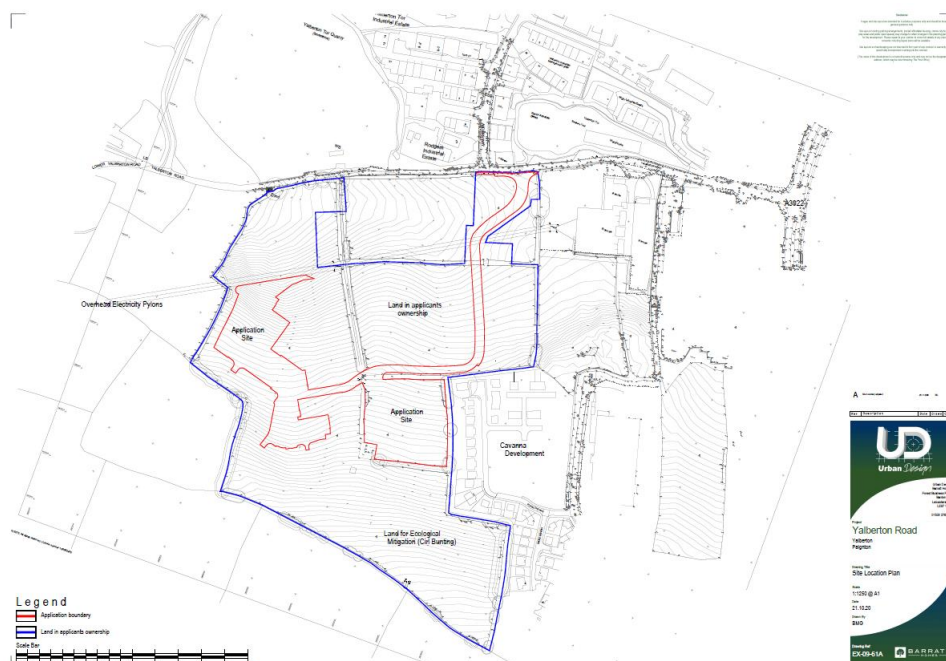




Application Site Address	Land South Of Yalberton Road, Paignton
Proposal	Reserved Matters relating to application P/2014/0983, as amended by P/2018/0977 & P/2019/0605. Matters Reserved: (i) Layout, (ii) Scale, (iii) Appearance & (iv) Landscaping.
Application Number	P/2021/0403
Applicant	Barratt Homes (Exeter) Ltd
Agent	
Date Application Valid	06.04.2021
Decision Due date	06.07.2021
Extension of Time Date	19.07.2021
Recommendation	<p>Approval: Subject to;</p> <p>The conditions as outlined below with the final drafting of conditions delegated to the Assistant Director of Planning, Housing and Climate Emergency;</p> <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 Reserved Matters Application
Planning Case Officer	Mr. Alexis Moran



## Site Details

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

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

The site is bounded by Yalberton Road to the north; the Western Power electricity station and Yannons Farm development site to the east; agricultural fields to the south (beyond which is South Devon College); and open countryside to the west. The land to the south and west of the main site is designated as Countryside Zone.

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

## Description of Development

The proposal seeks reserved matters consent pursuant to outline permission P/2014/0983/MOA (amended by P/2019/0605), for the construction of 54 dwellings within an area to the south and west of the site. This results in an additional 5 dwellings making 192 dwellings on the site overall which is the maximum approved by the outline permission P/2014/0983. The proposed dwellings are all two storey with single storey garages to some.

## Pre-Application Enquiry

None.

