an important buffer between the edge of Brixham, National Nature Reserve and Open Coastline and as such is very sensitive to change and its function would be seriously compromised by any new built development.

Both Natural England and the South Devon AONB Manager have raised objections to the application based on the potential for landscape impact and the insufficient information submitted to demonstrate otherwise. The South Devon AONB Manager recognises the defining feature of the South Devon AONB is its nationally important extent of fine undeveloped coastal scenery and notes that this quality has been significantly diminished in the area surrounding Brixham since its designation. The extent of undeveloped countryside and coast around Brixham is declining and whilst this application is not large in scale it should be considered against the cumulative impact of recent developments at nearby sites at Riviera Bay, Landscope, Wall Park and Dolphin Holiday Village. Whilst Natural England has not explicitly noted the proposal as constituting a 'major' development, reference is made to paragraph 116 with emphasis on the need to refuse developments within AONB's except in exceptional circumstances and where it can be demonstrated that such developments are in the public interest.

In line with comments from Natural England and the South Devon AONB Manager, it is noted that the development represents a further incursion into the undeveloped countryside and AONB, a finite area of undeveloped grassland associated with Berry Head. Despite the intention to include green roofs and timber, the proposal represents a sporadic form of development that would, irrespective of its design and form, have an adverse urbanising effect on the rural character of the area. Whilst relatively small in scale, the proposal represents a form of piecemeal development which is considered to further erode the rural character of the Berry Head.

The submitted Design and Access Statement and Planning Statement suggests that the development is acceptable in principle within the countryside and AONB as it will support the local economy and support the conservation and enhancement of the natural beauty of the site. Paragraph 28 of the National Planning Policy Framework states that planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development specifically noting support for sustainable rural tourism and leisure developments where they respect the character of the countryside. As above, the application submission suggests that the development will support economic growth and sustainable tourism however no evidence of this has been submitted to support this statement. Whilst

undoubtedly there will be some wider economic benefits resulting from the additional visitors to the Brixham site, no projected visitor numbers or figures have been submitted to support such a justification and nevertheless it is not considered that, given the small scale nature of the site and level of job creation (1 full time job) the benefits would outweigh the harm already identified. As above, the level of information within the application submission is not sufficient to demonstrate that the development will respect the character of the countryside. Further advice has been sought from a Landscape Consultant and the findings of their report will be reported to the Committee, this will include an assessment as to whether the development constitutes a 'major' development in terms of its impact on the AONB. Should the development be considered 'major' paragraph 116 of the NPPF is applicable; the application submission does not include an assessment as required by this paragraph to suggest that the proposal represents an exceptional circumstance to justify the approval of the scheme.

In addition whilst restricted in nature, the development represents a form of residential accommodation in the open countryside which is discouraged by local and national policy except in exceptional circumstances. The proposal would not fall within any of the circumstances detailed and as such would be contrary to policy.

Brownfield or Greenfield Land:

The submitted Design and Access Statement states that as the site was previously developed with a number of MOD buildings and as there have been no intervening uses since the use of the site as an MOD site, the current status of the site is that of previously developed or 'brownfield' land.

The National Planning Policy Framework defines previously developed land as:

"Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or has been occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill purposes where provision for restoration has been made through development control procedures; land in built-up areas such as private residential gardens, parks, recreation grounds and allotments; and land that was previously-developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape in the process of time."

As noted within the submitted TSL Soil Sample Chemical Analysis, all the underground pipes and fuel tanks that were on site during the use of the site by the MOD were removed in the 1970s when the site was decommissioned. During the officer site visit there was no evidence to suggest that any of the buildings or infrastructure associated with this previous use remains. A

hardstanding with temporary and moveable structures was evident to the north west of the site however this is contained to a very small area with the remainder of the site being vegetated with scrub, grassland and trees and as such the wider site blends in to the landscape, countryside and area of outstanding natural beauty. The land is considered to fall within the description of 'land that was previously-developed but where the remains of a permanent structure or fixed surface structure have blended into the landscape in the process of time' and as such is excluded from the National Planning Policy Framework definition of 'previously developed land'. The application has been considered on this basis.

Biodiversity:

Paragraph 118 of the National Planning Policy Framework states that in terms of biodiversity, if significant harm resulting from a development cannot be avoided, adequately mitigated, or as a last resort, compensated for, then planning permission should be refused. In addition if a proposed development is likely to have an adverse effect on a Site of Special Scientific Interest (either individually or in combination with other developments) it should not normally be permitted and an exception should only be made where the benefits of the development clearly outweigh the impacts on the designated site. It is also clear within the National Planning Policy Framework that the presumption in favour of sustainable development does not apply where development requiring appropriate assessment under the Habitats Directive is being considered, planned or determined which is the case with this application. Similar objectives are detailed within policy SS8, Natural Environment, SDB3 'Brixham Urban Fringe and Area of Outstanding Natural Beauty' and NC1, Nature Conservation.

