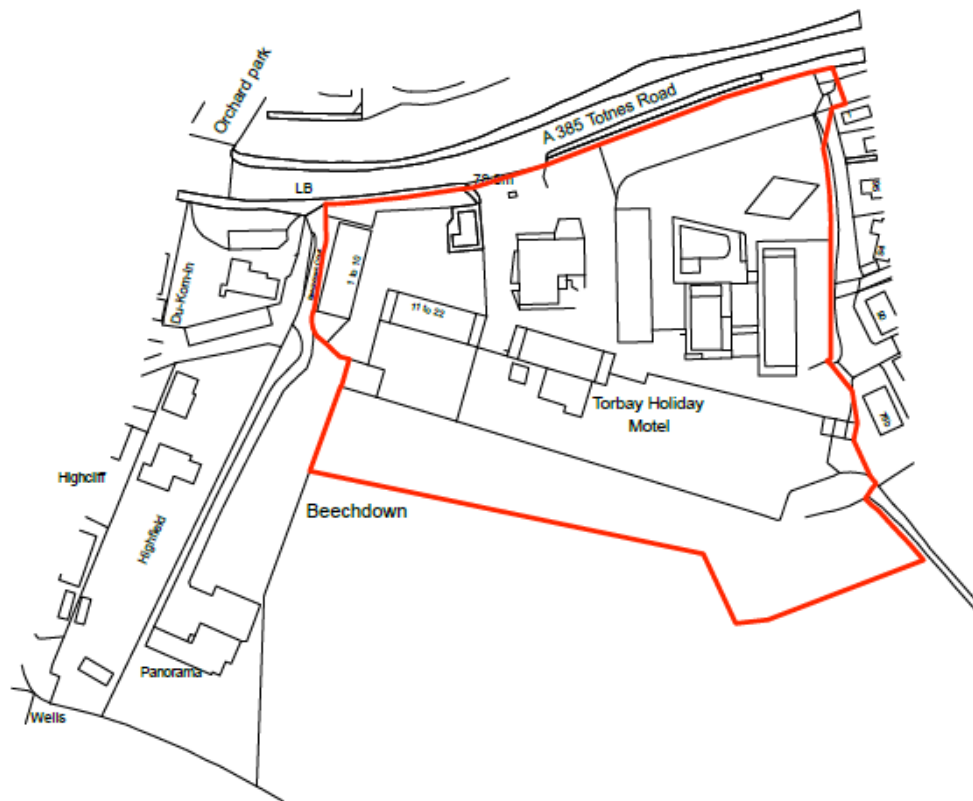


# **TORBAY COUNCIL**

|   |   |
|---|---|
| Application Site Address                  | Former Torbay Holiday Motel, Totnes Road, Paignton.<br>TQ4 7PP  |
| Proposal                                  | Outline application for the demolition of Torbay Holiday Motel and redevelopment of site for up to new 39 residential dwellings together with the retention of Beechdown Court, with detailed access (Matters of Appearance, Landscaping, Layout and Scale reserved)(As revised by plans received 20.03.2020 and description amended 24.03.2020 and plans received 09.10.2020).   |
| Application Number                        | P/2019/0615   |
| Applicant                                 | Torbay Eden Ltd   |
| Agent                                     | Stantec   |
| Date Application Valid                    | 30.07.2019  |
| Decision Due date                         | 29.10.2019  |
| Extension of Time Date                    | 31.08.2020  |
| Recommendation                            | <p>Approval: Subject to;</p> <ol style="list-style-type: none"> <li>1. Planning conditions outlined below, with the final drafting of conditions delegated to the Assistant Director of Planning, Housing and Climate Emergency, and;</li> <li>2. The completion of a S106 Legal Agreement to secure heads of terms in accordance with the adopted Planning Contributions and Affordable Housing Supplementary Planning Document, and that secures future access to the wider masterplan area to the east of the site is not inhibited, delegated to the Assistant Director of Planning, Housing and Climate Emergency.</li> </ol> <p>The resolution of any new material considerations that may come to light following Planning Committee to be delegated to the Assistant Director of Planning, Housing and Climate Emergency, including the addition of any necessary further planning conditions or obligations.</p> |
| Reason for Referral to Planning Committee | Major Development   |
| Planning Case Officer                     | Scott Jones   |

## **Location Plan**



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## **Site Details**

The application site is the former Torbay Holiday Motel, which is set on the south side of the Totnes Road (A385) on the outskirts of Collaton St Mary, Paignton.

The Motel consists of a small grouping of two-storey buildings that date from the mid-20<sup>th</sup> Century. The Motel has been closed for a number of years and the buildings display a somewhat neglected appearance. The land around the buildings is largely laid to hardstand but where it is not there is unmanaged scrub growth. To the western side of the site there are two residential blocks (Beechdown Court) that remain in use, which provide 22 small apartments. These blocks are arranged in an L shape with the associated parking area clearly delineated from that of the wider site by a wall and the previous reception building for the Motel. To the front of the site, to the east of the existing entrance, there is a linear strip of hardstand that runs parallel to the low boundary walls that abuts the pavement. This hardstand is in use as an access route for the adjacent 'park home' site that sits to the east, Beechdown Park. The application site also includes the lower section of the adjacent field to the south of the site, which amounts to a strip of land of approximately 15-20m deep.

In the Torbay Local Plan the site is identified as part of the wider Collaton St Mary (Paignton North and West Area) Future Growth Area. It is also a site identified for housing within the Collaton St Mary Masterplan, which is an Adopted Supplementary Planning Document for the area (adopted February 2016). In addition a small section of the site, the south-eastern corner towards the back of the site, sits as part of the

Brake Copse Local Nature Reserve. The nature reserve principally encompasses the wooded area on higher land to the south but there is a finger of the designation that follows the field boundary down to the south to the corner of the application site. Other notable designations are that the site sits within a Critical Drainage Area and that there is an area of heightened risk of flooding identified on land to the east of the site, within Beechdown Park, which continues east through Higher Blagdon Farm and beyond. It is also noted that the site sits within the Landscape Connectivity Zone associated with the South Hams Special Area of Conservation (SAC), which relates to the Greater Horseshoe Bat colonies across South Devon.

### **Description of Development**

The application seeks outline planning permission for up to 39 dwellings with all matters reserved except for access. This includes the retention of Beechdown Court apartments. The current proposal has evolved from an initial proposal to demolish all of the buildings on the site to provide up to 70 dwellings and was re-advertised as such following the receipt of revised plans in March 2020. The current proposals are supported by a recently revised indicative layout submitted 9<sup>th</sup> October 2020 which seeks to demonstrate a possible layout that responds to a revised width established for a proposed ecological corridor (mitigation land) along the southern boundary. The revised indicative layout also seeks to demonstrate a less car-dominant streetscape can be achieved following officer feedback on this particular point.

The proposal includes a revised access point that sits slightly east of the existing access point off the Totnes Road (A385). The centre point of the proposed junction being approximately 19m east of the centre point of the much wider existing access. In regard to design detail the access proposes a 6m wide carriageway into the site with a 2.5m wide footpath on the western side and a 3m wide foot/cycle path on the eastern side. The access proposal includes highway works to widen and re-align the A385 to provide a 30m long designated right hand turn lane into the site.

Beyond the access detail the information submitted is indicative as all other matters are reserved for future consideration. The additional information submitted is principally seeking to demonstrate that the level of development proposed could be appropriately achieved on the site. This detail includes an indicative masterplan layout that presents a potential residential layout aligned around a sweeping central road to the south-eastern corner of the site. This road is shown to extend to the edge of the site and to abut the adjacent field. This is made in reference to the aspirations of the adopted masterplan for the area, which depicts the motel site as a 'gateway site that will provide access to 'Phase 3' to the south east.

In addition to the central spine road the indicative layout presents a spur road to the east that connects to and provides access to the adjacent Beechdown Park, and a spur road to the west to serve dwellings along the southern border. There are also a 'secondary' road westwards which will serve the retained properties of Beechdown Court.

The indicative masterplan shows a mix of detached, semi-detached and short terraced properties, which appear to be served with a mix of off-road and courtyard parking facilities. Garden divisions that provide private space for all dwellings is also shown.

The principles of the layout show development that fronts the A385, which is expected to be set behind some form of landscaping, indicated as possibly taking the form of a Devon hedge bank with native hedge planting. The layout also includes the potential for some form of public open space near the southern border adjacent to the spine road, and there are shown to be opportunities for wider landscaping which include a replacement landscaped green buffer along the southern border.

In regard to visual character the supporting information includes some artistic street impressions that depict a mixed use of materials that suggest the use of render, stone and timber elements within elevations.

### **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 Practice Guidance (PPG)
- Published Standing Advice
- Collaton St Mary Masterplan
- Planning matters relevant to the case under consideration, including the following advice and representations, planning history, and other matters referred to in this report.

### **Relevant Planning History**

#### **Pre-Applications**

None.

#### **Applications**

P/2015/0709: Demolition of motel buildings and erection of 33 dwelling houses with associated infrastructure and amenity land. Application Withdrawn.

### **Summary of Representations**

31 representation have been submitted in response to both the initial proposal for up to 70 dwellings and the re-advertised and amendment proposal for up to 39 dwellings with the retention of Beechdown Court. The submissions largely object to the scheme. There are two supporting submissions and 29 objecting submissions. The following provides a summary of the main issues identified and where appropriate a summary response is provided by the planning officer. Where appropriate the issues raised are discussed further in the Key Issues / Material Considerations section of this report.

The concerns raised in the objections are as follows:

- Impact upon traffic flows
- Further intrusion into the local landscape is not acceptable
- Foul drainage issues
- Surface water drainage issues
- Impact on access to Beechdown Park
- Field to the rear should not be lost to housing
- Overdevelopment
- Impact upon ecology
- Impact upon trees and landscape
- Contrary to the Neighbourhood Plan
- Impact of sewage on the protected marine environment

Supporting comments include:

- Support the development of brownfield sites
- Redevelops an eyesore at the entrance to Torbay
- Retention of Beechdown Court maintains a vital form of accommodation
- 

Objections include comments from the NHS.

