

## neighbourhood plans

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**From:** Adam Billings [REDACTED]  
**Sent:** 17 December 2017 21:29  
**To:** neighbourhood plans  
**Cc:** Planning  
**Subject:** Billings family - Regulation 16 submission  
**Attachments:** Billings Appendices.pdf; Billings Regulation 16 representation.pdf

On behalf of the Billings family please see attached:

- letter; and
- appendices

Many thanks,



By email to:

[neighbourhood.plans@torbay.gov.uk](mailto:neighbourhood.plans@torbay.gov.uk)

Neighbourhood Plans

Torbay Council

Friday, 15 December 2017

Dear Independent Assessor,

**Brixham Peninsular Neighbourhood Plan**

1. We are two local residents on the electoral roll and also owners of land at Waterside Road who wish to provide a response to the Regulation 16 publication of the Brixham Peninsular Neighbourhood Plan.
2. Our land is part of what is known variously as Waterside Quarry and it is allocated for development in the Neighbourhood Plan as site H3-I10 (see *Policy Document at Policy BH3: Delivery of new homes* on page 25).
3. The purpose of this response is to:
  - support generally the Neighbourhood Plan;
  - support specifically, should it prove necessary, the allocation of land at Waterside Quarry (site H3-I10) and provide technical evidence to justify this allocation; and
  - request the opportunity to participate in any hearings held into the Neighbourhood Plan.
4. For clarification we would also like to highlight that we do not own all of the land allocated; that part we do not own is owned by Coyde Construction Ltd.

**Reasons why the plan is appropriate**

5. As we understand it, the question you as the Independent Assessor will consider is whether the Neighbourhood Plan complies with the Basic Conditions. Having considered the *Basic Conditions Statement* and the other main and supporting documents to the Neighbourhood Plan we consider it clear that the Neighbourhood Plan does indeed meet the basic conditions.

6. Accordingly, we would like to support generally the submitted Neighbourhood Plan at the Assessment stage and thank all those involved in its production.
7. We also consider it appropriate to note, having considered the *Consultation Statement (second version)* that the submitted Neighbourhood Plan has the overwhelming support of those as a whole who are entitled to vote at Referendum stage and we look forward to the plan successfully moving onto this stage following your completion of your Assessment.

### **Reasons why Waterside Quarry as an allocated site is appropriate**

8. As we also understand it, you as the Independent Assessor will not consider the question of soundness of the Neighbourhood Plan. Accordingly, we understand that a review of the merits of decisions taken in the Neighbourhood Plan which require the taking of planning judgements are outside the scope of the Assessment.
9. We hence note in advance that much of it what we set out below will rightly not be relevant to the Assessment. However, noting there is some limited overlap with the fulfilment of the Basic Conditions (i.e., as regards Habitats information) and that other parties may seek to raise such matters, we present the information below to assist the Assessor.
10. As the owners of part of the allocated site H3-I10, we support specifically this allocation of land in the Neighbourhood Plan. We can confirm our land is available for development now and achievable in that development is viable and our land will be brought forward for development within a short time horizon. For this purpose Appendix 1 is a plan showing the extent of our ownership. As per para 4 above, Coyde Construction Ltd can speak for their own land.
11. Following the methodology adopted in the *Housing Site Assessment* the remaining question is therefore whether the site is suitable. We believe the site is suitable and accordingly agree with:
  - the submitted Neighbourhood Plan;
  - Aecom who undertook an HRA, SEA and independent Housing Site Assessment. The H3-I10 site was selected for inclusion by Aecom who determined the site was suitable and recommended its inclusion in the Neighbourhood Plan.
  - Jeremy Caulton of the Princes Foundation and Lee Bray the Former Senior Planning Officer at South Hams District Council who originally recommended the site's inclusion in an early draft of the Neighbourhood Plan as published by the Town Council on 14 May 2014 (and is still available on their website);
12. We submit that when assessed against objective technical criteria the site scores highly in terms of suitability and we set out evidence for our conclusion as follows:

