



Friday, 28 February 2020

PLANNING COMMITTEE

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

Monday, 9 March 2020

commencing at **5.30 pm**

The meeting will be held in the Meadfoot Room, Town Hall,
Castle Circus, Torquay, TQ1 3DR

Members of the Committee

Councillor Pentney (Chairman)

Councillor Brown

Councillor Dart

Councillor Dudley

Councillor Hill

Councillor Barbara Lewis

Councillor Manning

Councillor Jacqueline Thomas

Councillor Barnby

A prosperous and healthy Torbay

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Amanda Coote, Town Hall, Castle Circus, Torquay, TQ1 3DR

Email: governance.support@torbay.gov.uk - www.torbay.gov.uk

PLANNING COMMITTEE AGENDA

1. **Apologies for absence**

To receive apologies for absence, including notifications of any changes to the membership of the Committee.

2. **Minutes**

To confirm as a correct record the Minutes of the meeting of this Committee held on 10 February 2020.

(Pages 4 - 6)

3. **Disclosure of Interests**

(a) To receive declarations of non pecuniary interests in respect of items on this agenda.

For reference: Having declared their non pecuniary interest members may remain in the meeting and speak and, vote on the matter in question. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.

(b) To receive declarations of disclosable pecuniary interests in respect of items on this agenda.

For reference: Where a Member has a disclosable pecuniary interest he/she must leave the meeting during consideration of the item. However, the Member may remain in the meeting to make representations, answer questions or give evidence if the public have a right to do so, but having done so the Member must then immediately leave the meeting, may not vote and must not improperly seek to influence the outcome of the matter. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.

(Please Note: If Members and Officers wish to seek advice on any potential interests they may have, they should contact Governance Support or Legal Services prior to the meeting.)

4. **Urgent Items**

To consider any other items that the Chairman decides are urgent.

5. **Land South Of Yalberton Road, (Yannon's Farm), Paignton (P/2019/0173)**

Reserved matters application pursuant to P/2019/0605, for the construction of 187 dwellings, public open space, landscape planting, ecological mitigation measures, pedestrian, cycle and vehicular links and associated infrastructure. Including the discharge of conditions 1, 2, 4, 7, 8, 9, 10 and 11 (Revised Scheme, Plans Received 18.02.2020).

(Pages 7 - 36)

6. **Brixham United AFC (monopole Site), 16 Wall Park Road, Brixham (P/2019/1005)** (Pages 37 - 44)
Replacement of existing single operator 17.3m telecommunications monopole with 20m lattice tower with 12 apertures, 4 ground based equipment cabinets, feeders, cables, associated equipment and ancillary works within existing compound.
7. **Public speaking**
If you wish to speak on any applications shown on this agenda, please contact Governance Support on 207087 or email governance.support@torbay.gov.uk before 11 am on the day of the meeting.
8. **Site visits**
If Members consider that site visits are required on any of the applications they are requested to let Governance Support know by 5.00 p.m. on Wednesday, 4 March 2020. Site visits will then take place prior to the meeting of the Committee at a time to be notified.



Minutes of the Planning Committee

10 February 2020

-: Present :-

Councillor Pentney (Chairman)

Councillors Barnby, Brown, Dart, Dudley, Hill, Barbara Lewis,
Manning, Jacqueline Thomas

(Also in attendance: Councillors Kennedy, Chris Lewis, Mills,
Stockman and David Thomas)

69. Minutes

The Minutes of the Committee held on 13 January 2020 were confirmed as a correct record and signed by the Chairman.

70. Land To The South Of White Rock Adjacent To Brixham Road Aka Inglewood, Paignton (P/2017/1133)

The Committee considered an outline application for residential led development of up to 373 dwellings (C3) together with the means of vehicular and pedestrian/cycle access together with the principle of a public house (A3/A4 use), primary school with nursery (D1), internal access roads and the provision of public open space (formal and informal) and strategic mitigation. The proposal included amendments to Brixham Road, Long Road junction and Windy Corner junction. Details of access to be determined with all other matters reserved.

Prior to the meeting written representations were available on the Council's Website. At the meeting Brian Payne, Roger Stobbart and Greg Jones QC addressed the Committee against the application and Simon Fitton addressed the Committee in support of the application. In accordance with Standing Order B4.1 Councillors Kennedy and Mills also addressed the Committee.

The Senior Strategic Planning Officer advised the Committee that following notification of the applicants intention to appeal to the Secretary of State against non-determination within statutory timeframe, the Local Planning Authority was required to provide the Secretary of State with an indication of what its decision would have been if it had formally determined the application prior the appeal being lodged. The Committee was advised that the officer recommendation would have been refusal.

Resolved:

That in accordance with the officer recommendation, and had the application been formally considered, the Committee resolved that they would have refused the application for the reasons and informatives set out in the submitted report. The Committee also requested that the Barrister who is representing the Council in the appeal be asked to investigate the objectors' argument that the proposal does not comply with legal requirements under the Habitat Regulations and include this as part of the reasons for refusal if applicable.

71. Breakwater Beach, Brixham (P/2019/0235/PA)

The Committee considered an application for the installation of a 'Time and Tide' bell within shoreline of beach.

Prior to the meeting written representations were available on the Council's Website. At the meeting the Chairman invited the Project Lead for the Brixham Bell to respond to members' questions.

Resolved:

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

72. Harbour Light Restaurant, North Quay, Paignton (P/2019/0961/PA)

The Committee considered an application for formation of external seating areas to front and side with terrace.

Prior to the meeting written representations were available on the Council's Website.

Resolved:

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

73. Harbour Light Restaurant, North Quay, Paignton (P/2019/1043/LB)

The Committee considered an application for signage, including illuminated signage.

Prior to the meeting written representations were available on the Council's Website.

Resolved:

That Listed Building Consent be granted.

74. Paignton Library And Information Centre, Great Western Road, Paignton

The Committee considered an application for the installation of six antennas, four dishes, nine cabinets to roof and additional cabinet at ground level with ancillary works.

Prior to the meeting written representations were available on the Council's Website.

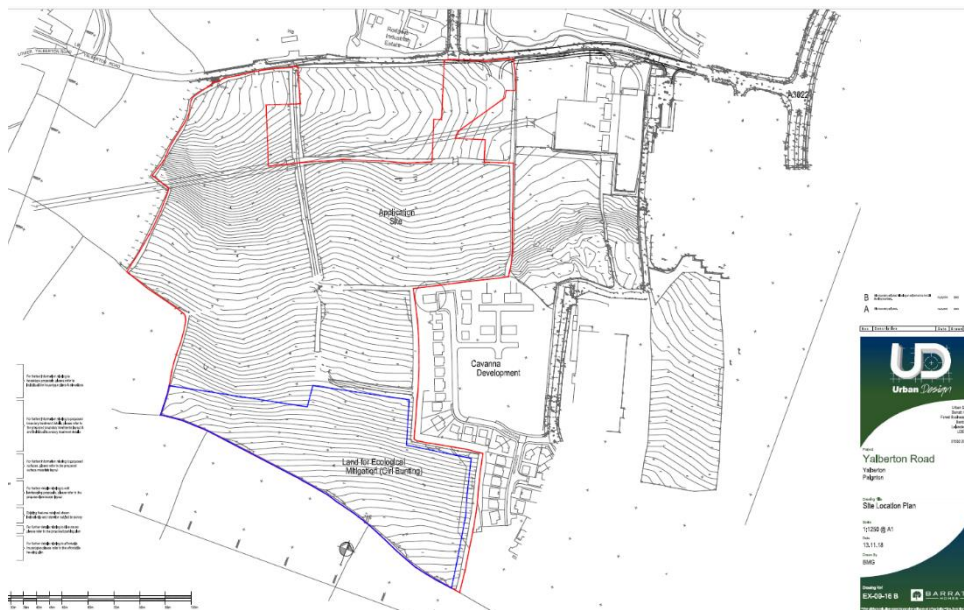
Resolved:

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

Chairman



Application Site Address	Land South Of Yalberton Road, (Yannon's Farm), Paignton
Proposal	Reserved matters application pursuant to P/2019/0605, for the construction of 187 dwellings, public open space, landscape planting, ecological mitigation measures, pedestrian, cycle and vehicular links and associated infrastructure. Including the discharge of conditions 1, 2, 4, 7, 8, 9, 10 and 11 (REVISED SCHEME, PLANS RECEIVED 18.02.2020)
Application Number	P/2019/0173
Applicant	Barratt Homes (Exeter) Ltd
Agent	LRM Planning Ltd
Date Application Valid	12.03.2019
Decision Due date	11.06.2019
Extension of Time Date	
Recommendation	Delegate Authority to the Assistant Director of Planning and Transport to grant conditional approval subject to overcoming the issues raised by Natural England, a Habitat Regulation Assessment/Appropriate Assessment which confirms no likely significant effect on the SAC and the conditions outlined at the end of the report, with the final drafting of conditions delegated to the Assistant Director of Planning and Transport
Reason for Referral to Planning Committee	Major Reserved Matters Application
Planning Case Officer	Mr. Alexis Moran



Update Report

At the Planning Committee meeting of 25.11.2019 Members considered a reserved matters application pursuant to P/2019/0605, for the construction of 189 dwellings, public open space, landscape planting, ecological mitigation measures, pedestrian, cycle and vehicular links and associated infrastructure. Including the discharge of conditions 1, 2, 4, 7, 8, 9, 10 and 11.

