

**Application Number**

P/2014/0141

**Site Address**

Riviera Bay Holiday Park  
Mudstone Lane  
Brixham  
Devon  
TQ5 9EJ

**Case Officer**

Mrs Helen Addison

**Ward**

Berry Head With Furzeham

**Description**

Revised plans; Demolition of all existing holiday chalet units (185 total); existing facilities building; staff accommodation building; and two separate buildings used for storage on part of the Riviera Bay Holiday Park. Proposed development of 72 new self-catering holiday lodges; new ancillary management building including shop, cafe/bar and gym room; laying out of 180 car parking spaces to serve the redeveloped Holiday Park; and associated mitigation works including construction of a bat barn. Development of two residential properties (Use Class C3) at the corner of Douglas Avenue and Mudstone Lane, to be accessed from Mudstone Lane. This application is accompanied by an Environmental Statement.

**Executive Summary/Key Outcomes**

The application is to remove the existing outdated chalets and large facilities building from the holiday park and replace them with 72 chalets, car parking, a smaller facilities building and two detached dwellings. This offers an opportunity for investment in an existing tourist business which would make a positive contribution to the local economy and the principle of redevelopment of the site would be consistent with Policy TU9 in the Torbay Local Plan and "Turning the Tide", which support investment in existing tourist facilities.

The application site is in an environmentally sensitive location being adjacent to the South Hams Special Area of Conservation (SAC), a SSSI, within the AONB and visible in views from the coastal path. The South Hams SAC has been designated for its population of Greater Horseshoe Bats. They constitute some of the rarest/most threatened animals in Europe. Greater Horseshoe Bats commute along the eastern boundary of the site and through the site to reach their foraging areas. The provisions of the 'Conservation of Habitats and Species Regulations (2010)' mean that it is essential that Greater Horseshoe Bats can continue to reach their foraging areas, especially in areas close to the maternity roosts where the juvenile bats feed. A Habitat Regulation Assessment and an Appropriate Assessment will need to be carried out to consider the likely

significant effect of the proposed development on the integrity of the SAC. This has not been completed yet because it requires a considerable amount of information to be provided by the applicant and has involved additional survey work being carried out in June and July. Natural England has to be consulted on the assessment and their views taken into account. These will be completed by the time of the committee meeting.

The NPPF seeks to conserve the landscape and scenic beauty in AONBs which are given the highest status of protection by the NPPF. It is necessary for a detailed assessment of the impact of the proposed development to be carried out to justify major development within the AONB. Para 116 requires the benefit to the economy of an investment in tourism to be balanced against the landscape and ecological impact of the development. The proposed development would result in some building on the site being higher than existing development, which would increase their visibility in long distance views across the site from the coastal footpath. A robust landscape scheme is required in order to assimilate the development into the site. The submitted landscape scheme has been revised by the applicant and further consultation responses are awaited from the landscape officer and the AONB Office.

There are a number of other issues such as highways, impact on residential amenity and design that have to be considered in the determination of the application. These are addressed in the report below.

This application was submitted in March this year. Since submission the applicant has worked with officers to provide considerable additional information in support of the proposal and has revised the proposed layout deleting three lodges and reducing the level of car parking on the site. The applicant has worked positively with the Council to produce a form of development that has the potential to be acceptable on the site. As such the proposal represents a development that carefully balances the issues of ecology, landscape, economic impact and scale of development. There are a number of outstanding issues relating to ecology, landscape and ground stability that will need to be addressed at the committee meeting. The applicant is confident that these will be resolved by the time of the meeting and is keen that the application is determined as promptly as possible for commercial operational reasons.

### **Recommendation**

Subject to the receipt of additional information in respect of ecology, landscape and ground stability, conditional approval subject to a S106 agreement. That the S106 agreement be signed within 3 months of the date of this committee or the application be refused planning permission. Final drafting and determination of appropriate conditions be delegated to the Director of Place.

The recommendation above is made on the basis of the Appropriate Assessment

that has been undertaken in accordance with the Habitats and Species Regulations 2010 ('the Habitats Regulations') being signed and agreed with Natural England. If this has not taken place before the committee meeting the above recommendation will need to ensure that planning permission can only be granted if Natural England agrees the Appropriate Assessment. If Natural England objects to the Appropriate Assessment, the matter will be referred back to the Development Management Committee.