## Relevant Planning Policy Context

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

## Development Plan

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

## Material Considerations

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

## Relevant Planning History

P/2019/0173 - Reserved matters application pursuant to P/2019/0605, for the construction of 187 dwellings, public open space, landscape planting, ecological mitigation measures, pedestrian, cycle and vehicular links and associated infrastructure. Including the discharge of conditions 1, 2, 4, 7, 8, 9, 10 and 11 (REVISED SCHEME, PLANS RECEIVED 18.02.2020). APPROVED 20.03.2020

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

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

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

#### Summary of Representations

None received

#### Summary of Consultation Responses

Torbay Council Senior Tree and Landscape Officer – No objection

Environment Agency - No comment received

Torbay Council Drainage Engineer - revised consultation response awaited, however covered by a condition on the outline application

DCC Ecology – No objection. The review letter provided by Illume Design details of the additional testing undertaken for plots 107, 145, 173 and 183 which are affected by the updated layout. Gable end windows have been modelled in line with the proposed house types for each of these plots. Plot 107, 145 and 173 have small gable windows which have been modelled. Confirmation from GE Consulting that there are no windows on the elevations of plots facing the dark corridors (107 and 145). I concur with the lighting mitigation measures set out in the Illume Design letter dated 14 June.

Species-rich grass and trees moved north of plot 107 to 109 and 95 which was previously proposed as mown amenity grassland - this is deemed acceptable. Noted that the proposal still provides a net gain in hedgerows. All instances of the 2.4m

high fence will be maintained by a management company, which will take the fence out of the homeowners responsibility - this is acceptable.

Detail provided in Drawing DB-SD11-004\_A Hedgehog Highway Guidance and EX-09-76A Boundary Treatments Details is deemed acceptable.

The gate within the eastern buffer zone has now been removed and the plans have been updated sufficiently. EX-09-78C Dark Corridors Sections plan adequately shows the width of the dark corridors and confirms there is sufficient width for maintenance.

Natural England –No objection. *Natural England notes that your authority, as competent authority, has undertaken an appropriate assessment of the proposal in accordance with regulation 63 of the Conservation of Species and Habitats Regulations 2017 (as amended). Natural England is a statutory consultee on the appropriate assessment stage of the Habitats Regulations Assessment process.*

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

*We concur with the mitigation measures set out in your AA, although please check that the latest versions of documents are referenced, and would make the following additional comments:*

- To reduce further the potential light spill from plots adjacent to the 'dark corridors', we advise that gable windows should be avoided on plots 107 and 145.*
- We concur with the additional lighting mitigation measures set out in the Illume Design letter dated 14 June.*

- *The change to 'species rich grassland with trees' in the area north of Plot 107 is acceptable. This is shown on the Landscape proposals and Planting Specifications Rev E, included as Appendices in the revised LEMP. However, the Rev D versions that were attached to your consultation still show amenity grassland north of plot 107. The Rev E plans should be substituted.*
- *For information on species rich grassland planting, please note that Emorsgate EL1 seed mix is currently unavailable, and EM2 is recommended in its place. The EM5 meadow mix for loamy soils may also be successful in this location.*

*Torbay Council Highways Consultant - this response has been prepared based on updated information submitted by the applicant for the development proposal. A previous Transport Planning consultation response has been prepared for this application (5th May 2021) and should be read in conjunction with this document.*

#### *Red line boundary – S38 agreement*

*The applicant has stated that the footway connection to the Yannons Farm Cavanna site has been approved through the reserved matters application with reference P/2019/0173. Condition 26 on this decision notice states "Prior to the first occupation of any of the units, full details of the ramped access to the southern boundary of the site to link up with the site to the south shall be submitted to the Local Planning Authority for approval. The approved scheme shall be completed prior to any works being undertaken in phase 2 of the development as indicated in the approved phasing plan (referenced EX-09-36 version L, received 17.02.2020)." These details were submitted on 16th March 2021, to discharge this condition. A S38 has been submitted under the current reserved matters approval.*

*It is noted that the red line for this reserved matter application excludes this area. This application has been submitted to reflect those areas where changes have occurred from the previous approval, to accommodate the 5 x additional dwellings which are proposed. This is considered acceptable.*

