

## Appendix 3: Summary of Representations

Person/Organisation and comments	LPA Response
<b>Environment Agency</b>	
2.7 Plans It may be worth specifying that an existing and proposed topographic survey is also drawn to mAOD and where needed, an identified site datum.	<i>The document will be amended to include for this</i>
3.6.1 Flood Risk Assessment (including surface water drainage strategy) Please note that an FRA is also required for applications of 1Ha or more. The NPPF also specifies that an FRA should be provided for: “land identified in a strategic flood risk assessment as being at increased flood risk in future; or land that may be subject to other sources of flooding, where its development would introduce a more vulnerable use.”	<i>The document will be amended to include for this</i>
3.6.1 You may consider putting the second paragraph under ‘what is required’ in the ‘when is it required column’ as this refers to the need for an FRA for site on land identified as having critical drainage problems.	<i>The document has been amended to include this paragraph within the ‘why it is required’ column</i>
3.6.1 You may wish to specify that the requirement for an FRA can be influenced by the maps for different sources of flooding (fluvial, tidal and surface water as well as any others e.g. reservoir risk).	<i>A link to the Government webpage for flood risk information for planning has been provided in the ‘further information’ column</i>
3.12.1 Pollution Prevention Plans: We consider that this category could be expanded to include Construction Environment Management Plans (CEMP) also. And with this, we would expect that the documents should be required for any development which poses a risk to a nearby watercourse/ waterbody. Under ‘what is required’ a paragraph could be added to identify the requirement to manage risks to nearby watercourses from soil/sediment runoff. This could be reflected in 3.12.3 Demolition method Statement also, by referencing risks to waterbodies as well as noise/dust.	<p><i>It is considered that CEMPS are more appropriately secured through condition rather than at validation stage as the proposed development could be subject to change through the planning process.</i></p> <p><i>The document has been amended to address the other comments.</i></p>
<p>Foul Drainage Assessment (FDA)- A FDA should be submitted with all development involving a non-mains foul drainage system. Government guidance within the National Planning Practice Guidance (paragraph 020 in the section on water supply, wastewater and water quality – Reference ID: 34-020-20140306) stresses that the first presumption must be to provide a system of foul drainage discharging into a public sewer to be treated at a public sewage treatment works. Only where having taken into account the cost and/or practicability it can be shown to the satisfaction of the local planning authority that connection to a public sewer is not feasible, should non-mains foul sewage disposal solutions be considered.</p> <p>Paragraph 20 also states that ‘applications for developments relying on anything other than connection to a public sewage treatment plant should be supported by sufficient information to understand the potential implications for the water environment’. Any planning application for a non-mains system should therefore be accompanied by a Foul Drainage Assessment (FDA) form including a justification for why connection to the mains sewerage system is not feasible and sufficient information to demonstrate that the proposed system will be viable in this location and will not be detrimental to the environment. Sufficient information would normally include the provision of the following:</p> <ul style="list-style-type: none"> <li>o Full details of the proposed flows (based on Flows and Loads 4);</li> <li>o A plan showing the location of the proposed treatment plant and appropriately sized soakaway field/discharge point; and</li> </ul>	<i>This has been added as an additional requirement</i>

