

## **Appendix 2 Consultee Responses**

**Natural England** An initial response received 8<sup>th</sup> December required further information to determine impacts on the South Hams SAC Including: A comprehensive mitigation, avoidance and enhancement package, including during construction. A range of matters to be addressed was identified including keeping lighting to no more than 0.5 lux (including the Ecology Mitigation Land), phasing of habitats works, woodland and flora planting, farm management, soil quality management etc.

Natural England welcomed the provision of mitigation measures, which would need to be incorporated in an s106 Obligation.

Following receipt of further information in March 2018, Natural England's further response was received 12 April 2018. This states that Natural England have no objection subject to appropriate mitigation being secured. Without appropriate mitigation the application would: have an adverse effect on the integrity of South Hams Special Area of Conservation and a range of mitigation measures is set out that need to be secured through S106 Obligation or condition.

It is noted that the enhancement measures affect the landscape and ecology mitigation measures for White Rock Phase 1 and Natural England's agreement to this is exceptional due to the enhancement measures being proposed are sufficiently robust to address concerns with this type of approach.

**Landscape** Natural England advise that the LPA uses national and local policies and consult with the AONB Partnership to assess the impact on the nearby AONB. The legal duty to have regard to the conservation or enhancement of AONBs is noted.

**Soil and Land Quality.** Attention is drawn to land quality and soil considerations. It appears that the proposed development comprises approximately 31 ha of agricultural land which would be irreversibly lost, most of which is Grade 2-3a.

Paragraph 112 (now paragraph 170 b) and footnote 53) of the NPPF states that:  
'Local planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality.'

It is recognised that a proportion of the agricultural land affected by the development will remain undeveloped and soil quality should be safeguarded in the long term.

Consequently, we advise that if the development proceeds, the developer uses an appropriately experienced soil specialist to advise on, and supervise, soil handling, including identifying when soils are dry enough to be handled and how to make the best use of the different soils on site.

Standing advice is referred to on landscape, biodiversity resilience, green/brown roofs, use of native species in landscaping, bird nesting and roosting sites, sustainable drainage, protected species, SSSI Risk Zones, and local sites and priority habitats.

Further comments 16 December 2019:

The advice that we provided in our last letter still holds (12 April 2018).

**Further comments received 30 January based on additional bat survey and Agricultural land classification.**

### **Updated bat survey**

The advice that we provided in our letter (dated 12 April 2018) and email (dated 16 December 2019) still holds. To facilitate independent interpretation of the bat survey, it would be useful to put forward a comparative analysis between the two bat survey data sets (including survey methodology comparison). We support comments put forward by the RSPB (email dated 27 January 2020), advising that the in-perpetuity management of ecological areas is underpinned by a sufficiently robust funding mechanism.

### **Soils and land quality**

We re-iterate much of our advice regarding soils in our letter dated 12 April 2018, with some further updated advice in response to the Agricultural land Classification report (Clarkebond).

Having considered the proposals as a consultation under the Development Management Procedure Order (as amended), and in the context of Government's policy for the protection of the 'best and most versatile' (BMV) agricultural land as set out in paragraph 112 of the National Planning Policy Framework, Natural England draws your Authority's attention to the following land quality and soil considerations:

- Based on the information provided with the planning application, it appears that the proposed development comprises approximately 31 ha of agricultural land classified as 'best and most versatile' (Grades 1, 2 and 3a land in the Agricultural Land Classification (ALC) system).

There is an existing post 1988 MAFF ALC survey for the development site carried out for the LPA in connection with the Torbay Local Plan which indicates the site is Grade 2 and 3a.

The maps and report are available via Natural England's publications at: <http://publications.naturalengland.org.uk/publication/5644275038552064>

This MAFF ALC information remains current and can be used to appraise the agricultural quality of this site. Should the development proceed, the accompanying soil data can also feed into a soil resources survey as set out in the Defra Construction Code of Practice for the Sustainable Use of Soil on Construction Sites. Use of the Defra Code may be conditioned as set out in PPG for the Natural Environment.

- The ALC survey submitted (ref: WB03590/R3 Issue 5) appears to be based on a geotechnical survey rather than a soil survey and has not been carried in line with normal practice as set out in the Gov.uk guidance (e.g. soil sampling on a regular grid with a sample density of 1 ha) or provided the type of detail about the soil and climatic characteristics required to apply the ALC grading criteria as set out in MAFF, 1988 (Agricultural Land Classification of England and Wales. Revised guidelines and criteria for grading the quality of agricultural land). It should not be relied upon to determine the agricultural quality of this land.
- Government policy is set out in Paragraph 170 and 171 of the National Planning Policy Framework which states that '*Planning policies and decisions should contribute to and enhance the natural and local environment:*'
  1. *By recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including*

*the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland.'*

2. *Plans should: distinguish between the hierarchy of international, national and locally designated sites; allocate land with the least environmental or amenity value, where consistent with other policies in this Framework<sup>[1]</sup>; take a strategic approach to maintaining and enhancing networks of habitats and green infrastructure; and plan for the enhancement of natural capital at a catchment or landscape scale across local authority boundaries.*

- It is recognised that a proportion of the agricultural land affected by the development will remain undeveloped. In order to retain the long term potential of this land and to safeguard soil resources as part of the overall sustainability of the whole development, it is important that the soil is able to retain as many of its many important functions and services (ecosystem services) as possible through careful soil management.
- Consequently, we advise that if the development proceeds, the developer uses an appropriately experienced soil specialist to advise on, and supervise, soil handling, including identifying when soils are dry enough to be handled and how to make the best use of the different soils on site. Detailed guidance is available in Defra Construction Code of Practice for the Sustainable Use of Soils on Construction Sites (including accompanying Toolbox Talks) and we recommend that this is followed.

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

Natural England notes that your 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). Natural England is a statutory consultee on the appropriate assessment stage of the Habitats Regulations Assessment process.

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. As part of securing the mitigation measures, you will also need to ensure that the identified "dark areas" (less than 0.5lux) are not subject to detrimental light spillage from all sources of light (including internal and external sources).

A detailed lighting assessment will be required at Reserved Matters.

- Typically, detrimental light spillage upon greater horseshoe bat habitats (adjoining hedgerows/ watercourses/linear features/foraging habitats) is thought to be associated with Lux levels of 0.5 and above. The assessment should also include reference to wavelength, and light colour.
- An assessment of light impact is best informed by identifying all potential sources of light and combining this information as part of a Lux analysis. This should

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<sup>[1]</sup> Where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality.

include light spillage from the proposed buildings and transient lighting from vehicle headlights, all sources of external and internal light.

- Assessment of potential light impacts at both construction and operational phases is often best informed by a suitably qualified lighting designer and ecologist.
- To assess light impacts upon greater horseshoe bat habitat from the proposed development, it will assist to provide contour mapping (0.1lux intervals or less) that represents the lux modelling results (including vertical plane, and sample intervals of 200mm) on an scaled OS map backdrop, and that can be used in conjunction with greater horseshoe bat habitat maps. A baseline assessment will be required to evaluate current light spillage associated with the site.
- To ensure that there is no detrimental light spillage from all sources, it will be necessary to ensure that appropriate mitigation measures are put forward.

On the understanding that this email provides the advice you seek, we do not intend to provide further responses to the other recent consultation (dated 14 November) that we have received from your authority regarding this application.

**South Devon AONB Unit.** Object to the development. Initial comments received 15<sup>th</sup> December 2017.

The Proposal is considered to have unacceptable impact on the special landscape qualities of the nearby South Devon AONB, contrary to the principal material protected landscape policies and fails to conserve and enhance rural setting. It is too reliant on mitigation measures. Suggest that if planning be granted then LPA word up conditions appropriately. The proposal should be considered against the South Devon Management Plan.

The AONB Unit Disagrees with the Council's landscape adviser and applicant's LVIA. The AONB Unit considers that the countryside contributes to the rural setting of the AONB, providing a buffer and transition zone between the urban areas of Torbay to the north and the Dart Estuary within the AONB to the south and helps maintain tranquillity of AONB and the views. The greatest impact considered to be on viewpoint 16 (East of the Dart on Stoke Gabriel Road)

Noted that the application site is allocated in the adopted plan as a Country Park and the application constitutes a substantive departure from policy. This is reinforced in the Brixham NP

Site's agricultural land merits protection as part of the best and most versatile land resource in the context of Torbay.

**Restated Objection: 10<sup>th</sup> May 2018.** The applicants have sought to address the AONB Units concerns by Landscape and Visual Impacts, ecology, external lighting, green infrastructure, .framework Landscape and Ecology Management Plan and proposed masterplan. However, the AONB has restated its objection. (10<sup>th</sup> May 2018) that the proposal does not conserve or enhance the natural beauty of the AONB.

The Unit consider that the positive effects from these amendments will be localised and will not materially alter the more substantive impacts of the scheme taken as a whole. Whilst the Unit appreciates that the applicant has developed a range of mitigation measures in an attempt to reduce the substantive impacts upon the sensitive landscape of

the South Devon AONB, the residual impacts continue to result in an unacceptable level of harm to the South Devon AONB.

The countryside here, in the AONB Unit's assessment contributes to the rural setting of the South Devon AONB and provides both a buffer and transition zone between the urban areas of Torbay to the north and the Dart Estuary within the AONB to the south. This rural buffer helps maintain the tranquillity of the AONB and forms a countryside backdrop to many iconic views across the Dart Estuary. In such views, the quality of the rural landscape does not abruptly change at the AONB boundary. It is noted that at its closest point, the application site lies 600m to the north of the AONB boundary, and that the site is visible in more distant elevated views from parts of the AONB including regional recreation routes.

Fundamentally, the proposal would result in the built form of Paignton being perceived as spilling down from the current defined urban edge, substantially narrowing the farmland band that separates exceptionally high quality AONB landscape from urban fringe. From a range of viewpoints within the AONB as assessed within the Landscape and Visual Impact Assessment work, the proposal will be noticeable in the view as dense urban sprawl and affects the relative tranquillity experienced within the AONB and its setting.

It considers that any noticeable erosion to the rural character of the South Devon AONB's setting, quality of scenic views, tranquillity and the dark natural nightscapes enjoyed from within the AONB should be considered contrary to policy and consistent with NPPF paragraph 115, given great weight in the planning balance as matters of landscape and scenic beauty.

If despite the weight of evidence against the proposal the Council is minded to weigh against this objection in the planning balance the Unit requests that the parameters contained in the outline application are captured within appropriately worded conditions and robustly enforced to minimise harm to the AONB as far as possible. The proposal relies heavily upon a range of mitigation measures but even with this there would be an unacceptable residual level of harm to the South Devon AONB.

**South Hams District Council Object to the application (4 December 2017).**

Object to the proposal on grounds of: **Ecology** - ask that Torbay seek specialist ecological advice in discharging its HRA duties.

**Landscape** – Object that the proposal would result in residual harm to the AONB and concur with AONB Unit's objections.