### ***Planning Precedent***

13. Waterside Quarry forms part of a larger block of land bounded by Dartmouth Road to the west and Waterside Road to the east.
14. To the south, this larger block of land includes the grounds of a property known as *The Stoep*. In 2008, planning application P/2008/1350 sought consent for the construction of 3 new houses within the grounds.
15. Residents at 7 separate properties on Waterside Road supported the proposals as did residents at a further 4 properties on Blue Waters Drive. The then ward councillor Cllr Anna Tolchard also wrote to the planning committee on 9 December 2008 (via the Chairman of the Development Management Committee Cllr David Thomas) stating that:

*The proposals seem to point to a development which will enhance this particular location and I am happy to support this application*

16. The application was subsequently consented and since then 2 of the 3 houses have been built. These houses are now referred to as number 1 and number 3 Waterside View. The house yet to be constructed and which is currently a vacant site is number 2 Waterside View. In 2014, planning application P/2014/1000 sought consent to enlarge the size of the house which was permitted at number 2 Waterside View. The application was consented.
17. To the north, this larger block of land contains what was formerly Torbay Council owned land in the form of Waterside Quarry. In 2014, Torbay Council sought outline planning consent in planning application P/2014/0045 for the construction of 3 new houses to the north east of Waterside Quarry – presumably because this was the most difficult area of the Waterside Quarry site to develop in terms of environmental constraints (see paragraph 26 below). There were no objections.
18. Echoing the previous comments of the local ward councillor in respect of the earlier development to the south, the Officer Report to the planning committee for this application stated that the application offered the:

*opportunity to provide biodiversity and landscape enhancements through additional landscaping which would improve the appearance of the natural environment in the area” and that “suitably designed and scaled properties ... would result in the dwellings having an acceptable impact on ULPA with the potential for the landscaping mitigating to improve the landscape character of the area.*
19. The application was consented and subsequently the whole of the Torbay Council land was sold at public auction on 18 June 2014.
20. In 2016, planning application P/2016/0822 sought full consent for the construction of 2 of the 3 new houses consented in outline in application P/2014/0045. There were no objections.

21. In 2016, planning application P/2016/0824 sought full consent for the construction of a 4th house to the west of the site in application P/2016/0822. There were no objections. For clarification, this house lies within the site now proposed by the Forum and so 1 of the 10 proposed dwellings has already been the subject of a planning application to which there were no objections.

### ***European Protected Species and the Greater Horseshoe Bat***

22. Our evidence is that there are no negative ecological impacts which flow from the development of the site.
23. It is understood that Torbay Council requested the Neighbourhood Forum request this one site be subject to a full year's survey data to justify its inclusion as an allocated site the Neighbourhood Plan. The results of these surveys are set out in: (a.) the *Addendum Ecological Survey Report* by Greena Ecological Consultancy which is included as Appendix D to the *Habitat Regulations Assessment Screening* by Aecom; and (b.) the letter by Greena Ecological Consultancy which it is understood will be included as an Appendix to the Regulation 16 representation by the Brixham Peninsula Neighbourhood Forum.
24. Neither the full season survey in 2017 nor the one month snap-shot survey in 2015 found any evidence of Greater Horseshoe Bats on the site. This reflects the results of our own survey work in preparation for our future planning applications. On this basis, given the survey evidence which would be required by *Policy E8*, paragraph E8.3, at the Planning Application stage has already been undertaken at the Plan Allocation stage, it is submitted that the allocation of site H3-I10 will not have a likely significant effect on Greater Horseshoe Bats.
25. In contrast, we submit that development has the potential to bring forward significant positive ecological benefits in the form of habitat creation for wildlife including endangered and protected species. This is a significant factor which we submit should weigh heavily in favour of the allocation of the site.
26. To avoid confusion – it is noted that planning documents submitted for the outline planning application P/2014/0045 by Torbay Council (see para 17 above) did find some Greater Horseshoe Bats on part of that site (but not on any part of this site H3-I10). Again to avoid confusion – it is noted that planning documents submitted for the full planning applications P/2016/0822 and P/2016/0824 by Coyde Construction Ltd (see paras 18 and 19 above) shows the bats are still present on their land but their application argues that any effects will not be significant.