Members resolved that the application be deferred for the resolution of the HRA, Natural England's objection, the temporary management plan of soakaways, management and mitigation of protected species, design and density of the development, highways matters and explanation and delivery of employment land.

Consultations

Natural England - *no objection, **subject to appropriate mitigation being secured.** In order to mitigate adverse effects and make the development acceptable, the following mitigation options should be secured:*

Exceptionally and not in accordance with best practice, we understand that the Habitats Regulations Appropriate Assessment will be conditioned as part of your recommendation to the March planning committee. We look forward to your further consultation on the draft Habitats Regulations Appropriate Assessment.

In addition to the mitigation measures already put forward, we welcome proposals to create a 10 metre wide buffer along the western boundary to provide sufficient commuting opportunities for greater horseshoe bats along this key boundary. Subject to the provision of suitable supporting detail (e.g. supporting cross sections based upon our previous advice), we support the updated mitigation principles. The updated mitigation proposal (including supporting cross sections) will need to be based upon sufficient detail and submitted to your Authority to inform your draft Habitats Regulations Appropriate Assessment.

Within the context of ongoing management, it might be easier to retain a green lane type layout – with new hedgebank and hedge running 4/5 metres parallel to existing hedge, and scattered scrub/tree planting within remainder of buffer beyond the new hedge/hedgebank. Potentially, public access could also coincide with this part of the buffer, with information boards to raise public awareness regarding biodiversity sensitivity of this zone.

To retain functionality for greater horseshoe bat activity, the 10 metre wide buffer will need to be protected from detrimental light spillage exceeding 0.5lux. Provision of an updated lighting assessment will need to be submitted to demonstrate that the 10 metre buffer will not be subject to light spillage in excess of 0.5lux.

The Landscape and Ecological Management Plan (LEMP), and Construction and Environmental Management Plan (CEMP) will need to be updated in light of the proposed amendments to the mitigation measures.

We advise that an appropriate planning condition or obligation is attached to any planning permission to secure these measures. In this instance, we expect to advise

on the discharge of planning conditions or obligations attached to any planning permission to address the issues above.

Torbay Council Ecological Consultant – comments awaited and an update will be provided to Members at the Planning Committee meeting.

Key Considerations

At the planning committee meeting of 25.11.2019 it was determined to defer the application for the resolution of;

- The HRA,
- Natural England's objection,
- The temporary management plan of soakaways/infiltration basin
- Management and mitigation of protected species,
- Design and density of the development,
- Highways matters and;
- An explanation on the delivery of the employment land.

Consequently after discussions with Natural England the layout of the proposal has been altered which has resulted in a change to the description to:

Reserved matters application pursuant to P/2019/0605, for the construction of 187 dwellings, public open space, landscape planting, ecological mitigation measures, pedestrian, cycle and vehicular links and associated infrastructure. Including the discharge of conditions 1, 2, 4, 7, 8, 9, 10 and 11.

HRA

An HRA is currently being undertaken based on the revised plans which, in addition to the previous mitigation, provide a 10m buffer zone between dwellings and the boundary hedgerow on the west elevation as requested by Natural England.

An update on the completed HRA will be provided to Members on the day of the Planning Committee meeting.

Natural England's objection to the scheme

Natural England have confirmed that they have no objection to the development subject to appropriate mitigation being secured and the resolution of a positive HRA Appropriate Assessment from Torbay Council which they will need to be consulted on.

Management plan for soakaways/infiltration basin

The applicant has advised that this will be undertaken in the same way as South West Water would conventionally do, the Applicant intends for Icosa Water to adopt the on-site infiltration basin and manage and maintain it in perpetuity. Icosa Water are a regulated water company, with a licence that enables them to operate public water and wastewater networks. They operate under the New Appointment and Variation process provided by the Water Industry Act 1991.

The ongoing management and maintenance of the infiltration basin will form part of the management charge for the development. The applicant has advised that this will

be set at the same cost to future residents that South West Water would charge if they were managing the infrastructure asset.

Management and mitigation of protected species

As a result of consultations between the applicant and Natural England, additional mitigation measures have been put forward, including a greater quantum of foraging habitat, a minimum 10m wide corridor along the western boundary and a new bat commuting corridor along the eastern boundary, which have been welcomed by Natural England.

Design and density of the development

The site benefits from outline planning permission for inter alia up to 192 dwellings (P/2014/0983/MOA, as amended by P/2019/0605).

Condition P1 of the outline planning permission requires a reserved matters application to be 'in complete accordance' with several parameters plans, including the Development Areas Plan (ref: 3445/203/M).

The Development Areas Plan defines the maximum spatial extent of the residential development parcels, within which a maximum quantum of development (up to 192 dwellings) can be located. Together, the spatial extent of the development parcels and the total quantum of development approved by the outline application provides a clear indication of the level of density that Officers and Members have considered to be acceptable on the site.

As outlined in the Officer's Report on the 25.11.2019 agenda, the reserved matters application accords with the parameter plans, including the Development Areas Plan. As the reserved matters application seeks permission for 189 dwellings, it delivers a lower density of development than was previously considered acceptable at the outline application stage.

The density of the developable area of the housing aspect of the site (i.e. not including the Cirl Bunting compensation land and areas of public amenity) is 39 dwellings per hectare. The adjacent site to the south-east has a density of 44.5 dwellings per dwelling.

The reduction in units reduces the number of affordable units from 57 to 56.

Highways matters

- Brixham Road Improvement Works

The Section 106 Legal Agreement requires the Applicant to make a financial contribution of £360,000 (indexed linked) towards improvements to Brixham Road. The contribution is to be specifically spent on improving the junction of Brixham Road and Yalberton Road, including the re-routing of a gas main.

The financial contribution was paid by the Applicant on 11th July 2019. As reported at the 25th November 2019 Planning Committee, these works, which are led by Torbay Council, have been substantially completed. On completion, the improvement works

will provide sufficient capacity to accommodate flows from the proposed residential development, as well as the consented employment development.

The outline application (as amended), sought to reserve all matters for future consideration, aside from access. Access into the site and the improvements to Yalberton Road were therefore matters that were considered in detail during the determination of the outline application. Accordingly, these already consented access proposals (which are not altered on the submitted plans) are not for consideration in this reserved matters application.

Access into the site and the improvements to Yalberton Road were sufficiently sized to accommodate the highways movements from both the residential and the employment uses approved through the outline planning permission to which this reserved matters application is pursuant to (ref: P/2014/0983/MOA, as amended by P/2019/0605).

- **Internal Road Forward Visibility**

Concerns relating to the forward visibility in locations in close proximity to plots 178 and 121 have been raised by Strategic Transport and Highways. Minor alterations to the internal road layout at both locations have been made within the revised plans. Although some of the areas of forward visibility appear to be on private land, the applicant has advised that this will be managed and maintained by the management company

In order to ensure these areas are retained to provide suitable visibility, a condition preventing development or planting in excess of 600 millimetres in height within the forward visibility areas is deemed necessary. A condition removing permitted development rights for means of enclosures is also considered necessary.

Employment land.

Whilst this reserved matters application is pursuant to an outline application that granted outline planning permission for both residential and employment uses, there is no condition or obligation that requires this reserved matters application to also include the employment uses, or indeed for both uses to be constructed at the same time.

Notwithstanding the above, Condition 3 of the outline permission requires the applicant to clear, drain and provide all other incoming and outgoing services up to the boundary of the employment site. A road connecting the employment land to the public highway is also required to be provided. This reserved matters application delivers all these obligations.

The landowner is actively marketing the site.

Updated Recommendation

Conditional approval with final drafting of conditions delegated to the Assistant Director of Planning and Transport subject to the completion of a favourable HRA Appropriate Assessment and the resolution of any new material considerations that

may come to light following Planning Committee to be delegated to the Assistant Director of Planning and Transport, including the addition of any necessary further planning conditions or obligations and the final drafting of conditions delegated to the Assistant Director of Planning and Transport.

Report on Planning Committee Agenda 25.11.2019

Site Details

The site is located to the west of Brixham Road on the outskirts of Paignton. The site is 8.17ha in area. The majority of the site is located within the Future Growth Area of the Local Plan, except for the part of the site which is set aside for ecological amenity space and the south-western part of the residential proposal.

The land comprises agricultural fields bounded by hedgerows. In addition, overhead power lines cross the northern part of the residential area of the site. The site has a sloping topography with a north facing slope that rises by around 50 metres to a high point near the top of the hill located to the southeast. A field located near to the top of this hill lies outside of the application site but is proposed as a 'high meadow for ecological mitigation and biodiversity' habitat for one pair of Cirl Buntings.

