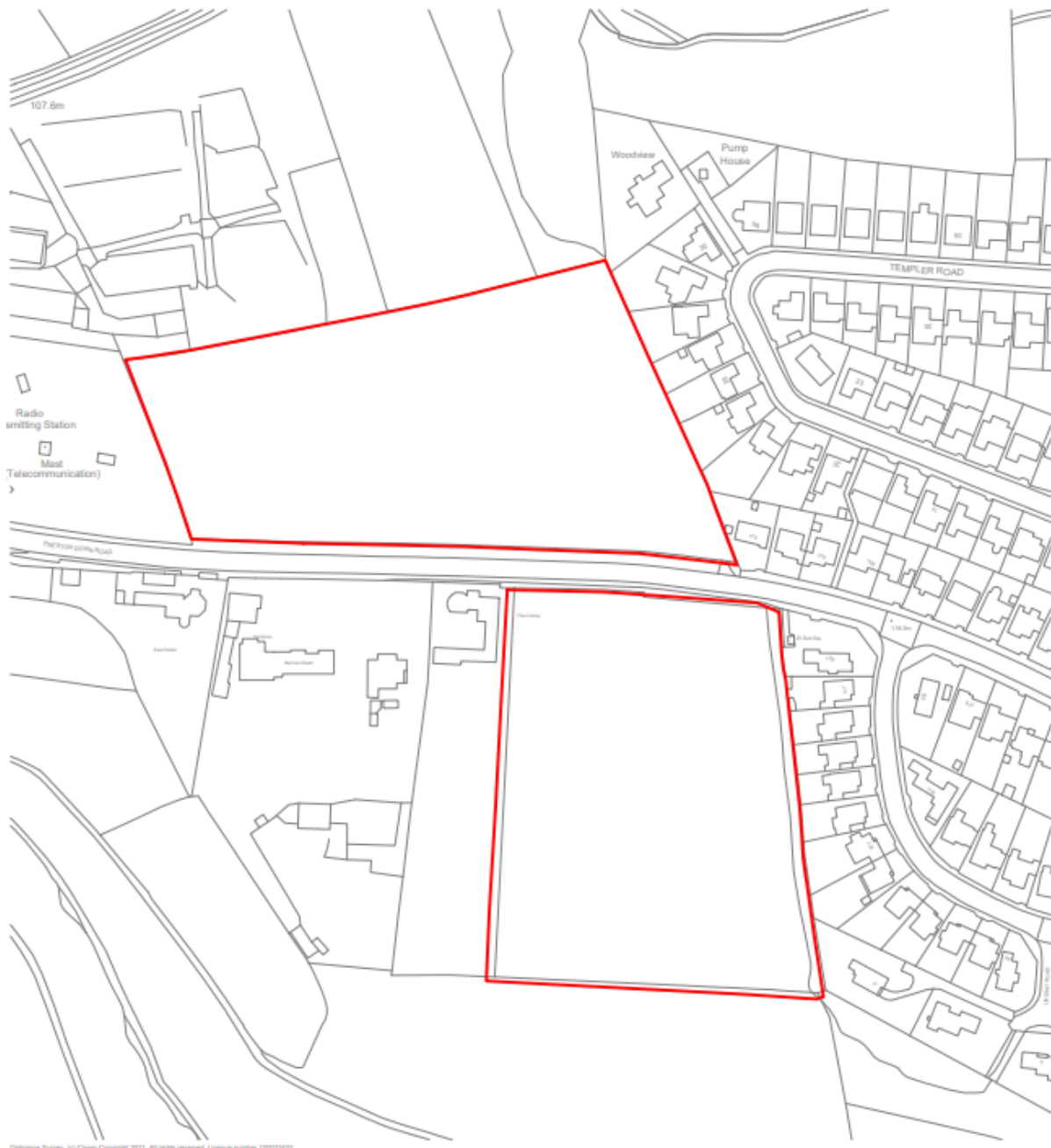


# TORBAY COUNCIL

Application Site Address	Land At Preston Down Road, Paignton
Proposal	Construction of 101 dwellings including a mix of 1,2,3 and 4 bedroom homes (30 affordable) together with new means of access, landscaping, public open space, play areas and associated works on two fields north and south of Preston Down Road.
Application Number	<u>P/2022/0820</u>
Applicant	TDA
Agent	Boyer Planning
Date Application Valid	14.07.2022
Decision Due date	13.10.2022
Extension of Time Date	31.05.2023
Recommendation	<p>Completion of a satisfactory Section 106 planning agreement and the agreement of any necessary extensions to the statutory determination period to complete this agreement.</p> <p>The conditions as outlined, with the final drafting of conditions delegated to the Divisional 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 Divisional 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 Application.
Planning Case Officer	Jim Blackwell

## Location Plan



## Site Details

The two parcels of land are being considered within one full planning application and relate to the fields lying to the north and south of Preston Down Road. The site lies towards the western edge of the local authority boundary which reaches as far as Occombe Farm before running north to south. There are few local services in walking and cycling distance, although Preston Down Road is a bus route. There is a transition from 40mph speed limit to 30mph limit at this point of Preston Down Road moving towards Paignton.

For clarity, the two sites are described separately below:

Land to the north:

- A broadly rectangular piece of land (2.05ha) running parallel to Preston Down Road.

- There are two gated access points into the field from Preston Down Road with a 2m verge and vehicle pull in half way along.
- The entire rectangular boundary has dense hedgerow and mature trees. The north boundary has mature trees the entire length.
- The rear gardens of residential properties on Templar Road are to the east. There are five mature oaks in this section protected by Tree Preservation Order (TPO).
- Beyond the northern boundary is an agricultural field with a number of polytunnels and other structures associated with the Sutton Seeds Nursery to the northwest.
- There are a range of below ground constrains including an intermediate pressure gas main running west to the south east entrance to the site. There is also a sewer running diagonally through the field serving Torbay Coast and Countryside Trust.

Land to the south:

- Rectangular piece of land (1.97ha) with the shorter edge bounding Preston Down Road.
- The topography of the site falls from its highest point in the north-west corner by approximately 20m to the lowest point in the south east corner.
- It is separated from the highway by a narrow footway and mature hedge running its entire length.
- The boundary to the east has a mature hedgerow separating the rear of detached properties on Sandringham Drive.
- There is a bank of mature trees to the south.
- The boundary to a west is a well-managed fence and hedge with residential property behind.

The overall site:

- Located in Flood Zone 1 and within Torbay Critical Drainage Area.
- The Occombe Site of Special Scientific Interest (SSSI) is located approximately 125m north.
- To the south is Occombe Valley Woods LNR and Occombe Woods County Wildlife Site (CWS).
- Contains a mix of Grade 2, Grade 3a, 3b and Grade 4 Agricultural land. However, the site is currently no longer in active agricultural use, though the grass is periodically cut.
- The two sites are not allocated within the adopted Local Plan and are identified as countryside, the land parcels are identified as key housing sites under Policies SDP3.1 (sites PNP1 and 2) and SS1 of the Paignton Neighbourhood Plan (PNP).

### **Description of Development**

The application proposes:

- 101 dwellings across the north and south field.
- A total of 30 affordable dwellings are proposed, 17 in the northern field and 13 in the southern field.
- There are 14 different house types proposed including accessible flats, bungalows, detached, semi-detached and terraced houses and split-level house types.
- The dwelling mix would range between 1 bed accessible flats, 2 bed flats, 2, 3 and 4 bedroom houses and 3 bed bungalows.
- A range of storey heights is provided across the site including 1, 2 and 2.5 storey.
- Vehicular access to the site will be taken from the creation of two new access junctions located on the northern and southern side of Preston Down Road.
- The internal layout of both the northern and southern proposed development sites consists of two cul-de-sacs that branch out to provide connected roads, turning points and access to off-road parking spaces and garages.

- The principal pedestrian and cycle access into the proposed development will be via the main site access junctions onto Preston Down Road. A new section of footway is proposed connecting the pedestrian access for each parcel of the site with the existing footway adjacent to the kerb line of Preston Down Road.
- Informal pedestrian connections are proposed to the north and south.
- Retained and improved green infrastructure.
- Hard and soft landscaping.
- Sustainable urban drainage systems.
- Public open space and a new informal play space is proposed within the southern site.

Amendments and additional information have been submitted during the life of this application. These include:

- Completed Sustainability Checklist.
- Landscape and Ecological Management Plan (BR0704/LEMP Rev C)
- Ecological Impact Assessment, dated January 2023 (BR0599/ECIA Rev B)
- Amended drawing packs including house types, house type variation plans, plan of informal play area plan, illustrative street scenes, existing sections, proposed layouts, boundaries plans, hard landscaping and soft landscaping plans.
- Refuse vehicle tracking (3552. ENG. 116).
- Parking space access vehicle tracking (3552. ENG. 117 and 3552. ENG. 118).
- Further drainage information including Surface Water Drainage Design (Ref. 3552/D01).
- Amended Written Scheme of Investigation (Ref. SX88066293).
- Biodiversity Net Gain Report (BR0599/BNG Rev. B).
- Biodiversity Net Gain Calculation Metric dated 15th December 2022.
- Updated Habitats Regulations Assessment (Rev C dated January 2023).
- Revised Preston Down Road Junction Layout (3552.ENG.100 Rev. C)
- Lighting Impact Assessment with appendices (1084-LB-XX-XXRP-E-7080-02) dated 5<sup>th</sup> January 2023.
- Visitor parking and cycle parking.

### **Pre-Application Enquiry**

DE/2022/0034: Construction of 101 dwellings on two fields either side of Preston Down Road: the principle of the proposed residential development is acceptable subject to a wide range of considerations, including ecology, landscape character, residential design and access.

### **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 (PNP)

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.

### **Statement of Community Involvement**

The application is supported by a Statement of Community Involvement. This process included:

- Community engagement with Ward Councillors, Paignton Partnership Group and Neighbourhood Planning Forum.
- An online consultation page was live between 18 February - 28 February 2022. An in person public exhibition was also held on 28 February at Occombe Farm.
- In total 188 feedback forms were received.

The responses covered concerns around the impact on highways, traffic capacity, loss of greenfield, community infrastructure and facilities, impact on local character. The SCI demonstrates that the engagement has influenced the layout, impact on adjoining neighbours, landscape design and connectivity.

### **Relevant Planning History**

P/1990/0791: Land Opposite Burrow Down, Preston Down Road and Adjacent Templar Road, Paignton – refused 06.09.1990.

P/2022/0348: Environmental Impact Assessment (EIA) Screening Opinion - EIA is not required 08.04.2022.

### **Summary of Representations**

There have been approximately 52 objections to the scheme had been received at the time this report was drafted.

The concerns (of planning merit) raised are summarised as follows:

- Drainage.
- Impact on local area.
- Not in keeping with local area.
- Loss of light.
- Noise.
- Over development.
- Privacy and overlooking.
- Traffic and access.
- Impact on landscape, trees and wildlife.
- Loss of agricultural land.
- Landscape impact.
- Loss of public open space and routes.
- The quality of the submitted sustainability credentials.

One letter of support has been received:

- Impact on local area.
- It provides facilities.
- It provides houses.
- Provides / retains jobs.

### **Summary of Consultation Responses**

**Paignton Neighbourhood Forum:**

No comments received.

**County Archaeologist and Historic Environment Manager:**

No objection subject to the submission of a Written Scheme of Investigation and Post Investigation Report which can be resolved via suggested conditions.

**Natural England:**

No objection. Your AA concludes that Devon County Council is able to ascertain that the proposal will not result in adverse effects on the integrity of the South Hams Special Area of Conservation (SAC). Having considered the revised 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 specified in the AA are appropriately secured by conditions in any planning permission given.

**Torbay Council's Engineering Service Manager:**

No objection providing the surface water drainage is constructed in accordance with the submitted surface water drainage drawings and hydraulic design, I have no objections on drainage grounds to planning permission being granted for this development.

