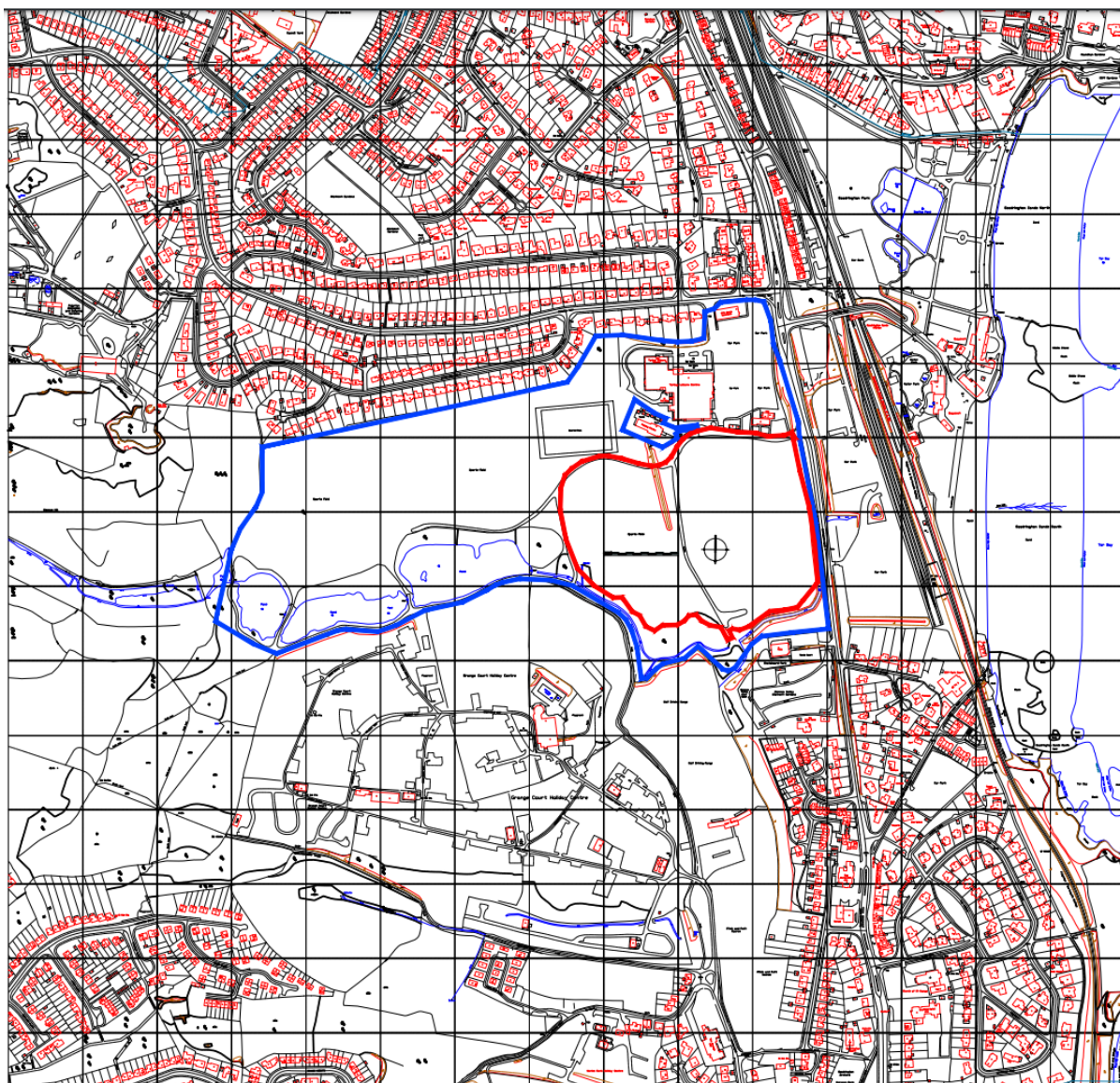


TORBAY COUNCIL

Application Site Address	Torbay Velopark, Penwill Way, Paignton
Proposal	Construction of cyclocross course with four structural features and cycling pump track. Relocation of existing storage containers.
Application Number	P/2021/1091
Applicant	Torbay Council (Sports Development Officer Catherine Williams)
Agent	As above.
Date Application Valid	20 January 2022
Decision Due date	21 April 2022
Extension of Time Date	13 June 2022
Recommendation	<p>Approval: Subject to planning conditions as outlined within the report.</p> <p>The final drafting of conditions and addressing any further material considerations that may come to light to be delegated to the Divisional Director - Planning, Housing & Climate Emergency</p>
Reason for Referral to Planning Committee	The application has been referred to Planning Committee because it is on land owned by Torbay Council.
Planning Case Officer	Jim Blackwell



Site Details

Torbay Velopark is the first dedicated cycling facility of this type in the South West. Torbay Council, in partnership with British Cycling, built the 1.5 kilometre tarmac cycling circuit at Clennon Valley. The facility is now run by Torbay Leisure Centre. It was granted planning permission in 2014 and built on land which once formed a landfill waste site.