## Appendix 3: Summary of Representations

<p>o Percolation test results to demonstrate the viability of soakaways (if proposed). The FDA form is available online at <a href="https://www.gov.uk/government/publications/foul-drainage-assessment-form-fda1">https://www.gov.uk/government/publications/foul-drainage-assessment-form-fda1</a></p>	
<p>The Environment Agency is only a Statutory Consultee for major developments involving non-mains foul drainage systems. We have produced some guidance for LPAs to assist them determining applications for non-major development: <a href="https://www.planningportal.co.uk/info/200204/local_authorities/154/advices_for_local_authorities_on_non-mains_drainage_from_non-major_development">https://www.planningportal.co.uk/info/200204/local_authorities/154/advices_for_local_authorities_on_non-mains_drainage_from_non-major_development</a></p>	<p><i>Noted</i></p>
<p>Coastal Change Vulnerability Assessment (CCVA) – The plan area includes the Coastal Change Management Areas (policy C3). As such, we suggest that the validation list include a CCVA as set out in paragraph 075 of the flood risk and coastal change section of the PPG: “Applications for development in a Coastal Change Management Area may need to be accompanied by a coastal change vulnerability assessment, demonstrating whether or not the requirements of National Planning Policy Framework paragraph 172 can be met...”.</p>	<p><i>This has been added as an additional requirement</i></p>
<p>we would encourage you to incorporate water efficiency policies in your emerging plan policies and to compliment this would suggest the following or similar in your accompanying Local Validation List (at present such a requirement still echoes your water consumption/supply references in current Policy SS14):</p> <p>Example Validation checklist trigger and guidance for the requirement of a water efficiency statement to accompany proposals. ‘For those applications that will create demand (regardless of any existing use of the site) for mains water, the applicant must submit a Water Efficiency Statement</p> <p>Water efficiency Statements: As a general guide, we would expect a Water efficiency Statement to cover the following elements:</p> <ul style="list-style-type: none"> <li>• Introduction Explain the purpose of the statement and the reason for its submission.</li> <li>• Background Outline the background to the statement. This includes details of the site, including its existing or most recent use, any extant permissions, and details of the current proposal.</li> <li>• Compliance This should demonstrate the proposal’s compliance with Building Regulations Part G (for new dwelling proposals) or demonstrate that it has incorporated the capture recycling, re-use or demand reduction for water where reasonably possible. For major development’s this should include consumption data (for business uses, the proposed consumption data must include consumption used for any proposed industrial processes.) Completion of the Part G or BREEAM water calculators can help demonstrate the savings to be made. Where highly efficient appliances are to be installed, details of an appliance that meets that high standard of water consumption should be submitted to demonstrate the efficiencies are achievable.</li> <li>• Conclusion It is important the conclusion summarises the water efficiency in a clear manner and sets out clearly the detail of any strategies/technology and infrastructure proposed to make the development as efficient as possible.</li> </ul>	<p><i>This is noted for any future policy review and updating of the Local Validation List</i></p>
<p><b>Devon and Cornwall Police</b></p>	

## Appendix 3: Summary of Representations

<p>a Crime Prevention Statement is included to form part of the DAS or attached as another supplement.</p> <p>If possible, I would like it to be considered for the following:</p> <ul style="list-style-type: none"> <li>• All Major developments including housing, commercial.</li> <li>• Educational Buildings</li> <li>• New neighbourhood community facilities</li> <li>• Premises where the intended occupants are particularly vulnerable and require higher standards of security to ensure their personal safety, i.e., care homes, drug rehabilitation centres etc.</li> <li>• HMO's</li> <li>• ATM/cash machines</li> </ul> <p>The statement should detail how Crime Prevention Through Environmental Design principles are to be incorporated into the development. This includes:</p> <ul style="list-style-type: none"> <li>• Access and Movement - places with quality connections and well-defined routes, that provide convenient movement without compromising security.</li> <li>• Structure – encouraging 'active frontages' and limiting access to private space.</li> <li>• Surveillance – encouraging overlooking of public spaces by those who will take action should a crime be committed.</li> <li>• Ownership – clearly defining where public space ends and private space begins and encouraging people to take ownership of their environment.</li> <li>• Physical Protection – ensuring buildings include appropriate physical measures to prevent crime.</li> <li>• Activity – ensuring the level of human activity is appropriate to the location to reduce the risk of crime and increase perceptions of public safety.</li> <li>• Management and Maintenance – discouraging disorder by creating places that are well looked after with minimum cost implications.</li> </ul> <p>If this is possible it would be preferred this is called a Designing Out Crime Statement or Crime Prevention Statement as opposed to mentioning Secured By Design as this has caused confusion in other areas where implemented, which have called it a Secured By Design Statement it because of the association with Secured By Design and any potential Secured By Design applications which would be dealt with separately to this.</p>	<p><i>The particular applications which require a D&amp;A Statement have been aligned with national requirements with the exception of works or development in relation to a listed building, Registered Park and Garden or a Scheduled Monument.</i></p> <p><i>The document has been amended to require a Crime Prevention Statement within a Design and Access Statement and separately where appropriate.</i></p>
<p><b>SwisCo (Trees)</b></p>	
<p>3.4.1 Not sure what this is requiring as there is potential for duplication with a BS5837 Tree Survey which should record the trees and or vegetation masses. Hedge does this mean a structure e.g. Devon bank or a live hedge (woody vegetation). Any retained live hedges should be identified within a BS5837 tree survey. Retained hedges will be identified in the Tree Protection Plan or within the landscape plans.</p> <p>Suggested Revised Wording: Existing site plan or topographic survey identifying all trees (on or adjacent to application boundary), hedges and hedge-banks or shrubs masses.</p>	<p><i>3.4.1 has been removed from the requirements and trees, hedges and hedge-banks or shrub masses added into the wording of existing site and topographic surveys within 2.7</i></p>
<p>3.4.2 BS5837 (current version) tree survey must be undertaken prior to any planning submissions</p> <p>– this information cannot be secured by a planning condition and is an aid to the design process. The BS5837 tree survey will lead to the production of Tree Constraints Plans &amp; Arboricultural Impact Assessment. A Draft Tree Protection Plan or Tree Protection Plan would normally be prepared.</p>	<p><i>The document has been amended to reflect this.</i></p>