**South West Water:**

No objection. The method proposed to discharge into a surface water body is acceptable and meets with the Run-off Destination Hierarchy.

**Environment Agency:**

No comments to make, standard conditions apply.

**Police Designing Out Crime Officer:**

No objection subject to a suggested condition requiring further details around security of gardens.

**Torbay Council's Highways Engineer:**

No objection. The following details were made to the satisfaction of the Highways Engineer: The following requests for further information were made:

- A revised TRICS assessment is required to determine the number of multi-modal trips anticipated to be generated by the proposed development;
- An operational capacity assessment is required for the staggered junction proposed with Preston Down Road at the site accesses;
- The Highway Adoption Plan needs to be provided to confirm that waste collection operatives have access to the full site, in accordance with Manual for Streets guidance;
- Confirmation is required as to the proposed internal speed limit of the site;
- Proposed relocation of the eastbound and westbound bus stops closer to the development site;
- Visitor car and cycle parking should be considered, and information provided as to the quality, quantity and location of such parking; and
- SMART targets should be identified within the Framework Travel Plan in line with policy guidance to reduce reliance on single occupancy vehicles by residents of the site.
- The applicant should note that wider sustainable transport contributions may be required for the scheme. This will be calculated at £171 per trip as per the Planning Contributions SPD.

**Senior Tree and Landscape Officer:**

No objection. The proposal is sustainable from an arboricultural perspective. Please ensure compliance condition with the Tree Protective Plan and arboricultural supervision aspects of the reports.

**Ecologist:**

No objection subject to additional information being provided.

- The Site falls within the Landscape Connectivity Zone for South Hams Special Area of Conservation (SAC). An HRA is required to Appropriate Assessment level.
- The Occombe SSSI is of national interest for its lowland meadow grassland habitats. It lies c.125m to the north of the site. Approximately 1ha of the northern field lies within the 50-200m Impact Risk Zone (IRZ) for this nationally important designated site, and the remainder lies within the 200-500m IRZ. NE to be consulted. Applicant to discuss mitigation proposals with LPA once NE consultation response has been received.
- Pollution controls required to avoid water-borne impacts. Condition suggested: Pollution controls to avoid impacts to Occombe SSSI to be outlined in CEMP and submitted to LPA for approval.
- Occombe Farm and Scadson Woods LNR immediately adjacent to the Site to the north and south. (NB: this LNR contains Occombe SSSI). Further information required on mitigation details.
- Occombe Valley Woods LNR lies immediately to the south, further information required on mitigation details.
- Occombe Woods (W) CWS lies immediately adjacent to the Site to the south. Overlaps in part with the Occombe Valley Woods LNR. Further information required on this route including the expected amount of habitat loss required and confirmation of the method of drainage pipe installation. Applicant to examine whether there are routes which avoid the CWS entirely.
- Satisfied with the hedges proposals subject to condition: Condition: Woodland, retained hedgerow and trees within and bordering the Site to be protected in accordance with BS 5837:2012 (Trees in relation to design, demolition and construction) and details outlined in CEMP. Condition: All hedges to be managed as per details outlined in LEMP. Condition: All new hedges to be Devon hedges i.e. with banks. Details to be outlined in LEMP and submitted to LPA for approval.
- Bat flight lines and foraging. Potential for loss of commuting and foraging opportunities through habitat loss and introduction of new artificial lighting sources, particularly along northern boundary where bat activity is greatest. Light spill into the dark buffer along northern boundary has been demonstrated by the Lighting Impact Assessment to exceed 0.5 lux. This will therefore impact on the functionality of this buffer as commuting route for light-sensitive bat species such as Greater Horseshoe Bat. See South Hams SAC comments above.
- Bat roosts details satisfactory subject to condition. Condition: Applicant to follow methods outlined in EclA report to avoid impacts to roosting bats. Details to be outlined in CEMP and submitted to LPA for approval. Condition: Details (including locations) of artificial bat roost features to be outlined in LEMP and submitted to LPA for approval.
- Other protected species are satisfactorily protected but subject to conditions.
- BNG Planting specification for SUDS basin required. Applicant to provide this demonstrating that all species will be native as per recommendations in EclA report.

**Devon and Somerset Fire and Rescue Service:**

These include Vehicle Access, including minimum road widths, turning facilities for fire service vehicles and maximum reversing distances of 20 metres. In addition, the provision of appropriate water supplies for firefighting (Street Hydrants) including appropriate flow rates will need to be achieved.

**Waste and recycling**

No objection subject to waste management contributions.

**Torbay and South Devon NHS Foundation Trust**

No objection subject to Section 106 funding towards improvement to local medical practices.

**NHS Devon Clinical Commissioning Group (CCG)**

No objection subject to Section 106 funding towards improvement to local medical practices.

**Devon and Somerset Fire and Rescue**

No objection subject to Building Control compliance.

**Housing Strategy and Enabling Officer**

The Planning Statement confirms the provision of 30 affordable housing units which is consistent with Policy H2. The layout and clustering of the affordable dwellings as set out in the Northern and Southern layouts ref: dwgs 0102 & 0103 is well thought out and well-integrated into the development.

The affordable housing SPD stipulates an affordable housing tenure split of 1/3 social rent, 1/3 affordable rent & 1/3 shared ownership. The breakdown is set out in the layout dwgs referred to and complies the relevant SPD.

Layout North		
8, 46, 47, 48, 49, 50	Shared Ownership	6
6, 18,19	Affordable Rent	3
10,11,12,13,14,15,16,17	Social Rent	8
Layout South		
15,16,17,18	Shared Ownership	4
22,23,24,25,26,27,28	Affordable Rent	7
20,21	Social Rent	2

The affordable housing proposals are compliant. The affordable housing provision will need to be secured by way of section 106 agreement.

A few other comments:

- The application is silent on First Homes. Other LPAs are considering First Homes national policy and, on that basis, would not consider this a compliant application.
- It is not usual for the applicant to name the Registered Provider in the Planning Statement, and this should have no bearing on the planning decision.

**Accessibility standards H6**

Policy H6 states that all new dwellings should be capable of adaptation for disabled people, where practical. Housing developments of 50+ dwellings should provide a minimum of 5% new homes to Building Regulations Approved Document Part M4(2)

The Planning Statement at 4.5 states that the proposed development includes the provision of 8 flats (including x2 accessible {not defined}), 6 bungalows, and 87 houses. On the face of it the application this is not compliant with H6 and no reference has been made to Policy H6. As I understand it the LPA does impose this Policy on other applications.

**Planning Policy Officer**

No objection. The officer is content that 10 shared ownership homes meet the Local Plan requirement. We have given the WMS promoting First Homes due regard, but there is a pressing need for RP administer housing too, so we are not going to insist on First Homes.



We are also taking a similar approach to “Self build affordable housing” in Policy H3. In practice it is often easier to accept 30% RP housing.

The Local Plan Site Options Consultation will consider First Homes, but in my view, we should still accept Shared Ownership rather than First Homes, if that approach works better for everyone. Likewise, the policy on First Homes needs clarification in the Local Plan update.

### **Planning Officer Assessment**

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 key issues have been identified and will be discussed in relation to the relevant development plan policies and material considerations.

1. Principle of development
2. Design and visual impact
3. Open space and landscaping
4. Ecology, biodiversity and trees
5. Impact on heritage assets
6. Residential amenity
7. Highways, movement and parking
8. Designing out crime
9. Drainage, flood risk and contamination
10. Low carbon development
11. Affordable housing
12. Housing supply

#### **1. Principle of development**

The proposal would help meet housing need and the Council's 5 year housing supply. This accords with the objectives of Policies SS1 (Growth strategy for a prosperous Torbay), SS2 (Future Growth Areas), SS11 (Sustainable communities), SS12 (Housing) and SS13 (Five year housing supply) H1 (Applications for new homes) of the Local Plan.

Policy SS1 sets out a growth strategy for a prosperous Torbay, supports regeneration that creates sustainable living, working and leisure environments, and seeks delivery of homes.

Policy SS2 proposes Paignton North and West Area for future growth. Development located here must be integrated with existing communities, reflect the landscape character of the area as informed by Torbay's Landscape Character Assessment (2010), be timed in accordance with provision of essential infrastructure, be informed by ecological surveys and flood risk assessments and should be consistent with the levels of growth set out in Policies SDT1, SDP1 and SDB1, and their related SD Policies.

Policy SS11 assesses development's contribution to improving the sustainability of existing and new communities within Torbay. Development must help to create cohesive communities within a high quality built and natural environment where people want to live and work. The criteria includes the need to meet the needs of residents and enhance their quality of life, close the gap between the most and least disadvantaged people and neighbourhoods in Torbay, develop a sense of place and local identity, promote social inclusion, and seek to eliminate exclusion based on access to housing, health, education, recreation or other facilities, create a well-connected, accessible and safe community, deliver development of an appropriate type, scale, quality, mix and density in relation to its location and provide a good standard of residential accommodation, by seeking to retain small to medium sized homes (2–4 bedrooms).

Policy SS12 sets out how the Authority will maintain a 5 year housing supply on a rolling basis, but it is accepted that Torbay currently has under a 3 year housing land supply. Therefore, the terms of the NPPF apply where a tilted balance applies in favour of sustainable housing proposals and the Local Plan cannot be considered up to date with regard to housing planning policy.

SS13 Five year housing land supply sets out the Council's rolling 5 year supply of specific deliverable sites to meet the trajectory of 8,900 new dwellings. For the period of 2022/23 – 2029/30 a trajectory of 555 dwellings per year are proposed.

Policy H1 states that proposals for new homes in the built-up areas of Torbay will be supported (subject to other Plan policies); promotes re-use of brownfield land and urban regeneration; and seeks to reduce the need to travel by car.

The PNP shows the land parcels are identified as key housing sites under Policies SDP3.1 (sites PNP1 and 2) and SS1 of the PNP. It includes both the land parcels as part of the housing sites phasing conclusions with anticipated delivery of 50 dwellings on each parcel between 2027/30.

SDP1 Paignton sets out the rejuvenation of Paignton through high-quality mixed use development, of which green infrastructure (GI) will underpin both recreation and flood resilience measures. Development sites to the west will be delivered through neighbourhood planning and masterplanning, to provide family housing opportunities that will be underpinned by an enhanced transport infrastructure, and account for environmental sensitivity through a GI led design approach. Paignton will seek to provide 4,290 new homes over the plan period.

SDP3 Paignton North and Western Area highlights the provision in a range of housing, especially family housing, naming Preston Down Road (SDP3.1) as one of the identified five broad areas for development. Development in this location should provide resilience to the effects of climate change, through the provision of GI, and adhere to guidance on Greater Horseshoe Bats as well as other species.

Policy C1 relates to resisting development in the open countryside, away from existing settlements, and in rural areas surrounding the three towns of Torbay, where this would lead to the loss of open countryside or creation of urban sprawl, or where it would encourage the merging of urban areas and surrounding settlements to the detriment of their special rural character and setting. Policy C1 also sets out, amongst other things, that major new development should focus on Future Growth Areas (FGA) in the Strategic Delivery Areas. The proposed development does not close the gap between urban areas and does form part of planned growth.

The Strategic Housing Land Availability Assessments (SHLAA) Paragraph 5.3.3.6 identified each site as having a capacity of around 50 dwellings. The land is to the north of the Western Corridor and therefore less constrained than other areas in Policy SDP3. Development of the sites must be sensitive to the landscape setting, to minimise impact on the rural areas around the location.

As part of the technical evidence base to inform the Local Plan review and brownfield register, in December 2021 the Council have undertaken a Housing and Economic Land Availability Assessment (HELAA) ref. no. 21P017 (north) and 21P018 (south). This identifies potential sites and assesses whether they are suitable, available and achievable for housing, employment or other economic development uses. The site has been assessed as being a yellow site, with the conclusion that there are minor constraints on the sites. However, the

HELAA panel were positive towards both the sites and described them as being 'an obvious choice for housing'.