#### Torbay and South Devon NHS Foundation Trust:

Torbay and South Devon NHS Foundation Trust (the Trust) is currently operating at full capacity in the provision of acute and planned healthcare. The NHS funding is dependent on activity it delivers and whether the Trust meets the quality standards and timeframes. The Trust is already delivering services over the capacity. This development will have a detrimental impact on the Trust's ability to continue to deliver services with required quality standards and timeframes. The following year's contract does not pay previous year's increased activity and the deficit created by the impact of the development. The contribution is being sought not to support a government body but rather to enable that body to provide services needed by the occupants of the new development. The funding as outlined below, cannot be sourced from elsewhere. The lack of contribution will create a long term impact on the Trust's ability to provide service required to those who live in the development and the community at large. Without the contribution, the development is not sustainable and should be refused.

Therefore the contribution required for this proposed development of 70 dwellings is £61,925.00. This contribution will be used directly to provide additional health care services to meet patient demand.

*Officer response on the NHS comment:*

The Development Plan only seeks S106 obligations for health care from specialist accommodation for the elderly (as per Policy H6) or where development gives rise to a specific need (such as a new surgery). The obligations sought by the NHS are not considered to meet the necessary tests for obligations and cannot be sought. The obligations seek to respond to an increase in pressure upon services from additional housing, however expectations for housing growth within Torbay has been publically established for some time within the Development Plan. The site is identified for housing and it is also important to consider that the Council cannot currently demonstrate the expected 5 year housing land supply, which suggests housing growth will be lower than that projected within the Development Plan. In this particular instance in the absence of a particular policy to support the notion of health obligations it is not considered justifiable to seek the obligations on an identified housing site where growth levels are below the levels expected within the Development Plan. This view is consistent with the view taken on other major housing schemes within the area and across Torbay.

### **Summary of Consultation Responses**

#### **Paignton Neighbourhood Forum:**

The Paignton Neighbourhood Forum support this application in principle with a few reservations, noted here.

We have a major concern regarding the access to Beechdown Park: Is the access wide enough to accommodate a low loader containing a park home? We ask that this aspect of the plan is given additional thought.

Another major concern is that water run-off into stream should not be allowed under any circumstances. This water runs through a gully, which requires constant cleaning in Little Blagdon Farm, and then runs onto Stoke Gabriel. Note also that sewage capacity will not allow mixed use: sewage and water run-off. Please refer to Paignton Neighbourhood Plan, PNP1 (i) and 6.54.

We also note that back gardens facing onto Totnes Road may be unsightly.

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

Further to the additional information submitted relating to the surface water drainage design it is confirmed that the points raised within the previous consultation response dated 15<sup>th</sup> June 2020 have now been answered within the latest information.

As a result there is no objections on drainage grounds to outline planning permission being granted based on the latest submitted drawing (C11032- HYD-C-001 Rev P06) and hydraulic modelling (Reference C-11032 Revision E dated 19/6/20).

As this is an outline planning application with the final layout yet to be fixed, a final detailed drainage design that responds to any subsequent revised layout must be submitted as part of any reserved matters.

It should be noted that Torbay Council have identified a flood alleviation scheme downstream of this development on the Yalberton watercourse. The scheme is currently identified on the Environment Agency's six year financial plan. As the surface water run-off from the proposed development is likely to impact on this watercourse upstream of the flood alleviation scheme a contribution to the funding for the flood alleviation scheme must be secured from the developer through S106 funding.

We can only really ask for contributions for new developments discharging to the watercourse. As a result, if there are only 39 new dwellings the contribution would be £563/dwelling = £21,957.

### **Torbay Council Strategic Planning (Policy) Officer**

The principle of redevelopment of the site is well established and supported. The site is part of a wider "Future Growth Area" in the Local Plan (Policy SS2 and SDP3) and is therefore an allocated site. The Collaton St Mary Masterplan was adopted as SPD in 2016 and is a material consideration. The Masterplan indicates that access from the Torbay Holiday Motel site will serve as one of the principal accesses serving the later phases of development of the SS2.2 area south of Totnes Road (the other main access being Little Blagdon Farm).

Policy PNP24 of the Paignton Neighbourhood Plan sets out that development is "supported where the proposals are in accordance with the adopted Masterplan for the area". There are additional caveats and requirements to follow, particularly in relation to detailed matters. Table 8.1 of the Neighbourhood Plan cannot be taken as a phasing policy, but nevertheless envisages the Motel site coming forward around 2020-2022; there is a general view that the current brownfield site should be prioritised. In this context I note that the PNP policies map stops short of the Motel Site, whereas the Local Plan Policies Map includes it. However, in this instance, the Masterplan shows the Motel site being redeveloped in the first phase of development and providing access to the wider development area; and Policy PNP24 requires development to be in accordance with the Masterplan. On this basis, I consider that the development plan, taken as a whole, allocates the site for development.

The site is included as a deliverable site in the Council's 2020 five year housing land supply schedule.

The scheme has been revised to retain Beechdown Court. In my view this is a bit of a missed opportunity to remove a building of no architectural merit. However, it has been established that the former holiday flatlets have a lawful residential use (following a 1987 Appeal decision). The current proposal achieves a pragmatic redevelopment of the bulk of the site and hopefully will not prevent a future redevelopment of Beechdown Court.

It is important that the access is of a sufficient standard to serve developments in later phases of the Collaton St Mary development, and that roads are built to the boundary and adopted with no ransom strip. Servicing of Beechdown Park is also required and the road network will need to show adequate access and manoeuvring area for occasional mobile homes.

Drainage is a significant issue in the Collaton St Mary area, but I note that there is various assessments of this, and David Stewart's memo of 26<sup>th</sup> June 2020 raised no objection subject to a S106 Obligation towards downstream flood alleviation. This would be a "site deliverability" matter.

### **Torbay Council Strategic Planning (Transport) - Incorporating the views of the Highway Authority:**

The site is accessed via Totnes Road (A385) that forms part of the Torbay Major Road Network (Policy TA2). The proposal will serve as an access road to the wider SS2 housing allocation on the southern side of the Collaton St Mary Masterplan. Vehicular access to the adjacent Beechdown Park mobile homes will need to be retained to allow for both refuse collection vehicles and HGVs/ mobile homes access. The main spine access roads should therefore be constructed to adoptable standards and ensure that the adopted highway extends to the adjoining eastern and southern boundary without any ransom strips.

The Local Highway Authority seeks to ensure safe and suitable access with support of sustainable transport measures; the provision for highway improvements and future construction of access road constructed to adoptable standards with appropriate pedestrian and cycle access. The LHA seeks conditions for the submission of a final Travel Plan, Highway improvements via s278 agreement and an access roads built to adoptable highway standards. Section 106 planning contributions are requested for sustainable transport measures.

### **Policy Context:**

The NPPF (Feb 2019 paragraph 108) states that development plans should:

- *appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;*
- *safe and suitable access to the site can be achieved for all users; and*
- *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.*

Within this context, applications for development should (paragraph 110):

- *“give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas ...and (so far as possible) facilitate access to high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use.*
- *“address the needs of people with disabilities and reduced mobility in relation to all modes of transport;*
- *create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards;*
- *allow for the efficient delivery of goods, and access by service and emergency vehicles; and*
- *...enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.*



- Para 105 of the NPPF allows Local Planning Authorities to set local parking standards, based on 5 criteria: accessibility; type, mix and use of development; public transport opportunities; local car ownership levels; and the need to reduce high-emission vehicles.
- Para 109. of the NPPF states that development can be 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.”*

Torbay Council’s Local Plan Transport Policies focus on the importance of accessibility. Local Plan Policies TA1 and TA2 (and TA3) are relevant. In addition, Paignton Neighbourhood Plan Policy Area Wide Sustainable Transport Policy, PNP1h) are particularly relevant.

### **Key Issues:**

#### Highway works/impact:

- The applicants have submitted a revised layout with the provision of a right turn lane on Totnes Road and a 6m wide carriageway and shared surface cycle/footways along the frontage of the A385 with visibility splays. The Highways officer has agreed this layout in principle with works within the adopted highway will be subject to a Section 278 agreement. However there are some aspects which require revision. A revised plan which includes the full extent of the proposed highway works, including the extent of the highway frontage and how cyclists will join the shared surface from the carriageway should be submitted.
- The proposed main access point from Totnes Road will require alterations to the A385, with a change to the existing right turn facility for vehicles travelling east and turning right into the development. These works could be achieved via s278 Agreement.
- Various signage, Road Traffic Orders will be required. A variation to Road Traffic Orders (A385) will be required as part of the revised road layout. £2000 funding for legal costs will therefore need to be secured.
- Construction Traffic: A Construction Management Plan should be submitted. The works required via 278 to create the right turn lane into the site may also need to be constructed prior to works on the development site, to ensure there is a safe access for construction traffic.

#### Car Parking:

- Local Plan Policy TA3 Appendix F sets out the parking standards which includes provision of disabled spaces, electrical car charging points and cycle spaces.
- Planning Contributions: Torbay Local Plan Policy SS7 and the Torbay Planning Contributions and affordable Housing SPD will also apply (to the non affordable dwellings). In the case of Sustainable transport it is indicated as “trip rate x £171” per non affordable dwelling built following any reserved matters or full planning consent. Alternatively the SPD also makes an assumption on a trip rate specific to different sized dwellings. This method could be used but can only be calculated following the detailed planning application. This funding

would support strategic connectivity from Collaton St Mary to employment areas along the Western Corridor and into Paignton Town Centre.

- Torbay Local Plan Policy SS6.2 and SDP3, indicates that development along the Totnes Road area (SDP3.3) will require infrastructure improvement works to the A385 Totnes Road. As noted in the Planning Contributions and Affordable Housing SPD, this is estimated at £1m (para 4.2.7) and it is appropriate to divide that amongst the properties proposed, using the numbers as set out in the Adopted Masterplan. In total, the Adopted Masterplan supports approximately 460 homes (£2,174 per dwelling). That same Adopted Masterplan estimates 39 dwellings on this site. Therefore £87,786 towards the development and implementation of the scheme.
- Travel Plan: Provision of a final Travel Plan with Travel Plan Co-ordinator, setting out provision for 30% modal shift (by foot, cycle and public transport) prior to occupation. Welcome packs should include sustainable travel incentives and should be sent in advance of occupation, at a suitable contract commitment.
- A Grampian condition to ensure Beechdown Park will retain adequate vehicular access (or suitable alternative) at all times both during and after construction.
- A Grampian condition/s106 Agreement to ensure vehicular access via an adoptable standard road to the adjoining Blagdon Farm land on the southern boundary

Conclusions: The current outline proposal with all matters reserved except access is acceptable provided that highway improvements; vehicular access provision; sustainable transport measures; car parking and planning contributions are to be secured.