The site is bounded by Yalberton Road to the north; the Western Power electricity station and Yannons Farm development site to the east; agricultural fields to the south (beyond which is South Devon College); and open countryside to the west. To the north of Yalberton Road is Yalberton Tor Quarry, which is allocated as a waste site in the Local Plan, and the Rodgers/Yalberton industrial estates.

The majority of the site is located within the Future Growth Area for housing and related development in the Local Plan. The land to the south and west of the main site is designated as Countryside Zone.

The whole site is located within the greater horseshoe bat sustenance zone associated with the South Hams Special Area of Conservation (SAC) at Berry Head; the northwest corner of the main site is also within a strategic flyway. The whole site is located with the Critical Drainage Area (CDA).

Description of Development

The proposal seeks reserved matters consent pursuant to outline permission P/2014/0983/MOA (amended by P/2019/0605), for the construction of 189 dwellings, public open space, landscape planting, ecological mitigation measures, pedestrian, cycle and vehicular links and associated infrastructure. Including the discharge of conditions 1, 2, 4, 7, 8, 9, 10 and 11. Thus, it is important to note that the principle of residential development on the site already has outline planning permission

The submitted plans show a residential development to the north of the site with a parkland, including a playpark, a community orchard and an area of ecological compensation for curlew buntings to the south of the site. There is also an area of public amenity space to the north-west of the site.

The proposed dwellings range in height from one storey to three storeys with the prevailing height being two storeys. Three apartment buildings are proposed which are made up of two, two and a half storey buildings and one three storey building, all of which are located to the east of the site.

Pre-Application Enquiry

N/A.

Relevant Planning Policy Context

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

Development Plan

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

Material Considerations

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

Relevant Planning History

P/2019/0605 - Variation of Conditions relating to application P/2018/0977. Variations sought: P1 - replace approved plan 3010-005 B with plan EX-09-39, 4 - Rewording of condition, 6 - Remove references to 'buses'. APPROVED 15.10.2019

P/2018/0977 - Variation of condition P1 - amendments to plans & condition 24 - footway and road, to Major Planning Application P/2014/0983 (revised plans received 14.11.2018). APPROVED 07.12.2018.

P/2014/0983 - Outline mixed use proposal for phased residential development (Use Class C3) of up to 192 dwellings and employment development (Use Classes B1 and B8) of between 7,400 sq m and 9,200 sq m floor area, together with the provision of ecological mitigation measures, public open space and other associated infrastructure. (Means of access to be determined only) (Revised Scheme). APPROVED 07.09.2018

Summary of Representations

Twenty objections to the scheme had been received at the time of drafting this report. The concerns raised are summarised as follows.

1. - Highway capacity/traffic.
2. - Flooding and drainage.
- 3.- Impact on infrastructure.
4. - Overdevelopment of the site and wider area.
5. - Ecology/Cirl Bunting compensation.
6. - Impact on privacy.
7. - Failure to discharge conditions (although this is not necessary at the reserved matters stage).

Summary of Consultation Responses

Environment Agency – No objection

Historic England – No comment

Torbay Council Drainage Engineer – covered by a condition on the outline application

Natural England - *The Reserved Matters application is not in accordance with the mitigation requirements identified and agreed at the Outline Application stage. The mitigation measures agreed at Outline underpinned the conclusion of the Habitat Regulations Assessment (10 December 2015), that the proposals would not result in a likely significant effect upon the South Hams SAC. The mitigation measures and approach put forward with the Reserved Matters application is a weakening of the agreed mitigation measures, and do not adequately address the impacts (permanent and irreversible) from the development upon greater horseshoe bat activity.*

Torbay Council Strategic Transport –

Spine Road / Bus Route width

As it was not possible to amend the width, and given that it is possible for buses to use the road at a width of 5.5m, this design is agreed. However, double yellow lines should be provided along the length of the highway from the junction with the employment land to the proposed access link to WPD land as shown on the layout. This can be required as part of the S38 submission.

Forward Visibility on Bends

Some of the bends appear tight with restricted or limited forward visibility. It was previously requested that a drawing be submitted which demonstrated that forward visibility on bends can be achieved in accordance with the design guide. On reviewing the resubmission, I cannot see that such a drawing has been submitted. I would note that it was confirmed verbally that all was fine, but nevertheless it would help to have a drawing to confirm.

Forward Visibility through 'Pinch Point' feature

We verbally discussed the 'Pinch Point' and it was clarified that it was necessary for breaks in the hedgerow to be kept to a minimum in order to achieve the ecological and landscape requirements for the scheme. As such a wider opening was not possible to achieve. It was considered that on balance there would be sufficient visibility for this to operate safely and as it will not be a change to an existing layout, rather a clear feature from the beginning, that it can be considered acceptable. Through the S38 application it will be necessary to clearly indicate this space and encourage vehicles to slow, without the need for signage and significant road markings that would clutter the streetscene. It is noted that the space that will need to be kept clear of low vegetation is to be highway. This is not appropriate as it is, I believe, the only greenspace proposed as public highway in the development. It will be costly for the Authority to maintain. This area should be included in the management company land but with conditions that there shall only be low level planting/grass and branches kept above vehicles to ensure clear sight lines.

Similarly on the northern boundary, there is another narrowing through the existing hedgerow that, due to the proximity with the bend could cause visibility issues. It is accepted that there are only 7 dwellings in this area but with emergency access here as well and the need for refuge vehicles to turn prior to and reverse through this section in order to remain on the public highway there is a concern. Signage will be appropriate in this location to mitigate the impact.

Visitor parking in turning heads

This has been addressed and the spaces removed.

Grass Verges

The revised Management Ownership Plan clarifies that the verges will now be under the management company and not proposed to be adopted as public highway. This is acceptable.

However, there is no apparent inclusion of birds mouth style fence erected along the extent of the verge area to protect against verge parking. This was sought previously and is necessary in order to ensure any on street parking.

Parking Spaces

There were a number of matters raised previously in respect of the parking provision. The below addresses/updates on these.

Plot 106 – this has been amended, clarified, and is considered acceptable.

Plot 192 – the difference between the various drawings outside this plot has been corrected and is acceptable.

Plots 1, 2 and 3 – the parking area for these plots has been reconsidered and is acceptable.

Plot 61 – the numbering has been amended and this comment related to what is now numbered 36. The parking area has been widened to allow turning space.

Plots 37, 38, and 39 – this was reconsidered along with Plot 61(now 36). Plots 38 and 39 have a clearly defined secondary parking space but plot 37 has a space which appears restricted but meets the minimum standards. This is acceptable on balance.

The spaces and small turning area for 107 and 108 need not be public highway and it is not desirable for it to be such. This should be amended.

Cycle Storage

This point was discussed and given the extent of design work carried out to date it was not possible for such amendments to be easily incorporated. As such, and on balance, given the immediate policy requirements are met, this is acceptable.

Shared Path

This point, regarding a crossing at the end of the path has been addressed. However, it will still be necessary for the detailed S38 submission to include dropped kerb and appropriate signage provision.

Emergency Access

Although the Council would not seek to adopt this alternative access, it is important that through condition and/or legal agreement, it is maintained in suitable order and that suitable surfacing is provided throughout its length.

Access to 'Cavanna' site

There is an indication of the ramped access to be provided. This is of course necessary to meet the requirements of the other consent but in any case, further details of this will need to be provided. It is equally important that this link is required to be constructed in a timely manner though it is accepted that it does not all fall within this land owners control.

Access to 'WPD' site

The road is shown on the drawings needs to be to be constructed and adopted right to the boundary edge. This should be completed in phase 1 and in any case before occupation of units 16-19 or 20-26 whichever is ready for occupation first.

Materials

I understand that block paving has been removed from the proposal.

S38 drawings

There are no revised S38 drawings submitted to planning. However, for clarity it may still be necessary to state that a S38 application will need to made to the Local

Highway Authority and all areas shown purple (with the exception of the 'pinch point' build out and parking area for 107-108) will be adopted.

Bus Stops

It is welcomed that bus stop provision is indicated which could be provided at a later date. It would not be a requirement for this to be implemented until such time as a bus route was or could be provided.

Electric Charging

Provision for EV charging has been shown to an acceptable level (not all dwellings). There should be a condition to ensure these are implemented prior to occupation of the respective units.

ACTIONS

In summary of the above, the following actions need to be taken:

- 1. Double yellow lines to be included within the S38 on both sides of the highway between the employment site access and WPD site. This is to enable clear access into the development and for buses should the future use arise. It is necessary for this to be included prior to occupation of any unit to prevent parking in these areas and the need to break habits later on.*
- 2. Details of forward visibility on bends still need to be clarified. Whilst we have been reassured verbally I can't confirm until the drawing is provided.*
- 3. Amendments need to be made to the management company/public highway plan to confirm that the pinch point landscape area and the parking for 107 and 108 will not be public highway.*
- 4. The pinch point landscape area should only have very low level planting/grass and branches of trees kept above vehicle heights to ensure clear forward visibility. This should be secured by condition.*
- 5. Details will need to be included within the S38 for how the safety of all users will be ensured at the two narrow access points through the existing hedgerow.*
- 6. Details of how verges will be protected from parking should be provided. This can be post decision but should be prior to the occupation of any unit to ensure no habitual parking occurs that later needs to be addressed.*
- 7. The S38 application needs to include details of dropped kerbs and signage for all pedestrian and shared paths throughout the development.*
- 8. The maintenance of the emergency access should be included within the legal agreement or secured by condition.*
- 9. The ramped access to the 'Cavanna' site must be provided and should be secured by condition.*
- 10. The S38 application must include provision for the public highway to extend up to the boundary of the neighbouring 'WPD' site and must be constructed prior to occupation of units 16-26. This is to ensure this provision is made and that there is no prevention of future access into or from the neighbouring site.*

11. All areas shown purple on the management plan, excluding those referenced above (Pinch point landscaped area and parking for 107 and 108) shall be constructed to adoptable standard and included within a S38 application
12. EV charging provision shall be fitted and available for use prior to occupation of each respective unit.