Policy PNP1 Area Wide supports development proposals that provide housing growth appropriate to meet local needs and strategic needs set out in the Local Plan 2015, including affordable housing. The policy continues to state it will protect local identity and seek to achieve sustainable development.

Policy PNP19 Safeguarding open countryside acknowledges the countryside is a finite resource and ensures that any further development in the countryside does not damage its quality and the relationship between urban and rural areas. The site is located outside yet adjacent to the rolling farmland of Occombe Cross rural character area.

In addition to the above, the Council cannot currently demonstrate a 3 or 5 year housing land supply, which is a relevant material consideration to the principle. 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. This principally means that for permission to be withheld either (a) the application of policies in the NPPF that protect areas or assets of particular importance (habitats sites (and those sites listed in para 181 of the NPPF) Sites of Special Scientific Interest; Area of Outstanding Natural Beauty; irreplaceable habitats; and designated heritage assets) provides a strong reason for restricting the overall scale, type or distribution of development or (b) harm would significantly and demonstrably outweigh benefits. This current context therefore increases the prospect of planning permission being granted because it 'tilts' the balance in favour of approving an application for housing.

Whilst the site is not allocated within the Local Plan, the proposal demonstrates compliance with the adopted spatial strategy and delivers residential development within the North and Western strategic delivery area. The development proposal therefore does accord with the intention of housing delivery outlined in the PNP and as will be demonstrated below the proposal results in several benefits that would outweigh any harm as required by NPPF Paragraph 11 (criterion d) ii.

Drawing together the policy landscape there is support for the provision of a residential use on both the identified parcels of land. The policy support is clear within Policy SS1 of the Local Plan and the current shortfall in housing land supply strengthens this support. This position is however subject to wider policy considerations that are relevant to the development proposal, which will be discussed in the forthcoming sections of the Officer Assessment.

## **2. Design and visual impact**

The NPPF (2021) states that one of the core land-use planning principles that should underpin decision taking is to always seek to secure high quality design. In addition, it states that 'permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions'. New development should be sympathetic to local character and history, including surrounding built environment and landscape setting.

Policy SS11 of the Local Plan states that development must help to create cohesive communities within a high-quality built and natural environment where people want to live and work and that development proposals will be assessed according to whether they achieve certain criteria as far as they are relevant and proportionate to the development.

Criterion 3 refers to development that helps to develop a sense of place and local identity and criterion 10 refers to delivering development of an appropriate type, scale, quality, mix and density in relation to its location.

Policy DE1 (Design) of the Local Plan states that proposals will be assessed against a range of criteria relating to their function, visual appeal, and quality of public space. Policy DE4 (Building Heights) cites that the height of new buildings should be appropriate to the location and that they should be built to the prevailing building height unless there are sound socio-economic benefits to justify a deviation.

In terms of further policy context design outcomes are also prominent within the PNP with PNP1 (Area Wide) including reference to enhancement of local identity, PNP1(a) citing the importance of development responding positively to its context when in the Rural Character Area, PNP1(c) again identifying the importance of strengthening local identity, and PNP19 (Safeguarding the open countryside) express the importance of sensitive development within the rural context.

Having considered both local and national policy guidance the design is considered to provide an acceptable form of development. The key components of the assessment that inform this judgment are outlined below.

The Design and Access Statement includes the Building for a Healthy Life Assessment as required by Local Plan policy DE2. A Health Impact Assessment Screening has also been submitted in accordance with the Healthy Torbay SPD.

### **Quantum of development**

The quantum of development has been broadly established at around 50 dwellings in each field in the SHLAA and HELAA. The proposed 101 dwellings reflect the challenges of the on-site constraints such as existing retained landscape, topography, biodiversity, heritage, below ground utilities and access.

Topography has been a critical part of the design evolution as the fields are on a slope which at the greatest represents a 1:6 gradient. The steeper parts of the site often fall outside the net developable area and would be challenging to develop due to the requirement for ground remodelling and retaining structures. A number of representations raised the quantum of development. A higher density could be achieved if for example more 2 beds were proposed at the expense of 4 beds. The proposed blended mix is made up of 1, 2, 3 and 4 beds based upon demand. In terms of the site constraints the scale is considered acceptable.

The scheme has evolved during the pre-application process and in response from comments made during the early consultation exercise. One key example is the site's landscape structure has been revised to enhance the ecological provision on site, creating dark corridors for bats along the site peripheries and deliver pedestrian connections to the wider landscape.

The layout in both fields includes areas which will not be developed and create space for biodiversity net gain, ecology mitigation dark corridors for bats along certain boundaries, public open space and surface water drainage storage in the form of a pond in the northern field and crates in the southern field.

The application also proposes the provision of 30% affordable units, which is the policy compliant level for development of this scale on greenfield sites, occupation type, specifications, and delivery. For clarity, 30% of 101 total units is 30.3. The Local Plan rounds up at 0.5 % therefore 30 affordable dwellings are the minimum that the Council would seek under Policy H2 of the Local Plan.

Policy H6 of the Local Plan states that housing developments of 50+ dwellings should provide a minimum of 5% new homes to Building Regulations Approved Document Part M4(2). M4(2) is a higher standard that designs new dwellings so that they're more easily accessed and adapted should the need arise in future. M4(3) is fully wheelchair adaptable or accessible. The proposed development includes the provision of 8 flats (including x2 accessible), 6 bungalows, and 87 houses.

The affordable housing mix has been discussed with the Housing Officer at pre-application and as part of this current application. The layout and clustering of the affordable dwellings as set out in the northern and southern layouts are considered to be well-integrated into the development.

The application is therefore deemed acceptable in terms of a layout and affordable housing offer.

### **Appearance**

An appraisal of the landscape and visual impact of the proposal is provided within the supporting Design and Access Statement. It confirms that the site is viewed in the context of the existing residential development along Preston Down Road, Templer Road and Sandringham Drive. The northern site is viewed in the context of the existing Sutton Seeds nursery in glimpsed views from the footpath to the north. Whilst the southern site is screened from the wider landscape by the East Down Plantation. It is therefore considered that the proposed development will be viewed as a natural extension to the existing settlement edge of Paignton.

In terms of visual impact, the sites are considered capable of accommodating this quantum of development. In terms of the basic layout there is sufficient space around the buildings to provide adequate softening and present and acceptable setting for the development, that would hence not cramp or over-develop site.

The new dwellings will be of a similar scale to existing residential development in the surrounding areas and reflect the local development pattern and how buildings relate to spaces and streets. All dwellings will be generous in size and comply with National Space Standards.

A range of storey heights is provided across the site (including 1, 2 and 2.5 storey) to appropriately accord with the topography of the land; respond to key vistas and to provide focal points in appropriate locations. A number of bungalows are proposed on the eastern edge of the southern field to reflect the existing bungalows of Sandringham Drive.

The scheme will utilise appropriate proportions and compositions of architectural elements to create a contemporary architectural design. Generous window proportions allow future occupiers to take advantage of the views across and out of the site to the wider countryside, whilst providing good levels of daylight for residents.

Careful consideration has been given to control levels of overlooking by orientating windows away from neighbours.

A simple palette of styles and traditional materials will be implemented across the site to maintain consistency. Differing colours of brick and varying combinations of materials will be introduced to create an identifiable and varying character to the development. Where possible, the building materials and products will be locally sourced.

As demonstrated above, the rigorous pre-application process and early engagement has ensured that layout and appearance of the scheme is considered acceptable. A number of representations have been received as part of the regarding these issues. The architectural treatment and scale of development are considered appropriate. Further comments regarding impact on landscape and trees and other matters are dealt with below.

All matters considered the proposed scale, layout, appearance and landscaping, is considered to present a form of development that, on balance, adequately acknowledges and responds to the urban fringe context. For the reasons above the development would be deemed to be well designed, as required by the NPPF, and is considered to accord with the Development Plan design-based policies when read as a whole, notably Policies SS2, SS11, DE1, DE4, NC1 and C4 of the Local Plan, and Policies PNP1, PNP1(a), PNP1(c), PNP19 and PNP24 of the Paignton Neighbourhood Plan.

### **3. Open space and landscaping**

Landscaping is a key component of placemaking and in a rural context is an important influencer of character. The importance of contextual and effective landscaping is highlighted within the NPPF within Chapter 12, Achieving well-designed places, as part of the drive towards delivering visually attractive development that also responds to and is sympathetic to local character (Paragraph 130). The NPPF also makes reference to the important contribution of trees to the character and quality of urban environments (aside benefits of adapting to climate change) and states that decisions should ensure that new streets are tree-lined, that other opportunities are taken to incorporate trees elsewhere in developments (such as parks and community orchards), and that existing trees are retained wherever possible.

At a local level the Development Plan seeks high quality landscaping in Policy DE1 and Policy C4 states that development will not be permitted where it would seriously harm protected trees or veteran trees, hedgerows, ancient woodlands or other natural features of significant landscape, historic or nature conservation value. The policy also states that development proposals should seek to retain and protect existing hedgerows, trees and natural landscape features wherever possible, particularly where they serve an important biodiversity role.

Policy PNP1(c) of the PNP includes relevant references to development proposals, where possible, retaining existing natural features, and furthers that hedgerows should be provided to at least one boundary and also should include tree planting, being encouraged to plant 3 new trees for each dwelling.

The application is supported by a range of landscaping analysis and strategy. The proposed layout aims to connect all parts of the site, linking the proposed housing with the existing woodland areas to the north and south. As discussed previously, the proposed landscape strategy will promote the Building for a Healthy Life initiative through the links between landscaping, health and wellbeing of future occupiers. An informal, public natural play space is proposed within the open space of the southern parcel.

A number of representations have been received concerning the loss of public open space and routes. The site is currently in private ownership. Spaces within the development and new areas of public open space will provide opportunities for informal meetings, dog walking and play. Additionally, a new informal, natural play space is proposed within the open space of the southern parcel. The proposed development would create routes for the public to access both the woods to the north and play facilities to the south. Consequently, the loss of any use of the site will be adequately mitigated in any event.

The landscape strategy responds to the existing features and the site's topography to ensure the existing, retained and improved green infrastructure enhances the biodiversity of the site and connects to the wider context. The strategy includes a soft landscape plan and supporting hard landscaping.

The soft landscaping scheme proposes a variety of features and treatments including a mixture of semi-ornamental and street trees, amenity grass, shrub and herbaceous planting, mixed native hedgerow, wildflower meadow seeding, wetland meadow grass seeding, marginal and wetland planting, native hedge, thorny planting and whip planting.

The scheme would be consistent with the national 'build beautiful' agenda outlined within Section 12 of the NPPF, and would be consistent with Paras 126, 130 and 131, and also be considered acceptable and compliant with Policies DE1 and C4 of the Local Plan and policy PNP1(c) of the Paignton Neighbourhood Plan and the NPPF.

#### **4. Ecology, biodiversity and trees**

Policy NC1 of the Local Plan seeks for development to duly consider biodiversity and take opportunities for enhancement, proportionate to the context and development. Guidance within the NPPF provides similar guidance to the above and notably Para 180 guides that when determining planning applications, local planning authorities should apply principles that include opportunities to improve biodiversity in and around developments should be integrated as part of the design, especially where this can secure measurable net gains for biodiversity. Policy C4 of the Local Plan seek the retention of trees and other natural features.

Policy PNP1 of the PNP seeks to ensure that safe key areas of rural landscape, Local Green Space, and food production are safeguarded and enhanced to ensure an improvement in tourist appeal, enhance biodiversity and community wellbeing.

There are sites designated as Local Nature Reserves (a statutory designation) and County Wildlife (a non-statutory designation) border the site to the north and south. It also lies 125m of a Site of Special Scientific Interest to the north west. It is located within the Landscape Connectivity Zone for Greater Horseshoe bats associated with the South Hams Special Area of Conservation (SAC).