### **Torbay Council Ecology Advisor:**

#### European Sites: South Hams Special Area of Conservation

The site is within the Landscape Connectivity Zone for the South Hams SAC with respect to Greater Horseshoe Bats. The proposals will lead to a loss of commuting habitat (0.1ha broadleaved woodland, 0.1ha of hedgerow, 0.1ha scrub and 0.18ha grassland) which has been confirmed through survey to support small numbers of commuting Greater Horseshoe bats. It is believed that this scheme will cause damage or disturbance at a landscape scale to GHB commuting routes, and a Likely Significant Effect on the South Hams SAC in the absence of mitigation. Therefore, an HRA is required to be produced and agreed with Natural England. Also, loss of a GHB roost from building B2, which is deemed to support individual GH bats.

A hedgebank and belt of vegetation comprising shrub planting and an herb-rich hedgerow / field margin, is to be provided to the south of the site. This belt of vegetation will be protected from over grazing by a stockproof fence. A temporary 3m high close board fence to be installed adjacent to the northern side of the Devon hedge to act as a temporary light shield. This will allow the GHB flight line to remain undisturbed in perpetuity. Management of this flight line should occur by a dedicated management company to ensure suitable management in perpetuity, which will need to be detailed in an agreed LEMP.

A replacement bat roost with bat dormer in a purpose-built bat building will be provided. The roost design will be suitable for greater horseshoe bats as it will be situated in the

south-east of the site adjacent to the new hedge bank. Management of this roost site will need to be in perpetuity.

A Habitat Regulations Assessment / Appropriate Assessment has been completed. Provided the mitigation measures are secured by condition, there will be no adverse effect on the integrity of the South Hams SAC alone or in-combination with other proposals or projects.

The details for reserved matters will need to include the submission of a Construction and Environmental Management Plan which will include details of environmental protection throughout the construction phase. This will need to be agreed with the LPA. The details for reserved matters should also include the submission of a detailed Lighting Strategy for agreement with the LPA. In addition the development if permitted should be implemented strictly in accordance with the recommendations and requirements stated in the Ecological Impact Assessment (The Ecology Consultancy, 27 February 2020), Evidence in support of a Habitats Regulations Assessment – Draft for Consultation (The Ecology Consultancy, 27 February 2020) and the Torbay Holiday Motel, Greater Horseshoe Bat Mitigation – Additional Information (The Ecology Consultancy, 03 July 2020) as amended by the Greater Horseshoe Bat Mitigation – Addendum (The Ecology Consultancy, 28 September 2020), subject to any variation required by Natural England under any license it may issue.

#### Priority Habitats

There will be a loss of 0.1ha species-poor hedgerow and loss of 0.1ha of broadleaved woodland. A hedgebank and 3m wide belt of vegetation comprising shrub planting and an herb-rich hedgerow / field margin is to be provided to the south of the site. This is to be kept at under 0.5 lux. The details for reserved matters should include the submission of a Landscape and Ecological Management Plan which will include details relating to habitat creation, species specification and management. This will need to be agreed with the LPA.

#### Other Habitats

There will be a loss of 0.11ha of scrub and 0.18ha of semi-improved grassland. A hedgebank and 3m wide belt of vegetation comprising shrub planting and an herb-rich hedgerow / field margin is to be provided to the south of the site. This is to be kept at under 0.5 lux. The details for reserved matters should include the submission of a biodiversity metric calculation which uses the most up-to-date metric and associated guidance documents. This calculation is to secure a net gain in biodiversity.

#### European Protected Species

Roost emergence surveys undertaken throughout summer 2019 on multiple buildings with activity relating to Common Pipistrelles, Lesser Horseshoe and Greater Horseshoe bats. The impact is the loss of these roosts. The mitigation is to provide a bespoke bat building and roosting provisions within new buildings onsite. All demolition works will need to be undertaken under a European Protected Species licence from Natural England. Details of roost design (as provided in ecology report) will need to be conditioned. The details of reserved matters shall include bird nesting/bat roosting boxes in the design of the buildings. No works shall commence until the LPA has been provided with a copy of the licence for Bats issued by Natural England pursuant to Regulation 55 of The Conservation of Habitats and Species

Regulations 2017 (as amended) authorising the works to go ahead, or confirmation in writing from Natural England that such a licence is not required.

#### Other Protected Species

**Badgers:** Signs of badgers checked when site walkover undertaken. No signs of badger present during site surveys. Prior to the commencement of any site works a repeat survey for the presence of badgers on the site and surrounding suitable habitat, with associated mitigation/compensation measures, should be submitted to and approved in writing by the local planning authority.

**Nesting Birds:** Loss of habitats suitable of supporting nesting birds. Nests of three species found within multiple buildings. The proposed mitigation is the removal and demolition during winter and roost provision in new buildings. The details of reserved matters should include bird nesting/bat roosting boxes in the design of the buildings. A condition to ensure no building demolition or vegetation clearance shall take place during the bird nesting season (01 March to 31 August, inclusive) unless the developer has been advised by a suitably qualified ecologist that the clearance will not disturb nesting birds and a record of this kept, should be attached.

#### **Torbay Council Affordable Housing Team**

Affordable housing should be secured in accordance with the Council's adopted policy.

#### **Torbay Council Education Team**

I can confirm that we would want to see education obligations should it be approved by members.

We are still in the midst of managing the existing growth in pupil numbers in the Paignton area - particularly in the older year groups of primary and in the whole of the secondary sector.

Whilst our pupils forecasts do allow for some growth from housing developments it is only the yield from those schemes that have already obtained planning permission- so this scheme and any others that are yet to be approved are not included in our forecasts and will put additional pressures on places across the area.

#### **Torbay Council Arboricultural Officer**

The reports and plan satisfy the arboricultural requirements for submission. Many of the trees are low category and scheduled for removal. A number of B category trees are scheduled for removal to provide access to the site and beyond. Conclusion is that despite the loss of trees there will be ample opportunity to provide a robust planting scheme. Recommendation is that the submission of a robust landscape scheme providing mitigation for the expected tree loss to be submitted to, and agreed with, Torbay Council, and that a prior to commencement of development a Tree Protection Plan and Arboricultural Method Statements are submitted.

#### **Natural England**

Natural England notes that your authority, as competent authority, has undertaken an appropriate assessment of the proposal in accordance with regulation 63 of the Conservation of Species and Habitats Regulations 2017 (as amended) pertaining to the South Hams Special Area of Conservation (SAC). Natural England is a statutory

consultee on the appropriate assessment stage of the Habitats Regulations Assessment process.

The appropriate assessment concludes that the authority is able to ascertain that the proposal will not result in adverse effects on the integrity of any of the sites in question. Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England advises that we concur with the assessment conclusions, providing that all mitigation measures are appropriately secured in any planning permission given.

Please note that our previous advice has been misinterpreted – we did not request that the new hedgebank should be 3m wide. Should the hedgebank width be amended to a standard Devon hedgebank width, we advise that the surplus from the hedgebank width is added to the mitigation buffer in order to not diminish the overall mitigation provision. In addition, establishment of species-rich sward in the buffer is dependent upon suitable soil conditions. If the soil analysis (required at reserved matters) is not suitable for a species-rich sward establishment, then additional mitigation measures will be required to ensure that the overall mitigation balance is achieved. We advise that these aspects are integrated into any planning conditions that you seek to apply as part of determining this application. Further, reserved matters will need to carefully consider the practicality of proximity of residential units along the southern boundary, and whether this will limit the scope of this mitigation feature due to conflicting management expectations.

### **South West Water**

South West Water has no objection.

Previous comments on the general position at Collaton St Mary regarding capacity concerns:

I am pleased to provide comments on the points raised to give reassurance to the LPA, Councillors and residents as to how we will manage our clean and waste water services for new developments.

Prior to 1 April 2018, each new development site would be reviewed on a case by case basis and should there be a need for off-site reinforcement to support the development, the activities would be funded by the individual developments if this was not recognised in the South West Water business plan.

This was formalised with the developer by either using a Section 106 contribution, or in more recent years, via a planning condition. However, the significant change in the Developer Services Charging Arrangements on 1 April 2018 which was brought forward by Ofwat, moved the off-site reinforcement to be funded by the infrastructure charge (authorised by Section 146(2) of the Water Industry Act 1991 which is applied to each new property (or commercial property based on loading) to recover the costs of network reinforcement involving new development.

The infrastructure charge will allow new development to progress without any adverse impact upon the levels of services experienced by our existing customers as a consequence of new development. Our Asset Management Team will be carrying out an evaluation of the waste water assets in Collaton St Mary and this information will allow us to review if there is a need to carry out off-site reinforcement to support the developments in the area. The review will be based on the overall master plan of this area to ensure we look at the holistic view of development in this area.

I trust this provides the clarity required from SWW as to how we will review the area and how this also is to be funded should there be a requirement to reinforce the network to support these developments

**Environment Agency**

No comment supplied.

**RSPB**

No comment supplied.

**Torbay Council Waste and Recycling Officer**

With regard to the proposals made for waste and recycling storage and collection, I have no objection to this application. I understand that the finer details of the waste and recycling facilities will be provided at a later date as part of a reserved matters application and would be keen to see the principles outlined in the Waste Management Plan, put successfully into practice.

**Police Designing Out Crime Officer**

No comment received on revised proposal. Comments on pre-revision proposal for up to 70 dwellings as follows:

It is appreciated that the application is for Demolition and Access approval at this time but as a new residential development of up to 70 dwellings has the potential to impact on crime and disorder in some capacity, I welcome early consultation with regard to any future reserved matters application, specifically with regard to the design and layout of the proposed scheme, to ensure a consistent level of security throughout and opportunity for crime, fear of crime and disorder are minimised.