#### *Electric vehicle parking bay*

*It is noted that the applicant has submitted details relating to the provision of electric vehicle charging points (EX-09-72B). The drawing identifies that a total of 19 electric charging points has been provided for the site. Referencing the Torbay Local Plan (2012 – 2030) Parking Standards (Appendix F) it is noted that for dwelling houses, a total of two car parking spaces should be provided of which one should be an electric charging facility space. This is considered acceptable.*

#### *Swept path analysis*

*The applicant has submitted an updated swept path analysis drawing (18.605/609 – B) to show a refuse vehicle accessing the site in a forward gear, servicing the site and egressing in a forward gear. The encroaching of the refuse vehicle adjacent to dwelling no. 110 has now been amended. This is considered acceptable.*

#### *Conclusion*

*Based upon the information submitted by the applicant at the time of writing, the Highway Authority has no objection to the proposed development.*

South West Water- No objection

Paignton Neighbourhood Plan Forum – No comment received

Torbay Council Housing Services – no objection to the siting of the additional units.

Police Architectural Liaison Officer - *From a designing out crime, fear of crime and antisocial behaviour (ASB) perspective I would like to advise that the police raise no objections to the proposal. It is pleasing to note the Secured by Design statement and that many important factors appear to have been considered but there is some concern over the level of tandem 'in line' parking for the scheme. To assist please find the following information, advice and recommendations 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 that provide entry into 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*

*As such it is recommended that all external doors and easily accessible windows are sourced from a Secured by Design (SBD) member-company List of Member Companies (Alphabetical). The requirements of SBD are that doors Accredited Product Search for Doors and windows Accredited Product Search for 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.*

### *Parking*

*It is recommended that the level of tandem 'in line' design of parking for the scheme is reconsidered, as it is likely, for practical and convenience purposes, that only one of the spaces will be used thus encouraging unplanned parking elsewhere, which has the potential to create parking related problems and issues. Also the problems associated with 'in line' parking can be further exacerbated when designed to the front of a car port or garage.*

*It is recommended that the parking space in garages is not included in the overall parking provision count, as statistically garages are not always used as intended but rather as extensions of the homes for storage or uses other than parking.*

*Side by side parking is a much preferred method of parking as it is likely to encourage its use and reduce the potential for unplanned parking.*

### *Key Issues/Material Considerations*

#### *Planning Officer Assessment*

- 1. Principle of Residential Development*
- 2. Design and Visual Impact*



3. Impact on Residential Amenity.
4. Impact on Highway Safety.
5. Ecology and Biodiversity
6. Drainage and Flood Risk
7. Low Carbon Development and Climate Change

#### 1. Principle of development

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

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

This reserved matters application therefore only seeks consent for the proposal's appearance, landscaping, layout and scale. The previous Reserved Matters application (P/2019/0173) gave consent for 187 dwellings, this Reserved Matters application relates to an area to the south and west of the site and seeks consent for the addition of 5 new dwellings (2 of which would be affordable units), which brings the total up to 192.

It is noted that the Council cannot currently demonstrate a 3 or 5 year housing land supply. For decision making this means that the policies most important for determining applications for housing in the Neighbourhood Plan and the Local Plan are considered to be out of date and therefore should be afforded limited weight within the current decision making process. The 'tilted balance' in favour of sustainable housing development therefore applies subject to the detail wording of the NPPF Para 11 and the associated footnotes.

Given the forgoing the principle of additional residential dwellings on the site is acceptable in principle. This broad position is however subject to wider policy considerations that are relevant to the development proposal, which will be discussed in the forthcoming sections of this assessment.

## 2. Impact on Visual Amenity

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

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

An indicative layout was provided as part of the outline application, this was subsequently included in condition 1 of the outline permission P/2014/0938 (as

amended by P/2018/0977). This condition states that the submitted reserved matters shall be consistent with the approved drawing referenced 3445/203/M).

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

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

The Reserved Matters application accords with the parameter plans, including the Development Areas Plan.