South West Water- No objection

Paignton Neighbourhood Plan Forum - The Forum has considered the above planning application and objects to the proposals because the details submitted do not accord with the outline consent granted for the following reasons:

1. Surface water disposal

The Reserved matters layout and integral drainage pipe work proposed in the submitted application relies on surface water disposal going to a large open soakaway to the north west of the site. No satisfactory information is provided that demonstrates how the private management arrangement of the system will operate in perpetuity in accordance with the requirement of condition 13 of consent

P/2014/0983. Nor is there provision made in the Section 106 Agreement (29 August 2018) and Supplemental Agreement (5 December 2018) for dealing with the problem that will arise if for any reason the proposed private management arrangement ceases to operate and leads to an increase of present surface water flooding in the locality.

2. Impact on protected species

The Reserved matters layout and landscaping detail fails to accord with the outline consent that requires 'mitigation' proposals for 1 pair of Cirl Buntings on site and 5 pairs off site (in accordance with the Decision by Development Management

Committee on 9 April 2018 at Minute 76 and outline consent condition 25). Instead, the submitted application makes proposals for 1 pair on-site and 'compensation' payment for 5 pairs lost with no proposal included that confirms where or how 5 pairs off-site will be established nor be the subject of aftercare and long term maintenance as required by condition 25. The Reserved matters application indicates at paragraph 4 of the submitted 'Cirl Bunting Mitigation Scheme' (February 2019) that the off-site provision is detailed in the Section 106 Agreement. However, no such detail has been found in the Section 106 Agreement (29 August 2018) nor Supplemental Agreement (5 December 2018). Without this detail the full provision must be made on-site for 6 pairs to ensure satisfactory 'mitigation' as required.

3. Traffic impact

As implementation of the defined employment and residential parts of the outline consent area are being taken forward separately, it is not clear what provision has been made to require further improvement of the Yalberton Road / Brixham Road junction from the composite development in view of the concerns previously raised in the Forum's letter of 31 December 2014 when the outline application was first considered.

Torbay Council Housing Services - No objection

Police Architectural Liaison Officer - *Following a review of the Presentation Layout, which contains the best level of detail for my purposes and the Secured by Design (SBD) statement, I am pleased to advise that many positive aspects from a designing out crime, fear of crime, antisocial behaviour (ASB) and conflict perspective have been factored in to the overall design and layout of the scheme but to assist further please find the following few additional points for consideration:-*

1. The back to back gardens are much supported from a security perspective but please ensure that all gates that lead to the rear of dwellings are capable of being locked from both sides, by means of a key for example, as this will enable rear gardens to be secured regardless of access or egress. The proposed latches and bolts for the gates are noted but these are likely to prevent the gate from being fully secured on egress.

2. The shared rear access paths between plots 15 & 16, 35 & 61, 42 & 43, 89 & 90 and 104 & 105 for example should also be gated. Robust, non-climbing, 'see through' iron style gates would work well in improving surveillance over the path and reduce the fear of crime for residents. The gates should be fitted so as to not create a recess and ideally have a coded or key operated lock fitted.

3. With regard to the multi-occupancy buildings please ensure that any shared external amenity space or designated smoking areas are set as far away from the building elevation as possible to prevent potential noise and nuisance issues for other residents.

Please note that the visitor door entry system for the apartments should have a visual monitor as well as an audio facility. Tradesperson buttons are no longer permitted for SBD developments due to an increase in crime and ASB as such consideration must be given to how mail will be delivered and the reading of utility meters. For further details or options please contact me.

From a designing out crime and disorder perspective it is vital that the parking provision for the proposed development is both sufficient, when balanced against the schedule of accommodation, as even a one bedroom dwelling could attract 2 vehicles, and designed so it is convenient and practical to use, e.g. side by side parking as opposite to tandem style parking, as this will encourage its use and reduce the level of unplanned parking elsewhere. It is the 'elsewhere' that can introduce a source of conflict and rancor amongst residents, generally due to inconsiderate or obstructive parking and chaotic and vehicle dominated streets. With reference to 'tandem' parking above, there is ever increasing evidence from new development in the county where this design of parking is not being embraced, perhaps due to being inconvenient or just awkward to use, seeing the 2nd (or 3rd) vehicle being parked elsewhere just to make life easier for the occupants. It is appreciated that the tandem parking design is likely to fulfil the number of parking spaces required for new development, but this number is likely to be much reduced if the spaces are not being utilised. In addition to this the problems associated with tandem parking are further exacerbated when designed to the front of a garage or car port.

Torbay Council Senior Environmental Health Officer

Having reviewed the above application and in particular the acoustic consultant's report I am satisfied that any condition's relating to noise can now be discharged.

Key Issues/Material Considerations

Planning Officer Assessment

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

1. Principle of development

The principle of residential development of this site is already established through the extant outline planning permission for up to 192 dwellings.

The application site is located within a wider Strategic Delivery Area (SDA), as designated in the Torbay Local Plan under Policy SS1, which identifies areas for the delivery of growth and change in Torbay for the period of the Local Plan. In addition to the above the site is also part of a wider Future Growth Area as identified within Policy SS2 of the Torbay Local Plan. The site forms part of the Paignton North and Western Area SDA and Policy SDP3 of the Torbay Local Plan identifies that 840 houses could be provided within the Brixham Road/Yalberton Future Growth Area over the plan period. Concomitantly the Paignton Neighbourhood Plan identifies the site as being a Future Growth Area.

This reserved matters application therefore only seeks consent for the proposal's appearance, landscaping, layout and scale.

2. Impact on Visual Amenity

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

Local Plan Policy SS2 (TLP) states that development delivered within each of the Future Growth Areas must be integrated with existing communities, and reflect the landscape character of the area as informed by Torbay's Landscape Character Assessment (2010). Policy SS8 (TLP) states that development proposals outside of the AONB designation (the site is not within the AONB) will be supported where they conserve or enhance the distinctive character of Torbay, or where the impact is commensurate with the landscape importance. Policy SS11 (TLP) states in part that

development should be of an appropriate type, scale, quality, mix and density in relation to its location. In terms of non-strategic policies Policy DE1 (TLP) outlines a number of factors towards securing development that is well-designed and that respects Torbay's special qualities. Further to these Local Plan policies Policy PNP1 (c) and (d) of the Paignton Neighbourhood Plan.

An indicative layout was provided as part of the outline application, this was subsequently included in condition 1 of the outline permission P/2014/0938 (as amended by P/2018/0977). This condition states that the submitted reserved matters shall be consistent with the approved drawing referenced 3445/203/M).

The layout submitted is broadly based on this approved plan with the dwellings made up of perimeter blocks with a spine of green infrastructure through the site and areas of amenity space to the south and north-west.

The area designated for employment use to the north of the site does not form part of this application however the access includes a spur road to allow future development of this site.

Condition 10 of the outline permission P/2014/0938 (as amended by P/2018/0977), required the reserved matters application to be accompanied by a Design Code setting out the design parameters for the streets, the setting out of development blocks, green infrastructure, materials and design parameters in the development.

The perimeter block form provides a clear distinction between the public and private realm. All houses will face onto either a highway or a private drive in order to maximise surveillance and overlooking while gardens face inwards.

The treatment of building frontages provide an active frontage with minimal use of blank walls, particularly in prominent locations and corners.

The use of a variety of house types in terms of design provides interest in the street scene and aids in providing identity to the development site.

The facing materials proposed are made up of red brick, light coloured render with concrete roof tiles. The palette of materials is considered to reflect the local vernacular and are considered to be acceptable, the use of a mix of render and brick buildings provides some contrast between properties in order to provide identity between properties.

Bearing the above points in mind the proposal is deemed to comply with Policy DE1 (Design) of the Local Plan which, amongst other criteria, requires development to be uncluttered and attractive, acknowledge local character and develop distinctive character in townscape and landscape terms, relate to the surrounding built environment in terms of scale, height and massing and have a clear urban structure and grain that integrates with the surrounding context.

The proposal is for the provision of 189 residential dwellings and the development would achieve an average density of approximately 23 dwellings per hectare over the whole application site. The net developable area, (i.e. the area in which the residential

dwellings are to be sited) of the site is 4.39ha, which equates to a housing density of 43 dwellings per hectare.