## Appendix 3: Summary of Representations

Suggested Revised wording: BS5837 (current version) tree survey including Tree Constraints Plans, Arboricultural Impact Assessment and Draft Tree Protection Plan	
<p>3.4.3 Suggested Revised Wording: Tree Protection Plan (final version). Arboricultural Method Statements (as applicable).</p> <p>From an arboricultural perspective, it is essential that the BS5837 tree survey accompanies any application for development (householder – major) where trees are present on or adjacent to the application area. In the absence of this information, applications should not be validated.</p>	<i>The document has been amended to reflect this.</i>
<b>Paul Barkley (Planning Agent)</b>	
<p>I note that in the consultation paper the requirement for a Design and Access Statement in paragraph 2.4 is stated to be a national requirement in accordance with article 9 of the Town and Country Planning (Development Management Procedure) Order. Article 9 makes no mention of listed building consent or applications for planning permission relating to a listed building.</p> <p>It seems to me that a requirement for a Design and Access Statement in applications for listed building consent or planning permission related to a listed building can only be a local requirement as it goes beyond national requirements.</p> <p>In general, in my opinion, requiring a Design and Access Statement for every application for every application for listed building consent or planning permission relating to a listed building in order to be validated is excessive. There will be applications (such as the one in question) which have no design and access implications as set out in article 9 (3), or at least not all of the specified issues which must be addressed. I accept that a case officer considering the merits of an application may require further information but as a hurdle to be overcome to get an application validated it is not justified. I defy anyone to write an article 9 (3) compliant Design and Access Statement in relation to new guttering."</p>	<p><i>The document has been amended to include for this within the local as well as the national requirements.</i></p> <p><i>It is considered that a D&amp;A statement is an important requirement where proposals affect designated heritage assets due to their sensitivity and cultural significance.</i></p> <p><i>This is routinely requested by other LPA across the country.</i></p>
My experience, and concern, shared with professional colleagues, is that validation is a "tick box" approach applied without any consideration as to whether particular requirements have any relevance to the particular application. This puts applicants to unnecessary expense and contributes to delay.	<i>The purpose of this update is to specifically avoid the "tick box" approach and to provide greater flexibility to ensure that the information required is site/project specific. It is considered that this will speed up the planning process as a whole.</i>
In my view, validation requirements should be little more than national requirements, with case officers being able to request such further information as is reasonably required in the circumstances of the particular case using section 62 (3) of the 1990 Act and article 11 (e) of the Development Management Procedure Order. Section 63 (4A) states that requirements under s. 63 (3) must be "reasonable having regard, in particular, to the nature and scale of the proposed development", and "only if reasonable to think that the matter will be a material consideration in the determination of the application".	<i>The purpose of this update is to pay closer regard to the scale and nature of the proposal and use this to inform what information will be required to allow a fully informed assessment to be made of the development.</i>
<b>Natural England</b>	
Natural England does not have any specific comments on this Local Validation List.	<i>Noted</i>
<b>RSPB England</b>	
2.9 Hedgerow Location Plan. We recommend requesting details of proposed mitigation/compensation eg, location and details of any new	<i>The document has been amended to reflect this.</i>