An Environmental Impact Assessment (EIA) Screening Opinion was determined in April 2022 and concluded that a full EIA was not required. Through sufficient mitigation, avoidance and compensation measures, it was considered that there would be no likely significant effects or adverse impacts on the biodiversity value of the site or off-site areas within the development's zone of influence, such as the South Hams SAC. Furthermore, the retention of dark buffers within the development will maintain north-south commuting opportunities for bat species, including Greater Horseshoe bat.

Devon County Council provided a Habitats Regulations Assessment (HRA) Screening of likely significant effect on a European site on behalf of the TDA. An HRA Appropriate Assessment was carried out and it was concluded that the development, (with all avoidance and mitigation measures secured by condition and/or obligation, being implemented in full) would not adversely affect the integrity of South Hams SAC alone or in-combination with other plans or projects. This is subject to the delivery of the Construction Environment Management Plan (CEMP) and the development in accordance with the submitted LEMP.

For clarity the application is supported by:

- Burton Reid Associates (2023) Updated Landscape and Ecology Management Plan
- Burton Reid Associates (2023) Ecological Impact Assessment

- Burton Reid Associates (2022) Bat Activity Report
- Burton Reid Associates (2022) Habitat Reports
- Burton Reid Associates (2022) Biodiversity Net Gain Report
- The Lighting Bee (January 2023) Lighting Impact Assessment
- Updated soft Landscape Plans

The submitted LEMP describes the key proposed management regimes and measures within the identified habitat areas as shown in the Biodiversity Net Gain Post Development Habitats Plan and the soft Landscape Plans.

The Ecological Impact Assessment included baseline ecological data was collated between August 2018 and June 2022. This included a desk study and Preliminary Ecological Appraisal followed by a UK Habitat Classification survey and targeted surveys for protected and notable species including bats, Hazel Dormouse, Badger, Cirl Bunting, breeding and wintering birds, and reptiles.

The statements note that although there is potential for the proposed development to result in additional recreational pressure on the nearby Berry Head to Sharkham Point SSSI and Occombe SSSI, Occombe Farm and Scadson Woods Local Nature Reserve and Occombe Woods Country Wildlife Site, it is considered that financial contribution towards strategic management and monitoring of these sites (or an alternative mechanism) can off-set these impacts in the long-term. Moreover, the nearby SSSI, Local Nature Reserve, and Country Wildlife Site are located in an already heavily pressured area from existing residential development. Torbay Coast and Countryside Trust have provided a mitigation table with a scope of works available on delivery. This matter is dealt with through a suggested condition and within the Section 106 agreement.

It must however be noted that the land parcels forming the proposed development site were removed from the Occombe Farm and Scadson Woods Local Nature Reserve in October 2019.

Devon County Council produced an Appropriate Assessment (AA) for Natural England to assess. It concluded that Devon County Council is able to ascertain that the proposal will not result in adverse effects on the integrity of the South Hams Special Area of Conservation (SAC). Having considered the revised assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England advised that they concur with the assessment conclusions, providing that all mitigation measures specified in the AA are appropriately secured by conditions in any planning permission given. Suitable conditions have been set out below.

The Ecological Impact Assessment and Biodiversity Net Gain Report states that biodiversity net gain requirements will be achieved in accordance with the Local Plan Policy NC1, the NPPF 2021 and NERC Act 2006 through proposed habitat creation and enhancement as demonstrated using Natural England's Biodiversity Metric 3.0 calculation tool. The biodiversity unit baseline (before development) has been calculated as 12.62 habitat units and 14.69 hedgerow units. The post-development score has been calculated under current proposals as 13.89 habitat units, which is an increase in 1.28 units (an increase of 10.11%) and 16.76 hedgerow units (an increase of 14.09%). There will be no net loss in the overall quality of habitats present within the site. It is considered this assessment demonstrates that the development, as proposed, will achieve a measurable 10% Biodiversity Net Gain in accordance with local planning policy and the 2021 NPPF.



Policy C4 of the Local Plan cites that development will not be supported when it would seriously harm either directly or indirectly, protected or veteran trees, subject to off-setting measures.

The application is also supported by:

- An Arboricultural Appraisal
- Tree Appraisal Plan
- Arboricultural Impact Assessment
- Tree Protection Plan
- Arboricultural Method Statement.

The site benefits from existing hedgerows and some mature tree planting. Wherever possible these existing landscape features are retained and have informed the design and layout of the development scheme.

The site also contains a group of six trees protected under individual Tree Preservation Orders (TPOs) along the northern boundary of the southern field. Additionally, a series of TPOs can be found along the eastern boundary of the northern parcel in the rear gardens of properties on Templar Road. All trees with TPOs will be retained on site bar T1 Oak (Reference: 2002.12) which is classed as very low quality (U).

An integrated landscape strategy connects all parts of the site, linking the development proposal with the existing woodland areas to the north and south. The landscape strategy will thereby promote the Building for a Healthy Life initiative through promotion of physical activity and support mental health and wellbeing.

Spaces within the development will provide opportunities for informal meetings, dog walking and play. Additionally, a new informal, natural play space is proposed within the open space of the southern parcel.

The overall landscape strategy responds to the existing landscape features and the site's topography to ensure the existing, retained and improved green infrastructure enhances the biodiversity of the site and connects to the wider context. The strategy is comprised of a soft landscape plan and supporting hard works and boundary plan that have been submitted with the application.

The soft landscape plan proposes a variety of landscape treatments that include a mixture of semi-ornamental and street trees, amenity grass, shrub and herbaceous planting, mixed native hedgerow, wildflower meadow seeding, wetland meadow grass seeding, marginal and wetland planting, native hedge, thorny planting and whip planting.

New landscaping is proposed to provide natural landscape features that will enhance the sense of place in their locale. The landscape strategy seeks to supplement existing trees and hedgerows by adding new planting within the streetscape and areas of public open space. This in turn will help to enhance vistas, create a positive sense of identity and connectivity with the surrounding countryside. Mixed native hedge and tree planting will reinforce wildlife and dark corridors and provide an enhanced buffer to Occombe Valley Woods and surrounding residential development.

The development will enable informal access to surrounding Public Rights of Way and will feature enhanced planting to create an informal green corridor around the site. Informal play and footpath links in the south-eastern corner of the southern site which will benefit from passive surveillance from the proposed dwellings. Plus, there will be an informal footpath link on the northern boundary of the northern parcel by the proposed SuDs pond.

In terms of biodiversity, in-line with Policy NC1 and guidance contained in the NPPF, measures to enhance biodiversity should be duly considered and it is noted that the submitted ecology reports include biodiversity enhancement measures.

Whilst the site is currently no longer in active agricultural use, though the grass is periodically cut, a desk based Agricultural Land Classification (ALC) report has been undertaken by ADAS for the site. Based on the published soil and geological information available, the soils are considered to have predominantly permeable slightly stony fine loamy (clay loam) top soils over slightly or moderately stony permeable fine loamy (clay loam) subsoils. The ALC report identifies the agricultural land to likely be of grade 2 quality (2.8ha), subject to there being no gradient limitation. A small area (0.1ha) of subgrade 3a was also found on site. The report notes site gradients of >7 degrees and 11 degrees are likely to restrict the ALC grade to respectively subgrade 3b on 1.5ha (38%) and grade 4 on 0.1ha (2%) of the site area.

The principal limitation to agricultural use on the grade 2 and subgrade 3a land is soil wetness and the principal limitation on the subgrade 3b and grade 4 land is gradient with a secondary limitation to agricultural use of agi-climatic and soil wetness.

Whilst the development will result in the loss of some very good quality and good to moderate quality land the site is located in a sustainable position adjacent to the existing settlement boundary of Paignton. Furthermore, there is an overriding need for housing in Torbay which in this case cannot be accommodated on lower grade land. It is therefore considered that whilst the proposal will result in the loss of some very good quality and good to moderate quality land it will deliver housing to bolster the overriding need for housing in Torbay in accordance with Local Plan Policy SC4.

In light of the conclusions above, the development is considered aligned with the aims and objectives of Policies NC1 and C4 of the Local Plan, Policy PNP1 of the Paignton Neighbourhood Plan and guidance contained within the NPPF.

## **5. Impact on heritage assets**

NPPF (2021) provides guidance as to when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance (Para 199). The NPPF further states that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification (Para 200). It guides that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use (Para 202).

The application is supported by a Written Scheme of Investigation and the results of an Archaeological Trench Evaluation. A trench evaluation confirmed previous mapping from aerial photography and the geophysical survey that buried archaeology survived on site. Buried remains of two phases of settlement were found, the earlier being prehistoric and relating to a possible enclosure that extended beyond the site boundary to the east.

Multiple ditches found represented an enclosed Romano-British farmstead. One collection of finds comprised a small amount of prehistoric pottery, a piece of worked flint and larger collection of Roman pottery and ceramic tiles, with fragments of glass and iron objects.

The archaeological remains that are present on site are identified of medium significance in accordance with paragraph 194 of the NPPF. AC Archaeology have confirmed that Devon County Council Historic Team will be requesting an open area of excavation and recording of the archaeology with subsequent appropriate reporting as part of mitigation. The DCC Historic Team have confirmed that preservation in situ is not required and therefore the design of the proposal is not prohibited by the archaeological remains.

The fieldwork programme would be carried out ahead of the construction phase as set out in the submitted WSI. Only once the open area of excavation has taken place will the full impact on heritage of the proposed development on the significance of the heritage asset be known.

The submitted archaeological evaluation report (AC Archaeology, February 2022) confirms that the development will involve the removal of an archaeological site of prehistoric but principally Romano-British date. The impact of development upon this archaeological asset should be mitigated by a programme of archaeological work that should fully record the evidence that will otherwise be exposed and destroyed by groundworks, and also make the results publicly available, including through on site or off site interpretation, as appropriate.

The County Archaeologist recommends that this application should be supported by the submission of a Written Scheme of Investigation (WSI) setting out a programme of building recording and archaeological work to be undertaken in mitigation for the change to and loss of heritage assets with historic and archaeological interest. Two pre-commencement conditions are therefore suggested within the conditions schedule.

It is considered that the accompanying heritage reports provide appropriate assessment in accordance with paragraph 194 of the NPPF and the requirements of local plan policy SS10.

## 6. Residential amenity

The Local Plan contains policies to ensure that appropriate residential standards are achieved in residential schemes, including size standards, through Policy DE3, and that development meets the needs of residents and enhances their quality of life, through Policy SS11. The PNP, in Policy PNP 1(d) (Residential Development), presents guidance on supporting elements required for residential units and the NPPF (Para 130) 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 and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

### Future Occupiers

In terms of assessing the quality of the future residential environment it is important to consider the size and quality of the internal living spaces, the levels of outlook and natural lighting afforded key habitable rooms, levels of privacy, along with the quality of outdoor spaces and access to waste, cycle and car parking facilities, which are all integral elements for household developments. The aspiration is to secure good level of amenity for future residents.

The proposal seeks to provide 8 flats (including x2 accessible), 6 bungalows, and 87 houses.

No. of beds	No. of dwellings northern parcel	No. of dwellings southern parcel	Total number of dwellings
4 bed houses	16	17	35
3 bed houses	24	19	41

3 bedroom bungalows	-	6	6
2 bed houses	7	4	11
2 bed flats	2	3	5
1 bed accessible flats	2	1	3
Total	51	50	101

Affordable dwelling mix:

No. of beds	No. of affordable dwellings northern parcel	No. of affordable dwellings southern parcel	Total number of dwellings
4 bed houses	2	4	6
3 bed houses	8	6	14
2 bed houses	3	-	3
2 bed flats	2	2	4
1 bed accessible flats	2	1	3
Total	17	13	30

The development proposes a variety of dwelling types. All are well spaced and provide good natural lighting to key habitable rooms and good outlooks. Internal privacy is offered with adequate back-to-back distances between dwellings or outlooks to landscaped borders. There will be some natural overlooking of gardens, but this is commonplace within residential environments and there are no unacceptable, such as overly dominant, relationships. In terms of the internal living spaces all dwellings meet the national internal living spaces standards that are engrained within the Development Plan (Policy DE3) and support the concept of producing, in the round, a good level of amenity for future occupiers. Each dwelling is afforded adequate amenity space that exceeds the 55sqm expected within the Development Plan.