The density of the developable area of the housing aspect of the whole site (i.e. not including the Cirl Bunting compensation land and areas of public amenity) is 42 dwellings per hectare. The adjacent site to the south-east has a density of 44.5 dwellings per dwelling.

The slight increase in density relates well to the existing density of development to the south of the site.

The proposal seeks an additional 5 dwellings to the south-west and west of the site in the revised plots 107, 114, 130, 145 and 165, this involves breaking 2 previously approved terraces into 2 sets of semi-detached properties. Consequently plots 107, 130, 145 & 165 would be semi-detached properties and with plot 114 being a mid-terrace property.

This would result in additional parking in this area however additional space has been provided for the additional units as a result of making better use of the space to the west in place of an area of steep green space between the dwellings and the

Greater Horseshoe Bat dark corridor. The use of the additional space allows for the additional units and parking to be sited in this area without significant visual impacts.

The increase in units results in an increase in affordable homes from 56 to 58.

The alterations to the south-east of the site result in alterations to the layout approved under Reserved Matters application P/2019/0173 to provide an area that works better with the topography in terms of level accesses to dwellings and more useable rear gardens. No additional dwellings are proposed here.

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

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

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

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

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

Housing services have confirmed that the additional affordable units are suitably located.

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

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

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

### 3. Impact on Residential Amenity

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

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

In general, the additional units can be sited without compromising the external amenity areas for the properties and in general these still accord with the requirements of Policy DE3 (TLP). There are sufficient cycle and bin storage areas. All of the proposed dwellings comply with the internal space standards identified in the Local Plan and all provide suitable levels of parking.

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

#### 4. Impact on Highway Safety

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

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

There are minimal alterations to the road layout approved by application P/2019/0173 and the proposal provides suitable off street parking spaces including electrical charging points.

The proposal is considered acceptable on highway and movements grounds, and in accordance with the Policy TA2 of the Torbay Local Plan, The Paignton Neighbourhood Plan and the NPPF.

## 5. Ecology & Biodiversity

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

The habitats within the site boundary comprise poor semi-improved grassland fields bound and divided by species rich and species poor hedgerows. The site is within a sustenance zone for greater horseshoe bats associated with the South Hams Special Area of Conservation (SAC). A revised HRA has been undertaken which confirms that the proposal, with all the avoidance and mitigation measures secured by condition and/or obligation, being implemented in full, will not adversely affect the integrity of South Hams SAC either alone or in-combination with any other plans or projects.

In light of the foregoing the proposal's ecological impacts are considered acceptable, having regard to Policy C4 and NC1 of the Torbay Local Plan.

## 6. Flood Risk and Drainage

A condition relating to the submission of drainage details prior to the commencement of development was added to the Outline permission P/2014/0938 (as amended by P/2018/0977). As such these details will be provided to the Council as part of a separate assessment exercise. Sewerage details were also detailed as part of the outline permission as follows:

- a) a detailed survey and evaluation of the public foul sewerage network has taken place (at the Owner's expense) to identify improvements necessary to be funded in advance and executed to accommodate the discharge of foul sewage from the development; and

b) the Owner has submitted an application to the relevant Sewerage Undertaker for a public foul sewer requisition under s98 of the Water Industry Act 1991 (which shall include the provision of public sewerage improvement works identified as necessary).

## 7. Low Carbon Development and Climate Change

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 ES1 seeks to ensure that carbon emissions associated with existing buildings (heating, cooling, lighting and energy consumption) are limited.

The proposal is supported by an energy statement that presents proposed measures by the developer to reduce CO<sub>2</sub> emissions, delivered through a combination of passive and active design measures, in the form of demand-reduction measures and energy-efficiency measures, including the use of solar panels.