### **Statutory Determination Period**

The sixteen week target date for determination of this application was in July. The determination of the application has been delayed due to additional work that was needed to be carried out in respect of the ecological impact of the proposed development. Natural England submitted an objection to the application as originally submitted. In order to address this, further bat surveys have been carried out in June and July to provide a more informed understanding of how greater horseshoe bats use the area around the site. This information was needed to provide sufficient certainty that there would be no negative impacts on the South Hams Special Area of Conservation (SAC). Without this level of certainty the Council would not be able to approve the application.

### **Site Details**

The application site relates to Riviera Bay Holiday Park which is situated adjacent to St Marys Bay. The entire Riviera Bay Holiday Park extends to 6.64 ha in size. The application site area is 4.4 ha. The remainder of the site comprises 11 lodges recently provided (in 2012) at the eastern end of the site and the cliffs facing St Marys Bay. The site has two distinctive parts. The lower part of the site is bounded to the west by Mudstone Lane and includes the existing large facilities building. The facilities building provides a range of communal amenities including a swimming pool, restaurant, bowling alley, amusement arcade and shop. The southern section of the site is at a higher level and is accessed from the end of Mudstone Lane by a steep driveway. Originally these were two separate holiday parks. The lower (northern) part of the holiday park was first developed in the 1950s and the southern part grew from a small 'Homelea' holiday camp that was established in the 1930s before being redeveloped in 1972.

The existing park includes 185 guest chalets, 2 houses, 1 flat and 11 holiday lodges. The lower (northern) part of the holiday park contains the majority of the existing holiday accommodation as well as staff accommodation and the facilities building. The southern part of the holiday park also contains holiday accommodation as well as further staff accommodation and separate storage buildings. The existing holiday chalets comprise pre fabricated units with flat roofs. They are sited on concrete slabs that are arranged on terraces facing St Mary's Bay. Both parts of the site have hard surfaced areas that are used for car

parking and grassed areas. There is largely only pedestrian access to the majority of the chalets in the lower (northern) part of the site. Chalets in the southern part can be accessed by car. Ground levels slope from west to east on both parts of the site.

There are a number of trees and hedges on the site. The majority of the tree cover is situated adjacent to the site boundaries particularly along the boundary with Mudstone lane. The outlook on the site is relatively open as there are a limited number of trees within the site.

Access to the site is from Mudstone Lane. There are two main points of access. To the lower part of the site the entrance is at the northern end close to the junction with Douglas Avenue. The higher southern part of the site is accessed at the end of Mudstone Lane.

The south west coastal path runs along the southern boundary of the site. There is a temporary diversion of the southern part of the coastal path due to cliff falls. As part of the diversion the path extends through the holiday park site. In the Planning Statement it is advised that this footpath is not identified as a Public Right of Way but provides access to the South West Coastal Path. It is not affected by the development proposals.

The surrounding area is predominantly in residential use. To the south is part of the Sharkham development, to the north and west residential properties. Adjacent to the northern boundary are 11 dwelling fronting Douglas Avenue that were granted planning consent in 2012 and were originally part of the holiday park. Wishings Field which has village green status abuts part of the western boundary and to the east is St Mary's Bay. The western boundary to Mudstone Lane has considerable landscaping along it. There is a footpath between Douglas Avenue and the site access. To the south of the entrance Mudstone Lane becomes single carriageway with no footpaths.

In the Torbay Local Plan 1995-2011 the site is shown as being within the AONB, and is designated as Countryside Zone, Coastal Preservation Area and Coastal Protection Zone. Immediately to the south of the site is a SSSI and the Berry Head Special Area of Conservation. The site falls within a greater horseshoe bat sustenance zone and strategic flyway as defined in the South Hams SAC. A National Nature Reserve is designated around Berry Head. It comprises two separate areas: the Berry Head promontory (as far south as Durl Head) and Sharkham Point. The two areas are separated by St Mary's Bay.

### **Detailed Proposals**

The application as originally submitted was for the demolition of the existing chalets and facilities building on the site and redevelopment with 75 self catering holiday lodges, a management building, 194 car parking spaces and two residential properties. Following negotiations with the applicant revised plans

have been submitted. As a result of negotiations in respect of ecology and landscape three of the originally proposed lodges have been removed from the application. The number of car parking spaces has been reduced from 194 to 180. Additional hedge planting is proposed and a plan showing areas of the site where the light levels would be low (below 0.5 lux) have been submitted.