This relates well to the existing density of development to the south of the site, and also accounts for the topography and retention of significant areas of compensation, mitigation and open space.

The proposed development seeks to respect the existing character of the area in terms of design and with regard to the palette of materials proposed.

Safe pedestrian routes will be provided throughout the site, through the use of footpaths, shared surface roads and private drives.

The fifty-seven affordable units would be provided largely to the north, north-west and north-east of the site, and housing services consider that this layout is acceptable.

A public amenity area, playground and community orchard are proposed to the south of the development. There is also an area of amenity land to the north-west of the site.

There is a strong spine of green infrastructure through the middle of the site from north to south which consists of parallel hedgerows either side of a pedestrian lane. The vast majority of the existing field boundary hedges are to be retained and reinforced. New hedges are to be used as boundary treatments to the fronts of properties and new trees are proposed throughout the development including a number of on street trees which aid in breaking up the urban appearance of the houses and driveways.

It is considered that the form and layout of the scheme makes effective use of the land and responds well to the topography of the site. The design enables the creation of strong building frontages which enable active surveillance to increase safety and security. The overall layout and form appears to respond effectively to the topography of the site and is reasonably consistent with more recent development in the area.

Given its position, landscaping, and design within the topography of the site, it is considered that the scheme would have limited visual effects on the more open rural areas beyond the site to the west.

It is considered that the proposed appearance, landscaping, layout and scale would not result in unacceptable harm to the character of the area. Based on the information provided, the proposed development is, for the reasons above, considered to demonstrate the potential to provide a satisfactory form of development in terms of layout, in accordance with Policies SS2, SS3, SS11, H1 and DE1 of the Torbay Local Plan, Policies PNP1 and PNP21 of the Paignton Neighbourhood Plan and the NPPF.

3. Impact on Heritage Assets

The NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, that great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance (Para 193). The NPPF further states that any harm to, or loss of, the significance of a designated heritage asset

(from its alteration or destruction, or from development within its setting), should require clear and convincing justification (Para 194). It guides that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use (Para 196).

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

The site is not within a conservation area and the closest listed building is the Grade II listed *Yalberton Tor Cottage* which is some 260m from the closest residential dwelling proposed. Policy HE1 of the Local Plan advises that development proposals should have special regard to the desirability of preserving any listed building and its setting.

In terms of context around the listed building, the rural character and setting is largely retained. In this instance, given the distance between the Listed Building and the application site, it is not considered that the proposal would affect the setting of the Grade II Listed Building.

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

4. Impact on Residential Amenity

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

The construction phase will naturally result in some temporary impacts however the outline permission includes a condition requiring the submission of a Construction Method Statement which includes a restriction on the hours of construction and requires details of delivery and construction movement and parking to be submitted and approved by the Local Planning Authority prior to development.

The submitted phasing plan for the development identifies the site compound and material storage area as being located to south-eastern boundary of the residential aspect of the site, which is adjacent to the rear of properties on Foxglove Way which is well screened by an existing hedgerow. Although this is likely to cause some issues during the construction phase as previously discussed, the hours and days of construction works will be controlled by the requirement to submit and comply with a Construction Method Statement.

The properties to the south-eastern edge of the site (plots 183-192) would back on to the boundary hedge between this development and the rear of the properties of Foxglove Way. The distance between the rears of plots 183-192 and the properties on Foxglove Way is approximately 30 metres which is considered to be a sufficient separation distance so as to not cause unacceptable levels of overlooking/intervisibility or loss of privacy. The two sites are also separated by an existing mature hedgerow which would aid in limiting any issues of loss of privacy.

The apartment building which makes up plots 31-34 is located on the eastern boundary of the site would share a side-elevation to side-elevation relationship with the northernmost property of the Foxglove Way development to the south of the site. The distance between the two side-elevations is approximately 15 metres, with the application site being some 2 metres lower than the site to the south. Due to the side-to-side relationship, the distance between properties, and the difference in levels, this relationship is considered to be acceptable.

The area to the rear of the apartment building of plots 31-34 is to be used as a parking area with 21 spaces proposed. This has the potential to cause noise and disturbance through vehicle movements and car headlights shining through windows of properties in the development to the south. However, there is a difference of approximately 2 metres between the site to the south and the car parking area proposed by this application as well as a close-boarded fence of 1.8 metres in height on the boundary. Bearing these mitigating points in mind, it is considered that the car parking area would have an acceptable impact on the amenity of occupiers of dwellings to the south.

The vast majority of properties on the site are two storeys in height with two being two-and-a-half storeys and one being three storeys, all three of these are located on the eastern boundary.

In general, the external amenity areas for the properties accord with the requirements of Policy DE3 (TLP) and there are sufficient cycle and bin storage areas. All of the proposed dwellings comply with the internal space standards identified in the Local Plan.

The outline permission includes a noise mitigation condition requiring a scheme of sound attenuation works to be submitted to, and approved in writing by, the local planning authority, to ensure future occupants of the proposed dwellings are suitably protected against noise from the Yalberton Tor Quarry allocated waste site. The applicant has submitted these details as part of this application and the Senior Environmental Health officer has confirmed that these details are acceptable.

The properties to south of the proposed employment site (which forms part of the same outline application site as this application) would be well-screened from the employment land development thanks to the existing mature hedgerow boundary between the two sites. The approved use of the employment land is for B1 (business) and B8 (storage and distribution) which by their nature are unlikely to cause future issues to the amenity of future occupiers of the residential properties.

There would be some shading from existing trees to the rear gardens of some properties to the eastern and western boundaries of the site, however this is not

considered to be sufficient enough to result in an unacceptable impact on the amenity of future occupiers. The trees are outside of the residential curtilages which prevents them from being removed by future occupiers. To help mitigate the impact of the shading, tree T33 and tree groups G35 and G36 are to be crown-lifted to 5m to help increase ambient light levels to nearby gardens.

The proposal provides sufficient parking spaces and garages for all of the non-adaptable living units, the two adaptable living units have one space per dwelling.

In summary the proposal is deemed to provide a satisfactory form of development in terms of protecting the amenities of adjacent and future occupiers, in accordance with Policies DE1 and DE3 of the Torbay Local Plan, Policy PNP1 of the Paignton Neighbourhood Plan.

5. Impact on Highway Safety

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

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

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

The suitability of the access has been the subject of applications, decisions, and agreements. It has been agreed that the highway along Yalberton Road will be widened with shared cycle/footpath provision and a contribution was sought in relation to the Brixham Road junction works which have been significantly completed. The detail for the Yalberton Road works is submitted within this application although it is noted that it has been approved previously.

Highways have made comments on minor alterations to the infrastructure layout within the site which they consider necessary and the applicant has been advised of these. Subject to the submission of suitably revised plans which overcome these concerns raised by highways, the proposal is considered to be acceptable.

Considering the points above, and having regard to guidance contained within the NPPF which states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe (Para 109), the proposal is considered acceptable on highway and movements grounds, and in accordance with the Policy TA2 of the Torbay Local Plan, The Paignton Neighbourhood Plan and the NPPF.

6. Ecology & Biodiversity

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

The habitats within the site boundary comprise poor semi-improved grassland fields bound and divided by species rich and species poor hedgerows. A stone barn is present, supporting barn owl and roosting bats. The site is of value for breeding ciril buntings and is within a sustenance zone for greater horseshoe bats associated with the South Hams Special Area of Conservation (SAC).

Natural England have raised objection to the reserved matters submission stating that the mitigation measures proposed weaken those agreed in the Outline permission and the conclusions of the Habitat Regulation Assessment (10 December 2015).

Subsequently the applicant has corresponded with Natural England in order to overcome the issues raised and the plans have been altered to provide additional ecological buffers to the boundaries of the site and the number of units have been reduced from 191 to 189. At the time of writing this report, revised comments from Natural England are awaited.

The applicant is required by the Section 106 agreement to provide an off-site provision for bats, the location of which is specified in the agreement.

The Section 106 agreement for the outline permission requires a contribution of £437,500 towards alternative habitat for 5 pairs of ciril bunting which the applicant has now paid. This contribution is to be used by the Torbay Coast and Countryside Trust to provide and manage the habitat for the five pairs of ciril bunting.

In accordance with the outline permission and the Section 106 agreement, the proposal includes an area of 2.5ha to the south of the site to provide a habitat for one pair of ciril buntings. The habitat creation and management will take place in line with current guidance (ordinarily at least 2.5ha suitable habitat, made up of: 1.3ha of rough grassland, 0.2ha of hedge/scrub and 1ha of spring barley). The Section 106 agreement agreed to at the outline application stage includes a contribution to monitor the management of this land over a period of twenty-five years.

An informal path is proposed along the eastern boundary of the area, providing a route to the adjacent development, which will consist of a 1m wide mown path at least 2m

from the base of the hedgerows. Information boards are to be installed to inform residents of the importance of the compensation land for protecting curlew bunting.

In accordance with condition 16 of the outline permission a temporary barn owl box is to be located on a mature tree in the south-west corner of the site which is to be positioned at least 3 metres above ground level.