The submitted surveys recorded ten species of Bats including Greater Horseshoe Bats. These species were recorded using most of the linear features as commuting routes, commuting around boundary edges and foraging around many of the trees. Mature trees within the site were noted as having moderate-high potential for roosting bats and all trees within the site with bat roost potential are noted for retention. The proposal includes some mitigation and enhancement measures including the retention of mature trees and those with bat roost potential, sensitively managed lighting during construction and operation, provision of native planting, maintenance of dark buffer, removal of woody vegetation outside of bird nesting season, provision of horseshoe bat roosting to loft spaces of at least three chalets, provision of bat boxes, species rich meadow and pond and seeding the retained semi-improved grassland with wildflower/grass rich mix.

The proposed development site is adjacent to the designated site boundary for the Berry Head South Hams Special Area of Conservation and falls within the Greater Horseshoe Bat Sustenance Zone and Strategic Flyaway associated with the Berry Head SAC roost and therefore has the potential to affect its interest features. Natural England has confirmed that radio tracking evidence has shown that the proposed development site is used by Greater Horseshoe Bats for

commuting, roosting and foraging. The Greater Horseshoe Bat survey effort falls short of the survey specification associated with the South Hams SAC - Greater Horseshoe Bat Consultation Zone Planning Guidance (Natural England 2010). This requires manual surveys to be carried out on ten separate evenings (with at least one survey undertaken in each month from April to October and automatic detectors should be deployed for a minimum of fifty days from April to October (including one week within the months of April-October). The reduced survey effort has not been agreed with Natural England and they have stated that the site is located within a highly sensitive location for Greater Horseshoe Bats and that it is unlikely that development at this location would be possible due to limited opportunities to provide adequate mitigation. The calcareous grassland associated with Berry Head is a notified SAC feature and within the Berry Head Conservation Management Plan 2007-17 (TCCT), the impact of trampling and dog fouling has been highlighted as an important management issue. The proposed development has the potential to generate an increase in footfall on Berry Head which could be detrimental to this calcareous grassland. It is not considered that such operational impacts of the development have been properly considered, the submitted information is not considered sufficient to demonstrate that such impacts will not be detrimental to the calcareous grassland.

In line with consultee advice, insufficient information has been submitted in relation to the proposed mitigation measures. This is specifically in relation to how the retention of commuting corridors along the external and internal boundaries of the site can be achieved in light of proposals to reduce vegetation growth along the access lane for road safety reasons. Similarly the proposals include lighting but no details, such as a lighting plan, have been provided. Were the proposals to be considered acceptable, a draft Construction and Ecological Management Plan and Landscape and Ecological Management Plan would be required prior to determination.

Further advice has been sought from the Council's Ecological Consultant who is also carrying out a Habitats Regulation Assessment Screening and an Appropriate Assessment. The results of this will be reported to the Committee. Based on the level of information submitted in relation to protected species, it is considered likely that the results of this assessment will detail that the development is likely to result in a significant adverse effect and therefore should be refused. Paragraph 62 of the Habitats Regulations sets out the steps required should the appropriate assessment conclude the proposed development will adversely affect the integrity of the European site. This sets out that there must be consideration of alternatives to the proposal and if there are no alternatives, permission can only be granted if there are exceptional circumstances and the development is in the public interest. This is similarly set out within paragraph 118 of the NPPF. No details of alternative sites have been put forward within the application submission and whilst undoubtedly there will be some wider economic benefits resulting from the additional visitors to the Brixham site, no projected visitor numbers or figures have been submitted to support such a

justification and nevertheless it is not considered that, given the small scale nature of the site and level of job creation (1 full time job) the benefits would outweigh the any harm.

In addition the proposed development is within proximity to Lyme Bay and Torbay Candidate Special Area of Conservation with potential for water pollution and recreational impacts upon the notified features specifically reef habitats and submerged or partially submerged sea caves. Natural England has confirmed that the level of information submitted is not sufficient to demonstrate that the development will not have a detrimental impact on the European Site or its interest features.