In the meantime please find the following initial information, advice and recommendations to assist and for consideration:-

As the security element of the building regulations, namely Approved Document Q (ADQ), sits outside the decision making process for the planning authority, please find the following which is to inform the applicant:-

ADQ creates security requirements in relation to all new dwellings. All doors at the entrance to a building, including garage doors where there is a connecting door to the dwelling, and all ground floor, basement and other easily accessible windows, including roof lights, must be shown to have been manufactured to a design that has been tested to an acceptable security standard i.e. PAS 24 2016.

As such it is recommended that all external doors and easily accessible windows are sourced from a Secured by Design (SBD) member-company. The requirements of SBD are that external doors and accessible windows are not only tested to meet PAS 24 2016 standard by the product manufacturer, but independent third-party certification from a UKAS accredited independent third-party certification authority is also in place, thus exceeding the requirements of ADQ and reducing much time and effort in establishing provenance of non SBD approved products.

Secured by Design (SBD) is a police owned initiative which aims to improve the security of dwellings and their immediate surroundings in order to provide safer places to live and visit.

The above to be considered in conjunction with the following attributes of Crime Prevention through Environmental Design (CPTED):-

- Access and movement: Places with well-defined and well used routes, with spaces and entrances that provide for convenient movement without compromising security
- Structure: Places that are structured so that different uses do not cause conflict
- Surveillance: Places where all publicly accessible spaces are overlooked; have a purpose and are well managed to prevent creating areas that could attract criminal activity, the antisocial to gather or for unacceptable behaviour such as dumping and dog fouling etc. to go unnoticed.
- Ownership: Places that promote a sense of ownership, respect, territorial responsibility and community
- Physical protection: Places that include necessary, well-designed security features as laid out in SBD Homes 2019 – to include secure cycle storage
- Activity - Places where the level of human activity is appropriate to the location and creates a reduced risk of crime, fear of crime and a sense of safety at all times.
- Management and maintenance - Places that are designed with management and maintenance in mind to discourage crime, fear of crime and ASB.

It is appreciated that parking for new development can be a contentious issue but it is vital that the provision for the proposed scheme is considered to be both sufficient and practical when balanced against the overall schedule of accommodation to do all that is reasonable in minimising opportunity for vehicle related complaints and issues such as inconsiderate or obstructive parking, as these can easily escalate into criminal and antisocial behaviour amongst residents (shouting, swearing, assaults, damage etc.)

With regard to 'practical' parking there is ever increasing evidence from some new development in the county where the 'Tandem' design of parking is not being embraced by occupants of multi vehicle households, perhaps due to being inconvenient or just awkward to use, resulting in the 2<sup>nd</sup> (or 3<sup>rd</sup>) 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 will be much reduced if the spaces are not being utilised. In addition the problems associated with tandem parking are further exacerbated when they are designed to the front of a garage or car port.

Please do not hesitate to contact me if I can assist further or any clarification is sought with regard to the content of this response.

## **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
8. Low Carbon Development
9. Other Considerations

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

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

1.2 The Torbay Local Plan offers some specific reference to the site within the accompanying explanatory text to Policy SDP3 where it states that a smaller amount of housing (around 40 dwellings) is possible in the shorter term at the former Torbay Holiday Motel, which is an under-used brownfield site.

1.3 The site is also subject to an adopted masterplan for the wider Future Growth Area (adopted February 2016). The Collaton St Mary Masterplan identifies the application site for residential development and identifies the site as being 'Phase 1', with introductory commentary as follows;

*At the western end of the village is the vacant motel site. It is surrounded by occupied uses on either side, including a static caravan site along its eastern boundary and a car showroom and dwellings to its west.*

*The development of this site will affect the long term viability of the rest of the masterplan proposals. This first phase needs to be designed and laid out in such*



*a way as to ensure that access is safeguarded to future phases further east. In essence, this first phase will form one of 2 major gateways into the southern part of the masterplan. Therefore, its primary value is not in achieving maximum housing numbers on the site but rather in providing a gateway into a larger area.*

1.4 The expected number of units within the Masterplan's schematic proposal suggests the delivery of between 25-30 houses, together with a small area of public open place space, a safeguarded link into 'Phase 3' area to the east, and retained future access links to the park home site.

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

1.6 It should be noted that the application site includes a linear section of the adjacent field, a strip that is around 20m in depth, which is not referenced or included for development within the adopted masterplans commentary, although it does sit within the Future Growth Area identified within the TLP. The inclusion of this additional parcel of land is not considered to present any overriding conflict of policy in terms of broad principle as the addition is relatively limited and the site is principally that of the motel site. The impact of the inclusion of this land should duly consider landscape and ecology impacts though, which will be discussed in later sections of this report.

1.7 Due to the reasons stated above there is deemed to be a consistent policy umbrella that supports the principle of the site's redevelopment to provide housing. The principle of residential development is therefore accepted, when considering strategic policies SS1, SS2, SS5 and SS12 of the Torbay Local Plan and Policies PNP1 and PNP24 of the Paignton Neighbourhood Plan, and the Development Plan as a whole. This is purely a matter of principle and the broader merits of the proposal and other material considerations, will be discussed in more detail in the following sections of the report below.

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

2.1 Whilst the proposal only seeks detailed consent for the proposed access, being in outline with all matters reserved for future consideration, the submitted information does include an indication of a proposed site layout and the likely detail on the character and appearance of the development. It is necessary to consider whether the submitted detail indicates and ultimately provides sufficient comfort that the amount of development (up to 39 dwellings with the retention of Beechdown Court) could be appropriately achieved in terms of its layout, design and its resultant character, without undue visual impact.

2.2 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.

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

2.4 In terms of the proposal the application is supported by a recently amended indicative masterplan that presents how the amount of development could be laid out within the site. The supporting landscape masterplan has not been amended but still presents a potential strategy for the site. there is also some submitted artistic impressions of the frontage street-scene and the central street-scene, that offer a potential understanding at a possible design ethos and general character. The Design and Access Statement that accompanies the application has recently been updated to align with the revised strategy for the site to offer a design commentary to explain the schemes evolution and design rationale.

2.5 It is noted that updated consultee comments received from the Paignton Neighbourhood Forum do not cite a concern in terms of design and visual impact, where the previous proposal for up to 70 units raised concern of “chronic over development”.

2.6 In regard to the most recently revised outline proposal submitted for consideration it is deemed that the broad layout presents a satisfactory foundation that a future reserved matters could be evolved from, insomuch that it provides an acceptable entrance to the development that is safe and legible, that leads to direct and legible central route for what will be the main route through to a later phase of the masterplan area. This appears a reasonable approach and is detailed to provide access to the edge of the site to enable future linking to the wider masterplan development to the east (Phase 3), a key component that accords with policy guidance. In regard to other positive foundations the layout also presents the

maintenance of an access to Beechdown Park to the east, which again aligns with the adopted masterplan's expectation of a future link being engrained within any redevelopment.

2.7 Moving away from the general parameters of the layout and on to the likely form of development that it may inform the current layout is considered to present a relatively uniform density throughout. This is a point of concern that would need to be addressed by further design work to inform a future reserved matters application. It is considered a key urban design principle that any future layout responds to the context and presents a hierarchy to the streets. The central spine does appear to have been improved though through the recent amended indicative plan, in terms of it having a clear status as a through route. The orientation and direct nature of the route supports the potential of it being legible as a through route and greater scrutiny at the detailed reserved matters phase should ensure it delivers in terms of delivering on the rural, rather than suburban, form for this edge of settlement 'gateway' site. On a positive note the suggestion of having frontage development addressing the Totnes Road is welcomed as a principle, certainly where it is married with a demonstrable landscape buffer, which itself is likely to slightly soften the development and improve future residential environment of occupants adjacent to what is a busy and somewhat noisy road.

2.8 In regard to other notable points regarding the indicative proposals there were areas within the development that present unduly prominent parking solutions that would lead to a somewhat suburban character if not evolved further. This matter has been sought to be addressed by the revised layout showing the potential to utilise rear parking courts, which permits a much less parking dominated streetscape. The most notable areas of concern were the spurs roads to the east and west where the accumulative provision appears relatively dominant and these streets appear far more positive now. It is however still concluded that further design evolution is required within this aspect of the development moving forward to inform a future reserved matter application.

2.9 Moving on the likely built form the layout plans and indicative street-scenes present buildings with a mixed palette of materials (elements of stone, render and timber) behind what appears largely open plan frontages mixed with parking. As previously stated the extent of frontage parking has been reduced by posing the opportunity for rear parking courts. A mixed parking provision is not objected to in design terms and rear parking could improve the streetscenes by reducing the car dominance. This could help produce stronger rural character of the South Devon village vernacular. It is expected that any future reserved matters would need to evolve a stronger design assessment and solution to capture a rural character, which should present less dominant parking, strong landscaping, and strong enclosures and definition between public and private space. In regard to the materials the use of natural materials and tones is welcomed but there is some concern that the indicative designs do not sufficiently reflect the local rural character. It is noted that rural village development generally relies on natural materials but buildings and building groups are often simple in terms of the palette, often an outcome of the sporadic expansion of villages in small phases. This presents a more pocketed variation of simple palettes rather than the repetition of two of three materials within each property, as presented. It is considered that any future reserved matters should be robustly supported by

appropriate design analysis in terms of delivering an edge of settlement and demonstrably rural character.

2.10 In terms of the resultant quality of any future residential environment the layout largely resolves satisfactory outlooks and levels of privacy. Notably the properties fronting the Totnes Road are expected to be set back behind a landscaped frontage, which is likely to aid the residential environment adjacent to such a busy road. The suggested distances between properties are largely adequate although there are certain relationships that may need easing, largely due to the distances to blank walls. The layout is likely to require some further scrutiny to resolve the proximity through the development as it evolves to a more detailed scheme and reserved matters. The garden areas in the indicative layout are largely compliant with the expectations for at least 55sqm within the Development Plan, but there are areas of concern with some gardens falling demonstrably below the policy position. Further design work is considered necessary as the scheme evolves to a detailed solution. In regard to parking there are broad proposals to provide the expected level of parking as indicated within the Development Plan. It is important that a future reserved matters ensures that the level of parking afforded Beechdown Court is not impacted by any necessary softening of the development with additional landscaping. This should not limit the softening of the retained buildings which are likely to require enhancement to their setting. It is also important that any future reserved matters addresses some minor concerns on the sufficiency of space afforded certain areas of parking. It is principally noted that tandem spaces that adjoin neighbouring parking, and parking spaces that abut walls or other obstructions, should be wider than 2.4m, and accord with the provisions of the current Torbay Highway Design Guide.