**Minerals** – recommend that DCC's views are sought about the impact on the Minerals Safeguarding Area.

**Devon County Council Initial objection Minerals grounds has been overcome.**

Initial response dated 6 December 2017: A portion of the site falls within Mineral Safeguarding Area. Policy M3 of Torbay Local Plan provides for safeguarding. Policy M2 also offers protection of the minerals. As such this is a material planning consideration. A minerals resource assessment should be undertaken and submitted.

A subsequent response (dated 1 March 2018) maintains its objection that the proposal would be contrary to Policy M2 of the Devon Minerals Plan. However, it is noted that Policy M2 does include criterion (d) that allows for non-mineral development for which there is an overriding strategic need. It is for the LPA to balance the relative importance of

the proposed development with the value of the mineral resource. DCC state that there is a long term need for limestone.

Further response dated 29<sup>th</sup> March 2018 accepts the applicant's further information that at present the area of limestone resource is likely to be commercially or environmentally unviable and therefore the objection is withdrawn.

**Brixham Town Council** Object (4 December 2017) to the application on grounds of:

Conflict with LP. The Local Plan is up to date and presumption in favour of sustainable development would not apply. Even if there were not a 5 year supply then HRA and AONB concerns would override the Presumption.

The proposal conflicts with Policies C1; SS9 and M3 of the Local Plan: There are further objections on:

Loss of countryside and impact on AONB;  
Impact on important biodiversity;  
Loss of high quality agricultural land;  
Transport impacts;  
Surface and foul water impacts.

Neighbourhood plan. The proposal is so substantial that granting permission would prejudice the submitted Brixham Peninsula Neighbourhood Plan by predetermining decisions about the scale location and phasing of new development all of which are addressed in the Neighbourhood Plan.

The scale of development is very significant in relation to the level of growth required in the Local Plan (SDB1) to be included in the BPNP.

The developers have not engaged throughout the Neighbourhood Plan process.

Further objection received (3 April 2018) on conflict with the development plan, adverse effect on the AONB and Dart Valley, Loss of high grade agricultural land, lack of information on likely urban design and reliance on character areas will not safeguard good quality development.

2<sup>nd</sup> and 9<sup>th</sup> December 2019: Confirm that Brixham Town Council remains "phenomenally opposed to the application and objects in the strongest terms: conflict with the Local and Neighbourhood Plan, landscape, transport, affordable housing, ecology, recreational pressure on Berry Head, and drainage reasons.

**Brixham Peninsula Neighbourhood Forum.** Object on the same grounds as Brixham Parish Council (4<sup>th</sup> December 2017). Further objection 11/04/2018: raises issues relating to insufficient traffic capacity at Windy Corner, difficulty of upgrading Windy Corner and generation of rat running. The Brixham Peninsula Neighbourhood Plan is at examination and the Inglewood proposal would undermine it. Other housing and employment sites would be prevented from proceeding by lack of traffic capacity at Windy Corner (conflict with Policies BH1 and J1). The proposal is against the BPNP's settlement and landscape policies (BH4, BH9, E1, E2, E3, and E6). Object that no in-combination assessment of impact on greater horseshoe bats has been carried out, contrary to Policy E8. Contrary to transport policy T1.

Approving the application would create public perception that the Council is giving special treatment to this applicant at the expense of other applicants.

Brixham Town Council's further objection of 9<sup>th</sup> December 2019 is also made on behalf of the Neighbourhood Plan Forum which is a sub-group of the Town Confirm that Brixham Town Council remains "phenomenally opposed to the application and objects in the

strongest terms": conflict with the Local and Neighbourhood Plan, landscape, transport, affordable housing, ecology, recreational pressure on Berry Head, and drainage reasons.

**Brixham, Churston Galmpton and Broadsands Community Partnerships Object:**  
This application does not accord with the provisions of Torbay's development plan, namely the Torbay Local Plan 2012 - 2030 and Brixham Peninsula Neighbourhood Plan adopted on 2 May 2019 after approval at referendum.

The development proposed departs from Key strategic policy C1 of the adopted Torbay Local Plan which designates the site as "Countryside Area". None of the exceptions apply that are listed in the policy. It conflicts significantly with Local Plan Policy NC1 in its impact on internationally important biodiversity. The development also does not accord with policies SS9 [protection for high quality green space] and M3 [minerals safeguarding area].

The development is unsustainable in its failure to create sufficient jobs for the extra population and its reliance, being placed on the periphery of Torbay at long distance from employment centres accessible by the South Devon Link Road on increased car journeys. In this respect it fails to accord both with the Local Development Plan and the National Planning Policy Framework.

The proposed major greenfield development runs wholly contrary to virtually every key policy in the adopted Brixham Peninsula Neighbourhood Plan. Those Key policies are:

- BH4 - brownfield sites preferred to greenfield
- BH9 - greenfield sites reserved for small affordable housing developments
- E1 - landscape protection: the proposed development impinges on South Devon AONB [Dart Valley]
- E2 - staying within settlement boundaries. The site is outside the settlement boundary.
- E3 - preserving settlement gaps, avoidance of linked urbanization. The development would "infill" Paignton and Galmpton
- E6 - preserving valuable views and vistas. A previous application saw the then Secretary of State determine that built development and landscaping in this location would have a significant adverse and wholly unacceptable visual impact on the high quality of the Dart Valley AONB.
- E8 - ecology, the protection of internationally and nationally important sites and species. There has been no in combination assessment of impact on protected important species as required by E8-3.
- T1 - transport policy and carbon footprint. The peripheral location of this site will lead to growth rather than containment of car travel.

The application is profoundly contrary to a significant number of core policies contained in the Development Plan and should be refused.

**Paignton Neighbourhood Forum Objects to the application:**

following grounds:

- Conflicts significantly with the Local Plan,
- Landscape, biodiversity, loss of high grade agricultural land, transport, foul and surface water drainage.
- Harm would result that outweighs any other material planning consideration.

PNF assert that there is over 5 years housing supply and therefore no shortfall of housing. However they consider the presumption in favour of sustainable development doesn't apply, because of HRA and AONB issues.

Conflict with policy C1; SS9; M3;

Further objection (11<sup>th</sup> April 2018) reiterates objections on procedural grounds, housing need and five year supply. PNF note that there has been a fall in employment of 2000 jobs since 2012 and that the Local Plan Jobs target is more than 3,000 jobs below the target in the Local Plan. Objections are also maintained on the lack of sewerage and highway infrastructure and AONB impact.

<p><b>Cornworthy Parish Council (5 December 2017)</b> Object on grounds of landscape and visual impact on AONB; traffic and lack of infrastructure; loss of agricultural land and food security; light pollution and loss of dark skies; creation of unsustainable dormitory area due to lack of employment opportunities; foul and waste drainage; effect on tourism after despoilment of a stunningly beautiful area.</p>
<p><b>Stoke Gabriel Parish Council</b> Objection (4 December 2017) to the application. grounds of: Drainage; - concerned excess water and drainage will enter river at Mill Pool; Loss of agricultural land Impact on the AONB; Impact on the highway. Objection 4<sup>th</sup> December 2019: Circumvents the Plan making process, conflict with the Neighbourhood plan, "catastrophic" effect on the Dart Valley and AONB. Harm to Millpond at Stoke Gabriel.</p>
<p><b>Kingswear Parish Council</b> Objection (19 December 2017) to the application on grounds of: Adverse visual impact on Dart Valley , overdevelopment, negative impact on tourist industry, additional traffic, pressure on local services, health, schools, social services, sewage and waste. Reiterate objection 10 December 2019: inadequate infrastructure, visual impact, harm to AONB, wildlife and tourism.</p>
<p><b>Marldon Parish Council Objection</b> (2<sup>nd</sup> January 2018) on the following grounds: - no infrastructure to support proposed development - should be no development on a green field site; - proposed development does not accord with Local Plan</p>
<p><b>Dartmouth Town Council (2 January 2018)</b> Request details of the design.</p>
<p><b>Dartmouth and Kingswear Society Object.</b> Impact on the setting of the AONB, loss of agricultural and precedent for future urbanisation on the AONB boundary.</p>
<p><b>Dittisham Town Council ()</b> Object to the proposal. Revised information does not overcome objections. Strong objection reiterated 9th December 2019 – intrusion into open countryside, urbanisation of unspoilt estuary, harm to AONB, supporting information underplays the effect on the Dart and AONB, biodiversity and traffic impacts.</p>
<p><b>Churston Ferrers Grammar School – object</b> .Proposal is a departure from the Torbay Local Plan and Brixham Peninsula Neighbourhood Plan. Additional impact will create additional delays for the three coaches of students who travel in from Totnes and surrounding area. Will only meet the needs of children on the development and not a wider Paignton need. Impact on air quality and traffic congestion and harm to the Geopark and biodiversity (greater horseshoe bats).</p>
<p><b>Paul Bryan, Teignbridge District Council – Landscape Adviser to Torbay Council Advice no778ted dated (undated)</b> Broadly agrees with findings of LVIA (and implications of ES) that impact on landscape not significant. However, identified some concerns that required addressing:</p> <ul style="list-style-type: none"> <li>• The proposed lighting as depicted in the photomontages (whether this is accurate). Recommends specialist advice is taken to assess this.</li> <li>• Hedgerow management, as set out in the proposed farm practice</li> <li>• The landscape treatment of the access roundabout and is of the opinion that a more open treatment to the area around the road corridor could potentially better reflect local landscape character;</li> <li>• The sense of place and transition into the countryside. The layout, density, status and appearance of dwellings is too similar throughout the site and is an extension</li> </ul>

- of the grain of development found in Goodrington. Areas should be sub-divided particularly relevant for the parts of the site to the south and east of the school.
- Mitigation wise – concern over how the hedgerows are reinforced and the potential for adverse impacts on the landscape character.
  - Good quality planting is necessary to mitigate the development, in particular belts of planting and clump planting to form wood pasture in the fields to the south and west. These should be planted in the early stages.
  - Green infrastructure plan stops at site boundary and doesn't show how green space connects with the context.

**Subsequent advice dated 28 March 2018.** In response to subsequent documents submitted in March 2018 (Revised Masterplan, Landscape Addendum, GI Plan, Revised LEMP and Additional Lighting report).

**Rewards to the layout:** The changes to the layout remove development from field 3 and change units along the southern boundary to single storey. These changes will eliminate the short term adverse effects on the Waddington Conservation Area and the South Devon AONB that were likely to have arisen from the initial application. These changes are therefore welcomed and make the proposals even more acceptable in landscape terms. W

Whilst there are matters not addressed in terms of reducing density on the southern boundary and details of the character areas; these are compensated for by the removal of development from field 3. More information on key characteristics would be of benefit.

**Woodland blocks field 3 and Management of fields 2 and 3:** The changes also include the repositioning and reforming of the woodland block(s) shown in fields 2 and 3 between the proposed housing and Nords. The block now straddles a hedge between field 2 and 3, whereas previously it was detached from the boundary.

Suggest that additional work is needed to avoid engulfing traditional hedgerows with planting, also suggests additional work is needed to avoid two fragmented blocks of planting (rather than one large block as originally proposed).