### ***Trees and Tree Preservation Orders***

27. Recent planning applications by others have resulted in the loss of a significant number of trees as follows:

- planning application P/2008/1350 (see para 14 above) resulted in the loss of some 79 trees<sup>1</sup>; and
  - planning application P/2014/0045 (see para 17 above) permitted the removal of 13 trees and groups<sup>2</sup>.
28. There are some 5 trees on land within our ownership on site H3-I10 all of which are protected by Tree Preservation Orders. As they are located to one side of the site they are not threatened in any future development.
29. Further, we would like to engage in landscaping enhancements of the site and the planting of trees but are currently prevented from doing so because the site's status as vacant urban land has meant that previous vegetation caused the land to be a location for anti-social behaviour.

### ***Landscape***

30. Our evidence is that there are no negative landscape impacts which flow from the development of the site.
31. In contrast, we submit that development of the site has the potential to bring forward significant landscape benefits in the form of tree planting and other soft landscaping measures which can be brought forward through an enabling development.
32. The benchmark starting position is that the site is of the following technical characteristics:
- urban character - and bordered by recently consented housing sites on two sides and main and secondary roads on the other two sides;
  - brownfield;
  - within the settlement boundary;
  - not in a settlement gap;
  - a low ranking ULPA which has the capacity to be improved; and
  - capable of being developed without effecting public views or vistas

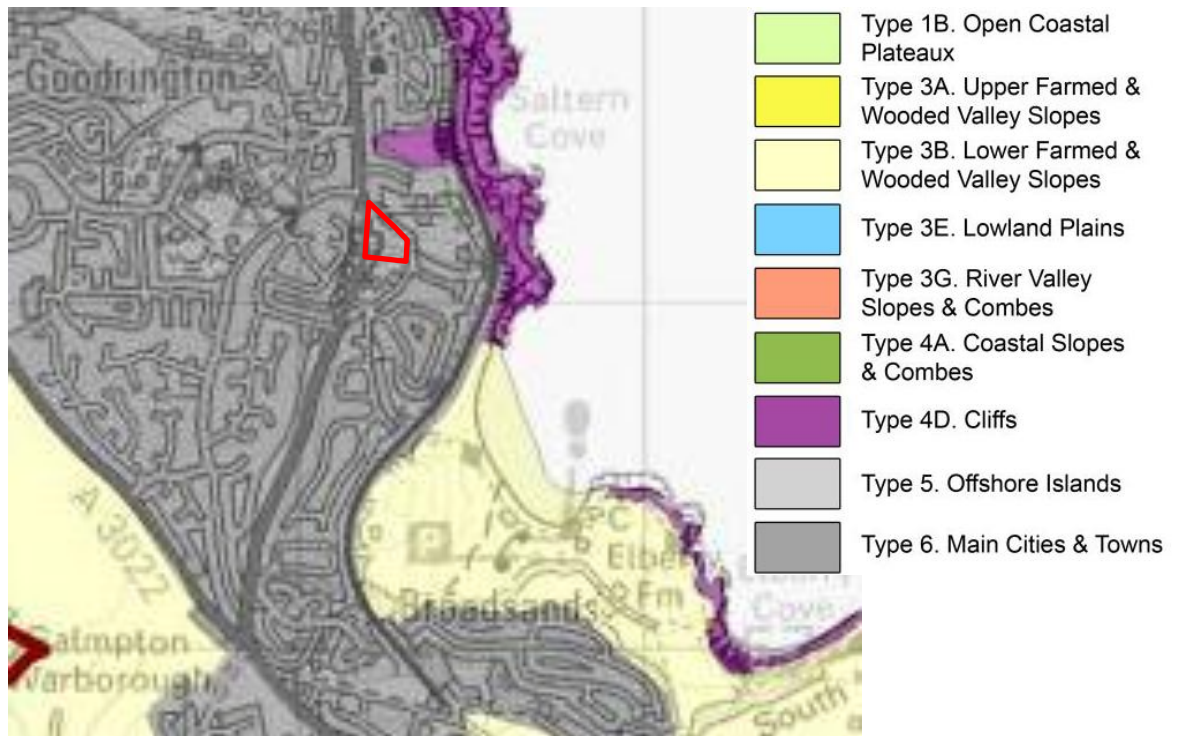
#### *(i.) Landscape – urban in character*

33. The *Torbay Landscape Character Assessment* published by Enderby Associates in May 2010 and which informs the adopted Local Plan identifies site H3-I10 as being *Character Type 9 – Main Cities and Towns*. Presented below is an extract from Figure 13 on Page 27:

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<sup>1</sup>Tree Survey and Tree Constraints Plan, dated 16 January 2008.