Mid-Devon Cycling Club have now secured match funding from British Cycling to provide a new cyclocross track on the site with four course structures along with a new pump track. The proposed additional facilities would be open to the public and expand the range of sport offered at this important sport and recreation hub.

The entire Clennon Valley is a green corridor located in the Goodrington with Roselands Ward, Paignton. Torbay Leisure Centre lies to the north of the site and is used by visitors for car parking. A narrow service lane separates the site from several

changing room buildings and the car park beyond. Dartmouth Road is to the east and the YMCA to the south.

A route known as Clennon Valley Green Link was approved in December 2021 which would run around the northern edge of the site providing important connections by walking and cycling via Clennon Valley playing fields, Clennon lakes and rising to Roselands Primary School.

The site consists of flat, low lying land with a tarmac track and broadly rectangular surfaced area for events. Until recently storage containers were placed on site to facilitate running of the site. The whole site is a mix of varying quality of amenity grassland, shrub and mature trees around the boundary. A 1.8m fence secures the site with access from the north adjacent the Leisure Centre.

There are several key environmental designations on and near to the site. National and locally designated sites include:

- Lyme Bay and Torbay Special Area of Conservation (SAC)
- South Hams SAC
- Torbay Marine Conservation Zone (MCZ)
- Saltern Cove Site of Special Scientific Interest (SSSI)

Non-statutory sites:

- Clennon Ponds County Wildlife Site (CWS)
- Clennon Woods CWS
- Torbay-Dartmouth Railway Other Site of Wildlife Interest (OSWI)

Given the former use of the site as a landfill waste site, there are contamination issues to consider.

Description of Development

The proposed development comprised the provision of a new cyclocross track and a new pump track to complement the existing 1.5km closed road cycling track. The cyclocross track will be two courses, one for the public and the other for competitions mown into the existing landscape with the following enhanced features:

- an earth ramp measuring 15mx45m earth built to 2m height to the southeast corner.
- sand pit measuring 6mx30m with timber sleeper frame.
- a set of earth-formed rollers 6mx24m earth rollers built to 1m height.
- a set of earth filled steps 3mx10m with timber frame built into existing bank following the existing topography.
- a pump track, which will be formed by imported earth and surfaced with tarmac, resin-bonded gravel and grass, will occupy a much smaller area on the northern side of the site.
- relocate the site storage containers to the adjacent tarmac area.

Pre-Application Enquiry

The proposal was subject to pre-application discussions.

Relevant Planning Policy Context

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

Development Plan

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

Material Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice 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/2020/0368 - Provision of pedestrian/cycle path linking Haytor Avenue (north of Roselands Primary School) to Dartmouth Road (north of Torbay Velopark) with associated landscape and ecological enhancement. Approved 02.12.2021

P/2016/0830 - Siting of 2x container units and 2x porta cabins (retrospective). Siting of 2 additional container units. Approved 13.04.2017

P/2013/1189 - Formation of 1.5km macadam closed road cycling circuit, and associated works inc. 1.8m boundary fence. Approved 16.01.2014

Summary of Representations

None received.

Summary of Consultation Responses

Consultation responses can be summarised as:

Neighbourhood Plan Forum:

No comments received.

Environment Agency:

No objection subject to a condition requiring a remediation strategy if any unsuspected contamination is found during the works. They support the findings and recommendations of the submitted FRA and Geotechnical Report.

Highways:

No objection. The proposed development does not alter the existing access to the Velopark and there are no proposed changes to parking provision or servicing arrangements.

Drainage Engineer:

No objection. The proposed development is located in Flood Zone 3 and the developer has submitted a site specific flood risk assessment in support of this application.

The proposed development includes the construction of a number of features that will take up flood storage within the site. Within the site specific flood risk assessment, the developer has identified compensatory flood storage areas within the site in order that overall, there is no loss of flood storage as a result of this development.

Providing the development is constructed in accordance with the site specific flood risk assessment, the Drainage Engineer has no objections on drainage grounds to planning permission being granted.