The application is to allow 12 months occupancy of the new lodges. Their use to be restricted to holiday occupancy only. This is the same control that was placed on the 11 lodges approved under application reference P/2011/0470. Virtually all the existing buildings on the site would be demolished. The structures that would be retained include the former Pump House at the eastern boundary. This building was converted to a bat barn as part of mitigation works associated with the 2012 lodge development. The 'Coastal Cottage' (which is used for holiday lets) and staff accommodation in the southern part of the site would also be retained.

Due to the environmentally sensitive location of the site an Environmental Statement (ES) was submitted as part of the application. The purpose of this is to consider the potentially significant environmental effects that are likely to arise as a result of the proposed development. The ES covers the following areas;

- Ecology and Biodiversity
- Landscape and Visual
- Alternatives
- Interactions and cumulative effects

A summary of other non-significant environmental issues is included in the ES which comprise: Ground conditions/stability/land contamination, traffic and transport, tourism and economic factors and water resources and flooding.

It is proposed that the two residential properties would be private and sold on the open market. Both properties would have four bedrooms and two car parking spaces. They would have shared access onto Mudstone Lane with separate driveways. Their design would be fairly modern comprising two storeys with a pitched roof over. The layout would include a first floor terrace area with an external staircase.

The proposed lodges would be 12.2 metres long, 6.2 metres wide and 4.05m high. They would be limited to holiday use only. In the Design and Access statement it is stated that they would be similar to the 11 lodges approved under application reference P/2011/0470MPA. These are more akin to mobile homes rather than natural timber clad lodges. The Planning Statement refers to 'timber profile cladding' on the external walls with a tiled roof. They would have a shallow longitudinal pitched roof over a rectangular plan with the main entrance door in the side. Patio doors at the end of the lodge open onto a raised deck area. The existing 11 lodges are supported above slab level by metal struts and

wheels, although these are largely screened by plinths around the bases of the lodges.

The management building would have a gross internal area of 352 square metres. It would include a shop, café/bar and gym room. It would be intended primarily for use by holiday makers. It would be part two storeys and part single storey. At first floor level there would be a self contained unit of accommodation with an external terrace area. The accommodation would be for staff use.

A landscape scheme has been submitted as part of the application. Due to the proximity of the site to the South Hams Special Area of Conservation, the SSSI and the Berry Head Nature Reserve a draft Construction Environmental Management Plan (CEMP) and Landscape Ecological Management Plan (LEMP) have been submitted.

The applicant advises that the Riviera Bay site is managed in conjunction with the nearby Landscope Holiday Park on Gillard Road. It is predicted that the redevelopment of Riviera Bay will result in the loss of around four jobs, resulting in the proposed development providing approximately 28 jobs.

The Council has carried out a Habitat Regulation Assessment (HRA) and an Appropriate Assessment (AA) on the submitted scheme. This has identified that the application site is used regularly by Greater Horseshoe Bats as a major flyway from the Berry Head SAC roost to wider countryside to the west beyond Brixham. The commuting routes around and across the application site lie within a strategic flyway identified by Natural England and are considered to be crucial for the survival of bats at Berry Head. The following measures are proposed to mitigate the impact of the proposed development;

- Substantial new landscape planting to protect and enhance bat commuting routes.
  - Identification of a defined 'dark area' which would have a maximum light level of 0.5 lux
  - Provision of contingencies should coastal retreat result in the loss of land at the cliff edge to included an Ecological Monitoring and Early Warning Strategy
- The conclusion of the Appropriate Assessment is under discussion with Natural England and has not yet been finalised.

### **Summary Of Consultation Responses**

*Brixham Town Council* recommends approval subject to the enforcement of holiday use.

*Arboricultural Officer* the scheme is suitable for approval on arboricultural merit with the exception of the two new residential units along the north western

elevation. Recommends conditions relating to submission of landscaping plan and details of porous surfaces within the Root Protection Areas of trees to be retained.

*Natural England* consultation response 14.4.14 raises an objection to the application. Advises that the proposals will result in a likely significant effect upon the greater horseshoe bat interest and calcareous grassland associated with the South Hams SAC. Raises concerns about light impacts, mitigation measures, pinch point for Greater Horseshoe Bats, impact on calcareous grassland.