In accordance with condition 7 of the outline permission a permanent bat box is to be provided within the existing barn building to the south of the site.

As the site is over 5ha in area an Environment Impact Assessment screening was undertaken, the result of this was that the proposal did not require an EIA.

In light of the foregoing and subject to Natural England withdrawing their objection to the scheme, the proposal's ecological impacts are considered acceptable, having regard to Policy C4 and NC1 of the Torbay Local Plan.

In terms of trees, the proposal would result in the loss of eight trees, three of which show signs of dieback, the tree loss has been limited through appropriate design with the loss of the majority of features located towards the centre of the site. There are no tree protection orders (TPO) on the site and the site is not located within a conservation area.

Two mature sycamore and one lime (T42, T43 and T44) of significant size are located to the northwest of the Site. These trees form a prominent feature along Yalberton Road.

A tree planting strategy is to be implemented during the landscape phase of the development which will compensate for any tree loss as well as enhance the arboricultural value of the site.

The proposed buildings are of sufficient distance from the retained trees so as not to impose any potential future pressure. However, future occupants of plots 142-145 and 148-149 may wish to prune or manage tree T33 and tree groups G35 and G36 to reduce their shading impact on the gardens. To mitigate this, the trees have been kept outside of the ownership of the dwellings.

It is considered that the development should be conditioned to be undertaken in accordance with the submitted arboricultural method statement and arboricultural impact assessment which includes details of tree protection measures during the construction phase.

7. Flood Risk and Drainage

Comments in objection and from the Paignton Neighbourhood Forum are noted, however a condition relating to the submission of drainage details prior to the commencement of development was added to the Outline permission P/2014/0938 (as amended by P/2018/0977). As such these details will be provided to the Council

as part of a separate assessment exercise. Sewerage details were also detailed as part of the outline permission as follows:

- a) a detailed survey and evaluation of the public foul sewerage network has taken place (at the Owner's expense) to identify improvements necessary to be funded in advance and executed to accommodate the discharge of foul sewage from the development; and
- b) the Owner has submitted an application to the relevant Sewerage Undertaker for a public foul sewer requisition under s98 of the Water Industry Act 1991 (which shall include the provision of public sewerage improvement works identified as necessary).

8. Other Considerations

Sustainability

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

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

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

Policies ES1 of the Local Plan and PNP1 of the Paignton Neighbourhood Plan state that all major development proposals should make it clear how low-carbon design has been achieved, and how the sequential energy hierarchy has been applied in doing so. That new development should connect to a district heating network where there are existing proposals or schemes and that site renewable energy generation is required to achieve 20% of the subsequent in-use energy requirements.

The proposal is supported by an energy statement that presents proposed measures by the developer to reduce CO2 emissions, delivered through a combination of passive and active design measures, in the form of demand-reduction measures and energy-efficiency measures, including the use of solar panels.

EIA/HRA

EIA: As the site is over 5ha in area an Environment Impact Assessment screening was undertaken, the result of this was that the proposal did not require an EIA.

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

A Habitat Regulations Assessment/Appropriate Assessment (AA) based on the revised plans which confirms no significant effect on the South Hams SAC is required prior to the issuing of a decision notice.

Planning Balance

The planning assessment considers the policy and material considerations in detail. It is considered that the scheme, in terms of addressing the Development Plan aspiration to provide housing, would produce a significantly positive impact overall and help with the supply of much needed housing.

The scale and layout of the development are considered to comfortably sit within the site while providing generous public open space and ecological compensation and mitigation land.

The appearance of the dwellings would be in keeping with the character of the area and the palette of materials would match the predominant style of Paignton. The proposal includes the addition of several trees, including a community orchard, and proposes new boundary hedges to the fronts of properties which help to provide a net gain to the existing landscaping. It is acknowledged that there are potential impacts upon greater horseshoe bats but these are not unacceptable, subject to the planning conditions.

This reserved matters application is deemed to comply with the requirements of the outline permission in terms of the residential aspect of the development.

Statement on Human Rights and Equalities Issues

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

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

Local Finance Considerations

S.106 Agreement

The outline permission secured planning contributions towards education, lifelong learning, greenspace and recreation, sustainable transport, waste management, habitat monitoring and contributions towards improvements to the Brixham Road and Yalberton Road. This also included a payment of £437,500 towards alternative habitat for 5 pairs of cirl bunting which the applicant has now paid.

Affordable Housing

Affordable housing provision for this development has been agreed in accordance with Policy H2 of the Torbay Local Plan, which states that for development of greenfield

sites for schemes of 30+ dwellings that 30% should be affordable housing.

At 30% the scheme is expected to secure 57 affordable units. In terms of the affordable housing tenure, the s.106 agreement signed as part of the outline permission requires 33% of the affordable housing units to be social rent (19 dwellings), 33% to be affordable rent (19 dwellings) and the remainder to be equity share dwellings (19 dwellings). Three dwellings (5% of the affordable housing provision) have been designed to adaptable housing standards. As a result of comments from Housing Services the type and tenure of the units has been amended during the application stage.

The location of the affordable units has been carefully considered to ensure that, in line with the Planning Contributions and Affordable Housing SPD (February 2017), there isn't an unacceptable clustering (i.e. a cluster of more than 24 dwellings).

The applicant will build and transfer the affordable housing elements of the proposed development to a Registered Provider in line with the terms outlined within the Section 106 agreement.

Conclusions and Reasons for Decision

The site already has outline planning permission and is identified for housing within the Development Plan and the proposal is consistent with the approved outline application for the site.

Key public concerns regarding Cirl Buntings are resolved through compensation and mitigation within the development and conditions. Revised plans have been submitted which seek to mitigate the impact upon the Greater Horseshoe Bats and concerns raised by Natural England. A further consultation response from Natural England is awaited. The proposal includes improved green infrastructure and additional tree planting. Issues with regards to drainage and sewerage were addressed by conditions as part of the outline permission.

Notwithstanding the receipt of a further consultation response from Natural England and the completion of a Habitat Regulation Assessment/Appropriate Assessment, which confirms no likely significant effect on the South Hams Special Area of Conservation, the proposals are considered to be in accordance with the provisions of the Development Plan.

The Officer recommendation is one of approval subject to resolving the issues raised by Natural England. The proposal is ultimately considered a good use of an identified site that would provide much needed housing to help meet local need.

Officer Recommendation

Delegate authority to the Assistant Director of Planning & Transport to grant approval subject to satisfactorily overcoming the issues raised by Natural England, an Habitat Regulation Assessment/Appropriate Assessment which confirms no likely significant effect on the South Hams Special Area of Conservation and the conditions outlined at the end of the report. Also the resolution of any new material considerations that may come to light following Planning Committee to be delegated to the Assistant Director of Planning and Transport, including the addition of any necessary further planning

conditions or obligations and the final drafting of conditions delegated to the Assistant Director of Planning and Transport.

Conditions

1. In accordance with LEMP

The development shall be carried out in strict accordance with the approved Landscape and Ecology Management Plan (Reference: 0733-LEMP-FM, Received: 30th August 2019).

Reason: To ensure that the development duly considers protected species and important habitats, in accordance with Policies NC1, C4 and DE1 of the Torbay Local Plan 2012-2030.

2. Long term maintenance of LEMP

Prior to occupation of the first dwelling of the development hereby approved, a long term Landscape and Ecology Management Plan shall be submitted to and approved in writing by the Local Planning Authority, which will describe how the site will be managed in perpetuity. This information shall include:

- a) Details of long term Landscape and Ecology Management
- b) Details of the body or organisation responsible for implementation of the plan.
- c) On-going monitoring and remedial measures for biodiversity features included in the LEMP.
- d) Details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(s) responsible for its delivery.

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

Reason: In the interests of amenity and biodiversity in accordance with Policies DE1 and NC1 of the Adopted Torbay Local Plan 2012-2030, and guidance within the NPPF.

3. In accordance with CEMP

The development shall not be carried out otherwise than in strict accordance with the Construction Environmental Management Plan (Reference: P2019-0173-1, Received 08th February 2019 unless otherwise agreed in writing.

Reason: To ensure that the development duly considers protected species and important habitats, in accordance with Policies NC1, C4 and DE1 of the Torbay Local Plan 2012-2030.

4. In accordance with Greater Horseshoe Bat Monitoring Strategy

The approved Greater Horseshoe Bat Monitoring Strategy shall be adhered to. A report describing the results of the monitoring shall be submitted to the local planning

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

Reason: To ensure that the development duly considers protected species in accordance with Policies NC1 of the Torbay Local Plan 2012-2030.

5. In accordance with Lighting Impact Assessment

The development shall accord with the approved Lighting Impact Assessment (reference: 4094 Rev 1 (Update), received 30.08.2019) for the life of the development. Should any of the external lighting become damaged and need replacement, it shall be replaced with external lighting of the same type and specification. No other external lighting shall be provided, including outdoor security lighting.

Reason: To ensure that the development duly considers protected species in accordance with Policies NC1 of the Torbay Local Plan 2012-2030.