South West Water:

No objection. A public 600mm sewer runs through the site from north to south. South West Water have no objection, but will need to know about any building work over or within 3.5 metres of a public sewer or lateral drain.

The applicant has confirmed with South West Water that the proposed works would not be within 3.5 metres of the existing sewer assets on site, and that the structures that will be added in the vicinity have no ground penetrating foundations.

Sport England:

Sport England also sought the views of the Rugby Football Union (RFU) and Football Foundation (FF).

No objection subject to condition requiring a scheme to manage and maintain the sports pitches. Sport England support the positive steps taken to resolve historic issues, the delivery of enhanced, managed and maintained adjacent playing field and the updated reports.

They note the emerging Playing Pitch Strategy work but do require the Strategy to be finalised to include the necessary management requirements.

Natural England:

No objection. Natural England notes that your authority, as competent authority under the provisions of the Habitats Regulations, has screened the proposal to check for the likelihood of significant effects on Lyme Bay & Torbay SAC and South Hams SAC.

The assessment concludes that the proposal can be screened out from further stages of assessment because significant effects are unlikely to occur, either alone or in

combination. On the basis of the information provided, Natural England concurs with this view.

Arboricultural Section:

No objection subject to a condition requiring a Tree Protection Plan and Arboricultural Method Statement.

Devon and Cornwall Police:

No objection.

Senior Environmental Health Officer:

No objection. As mentioned in the current application soil disturbance will only be to a depth of 10cm and there should be no impact on the contaminated infill layer below which is capped to a depth of approximately 1m. As long as the recommendations in the Fredrick Sherwell report are followed then there should be no risk to either the workers or the end users of the site.

Key Issues/Material Considerations

Planning Officer Assessment

1. Principle of Development
2. Sport and Recreation
3. Ecology and Trees
4. Design and Visual Impact
5. Impact on Residential Amenity
6. Impact on Highway Safety
7. Drainage and Flood Risk
8. Sustainability
9. Other Considerations

1. Principle of Development

The site is identified as part of the Clennon Valley Leisure Hub Strategic delivery area (SPD4) and falls within the Goodrington Sands and Clennon Valley Core Tourism Investment Area, as defined within Local Plan Policy TO1.

It lies within or close to several national and locally designated sites and non-statutory sites. Local Plan policies considered relevant to the proposed development include Policy SS8: Natural environment, Policy SS9: Green infrastructure, Policy C4: Trees, hedgerows and natural landscape features, Policy NC1: Biodiversity and geodiversity. Policy PNP25: Clennon Valley of the Paignton Neighbourhood Plan is also considered relevant to the proposed development.

It is located within the Greater Horseshoe Bat sustenance zone and landscape connectivity zone associated with the South Hams Special Area of Conservation (SAC) at Berry Head. It also lies within a Cirl Bunting 'consultation zone' but outside of any 250m buffer zones surrounding breeding territories.

The whole site is located with the Critical Drainage Area (CDA) and the eastern part of the site falls within Flood Zone 3.

Healthy Torbay

The Council's Healthy Torbay Strategy aims to improve the health of the people of Torbay and tackle health inequalities. Physical activity is one of the determinants of health and the Council supports provision of healthy activities as one of the preventative measures against poor health. The Healthy Torbay Action Plan focuses on Physical activity as one of ten key priorities and identifies a key action as targeting residents' inactivity through sports and leisure provision. In addition, Policy SC1 of the Torbay local Plan supports developments that provide opportunities for physical activity for residents and visitors.

The facility could be used by people with varying levels of ability from beginners to experienced and can cater for people with disabilities. Provision of opportunities to take part in this sport are within the aims of the Healthy Torbay Strategy and Action Plan and the proposal is in accordance with Policy SC1.

Sustainable Location

Policy SC2 requires new facilities to be in appropriate locations where they are accessible by a range of transport and comply with other policies of the Local Plan. The application site is located adjacent to Torbay Leisure Centre and is off Dartmouth Road, within 250 metres of the bus stops (in both directions). Paignton rail station is under a mile away. There is off road cycle provision in around the area with a route accessible from Youngs Park. The South West Coast Path also lies to the east. The Leisure Centre is provided with pay and display car parking including disabled spaces in the area next to the application site. Given this positioning, the proposal is considered to be in an accessible location and to comply with Policy SC2.

The Local Plan makes strong links to walking and cycling in its health and transport aspirations and policies. Aspiration 2: *Achieve a better connected, accessible Torbay with essential infrastructure*, paragraph 4.3.8 supports the role of green infrastructure and proposals which improve connectivity for walking and cycling.