In line with comments from RSPB, the level of survey effort for Cirl buntings is not sufficient. Based on the information submitted, it is considered that there is potential for suitable habitat within the application site. In addition RSPB recorded a breeding territory on the site in the 1998 national survey and confirmed breeding within 100m east of the site in 2009. The submitted 2008 survey reported singing male Cirl buntings at the east and south east of the site on two visits and Cirl buntings were recorded within 100m of the site on all four visits. RSPB have confirmed that this proximity indicates that Cirl buntings could use any suitable habitat on site for foraging, even if they are not nesting on site. In line with comments from RSPB, in light of the history of local presence of Cirl buntings and the existence of some potentially suitable habitat, further surveys are required.

No survey work has been carried out for dormice, a European protected species as it was concluded that the majority of scrub on the site was in isolated islands and therefore unlikely to support viable populations of this species. In line with RSPB comments and the quote from the Devon Mammal Society which states 'in Devon, any woodland, species-rich hedge or area of woody scrub should be considered as possible dormouse habitat' the site had the potential to support dormice and therefore the site should be re-assessed.

During the 2008 reptile survey it is noted 20 of the 50 reptile surveying mats were removed by the land owner before the first check and not replaced and therefore the results may therefore under record the reptile interest of the site. In addition the southern part of the site was not included within the survey.

Trees:

Policy C4 of the Torbay Local Plan 2012-2030 states that development will not be permitted when it would seriously harm protected or veteran trees, hedgerows, ancient woodland or other natural features of significant landscape or nature conservation value. The Council's Arboricultural Officer notes that the vegetation within the proposed development area is primarily self set native trees and mature shrubs suggesting that scope exists for sensitive management and change of land use. Extant Tree Preservation Orders are present either directly

within or closely adjacent to the proposed development area. The submitted tree appraisal report is dated 2009 and is not likely to accurately describe the trees in terms of height, diameter and canopy spread. Sufficient information has not been submitted to demonstrate that development can be implemented without harm to or loss of protected trees and therefore without detriment to the visual amenities of the wider area. The loss of any trees onsite would also be likely to have implications for the landscape character of the site and biodiversity, implications that cannot be properly considered without the submission of an up to date tree appraisal in accordance with current guidance.

Contaminated Land:

Paragraph 120 states that to prevent unacceptable risks from pollution, planning decisions should ensure that new development is appropriate for its location and that where a site is affected by contamination, the responsibility for securing a safe development rests with the development and/or landowner. The application site is a former ministry of defence site and was used as a Second World War Refuelling Base then later as a commercial marine refuelling depot until decommissioning which is estimated as being in the 1970s. At this time the pipes and fuel tanks on the site were removed.

In light of the potential for contaminated land a chemical analysis report has been submitted with the application. The submitted TSL Soil Sample Chemical Analysis states that four samples were recovered by the client (the applicant) and provided for chemical analysis. The report identifies the presence of contamination in made ground. The assessment concludes that the site is suitable for the proposed development use of holiday chalet accommodation and associated maintained gardens and a swimming pool. The Council's Principle Environmental Health Officer has noted that the analysis report is dated 7th February 2011 and requires updating in line with current guidance. In line with the Officer's comments further clarification is required to explain the in-house general assessment criteria (GACs) with further detailed information with regard to how they have considered the source, pathway, and receptor linkage to be broken as noted in the analysis report conclusion. Paragraph 121 of the NPPF states that planning policies and decisions should ensure that the site is suitable for its new uses and that adequate site investigation information, prepared by a competent person is presented. Similarly policy ER3 of the Torbay Local Plan states that where suspected contamination presents a risk to public health and safety, appropriate investigations and remedial or precautionary measures will need to be agreed with the Council.

In line with the comments from the Principle Environmental Health Officer, the submitted information is not sufficient to conclude that the site is suitable for the proposed use and therefore is contrary to paragraph 121 of the NPPF and policy ER3 of the Torbay Local Plan 2012-2030. This was brought to the agent's attention at validation stage and revised and updated information has not been forthcoming. In addition to the above, were the application to be recommended

for approval, in line with the comments from the Environment Agency's comments a condition requiring the submission of a risk assessment for controlled waters would be required in light of the contamination present on site.

Highway and Pedestrian Safety:

Paragraph 32 of the NPPF states decisions should take account of whether safe and suitable access to the site can be achieved for all people. The Environmental Statement under paragraph 5.3.1 states that the proposed development is likely to generate only eight two-way traffic movements per day. The agent suggests that the nature of holiday chalets is such that the occupiers tend to make one journey in one car per day on excursions. Consideration is given to the impact of 1 additional trip per day and the agent concludes that given the access via the Victoria Road/Wall Park junction, the impact of sixteen two way traffic movements is not significant. The Council's Highways Engineer has noted that in order to ensure the development is acceptable in terms of vehicular and pedestrian safety the vegetation on the access drive should be cut back to allow two vehicles to pass, white lines should be added to the junction with Wall Park Road and Victoria Road and a pavement should be provided along the access road to link the existing footpath network. Such works are detailed within the submitted Environmental Statement and Design and Access Statement however no scaled drawings have been provided that detail the extent of the works.