6. Onsite Cirl Bunting Compensation, Mitigation and Management

The development shall be undertaken in strict accordance with the approved Cirl Bunting Mitigation and Management Scheme (reference 0733-CLB-MW, received 30.08.2019).

Reason: In the interests of the amenities of the area and in accordance with Policy NC1 of the Torbay Local Plan 2012-2030.

7. Tree Protection Measures

The development shall be undertaken in strict accordance with the measures in the approved arboricultural impact assessment and arboricultural method statement which includes the implementation of tree and hedgerow protection measures throughout the construction phase of the development.

Reason: To ensure trees are protected in the interests of biodiversity and visual amenity in accordance with policies NC1 and C4 of the Torbay Local Plan 2012-2030 and are required to be in place prior to commencement to duly protect the identified trees.

8. Parking Implementation

Prior to the occupation of the dwellings hereby approved, their associated car parking spaces, as shown on the approved layout plan, shall be provided and thereafter made permanently available for the use of the associated properties.

Reason: to ensure all properties have dedicated parking facilities and in accordance with Policy TA3 of the Torbay Local Plan 2012-2030.

9. Soft Landscaping Implementation

All planting, seeding and turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the completion of the dwellings hereby approved, or at such other time as agreed by the Local Planning Authority in writing. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next available planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: In the interests of the amenities of the area and in accordance with Policies SS8, SS9, C4 and NC1 of the Torbay Local Plan 2012-2030.

10. Hard Landscaping Implementation

Prior to the first occupation of a phase of the development hereby permitted, the scheme of hard landscaping treatment for that phase shall be fully installed in accordance with the approved plans. Once provided, the agreed hard landscaping treatment shall be retained for the life of the development.

Reason: In interests of visual and residential amenity and in accordance with Policies DE1 and DE3 of the Torbay Local Plan 2012-2030.

11. Materials

The development hereby approved shall be constructed in full accordance with the materials specified on the approved plans unless otherwise agreed in writing.

Once constructed no further changes to the masonry finish including colour shall be permitted without the prior consent of the Local Planning Authority.

Details of any under build and or retaining walls in a phase shall be provided prior to the occupation of any dwelling within that phase.

Reason: To ensure a satisfactory form of development and in accordance with the requirements of policy DE1 of the Torbay Local Plan 2012-2030.

12. Implementation of refuse facilities

Prior to the occupation of any dwelling hereby approved, the refuse and recycling facilities shown on the approved plans shall be provided for that dwelling. Once provided the storage arrangements shall be retained for the life of the development.

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

13. Implementation of bicycle storage

Prior to the first occupation of any of **the dwellings** hereby approved, bicycle storage facilities shown on the approved plans shall be provided for those dwellings. Once provided, storage arrangements shall be retained for the life of the development.

Reason: In the interests of sustainable transport and in accordance with Policies TA1, TA2, and TA3 of the Torbay Local Plan 2012-2030.

14. Construction Method Statement

The development shall be undertaken in strict accordance with the approved construction method statement at all times.

Reason: To safeguard the Local Planning Authority's rights of control over these details to ensure that the construction works are carried out in an appropriate manner to minimise the impact on the amenity of neighbouring uses and in the interests of the convenience of highway users.

15. Removal of PD for gates, walls, or other means of enclosure

Notwithstanding the provisions of Schedule 2, Part 2 of the Town and Country Planning (General Permitted Development) Order 2015 2015 (or any order revoking or re-enacting that order with or without modification), the erection, construction, or alteration of a gate, fence, wall or other means of enclosure shall not take place within the application site unless permission under the provisions of the Town and Country Planning Act 1990 has first been sought and obtained in writing from the Local Planning Authority.

Reason: In interests of visual amenity, highway safety and in order to protect proposed boundary hedges in the interests of protected species in accordance with Policies DE1, DE3 & NC1 of the Torbay Local Plan 2012-2030.

16. Permanent Barn Owl Box

In accordance with the Updated Ecological Impact Assessment and Mitigation Strategy (reference 0733-UEcIA-FM revision 1, received 30.08.2019) provision of a permanent barn owl box, in the location specified in the aforementioned document, shall be made prior to the first occupation of any of the dwellings hereby approved. The permanent barn owl box shall be retained in the approved location at all times thereafter.

Reason: In the interests of biodiversity and to minimise impacts on protected species in accordance with Policy NC1 of the Torbay Local Plan 2012-2030.

17. Temporary Barn Owl Box

In accordance with the Update Ecological Impact Assessment and Mitigation Strategy (reference 0733-UEcIA-FM revision 1, received 30.08.2019) provision of a temporary barn owl box, in the location specified in the aforementioned document, shall be made prior to next bird breeding season following the granting of this permission.

Reason: In the interests of biodiversity and to minimise impacts on protected species in accordance with Policy NC1 of the Torbay Local Plan 2012-2030.

18. Boundary Treatment

Prior to the first occupation of the dwelling to which they relate, the boundary treatments shall be fully installed in accordance with the approved plans and shall be retained for the life of the development.

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

19. Bird Boxes

Notwithstanding the Update Ecological Impact Assessment and Mitigation Strategy (reference 0733-UEcIA-FM revision 1, received 30.08.2019) the residential development hereby approved shall make provision to an overall ratio of one integral nestbox per dwelling. Details of the siting and number of boxes shall be provided to the Local Authority for approval prior to the occupation of any dwellings on site, the approved boxes shall be installed prior to the occupation of the dwelling to which they relate and shall be retained at all times thereafter.

Reason: In the interests of biodiversity and to minimise impacts on protected species in accordance with Policy NC1 of the Torbay Local Plan 2012-2030.

20. Play Area Provision

No more than 150 dwellings shall be occupied on the site until the play area has been completed in accordance with the approved plans and made available for use by the general public.

Reason: To ensure that the development provides a range of physical, social and green infrastructure, including local play spaces, in accordance with Policies SS7, SS9, SS11 and SC5 of the Torbay Local Plan 2012-2030 and LDD 8 Greenspace Strategy.

21. Biodiversity info pack

Upon occupation of each dwelling, biodiversity information packs shall be provided to all new occupiers of the dwellings hereby approved, with the packs at least including clear and precise information on the importance of maintaining the dark areas and corridors where no additional external lighting and no removal of boundary hedges will be allowed.

Reason: In the interests of biodiversity and to minimise impacts on protected species in accordance with Policy NC1 of the Torbay Local Plan 2012-2030.

22. Details of connection of access to site to the south

Prior to the first occupation of any of the units, full details of the ramped access to the southern boundary of the site to link up with the site to the south shall be submitted to

the Local Planning Authority for approval. The approved scheme shall be completed prior to any works being undertaken in phase 2 of the development as indicated in the approved phasing plan (referenced EX-09-36 version F, received 30.08.2019).

Reason: In interests of the amenity of future occupiers and in accordance with Policy DE1, and SS7 of the Torbay Local Plan 2012-2030.

23. Forward visibility

No development or planting shall exceed 600 millimetres in height within the forward visibility areas on approved plan reference 18-605-404 version N (received 17.02.2020).

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

Relevant Policies

SS2 - Future Growth Areas
SS3 - Presumption in favour of sustainable development
SS4 - The economy and employment
SS5 - Employment space
SS6 - Strategic transport improvements
SS7 - Infrastructure, phasing and delivery of employment
SS9 - Green Infrastructure
SS10 - Conservation and Historic Environment
SS11 - Sustainable Communities Strategy
SS12 - Housing
SS13 - Five Year Housing Land Supply
SS14 - Low Carbon Development and Adaptation to Climate Change
W2 - Waste audit for major and significant waste generating developments
W3 - Existing waste management facilities in Torbay
SDP1 - Paignton
SDP3 - Paignton North and Western area
TA1 - Transport and accessibility
TA2 - Development access
DE3 - Development Amenity
ES1 - Energy
M3 - Preserving and safeguarding of limestone resources and key local building stone
C1 - Countryside and the rural economy
C4 - Trees, hedgerows and natural landscape features
NC1 - Biodiversity and Geodiversity
H1 - Applications for new homes
H2 - Affordable Housing
DE3 - Development Amenity
SC1 - Healthy Bay
SC2 - Sport, leisure and recreation
SC3 - Education, skills and local labour
HE1 – Listed Buildings



Application Address	Site	Brixham United AFC (monopole Site) 16 Wall Park Road Brixham TQ5 9UE
Proposal		Replacement of existing single operator 17.3m telecommunications monopole with 20m lattice tower with 12 apertures, 4 ground based equipment cabinets, feeders, cables, associated equipment and ancillary works within existing compound.
Application Number		P/2019/1005
Applicant		MBNL
Agent		Mr George Oliver - Beacon Comms Group.
Date Application Valid		14/10/2019
Decision Due date		09/12/2019
Extension of Time Date		
Recommendation		That planning permission is granted, subject to the conditions detailed below.
Reason for Referral to Planning Committee		Number of objections received.
Planning Case Officer		Ross Wise

Location Plan:



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NGR E: 293364 N: 056158

Site Details

The site lies within the hardstanding areas associated with the existing football club buildings, and is accessed via a service road leading from Wall Park Road to the north east. The site forms part of the built up area, but is not otherwise subject to any designations within the Torbay Local Plan.