Local Plan Policy SS1 allocates future growth areas and Clennon Valley is referred to specifically as a strategic delivery area (Policy SDP4; *Clennon Valley Leisure Hub*). Policy SS1 supports urban regeneration that creates sustainable living and leisure environments. Policy SDP4 seeks to develop Clennon Valley as an outstanding leisure and recreation venue which would be recognised as an important destination for the whole Bay. This policy states that proposals should enhance green infrastructure and consist of a green infrastructure-led design approach. Paignton Neighbourhood Plan Policy PNP25 (*Clennon Valley*) supports proposals which retain and enhance the landscape character of the valley, safeguard the footpaths used by residents. It goes on to seek improvements to the tourism offer which are all weather attractions and provide facilities that will be resilient to flood risk.

The site is part of the Goodrington Sands and Clennon Valley Core Tourism Investment Area (CTIA) as defined in Local Plan Policy TO1. This Policy supports in principle the improvement of existing and provision of new tourist attractions, particularly proposals that make positive use of Torbay's marine environment, culture, heritage, biodiversity and Geopark. The proposal is considered to be aligned with the aspirations of this Policy.

The Council has also shown commitment in the Local Transport Plan (2011–2026) to provide safe, sustainable and low carbon choices and make Devon the 'place to be naturally active'. The plan aims to deliver a number of sustainable transport improvements on the network. Clennon Valley has been identified as one to be delivered within the plan period.

The application has been submitted during the global Covid-19 pandemic. Walking and cycling are being seen as an important part of UK resilience against coronavirus. Investment in walking and cycling schemes can help address these challenges by supporting improved public health through active travel, providing access to centres of employment, education and residential, cutting carbon emissions.

In summary, the proposal would enhance the range of sport and recreation provisions of the Leisure Centre and for residents, visitors and tourists in accordance with the Healthy Torbay Strategy and Policies SC1, SC2 and TO1 of Torbay Local Plan and Policy PNP1 and PNP25 Paignton Neighbourhood Plan. The principle of the use is acceptable in accordance with the development plan taken as a whole. The impacts on the sport and recreation, ecology and landscape, design, amenity, highways and flooding and other Policies of the Local Plan and Neighbourhood Plan are considered below.

2. Sport and recreation

Policy SC2 requires developments to provide access to sport, leisure and recreation facilities according to the demand, capacity, condition and location of existing facilities. The policy requires an assessment of existing provision of such facilities with development proposals proportionate to their scale to enable determination of whether a contribution is needed toward new facilities or the enhancement of existing provision.

The Policy goes on to state a presumption against the loss of existing recreational and leisure facilities unless the following criteria are met:

- i) "An assessment has been undertaken which clearly shows the open space, buildings or land to be surplus to requirements.*
- Or ii) The loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location.*
- Or iii) The development is for alternative sports and recreational provision the needs for which clearly outweigh the loss."*

This wording reiterates the policy set out in paragraph 99 of the NPPF 2021.

The application site is part of the Clennon Valley Playing Field where a previous planning application was approved to create the Velopark that affected playing field land and in particular a rugby pitch within the centre of the circuit. The approved permission included a condition to replace the rugby pitch so that there was no loss of playing pitch at the Clennon Valley site. The rugby pitch was moved to land used as a football pitch to the west of the artificial grass pitch (AGP). This arrangement was not considered satisfactory mitigation by Sport England as it led to the loss of a football pitch at the site. However, this condition was discharged in May 2019 and it was agreed that for Health and Safety reasons a rugby pitch cannot be placed in the centre of the Velopark.

The Council's Sport Development Team is reviewing the Playing Pitch Strategy which is anticipated to be completed in July 2022. Once this document is in place Torbay Council will have a clear pathway to understand demand and programme improvements for all of the playing pitches in Torbay, including Clennon Valley. However, although this work is nearing completion, there is not a current demonstration that a rugby pitch is surplus to wider requirements and the first criterion cannot be met at this time.

Clennon Valley sports pitches suffer from being in a flood risk area and need improvement to the drainage to renew confidence in sports clubs that the pitches are playable. It has been agreed between Torbay Council and Sport England that there will be improvements to the management and maintenance of the pitches at Clennon Valley. Therefore, with regard to the second criterion, the current condition of the land discourages their use and investment would be required to bring the pitch back into use on the adjacent playing field. On the basis that work has been committed to resolve this issue, Sport England have removed their previous objection. This is conditional and based on the need for drainage assessment and improvement/management scheme to be agreed prior to commencement of development. A condition has therefore been recommended.