**GI plan and LEMP More work is needed to ensure landscape and ecological aims are coordinated.** This needs to include the *conservation of a traditional farming character to the land, through: retaining the field pattern, managing the land in a traditional agricultural manner avoiding over use of amenity landscape management pattern techniques.*

Welcome the commitment to plant the structure planting (outside of the housing development areas) in advance of the development. The planting strategy could be refined to show more accurately shaped planting area, show fencing (I suggest metal bar estate fencing), open space within the planting areas, and extent of the understory where present. The character of woodland blocks should copy what is found at Nords.

Wood pasture clumps These trees should be all the oak rather than the mix of species as suggested. Form of protection needs to be resolved.

The Orchard would be better managed by a management company otherwise there will be a risk that it will develop an unkempt unowned appearance with dangers of flytipping etc.

Management information on highways area is needed.

**Lighting** The revisions to lighting strategy would appear to include smaller columns in some areas and for the areas closest to the AONB low level lighting. This approach is welcome and should help to reinforce and give distinction to the separate character areas. The likely spread of light is shown in the very helpful isoline drawings which would suggest that lighting is relatively well contained.

Despite some outstanding issues relating to landscaping and management, the Council's landscape adviser is broadly in agreement with the applicant's LVIA that the proposal would not when landscaping has matured, pose a significant adverse effect on the AONB.

**Jacobs – Landscape assessment dated 7<sup>th</sup> June 2018. Advises that the development would affect the special qualities of the adjoining AONB. Detailed conclusions are set out below.**

The Site forms part of the setting of the AONB north-east of the River Dart valley, being clearly visible from a number of representative viewpoints from publicly accessible locations within the AONB, that would be experienced by a variety of users including vehicle travellers, cyclists and walkers.

Following an independent visual impact assessment presented in this technical report, it is considered that the landscape and visual impacts of the revised planning application proposals would be greater than that reported in the applicant's LVIA and Addendum. The proposed development would result in significant residual adverse visual effects on some representative viewpoints within the AONB, including views from PRoWs on Fire Beacon Hill and from the John Musgrave Heritage Trail, amongst others. Whilst extensive mitigation is proposed, it is not considered that this would overcome the fundamental impacts of the proposed development on the setting of the AONB.

Significant adverse visual effects would arise from the extension of the existing urban edge of Paignton westwards into the rural landscape, which forms part of the AONB setting and helps maintain the tranquillity of the AONB. There is no current logical boundary for the westward urban extension of Paignton, which is currently well defined by the strong physical boundary provided by the Brixham Road and associated mature roadside trees. The boundary of the Site is predominantly open to the west in the direction of the AONB and this lack of natural enclosure has resulted in the need to provide extensive mitigation in the form of perimeter 'native woodland belt' planting. The need for this measure is acknowledged in the LEMP which refers, among other things, to "*the advance planting needed to integrate the site into the wider landscape and visual context*". However, the planting portrayed in the Green Infrastructure Plan would be inconsistent with the existing landscape pattern of irregular but angular fields, defined by hedgerows with occasional mature trees and hilltop woodland.

Whilst the number of affected views is relatively limited, with two main AONB clusters south of Dittisham and south of Galmpton, iconic panoramic views are identified as a Special Quality of the AONB. The AONB Management Plan refers to open and uninterrupted panoramic views from high ground as a resource of exceptional value and that vantage points with views that only contain natural features represent a diminishing, highly valued resource. These views are therefore highly sensitive to the type of change proposed.

No independent assessment of the cumulative effects of other proposed or consented development has been undertaken for the purposes of this technical report, however, Visually Verified Montages submitted with the LVIA illustrating future completion of housing in a later phase of the White Rock development on the former Waddeton

Industrial Estate north of Long Road, suggest that there would be significant cumulative effects.

It is not considered that the night-time visual effects of the proposed development on the AONB nightscape would be significant, given the mitigation proposed.

At the neighbourhood level, the proposed development would be contrary to the Brixham Neighbourhood Plan, which seeks to preclude development that would visually or physically close the Settlement Gap between the urban areas of Paignton and Galmpton or harm the openness or landscape character of the area.

At the local level, the proposed development is inconsistent with the character of the North Galmpton AoLC, described in the Torbay Landscape Character Assessment as highly sensitive land providing a buffer to the AONB, with only limited potential to accommodate change without substantial wider impact

At the national level, the proposed development would adversely affect the special qualities of an adjoining AONB, specifically, iconic wide panoramic views, tranquillity and the rural largely undeveloped countryside AONB hinterland. The underlying principle of AONB legislation and policy is that land within the AONB should be conserved and enhanced regardless of where any effect on it arises. Despite the proposed mitigation, significant adverse residual effects of the proposed development on the setting of the AONB would remain.

**CPRE: Object** to the development on the following grounds:

- Un-sustainable development - fails to meet NPPF Para 8;
- Considers that applicant failed to demonstrate that proposal is delivering economic, social and environmental gains. Considers they don't demonstrate the need for proposed housing.
- Proposal fails to demonstrate how scheme delivers balanced community benefits, and sees loss of versatile land.
- Environment - Concerns over impact on AONB para 109 NPPF & para 112;
- Departure from the Local Plan
- Neighbourhood Development Plan - Para 12 of NPPF & written MS 10th July 2014. - Weight to NDP; - applicant not addressed policies of NP. - greater weight should be given to NP as made more recently.
- Prematurity. - para 014 ref: 21b-014-20140306.

Further concerns:

- cumulative traffic impact;
- impact on bats;
- Light pollution; - Kemmings Hill Appeal (APP/X1165/W/16/316110)'
- Impact on tourism
- Foul waste and drainage.

Further representation reiterates earlier objections.

**Torbay Coast and Countryside Trust - Object/ Further information required**

Proposal is a departure from the Adopted Torbay Local Plan. Concerned predominately regards the ecological mitigation. The proposal affects part of the LEMP for White Rock 1 and delivery of that scheme has not achieved desired outcomes which undermines confidence in likely success of mitigation of the Inglewood proposal. TCCT require further detail before they can be confident that proposed

management schemes will successfully deliver and maintain the habitat components required by each species and deliver biodiversity long term benefits.

Concerned regards Farm Management: requests further information and more restrictions on use of worming treatment.

Concerned about achievability of farm management arrangement in light of Brexit and likely upheaval in the farming sector.

#### **RSPB Initial Objection largely overcome subject to safeguards**

Sought clarity on:

- Relationship between mitigation for White Rock 1 and that proposed for Inglewood.
- Aspects of the site-specific cirl bunting survey 2016;
- number of cirl bunting territories to be supported (think 4)
- responsible parties for proposed mitigation habitat implementation and delivery;
- timing of delivery of mitigation in relation to agri-environment expiry dates and commencement of development;
- assurance that funding will be available in the long term for habitat management;
- details and timetable of habitat and species monitoring of mitigation habitat;
- enhanced provision for urban biodiversity within developed areas.

Amended comments received 22 March 2018 in relation to Cirl Buntings, following receipt of amended Ecology Addendum, Farming Practices Plan, Proposed Phasing Plan and Framework Landscape and Ecological Management Plan (LEMP)

Welcome the commitment to:

- Provide habitat to support a min of 10 breeding cirl bunting pairs
- Provide 4ha of spring barley/winter stubble annually on the compensation land.
- Provide mitigation planting and habitat creation in relation to Inglewood as set out on updated phasing plan
- Monitoring to include cirl bunting surveys annually during construction and until then annual for up to at least 10 years post construction.

Welcome clarification on the mechanism to ensure delivery of habitat and the responsibilities for management where Torbay Council would manage the Public Open Space and Green Infrastructure.

In relation to the legend for the proposed farming practices plan and the text for proposed Spring Barley – this should be managed in rotation in according with farming practice.

In conclusion – if the RSPB has confirmation that Natural England is satisfied that the amended proposals are adequate in relation to greater HB and that the funding and security mechanisms are acceptable to Torbay Council and South Hams then they will withdraw the objection.

**Ramblers Association Object** due to impact on the proposal on the setting of the AONB, particularly from key public vantage points, including the John Musgrave Heritage trail.

**South Devon NHS** Seek a contribution of £353,857 (based on 400 dwellings) to cover shortfalls in hospital services until government funding for increased population is received. **Object to the development without this contribution.**

Torbay and South Devon NHS Foundation Trust (the Trust) is currently operating at full capacity in the provision of acute and planned healthcare. It is further demonstrated that although the Trust has plans to cater for the known population growth, it cannot plan for unanticipated additional growth in the short to medium term. The Trust is paid for the activity it has delivered subject to satisfying the quality requirements set down in the NHS Standard Contract. Quality requirements are linked to the on-time delivery of care and intervention and are evidenced by best clinical practice to ensure optimal outcomes for patients. The contract is agreed annually based on previous year's activity plus any pre-agreed additional activity for clinical service development and predicted population growth (this does not include ad-hoc housing developments and it does not take into consideration LPA's housing need or housing projections). The following year's contract does not pay previous year's increased activity. The contribution is being sought not to support a government body but rather to enable that body to provide services needed by the occupants of the new development, and the funding for which, as outlined below, cannot be sourced from elsewhere. The development directly affects the ability to provide the health service required to those who live in the development and the community at large. Without the contribution, the development is not sustainable and should be refused.

The Trust is a secondary care and community services provider delivering a range of planned, emergency hospital and community care with social care services to residents of the aforementioned areas. It provides urgent and emergency care services for residents for whom it is the nearest Accident and Emergency (A&E) provider and often for residents from further afield when their closest A&E is under particular pressure.

The Trust is an integrated organisation providing acute health care services from Torbay Hospital, community health services and adult social care.

Across England, the number of acute beds is one-third less than it was 25 years ago, but in contrast to this the number of emergency admissions has seen a 22% increase in the last 10 years. The number of emergency admissions is currently at an all-time high.

The Trust's hospitals are now at full capacity and there are limited opportunities for it to further improve hospital capacity utilisation. Whilst the Trust is currently managing to provide the services in a manner that complies with the Quality Requirements of the NHS, there are not sufficient resources or space within the existing services to accommodate sudden population growth created by the development, without the quality of the service as monitored under the standards set out in the Quality Requirements dropping, and ultimately the Trust facing sanctions for external factors which it is unable to control.

In order to maintain adequate standards of care as set out in the NHS Standard Contract quality requirements, it is well evidenced in the Dr Foster Hospital Guide that a key factor to deliver on-time care without delay is the availability of beds to ensure timely patient flow through the hospital. The key level of bed provision should support a maximum bed occupancy of 85%. The 85% occupancy rate is evidenced to result in better care for patients and better outcomes<sup>5</sup>. This enables patients to be placed in the right bed, under the right team and to get the right clinical care for the duration of their hospital stay. Where the right capacity is not available in the right wards for the treatment of a particular ailment, the patient will be admitted and treated in the best possible alternative location and transferred as space becomes available. Multiple bed/ward moves increases the length of stay for the patient and is known to have a detrimental impact on the quality of care. Consequently, when hospitals run at occupancy rates higher than 85%, patients are at more risk of delays to their treatment, sub-optimal care and being put at significant risk. The Trust's utilisation of acute bed capacity exceeded the optimal 85% occupancy rate for the majority of 2017/18. This demonstrates that current occupancy levels are highly unsatisfactory, and the problem will be compounded by an increase in the population,

which does not coincide, with an increase in the number of bed spaces available at the Hospital. This is the inevitable result where clinical facilities are forced to operate at over-capacity and is why there is now a very real need to expand the Trust facilities. Any new residential development will add a further strain on the current acute healthcare system.