In terms of ancillary elements of parking, cycle parking and waste storage the following is considered.

Parking for the site is in accordance with local standards. 223 spaces are provided for 101 dwellings representing an average of two spaces per dwelling, with the exception of one space per apartment. The proposed parking arrangement is shown on the submitted drawings and comprise a mixture of garages, on plot parking, small parking courts and roadside parking. An adequate amount of visitor vehicle and cycle parking has been provided to the satisfaction of the Highways Team. Each plot will benefit from one Electric Vehicle Charging Point.

The application is supported by a Waste Management Plan. Each dwelling including houses and apartments will be provided with space to store a 240 litre wheeled bin, two 55 litre recycling boxes and one food caddy. Swept path assessments have been undertaken, which demonstrates the ability of a large Refuse Vehicle entering the site from the main vehicular access points from Preston Down Road, utilising the internal turning heads onto the main spine road and exiting back on to Preston Down Road. SWISCo do not drive onto unadopted highway to collect waste and recycling and therefore where the situation occurs, with private spurs provided on both sites, hardstanding off-street collection areas have been provided within the design with a requirement that residents will have to move their containers to these points on bin collection days and are shown on the plans.

In terms of cycle parking the Development Plan expects dwellings to be afforded with 2 spaces and apartments 1 space. Each dwelling will be constructed with appropriate provision for the parking of at least two bicycles on plot within sheds or in garages and each apartment will be provided with storage for one bicycle.

In terms of 'designing out crime' Policy PNP1(g) of the PNP expects all developments to show how crime and the fear of crime have been considered. In terms of consultee comments, it is noted that the Police Designing Out Crime Officer has raised comments including certain boundary positions and advice on plot security. It is recommended that a planning condition is attached to secure details on how the development responds to Secured by Design.

All these matters combined present good quality living spaces throughout the development. Subject to conditions as suggested the proposed residential environment is considered acceptable for all future users and would accord with Policies SS11, DE1 and DE3 in the Local Plan, PNP1(d) of the PNP, and advice contained within the NPPF regarding creating good quality living environments.

The site does not directly border residential properties to the east but due to the layout proposed, the distances and natural separation afforded by landscaping the development will not impact the amenity of adjacent occupiers. Construction impacts will be managed through a Construction Method Statement to be submitted to the Local Planning Authority and approved prior to the commencement of development.

The development, for the reasons above, is considered to provide an acceptable relationship that protects the adjacent occupiers' amenity, in-line with policy DE3 of the Local Plan and in accordance with advice on delivering good living environments for all users, as guided within the NPPF.

## **7. Highways, movement and parking**

The NPPF guides that in assessing 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 110). It also furthers (Para 111) 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 of the Local Plan and advice contained within the NPPF principally seeks to develop a sustainable model of travel. This baseline aspiration is there to try and meet the travel needs of everyone, whilst also reducing the need for travel and thus the environment impact of movement from development.

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

The application is supported by a Transport Statement has carried out a detailed assessment of current traffic levels in the locality. It has also assessed the site's accessibility for motor vehicles; pedestrians and cyclists; and public transport connections; and the predicted traffic to be generated by the proposed development of up to 101 dwellings.

Vehicular access to the site will be taken from the creation of two new access junctions located on the northern and southern side of Preston Down Road. Both the proposed access points would take the form of a priority T-junction and access road, designed in accordance with the prescribed design guidance. This has been discussed and agreed with the Local Authority and the Highways Team. As stated in the Transport Assessment, the priority junctions and internal spine roads will provide sufficient service vehicle and emergency access to the development. An amended design has been submitted to the satisfaction of the Council's Highways Team.

The principal pedestrian and cycle access into the proposed development will be via the main site access junctions onto Preston Down Road.

A new section of footway connecting the pedestrian access for each parcel of the site with the existing footway adjacent to the kerb line of Preston Down Road is proposed within the site masterplan.

The internal layout of both the northern and southern proposed development sites consists of two cul-de-sacs that branch out to provide of connected roads, turning points and access to off-road parking spaces. The network of connected roads will facilitate the efficient movement of service vehicles within the site. Refuse collection will be undertaken from the frontage of each property. Where appropriate, three bin collection points have been identified and will be located at convenient points throughout the development for easier refuse access.

An informal pedestrian connection is also proposed from the southern site boundary of the southern parcel to Occombe Valley Woods located directly south and south-west of the development site.

In terms of the provision of parking and cycling facilities Policy TA3 and Appendix F of the Local Plan provides the policy context, where it provides estimated requirements for parking that reflect a balance between ensuring that the levels of car parking generated by development are met on site, with the need to ensure that due consideration is also given to sustainable transport methods. Policy PNP(h) of PNP cites that development should aim to achieve appropriate electric vehicle charging points and networks for walking, cycling and public transport within and beyond the development. It goes on to encourage car free areas, shared streets and squares and secure cycle storage where on-site roads are planned.

As discussed in the section above, parking for the site is in accordance with Local Plan requirements, 223 spaces are provided for 101 dwellings representing an average of two spaces per dwelling, with the exception of one space per apartment. The proposed parking arrangement comprise a mixture of garages, on plot parking, small parking courts and roadside parking. Each plot will benefit from one Electric Vehicle Charging Point, alongside provision for secure cycle storage for two cycle spaces for dwellings and one for flats.

Considering the broad accordance with the Development Plan and advice contained within the NPPF the proposal is considered acceptable on highway and movements grounds, and in accordance with the Policies TA1, TA2 and TA3 of The Local Plan, Policy PNP1(h) of the PNP, and guidance contained within the NPPF.

To ensure that other forms of transport are duly promoted a sustainable travel plan has been suggested by conditions with ongoing management to review and improve if the modal shift targets are not being reached.

## **8. Designing out crime**

No objections are raised subject to the use of a condition to secure a scheme of crime prevention measures, such as improved security to gardens. It is recommended that this condition be imposed should planning permission be granted. Subject to the use of this condition, the proposal is in accordance with Policy SS11 of the Local Plan.

### **9. Drainage, flood risk and contamination**

The NPPF's key guidance (Para 167) is when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere, and where appropriate applications should be supported by a site-specific flood-risk assessment. It further states that development should only be allowed in areas at risk of flooding where, in the light of this assessment (and the sequential and exception tests, as applicable) it can be demonstrated that: a) within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location; b) the development is appropriately flood resistant and resilient such that, in the event of a flood, it could be quickly brought back into use without significant refurbishment; c) it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate; d) any residual risk can be safely managed; and e) safe access and escape routes are included where appropriate, as part of an agreed emergency plan.

The application is supported by a detailed Flood Risk Assessment and Drainage Assessment (FRA and DS) prepared by TDA Engineering Services. The Flood Risk Assessment confirms that a review of the Environment Agency study maps has been undertaken which shows both land parcels to be located within Flood Zone 1 which is assessed as having a less than 1 in 1000 annual probability of river and sea flooding in any year. The proposed residential use is classified as a less vulnerable use which is compatible with a Flood Zone 1 location. There are also no records of flooding on the proposed development area and TDA are not aware of flooding from any other source.

The submitted flood route drawings for exceedance events demonstrate that there will be no significant proposed changes to the site overland flows. Flood exceedance will therefore continue to be directed towards the Hollicombe watercourse for the north site and the Occombe Valley watercourse for the south site. These are significant water features that currently accept any run-off exceedance from the site in extreme events. The FRA and DS confirms that there is no perceived risk of flooding to the land parcels and or increased risk off site.

As the site is located within Torbay Critical Drainage Area it is necessary to demonstrate a sustainable drainage approach has been followed. Infiltration testing was carried out at several locations across the sites to establish the viability of the use of soakaways for surface water disposal. From a review of the results and in light of the topography changes across both land parcels, TDA concluded that soakaways are not viable for surface water disposal. The next available option is attenuated discharge to a watercourse which is the proposed drainage solution.

The north parcel is taken to the Hollicombe watercourse. The off-site route follows an existing adopted highway drain as shown on the layout drawings. For the south site there is a gravity connection to the Occombe Valley watercourse. Both of these discharge points are as identified by South West Water in their drainage review of the site. Given both sites location within the Torbay Critical Drainage Area the rate of surface water drainage is limited to comply with the "greenfield" run off for the 1 in 10 year event. This is to ensure that there is no increased risk of flooding to adjacent land for all storm events up to the 1 in 100 year with a 40% allowance for climate change.

In terms of surface water management and flood risk the drainage design responds to the results of the infiltration testing and site investigations, which limits the use of soakaways to

serve the development. The Councils Drainage Engineer has reviewed the flood risk assessment and drainage strategy and raises no objections, subject to the provision that surface water drainage is constructed in accordance with the submitted surface water drainage drawings and hydraulic design. SWW and Environment Agency also have no objection.

In light of the above, the proposal is deemed acceptable on flood risk and surface water drainage grounds, in accordance with Policies ER1 and ER2 of the Local Plan and advice contained within the NPPF.

#### Below ground constraints

There are a range of below ground constraints including an intermediate pressure gas main running west to the south east entrance of the northern field. The layouts have been designed to accommodate the required easements for this feature. There is also a sewer running diagonally through the field serving Torbay Coast and Countryside Trust. There is provision to relocate the sewer subject to certain criteria. There is an illustrative plan showing a possible new route for the pipe, although the route needs to be agreed. The illustrative route can be achieved in line with the proposed layout, or an alternative would be underneath the proposed road. The pipe would then connect into SWW sewer within Preston Down Road. No objections have been received to these works.

#### Contamination

Policy ER3 of the Local Plan provides guidance that development must take into account environmental considerations and appropriate investigations made, and development will need to demonstrate that any contamination can be satisfactorily overcome without risk to health.

A Phase 1 Desk Study Report (October 2019), Geotechnical Investigation and Contamination Report (May 2020) produced by Ruddlesden Geotechnical have identified an absence of contamination. The contamination levels recorded are not potentially harmful to human health for the proposed end user (human resident) or water environment. The development of the site for dwellinghouse development is compatible with adjacent land uses and is not considered to result in any high levels of contamination.

As part of this application submission the details of gas monitoring has been submitted. The Phase 2 report confirms that no further action or specific remedial measures are required on site given the proposed residential land use. A condition has been suggested to control any unexpected contamination and an effective remediation response.

The proposal is considered to be acceptable, having regard to Policy ER1 of the Local Plan, Policies PNP1(i) and PNP15 of the PNP and guidance contained within the NPPF.

### **10. Low carbon development**

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, which includes the consideration of construction methods and materials. Policy ES1 seeks that all major development proposals should make it clear how low-carbon design has been achieved, and that proposals should identify ways in which the development will maximise opportunities. ES1 also states that the retrofit of energy efficiency measures to existing buildings will be encouraged and supported, and that opportunities for reducing carbon emissions associated with energy use will be sought through the development management process as part of the wider conversion/ refurbishment of buildings where planning permission is required.



In terms of the PNP Policy PNP1(f) states that new development should aim to achieve where appropriate and subject to viability: i) the latest developments in sustainable construction and water management technologies that mitigate and adapt to climate change; ii) the use of reclaimed materials and natural finishes; iii) include soft landscaped areas for natural drainage of rain water, and compensate fully for any existing soft area lost to development; iv) on site renewable energy generation to achieve 20% of subsequent in-use requirement wherever possible. Solar arrays will be encouraged where they do not adversely affect residential amenity, a vista of landscape value, or designated conservation area; v) connecting cycleways and footpaths where development involves new road infrastructure.