<sup>2</sup>Tree Survey and Arboriculture Impact Assessment, dated 16 May 2013.



*Extract from the Torbay Landscape Character Assessment published by Enderby Associates – Figure 13 on Page 27 – with the allocated site H3-I8 outlined in red*

*(ii.) Landscape – brownfield*

34. The *Housing Site Assessment* determines that site H3-I10 is “previously developed land” (i.e., brownfield) (see page 55). This is supported by Aecom who determined in the *Aecom Housing Site Assessment* that site H3-I10 is “brownfield” (see page 250).

35. On this basis it is submitted that the allocation of site H3-I10 is in conformity with the adopted Local Plan at *Policy SS12* which places an:

*... emphasis upon the regeneration of brownfield sites ...*

and also *Policy H1* which makes it an:

*Objective to maximise the re-use of urban brownfield land and promote urban regeneration, whilst creating prosperous and liveable urban areas.*

36. *Policy BH4: Brownfield and Greenfield sites* of the Neighbourhood Plan says at paragraph BH4.1 that:

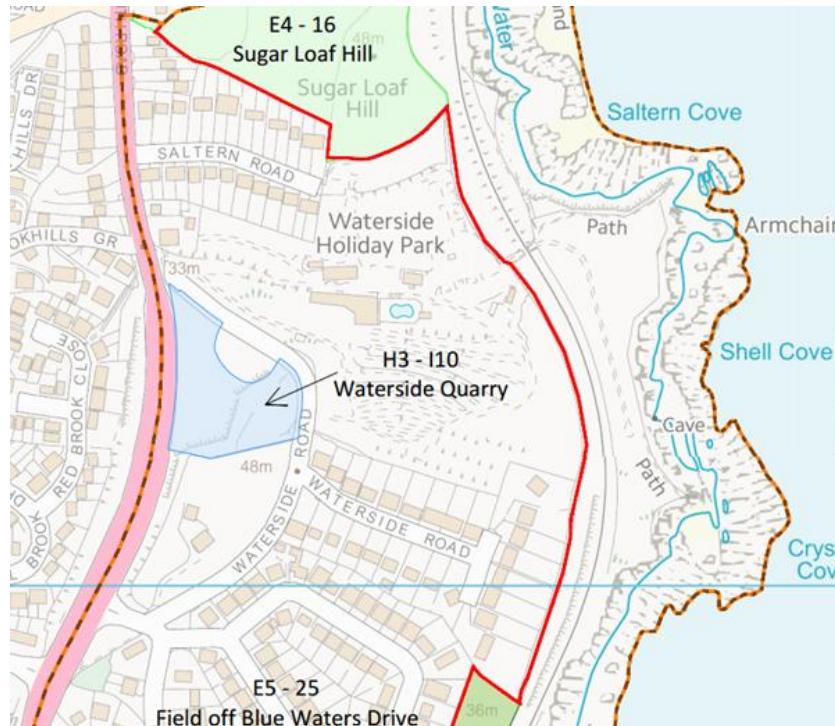
*... development on brownfield (or previously developed) sites in preference to greenfield sites will be encouraged and supported.*

We support this Policy.

37. On this basis it is submitted that the allocation of the site is supported by the adopted Local Plan and Neighbourhood Plan *Policy BH4*. Further it is submitted, the site would need to correctly feature on the next brownfield land register prepared by the Local Authority.