During 2016/17, residents from South Devon and Torbay CCG attended the Trust's A&E Department 65,664 times and this number increased to 66,791 in 2017/2018. The first 8 months of 2018/2019 has seen 45,428 residents attended that when annualised will see a further annual increase to 68,142 A&E visits.

Residents from the area are currently generating significant interventions per head of population per year.

The population increase associated with this proposed development will significantly impact on the service delivery and performance of the Trust until contracted activity volumes include the population increase. As a consequence of the development and its associated demand for acute and planned health care, there will be an adverse effect on the Trust's ability to provide "on time" care delivery without delay due to inadequate funding to meet demand because of the preceding year's outturn activity volume based contract which will result in financial penalties due to the Payment by Results regime.

The only way that the Trust can maintain the "on time" service delivery without delay and comply with NHS quality requirements is that the developer contributes towards the cost of providing the necessary capacity for the Trust to maintain service delivery during the first year of occupation of each dwelling. Without securing such contributions, the Trust will have no funding to meet healthcare demand arising from each dwelling during the first year of occupation and the health care provided by the Trust would be significantly delayed and compromised, putting the local people at risk. The lack of funding will have a long term impact on the Trust's ability to provide services.

### **Impact Assessment Formula**

The Trust has identified the following: - A development of **400 dwellings** equates **960** new residents (based on the current assumption of 2.4 persons per dwelling, using existing 20186 demographic data). This residential development will therefore generate **2,616 acute interventions** over the period of 12 months. This comprises additional interventions by point of delivery for:

- 376 A&E based on % of the population requiring an attendance
- 97 Non elective admissions based on % of the population requiring an admission
- 33 Elective admissions based on % of the population requiring an admission
- 105 Day-case admissions based on % of the population requiring an admission
- 1,298 Outpatient admissions based on % of the population requiring an admission
- 708 Diagnostic Imaging based on % of the population requiring diagnostic imaging

### **Formula: Increase in Service Demand:**

**Development Population x % Development Activity Rate per head of Population x Cost per Activity = Developer Contribution**

As a consequence of the above and due to the payment mechanisms and constitutional and regulatory requirements the Trust is subject to, it is necessary that the developer contributes towards the cost of providing capacity for the Trust to maintain service delivery

during the first year of occupation of each unit of the accommodation on/in the development. The Trust will not receive the full funding required to meet the healthcare demand due to the baseline rules on emergency funding and there is no mechanism for the Trust to recover these costs retrospectively in subsequent years as explained. Without securing such contributions, the Trust would be unable to support the proposals and would object to the application because of the direct and adverse impact of it on the delivery of health care in the Trust's area. Therefore the contribution required for this proposed development of **400 dwellings** is **£353,857.00**. This contribution will be used directly to provide additional health care services to meet patient demand.

The contribution requested is based on these formulae/calculations, and by that means ensures that the request for the relevant landowner or developer to contribute towards the cost of health care provision is directly related to the development proposals and is fairly and reasonably related in scale and kind. Without the contribution being paid the development would not be acceptable in planning terms because the consequence would be inadequate healthcare services available to support it, also it would adversely cause short and long term impact on the delivery of healthcare not only for the development but for others in the Trust's area.

Having considered the cost projections, and phasing of capacity delivery we require for this development it is necessary that the Trust receives 100% of the above figure prior to implementation of the planning permission for the development. This will help us to ensure that the required level of service provision is delivered in a timely manner. Failure to access this additional funding will put significant additional pressure on the current service capacity leading to patient risk and dissatisfaction with NHS services resulting in both detrimental clinical outcomes and patient safety.

### **Summary**

26. As our evidence demonstrates, the Trust is currently operating at full capacity in the provision of acute and planned healthcare. It is further demonstrated that although the Trust has plans to cater for the ageing population and growth, it will not be able to plan for the growth in a piecemeal manner. The contribution is being sought not to support a government body but rather to enable that body to provide services needed by the occupants of the new homes. The development directly affects the ability to provide the health service required to those who live in the development and the community at large. Without contributions to maintain the delivery of health care services at the required quality standard and to secure adequate health care for the locality the proposed development will put too much strain on the said service infrastructure, putting people at significant risk. This development imposes an additional demand on existing overburdened healthcare services, and failure to make the requested level of healthcare provision will detrimentally affect safety and care quality for both new and existing local population. This will mean that patients will receive substandard care, resulting in poorer health outcomes and pro-longed health problems. Such an outcome is not sustainable.

27. One of the three overarching objectives to be pursued in order to achieve sustainable development is to include *b) a social objective – to support strong, vibrant and healthy communities ... by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being:*" NPPF paragraph 8. There will be a dramatic reduction in safety and quality as the Trust will be forced to operate over available capacity as the Trust is unable to refuse care to emergency patients. There will also be increased waiting times for planned operations and patients will be at risk of multiple cancellations. This will be an unacceptable scenario for both the existing and new

population. The contribution is necessary to maintain sustainable development. Further the contribution is carefully calculated based on specific evidence and fairly and reasonably related in scale and kind to the development. It would also be in the accordance with Council's Adopted Local Plan.

### **Mark Pearson (Design Advice) No objection**

Basic local retail amenities are not within walking distance of the site. Inclusion of primary school and pub/restaurant therefore welcomed. Site unlikely to attract small convenience store. Arrangement of bus stops considered to be welcome.

At outline stage considered that fronts and backs are broadly correct.

Landscaping Plan to be conditioned.

Design code provision.

Masterplan layout is good. Open space assists with legibility and wayfinding.

Details of landscape will be necessary.

Introduction of three storey dwellings/apartments welcomed. Sole two storey development would be monotonous.

Hierarchy of streets welcomed – in the interest of generating more variety it would be good to see the hierarchy ‘stretched’ with a more formal avenue at the upper end and some ‘mews’ like lane or courts. Some streets could be widened and others narrowed. Design code would be welcomed.

‘High Point Copse’ needs to act as something of a destination – could there be more open space? Could this act as a venue/gathering place? Tree character is good, but more open space could be considered.

Character in Inglewood Green should be considered. Not clear what motivates the intervening landscape design and seems to weaken and confuse the space. A firmer and simpler handling of this space would be helpful.

### **Future Planning- Retail Impact No objection subject to conditions**

Applicants do not need to show quantitative need. The assessment has not considered in any detail whether town centre sites could be available – and it would have been good to see more assessment of town centre sites in the analysis.

On the basis that the facility is part of a wider community, it is considered that the development is acceptable provided that a phasing condition is associated with any grant of planning permission.

Condition necessary for ensuring development does not commence until delivery of 100 houses.

The use must also be restricted to a pub/restaurant use (Class A3/A4) with bookable functions facilities is secured by condition and no hot takeaway be permitted.

**Sport England Currently** objects to the application pending additional info on community access to playing field and offsite mitigation.

Occupiers of the development will generate demand for sporting provision. New development should therefore contribute. The level and nature of any provision should be informed by a robust evidence base such as an up to date Sports Facility Strategy, Playing Pitch Strategy or other relevant needs assessment.

Appears to be no provision of new playing field land incorporating pitches for wider community on site or for a financial contribution off site. The Council should consider meeting the needs of this development to ensure the right mix of pitch and facility provision in a financial and sustainable way. Could be shaped by Council's Playing Pitch Strategy.

Sport England raises concern over the proposed artificial grass pitch associated with the primary school. Some sports require grass surface.

Needs to be an enforceable mechanism to ensure community use. Community use should be secured by Community Use Agreement.

The applicant for the proposal may wish to consider alternative all weather surface that meets the needs of the primary school and a multi sports facility that could be utilised by Local Community.

Cycle and walking networks should be extended to linking the existing town with the new development and access to the surrounding environment. There should be clear signage for cyclists into and out of the development site.

Sport England will withdraw the objection if the sporting needs can be addressed either through on site provision, and/or off site contributions for outdoor/indoor sport recreation, and the principles of Active Design can be demonstrated.

Response to additional Information (28/03/2018): Maintain Objection to the development  
Considers that the development does not meet the objectives of Sport England.  
Raises concern over the proposed artificial grass pitch (AGP) associated with the primary school site. Some sports require a grass surface. Artificial surfaces do not necessarily provide a direct replacement for grass pitch use as they only make a limited contribution to competitive grass pitch sports use.

Note that this is not an objection in principle but can be overcome through making the pitch natural turf, requiring community use through s106 obligation or condition and an s106 contribution towards offsite provision. Applicants have agreed to first two items. Cost of s106 contribution under negotiation- Initial ask is £83k. Likely to be mitigated downwards.

**Dave Stewart – Drainage Initial** advice dated 24 November 2017: A number of matters must be addressed before planning permission can be granted including infiltration testing, hydraulic testing. Following receipt of additional surface water information, confirmed on 9<sup>th</sup> April 2018 the following:

1. The developer has identified that surface water drainage from this development will be dealt with using a number of different techniques including individual plot soakaways,

communal soakaways, infiltration ponds, attenuation ponds, and a controlled discharge to a surface water sewer off the site.

2. A site specific flood risk assessment has been submitted in support of this planning application which includes plans showing the proposed drainage strategy for the development site.
3. A number of infiltration tests have been carried out across the site the majority of which have been carried out in accordance with BRE365.
4. Within the latest information hydraulic calculations have been included for a sample individual soakaway, a communal soakaway and infiltration ponds using the results of the infiltration testing. These calculations confirm that the outline drainage strategy proposed complies with the requirements of the Torbay Critical Drainage Area. It should be noted however that the details submitted to date are insufficient to confirm there is no risk of flooding to properties on the site or increased risk of flooding to adjacent properties or land for the critical 1 in 100 year storm event plus 40% for climate change.
5. As part of the detailed design for the development, the developer must undertake further infiltration testing. This infiltration testing must be undertaken in accordance with BRE365 at the proposed location of each soakaway, infiltration pond and permeable paving (a tolerance of 20m from the location of the feature will be acceptable provided the ground conditions are similar). In addition the infiltration testing must be carried out at the proposed invert level of the soakaways, infiltration ponds and at the formation level of the permeable paving (a tolerance of 100mm is acceptable). All details of these trial holes and infiltration testing must be submitted with the detailed design.
6. The soakaways and infiltration ponds together with the surface water drainage system discharging to the soakaways and infiltration ponds must be designed in order that there is no risk of flooding to buildings on the site and there is no increased risk of flooding to land or buildings off the site for the critical 1 in 100 year storm event plus 40% for climate change. Similarly any permeable paving must be designed to demonstrate that there is no flood risk on or off the site for the critical 1 in 100 year storm event plus 40% for climate change.
7. Where the infiltration testing has demonstrated that the use of infiltration drainage is not feasible the developer will be allowed to discharge to the surface water system at a controlled discharge rate. As Torbay is a Critical Drainage Area any surface water discharge rate from the site to the surface water sewer must be limited to the 1 in 10 year Greenfield run off rate from the proposed impermeable area of the development discharging to the surface water sewer system. The proposed surface water system including attenuation must be designed in order that there is no risk of flooding to properties on the site or increased risk of flooding to adjacent properties and land for the critical 1 in 100 year storm event plus 40% for climate change.