With regards to the third criterion, the proposed cyclocross and pump track use is an alternative sport and recreational activity that is not currently provided for anywhere in the Bay. The cyclocross course would provide a safe, accessible and traffic free circuit throughout the year. Cyclocross is increasing in popularity and has obvious health benefits and improves balance, posture, and coordination. Equally the proposed pump track is a fun way to experience cycling and particularly useful for improving bike handling skills.

The proposal is inextricably linked to the Playing Pitch Strategy which is nearing completion and therefore close to meeting the first and second criterion. The strategy will aim to resolve these historic issues around pitch demand and condition. However, the proposal does meet the third criterion of Policy SC2 and so satisfies the test of paragraph 99 of the NPPF 2021.

Finally, although not part of the planning considerations, there is a National Cyclocross Series event due to be held in November using the new facilities at Torbay Velopark, attracting 600-700 competitors over the weekend including Team GB representatives. The Places to Ride project at Torbay Velopark has already been delayed and another delay may compromise the British Cycling and Mid Devon Cycling Club funding opportunities to improve the cycle offer and cause the National Event to have to be held elsewhere.

3. Ecology and Trees

The NPPF includes the Government's policy on the protection of biodiversity through the planning system. Planning policies and decisions should contribute to and enhance the local environment by minimising impacts on, and providing net gains in, biodiversity. Plans should promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity.

Local Plan Policy NC1: Biodiversity and Geodiversity seeks for development to duly consider biodiversity and take opportunities for enhancement, proportionate to the context and development. This Policy also states that development in locally important wildlife sites will only be permitted where there are no reasonable alternative sites, where the reasons for development clearly outweigh damage to conservation interests, where every effort has been made to minimise damage and where appropriate mitigation and compensation can be put into place.

Policy SS8: Natural Environment requires all development to have regard to its environmental setting and should positively contribute to conservation and enhancement of natural assets and setting of the Bay.

Policy SS9: Green Infrastructure also seeks a green-infrastructure led approach which considers the landscape context and relationship with green infrastructure.

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.

Policy PNP25: Clennon Valley support proposals which retain and enhance the landscape character of the valley.

Ecology

There are several key environmental designations on and near to the site. National and locally designated sites including Lyme Bay and Torbay Special Area of Conservation (SAC), South Hams SAC, Torbay Marine Conservation Zone (MCZ),

Saltern Cove Site of Special Scientific Interest (SSSI). Non-statutory sites include Clennon Ponds County Wildlife Site (CWS), Clennon Woods CWS, Torbay-Dartmouth Railway Other Site of Wildlife Interest (OSWI).

An Ecological Impact Assessment (EclA) has been submitted as part of the application. It is proposed that retained habitats within the Velopark (outside of the footprint of the closed road and cyclocross tracks) are managed long-term in accordance with a Landscape and Ecological Management Plan (LEMP). This would help ensure delivery of 'biodiversity net gain' in accordance with national and local planning policy, as well as increase the visual amenity value of the site and potentially provide opportunities for visitor engagement with nature. The LEMP has been secured by planning condition.

A Habitat Regulations Assessment has been carried out and concluded that there would not be Likely Significant Effects 'alone' or 'in-combination' on features associated with the South Hams SAC or the Lyme Bay to Torbay SAC as a result of these proposals. An Appropriate Assessment of the plan or proposal will not be necessary.

The site is currently regularly mown amenity grassland, which is deemed to offer negligible foraging habitat for Greater Horseshoe bats. Any loss of scrub used for commuting is likely to have a minimal effect. Critically, no lighting is proposed as part of the scheme so the habitat will not be impacted by increased illuminance. The site also lies within a cirl bunting 'consultation zone', but outside of any 250m buffer zones surrounding breeding territories. Habitats on site are considered sub-optimal for cirl bunting.

Given the distance to the Torbay Marine Conservation Zone (MCZ), Saltern Cove Site of Special Scientific Interest (SSSI) there were no mechanisms or pathways identified within the Ecological Impact Assessment which effect these sites.

There are no predicted negative impacts on the non-statutory designated sites given the existing use of the site, increased disturbance is unlikely to have a significant impact on wildlife present within these sites.

Natural England have been consulted and confirmed that they have no objection under the provisions of the Habitats Regulations.

Arboriculture

Local Plan Policy C4: Trees, hedgerows and natural landscape features states that proposals should retain veteran trees and hedgerows where possible. The proposed route has been carefully designed to minimise any impact to existing trees.