The site is located on the outer limit of the South Devon AONB located within fields forming the football club which are surrounded by a predominantly residential area. The site is also located within the sustenance zone identified within the South Hams Special Area of conservation (SAC) Greater Horseshoe Bat Habitat Regulation Assessment (HRA) Guidance document.

Description of Development

This planning application proposes the replacement of the existing single operator 17.3m telecommunications monopole with 20m lattice tower with 12 apertures, 4 ground based equipment cabinets, feeders, cables, associated equipment and ancillary works within existing compound.

Pre-Application Enquiry

None sought.

Relevant Planning Policy Context

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

Development Plan

- The Adopted Torbay Local Plan 2012-2030 ("The Local Plan")
- The Adopted Brixham Peninsula Neighbourhood Plan 2012-2030 (BPNP)

Material Considerations

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

Relevant Planning History

P/2019/0049 Replacing existing antenna with 12 apertures. CLOSED - 22/01/2019

Summary of Representations

The application was publicised through a site notice. 27 letters of objection have been received.

A summary of the concerns raised in objection include:

- Not in keeping with local area
- Impact on local area
- Visual impact
- Impact on wildlife.

Summary of Consultation Responses

Torbay Council Senior Environmental Health Officer:

No objections.

Brixham Town Council:

No response received.

Planning Officer Assessment

Key Issues/Material Considerations

1. Principle of Development
2. Impact on Visual Amenity
3. Impact on Residential Amenity
4. Flood Risk and Drainage

1. Principle of Development

Policy IF1 of the Local Plan supports, the introduction/installation of the most up to date, fastest telecom and other Information and Communications Technology (ICT).

Paragraph 112 of the NPPF states that 'advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being', and that 'planning policies and decisions should support the expansion of electronic communications networks, including next generation mobile technology (such as 5G)'. The NPPF states that the use of existing masts and buildings for new electronic communications capability should be encouraged. The proposal seeks to upgrade the existing site to improve connectivity and facilitate 5G technology.

The proposed development is considered acceptable in principle.

2. Impact on Visual Character

Paragraph 124 of the National Planning Policy Framework (NPPF) states that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. In addition, paragraph 130 states that 'permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions'. Policy DE1 of the Local Plan states that proposals will be assessed against a range of criteria relating to their function, visual appeal, and quality of public space. Policy E1 of the BPNP states that development within the or impacting on the AONB must demonstrate that great weight has been given to conserving and enhancing landscape and scenic beauty and must comply with the requirements of the NPPF and other statutory documents including the AONB Management Plan. In terms of policies relating to design, the BPNP only provides comments in relation to housing and is silent on the design of other forms of development. Policy SS8 of the Local plan states that all new development should have regard to its environmental setting and should positively contribute to the conservation and enhancement of the natural assets and setting of the Bay.

Within the AONB the conservation of the landscape and scenic beauty, biodiversity and geodiversity will be given great weight and afforded the highest status of protection.

The South Devon AONB Management Plan has recently been adopted by Torbay Council and covers a period from April 2019 to March 2024. The Plan provides guidance on how proposal in the AONB should be considered and their likely impacts. Annex 1 of the Plan is 'Planning for the South Devon AONB: Planning Guidance' which provides advice on conserving and enhancing the natural beauty of the AONB and prioritised the re-use of existing telecommunication installations in order to minimise potential increased landscape impact.

The site has existing telecommunications infrastructure which would be replaced with the proposed development. Objectors have raised concerns with regards to the visual impact of the proposal, the impact the proposal will have on the local area and that the proposal would not be in keeping with the local area. The existing infrastructure sets a clear precedent for telecommunications development in this location and indicates that the visual impact of such apparatus has previously been assessed and is therefore considered acceptable. The proposed 20 metre high telecommunications installation would be some 2.7 metres higher than the existing monopole, however the NPPF outlines that with regard to site selection for telecommunications apparatus consideration should be given to utilising any suitable existing structures. Furthermore,

the proposed equipment cabinets would also replace the existing equipment cabinets. This proposal is for an upgrade to the existing site and as the site has existing apparatus on site, the visual impact is not considered to be of any further detriment to the existing street scene and locality.

Given the existing situation on site with the existing telecommunications apparatus, it is considered that given the proposal's siting, scale, and design, that it would not result in unacceptable harm to the character or visual amenities of the locality. Policy IF1 of the Local Plan states that a planning condition will be employed with a planning consent to ensure that any telecommunication apparatus and associated structures that subsequently become redundant will be permanently removed from the site. The proposed development is therefore considered to be in accordance with the NPPF, Policy DE1 of the Local Plan and Policy E1 of the Brixham Peninsula Neighbourhood Plan.

3. Impact on Living Conditions

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

The application is supported by an ICNIRP (The International Commission of Non-ionizing Radiation Protection) certificate. National Planning guidance advises that: - *'Local planning authorities must determine applications on planning grounds only. They should not seek to prevent competition between different operators, question the need for an electronic communications system, or set health safeguards different from the International Commission guidelines for public exposure.'*

Given its siting, scale, and design, it is considered that the proposal would not result in any unacceptable harm to the amenities of neighbours, in terms of their outlook, privacy, access to light, or in terms of disturbance.

The proposal is therefore considered to accord with Policy DE3 of the Local Plan.

4. Flood Risk and Drainage

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

The site is located within the Critical Drainage Area and is accompanied by a Flood Risk Assessment. As the proposed development would not result in an increase of impermeable footprint of over 20 square metres, it is not considered necessary to condition the surface water flooding.

Given the nature of the proposal, the intended means of surface water drainage are considered acceptable having regard to the adopted Standing Advice, and the

proposal is therefore considered to be in accordance with Policy ER1 of the Local Plan.

5. Ecology

Policy NC1 of 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. Policy E8 of the Brixham Peninsula Neighbourhood Plan states that development affecting internationally protected sites and species will only be approved where it can be demonstrated there is no likely significant effect, either alone or in combination with other plans or projects and regard has been given to National Planning Policy Framework and conforms with policy NC1 of the Torbay Local Plan.

The site is also located within the sustenance zone identified within the South Hams Special Area of conservation (SAC) Greater Horseshoe Bat Habitat Regulation Assessment (HRA) Guidance document.

Concerns have been raised by objectors regarding potential impacts on bats.

The proposal has been screened in accordance with the South Hams Special Area of conservation (SAC) Greater Horseshoe Bat Habitat Regulation Assessment (HRA) Guidance document. The proposal would not Loss, damage or disturbance to a Designated Roost; would not cause loss, damage or disturbance to potential foraging Habitat; would not cause loss, damage or disturbance to a potential commuting route; would not result in increased illumination; would not result in an increased risk of collisions; would not cause loss, damage or disturbance to a "pinch point"; and would not cause loss damage or disturbance to an existing mitigation feature.

As such, there is unlikely to be a likely significant effect on Greater Horseshoe Bats and a detailed HRA is not required.

The proposal is considered to be acceptable with regards to Policy NC1 of the Local Plan and Policy E8 of the BPNP.

Sustainability

Policy SS3 of the Local Plan establishes the presumption in favour of sustainable development. The proposed development would result in the upgrade of an existing telecommunications site, which is favoured by the NPPF and the Development Plan.

Statement on Human Rights and Equalities Issues

Human Rights Act - The development has been assessed against the provisions of

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

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

Local Finance Considerations

S106: Not applicable.

CIL: The CIL liability for this development is Nil.

EIA/HRA

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

HRA: Not applicable.

Planning Balance

The proposed development is for the installation of a 20 metre high telecommunications Street Works pole with 9 antennas, 6 equipment cabinets and ancillary development, alongside the removal of the existing telecommunications equipment which would become redundant. The proposed development is intended to upgrade the existing telecommunications technology and to facilitate for 5G coverage. Subject to the planning condition detailed below, no unacceptable material planning harm has been identified and the proposal is in accordance with Development Plan policies.

Conclusions and Reasons for Decision

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

Officer Recommendation

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

Conditions

Removal of Redundant Equipment

Any of the approved telecommunications equipment which becomes redundant and ceases to be used for a period in excess of six months shall be permanently removed within a further period of three months.

Reason: In the interests of visual amenity, in accordance with Policies DE1 and IF1 of the Torbay Local Plan, and Policy E1 of the Brixham Peninsula Neighbourhood Plan.

Removal of Old Equipment

All existing telecommunications equipment associated with this site, other than the single existing equipment cabinet shown as being retained shall be completely and permanently removed and the pavement surface restored within one month of the erection of the new monopole hereby approved.

Reason: In the interests of visual amenity, in accordance with Policies DE1 and IF1 of the Torbay Local Plan, and Policy E1 of the Brixham Peninsula Neighbourhood Plan.

Relevant Policies

DE1 – Design

DE3 – Development Amenity

ER1 – Flood Risk

ER2 – Water Management

IF1 - Information and Communications Technology

SS8 – Natural environment

E1 – Landscape beauty and protected areas.

PNP1(i) – Surface Water