Based on the above I can confirm that the outline drainage strategy complies with the requirements of the Torbay Critical Drainage Area, however the developer must supply the additional infiltration testing and surface water drainage design showing that there is no risk of flooding to properties on the site or increased risk of flooding to properties adjacent to the site for the critical 1 in 100 year storm event plus 40% for climate change. The detailed drainage design must be submitted and approved prior to any construction works commencing on the site.

Confirmed (November 2019) that comments od 9 April 2018 remain valid.

**South West Water** No comment March 2018)

Downstream foul drainage must be improved in accordance with FRA.

Comment dated 15 November 2019: I refer to the above and the amended description and would take this opportunity to amend our previous comments where reference was made to the need for foul drainage improvements which the applicant/developer will no longer need to fund

**Education (TDA) Support** Our pupil forecasts indicate that the school population in Paignton is growing as a result of higher birth rates and an increase in the number of housing development, particularly affordable housing and small starter homes. Our forecasts are calculated using an anticipated amount of new housing as set out in the Local Plan. Any large developments not in the Local Plan are likely to increase the demand for school places even further.

Therefore, I have previously provided information to both the Inglewood Developer and to the Department for Education (DfE) that the Inglewood development would trigger the need for additional school places above the numbers that we have previously forecast.

As we have already exhausted the options for expanding existing primary schools in Paignton this would require a new school. This information has been the basis for an application to the DfE for a new Free School at Inglewood should the development go ahead.

The DfE have agreed to fund the building of the new school on the understanding that the developer provide a fully serviced, level and decontaminated site as part of their S106 agreement. The new school would need to be built and open upon completion of Phase 1.

New school required as a result of the development and the need that new occupants would trigger.

**Trees (Lee Marshall) Initial Response:** considers an updated plan 'Tree Protection Plan' would be helpful.

- Tree Protection Plan should include a table of numbers of tree losses/hedge length against retention.
- Conclusions in tree report are inaccurate.
- More detail considered necessary in order to allow more comprehensive officer comments.
- Phased early planting (including detailed protective fencing), soil horizon protection for receiving sites and greater detail of significant arboriculture features proposed to be lost are required to inform the necessary conditions should consent be granted.
- More detail required in the Agronomy report - including proposed species mix, maintenance, soil horizon fenced off.
- Proposed street planting is restricted & concerns arise upon ability of trees in the residential area to mitigate for the development in the context of landscape sensitivity and departure from the Local Plan.

Landscape related matters should be approved prior to any reserved matters consent given the clear connection between spatial availability for sustainable, appropriate residential planting and quantum of units.

**Additional response:**

Has reviewed the LVIA addendum; the LEMP Rev PL02 –Planning Issue 2; Tree Survey and Protection Plan as amended.

The tree protection plan contained within the original version of the tree report (now dated NOV 2018) has not been included in the amended version revised 01-18. The absence prevents any commentary on the new proposed layout realigned as part of the further LVIA work.

Noted that the LEMP 4.3.2 a proposal that the lime trees to be planted along major and minor access routes would be pollarded at 20 years – this would not be supported given the aspirations of the tree planting to integrate the development into the wider development.

Noted that there is reliance on off site features for screening. Mature hedge rows may be subject to varied management as per countryside management schemes - there is no detailed description of the composition, health, disease reliance or structure of Nords Wood that would allow greater understanding and confidence of suitability to screen the development.

### **Jacobs – Ecology**

**Detailed ecological assessment dated 11 April 2018.** Concludes that they are satisfied that the key ecological issues raised through consultation have been resolved by the applicant through provision of further information, particularly the Ecology Addendum, and that there are currently no ecological grounds for objection to the application.

### **Summary of Information Reviewed**

#### **Relevant Documents**

2.1 The applicant has provided the following documents relevant to this assessment:  
Environmental Statement (ES) (Stride Treglown – dated 01 November 2017);  
Ecological Baseline Report (Nicholas Pearson Associates – dated May 2017);  
Framework Landscape and Ecological Management Plan (LEMP) (Stride Treglown – dated October 2017);  
Farm Management Plan (FMP) (Stride Treglown – dated October 2017); and,  
Ecological Addendum (Nicholas Pearson Associates – February 2018)

2.2 Comments have already been received in relation to ecology from:  
Natural England (Julien Slater): EIA Scoping Opinion – dated 19 January 2017, and planning consultation – dated 08 December 2017

RSPB (Helene Jessop) – EIA Scoping Opinion – dated 09 January 2017, and planning consultation – dated 14 December 2017;

Hi-Line (David Hansford and Paul Gregory) – planning consultation dated 30 November 2017.

Greenbridge Ltd (Michael Oxford) – EIA Scoping Opinion – dated January 2017.

Torbay Coast and Countryside Trust (Damian Offer) – planning consultation dated 6 December 2017.

2.3 In addition, a Habitats Regulations Assessment (HRA) has been submitted by Jacobs (Iona Pearson) dated 23 March 2018 principally in relation to the potential for a likely significant effect to occur on the South Hams Special Area of Conservation (SAC). The HRA indicated that this proposal will not have an adverse effect on the integrity of the

South Hams SAC subject to implementation of various mitigation measures through conditions and appropriate clauses in the Section 106 Agreement attached to any planning consent.

### **Summary of Issues**

2.4 Review of the relevant submitted application documents, as well as the consultation responses provided by Natural England and RSPB raised a number of ecological issues considered to be relevant to the determination of this application. In response the developer (Deeley Freed/Abacus) and their ecologist (Nicholas Pearson Associates [NPA]) met with Torbay Council representatives to discuss these issues in February 2018. Following the meeting, NPA provided an Ecological Addendum. The key issues are summarised below:

- The relationship between measures included in the Landscape and Environmental Management Plan (LEMP) for the outline planning application White Rock (P/2011/0197) and those proposed in the LEMP and FMP for this application.
- Resolution of various issues relating to habitat creation: phasing, retention of cattle pasture; ground flora within woodland planting, and provision of an off-site bat house.
- Confirmation whether delivery of a complex LEMP and FMP could be guaranteed in perpetuity.
- The potential impacts on, and delivery of mitigation/compensation for cirl bunting.
- Confirmation of an adequate monitoring plan that will help to ensure delivery of the ecological aims of the project.

2.5 The HRA mentioned above contains a full review of the information submitted by the applicant in relation to greater horseshoe bats (the primary qualifying feature of the South Hams SAC), including consideration of whether mitigation for bats, e.g. lighting proposals for the scheme and delivery of an on-site bat house are appropriate and deliverable. The HRA confirms that the application is acceptable, subject to certain safeguards detailed therein (including recommended planning conditions), in relation to potential impacts on this species. This information is not repeated here.

### **Relationship between White Rock 1 and Inglewood LEMPs**

2.6 The Inglewood application is within land covered under mitigation and land management measures detailed in the off-site LEMP (there is also an on-site LEMP, which is not relevant here except in relation to potential in-combination effects) for White Rock 1, and consultees (particularly the RSPB) have raised concerns that this overlap in LEMP boundaries may have led to 'double-counting' of mitigation/management measures between the two LEMPs, in effect that the two LEMPs include some of the same measures.

2.7 The relationship between the measures put forward under White Rock 1, and those put forward for Inglewood, is complex given that there is overlap in the boundaries of the two LEMPs. There will also be a reduction in the land specified within the White Rock 1 LEMP if Inglewood is developed given that several fields are included within the redline boundary for Inglewood that are included in the White Rock 1 LEMP. Although some of the field boundaries will be retained and used as green infrastructure, their value for wildlife may be reduced as a result. The proposals within the Inglewood LEMP will also overlap to some extent with the extant Environmental Stewardship Agreement (ESA) that will end in 2020.

2.8 NPA have attempted to clarify the position of the applicant within the Ecology Addendum by providing the following:

- Updated proposal detailing increased retention of existing hedgerow and increased provision of woodland.
- Text (Section 3), Table 1 and revised figures (Figures 5.3a, 5.3b, 5.4) that provide quantities and illustrate:
  - o How the Inglewood LEMP and FMP will affect delivery of the White Rock 1 LEMP and the extant ESA and where it will overlap with and (in most cases) improve and deliver outstanding mitigation delivery for White Rock 1;
  - o How and to what extent the Inglewood LEMP will deliver new mitigation/management measures over and above those promised within the White Rock 1 LEMP.
  - A summary of the additional habitat creation commitments on land outside of the White Rock 1 off-site LEMP, including; spring barley, new woodland, orchard, bat houses, and a pond.

2.9 It is clear from the information provided in the ES and Ecology Addendum that there is no double-counting and that the Inglewood application would deliver (and positively modify) mitigation (that has not yet been delivered for White Rock 1) as well as a substantial package of mitigation/management under the Framework LEMP and FMP, that has been appropriately targeted to provide new or improved habitat for key receptors such as cirl bunting and greater horseshoe bat, as well as a range of other wildlife receptors that will benefit from such measures.

### **Specific Habitat Creation Measures**

2.10 The Ecology Addendum provides further information on the phasing of mitigation planting and habitat creation and clarifies the following key point that “*there will be a condition placed on the planning permission for the built development requiring the mitigation works to be implemented prior to commencement of development*” and that “*Construction not to commence unless planting has met agreed establishment criteria*”. This will give Torbay Council the confidence that delivery of mitigation is sufficiently guaranteed and phased appropriately.

2.11 The Ecology Addendum provides further clarity that there will be no net loss of cattle pasture (a concern raised by Natural England in their consultation response) and states that:

*“It is confirmed that a total of 25ha cattle pasture (standard pasture and wood pasture) is proposed be retained/provided, and that that 25ha of cattle pasture currently exist on Site.”*

2.12 The Ecology Addendum also confirms that “*the proposed woodland planting would include native woodland ground flora planting*”. It is assumed that further details would be provided in any final LEMP document in due course.

### **Delivery in perpetuity**

2.13 The Ecology Addendum also includes a robust mechanism for ensuring delivery of mitigation/management measures provided in the LEMP. This is welcomed and provides as firm a long-term guarantee as can reasonably be expected. The proposals within the Framework LEMP have also been designed to ensure that they are achievable through standard farming practices and not promising mitigation features that cannot be delivered or maintained long-term.

### **Cirl bunting**

2.14 The applicant’s proposal that the off-site mitigation land is capable of supporting 10 pairs of cirl bunting and that this is a key target of the mitigation/management measures proposed is welcomed. It has been agreed with the RSPB that this is an appropriate target

that is achievable given the focus on creating habitat for nesting (hedgerows), summer foraging (tussocky grassland and species-rich grassland margins) and winter foraging (spring barley crop fields) that should significantly improve the quality of the available habitat for the species within the on and off-site mitigation areas.