*(iii.) Landscape – within the settlement boundary*

38. Site H3-I10 is within the settlement boundary (*Policy E2*) as shown on the *Policy Maps* of the Neighbourhood Plan.



*Extract from the Policy Maps for the Neighbourhood Plan*

39. We submit these settlement boundaries are correct as they follow both the natural and built land form and we support these boundaries. We submit any other boundary would be artificial and highly contrived.
40. *Policy E2: Settlement boundaries* of the proposed Neighbourhood Plan says at paragraph E2.2 that:

*... proposals for sustainable developments within settlement boundaries will be supported...*

We support this Policy.

41. On this basis it is submitted that the allocation of the site is supported by Neighbourhood Plan *Policy BH4*.



(iv.) Not in a settlement gap

42. Site H3-I10 is outside of the adopted Local Plan *Undeveloped Coast (Policy C2)* or *Countryside Area (Policy C1)*. It follows that Site H3-I10 is not covered by Neighbourhood Plan *Policy E3: Settlement gaps*.
43. Noting the representations in the *Consultation Statement (second version)* about the capacity of the site to serve as a green wedge, it is also considered appropriate to refer to how green wedges are dealt with in the adopted Local Plan. Although the policy does not use the term (and no other policy does either) the concept of green wedges appears to feature within *Policy C1* which states that:

*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 encourage the merging of urban areas and surrounding settlements to the detriment of their special rural character and setting.*
44. Site H3-I10 is not within the allocated *Policy C1* area boundary; it is not in open countryside; and it is in an urban not a rural area (as evidenced by Enderby Associates above); and as it is contained entirely within one settlement it could not by definition result in the merging of two different settlements. It is hence noted that the site cannot conform to the apparent definition of a green wedge as set out by the adopted Local Plan.
45. On this basis it is submitted that the allocation of the site is, to the extent it is considered in any way relevant, supported by Neighbourhood Plan *Policy E3* by keeping development away from settlement gaps.

(v.) *Landscape – a low ranking ULPA which has the capacity to be improved*

46. The adopted Torbay Local Plan identifies the site as *Urban Landscape Protection Area C5.46 Waterside, Goodrington*.
47. However the supporting document *Review of Urban Landscape Protection Areas in Torbay, March 2013* shows that this ULPA includes amongst other things a “*Disused Quarry and Road Cutting, a Holiday Caravan Park Access Road, 4 Detached Dwellings, and Private Gardens*”. This makes it somewhat difficult to assert the intrinsic qualities of the ULPA would be damaged by a modest residential development. And this is before it is acknowledged that, since the date of the publication of that supporting document, a further 3 dwellings have been consented and a planning application for a 4<sup>th</sup> made (see paragraphs 17 to 21 above).
48. The same document, the *Review of Urban Landscape Protection Areas in Torbay, March 2013*, further invalidates any assertion that site H3-I10 has special qualities. The document cites that that the site has only *Moderate intrinsic quality*, and only *Moderate Prominence with Low inter-visibility*. The document states the site’s function as a ULPA is to provide a *Local Landmark / Gateway* and for *Ecological Significance*. These two reasons it is submitted should

be cross referred against paragraph 26 above where it is evidenced the ecological significance relates to parts of the ULPA other than the draft Neighbourhood Plan's allocated site H3-I10.

49. The *Strategic Environmental Assessment* by Aecom also considers the site from the perspective of its importance as an ULPA. Aecom state that:

*The site is within an ULPA but, as with adjacent completed and committed development, a development of this site offers the potential for landscape enhancements.*

50. On this basis it is submitted that the allocation of the site will not harm and could improve the site's capacity to function as an ULPA.

*(vi.) Landscape – capable of being developed without effecting public views or vistas*

51. *Policy DE1 Design* of the adopted Local Plan says that development will be assessed against its ability to:

*Protect important local and longer-distance views and impact on the skyline, especially from public vantage points, having regard to the location and prominence of the site.*

52. *Policy E6: Views and vistas* of the Neighbourhood Plan says that:

*Views and vistas, particularly those to and from the sea or the river Dart, including horizons and skylines, must be protected. New development should preserve public views of the townscape, seascape, landscape and skyline that are valued by residents and visitors alike. Examples of such views are given in the Design Statements. In cases where impacts on such views are possible photomontages will be the principle way in which the absence of unacceptable impact can be demonstrated.*

We support this Policy.