The statement includes an energy assessment and the subsequent energy strategy has been prepared to aligned with the Energy Hierarchy, with focus on sustainable building design (reduction of energy consumption at source) and provision of energy efficiency measures. The proposed strategy is based on utilising passive design measures, well insulated and air tight building fabric and high efficient gas fuelled heating system (with flue gas and/or waste water heat recovery) with the installation of Photovoltaic Panels for the provision of supplementary renewable energy generation such that a 20% reduction in all energy use and CO<sub>2</sub> emissions is achieved through LZC/renewable technology

The development is considered suitable for approval subject to satisfactory conditions to secure the measures outlined within the application Energy Statement. The development is in accordance with Policy SS14 and ES1 of the Torbay Local Plan and advice contained within the NPPF.

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

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

### **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 are 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, including two additional affordable units. Given the NPPF priority to significantly boost the supply of housing the additional dwellings to be provided must carry significant weight in this balance.

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 ecology and biodiversity and drainage. These matters have been considered in detail above.

The environmental benefits identified are marginal in the case of this application but net gains through additional hedgerows, buffer zones, an orchard, wood planting and the Cirl Bunting mitigation land are provided over the wider site.

The proposal will include bicycle storage, and the proposed development is in a sustainable location inasmuch as it would make use of a brownfield site within the existing urban area.

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

## **Sustainability Conclusion**

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

## **HRA**

HRA: The application site is within a strategic flyway/sustenance zone associated with the South Hams SAC. A revised HRA to that undertaken as part of application P/2019/0173 has been completed.

The competent authority is satisfied that the development, as proposed, with all the avoidance and mitigation measures secured by condition and/or obligation, being implemented in full, will not adversely affect the integrity of South Hams SAC either alone or in-combination with any other plans or projects. The competent authority is satisfied there is no requirement to progress to Stages 3 and 4 of the HRA process.

## **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.

#### Statement on Human Rights and Equalities Issues

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

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

#### Local Finance Considerations

##### S.106 Agreement

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

#### Affordable Housing

Affordable housing provision for this development has been agreed in accordance with Policy H2 of the Torbay Local Plan, which states that for development of greenfield sites for schemes of 30+ dwellings that 30% should be affordable housing.

At 30% the scheme is expected to secure 58 affordable units, an additional 2 units to that approved by application P/2019/0173.

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

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

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

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

The proposal is considered acceptable in principle; would not result in unacceptable harm to the character of the area, or local amenity; would provide an adequate standard of living accommodation and is acceptable in terms of access, ecology and flood risk matters.

The proposed development is considered to represent sustainable development and is acceptable, having regard to the Torbay Local Plan, the Paignton Neighbourhood Plan, the NPPF, and all other material considerations.

### **Officer Recommendation**

Approval: Subject to;

The conditions as outlined below with the final drafting of conditions delegated 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 Emergency, including the addition of any necessary further planning conditions or obligations.

#### Conditions

1. The development shall be undertaken in strict accordance with the approved Ecological Mitigation and Enhancement Strategy (Green Ecology, dated June 2021). Details of how mitigation measures have been adhered to shall be submitted to the LPA prior to occupation of a phase.

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

2. The development shall be undertaken in strict accordance with the approved Construction Environmental Management Plan (revision 3, received 24.02.2020).

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

3. The development shall be undertaken in strict accordance with the approved Landscape and Ecological Management Plan (ref 0733-LEMP-FM7).). Details of how mitigation measures have been adhered to shall be submitted to the LPA prior to occupation of a phase. All post-construction site management shall be undertaken in accordance with the LEMP.

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

4. The development shall be undertaken in strict accordance with the approved Phasing plan application drawing EX-09-36 version L (received 17.02.2020).

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

5. Notwithstanding the approved plans, no external lighting should be installed within the development, including to residential dwellings, within residential curtilages and garages, unless previously approved in writing by the Local Planning Authority to ensure no adverse impacts on bats.

Reason: In the interests of biodiversity in accordance with Policies DE1 and NC1 of the Torbay Local Plan 2012 to 2030.

6. The development shall be undertaken in strict accordance with the approved Lighting Plans and Lighting Impact Assessment documents.