2.15 Furthermore it has been agreed, as evidenced by the outline monitoring prescriptions in the Ecology Addendum, that monitoring surveys will be key to establishing whether this target is met in the future. It has also been agreed that, if implemented correctly (this will also be subject to appropriate monitoring) the habitat creation and management measures proposed by the applicant are capable of delivering this target. If they are implemented correctly and the target is not met then the measures can be reviewed as part of the proposed Ecological Monitoring and Early Warning Strategy (EMEWS) and adapted as necessary, but that additional compensatory payments would not be requested to make up any shortfall in meeting the target.

## **Monitoring**

2.16 As the Ecology Addendum acknowledges, it is critically important to be able to objectively and fairly assess *"the delivery and effectiveness of the mitigation measures set out in the ecology chapter of the Environmental Statement and the ecology aims set out in the Framework LEMP"*. Without a coherent and simple monitoring strategy, it is practically impossible to do this and the outline measures recommended in that document are welcomed. It is also welcomed that annual reports will be submitted to Torbay Council with follow-up meetings planned to agree whether changes in management practices are necessary.

2.17 The full details of monitoring within an EMEWS will be subject to a planning condition and reviewed by Torbay Council prior to condition discharge.

## **Other issues**

2.18 The ES and Ecological Baseline Report confirms that a low population of slow worm has been recorded on-site. There is no subsequent mention of this species in the ES, which suggests an oversight on the part of the author. Slow worm is not a rare species and habitats that are likely to support them will be largely retained on site and improved off-site thereby ensuring that they are unlikely to decline as a result of the proposals; however, it is likely that animals will be killed or injured during the construction phase of the project without appropriate mitigation. It is recommended that either slow worms are translocated and then subsequently excluded from the site using standard methods, or an alternative and suitably robust method is proposed that will prevent an offence from occurring. Written documentation of such a method could be provided through a Construction Environment Management Plan and/or method statement.

## **3. Conclusion and Recommendation**

3.1 In conclusion, Torbay Council are satisfied that the key ecological issues raised through consultation have been resolved by the applicant through provision of further information, particularly the Ecology Addendum, and that there are currently no ecological grounds for objection to the application.

**Habitats Regulations Appropriate Assessment** prepared May 2018 (because the proposal relies on mitigation to avoid likely significant effects on greater horseshoe bats/South Hams SAC). Concludes that in light of the mitigation measures identified and consideration of the implications for the sites Conservation Objectives. There is NO Adverse Effect on the Integrity of the South Hams SAC - alone or in combination with other proposals or projects.

Advise 6 June 2018 that the off-site works may be considered to be mitigation.

**Jacobs/ Future Planning - Highways** 4 arm roundabout proposed on the A3022 Brixham RD. Ped and cycle crossing facilities are proposed on Brixham Rd and footway/cycleway link to White Rock development in north. Bus stops proposed in close proximity to access roundabout to provide access by public transport.

- application proposes highway improvements at:
- Windy corner
- junction of A3022 Brixham Rd;
- The A3022 Brixham Rd.

Enhancements to Stagecoach service 23 also proposed.

Following submission of the additional information, and assuming that the highway improvements go ahead (Long Road junction, Brixham Road alignment and junction to the site and Windy Corner) that pedestrian and cycle access routes are implemented (through to White Rock remote from the highway network, and across Brixham Road via the crossing to the North, via the crossings at the roundabout junction, and via the crossing to the South); and that the bus service and related infrastructure are provided, the development is not considered to have a severe impact on the local network.

**Stagecoach:** support the application;

Worked with applicant to ensure a regular bus service which will improve access to public transport in the vicinity, including South Devon College and help mitigate traffic impacts.

The site is deliverable and sustainable and the need to boost housing supply must be taken into account.

**Wales and West Utilities -general comments.**

No specific record of major service pipes or other infrastructure on the site, but cannot guarantee their absence and care needs to be taken to ensure there are no gas pipes present.

**Police Architectural Liaison Officer:** General guidance regards secured by design to prevent crime. Approved document Q (ADQ) - GOOD URBAN DESIGN TECHNIQUES. Concerns regards parking. - considers there should be more. Provides general advice on parking and how it should be located.

No additional comments 28/11/19

**Coast Academies-** Support the application - considers the proposals fit in well and help address any capacity issues. Considers the school can make use of orchards, countryside access and farming area and will operate as a "woodland school". Funding has been secured for opening of a school at Inglewood and is contingent on planning permission being granted.

Confirm support for the proposal 28 October 2019. . It is clear to us that the opportunity afforded by this scheme to make a positive contribution to the sustainable development of the Bay area is significant. In particular, the inclusion of a new primary school within the heart of the development represents what in our minds amounts to a fantastic opportunity to create a genuine community within the scheme from the outset. Schools are at the heart of the community and in addition to the positive opportunities which new facilities offer to the education of future pupils, the buildings themselves often offer the opportunity for wider engagement and integration with residents.

Our application to the Department for Education was for a school that was closely

linked to the rural community surrounding the area. We have built into the proposed curriculum a large element of outdoor learning, community projects and partnership work with local farms and business. The children at the new school will all engage in "Forest School" learning and their curriculum projects will often focus on ecology, sustainability and the protection of wildlife. We believe the Inglewood development fits well with these aims and are clear that the school will take advantage wherever possible of the proposed allotments, orchards, countryside access and farming areas.

**TDA** (Affordable Housing) 30% Affordable housing required, variety of tenures including 1/3 social rent, 1/3 affordable rent and 1/3 shared/home ownership. As a result expect to see 120 of the 400 homes as affordable homes including wheelchair adopted properties. Mix of bedroom numbers should be proportionate to the mix overall. Include in s.106.

Commend the application for providing the Council requirement of 30% affordable homes – support the application.

**TDA- Economic Development 23/03/2018** Advise that a contribution is required in regards to employment. Employment contribution of £500,000 is sought in lieu of onsite provision of circa 2,500 sq. m of onsite employment units shown in pre-submission drawings. To go towards the development of new employment space on land owned by Torbay Council, known as Claylands Business Park. The monies will contribute towards the remediation of land and provision of new infrastructure

**Conservation Officer /Archaeology (Hal Bishop)**

Has no problem with the submitted archaeological assessment. Possible archaeological features should be assessed through excavation trenches prior to commencement. General advice is that this should be carried out pre-determination, but HB does not object if evaluation were set as a condition, so long as it precedes determination of other reserved matters.

No objection subject to pre-commencement condition - historic evaluation of trenches to be undertaken.

**County Archaeologist** No objection subject to assessment of archaeological features through excavation trenches. Advise that any consent your Authority may be minded to issue should carry the condition as worded below, based on model Condition 55 as set out in Appendix A of Circular 11/95, whereby:

*'No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority.'*

*The development shall be carried out at all times in strict accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the Planning Authority.*

Reason

*'To ensure that an appropriate record is made of archaeological evidence that may be affected by the development.'*

An appropriate scheme of work would be a staged programme of investigation, commencing with archaeological evaluation of the development area. The resulting information should be used to inform options for preservation in-situ of identified archaeological assets through

site layout and/or engineering solutions and more detailed archaeological mitigation of assets that cannot be preserved in-situ.

**Environmental Health.** Concerns regarding noise of the road on the eastern fringe of the development. Recommends that houses affected be provided with alternative means of rapid ventilation. Given the layout may well only affect four or five houses?

No further comments to add in respect to the proposed changes.

16.03.2018

**Head of Parks and Open Spaces:** Objects: Would prefer public open space to be transferred to the Council.

9 December 2019: The model presented by GreenSquare does need further consideration, however there is still some concern, especially around community support, which seems lip service over any detail and a reluctance to develop the spaces further beyond standard management.

**Historic England** – No comment (March 2018). Suggest seeking the views of specialist conservation and archaeological advisors.

### **Appendix 3: The Development Plan**

- A3.1 The following Policies are considered to be the most relevant to Inglewood (Note that some of the policies are summarised or edited). However, the plans should be read as a whole and other policies are referred to in the main report.

#### **Adopted Torbay Local Plan 2012-30 (ATLP)**

##### Spatial strategy and Policies for strategic direction

- A3.2 **SS1 Growth Strategy for a prosperous Torbay.** This Policy sets a strategic context for Torbay:
- A3.3 The Local Plan promotes a step change in Torbay's economic performance...this will be achieved within the Bay's built and natural environmental capacity, ensuring the environment continues to be a driver of economic success and that there is investment in the Bay's environmental assets.
- A3.4 Development should reinforce Torbay's role as a main urban centre and premier resort. All development should contribute to safeguarding the area's natural and built environment. The Plan also seeks to identify land for the delivery of an overall average of around 495 homes per annum, equating to about 8,900 new homes over the Plan period of 2012-2030. It relies on ... developable sites identified in Neighbourhood Plans for the delivery of housing post 2017. The policy states that if Neighbourhood Plans do not identify sufficient sites to provide the housing requirements of the Local Plan, the Council will bring forward sites through site allocations development plan documents. If it appears that a shortfall in 5 year supply of deliverable sites is likely to arise, the Council will bring forward additional sites as indicated in Policy SS12.
- A3.5 Strategic Delivery Areas (SDAs), are shown of the key Diagram as "the foci for delivery of growth and change in the Bay over the Plan period. They provide strategic and sustainable locations for new employment space, homes and infrastructure. Future Growth Areas" Development in these areas will be set out in detail via Masterplanning and/or neighbourhood plans. They will deliver a balance of jobs, homes and infrastructure, including green infrastructure. **Inglewood is shown as part of SDP3.5 Paignton North and Western Area strategic delivery area. However it is recognised that the Key Diagram (P45) is indicative and Inglewood is not shown as part of the (more precisely defined) Future Growth Area.**
- A3.6 Major development proposals, outside the built-up area and Future Growth Areas (which applies to Inglewood), will need to be the subject of environmental assessment. This will need to take account of the impacts of the proposed development itself and the cumulative impact of development.
- A3.7 The Policy states that communities will have a greater influence in determining how development in their area will look and feel, specifically through the new framework of neighbourhood plans.
- A3.8 **SS2 Future Growth Areas.** Future Growth Areas are broad locations for deliver the Local Plan's growth strategy. Inglewood is located to the south and outside of SDP 3.5 White Rock. All major development outside of the established built-up area should be within the identified Future Growth Areas. Major development outside of

these areas will only be permitted where the site has been identified by the relevant Neighbourhood Plan or a subsequent development plan document, and has first been subject to Habitat Regulations Assessment that has concluded there will be no likely significant effect on the South Hams SAC. Such development proposals will need to take account of both the impacts of the proposed development itself and the cumulative impact of development.