53. Site H8-I10 is:

- at a lower level and less prominent in all public views than the recently consented housing site to the south (see paragraph 14 above) which forms and dominates the skyline in all public view receptor points as demonstrated by the photographs at [Appendix 2](#);
- supported by precedent through the same housing development to the south, as that development is held out in the *Broadsands Village Design Statement* to be an example of an *Appropriate high design standard* which has enhanced the area (see Figure 24 on page 25);
- adjacent to a caravan park which is singled out for criticism in the *Broadsands Design Statement* as negatively impacting the local area and which appears in public

views into the site from a westerly direction (see paragraph 7.0.5), thus limiting any impact caused by a development of site H3-I10;

- capable of being developed without blocking any sea views from public vantage points.

54. On this basis it is submitted that the allocation of the site is supported by Neighbourhood Plan *Policy E6*.

### **Highways and Transport**

55. *Policy TA1 Transport and accessibility* of the adopted Torbay Local Plan says that:

*The Council is seeking to develop a sustainable and high quality transportation system which makes sustainable travel the first choice when travelling... through:*

1. *Promoting development in locations that are easily accessible and safely reached by foot, cycle, public transport, other sustainable transport or car;*
4. *Ensuring that development is designed so that... residents have adequate access to employment, retail and community facilities within safe walking and cycling distance and via close proximity to bus stops, served by frequent bus services.*

56. *Policy T1: Linking of new developments to travel improvements* in the Neighbourhood Plan says at paragraph T1.3:

*All development should seek to minimise commuting distances...*

We support this Policy.

57. Our evidence is that by any objective criteria, site H8-I10 has better transport links than any other allocated site in the Neighbourhood Plan as it is:

- the only site allocated in the Neighbourhood Plan on the Paignton side of the key Windy Corner junction and therefore the only site which avoids causing additional strain at this major bottleneck. This is a junction which the adopted Local Plan states “*requires improvement*” (see paragraph 5.4.1.7);
- the only site adjacent to the main Dartmouth Road and which has additional access via a side road thus affording various access solutions without major road construction and/or alteration; and
- the only site with a level access to a bus stop less than 100 meters away on the main number 12 bus route across the Bay and thus the only site which provides a sustainable transport solution for all including those of lever levels of mobility.

58. On this basis it is submitted that the allocation of the site is supported by Neighbourhood Plan *Policy T1*.

## **Conclusion**

59. Waterside Quarry was first identified by the Neighbourhood Forum and first proposed to the local community at a full public meeting in November 2012 at Churston Ferrers Grammar School. It was referenced as site B1 and there was unanimous support for the inclusion of the site and no objections were made.
60. Waterside Quarry was then proposed at a public Forum meeting on 25 November 2015 where a vote of the 44 Forum members in attendance took place to determine whether the site should be allocated in the draft Neighbourhood Plan for 10 dwellings. There were 3 abstentions – 2 of which were ourselves – and amongst those voting, unanimous support. The site is now allocated in the submitted Neighbourhood Plan.
61. As we have evidenced throughout this response there are, it is submitted, no technical reasons why the site should not be allocated in the Neighbourhood Plan and substantial technical reasons why it should be.
62. We are aware there has been house-to-house canvassing in the local area seeking to elicit objections against the proposal to allocate site H3-I10. However, the reasons behind this appear unclear when so many Planning Applications on the wider Waterside Quarry site have met with little objection, including applications for dwellings that would constitute 1 of the 10 dwellings in this allocation.
63. We sincerely hope that we can bring forward a development that the community can support and would like to work positively with the Forum and the community to achieve this.
64. Thank you in advance for considering this representation.

Yours sincerely,

Mrs E Billings

Mr A Billings

**Encl.**

**Appendix 1**

**Indicative Plan showing the extent of our ownership in blue outline; the indicative position of our right of way in green; the extent of the understood Neighbourhood Forum allocated site in red outline; and adjacent planning consents and planning applications.**



## Appendix 2

Photo showing visual impact - with existing consented development being at a higher level and more visually prominent than the proposed site but contributing positively to the character of the area through good design.

dwelling consented in  
application P/2008/1350