2.11 In regard to landscape impact Policy PNP19 (*Rural Character Areas*) of the Paignton Neighbourhood Plan offers key guidance as the motel site, as although a brownfield site it sits in the designated rural area (as does the adjacent Beechdown Park). Policy PNP19 does not expressly preclude development, but seeks development that does not damage its quality and the relationship between urban and rural areas. In this instance it is considered, if a future reserved matters application presents development loosely aligned with the proposed layout and is adequately resolved in terms of character, that any impact upon the character of the wider area is unlikely to be adverse, when considering the current development and the expected retention of a substantial rural backdrop to the higher ground to the south. Again this will be more robustly considered at reserved matters stage.

2.12 In summary in terms of design and visual impact the outline proposal provides a loose basis for a future reserved matters application. There is sufficient comfort that up to 39 dwellings and the retention of Beechdown Court could be delivered in order to offer support for this outline application. Although improved there are still some concerns over the current indicative masterplan, however there is considered to be sufficient scope within the site and potential to positively resolve the points of concern. This may require considerable further design work and reconsideration of the form of development, scale of buildings and layout.

2.13 It is noted that the scheme has not engaged with an independent design panel. Government policy supports use of such 'tools' and as there is substantial concern in terms of the indicative detail the applicant is advised that prior to any future reserved

matters the evolving design work includes engaging with an independent design panel. This should hopefully provide scope to consider and address the concerns offered on the current indicative layout and inform a satisfactory solution for 39 dwellings within a different form and/or a reduced number.

2.14 To conclude it is considered that the proposed access arrangements would not result in unacceptable harm to the character of the area. Based on the indicative information provided, the proposed development is, for the reasons above, considered to sufficiently demonstrate the potential to provide a satisfactory form of development subject to further work to resolve the concerns raised. Thus the proposal is on balance considered to be in accordance with Policies SS2, SS3, H1 and DE1 of the Torbay Local Plan, Policies PNP1, PNP1(c) and PNP24 of the Paignton Neighbourhood Plan, the adopted Masterplan for Collaton St Mary, and the NPPF, and suitable for outline approval.

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

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

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

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

3.4 In terms of the heritage context the listed buildings in the area do not sit immediately adjacent to the site and hence their direct settings would not be impacted. In addition there are no obvious or overtly sensitive visual links to listed buildings which could possibly present harm to their settings. Finally the kinetic relationship has also been considered and the redevelopment of the defunct motel site for residential purposes will not overtly alter how you experience and pass through the area and appreciate the listed buildings nearby. Blagdon Manor (Grade 2\*) is the nearest listed building, sitting approximately 200m to the north across the A385 and nestled on the far edge of a holiday park. Further afield approximately 800m to the east a group of

listed buildings sit around the junction of the A385 with Blagdon Road, which include the Grade 2\* Parish Church. There are also listed barns (converted) approximately 1km away to the north east at the junction of the A385 with Stoke Road.

3.5 In light of the context of the site and how it relates to the listed buildings on the area there is no harm. The proposal is considered, in terms of heritage assets, in accordance with Policy HE1 of the Torbay Local Plan and Paragraphs 193, 194 and 196 of the NPPF.

3.15 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**

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

4.2 The construction phase will naturally have some temporary impacts however such impacts are not unusual and can be limited through restricting hours of construction and agreeing processes to limit delivery and construction movement and parking impacts through the use of a planning condition. The retention of adequate residential access during construction phase to the adjacent park homes site and retained units within the site should be duly protected through consideration of a construction management plan, secured by condition.

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

4.4 In terms of scale and appearance this will be established within a future reserved matters application, but there is unlikely to be any loss of outlook or light due to the modest scale of residential development.

4.5 In terms of privacy, inter-visibility and overlooking, again when considering the distances involved, and taking into account the topography, the relationships will be scrutinised in detail during the reserved matters process where more detail on property locations, level and elevation openings will be available. Any likely impact is likely to be contained to the relationship across the eastern border with the park homes, in terms of overshadowing and overlooking, where the land drops eastwards.

4.6 In summary the proposal appears to demonstrate the potential to provide a satisfactory form of development in terms of protecting the amenities of adjacent occupiers, but greater scrutiny on this will be undertaken at reserved matters stage. On the information available the development offers scope to deliver development that accords with Policies DE1 and DE3 of the Torbay Local Plan, Policy PNP1 of the Paignton Neighbourhood Plan, the adopted Masterplan for Collaton St Mary, and the NPPF.

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

5.1 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.

5.2 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.

5.3 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.

5.4 In regard to vehicular access the development would be served by a single new access junction which includes a right hand turn lane off the Totnes Road. The visibility standard of the junction is considered acceptable by the Highway Authority. The Councils' Highway Engineers and Strategic Transport Officer have considered the junction detail and supporting transport information and has raised no objections in relation to the proposed vehicular access arrangements. It is considered that the proposal would not result in significant harm to highway safety or amenity and would accord with local and national guidance.

5.6 The proposed site layout is not being applied for at this time however indicative details have been provided, including the proposed pedestrian/cycle link along the frontage. This is supported.

5.7 On the information provided the wider pedestrian, cycle and bus access opportunities shown are considered acceptable. The junction is designed to be a major access road with 6m width carriageway suitable for bus movement. This accords with the expectation within the adopted Masterplan for the spine road to be designed as such. A future reserved matters would consider the design standard within the site of the roads beyond the initial access point which is sought in detail. Ultimately further scrutiny will be given to the internal layout at reserved matters stage.

5.8 In regard to other matters Torbay Local Plan Policy SS6.2 and SDP3 indicates that development along the Totnes Road area (SDP3.3) will require infrastructure improvement works to the A385 Totnes Road. As noted within the Councils previous combined highway and transport comments the Planning Contributions and Affordable

Housing SPD estimates improvement works to circa £1m (para 4.2.7) and based on the scale of the development proposed a proportionate funding level of £87,786 towards the development and implementation of this scheme should be secured (via S106 legal agreement). These comments are still considered relevant and subject to confirmation the obligations should be sought in-line with previous levels suggested.

5.9 In terms of other matters funding to secure improved sustainable transport links should be secured in accordance with Torbay Local Plan Policy SS7 and the Planning Contributions and Affordable Housing SPD (to the open market dwellings). This funding would support strategic connectivity from Collaton St Mary to employment areas along the Western Corridor and into Paignton Town Centre. Again this obligation should be secured via a S106 legal agreement in-line with previous transport comments unless otherwise confirmed, based on the final design secured within a future reserved matters application.

5.10 Various signage, Road Traffic Orders will be required to reflect the future layout. A variation to Road Traffic Orders (A385) will be required as part of the revised road layout. £2000 funding for legal costs will therefore need to be secured.

5.11 Considering the points above, and having regard to guidance contained within the NPPF which states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe (Para 109), the proposal is, subject to securing the identified off-site sustainable transport links and financial transport obligations towards the western corridor improvements, sustainable travel and a local traffic order, considered acceptable on highway and movements grounds, and in accordance with the Policy TA2 of the Torbay Local Plan, The Paignton Neighbourhood Plan and the NPPF.

## **6. Ecology & Biodiversity**

6.1 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.

6.2 Policy PNP1 (Area Wide) of the Paignton Neighbourhood Plan states that development will not be supported where the development proposal would result in an adverse impact on a European protected site and Policy PNP1 (c) *Design Principles* includes a number of aspirations for development to secure, where possible and appropriate to the scale and size of development. PNP1 (c) includes reference to safeguarding biodiversity and geodiversity by ensuring that layout and design will protect existing features of biodiversity value on site and biodiversity connections with related sites, and ensure that features of geodiversity value are protected and wherever possible enhanced in their condition and future management. The policy furthers that hedgerow habitat should be provided on at least one development boundary wherever possible, and that bat and bird boxes should be featured.

6.3 In terms of the ecology context the site is a brownfield site with unkempt buildings and areas of overgrown scrub and occasional trees, which also encompasses a section of the field to the south and boundary tree belt.



6.4 The application is supported by a number of ecology-based documents. These include a shadow Habitat Regulations Assessment as the site lies within an identified landscape connectivity zone associated for the Greater Horseshoe Bat (GHB) associated with the South Hams Special Area of Conservation (SAC).

6.4 Considering the context the key ecological issues relate to the use of the site by GHBs and the consideration of the likelihood of a significant effect, along with broader ecology considerations regarding notable habits, protected species and together with broader biodiversity enhancement aspirations.

6.5 In regard to the potential impact upon GHBs associated with the South Hams SAC the proposals include the creation of a 'dark' wildlife corridor (<0.5 lux) along the southern boundary, replacing the existing tree belt with a planted Devon Bank and incorporating a belt of vegetation comprising shrub planting and an herb-rich hedgerow / field margin to the south. It is proposed that the belt of vegetation will be protected from over grazing by a stockproof fence and a temporary 3m high close board fence is to be installed adjacent to the northern side of the Devon hedge to act as a temporary light shield whilst the Devon Bank matures. This will allow the GHB flight line to remain undisturbed in perpetuity. Management of this flight line should occur by a dedicated management company to ensure suitable management in perpetuity, which will need to be detailed in an agreed Landscape and Ecological Management Plan. The Council's ecology advisor has undertaken a Habitat Regulations Assessment / Appropriate Assessment following the submission of revised mitigation detail in October, which has concluded that subject to achieving the outlined mitigation through planning conditions the development would not have a likely significant effect on the South Hams SAC. The Council's HRA/AA has been submitted to Natural England for comment and they concur with the conclusions of the Council's ecology advisor.

6.6 In regard to wider ecology considerations there is evidence of bat roosting within buildings and the proposal includes the provision of a dedicated bat building adjacent to the dark corridor along the southern boundary of the site.

6.7 The Council's ecology advisor has concluded that that there is no reason for refusal of the planning application on broader ecological grounds provided the proposals are implemented and maintained in accordance with the ecology documents that have been produced.

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

6.10 In-line with the conclusions above the proposal is considered acceptable on ecological and biodiversity grounds for the reasons stated above, in-line with the aspirations of Policies NC1 and C4 of the Local Plan, Policies PNP1, PNP1(a) and PNP1(c) of the Paignton Neighbourhood Plan, and advice contained within the NPPF.