## Appendix 3: Summary of Representations

hedge to be planted, or details of hedge to be transplanted, or enhanced management of retained hedges.	
3.1.6 Does Green Infrastructure include provision of SANG, eg, in relation to increased residential developments where the new residents may reasonably be expected to go to Berry Head for daily recreation such as dog walking? SANG sites need to be located and designed so as to provide a viable preferred alternative to adding to the existing damaging impacts on the site from recreation.	This falls outside the scope of this review
3.3.4 Recommend amendment to “Biodiversity Net Gain must be demonstrated separately to protected species and sites mitigation and compensation” as provision of compensatory habitat may be required (eg, for cirl buntings where territories are lost to development).	<i>The document has been amended to reflect this.</i>
3.7.1 Torbay Sustainability Checklist. Section 2f of the Torbay Sustainability Checklist gave examples in the green High Quality column that included “bird nesting boxes” and “swift terraces”. The RSPB recommends that those terms are replaced by “integral nestboxes for swifts (ie swift bricks)”. These are also used by other urban hole nesting birds including blue and great tits and house sparrows”. While this wording is in the Sustainability Checklist itself rather than the Local Validation list, if this recommended revision is viewed as ‘non-substantial’ from the point of view of impact on applicants, then amendment would in our view result in better provision for urban nesting birds and so a more sustainable outcome. We strongly recommend the use of internal boxes that can be built into new dwellings as they are constructed, at a minimum ratio of 1 per dwelling (more on larger buildings such as hotels or blocks of flats). Unlike externally fitted nestboxes, internal boxes do not need maintenance and will last the lifetime of the building. Boxes for swifts should not be placed adjacent to each other but rather loosely grouped in two or threes about 1 metre apart. They should be sited as high as possible and with a minimum of 5 metres clear air space in front of and below the entrance hole. Full details are provided in a new British Standards.	<i>This falls out of the scope of the proposed update of the Local Validation List but will be passed on for review.</i>
3.10.1 Lighting. The Bat Conservation Trust link is broken. The Institute of Lighting Professionals issued updated guidance August 2023: ‘Bats and Artificial Lighting at Night’ ILP Guidance Note update released - News - Bat Conservation Trust and it is downloadable here: Guidance Note 8 Bats and Artificial Lighting   Institution of Lighting Professionals (theilp.org.uk)	<i>The document has been amended to reflect this.</i>
<b>Alistair Brierley (Planning Agent)</b>	
Regarding Flood Risk Assessments could there be clarification on when a BRE 365 permeability test is required. The need for results from this test to be included in the planning application is an impediment to development as they can be quite costly to carry out (especially for householders) and there is no guarantee that an approval will be granted. They can also take some time to organise and carry out.	<i>This is considered on a case-by-case basis and can be covered by condition if necessary</i>
In Section 3.6.1, the draft validation list states ‘including surface water drainage strategy’ which, if taken as a statement of intent by the applicant and is sufficient, is a much more sensible approach. A detailed drainage design which includes the results of the BRE 365 test could be a pre-commencement condition of planning.	<i>Noted</i>
Additionally, the Flood Risk Assessment form for Zone 1 should have an option for using the existing drainage system for the situation where the proposed development replaces impermeable surfaces or roofs of the same area or less (or within a certain limit). In these situations, the discharge is the same or lower so none of the existing options apply. It will save agents/applicants having to add a paragraph of text to the bottom of the page.	<i>This is noted but falls outside of the scope of this update to the Local Validation List. It will be passed on for review.</i>

## Appendix 3: Summary of Representations

<p><b>Network Rail</b></p>	
<p>Network Rail needs to monitor and assess new development that may have an impact on rail services and/or safety of existing infrastructure. In order to carry out this function it is vital that sufficient information is submitted with a planning application. It is noted that the Validation Guide requires the submission of a Transport Assessment for outline applications and full planning permission, the TA should reflect the scale of the development and the extent of the transport implications of the proposal.</p> <p>We recommend that any development of land which would result in a material increase or significant change of the traffic using existing rail infrastructure (particularly level crossings) and/or require rail improvements should also be added to this list of development when a TA is required.</p>	<p><i>The option for a Transport Assessment to be provided at the request of Network Rail has been included (within 3.5.2)</i></p>
<p>We would therefore appreciate the Council providing Network Rail with an opportunity to comments on any future pre-application or planning applications should they be submitted for sites adjoining the railway or within close proximity to the railway as we may have more specific comments to make (further to those above).</p>	<p><i>Noted</i></p>
<p><b>Devon Wildlife Trust</b></p>	
<p>3.3.2 Wildlife Report Reference to 'Extended Phase 1 Habitat Survey' is outdated. Where ecological assessment is required, this should take the form of an 'Ecological Impact Assessment' which includes the results of all required protected species surveys. 'Preliminary Ecological Appraisals' which contain recommendations for further surveys that have not been carried out are insufficient to enable the LPA to consider the potential impact of a scheme on the existing ecology of a site.</p> <ul style="list-style-type: none"> <li>- Extended Phase 1 Habitat Survey (including proposed mitigation where necessary)</li> <li>- Protected Species Surveys (including proposed mitigation where necessary)</li> </ul> <p>Should be replaced with:</p> <ul style="list-style-type: none"> <li>- Ecological Impact Assessment (including all protected species survey data, mitigation, enhancement and compensation)</li> </ul>	<p><i>The document has been amended to account for this</i></p>
<p>3.3.4 Biodiversity net gain assessment The 'What is required' section needs to include the following: Biodiversity net gain calculations for the site must be produced. The most recent DEFRA Biodiversity Metric should be utilised to calculate loss/gain. Biodiversity net gain calculations for the site must be produced using a detailed landscaping plan and must show a minimum 10% net gain. Further details are also required to ensure that the BNG proposed is realised. This includes: a standalone Habitat Creation and Management Plan; written commitment from the landowner; details of an appropriate management company/organisation who has been appointed to carry out the works; the method of monitoring; and details for the funding of the creation, long-term management and monitoring regime for the duration of management period (minimum 30 years).</p>	<p><i>The document has been amended to account for this and associated comments made by DCC Ecology</i></p>
<p>We welcome reference to the use of Biodiversity Net Gain (BNG). We would, however, like to see Torbay Council take an ambitious approach to BNG and set this at 20% to ensure nature's recovery. In order to see real gains in biodiversity across the county, a 20% target will be required. East Devon District Council have committed to this level of gain in their emerging Local Plan. Now that a precedent has been set, we would urge</p>	<p><i>This can be considered as part of a wider policy review but falls outside the scope of this update</i></p>