The NPPF states that the planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.

The submitted Design and Access Statement includes an Energy Statement section.

#### Building Fabric

- The building fabric will be designed to minimise and reduce energy use in accordance with current building regulations.
- Low energy lighting and appliances will be specified to help reduce energy use.
- Where possible natural low embodied carbon materials will be used such as timber frame structure and timber cladding to help reduce the overall carbon emission used in the construction of the homes.
- Water harvesting and low water use fittings will be used on each plot to help reduce water usage on site.

#### Additional Measures

A number of additional measures are being explored and will be implemented on plots where possible including the following:

- Rainwater butts.
- Solar panels will be fitted to appropriate plots with good south facing roof spaces where possible, in line with the interim building regulations.
- Air Source Heat Pumps to replace gas boilers.
- Tripling glazing.
- Wastewater heat recovery to showers.
- Smart energy metres/hive controls.

The proposal is considered, with appropriate planning conditions, to deliver on the low carbon aspirations of the Development Plan, Policies SS14, ES1 and PNP1(f), and the NPPF.

### **11. Affordable housing**

The application proposes the provision of 30% affordable units, which is the policy compliant level for development of this scale on greenfield sites, occupation type, specifications, and delivery. For clarity, 30% of 101 total units is 30.3% The Local Plan rounds up at 0.5 % therefore 30 affordable dwellings are the minimum that the Council would seek under Policy H2 of the Local Plan.

The affordable housing mix has been discussed with the Housing Officer at pre-application and as part of this current application. The layout and clustering of the affordable dwellings

as set out in the northern and southern layouts are considered to be well-integrated into the development.

The application is therefore deemed acceptable in terms of a layout and affordable housing offer.

## **12. Housing supply**

The Council cannot currently demonstrate a 3- or 5-year housing land supply, as sought by Government. The five-year supply position represents a significant shortfall and must be treated as an important material consideration weighing in favour of the proposal.

Considering the housing supply position, it is advised that in determining the application, the presumption in favour of sustainable development at Paragraph 11 of the NPPF must be applied. Paragraph 11 of the NPPF outlines that decisions should apply a presumption in favour of sustainable development, which means approving development proposals that accord with an up-to-date development plan without delay.

It is concluded within this report that the development accords with the Development Plan when considered as a whole and hence there is support for the grant of permission, in-line with the guidance within the NPPF (Para 11). Were Members of a different judgment and were to consider the proposal to conflict with the Development Plan it should be noted that the absence of a 3- or 5-year housing supply principally sets a higher benchmark to resist development. In such a circumstance development should only be refused where any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits.

### Sustainability

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

#### The Economic Role

Housing development is recognised as an important driver of economic growth and there would be economic benefits to the construction industry from the proposed development. Once the development is 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 30 Affordable Housing 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, with the benefit heightened by the inclusion of 30% of the units being Affordable units. 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 development is supported by drainage, landscaping and ecological measures to mitigate impact, as detailed in this report. It is concluded that the environmental impacts of the development weigh neutrally within the planning balance.

### Sustainability Conclusion

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

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

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

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

### **Local Finance Considerations**

#### **CIL**

Not applicable to this development.

#### **Section 106 Agreements**

- 30% affordable housing.
- Sustainable transport.
- Education.
- Public open space.
- Lifelong learning.
- Waste management.
- Biodiversity net gain.
- Recreational impacts.
- Legal fees.
- Monitoring fees.

#### **Highway works:**

The applicant has submitted a Highway Adoption Plan as Appendix B of the Waste Management Plan. The Highway Adoption Plan is considered acceptable and enables the access / egress of refuse vehicles on the adopted highway.

Other highways improvements can be secured via a planning condition attached to any grant of approval to enter into a S278 highway agreement.

#### **EIA/HRA**

EIA: A request for an Environmental Impact Assessment (EIA) Screening Opinion was submitted to Torbay Council in March 2022 on the basis that the proposed development falls within Category 10(b) of Schedule 2 of the EIA Regulations 2017 (an urban development project on a site that exceeds 5 hectares).

Despite falling within Category 10(b) of Schedule 2 of the EIA regulations, the proposal does not exceed the relevant thresholds in that the proposal does not include urban development

which is not dwellinghouse development, is for less than 150 dwellings on a site area less than 5 hectares. Furthermore, having regard to the location, characteristics of the development and potential impacts it is concluded the proposal does not constitute EIA development.

Decision (ref: P/2022/0348) was issued on 08 April 2022, confirming that an EIA is not required.

HRA: An HRA screening has been carried out. It is considered that the development, as proposed, with all avoidance and mitigation measures secured by condition and/or obligation, being implemented in full will not adversely affect the integrity of South Hams SAC alone or in-combination with other plans or projects.

### **Planning Balance**

The planning assessment considers the policy and material considerations in detail. It is considered that the scheme in terms of addressing the Development Plan aspiration to provide housing would produce a significantly positive impact overall and help with the supply of much needed housing. The provision of 30 affordable homes is also a significant material benefit.

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

There are demonstrable public benefits that weigh in favour of the scheme, notably housing provision, including 30 affordable units, informal play equipment, new tree planting and a range of quality soft landscaping and public access to local green infrastructure.

The residential environment for future occupiers is acceptable and there are no unacceptable impacts upon the amenity of adjacent occupiers.

Ecology matters are resolved in terms of protected species, habitats and biodiversity net gain aspirations.

Flood risk will not be increased, subject to the receipt of satisfactory final detailed design information for the surface water management system.

The internal road and footpath network, and its connectivity, is considered acceptable, subject to confirmation that the areas shown without footways present a suitably safe road network.

The rigorous pre-application process and early engagement has ensured that layout and appearance of the scheme is considered acceptable. A number of representations have been received as part of the pre-application engagement and application consultation regarding these issues. However, the architectural treatment and scale of development are considered appropriate.

When considered as a whole the proposed development is deemed to represent sustainable development and is acceptable, having regard to the Local Plan, the PNP, the NPPF, and all other material considerations.

The NPPF guides that decisions should apply a presumption in favour of sustainable development and for decision making that means approving development proposals that accord with an up-to-date development plan without delay, or where for housing proposals within situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites, granting permission unless the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. Or where any adverse impacts of doing so would significantly and

demonstrably outweigh the benefits, when assessed against the policies in the NPPF when taken as a whole.

There are no impacts on protected areas or assets of particular importance to provide a clear reasoning for refusal when considering the scheme in the round and the public benefits noted.

### **Officer Recommendation**

Approval. Subject to:

- Completion of a satisfactory Section 106 planning agreement and the agreement of any necessary extensions to the statutory determination period to complete this agreement.
- The conditions as outlined, with the final drafting of conditions delegated to the Divisional 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 Divisional Director of Planning, Housing and Climate Emergency, including the addition of any necessary further planning conditions or obligations.

### **Conditions**

#### **Pre-commencement conditions**

##### **1. Phasing Plan**

Prior to the commencement of development, a phasing plan shall be submitted to and approved in writing by the Local Planning Authority. The plan shall set out the phases of the development and how the development will be implemented in relation to an agreed timetable of works. The phasing plan shall include:

- i. site excavations,
- ii. building construction,
- iii. provision of car parking for each phase,
- iv. provision of on-site planting for each phase,
- v. landscaping and ecological enhancement,
- vi. road construction and provision of vehicle passing places within the site and.
- vii. active travel provisions.

The development shall be carried out in accordance with approved phasing plan.

##### **Reason**

Reason: To ensure that necessary elements of the scheme are implemented within acceptable parameters and at an appropriate stage, to comply with policies SS2, SS9, NC1 and DE1 of the adopted Torbay Local Plan 2012-2030 and Policies PNP1(a), PNP19 and PNP24 of the Paignton Neighbourhood Plan. These details are required prior to the commencement of development to secure necessary detail for essential elements of the development.

##### **2. Post Investigation Assessment**

The development within the southern parcel of land shall not be occupied until (i) the post investigation assessment has been completed in accordance with the approved Written Scheme of Investigation and (ii) that the provision made for analysis, publication and dissemination of results, and archive deposition, has been confirmed in writing to, and approved by, the Local Planning Authority.

##### **Reason**

To comply with Paragraph 205 of the NPPF, which requires the developer to record and advance understanding of the significance of heritage assets, and to ensure information gathered becomes publicly accessible.

### **3. Flood Risk and Drainage Assessment**

In accordance with the submitted flood risk and drainage assessment (dated May 2022) and addendum latter (dated October 2022), surface water drainage shall be provided by means of soakaways within the site which shall comply with the requirements of BRE Digest 365 for the critical 1 in 100 year storm event plus 40% for climate change unless an alternative means of surface water drainage is submitted to and agreed in writing by the Local Planning Authority prior to installation. To adhere to current best practice and take account of urban creep, the impermeable area of the proposed development must be increased by 10% in surface water drainage calculations. The development hereby approved shall not be occupied or brought into use until the agreed drainage scheme has been provided and it shall be retained and maintained for the lifetime of the development.

#### **Reason**

In the interests of securing a satisfactory drainage scheme prior to commencement of the development that adapts to climate change and manages flood risks on the site and in the vicinity further to Policies ER1 and ER2 of the Adopted Torbay Local Plan 2012-2030 and the guidance contained in the National Planning Policy Framework.

This needs to be a pre-commencement condition to ensure that the impacts of construction on flood risk and drainage are mitigated from the outset of development.

### **4. Finished Floor Levels, Datum Levels**

No development shall take place until details of the existing and proposed datum levels, finished ground levels within the site, finished floor levels including buildings and structures, have been submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken in accordance with the approved level details unless otherwise agreed in writing by the Local Planning Authority.

#### **Reason**

In the interests of visual and residential amenity, in accordance with Policies DE1, C5 and DE3 of the Torbay Local Plan 2012-2030.

This needs to be a pre-commencement condition to ensure that the development is constructed in a satisfactory manner from the outset of development.

### **5. Construction Management Plan**

Prior to the commencement of any phase of development, a Construction Management Plan shall be submitted to approved in writing by the Local Planning Authority. The plan must demonstrate the adoption and use of the best practicable means to reduce the effects of construction traffic, noise and dust. The plan should include, but not be limited to:

- Protection of woodland retained hedgerow and trees within and bordering the site.
- Procedures for maintaining good neighbour relations including complaint management.
- All works and ancillary operations which are audible at the site boundary, or at such other place as may be agreed with the Local Planning Authority, shall be carried out only between the following hours:

08:00 Hours and 18:00 Hours on Mondays to Fridays and 08:00 and 13:00 Hours on Saturdays and at no time on Sundays and Bank Holidays subject to specified exceptions.

- Deliveries to and removal of plant, equipment, machinery and waste from the site must only take place within the permitted hours detailed above.
- Mitigation measures as defined in BS 5528: Parts 1 and 2: 2009 Noise and Vibration Control on Construction and Open Sites shall be used to minimise noise disturbance from construction works,
- Control measures for dust and other air-borne pollutants,
- Details of construction traffic and vehicle management,
- Details of the storage of materials, plant and equipment and.
- Location and details of any construction workers compound, facilities building.

Development shall take place in strict accordance with the approved plan.

### **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, having regard to Policies DE3, NC1 and TA1 of the 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.