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

7.1 National guidance contained within the NPPF cites that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere (Para 163). It also guides that Major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate (Para 165).

7.2 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, which is aligned with guidance contained within the NPPF. In regard to foul waters Policy ER2 of the Local Plan includes reference that development proposals should provide appropriate sewage disposal systems with separate foul and surface water, which seek to use sustainable measures and reduce water being discharged into shared sewers.

7.3 The Paignton Neighbourhood Plan has two key policies relating to drainage and flood risk. Policy PNP1 (Area Wide) Section (i) *Surface Water* cites that developments will be required to comply with all relevant drainage and flood risk policy. It furthers that proposals which achieve more than sustainable drainage improvements and move beyond Sustainable Urban Drainage systems (SUDs) by keeping surface water out of the combined sewer network at source are encouraged. PNP24 (Collaton St Mary) cites that foul and surface water disposal have become a significant problem in the area and furthers that residential development proposals where appropriate will be required to demonstrate (i) that sufficient capacity exists to accommodate the additional development and not cause any risk of flooding to existing properties, and (ii) there is infrastructure in place to provide for, and service, such growth and development.

7.4 The site sits in an area with a low risk (Flood Zone 1) of flooding and the site is also within a Critical Drainage Area as designated by the Environment Agency.

7.5 A flood risk assessment has been submitted with the development and there are accompanying surface water drainage plans.

#### Surface water

7.6 In terms of surface water the Flood Risk Assessment confirms that the existing 'brownfield' site positively drains surface water run-off to an existing private drainage network through the neighbouring caravan / mobile home park to the existing watercourse on the eastern site boundary. An initial Ground Investigation has shown, via percolation testing, that infiltration is not a viable option for surface water disposal at the site. As such, it is proposed that surface water be discharged at a restricted rate to the existing watercourse to the east, with on-site attenuation provided.

7.6 The Council's drainage engineer has reviewed the proposal and has concluded that the submitted detail demonstrates that there is no risk of flooding for the critical 1 in 100 year storm event plus 40% for climate change, subject to a final layout for the development and design being submitted to the planning authority for approval prior to construction works commencing on site. This can be achieved by a planning condition. This is considered to accord with Policy PNP(iv) as there is a detailed scheme that shows that an appropriate surface water management system can be

achieved for the indicative layout. By necessity as this is an outline scheme the layout may change and hence any future reserved matters would need to be accompanied by a detailed strategy that responds to the final proposed layout should outline consent be granted.

7.7 In terms of other matters there is an identified flood alleviation scheme immediately downstream of the development on the Yalberton watercourse and the council's drainage engineer has identified that as the surface water run-off from the proposed development is likely to impact on this watercourse a contribution to the funding for the flood alleviation scheme should be secured from the developer through S106 funding. In accordance with previous correspondence relating to a section 106 contribution a figure of £563 per dwelling has been identified, which would present an obligation from this development to the flood alleviation scheme to the sum of £21,957 (39 x £563).

7.8 It is noted that the Paignton Neighbourhood Forum has cited a major concern in terms that water run-off into stream should not be allowed under any circumstances, as it is stated that this water runs through a gully that requires constant cleaning in Little Blagdon Farm, and then runs onto Stoke Gabriel. In terms of some context on this matter the use of the watercourse is in accordance with the hierarchy stated within the Local Plan, where when other sustainable methods/soakaways have been discounted due to drainage limitations of the land the preferred option is the use of a watercourse. The use of watercourses being a more preferable solution to surface water sewers/highway drains, or combined sewers. In addition in terms of the Forum's concerns it is relevant to note that the exiting development currently drains into this watercourse and the proposal will present a betterment to the current situation, as the scheme will deliver a controlled discharge to the watercourse equivalent to a greenfield run off rate. Both points are particularly relevant bearing in mind the Forum's concerns and considering the drainage officers advice and the summary position and conclusion in this report.

#### Foul water

7.9 In terms of foul water the Flood Risk Assessment confirms the site currently discharges foul water to a foul sewer within the neighbouring caravan / mobile home park to the east. This sewer discharges to a pump station, which in turn pumps foul flows to a public foul sewer in Totnes Road. It is proposed that foul water from the site be discharged via a gravity system to the existing sewer on the eastern site boundary.

7.9 South West Water do not object to this proposal.

7.10 It is noted that there is a high degree of public concern relating to the impact of foul sewerage and the inability of the local infrastructure to cope with the additional level of development proposed.

7.11 It is noted that South West Water have previously carried out a review and provided reassurance that South West Water can provide foul sewerage services to cater for new development in the area. They confirmed that with regard to the specific area of Collaton St Mary that this has also been reviewed by the Supply and Team Strategy Team using information received at pre-planning stage, by the Local Planning

Authority, and growth forecasts and enquiries from developers. The strategic planning work that is subsequently required is usually planned into a 5 year business planning cycle, unless circumstances indicate otherwise, with the aim to ensure that:

- Customers who are connected downstream of a development do not experience a lower level of service as a result of the extra demand from the development.
- There is no deterioration of the environment as a result of the increase in flows from a development.

The change in how they charge developers within the 'New Connections and Developer Services Charging Arrangements' are also set in such a way to recover monies from developers through the infrastructure charge to fund off-site reinforcement where there is a need to increase capacity of networks in consequence of growth.

7.12 in addition in regard to Collaton St Mary as an area of public concern South West Water outlined in December 2019 that there had been a 'model shift' in how they operate following significant change in 2018 brought forward by Ofwat (The Water Services Regulation Authority), and they now no longer rely on the planning system to secure funding for changing needs in capacity. They confirmed that where they previously engaged with the planning process on a case-by-case assessment and sought necessary funding via conditions or S106 legal agreements, they now operate a model that is detached from and does not rely on the planning system. The 'new' system now secures infrastructure funding through developer connections charges (and strategic delivery plans), which they cite should allow new development to progress without any adverse impact upon the levels of service experienced by existing customers as a consequence of new development. The 'new' model of management outlined by SWW and summarised above clearly outlines that SWW no longer rely on the planning system to deliver necessary infrastructure and hence there would appear no sound planning reason not to support the proposal on flood risk and drainage grounds, where there is support from the Lead Local Flood Authority in terms of surface water and the statutory undertaker in terms of foul water.

7.13 As an anecdotal note SWW have confirmed that their Asset Management Team will be carrying out an evaluation of the waste water assets in Collaton St Mary and this information will allow them to review if there is a need to carry out off-site reinforcement to support the developments in the area. They have confirmed that this review will be based on the overall master plan of this area to ensure we look at the holistic view of development in this area.

7.14 Based on the above comments there is no objection to planning permission being granted for the above development subject to a condition requiring the developer to submit their final surface water drainage design for approval, together with the funding above being secured. The proposal is considered, subject to the above, in accordance with Policies ER1, ER2, SS2 and SS7 of the Local Plan, the Paignton Neighbourhood Plan, and advice contained within the NPPF.

## **8. Low Carbon Development**

8.1 Policy SS14 of the Local Plan relates to 'Low carbon development and adaptation to climate change' and seeks major development to minimise carbon emissions and the use of natural resources. Policy PNP1(f) of the Paignton Neighbourhood Plan has a similar policy goal towards achieving sustainable low carbon and energy efficient development, where appropriate and subject to viability.

8.2 An Energy and Sustainability Statement has been prepared to assess the potential for energy efficiencies, utilising clean energy, sourcing energy from decentralised systems and incorporating renewable energy provision into the development, as required by Local Plan policy ES1 (Energy), where the assessment of individual dwellings has been based on indicative house types.

8.3 As an outline proposal a detailed assessment will need to be undertaken to inform and be part of a detailed reserved matters proposal. At the present time the report identifies scope for energy efficiencies and the use of solar panels which together is suggested to exceed policy requirements. The current application reflects on the outline nature of this proposal and suggests that a further energy assessment would be required by condition to explore opportunities for further energy efficiencies when the design of the development is progressed.

8.4 It is suggested that based on the modelling undertaken it is possible to reduce on-site carbon dioxide emissions of the proposed Former Torbay Motel development by 111.4% should the specification described in the accompanying reports be implemented.

8.5 As matters stand the outline application has duly considered policy desire to reduce emissions and use of natural resources. As highlighted above it is necessary that these evolving aspirations are explored and evolved and are engrained within a future detailed reserved matters application. It is proposed to secure such detail by the use of a planning condition relating to energy efficiently and the submission of such detail as part of a future reserved matters application.

## **9. Other Considerations**

### *Housing Supply*

9.1 The Council cannot currently demonstrate a 5 year housing land supply, as sought by Government, and the proposal will help with the delivery of housing with a form of development that is considered to accord with the Development Plan when considered as a whole. As stated within this report the site is allocated and the proposals are in broad accordance with the adopted masterplan for the area.

9.2 Paragraph 11 of the NPPF outlines that decisions should apply a presumption in favour of sustainable development, which means approving development proposals that accord with an up-to-date development plan without delay.

9.3 The provision of housing is a significant benefit within the planning balance, certainly in light of the current published position where the Authority can only demonstrate a 3 year supply, which is a significant shortfall.

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

### **Sustainability**

Policy SS3 of the Local Plan establishes the presumption in favour of sustainable development. The NPPF definition of sustainability has three aspects which are economic, social and environmental. Each of which shall be discussed in turn:

#### **The Economic Role**

Housing development is recognised as an important driver of economic growth and there would be economic benefits to the construction industry from the proposed development.

Once the dwellings were occupied there would be an increase in the level of disposable income from the occupants some which would be likely to be spent in the local area and an increase in the demand for local goods and services.

There are no adverse economic impacts that would arise from this development

In respect of the economic element of sustainable development the balance is considered to be in favour of the development

#### **The Social Role**

The principle social benefit of the proposed development would be the provision of additional housing. Given the NPPF priority to significantly boost the supply of housing the additional dwellings to be provided must carry significant weight in this balance. The proposed development will provide a play area as a social benefit to the village and financial contributions will be provided towards education infrastructure demands.

Impacts on neighbour amenity have been discussed above where it is concluded that it would be possible to develop this site as proposed without significant harm to residential amenity.

NHS requests for financial contributions towards health care however cannot be accommodated within the current Development Plan framework as the development was anticipated within the Local Plan and no need for financial contributions was identified at that time.