*Environment Agency* no objections to proposal but suggests an appropriate condition is included in relation to the surface water runoff management strategy. Advise that the Council in its capacity as Coastal Protection Authority makes comment in terms of erosion and slope stability issues and the likely implications of this on the proposed development over its lifetime. Recommends further conditions to assess risks to controlled waters arising from any potential sources of contamination and to address any unsuspected contamination.

*Torbay Coast and Countryside Trust* due to the close proximity to the Berry Head SAC we are concerned that there could be an associated impact to the limestone grasslands. There is a need for further information about the historic occupancy rates and also whether dogs will be allowed on site. We would want to see the development deliver enhancement to these internationally important grasslands.

*RSPB* is very concerned that this proposal will result in direct impacts on bats and indirect impacts on habitats of value to circl buntings and existing calcareous grassland and scrub. The site lies within an important area for circl buntings, a species of principal importance. There is a risk that, unless amendments are made to widen the availability of coastal habitat for circl buntings at the application site, redevelopment will sever the narrow coastal strip between Barry Head and Sharkham Point, isolating the circl buntings at Barry Head. In our view the development should be moved back from the currently very narrow coastal strip so a wider buffer of grassland and scrub is created between the coastal path and the built development. Mitigation measures are required to ensure that construction works and subsequent landscaping and management safeguard habitats.

*Senior Transport Planner* no objection to this proposal in principle providing visibility at the main access is improved for vehicles exiting. A splay of 2.4 metres by 33 metres is required to provided clear visibility for traffic travelling northwards towards Rea Barn Road. Requests a contribution of £2000 to update current road signing which will help unnecessary traffic movements from entering the AQMA risk area of Bolton Cross.

Landscape Officer- the current proposal is not considered acceptable in

landscape terms and is not supported. The site lies within the South Devon AONB. Great weight should be given to conserving landscape and scenic beauty in the AONB, which has the highest status of protection in relation to landscape and scenic beauty. Advises development on this site would continue to have a significant adverse impact on the character of St Mary's Bay. The proposed lodges are densely spaced, leaving limited space for significant tree planting between the lodges and they do not appear to be set back any further from the coastal scrub than the current buildings. Development on the site would continue to have a significant adverse impact on the landscape character of St Mary's Bay and a significant adverse visual impact on views from the South West Coast Path between Sharkham Point and Berry Head. I consider that the LVIA has underestimated the visual impact of the proposed development and overestimated the benefits of the proposed mitigation in reaching its conclusion. Further coastal scrub and tree planting within and to the site boundaries would help to reduce the visual impact and conserve rural/coastal landscape character. The proposal will do little to conserve or enhance the AONB and the Coastal Preservation Area. It will not deliver the enhancements recommended by the Torbay Landscape Assessment or Brixham Urban Fringe Study.

South Devon AONB Unit- objects to the proposal. The proposal does not give sufficient attention to conserving or enhancing the natural beauty, landscape character or scenic quality of this vulnerable part of the South Devon AONB. The application site encompasses an area of critical environmental value which needs to be restored and enhanced as well as conserved. The need to address the intrusion of development within this site onto the coastal edge remains central to our consideration of this application. The retreating of the developed area further back from the cliff is a critical factor. Considers that the proposal will not lead to a significant alteration to the site's relationship with the coastline. Offers no significant enhancements to landscape quality or management.

Drainage – planning permission can be granted providing a condition is imposed requiring the detailed design for the surface water drainage system to be submitted and approved before work commences on site.

*South West Water* no objection or comment

*Devon and Cornwall Police Architectural Liaison Officer* no comment  
to make.

*Senior Engineer* The application takes into account the recommendations of the 2011 Shoreline Management Plan concerning predicted erosion rates (up to 40m by 2015 in certain sections) and the policy option for this area (no active intervention). Based on this information they have proposed an exclusion zone for any development, which is what I would expect.

*SW Coast Path Team* Since February 2014 part of the SW coast path has been closed and diverted inland around the development site due to a landslide. Objects to the application on the basis that it does not provide any provision to



enable the coast path to be relocated inland in response to ongoing cliff erosion.