Public representations from nearby neighbours also suggest that the works recommended by the Highways Engineer cannot be implemented due to land ownership issues. The submitted information is not sufficient to conclude that the development can achieve a safe and suitable access for all in accordance with paragraph 32 of the NPPF and the comments from the Council's Highways Engineer. In addition to the above it is not clear that the implications of cutting back the vegetation along the access drive have been considered in terms of its impact upon the AONB and protected species, particularly Greater Horseshoe Bats.

Drainage:

Policy ER2 of the Torbay Local Plan 2012-2030 states that development proposals must provide adequate sewerage disposal systems (both foul and surface water) and reduce water being discharged into shared sewers through the use of sustainable drainage measures. Policy W5 of the Torbay Local Plan 2012-2030 also requires appropriate measures to reduce the impact of development on the sewerage system such as natural or sustainable drainage and water conservation measures proportionate to the scale and nature of development to be provided. The Environment Agency recognises that the catchments within Torbay are typically small, steep and in the most part highly developed in nature. They also note that there is a legacy of culverting of the watercourse channels which add to the risk of flooding and recognise that many properties, businesses and highways are at risk from rapid flooding often without

much warning posing a credible risk to human life. In light of this, Torbay has been designated as a Critical Drainage Area and surface water runoff from future development within this area must be managed to ensure that an overall reduction in flood risk can be achieved. Where new development is to be permitted within the Critical Drainage Area, it should be served by a sustainable drainage system. The application submission suggests that the green roofs, rainwater harvesting and soakaways will be adopted to drain surface water from the development however no details of these have been submitted. The Council's Drainage Engineer has confirmed that trial holes and infiltration tests in accordance with BRE 365 at the locations and invert levels of the proposed soakaways are required in order to confirm the ground conditions are suitable for soakaways. The infiltration rate is also required in order to design the soakaways. The design for these soakaways must be submitted showing that the proposed soakaways have been designed to cater for the critical 1 in 100 year storm event plus an allowance of 30% for climate change. Only if the results of the infiltration test indicate that the use of soakaways is not possible would the developer be allowed to discharge to the combined sewer system at a controlled rate. As Torbay is a Critical Drainage Area any surface water discharge rate from the site to the combined sewer must be limited to Greenfield run off rate for the 1 in 10 year storm event with attenuation designed so as there is no risk of flooding to properties or increased risk of flooding to adjacent land for the critical 1 in 100 year storm event plus 30% for climate change. It should be noted that where the Greenfield run-off rate for the site is below 1.5l/sec we would accept a discharge rate of 1.5l/sec. The applicant must demonstrate that his surface water drainage design will not result in any increased risk of flooding to properties or land adjacent to the development for the critical 1 in 100 year storm event plus 30% for climate change. In line with the above comments insufficient information has been submitted to demonstrate that the requirements as set out within the Critical Drainage Area designation can be complied with.

Other Issues:

The submitted Environmental Statement does not meet the requirements stipulated in Schedule 4 of the Environmental Impact Assessment Regulations. Part 2, Schedule 4 of the EIA Regulations details the information that must be required as a minimum within the Environmental Statement. Part 2 requires that an outline of the main alternatives considered and the main reasons for the final choice taking in to account the environmental effects is included within the statement. No such information has been provided within the Statement. Part 1, Schedule 4 of the EIA Regulations details the information that should be provided within the Environmental Statement as is reasonably required to assess the environmental effects of the development. Of the requirements detailed by this part, a description of the likely cumulative significant effects of the development is necessary. Whilst reference has been made to the cumulative impacts of the development, this requires updating to take in to account the nearby developments at Wall Park Road, Riviera Bay, Landscope and Sharkham. This was brought to the agent's attention at validation stage and

revised and updated information has not been forthcoming.

The application was validated on the 1st December 2015 following the submission of additional information as requested by the Case Officer and specified on the Council's Local Validation List. The request for further information also included the need for updated information in relation to the Landscape and Visual Impact Assessment, Flood Risk Assessment, Contaminated Land Assessment and update to the submitted Environmental Statement. It was noted that these were not validation requirements and would be required promptly following the validation of the application. Such information has not been forthcoming to date and the need for such information has also been highlighted within the consultation responses received. An additional requirement in relation to protected species surveys, updated tree survey and an assessment in relation to the AONB has been noted in consultation responses. Paragraph 060 of the National Planning Practice Guidance states that information can be requested after the application has been validated although normal time periods for determination continue to apply unless a longer period is agreed. However in this instance it is considered very unlikely that additional information will result in different determination. It is considered unreasonable to request that the applicant submit additional information (when the level of additional information required is substantial) in this instance as there are overriding policy objections to the principle of development which are unlikely to be overcome through the submission of additional information.