### **6. Construction Ecological Environmental Management Plan**

Prior to the commencement of development including ground works or vegetation clearance a Construction Ecological Environmental Management Plan (CEEMP: Biodiversity) concerning the site shall be submitted to and approved in writing by the Local Planning Authority. The CEEMP (Biodiversity) shall include the following:

- a) Risk assessment of potentially damaging construction activities and identification of stages of works.
- b) Identification of "biodiversity protection zones".
- c) Details of working hours; Details of all plant and machinery to be used during site clearance and construction stage, including an inventory of all Non-Road Mobile Machinery (NRMM); Details of temporary lighting used in construction of for security reasons.
- d) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction
- e) The location and timing of sensitive works to avoid harm to biodiversity features.
- f) The times during construction when specialist ecologists need to be present on site to oversee works.
- g) Responsible persons, lines of communication and written notifications of operations to the Local Planning Authority.
- h) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- i) Use of protective fences, exclusion barriers and warning signs.
- j) Ongoing monitoring, including compliance checks by a competent person(s) during construction and immediately post-completion of construction works.
- k) Pollution controls to avoid impacts to Ocombe SSSI.
- l) Details of lighting restrictions to avoid impacts to bats and other nocturnal wildlife.
- m) Conduct vegetation clearance following methods outlined in EclA report to avoid impacts to reptiles, hedgehogs and nesting birds.

The approved CEEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

Reason: In the interests of biodiversity and to minimise impacts on protected species in accordance with Policy NC1 of the Adopted Torbay Local Plan 2012-2030, and paragraphs 109 and 118 of the NPPF and PNP1 of the Paignton Neighbourhood Plan.

These details are required pre-commencement as specified to ensure that biodiversity and protected species are not harmed by building operations or vegetation removal.

### **7. Highway Works**

Prior to commencement of development, a S278 Agreement shall be entered into with the Highway Authority to secure the access works and ancillary works to the highway.

The agreed works shall be delivered in accordance with the Agreement.

#### **Reason**

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

---

### **8. Adoptable Streets**

No development relating to the creation of the roads shall be commenced until either the roads are subject to a completed agreement under section 38 Highways Act 1980 or full engineering, drainage, street lighting and constructional details of the streets proposed for adoption have been submitted to and approved in writing by the local planning authority. Unless the roads are subject to a completed agreement under section 38 Highways Act 1980 the development shall, thereafter, be constructed in accordance with the approved details, unless otherwise agreed in writing with the local planning authority.

#### **Reason**

In the interest of highway safety, to ensure a satisfactory appearance to the highways infrastructure serving the approved development; and to safeguard the visual amenities of the locality and users of the highway in accordance with Policies DE1, SS11, TA1 and TA2 of the Torbay Local Plan 2012-2030.

### **9. Management and Maintenance of Roads**

Unless the roads are subject to a completed agreement under section 38 Highways Act 1980 no works shall be carried out for the formation or construction of any road unless the local planning authority has approved a Road Maintenance Plan for that road including the arrangements for either adoption by the highway authority or the implementation of a Private Road Management Scheme to secure the effective management and maintenance of the road and refuse collection throughout the lifetime of the development.

Where it is proposed that the estate roads shall be privately maintained no works shall be carried out above ground level until a Private Road Management Scheme has been submitted to and approved in writing by the local planning authority and which shall provide for:

- (a) Setting up a company or other entity to be responsible for the on-going management and maintenance of the road and refuse collection (the "Management Body").
- (b) How the company and the future management and maintenance of the road and refuse collection is to be financed including initial capital investment with subsequent funding.
- (c) The rights for and obligations on the Management Company to manage and maintain the road and collect refuse



- (d) Arrangements for the management and collection of refuse and waste from the dwellings.
- (e) A road management and maintenance and refuse collection schedule.
- (f) How refuse and waste will be managed on site including the location of individual and communal refuse and waste collection facilities and the locations where refuse and waste is to be transferred off-site.
- (g) Confirmation from the relevant waste collection company that they have agreed to collect the refuse and waste from the development in accordance with the approved details.

The development shall be carried out in accordance with the Road Maintenance Plan and the Private Road Access Scheme which shall thereafter be fully complied with and implemented.

No dwelling shall be occupied unless it connects directly to a road (including a footway and carriageway) which is:

- (a) Adopted by the highway authority as a highway maintainable at the public expense or
- (b) Subject to an agreement with the highway authority under section 38 of the Highways Act 1980 for the adoption of the road; or
- (c) Subject to a Private Road Management Scheme where the Management Body has been established and is responsible for the management and maintenance of the road and the collection of waste and refuse from the date of occupation of the dwelling.

Any roads (including carriageways and footways) which do not form part of the highway maintainable at the public expense shall be permanently maintained to an adoptable standard and retained and made available for public use or the lifetime of the development.

#### **Reason**

In the interest of highway safety, to ensure a satisfactory appearance to the highways infrastructure serving the approved development; and to safeguard the visual amenities of the locality and users of the highway in accordance with Policies DE1, SS11, TA1 and TA2 of the Torbay Local Plan 2012-2030.

#### **10. Waste Management Plan**

In the absence of an agreement between the developer and the Council as Highway Authority under Section 38 of the Highways Act 1980 for the adoption of the estate roads prior to the first occupation of the development, a Waste Management Plan indicating recycling/waste collection method shall be submitted to and approved in writing by the Local Planning Authority. Any approved Waste Management Plan shall be implemented in full at the first point of occupation of the development and sustained at all times thereafter to deliver the necessary waste collection and recycling services to serve the development.

#### **Reason**

To ensure satisfactory waste collection services in accordance with Policies W1 and W2 of the Torbay Local Plan 2012-2030.

#### **11. Travel Plan**

The approved Travel Plan ref. no. 3552 by TDA (dated 14 September 2022) shall be implemented in accordance with the timescales specified therein, to include those parts identified as being implemented prior to occupation and following occupation, unless alternative timescales are agreed in writing with the Local Planning Authority. The approved Travel Plan shall be monitored and reviewed in accordance with the agreed Travel Plan targets to the satisfaction of the Local Planning Authority.

#### **Reason**

To ensure sustainable travel modes are duly promoted and healthy lifestyles promoted, in accordance with Policies TA1, TA2, DE1 and SC1 of the Torbay Local Plan 2012-2030.

## **12. Parking Provision**

Prior to the first use of each dwelling or apartment, the identified parking hereby approved shall have been provided in full unless a phasing plan for the provision has been submitted and approved pursuant to this condition, including the provision of demarked disabled spaces, demarked visitor spaces, and identified electric charging facilities. These elements shall thereafter be retained as parking facilities for the life of the development.

### **Reason**

To secure an appropriate form of development in accordance with Policy TA3 of the Torbay Local Plan 2012-2030.

## **13. Electric Charging Facilities (dwellings)**

Notwithstanding details submitted in support of the application prior to the first occupation of any dwelling hereby approved details for the provision of at least one electric charging facility to serve that dwelling shall be submitted to and approved in writing by the Local Planning Authority.

The approved facilities shall be implemented in full prior to the first occupation of each dwelling and maintained thereafter.

### **Reason**

To secure an appropriate form of development in accordance with Policies TA3 and SS14 of the Torbay Local Plan 2012-2030 and Policy PNP1 of the Paignton Neighbourhood Plan.

## **14. Electric Charging Facilities (apartments)**

Prior to the occupation of the dwellings and apartments hereby approved, a scheme for the insertion of two electrical vehicle charging points (1 per dwelling) and 20% provision for the apartments to be located within the site shall be submitted to and approved in writing by the Local Planning Authority. Details shall include design, location, specification and a timescale for insertion prior to occupation. The approved electrical vehicle charging points shall be thereafter available for use, maintained and retained for the lifetime of the development.

### **Reason**

To secure an appropriate form of development in accordance with Policies TA3 and SS14 of the Torbay Local Plan 2012-2030 and Policy PNP1 of the Paignton Neighbourhood Plan.

## **15. Cycle Provision (dwellings)**

Prior to the occupation of the dwellings hereby approved details of the proposed bicycle storage facility for two cycles shall be submitted and agreed in writing by the Local Planning Authority. The cycle storage facilities shall be provided in accordance with the approved details prior to first occupation and maintained and retained as such for the lifetime of the development.

### **Reason**

In interests of amenity and in accordance with Policies DE1, DE3 and TA3 of the Torbay Local Plan 2012-2030 and Policy PNP1 of the Paignton Neighbourhood Plan 2012-2030.

## **16. Cycle Provision (apartments)**

Prior to the occupation of the apartments hereby approved details of the proposed bicycle storage facility for one cycles shall be submitted and agreed in writing by the Local Planning Authority. The cycle storage facilities shall be provided in accordance with the approved

details prior to first occupation and maintained and retained as such for the lifetime of the development.

#### **Reason**

In interests of amenity and in accordance with Policies DE1, DE3 and TA3 of the Torbay Local Plan 2012-2030 and Policy PNP1 of the Paignton Neighbourhood Plan 2012-2030.

#### **17. Implementation of mitigation measures**

All mitigation measures detailed in the Appropriate Assessment section of the submitted Habitat Regulations Assessment (Rev C dated January 2023) to be implemented to avoid impacts to and maintain the integrity of the South Hams Special Area of Conservation (SAC).

#### **Reason**

In the interests of biodiversity and to minimise impacts on protected species in accordance with Policy NC1 of the Adopted Torbay Local Plan 2012-2030, and paragraphs 109 and 118 of the NPPF and PNP1 of the Paignton Neighbourhood Plan.

#### **18. Mitigation for recreational impacts**

Mitigation proposals (including costings) for recreational impacts to adjacent Local Nature Reserves (LNRs) and County Wildlife Site (CWS) shall be submitted to and approved in writing by the Local Planning Authority.

#### **Reason**

In the interests of biodiversity and to minimise impacts on protected species in accordance with Policy NC1 of the Adopted Torbay Local Plan 2012-2030, and paragraphs 109 and 118 of the NPPF and PNP1 of the Paignton Neighbourhood Plan.

#### **19. In accordance with EIA**

The development hereby approved shall take place in strict accordance with the approved Ecological Impact Assessment, dated January 2023 (BR0599/ECIA Rev B). The Ecological Impact Assessment shall be adhered to and implemented strictly in accordance with the approved details. Specifically, this shall include:

- All proposed seeding, additional shrub and scrub planting.
- The following of all methods to avoid impacts to roosting bats and badgers.
- Vegetation clearance to follow methods to avoid impacts to reptiles, hedgehogs and nesting birds.

#### **Reason**

In the interests of biodiversity and to minimise impacts on protected species in accordance with Policy NC1 of the Adopted Torbay Local Plan 2012-2030, and paragraphs 109 and 118 of the NPPF and PNP1 of the Paignton Neighbourhood Plan.

#### **20. Tree Protection Measures**

Prior to the commencement of any phase of development, the tree protection measures outlined in approved plan 21.3448.1.TPP (1-3) Rev. 1 (dated 1 November 2022) for that phase shall be implemented in full. The approved protection measures shall be maintained in full throughout the construction phase of the development.

#### **Reason**

In order to ensure against harm to mature trees within the vicinity of the development either directly or to their rooting system, in accordance with Policies DE1 and C4 of the Torbay Local Plan 2012-2030. These details are required to be implemented prior to

commencement to ensure protection measures are in place prior to potential harmful construction works commencing on site.

#### **21. Arboricultural Method Statement**

The development hereby approved shall be carried out in full accordance with the approved Arboricultural Method Statement DTS21.3488.1.AMS (dated 1 June 2022).

##### **Reason**

In order to ensure against harm to mature trees within the vicinity of the development either directly or to their rooting system, in accordance with Policy C4 of the Torbay Local Plan 2012-2030. These details are required to be implemented prior to commencement to ensure protection measures are in place prior to potential harmful construction works commencing on site.

#### **22. Ecology - Nesting Season**

The removal of vegetation shall be undertaken outside of the bird nesting season (March-September inclusive). If not practicable demolition and/or vegetation removal shall be undertaken only immediately following an inspection of the site by a suitably qualified ecologist to confirm the absence of nesting birds. If nests are found no works shall be undertaken until the birds have fledged and a buffer zone of at least 5 metres must be established around the nest and an effective barrier put in place to ensure this remains undisturbed.

##### **Reason**

To ensure due protection is afforded to wildlife, in accordance with Policy NC1 of the Torbay Local Plan 2012-2030 and the NPPF.