- A3.9 **Policy SS3 Presumption in favour of Sustainable Development** mirrors the Presumption in NPPF 14. Paragraph 4.1.42 of the Explanation echoes NPPF footnote 9 and states that some matters such as HRA and AONB may outweigh the Presumption.
- A3.10 **Policy SS4. The economy and employment.** This Policy and **SS5 Employment Space** require that mixed use development, especially in the first 5 years of the Plan, must include early provision of serviced employment space. However it does not
- A3.11 **Policy SS8 Natural environment.** Requires all development to have regard to its environmental setting and should positively contribute to the conservation and enhancement of the natural assets and setting of the Bay. The Policy sets out protection of both landscape and ecology. It states that development proposals outside of the AONB will be supported where they conserve or enhance the distinctive landscape character and biodiversity of Torbay or where the impact of development is commensurate with the landscape and ecological importance. However, it will be particularly important to ensure that development outside the AONB does not have an unacceptable impact on the special landscape qualities of an adjoining or nearby AONB or other valued landscapes. **This applies to Inglewood which is outside the AONB but may have an impact on it.**
- A3.12 In assessing new development outside AONB, the value of natural landscapes will be carefully considered, using the Torbay Landscape Character Assessment and other relevant management plans, to help ensure the objectives for their conservation are met. Long term management and enhancement of landscapes, dark corridors and natural environment mitigation are sought.
- A3.12 **SS9 Green Infrastructure.** This policy seeks to integrate new development with strategic green infrastructure. SS9.3 states that a new Countryside Access and Enhancement Scheme will be delivered at White Rock, Paignton. This is shown on the Policies Map as covering most of the Inglewood site.
- A3.13 **Policy SS12 Housing** This policy reiterates SS1, requirement for 8,900 new homes over the Plan period or beyond, so long as these can be provided without harm to the economy or environment, including sites protected under European legislation. Housing provision will focus upon a sustainable pattern of distribution throughout the Bay, with an emphasis upon the regeneration of brownfield sites and town centre sites,
- A3.14 Major new housing schemes will be brought forward via partnership between landowners, developers, the community and Council, utilising Neighbourhood Plans, in accordance with the broad numbers set out in Table 3, and area specific ("SD") policies. It states an overall requirement for the Brixham Peninsula of 790 dwellings. Inglewood falls within "Elsewhere within SDB1" with an indicative housing requirement of 230 dwellings.

- A3.15 Development within the Brixham Peninsula (Policy SDB1) should have regard to Policy NC1 concerning the need for developer contributions to mitigate the impact of increased recreational pressure on the South Hams SAC.
- A3.16 The overall provision of homes will be carefully monitored to ensure that it is provided in a sustainable manner, and maintains a rolling five year supply of deliverable sites in accordance with Policy SS13. Where there is evidence that there is a need to bring forward additional housing beyond the figure above, appropriate locations will be identified through cross-boundary review of strategic housing land availability.

**A3.17 Policy SS13 Five year housing land supply.** This policy states that the Council will maintain a rolling 5 year supply of specific deliverable sites sufficient to meet a housing trajectory of 8,900 dwellings over the Plan period 2012-30, including an allowance for windfall sites. The trajectory is:

- 400 dwellings per year for the period 2012/13 - 2016/17
- 495 dwellings per year for the period 2017/18 - 2021/22
- 555 dwellings per year for the period 2022/23 - 2029-30

A3.18 New housing will be monitored to ensure that it is matched by the provision of infrastructure, particularly that which would support job creation. The 5 year supply of housing land will be updated annually as part of the Council's Housing Land Monitor.

A3.19 Housing completions and permissions will be monitored on an annual basis to ensure that a rolling supply of deliverable sites sufficient to meet the five year requirement, and meet any shortfall within five years, is maintained. Where the supply of specific deliverable sites (plus windfall allowance) falls below this figure, or Neighbourhood Plans do not identify sufficient sites to meet Local Plan requirements in years 6-10 of the housing trajectory, the Council will either:

1. Bring forward additional housing land from later stages of the Plan, working closely with land owners, developers and Neighbourhood Forums; or
2. Identify additional sites through new site allocation development plan documents; or
- 3 Consider favourably applications for new housing, consistent with Policy SS2, H1 and other Policies of this Plan.

A3.20 New housing leading to the 5 year supply figure being exceeded will be permitted where it brings regeneration or other benefits, would not cause infrastructure shortfalls and would be consistent with other local plan policies.

A3.21 The Local Plan will be reviewed on a five year basis from adoption and an early review of the Local Plan's housing trajectory will be triggered where there is evidence of a potential imbalance between jobs and homes (although it is hard to see how this could be implemented outside of a Local Plan review).

#### Strategic Development Policies

A3.21 Inglewood falls in the Brixham Peninsula area and therefore the Brixham Policies (SDB) are the ones which apply.

**A3.22 Policy SDB1 Brixham Peninsula.** Brixham will accommodate appropriate but limited new growth to meet local housing and employment needs and support Brixham's regeneration and prosperity. The historic character, outstanding natural

setting, and internationally important biodiversity value of the town and its setting will be safeguarded and enhanced.

A3.23 Brixham is expected to provide sufficient land to enable delivery of at least 2,700 square metres of employment floorspace and 660 new homes over the Plan period. Such development will only be acceptable if it can be accommodated without prejudicing the integrity of the Area of Outstanding Natural Beauty and Special Areas of Conservation, and provided that the interests of priority species, such as the Greater Horseshoe Bat and Cirl Buntings, can be safeguarded. The Policy also sets out mitigation and HRA requirements.

A3.24 The expected delivery, pace and sequence of delivery are set out in Tables 17 and 18 which seek around 230 dwellings in the “Elsewhere within SDB1” area.

**A3.25 Policy SDB3 Brixham Urban Fringe and Area of Outstanding Natural Beauty**

The Area of Outstanding Natural Beauty around Brixham will be conserved and enhanced to protect its intrinsic landscape and biodiversity value, and for recreational and tourism purposes. The Policy goes on to detail requirements to have regard to guidance in the AONB and South Hams SAC. Inglewood falls outside of this area (as indicated schematically on the Key Diagram), but the policy is relevant insofar as there are potential effects on the AONB, or greater horseshoe bats flightpaths or foraging areas.

Policies for managing change and development in Torbay.

**A3.26 Policy C1 Countryside and the rural economy.** In the open countryside, away from existing settlements, and in rural areas surrounding the three towns of Torbay, development will be resisted where this would lead to the loss of open countryside or creation of urban sprawl, or where it would encourage the merging of urban areas and surrounding settlements to the detriment of their special rural character and setting.

A3.27 Major new development should focus on Future Growth Areas in the Strategic Delivery Areas set out in the Key Diagram, consistent with the ambition and policies of the Local Plan. The policy goes on to list limited forms of development that are acceptable in village envelopes and outside settlement boundaries.

A3.28 Where new development proposals come forward, the Council will also have regard to the need to protect, conserve or enhance the distinctive landscape characteristics and visual quality of a particular location, as identified in the Torbay Landscape Character Assessment, the suitability of development and the capacity of the countryside to accommodate change. Development in the countryside should not have adverse effect on the integrity of the South Hams SAC or other important habitats. It should also have regard to Policy NC1 to assess the in-combination effects of multiple developments that could affect Greater Horseshoe Bats and the integrity of the South Hams SAC, and the scope for developer contributions to mitigate the impact of increased recreational pressure on the South Hams SAC.

**A3.29** Inglewood is shown within the Countryside Area in the Local Plan. The Key diagram indicates it as being within the SDP3.5 Strategic Delivery Area but not within a Future Growth Area.

**A3.30 Policy C4 Trees, hedgerows and natural landscape features** Development will not be permitted when it would seriously harm, either directly or indirectly, protected or

veteran trees, hedgerows, ancient woodlands or other natural features of significant landscape, historic or nature conservation value. 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. Proposals for new trees and woodlands will be supported in principle and will be a specific requirement of proposals in Strategic Delivery Areas and related Future Growth Areas.

- A3.31 Policy NC1 Biodiversity and geodiversity** The Local Plan seeks to conserve and enhance Torbay's biodiversity and geodiversity, through the protection and improvement of the terrestrial and marine environments and fauna and flora, commensurate to their importance. The promotion, improvement and appropriate management of Torbay's special environmental and geological qualities, and corridors between them, will be supported and will be a key element in promoting sustainable tourism and fostering pride in the area's unique environment.
- A3.32 Development should not result in the loss or deterioration of irreplaceable habitats or wildlife corridors. Where development in sensitive locations cannot be located elsewhere, the biodiversity and geodiversity of areas will be conserved and enhanced through planning conditions or obligations. Development proposals should minimise fragmentation, and maximise opportunities for the restoration and enhancement of natural habitats, including trees and ancient woodlands. The integrity of wildlife corridors and important features shown in the Torbay Green Infrastructure Delivery Plan (2011) should be conserved and enhanced.
- A3.33 All developments should positively incorporate and promote biodiversity features, proportionate to their scale. The Policy seeks a net gain in biodiversity.
- A3.34 **Internationally important sites and species** will be protected. Avoidance of likely significant effects should be the first option. Development likely to affect an international site will be subject to assessment under the Habitat Regulations and will not be permitted unless adverse effects can be fully mitigated.
- A3.35 In addition, development likely to have a significant effect on the integrity of the South Hams SAC will be required to provide biodiversity conservation measures that contribute to the overall enhancement of Greater Horseshoe Bat habitats.
- A3.36 Development around the edge of the built-up area that is within the Berry Head SAC Sustenance Zone or likely to affect strategic flyways of Greater Horseshoe Bats will as appropriate be required to protect existing hedgerows (including remnant hedges and veteran trees) that surveys show are being used as bat flyways. Such development will also enhance the existing flyways by providing features (such as linear corridors of hedgerows) to maintain and improve the ecological coherence of the landscape, necessary to maintain the Torbay population of Greater Horseshoe Bats in 'favourable conservation status'. This will include maintaining lighting levels at 0.5 lux.
- A3.37 Developer contributions will be sought from development within the Brixham Peninsula (Policy SDB1) towards measures needed to manage increased recreational pressure on the South Hams SAC resulting from increased housing numbers or visitor pressure. (Note that this has been put on the CIL Reg123 List)
- A3.38 The Policy goes on to specify protection for nationally and locally important sites and species (including cirl buntings).

**A3.39 Policy H1 Applications for new homes.** Proposals for new homes within Strategic Delivery Areas, and elsewhere within the built-up area, will be supported subject to consistency with other Policies in this Plan. Proposals for new homes on unallocated sites, including the renewal of existing permissions, will be assessed on the following criteria, proportionate to the scale of the proposal:

1. The need to provide a range of homes, including family homes, affordable homes, and opportunities for self-build homes, to meet the full objectively assessed needs as far as is consistent with other policies in the NPPF, Local Plan and neighbourhood plans;
2. The maintenance of a rolling 5 year supply of deliverable sites;
3. The opportunity to create mixed, balanced and prosperous communities, including employment provision, with good access to social and environmental infrastructure;
4. The creation of high quality living environments, including the protection of the amenity, recreation opportunities and access to facilities of all residents;
5. The capacity of physical, social and environmental infrastructure, including highways and sewerage, to accommodate development;
6. The objective to maximise the re-use of urban brownfield land and promote urban regeneration, whilst creating prosperous and liveable urban areas;
7. The landscape and biodiversity impacts of the proposal and the objective to achieve a net gain in biodiversity;
8. The objective to reduce the need to travel by car, whilst making appropriate arrangements for vehicle ownership; and
9. Consistency with other Policies in the Local Plan and neighbourhood plans.