S106/CIL –

The Adopted SPD 'Planning Contributions and Affordable Housing' would have required a financial contribution to mitigate the impact of the development on local infrastructure (waste management, sustainable transport and green space and recreation). This contribution would also require a contribution towards monitoring.

From April 6th 2015, revised government guidance limits the pooling of contributions and as a consequence, contributions can only be requested when there are specific schemes in close proximity to the site and which would be directly affected by the scheme in question. Consultees have requested contributions to mitigate the impact of the development on local infrastructure including the recreational impact on Berry Head. The amount of contribution required would need to be agreed with the Torbay Coast and Countryside Trust and Torbay Council Natural Environment Services. It is being investigated whether there are local sustainable transport schemes that could be eligible for funding by this means. It is noted that were the application to be approved, a mechanism would be required to secure the provision of the footpath. A verbal update on this matter will given at the meeting.

The absence of a section 106 agreement should be cited as a reason for refusal for matters of protocol.

Conclusions

Subject to the responses from the Landscape and Ecological Consultant confirming the findings as set out in this report, it is considered that insufficient information has been submitted to demonstrate that the development can be implemented without harm to the character of the open countryside, area of outstanding natural beauty, South Hams Special Area of Conservation or other biodiversity designations including protected species and habitats. In any event the application submission has not demonstrated that it would represent an exceptional circumstance or that the harm identified would be outweighed by benefits in the public interest with respect to the AONB and European biodiversity designations. In addition insufficient information has been submitted to confirm that the site is suitable for the proposed use in terms of contamination, that the mitigation measures required ensuring pedestrian safety can be implemented or that sustainable urban drainage measures can be implemented in light of the Critical Drainage designation.

Condition(s)/Reason(s)

1. Insufficient information to demonstrate that there will be no likely significant effect on the Berry Head South Hams Special Area of Conservation and contrary to paragraph 118 of the National Planning Policy Framework and policies SS8, SDB3 and NC1 of the Torbay Local Plan 2012-2030.
2. Insufficient information has been submitted to demonstrate no loss or harm to protected species including reptile, curlew buntings and dormice and contrary to paragraph 118 of the National Planning Policy Framework and policies SS8 and NC1 of the Torbay Local Plan 2012-2030.
3. Insufficient information to demonstrate that there will be no detrimental impact on the Lyme Bay and Torbay Candidate Special Area of Conservation and contrary to paragraph 118 of the National Planning Policy Framework and policies SS8 and NC1 of the Torbay Local Plan 2012-2030.
4. Insufficient information to demonstrate that there will be no detrimental impact on the South Devon Area of Outstanding Natural Beauty or countryside zone and contrary paragraph 109, 115 and 116 of the National Planning Policy Framework and policies SS8, SDB3 and C1 of the Torbay Local Plan 2012-2030.
5. In the absence of evidence of trial holes and infiltration testing being carried out, the proposal fails to demonstrate that a sustainable drainage option has been investigated contrary to policy W5 and ER2 of the Torbay Local Plan 2012-2030.

6. Insufficient information to demonstrate that there will be no detrimental impact to unprotected trees and trees subject to tree preservation orders within and adjacent to the site contrary to policies SS8 and C4 of the Torbay Local Plan 2012-2030.
7. Insufficient information to demonstrate that there will be no detrimental impact on health and safety of future users and nearby occupiers as a result of contamination on site contrary to paragraph 121 of the National Planning Policy Framework and policy ER3 of the Torbay Local Plan 2012-2030.
8. Insufficient information to demonstrate that the provision of a pavement as required in the interests of pedestrian safety can be implemented contrary to paragraph 32 of the National Planning Policy Framework and policies TA1 and TA3 of the Torbay Local Plan 2012-2030.
9. Absence of section 106 agreement to secure financial contributions to mitigate impact of development on infrastructure contrary to policy SS9, C1 and NC1 of the Torbay Local Plan 2012-2030 and the Council's SPD "Planning Contributions and Affordable Housing: Priorities and Delivery" and the associated "Update 3 Paper" and guidance outlined within paragraphs 203 and 204 of the National Planning Policy Framework.
10. If applicable adverse effect on the landscape character of the area contrary to policies SS8, SDB3 and C1 of the Torbay Local Plan 2012-2030.

Relevant Policies

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