## Appendix 3: Summary of Representations

Torbay Council to take a lead on ensuring that the whole of the county sees the vast array of known benefits that a commitment to delivery of 20% net gain will bring.	
3.10.1 Lighting Assessment (this can be incorporated into an Ecological Impact Assessment / Statement where applicable) DCC 'Maintaining dark corridors through the landscape for bats' should be referenced within the 'What is required' section.	<i>The document has been amended to account for this</i>
<b>Cavanna Homes</b>	
2.5 Environmental Statement- No definition in the document to what a Schedule 1 or Schedule 2 development is.	<i>This definition is provided within the .GOV link within the further information section</i>
P.15 Existing and Proposed sections- "Proposing altered land levels"- how much is an alteration? And "where Topography is key to the site"- this is fairly ambiguous and could do with a better definition	<i>This will be assessed on a case by case basis, with the current definition as is to allow flexibility</i>
P.16 Fire Statement – "A relevant building is one which contains two or more dwellings..." to confirm, does this include apartment arrangements with no common areas and designated individual dwelling entrances to the outside?	<i>This is covered nationally rather than locally – the relevant legislation and link to further information has been provided within the document</i>
P.20 Employment Statement/Economic Impact assessment- To confirm, would a purely residential scheme of 30+ dwellings, built on greenfield (ie no loss of employment space) also trigger this?	<i>This specific query can be addressed outside of this consultation process</i>
P.21- Infrastructure assessment- Trigger "for Major development proposals that have potential to affect the capacity of infrastructure in the area" A couple of points on this; <ul style="list-style-type: none"> <li>• Would this then need proof of capacity from any providers?</li> <li>• In theory any development of any size would affect capacity in local infrastructure- this may need to be more specific</li> </ul>	<i>This will be assessed on a case by case basis, with the current definition as is to allow flexibility</i>
p.23 3.2.2 Archaeological desk based assessment- "Where the application site includes, or is likely to include, archaeological remains" Uncertainty/ a grey area on what constitutes 'remains'. It feels that there is a need for a heritage and archaeology trigger table as per the Wildlife and Geology one that would make this more user friendly. Also, as currently worded, it feels like you would need a desk based survey o find out if you needed a desk based survey here.	<i>This will be assessed on a case by case basis – development proposals should be informed by the constraints on the site. This initial assessment should identify whether archaeology is a material consideration</i>
P.29 Flood risk assessment- The critical drainage area covering everywhere apart from Maidencombe, but Maidencombe requiring an FRA due to no mains drainage and topography, would it make sense to present this as a blanket requirement and remove any ambiguity?	<i>This is a blanket requirement as outlined within the "When it is Required" section</i>
P.38 Waste Audit and 5 year management plan- 'significant' waste generation needs clarifying.	<i>This will be assessed on a case by case basis, with the current definition as is to allow flexibility</i>
<b>UNESCO Global Geopark Representative</b>	
Provided an updated version of the ERUGGp planning briefing document (updated in relation to the 2023 revalidation result)	<i>Noted</i>
the proposed wildlife and geology trigger table we feel the geology section is missing something along the line of the following: <ul style="list-style-type: none"> <li>lc The application will expose or create a new rock exposure or cutting</li> </ul>	<i>Noted – the Wildlife &amp; Geology Trigger Table will be amended accordingly</i>