#### **23. Ecology – Biodiversity Enhancement**

The development hereby approved shall be carried out in accordance with the mitigation measures, recommendations and biodiversity net gain measures set out in the approved LEMP submitted by Burton Reid Associated BR0704/LEMP Rev. C (dated 9 January 2023) and Biodiversity Net Gain Report (BR0599/BNG Rev. B).

The approved measures shall be incorporated within the development prior to the developments first use unless an alternative phasing is agreed pursuant to this condition and maintained thereafter.

##### **Reason**

To ensure the development positively incorporates biodiversity features proportionate to its scale, in accordance with Policy NC1 of the Torbay Local Plan 2012-2030 and advice contained within the NPPF.

#### **24. Hard and Soft Landscaping**

Prior to the commencement of any works hereby permitted, full details of all proposed hard and soft landscaping shall have been submitted to and approved in writing by the Local Planning Authority.

##### **Reason**

In the interests of visual character of the area in accordance with Policies DE1 of the Torbay Local Plan 2012-2030.

#### **25. Soft Landscaping Implementation**

All planting, seeding and turfing comprised in the approved details of landscaping for each phase shall be carried out in the first available planting and seeding season following the completion of the development on 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 landscaping 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 DE1, DE3, SS8, SS9, C4 and NC1 of the Torbay Local Plan 2012-2030.

**26. Hard Landscaping Implementation**

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

**Reason**

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

**27. Landscape and Ecological Management Plan (LEMP)**

The development hereby approved shall be carried out in full accordance with the approved LEMP submitted by Burton Reid Associated BR0704/LEMP Rev. C (dated 9 January 2023).

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

**Reason**

To secure a satisfactory form of development in accordance with Policies DE3, SS8, C4 and NC1 of the Torbay Local Plan 2012-2030 and PNP1 of the Paignton Neighbourhood Plan.

**28. Boundary Treatments / Means of Enclosure**

Prior to the first occupation of any phase of the the development details of all boundary treatments, gates and retaining structures shall be submitted to and approved in writing by the Local Planning Authority. The development shall proceed in full accordance with the approved detail and the boundary treatments shall be retained as approved at all times during the lifetime of the development. No additional or alternative means of enclosure shall be provided at any time.

**Reason**

In the interests of design and visual amenity, in accordance with Policy DE1 of the Torbay Local Plan 2012-2030 and Policy PNP1 of the Paignton Neighbourhood Plan.

**29. Lighting Impact Assessment**

The development hereby approved shall be carried out in full accordance with the approved Lighting Impact Assessment by Lighting Bee Ltd. (dated December 2022).

**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.

**30. External Lighting**

Prior to the first use of any phase of the development an external lighting plan, including security lighting, which seeks to ensure no undue impact upon adjacent occupiers or wildlife habitats, shall be submitted to and approved in writing by the Local Planning Authority.

The development shall proceed in full accordance with the approved lighting plan and no additional external lighting shall be incorporated within the development during its lifetime.

**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.

**31. Detailed Design**

Prior to the installation of all external materials within the development details of the following shall be submitted to and approved in writing by the Local Planning Authority;

1. Samples, physical or digital of all proposed material finishes, including colour code where applicable and source/type,
2. Detailed drawings of all proposed windows, doors, balconies, fascia's and eaves, and section / reveal detail to a scale of between 1:1 and 1:10 and means of opening where applicable.
3. Hedgehog holes to be installed in garden fencing to provide safe passage for hedgehogs.
4. All introduced planting in SUDS basin area to be of native origin.

The development shall proceed in full accordance with the approved detail.

**Reason**

In order to protect visual amenity in accordance with Policies DE1 and DE3 of the Torbay Local Plan 2012-2030, Policy PNP1 of the Paignton Neighbourhood Plan and advice contained within the NPPF.

**32. Implementation of Refuse Facilities**

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

**33. Low Carbon Development**

Prior to the commencement of development in any phase of the build process above finished ground floor level (excluding general groundworks), details of the proposed measures to deliver low carbon development shall be submitted for the approval in writing by the Local Planning Authority. The approved measures shall be fully incorporated within the development prior to its first use and maintained thereafter.

**Reason**

In the interests of sustainable development and in accordance with Policies SS14 and ES1 of the Torbay Local Plan 2012-2030 and the NPPF.

**34. Secured by Design**

Prior to the first use of any phase of the development, evidence shall be submitted to and approved in writing by the Local Planning Authority to demonstrate that the design of the development meets Secured by Design standards as far as practicable. Specifically, to ensure the gates to the rear private gardens are lockable from both sides by means of a key.

**Reason**

In the interests of crime prevention in accordance with Policy DE1 of the Torbay Local Plan and Policy PNP1 of the Paignton Neighbourhood Plan.

### **35. Retaining Walls**

Prior to installation details of the external finish of all retaining walls shall be submitted to and approved in writing by the Local Planning Authority.

The development shall proceed in full accordance with the approved detail.

#### **Reason**

In order to protect visual character and local amenity in accordance with Policies SS11, DE1 and DE3 of the Torbay Local Plan 2012-2030, Policy PNP1(c) of the Paignton Neighbourhood Plan and advice contained within the NPPF.

### **36. Affordable Housing**

At all times not less than 30% of the residential units hereby approved shall be occupied (or where vacant) available for occupation as affordable housing for rent as defined in the Glossary to the NPPF (July 2021). Thereafter the affordable units shall remain as such in perpetuity. The affordable units shall be provided in accordance with details submitted to and agreed by the Council's Affordable Housing Manager and shall be constructed at least in accordance with the minimum quality and design standards set by Homes England.

#### **Reason**

In accordance with Policy H2 of the Torbay Local Plan 2012-2030.

### **37. Accessible and Adaptable Homes:**

At least 5% of the dwellings hereby approved shall be built to accessible and adaptable standard as defined in the Council's 'Planning Contributions and Affordable Housing SPD – February 2017'. Prior to development continuing above slab level details of which units will meet this standard and details of how they meet this standard will be submitted to and agreed in writing by the Local Planning Authority. The dwellings shall be maintained to this standard for the lifetime of the development.

#### **Reason**

To ensure an adequate supply of accessible and adaptable homes in the interests of the wellbeing and amenity of future occupiers and in accordance with the requirements of the Council's Planning Contributions and Affordable Housing SPD – February 2017.

### **38. Removal of permitted development rights**

Notwithstanding the provisions of Part 1 [and Part 2] to Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (or any order revoking or re-enacting that Order with or without modification), no development falling into the following categories 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:

#### Part 1

- The enlargement of a dwellinghouse consisting of an addition or alteration to its roof.
- Any other alteration to the roof of a dwellinghouse.
- Buildings etc incidental to the enjoyment of a dwellinghouse (outbuildings, sheds etc)
- Hard surfaces incidental to the enjoyment of a dwellinghouse

#### Part 2

- The erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure.

- Means of access to a highway.

**Reason**

In interests of visual and local amenity in accordance with Policies DE1 and DE3 of the Adopted Torbay Local Plan 2012-2030 and Policy PNP1 of the Paignton Neighbourhood Plan, and the NPPF.

**39. Pedestrian Links and Informal Play Area**

Unless alternative phasing is agreed in writing the following shall be delivered;

- Prior to the first occupation of the development the pedestrian links to the northeast corner (of the northern parcel) and southern edge (of the southern parcel) shall be completed and made available for public use and retained and maintained thereafter.
- Prior to the occupation of the 50<sup>th</sup> dwelling the informal play area to the south of the development shall be completed and made available for public use and retained thereafter.

The approved links and play area shall be implemented in full as detailed above or within a timeline agreed pursuant to this condition and maintained for such purposes thereafter.

Reason: In the interests of amenity and connectivity, in accordance with Policies SS11, DE1 and DE3 of the Torbay Local Plan 2012-2030 and advice contained within the NPPF.

**40. Contaminated Land - Unexpected Contamination**

In the event that contamination which was not previously identified is found at any time when carrying out the approved development, it shall be reported in writing immediately to the Local Planning Authority and further development works shall cease unless alternative arrangements have been first agreed in writing with the Local Planning Authority. An investigation and risk assessment shall be undertaken and where remediation is necessary, a revised remediation scheme shall be submitted to and approved in writing by the Local Planning Authority. The revised scheme shall thereafter be implemented as approved. The requirements of this condition shall also apply if other circumstances arise during the development, which require a reconsideration of the approved remediation scheme.

**Reason**

In order to ensure that the land is suitable for the intended uses and to ensure that the development can be carried out safely without unacceptable risks to human health, controlled waters and other off-site receptors and in accordance with the NPPF.

**Informative(s)**

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



Bat informative	The developers and their contractors are reminded of the legal protection afforded to bats and bat roosts under legislation including the Conservation Habitats and Species Regulations 2017 (and as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019). In the unlikely event that bats are encountered during implementation of this permission it is recommended that works stop, and advice is sought from a suitably qualified, licensed, and experienced ecologist at the earliest possible opportunity.
Nesting birds	The developers are reminded of the legal protection afforded to nesting birds under the Wildlife and Countryside Act 1981 (as amended). In the unlikely event that nesting birds are encountered during implementation of this permission it is recommended that works stop immediately, and do not restart either until the young have fledged or advice is sought from a suitably qualified and experienced ecologist at the earliest possible opportunity.
Badgers	The developers are reminded of the legal protection afforded to badgers and their resting places under the Protection of Badgers Act 1992 (as amended). It is advised that during construction, excavations, or large pipes (>200mm diameter) must be covered at night. Any open excavations will need a means of escape, for example a plank or sloped end, to allow any animals to escape. In the event that badgers, or signs of badgers are unexpectedly encountered during the implementation of this permission it is recommended that works stop until advice is sought from a suitably qualified and experienced ecologist at the earliest opportunity.
Protected Species	Responsibilities of the applicant / developer. All bats are protected by law. If bats are found, works must immediately cease and further advice be obtained from Natural England and / or a licensed bat consultant. Works must not resume until their advice has been followed. Nesting birds are also protected by law. During site clearance and construction works, suitable safeguards must be put in place to prevent threat of harm to legally protected species, including nesting birds and reptiles all of which are protected under the Wildlife & Countryside Act 1981 (as amended). Where works are to involve cutting or clearance of shrubs, hedges or other vegetation, which can form nesting sites for birds, such operations should be carried out at a time other than in the bird breeding season (which lasts between 1 March - 15 September inclusive in any year). Schemes must be in place to avoid threat of killing or injuring reptiles, such as slow worms. Slow worms may shelter beneath vegetation as well as among any stored or discarded sheeting, building and other materials. Further details can be obtained from a suitably qualified and experienced ecological consultant, or please refer to published Natural England guidelines for protected species.

**Development Plan Relevant Policies**

- SS1 - Growth Strategy for a prosperous Torbay
- SS3 - Presumption in favour of sustainable development
- SS8 - Natural Environment
- SS9 - Green Infrastructure
- SS11 – Sustainable Communities

SS12 – Housing  
SS13 – Five year housing land supply  
SS14 - Low carbon development and climate change  
H1 – Applications for new homes  
TA1 - Transport and accessibility  
TA2 - Development access  
TA3 – Parking requirements  
C1 – Countryside and the rural economy  
C4 - Trees, hedgerows and natural landscape  
DE1 - Design  
DE3 - Development Amenity  
DE4 - Building heights  
ER1 - Flood Risk  
ER2 - Water Management  
ES1 - Energy  
W1 - Waste management facilities  
W2 – Waste audit for major development and significant waste generating developments  
NC1 - Biodiversity and geodiversity

PNP1 – Area wide  
PNP1(a) - Rural Character Area  
PNP1(c) – Design Principles  
PNP1(d) – Residential Development  
PNP1 (f) – Towards a sustainable low carbon energy efficient economy  
PNP1(g) – Designing out crime  
PNP1(h) – Sustainable transport  
PNP1(i) - Surface Water  
PNP19 – Safeguarding open countryside