On balance, the social impacts of the development weigh in favour of the development

### **The Environmental role**

With respect to the environmental role of sustainable development, the elements that are considered to be especially relevant to the proposed development are impacts on the landscape, ecology and bio-diversity and surface and foul water drainage. These matters have been considered in detail above.

The environmental benefits identified are either marginal in the case of any biodiversity net gain or essentially mitigation as in the case of any landscape/ecological measures to be applied to the development. It has to be appreciated that the site is identified for housing within the Development Plan and is a semi-derelict brownfield site for the most part.

The proposed development is in a sustainable location inasmuch as it borders and forms part of the existing urban area and is located in close proximity to local amenities of West Paignton where there are also public transportation links.

It is concluded that the environmental impacts of the development weigh neutrally within the planning balance.

### **Sustainability Conclusion**

Having regard to the above assessment the proposed development is considered to represent sustainable development.

### **Local Finance Considerations**

#### **S106:**

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

#### **Access Agreement**

Agreement with all necessary landowners to provide unrestricted access to the broader masterplan phase to the south east of the site to ensure comprehensive development of the wider masterplan area is not compromised.

#### **Highway works**

In-line with Torbay Local Plan Policy SS6.2 and SDP3 development along the Totnes Road area (SDP3.3) will require infrastructure improvement works to the A385 Totnes Road. Based on the scale of the development expected within the area and within this site a proportionate funding level of £87,786 towards the development and implementation of this scheme should be secured.

In order to undertake necessary traffic orders an obligation of £2,000 is required.

### **Sustainable Transport**

In accordance with Torbay Local Plan Policy SS7 and the Planning Contributions and Affordable Housing SPD (to open marking housing only) Sustainable Transport obligations should be secured based on “trip rate x £171” per dwelling (or other alternative method as agreed). This funding would support strategic connectivity from Collaton St Mary to employment areas along the Western Corridor and into Paignton Town Centre.

### **Flood Works**

Strategic flood alleviation works are required to secure a flood alleviation scheme on the Yalberton watercourse. As there are proposed to be approximately 500 new properties constructed within the catchment drainage to the Yalberton Watercourse the contribution for each property should be secured. The level of funding should be secured based on a figure of £563 per dwelling. As a result the S106 contribution from this development to the flood alleviation scheme should be in the sum of £21,957 (39 x £563).

### **Affordable Housing**

Affordable housing provision should be secured from this development in accordance with Policy H2 of the Torbay Local Plan, which states that for development of brownfield sites for schemes of 30+ dwellings that 20% should be affordable housing.

As the motel has sat empty for some years the existing floor space should be used at mitigation to reduce the obligation to provide affordable housing, in-line with guidance from Central Government.

As an outline permission the extent of affordable housing due cannot be offered until the detailed number and floor space of proposed housing is offered at reserved matters stage. However Members are minded to appreciate that the application of Vacant Building Credit is likely to demonstrably reduce, or negate altogether, the provision of affordable homes.

Notwithstanding the above the expected policy provision should be secured via a S106 with understanding of any provision being linked to the final reserved matters and subject to Vacant Building Credit.

### **Greenspace and Recreation**

No obligation request raised by Natural Environment Services. It is noted that the indicative masterplan includes a play area. The provision of a Locally Equipped Play Area is considered commensurate for the scale of development in the absence of further comment from the Councils Natural Environment Services Team. Legal agreement should secure adoption or management arrangements for the public open space secured in a future RM application commensurate with the indicative masterplan.

### **Education**

Obligations in-line with the adopted SPD should be sought to secure increased school capacity within Paignton, based on the provision of open market housing, the detail of



which will come forward at reserved matters stage.

### **Lifelong Learning Obligations**

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

### **Waste and Recycling**

Obligations in-line with the SPD should be secured to provide waste and recycling facilities for properties that will be served by the Local Authority waste collection provider.

### **Sustainable Urban Drainage System**

Details pertaining to the ongoing management of the proposed SUDs within public areas, by a management company, shall be secured in order to secure certainty on future maintenance and effectiveness of the system.

### **CIL:**

The CIL liability for this development is Nil.

### **EIA/HRA**

#### **EIA:**

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

#### **HRA:**

The application site is within a landscape connectivity zone associated with the South Hams SAC.

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

### **Planning Balance**

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

The provision of a public play area is also a public benefit, certainly in light of the current absence of child's play facilities within the area. The nearest formal play area being at Claylands near the junction of Borough Road and Brixham Road.

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

Human Rights Act: The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European

Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance

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

### **Proactive Working**

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

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

The site is identified for housing within the Development Plan and the proposal does appear to have some broad degree of consistency with the associated adopted Masterplan for the area. Where there is divergence the level of harm is not considered sufficient to deny a presumption in favour of the development at outline stage where there is a further stage to scrutinise any divergence and ultimate harm).

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

There may be a limited degree of impact upon the landscape setting by encroaching into the field to the south, however these impacts are not considered significant and are outweighed by public benefits. Again the level of harm will be scrutinised at reserved matters stage.

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

Due to the level of accordance with the Development Plan and in the absence of material considerations that weigh sufficiently against the proposal, the Officer recommendation is one of approval, subject to suitable conditions, and securing a S106 Legal Agreement to secure the identified mitigation, sustainable development obligations and affordable housing in-line with adopted policy, along with security on future access to the wider masterplan area to the south east.

The proposal is ultimately considered a good use of an identified site that would provide much needed housing to help meet local need where the Council cannot demonstrate a 5 year housing land supply and is significantly below the level of housing growth expected.

### **Officer Recommendation**

Approval: Subject to;

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

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

### **Conditions**

#### **Standard time condition:**

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

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

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

#### **1. Reserved Matters condition**

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

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

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

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

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

## **2. Bat Roost**

The reserved matters for layout and external appearance shall include details of the compensatory roosting provision (bat roost building), as indicated within the submitted ecology reports and indicative masterplan.

Reason: To secure a satisfactory form of development in accordance with Policies SS2, SS8 and NC1 of the Torbay Local Plan 2012-2030 and Policy PNP1 of the Paignton Neighbourhood Plan.

## **3. Licence for Bats**

No works shall commence until the Local Planning Authority has been provided with a copy of the licence for Bats issued by Natural England pursuant to Regulation 55 of The Conservation of Habitats and Species Regulations 2017 (as amended) authorising the works to go ahead, or confirmation in writing from Natural England that such a licence is not required.

Reason: To secure a satisfactory form of development in accordance with Policies SS2, SS8 and NC1 of the Torbay Local Plan 2012-2030 and Policy PNP1 of the Paignton Neighbourhood Plan.

This needs to be a pre-commencement condition to ensure impacts of development are mitigated from the very start of development.

## **4. GHB Corridor Habitat Creation (HRA/AA)**

Prior to the commencement of any other development a traditional Devon hedgebank (3m wide) will be created and planted to the south of the site with native species of broadleaved tree and shrubs. The bank itself will be 1.5m in height, and the native species of tree and shrub will be a minimum of 1m tall when planted, achieving an immediate 2.5m hedgebank which will be managed into the future at 3m in height and 3m in width. A temporary 3m high close bordered fence will be erected to the north of the proposed hedgebank, and this will be removed once the vegetation on the hedgebank has reached 3m. A 5m wide herb-rich field margin buffer will also be created along southern site boundary prior to development.

Full details of the specification of the means of construction of this bank and a detailed planting schedule shall be submitted to and agreed in writing by the Local Planning Authority prior to its construction and development shall take place in accordance with the approved details. Any planting that becomes damaged, diseased or dies within 5 years of planting shall be replaced in accordance with the approved details.

This GHB corridor will be kept under 0.5lux and be a dark corridor to the south of the site. This belt of vegetation will be protected from over grazing by a stockproof fence to the south of the corridor.

The existing 120m species—poor hedgerow at the south of the site shall not be removed until this hedgebank and herb rich field margin associated with the proposed flight line have been planted.

Reason: To secure a satisfactory form of development in accordance with Policies SS2, SS8 and NC1 of the Torbay Local Plan 2012-2030 and Policy PNP1 of the Paignton Neighbourhood Plan.

This needs to be a pre-commencement condition to ensure impacts of development are mitigated from the very start of development.

#### **5. Sensitive Lighting Strategy (HRA/AA)**

The details for reserved matters of layout and external appearance will include the submission of a detailed Lighting Strategy for agreement with the LPA. The strategy will ensure the proposed dark corridor to the south of the site is kept under 0.5lux and will demonstrate how current national and local lighting guidance for bats has been implemented (e.g. using warm coloured lighting). This will include details such as the following: artificial lighting associated with public realm lighting, car headlights associated with traffic movements through the development and internal and external lighting associated with private residence.

Reason: To secure a satisfactory form of development in accordance with Policies SS2, SS8 and NC1 of the Torbay Local Plan 2012-2030 and Policy PNP1 of the Paignton Neighbourhood Plan.

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

All reserved matters applications for layout and/or external appearance shall include a Lighting Assessment, including lux contour plan, for both public-realm and domestic lighting in combination with any existing light sources in the locality to demonstrate compliance with the 0.5lux design parameter set out in the Shadow HRA (The Ecology Company, Feb 2020).

Reason: To secure a satisfactory form of development in accordance with Policies SS2, SS8 and NC1 of the Torbay Local Plan 2012-2030 and Policy PNP1 of the Paignton Neighbourhood Plan.

#### **7. No External Lighting**

No external lighting shall be provided within the site unless it accords with the details agreed by conditions 5 and 6 or is otherwise previously agreed in writing by the Local Planning Authority.

Reason: To secure a satisfactory form of development in accordance with Policies SS2, SS8 and NC1 of the Torbay Local Plan 2012-2030 and Policy PNP1 of the Paignton Neighbourhood Plan

#### **8. Construction Environmental Management Plan – Biodiversity**

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

- a) Details of a 'controlled light zone' to be implemented on the replacement commuting habitat at the south of site during construction activities. This zone will be kept dark during peak bat activity periods (0.5 hours before sunset and 0.5 hours after sunrise during bat activity period of March to October) and spillage (where lighting is necessary) will not exceed 0.5lux.
- b) Risk assessment of potentially damaging construction activities.
- c) Identification of 'biodiversity protection zones'.
- d) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- e) The location and timing of sensitive works to avoid harm to biodiversity features. This includes the use of protective fences, exclusion barriers and warning signs.
- f) The times during construction when specialist ecologists need to be present on site to monitor works to ensure compliance with the CEMP: Biodiversity, and the actions that will be undertaken.
- g) Responsible persons and lines of communication.
- h) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.