The Green Infrastructure manager has no objection subject to a condition requiring a Tree Protection plan and Arboricultural Method Statement.

Conclusion

It is considered that the proposal is acceptable on ecological, biodiversity and arboricultural grounds for the reasons stated above, in-line with the aspirations of policies within the Local Plan and Paignton Neighbourhood Plan, and advice contained within the NPPF.

4. Design and Visual Impact

Paragraph 124 of the National Planning Policy Framework (NPPF) states that 'good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities'.

Policy DE1 of the Local Plan states that proposals will be assessed against a range of criteria relating to their function, visual appeal, and quality of public space.

In addition to the above Policy PNP1 (c) of the Paignton Neighbourhood Plan sets out local design criteria and seeks for development to retain existing natural and manmade features and retain important vistas.

The proposed development comprised the provision of a new cyclocross track and a new pump track to complement the existing 1.5km closed road cycling track. The cyclocross track will be two courses, one for the public and the other for competitions mown into the existing landscape with the enhanced features including an earth ramp on the southeast corner, new sandpit framed by timber, earth-formed rollers and a set of steps.

The features are largely made from natural materials which will blend with the existing landscape. Way markers would equally have little visual impact being similar to those found on walking routes. Cyclocross events would require additional marking via stakes and bunting, but these would be temporary.

The pump track would measure 25mx35m and be formed by imported earth and surfaced with tarmac, resin-bonded gravel and grass. The track would occupy a portion of the northern side of the site set against the boundary hedge. It would be largely screened from Dartmouth Road by mature trees and landscaping.

The two existing storage containers have been repositioned orientated east west within the tarmac area on the north boundary. These structures would also be screened by mature hedge and fence separating the site from the access lane to the playing fields.

No lighting is proposed as part of the proposal.

It is therefore considered that the design of the proposal is acceptable and the proposal would not result in unacceptable harm to the visual appearance and the character of the area. The proposal is therefore deemed to comply with Policy DE1 of the Local Plan and Policy PNP1(c) of the Paignton Neighbourhood Plan.

5. Impact on Residential Amenity

Paragraph 130 of the NPPF guides that decisions should ensure that developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

Policy DE3 Development amenity of the Local Plan states that development should not unduly impact upon the amenity of neighbouring and surrounding occupiers, the closest of which are to the north and west 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 proposed route is sufficiently distant from neighbouring properties, and it is considered that its use would not result in significant levels of noise or disturbance to neighbouring occupiers. No comments have been received from the public and Devon and Cornwall Police have no objection.

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

6. 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 TA1 Transport and accessibility of the Local Plan seeks to create to develop a sustainable and high quality transportation system which recognises walking and cycling as being at the top of the transport hierarchy.

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

The Paignton Neighbourhood Plan guides that sustainable modes of transport should be encouraged.

The Highways Section have no objection as the proposed development does not alter the existing access to the Velopark in any way, and there are no proposed changes to parking provision or servicing arrangements.

There is sufficient car parking for this additional element to the facility. The Leisure Centre has sufficient parking, with additional spaces available at Youngs Park to the east and seasonally at the Quay West car park accessed from Tanners Road.

Matters considering the sustainable location of the site are dealt with in the Principle of Development section above.

Considering the points above, and having regard to guidance contained within the NPPF, the proposal is considered acceptable on highway and movements grounds, and in accordance with the Policies TA1 and TA2 of the Local Plan, The Paignton Neighbourhood Plan and the NPPF.

7. Drainage and Flood Risk

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. Policy PNP1(i) Surface Water of the Paignton Neighbourhood Plan cites that developments will be required to comply with all relevant drainage and flood risk policy.

The Planning Practice Guidance states that outdoor amenity uses are classified as 'water-compatible development' and confirms that the Flood Risk Assessment is appropriate within areas at the highest risk of flooding.

The site is located in Flood Zone 3 and lies within Torbay's Critical Drainage Area. A site specific flood risk assessment has been submitted in support of the application. The proposal includes the construction of a number of features that will take up flood storage within the site. Within the site specific Flood Risk Assessment, the applicant has identified compensatory flood storage areas within the site in order that overall, there is no loss of flood storage as a result of this development.

The Flood Risk Assessment recommends pre-and-post development topographical surveys are undertaken to demonstrate no loss of flood plain storage. Adjustment to the proposed re-profiling works can be progressed to offset any variations in finished levels. Runoff generated by the pump track surfacing will be intercepted by gravel surfacing which will promote infiltration as far as is practicable, with any residual runoff to continue over the remainder of the site, with negligible impact on downstream receptors.