**A3.40 Policy H2 Affordable housing.** Seeks affordable housing on a sliding scale, up to 30% of dwellings.

**A3.41 Policy DE1 Design.** Development should be well-designed, respecting and enhancing Torbay's special qualities. These include ... the character of the natural and built environment, including areas and buildings of historic interest and settlement patterns. Schemes should design out opportunities for crime and disorder.

**A3.42** Major development should be informed by a townscape and/or landscape assessment, including historical context of the site, existing and previous land uses (including agricultural land quality where appropriate) as well as movement patterns through and/or around the site. Development proposals will be assessed against a range of more detailed design considerations set out in a table, including visual impact, biodiversity and landscape character. Local and longer distance views, impacts on the skyline having regard to the location and prominence of the site, should be protected especially from public vantage points (criteria 17).

**A3.43 Policy SC3 Education, skills and local labour.** The Local Plan will support the improvement of existing and provision of new educational facilities to meet identified needs in Torbay. This includes both the expansion of schools to meet identified short to medium-term needs, and construction of new schools to address longer-term requirements associated with the delivery of new homes. The Policy goes on to

promote links between education and employment and to promote local labour agreements.

- A3.44 Policy SC5 Child poverty.** New development will be assessed for its contribution towards reducing child poverty, proportionate to the scale and nature of the proposal. A range of matters will be taken into account including provision of affordable housing and improving education provision. The policy also promotes improvements to the existing housing stock.
- A3.45 Policy M3 Preserving and safeguarding of limestone resources and key local building stone.** Inglewood is shown as a Mineral safeguarding Area where proposals should demonstrate that they will not cause unnecessary sterilisation or prejudice the future extraction of important minerals/ building stone.
- A3.46 In addition, the following polices are of relevance to the application, but likely to be less pivotal to key issues relating to Inglewood: Policy SS6 Strategic transport improvements, Policy SS7 Infrastructure, phasing and delivery of development, Policy SS11 Sustainable communities, Policy SS14 Low carbon development and adaptation to climate change, Policy TA1 Transport and accessibility, Policy TO1 Tourism, events and culture, Policy TC3 Retail development, Policy TA2 Development access, Policy TA3 Parking requirements, Policy DE2 Building for Life, Policy DE3 Development amenity, Policy DE4 Building heights, Policy SC1 Healthy Bay, Policy SC2 Sport, leisure and recreation, Policy SC4 Sustainable food production, Policy ES1 Energy, Policy ES2 Renewable and low-carbon infrastructure, Policy ER1 Flood risk, Policy ER2 Water management, Policy W1 Waste hierarchy, Policy W2 Waste audit for major and significant waste generating developments, Policy M2 Maximising the use of secondary and recycled aggregates, Policy W5 Waste water disposal Policy, M3 Preserving and safeguarding of limestone resources and key local building stone.

### **Brixham Peninsula Neighbourhood Plan**

A3.47 The Brixham Peninsula Neighbourhood Plan was supported at Referendum on 2<sup>nd</sup> May 2019 and subsequently Made (adopted) by unanimous vote of Full Council on 19<sup>th</sup> June 2019. Several polices in the BPNP are directly relevant to Inglewood:

- A3.48 BH13 Delivery of new homes.** This includes the BPNP's site allocations and does not include Inglewood. The Plan provides for 695 dwellings comprised of 306 dwellings on sites with planning permission, 224 windfall dwellings and 155 dwellings on site allocations. The Torbay Local Plan requires the BPNP to provide 660 dwellings.
- A3.49 BH4 Brownfield and greenfield sites.** This policy prioritises brownfield sites within development boundaries. BH4.3 states that "Development that extends settlements to an adjoining greenfield site is not supported. The only exception to this is where the development is fully compliant with Policy BH9 in relation to Exception Sites".
- A3.50 BH9 Exception sites.** This policy allows exception sites in exceptional circumstances, subject to other policies in the Plan and Habitats Regulations. Exceptions are allowed subject to a number of restrictions including: (a-b.) they should meet local needs in perpetuity, (c) adjacent to a settlement boundary or otherwise well related to existing residential development, (d) not located in a

settlement gap, (e) is appropriate in terms of scale, form and character and is of low environmental and visual impact, (f) not more than 20 dwellings or buildings of more than 200 sq. m.

- A3.51 **E1 Landscape beauty and protected areas.** This policy requires new development to respect and where possible enhance the natural qualities of the Peninsula's natural beauty, landscape character, tranquillity and natural beauty. Designated landscapes and areas of ecological importance, including SACs, NNRs, Undeveloped Coast and the Countryside Area (Local Plan Policy C1) "will all be protected". Criterion E1.3 requires development In or affecting the AONB to demonstrate that" great weight" has been given to conserving landscape and scenic beauty and must as a minimum complies with all policies, objectives and guidance from the South Devon AONB (Partnership) and National Trust (c.f. NPPF 115) . Criterion E1.4 gives priority to protecting and enhancing the countryside from inappropriate development, and E1.5 indicates that unsympathetic development that will harm the wider landscape or lead to light pollution will not be supported.
- A3.52 **E2 Settlement Boundaries.** This policy sets out settlement boundaries for Brixham, Galmpton, Churston and Broadsands. The Inglewood site is not located within a settlement boundary. Criterion E2.3 states that outside settlement boundaries areas will be treated as open countryside (in addition to other protection they are afforded) and only the following development will be supported: agricultural, horticultural or similar rural development, replacement dwellings, small scale rural diversification or other rural businesses , conversion of existing buildings, exceptions sites (under Policy BH2) or appropriate recreation.
- A3.53 **E3 Settlement gaps.** This policy set out settlement gaps which are shown on the Policies Map and Appendix 3 of the Plan. Within these gaps no development that visually or actually closes the gaps between urban areas will be permitted. In particular development should not reduce the perceived level of separation between areas or reduce connectivity to the wider countryside; harm the openness or landscape character of the area including through visual impact; or lead to the loss of environmental or historic assets.
- A3.54 Whilst the settlement gap areas are shown indicatively, and the polygons are different on the Polices Map and Appendix 3 (p103) of the Plan; a significant part of the Inglewood application is within Settlement Gap 1.
- A3.55 **E6 Views and Vistas. Views and vistas**, particularly to and from the sea and River Dart, including horizons and skylines must be protected. New development should preserve public views of the townscape, seascape, landscape and skyline.
- A3.57 **E7 Protecting semi-natural and other landscape features.** Development should retain, integrate or enhance local semi natural features such as Devon Banks, dry stone walls, orchards etc.
- A3.58 **E8 Internationally and nationally important ecological sites and species.** Development will not be permitted where it wold adversely affect the ecologies of designated areas including the South Hams SAC and recommended dart Valley Marine Conservation Zone. Paragraph 5.40 of the explanation refers to the need to protect flyways for Greater Horseshoe Bats.
- A3.59 The above are the most relevant Neighbourhood Plan policies. However, the following may also be applicable: J2 Provision of information and communication

technology, J3 Local employment –training and skills, J4 Local employment – increased employment and local amenity, BH1 Affordable Housing, Bh2 allocation of new affordable homes, BH5 Good design and the town and village design statements, BH8 Access to new dwellings, T1 Linking new development to transport improvements, L2 matching educational provision to local need, SL2 Sport and recreational facilities in new developments,

### **Supplementary planning documents**

#### **Planning Contributions and Affordable Housing SPD (Adopted 2017).**

- A3.59 This provides advice on the scope of S106 Planning Obligations including the priority given to planning obligations. Mitigation of landscape, biodiversity, traffic etc. impacts are considered to be “site deliverability” matters.

#### **South Devon AONB Management Plan 2014-19**

- A3.60 This document is the Statutory Management Plan for the South Devon Area of Outstanding Natural Beauty. All AONBs are required to prepare such plans, which provide advice on meeting the legal requirement to conserve and enhance the special qualities of the area.
- A3.61 Policies from the South Devon AONB Management Plan 2014-19 that are particularly relevant to this proposal include:

- **Plan/P2 Development management decisions will give great weight to the purpose of conserving and enhancing the natural beauty of the south Devon AONB; and support development that is appropriate and proportionate to its setting within or adjacent to the South Devon AONB**
- **Lan/P1 Character** *The special qualities, distinctive character and key features of the South Devon AONB landscape will be conserved and enhanced.*
- **Lan/P5 Skylines and visual intrusion** *The character of skylines and open views...out of the AONB will be protected. Priorities include...external lighting that creates light time scenic intrusion, and visually dominating buildings that are inconsistent with landscape character.*
- **Lan/P7 Setting to the AONB** *The deeply rural character of much of the land adjoining the AONB boundary forms an essential setting for the AONB and care will be taken to maintain its quality and character.*
- **South Devon AONB Special Qualities.** The AONB special qualities most pertinent to this application are considered to be: Iconic wide unspoilt expansive panoramic views; Areas of high tranquillity, natural nightscapes, distinctive natural soundscapes and visible movement.

#### **South Devon AONB Planning Guidance (2017)**

- A3.62 This is an annex of the AONB Management Plan which provides detailed guidance on how development can conserve and enhance the natural beauty of the South Devon AONB.
- A3.63 Section 8 provides guidance for development. Section 8.10 relates to development in the setting of the AONB. It states criteria for developments that have potential harm to the AONB including:

- Development that, by virtue of their nature, size, scale, siting, materials, or design have a negative impact on the special qualities of the AONB, for example tall, large or otherwise conspicuous developments that are discernible at considerable distances in all or particular weather conditions”
- Developments that block or interfere with views out of the AONB or affect land within those views out of the AONB, particularly from public viewpoints”
- Developments that result in the deterioration or loss of tranquillity through the introduction of lighting, noise, or additional traffic movement which is visible or audible from land or water in the AONB, or affects flora or fauna in the AONB.

A3.64 It also lists characteristics of development in the setting of AONBs which conserve or enhance the setting. These

- Avoid prominent locations for development that would have significant impacts on important views out from or into the AONB”
- Thoroughly assess the positive and negative landscape and visual impacts of development on the special qualities of the AONB;
- Assess cumulative impacts on the experience of the AONB as a whole and not just in terms of impacts on individual and sequential views along linear routes;
- Take care over the design, orientation, site layout, height, bulk and scale of structures and buildings;
- Consider not just the site but also the landscape and land uses around and beyond it;
- Other criteria are set out relating to design, massing and siting of structures.

### **GHB SAC guidance and draft**

A3.65 The Guidance updates and replaces the ‘South Hams SAC Greater Horseshoe Bat Consultation Zone Planning Guidance’ published by Natural England in 2010. Whilst the 2019 guidance was taken into account in preparing the Habitats Regulations Assessment of the Inglewood proposal, the earlier stages of the work particularly were carried out under the previous (2010) guidance.

A3.66 The Guidance provides advice on which applications may have a likely significant effect on the SAC greater horseshoe bat population. It also provides advice on the information required in order for the LPA to undertake an HRA.

A3.67 Inglewood, and indeed most of the southern half of Torbay is shown as being in the sustenance zone of Berry head designated roost for Greater Horseshoe bats.