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

7. Mitigation monitoring is to be implemented in accordance with the submitted Greater Horseshoe Bat Monitoring Strategy (REF: 0733-GHB-FM 2). Details of how mitigation measures have been adhered to shall be submitted to the LPA prior to occupation of the first dwelling of each phase.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15. Prior to the first occupation of the dwelling to which they relate, the boundary treatments shall be fully installed in accordance with the approved plans and shall be retained for the life of the development and no additional or different fences, gates or walls provided without agreement in writing from the Local Planning Authority.

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

16. Upon occupation of each dwelling, biodiversity information packs shall be provided to all new occupiers of the dwellings hereby approved, with the packs including as a minimum, clear and precise information on the importance of maintaining the dark areas and corridors where no additional external lighting and no removal of boundary hedges will be allowed in the interests of protected species. The details of the information to be included within these information packs shall be approved in writing by the Local Planning Authority prior to the occupation of the first dwelling.

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

17. The development hereby approved shall be constructed in accordance with the levels shown on the approved plans reference 18-605-620 (D) (External Works Overall) received 24.06.2021) unless otherwise agreed in writing by the Local Planning Authority.



Reason; In the interests of the visual character of the area, in accordance with Policy DE1 of the Torbay Local Plan.

18. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) 2015 Order (or any Order revoking or re-enacting that Order with or without modification) no development falling within Article 3, Schedule 2, Part 14, Class H - "installation or alteration etc. of wind turbine on domestic properties" shall take place unless permission under the provisions of the Town and Country Planning Act 1990 has first been sought and obtained in writing from the Local Planning Authority.

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

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

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

Details of any under build and or retaining walls exceeding 300mm in a phase shall be provided prior to the occupation of any dwelling within that phase.

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

20. Accordance with energy statement

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

Reason: In interests of tackling climate change and securing low carbon development, in accordance with Policies SS14 and ES1 of the Torbay Local Plan 2012-2030 and guidance contained within the NPPF.

21. The residential development hereby approved shall make provision to an overall ratio of one integral nestbox per dwelling. Details of the siting and number of boxes shall be provided to the Local Authority for approval prior to the occupation of any dwellings on site, the approved boxes shall be installed prior to the occupation of the dwelling to which they relate and shall be retained and maintained at all times thereafter.

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

22. Notwithstanding the provisions of Article 3, Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) 2015 Order (or any Order revoking or re-enacting that Order with or without modification) no windows shall be installed in the west facing side elevations of plots 107 & 145 unless permission under the provisions of the Town and Country Planning Act 1990 has first been sought and obtained in writing from the Local Planning Authority.

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

#### Relevant Policies

SS2 - Future Growth Areas  
SS3 - Presumption in favour of sustainable development  
SS4 - The economy and employment  
SS5 - Employment space  
SS6 - Strategic transport improvements  
SS7 - Infrastructure, phasing and delivery of employment  
SS9 - Green Infrastructure  
SS10 - Conservation and Historic Environment  
SS11 - Sustainable Communities Strategy  
SS12 - Housing  
SS13 - Five Year Housing Land Supply  
SS14 - Low Carbon Development and Adaptation to Climate Change  
W2 - Waste audit for major and significant waste generating developments  
W3 - Existing waste management facilities in Torbay  
SDP1 - Paignton  
SDP3 - Paignton North and Western area  
TA1 - Transport and accessibility  
TA2 - Development access  
DE3 - Development Amenity  
ES1 - Energy  
M3 - Preserving and safeguarding of limestone resources and key local building stone

C1 - Countryside and the rural economy  
C4 - Trees, hedgerows and natural landscape features  
NC1 - Biodiversity and Geodiversity  
H1 - Applications for new homes  
H2 - Affordable Housing  
DE3 - Development Amenity  
SC1 - Healthy Bay  
SC2 - Sport, leisure and recreation  
SC3 - Education, skills and local labour  
HE1 – Listed Buildings