The Environment Agency have no objection subject to a condition requiring a remediation strategy if any unsuspected contamination is found during the works. They support the findings and recommendations of the submitted FRA and Geotechnical Report.

The Drainage Engineer has no objection providing the development is constructed in accordance with the site specific flood risk assessment.

South West Water has identified a public 600mm sewer running through the site from north to south. South West Water have no objection, as the proposed works will not be within 3.5 metres of the existing sewer assets on site, and that the structures that will be added in the vicinity have no ground penetrating foundations.

Contamination

As the site is a remediated landfill site it is not proposed to dig down, with all materials imported to site. A detailed report was written for the original Velopark in 2014 for Torbay Council, Report No. 3911/2, which has been submitted as supporting evidence. As such, the Senior Environmental Health has no objection. The application demonstrates that soil disturbance will only be to a depth of 10cm and there should be no impact on the contaminated infill layer below which is capped to a depth of approximately 1m. A condition has been included to ensure the recommendations in the Environmental Assessment are followed then there should be no risk to either the workers or the visitors to the site.

The Council's Drainage Engineer has raised no objections to the scheme. The proposal is considered to accord with the Local Plan Policy ER1 and Policy PNP1 (i) of the Paignton Neighbourhood Plan.

Subject to the comments from Environment Agency, the proposal is considered to be acceptable, having regard to Policy ER1 of the Local Plan, Policies PNP1(i) and PNP15 of the Paignton Neighbourhood Plan and guidance contained within the NPPF.

8. Sustainability

Policies SS14 and ES1 of the Local Plan seeks to promote a low-carbon form of development with adaptations to climate change so as to minimise carbon emissions and make more use of natural renewable resources.

The proposal is in a sustainable location where customers do not necessarily need to drive to access it. The activity does not require carbon rich energy sources to be operated.

The proposal is considered to comply with Policies SS14 and ES1, and Policy PNP1 of the Paignton Neighbourhood Plan.

9. Other Considerations

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

S106: Not applicable. CIL: N/A

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 the sustenance zone associated with the South Hams SAC. An HRA concluded that there would be no likely significant effect on the European Designated Site nor on the Lyme Bay to Torbay SAC. Natural England concur with this and have no objection.

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 produce a significantly positive impact overall and contribute to sport, recreation and health offer in the Clennon Valley area. The impact is considered minimal and will positively impact on landscape and ecology.

Conclusions and Reasons for Decision

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

Officer Recommendation

That planning permission is granted, subject to the conditions stated below.

Conditions

1. Contamination not previously identified

If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until a remediation strategy detailing how the unsuspected contamination shall be dealt with has been submitted to and approved by the Local Planning Authority. The remediation strategy shall be implemented as approved.

Reason: To ensure adequate site investigation and prevent risk from pollution further to Policy ER3 of the Torbay Local Plan and the guidance contained in the National Planning Policy Framework.

2. Environmental Assessment

The development hereby approved shall be carried out in accordance with the recommendations of the Environmental Assessment (plan reference 3911-2 report by Fredrick Sherwell received 8th February 2022).

If, during development, any of these requirements are not complied with or there is any impact on the contaminated infill layer then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until a strategy detailing how the breach or impact is to be assessed and dealt with, has been submitted to and approved by the Local Planning Authority. The strategy shall be implemented as approved.

Reason: To ensure adequate site investigation and prevent risk from pollution further to Policy ER3 of the Torbay Local Plan and the guidance contained in the National Planning Policy Framework.

3. Ecology

The development hereby approved shall be carried out in strict accordance with the recommendations of the Ecological Impact Assessment (plan reference 211125_P1215_EcIA_Final01 received 6th December 2021).

Reason: To secure a satisfactory form of development and biodiversity net gain, in accordance with Policies SS2, SS8 and NC1 of the Torbay Local Plan 2012-2030.

4. Landscape and Ecological Management (LEMP)

No development shall take place, including ground works and vegetation clearance until a Landscape and Ecological Management Plan (LEMP) has been submitted to and approved in writing by the local planning authority. The content of the LEMP shall be prepared in accordance with the specifications in BS42020; clause 11.1 and shall include the following:

- a) Description and evaluation of features to be managed.
- b) Ecological trends and constraints on site that might influence management.
- c) Aims and objectives of management.
- d) Appropriate management options for achieving aims and objectives.
- e) Prescriptions for management actions.
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five year period).
- g) Details of the body or organisation responsible for implementation of the plan.
- h) 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 development and post-construction site management shall be undertaken in accordance with the approved LEMP.