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

Reason: To secure a satisfactory form of development in accordance with Policies SS2, SS8 and NC1 of the Torbay Local Plan 2012-2030 and Policy PNP1 of the Paignton Neighbourhood Plan.

## **9. Landscape and Ecological Management Plan (LEMP)**

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

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

- h) Details of the body or organisation responsible for implementation of the plan.
- i) On-going monitoring and remedial measures for biodiversity features included in the LEMP.

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

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

Reason: To secure a satisfactory form of development in accordance with Policies SS2, SS8 and NC1 of the Torbay Local Plan 2012-2030 and Policy PNP1 of the Paignton Neighbourhood Plan.

### **10. Management of replacement commuting habitat**

All replacement commuting habitat will be annually managed to ensure adequate and effective establishment is taking place and to ensure that species and structural diversity is being maintained so the quality of the habitat is adequate. This work will be undertaken by a dedicated management company to ensure the new commuting habitat / flight line are managed appropriately in perpetuity (note that the management company will also manage the new bat roost required for planning). The future maintenance of the hedge will comprise traditional hedge laying / coppicing techniques, marking and retention of suitable trees to allow them to grow into standards, and suitable hedge trimming techniques to allow the hedgerow to mature and grow upwards to provide more shelter for bats, i.e. no hedge top flailing. This will allow the hedge to grow into a tall, robust hedgerow providing continuous cover and shelter from the development on the northern side. This will also allow the hedge to become thick and bushy and comprise lots of mature hedge trees with overhanging branches. The 5m herb—rich field margin will be managed as a meadow habitat, in order to support a wide range of floristic species which in turn will support a high diversity of insects.

Reason: To secure a satisfactory form of development in accordance with Policies SS2, SS8 and NC1 of the Torbay Local Plan 2012-2030 and Policy PNP1 of the Paignton Neighbourhood Plan.

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

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

- a) Aims and objectives of monitoring to match the stated purpose;
- b) Identification of adequate baseline conditions prior to the start of development (including light levels within the dark areas);

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

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

The monitoring strategy will be implemented in accordance with the approved details.

Reason: To secure a satisfactory form of development in accordance with Policies SS2, SS8 and NC1 of the Torbay Local Plan 2012-2030 and Policy PNP1 of the Paignton Neighbourhood Plan.

## **12. Highway Adoption**

No dwelling shall be occupied until all estate roads required for access to that dwelling have been constructed to adoptable standards in accordance with the Torbay Highway Design Guide for New Developments in force at the time of commencement of the development and an agreement has been entered into between the developer and the Council as Highway Authority under Section 38 of the Highways Act 1980 for the adoption of all of the estate roads, including the central spine road up to the edge of the site boundary.

Reason: To ensure that the estate roads serving the development are completed to an acceptable standard and are available for use by the occupants and other users of the development, including the provision of the spine road up the edge of the site boundary in the south-eastern corner of the site, in the interests of amenity and highway safety, in accordance with Policies DE1, DE3 and TA2 of the Torbay Local Plan 2012-2030.

## **13. Highway Works**

Prior to commencement of development, a S278 Agreement shall be entered into with the Highway Authority to secure the access works and ancillary works to the highway, which shall include a pedestrian access secured from the northeast corner of the site. The agreed works shall be delivered in accordance with the Agreement.

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



This need to be a pre-commencement condition as it relates to works outside of the application site and engagement of third parties.

#### **14. Flood risk**

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

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

#### **15. Biodiversity enhancement measures**

The details for reserved matters of layout and landscaping shall include the submission of a biodiversity metric calculation which use the most up-to-date metric and associated guidance documents. This calculation will secure a net gain in biodiversity.

The approved measures shall be implemented in full prior to the first occupation of the development, unless a phasing strategy has otherwise been agreed in writing, and shall be permanently managed and maintained at all times thereafter in accordance with the approved detail.

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

#### **16. Badger surveys**

Prior to the commencement of any vegetation clearance or site works, a repeat survey for the presence of badgers on the site and surrounding suitable habitat, with associated mitigation/compensation measures, shall be submitted to and approved in writing by the LPA.

The development shall proceed in accordance with any approved detail.

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

#### **17. Nesting birds / bats**

The details of reserved matters for layout and external appearance shall include bird nesting/bat roosting boxes in the design of the buildings.

No vegetation clearance shall take place during the bird nesting season (01 March to 31 August, inclusive) unless the developer has been advised by a suitably qualified ecologist that the clearance will not disturb nesting birds and a record of this kept.

The development shall proceed in accordance with any approved detail. The bird and/or bat boxes shall be provided in accordance with the approved details prior to the occupation of the buildings to which they relate.

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

### **18. Construction method statement**

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

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

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

This needs to be a pre-commencement condition to ensure impacts of development are mitigated from the very start of development.

### **19. Travel plan**

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

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

### **20. Energy**

As part of any application for reserved matters relating to the proposal's layout, scale and appearance, details of energy efficiency measures shall be submitted for the approval in writing by the Local Planning Authority. The details shall include the provision of electric vehicle charging facilities to all dwellings.

The measures in relation to each residential unit shall be completed, in accordance with the approved details, prior to the first occupation of that unit.

Reason: In the interests of sustainable development and in accordance with Policies PNP1 and PNP1(f) of the Paignton Neighbourhood Plan, and Policies SS14, ES1 and TA3 (and Appendix F) of the Torbay Local Plan 2012-2030.

#### **14. Phasing**

A phasing plan shall be submitted to and approved in writing by the Local Planning Authority as part of the first application for reserved matters approval of layout. The plan shall demonstrate how the development will be implemented in relation to an agreed timetable of works. The development shall then be implemented in accordance with the approved phasing plan.

Reason: To ensure that necessary elements of the scheme are implemented within acceptable parameters and at an appropriate stage, to comply with policies SS2, SS9, Page 116, SS10, NC1 and DE1 of the adopted Torbay Local Plan 2012-2030 and policies PNP1(a), PNP19 and PNP24 of the Paignton Neighbourhood Plan.

#### **15. Play Areas**

The reserved matters for layout and landscaping shall include details of local equipped play area aligned with the details within the adopted Planning Contributions and Affordable Housing SPD that details the type and provision of play for a variety of ages of children. The detail shall include appropriate provision of impact absorbing surface treatments, means of enclosures and litter and seating facilities. The reserved matters shall seek to secure appropriate levels of natural surveillance to all play areas and an appropriate buffer distance from properties to ensure neighbour amenity is not unduly impacted.

The reserved matters for layout and landscaping shall include details of in which phase of development the play area will be provided and development shall take place in accordance with this phasing agreement.

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 DE1 of the adopted Torbay Local Plan 2012-2030 and Policy PNP24 of the Paignton Neighbourhood Plan.

#### **16. Parking Provision**

The reserved matters shall include details for the parking of vehicles for all dwellings. The approved parking facilities shall be provided in full for each dwelling prior to its first occupation and shall be maintained for the purposes of parking at all times thereafter.

Reason: To ensure adequate parking is provided to support an adequate residential environment, protect the amenities of the area and maintain highway safety, in accordance with Policy TA3 of the adopted Torbay Local Plan 2012-2030.

#### **17. Landscape provision and maintenance**

All planting, seeding or turfing comprised in the approved details of landscaping reserved matters shall be carried out in the first planting and seeding season following the first occupation of the development unless otherwise agreed in writing with the Local Planning Authority within a phasing plan pursuant to Condition 14. Any trees or plants which within a period of 10 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: To secure an appropriate form of development in accordance with Policies NC1, C4 and DE1 of the adopted Torbay Local Plan 2012-2030 and PNP1(a), PNP1(c), PNP19 and PNP24 of the Paignton Neighbourhood Plan.

#### **18. Removal of PD – boundary treatments**

Notwithstanding the provisions of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (or any Order revoking, re-enacting, or further amending that Order), no development of the types describes in Schedule 2, Part 2, Classes A and B including gates, fences, walls or other means of enclosure and means of access shall be erected or constructed between the buildings and the estate roads unless permission is granted by the Local Planning Authority.

Reason: In order to safeguard the character and visual amenities of the locality, in accordance with Policies DE1 of the Torbay Local Plan and PNP1(a), PNP1(c) and PNP24 of the Paignton Neighbourhood Plan.

#### **19. Removal of PD – roof extensions and hardstandings**

Notwithstanding the provisions of Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (or any Order revoking, re-enacting or further amending that Order), no development of the types described in Schedule 2, Part 1, Classes B, C and F of the Order, including the construction of dormers, roof alterations and provision of hardstandings, shall be carried out on the site, other than that hereby permitted, unless the permission in writing of the Local Planning Authority is obtained.

Reason: To protect the appearance of the area, to prevent the increased risk of flooding elsewhere and in the interests of amenity.

#### **Development Plan Relevant Policies**

SS1 - Growth Strategy for a prosperous Torbay  
SS2 – Future Growth Areas  
SS3 - Presumption in favour of sustainable dev  
SS8 - Natural Environment  
SS9 – Green infrastructure  
SS10 – Conservation and the historic environment  
SS11 - Sustainable Communities Strategy  
SS12 - Housing  
SS13 - Five Year Housing Land Supply

SDP3 – Paignton North and Western Area  
TA1 - Transport and accessibility  
TA2 - Development access  
TA3 - Parking requirements  
C4 - Trees, hedgerows and natural landscape  
H1LFS - Applications for new homes\_  
H2LFS - Affordable Housing\_  
DE1 - Design  
DE3 - Development Amenity  
ER1 - Flood Risk  
ER2 - Water Management  
W1 - Waste management facilities

PNP1 – Area Wide  
PNP1(a) – Rural Character Area  
PNP1(c) – Design Principles  
PNP1(d) – Residential Development  
PNP1(f) – Towards a sustainable low carbon energy efficient economy  
PNP1(g) – Designing out crime  
PNP1(h) – Sustainable transport  
PNP1(i) – Surface Water  
PNP24 – Collaton St Mary Village