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

This needs to be a pre-commencement condition to ensure appropriate mitigation at all stages of development.

5. Construction Ecological Management Plan (CEMP)

Prior to the commencement of development (including ground works, vegetation clearance) a Construction Ecological Management Plan (CEMP) for that phase shall be submitted to and approved in writing by the local planning authority. The CEMP shall be prepared in accordance with specifications in BS42020; clause 10.2 and shall include the following:

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of 'biodiversity protection zones'.
- c) 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).
- d) 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.
- e) The times during construction when specialist ecologists need to be present on site to monitor works to ensure compliance with the CECoMP, and the actions that will be undertaken.
- f) Responsible persons and lines of communication.
- g) 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. This needs to be a pre-commencement condition to ensure appropriate mitigation at all stages of development.

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

6. Tree Protection Plan and Arboriculture Method Statement

No operations shall commence on site in connection with the development hereby approved, until a detailed Arboricultural Method Statement (AMS) and Tree Protection Plan (TPP) have been submitted to and approved in writing by the Local Planning Authority. The approved AMS and TPP shall be adhered to throughout the construction process.

Reason: In the interest of visual amenity and to prevent harm of trees in accordance with Policies C4 and DE1 of the Local Plan 2012-2030 and the guidance contained in the NPPF. These details are required pre-commencement to ensure appropriate mitigation at all stages of development.

7. Flood Risk and Drainage

The development shall only be carried out in accordance with the approved Flood Risk Assessment (received 28th February 2022 reference P/2021/1091/2). The compensatory flood storage areas shall be installed prior to the use of the development and these and the soakaways installed further to the submitted Flood Risk Assessment shall be retained and maintained in working condition for the lifetime of the development.

Reason: In the interests of adapting to climate change and managing flood risk, and in order to accord with Policies ER1 and ER2 of the Torbay Local Plan 2012-2030 and the guidance contained in the NPPF.

8. Topographical surveys

No development shall take place until a detailed pre-and-post development topographical surveys have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be undertaken in accordance with the approved details.

Reason: In the interests of adapting to climate change and managing flood risk, and in order to accord with Policies ER1 and ER2 of the Torbay Local Plan 2012-2030 and advice within the NPPF.

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

9. Landscaping

No development shall take place until details of all proposed hard and soft landscaping have been submitted to and approved in writing by the Local Planning Authority. All planting, seeding or turfing comprised within the approved scheme shall be carried out in the first planting season following the completion of the development and any trees or plants which within a period of 5 years from 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 a similar size and the same species. The approved hard landscaping details shall be provided within six months of the

development being brought into use and shall be retained for the life of the development.

Reason:

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

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

10. No lighting

No new external lighting shall be installed within the boundary of the application site unless in accordance with details that shall have first been submitted to and approved in writing by the Local Planning Authority.

Reason:

To avoid harm to bats and wildlife in accordance with Policies SS2, SS8 and NC1 of the Torbay Local Plan 2012-2030.

11. Management and maintenance scheme

No development shall take place until a scheme for the management and maintenance of playing field drainage, including a management and maintenance implementation programme, shall be submitted to and approved in writing by the Local Planning Authority after consultation with Sport England. The playing fields shall thereafter be managed and maintained in accordance with the approved scheme.

Reason: To ensure the quality of pitches is satisfactory and that they are available for use before development (or agreed timescale) and to accord with Torbay Local Plan Policy SC2 and guidance in the NPPF.

Relevant Policies

Torbay Local Plan 2012-2030

SS1 - Growth Strategy for a prosperous Torbay

SS6 - Strategic transport improvements

SS9 - Green Infrastructure

SS8 - Natural Environment

SS11 - Sustainable Communities Strategy

SS14 – Low Carbon development and adaptation to climate change

SDP4 – Clennon Valley leisure hub

SDP1 - Paignton

TA1 - Transport and accessibility

TA2 - Development access

DE3 - Development Amenity

C4 - Trees, hedgerows and natural landscape features

NC1 - Biodiversity and Geodiversity

DE3 - Development Amenity
SC1 - Healthy Bay
SC2 - Sport, leisure and recreation
TO1 – Tourism, events and culture
C5 - Urban Landscape Protection Areas
DE1 - Design
ER1 – Flood Risk

Paignton Neighbourhood Plan

PNP25 - Clennon Valley
PNP1 (h) – Sustainable Transport
PNP1 (c) - Design Principles
PNP1 (i) - Surface Water