### **Summary Of Representations**

Representations against the application received which raise the following issues;

- The previous planning application has not been adhered to. There are cars and lorries driving down the emergency access road most days. Traffic should not be allowed at the lower end of the site.

- There should be a condition on the demolition of all the existing buildings that they be removed totally and not left on site.

- Any soil added to the existing area should not be allowed to heighten the ground.

- No more trees should be lost in this area as we have already lost many birds and wildlife.

- Roof of lodges should be as low as possible

- No living rooms or bedrooms should face north towards houses in Douglas Avenue

- External lighting should avoid glare to local residents and the surrounding area

- The road between lodges 20 and 21 should be one way only to prevent headlamp glare and light pollution at night

- The new chalets should not spoil the view from houses in Douglas Avenue

- There are shortcomings in the Environmental Statement such as gaps in the analysis and errors in plans and details.

- Lodges 57,59 and 61 are unacceptably near the southern boundary of the site and should be deleted.

- The new lodges are to be 4.05m to apex which will be much higher than the existing units. They will be more intrusive than the existing units

- Proposed landscaping on the southern boundary is exceptionally poor and in parts non-existent.

- More solid boundary treatment than the existing close boarded fence should be provided on the southern boundary

- Land should be made available for a new coastal path to replace the collapsed section bordering the southern end of the holiday park.

Representations received in support of the application that raises the following issues;

- Reduces the number of units on the site and replaces the units with a higher standard of accommodation.

- Reduced traffic and noise in the area

- The large entertainment building and the noise that arises from it late into the evening/night will be removed

- The shop will be a convenience as will be the gym providing membership is open to local residents.

These have been reproduced and sent electronically for Members consideration.

### **Relevant Planning History**

Extensive previous planning history. Most recent applications are;

P/2011/0470 Demolition of 2 buildings used for laundrette, maintenance workshop, housekeeping and entertainment office; demolition of wooden shed used for housekeeping; formation of 11 new holiday lodges with new car parking layout to accommodate up to 216 car parking spaces, relocation of bin store and development of 12 residential properties fronting Douglas Avenue approved 3.2.12

P/2006/0054 Siting of 23 caravans for holiday use. Refused 21.2.06 and subsequent appeal dismissed by letter dated

P/2005/1689 Variation of parking provision (ref app P/1999/1177) approved 11.11.05

P/2003/2128 Illuminated flat board sign

P/1999/1177 Construction of 14 new chalets, 10 flats over existing chalets, extension to house swimming pool (indoor) and improved access and additional parking, approved 2.3.00

### **Key Issues/Material Considerations**

**Principle and Planning Policy -**

The main issues to be considered in respect of this application are;

1. the principle of replacing the holiday units on the site and the construction of two permanent residential dwellings,
2. effect on ecology and biodiversity,
3. landscape and visual impact,
4. highways
5. design and external appearance,
6. economy
7. ground stability
8. impact on residential amenity
9. the coastal footpath
10. S106 obligations

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

This application would result in a significant investment in an existing tourism facility. The existing outdated chalets and large facilities building would be removed and replaced with modern detached holiday lodges and a new smaller facilities building.

Policies TUS, TU3 and TU9 in the Torbay Local Plan 1995-2011 support proposals for the improvement of tourist facilities providing a number of criteria are met such as there would be no harm to the environment. The explanation to Policy TU3 notes that the improvement of tourist facilities is important to recognising Torbay's position as a premier resort. Policy TU9 specifically relates to refurbishment of holiday parks. This Policy supports refurbishment and upgrading of facilities. It supports improvements to the on-site environment, reducing high densities and improvement to on site facilities. It is recognised that many holiday parks are in environmentally sensitive areas and this type of development can have a significant visual and landscape impact. In the explanation to the Policy it is stated "the Council will seek to secure improvements to the appearance and layout of facilities and improve standards of landscaping and nature conservation". In addition "the Council would not wish to see the introduction of further environmental conflicts, particularly in sensitive designated landscape protection areas".

Policy TO1 in the new Local Plan "A landscape for success" is also relevant to the determination of this application as no objections have been received to this Policy. It states "the Council wishes to see the quality of accommodation improved with a wider range of new and refurbished facilities and services".

In the 2010-2015 Strategy "Turning the Tide for Tourism in Torbay" the visitor trends noted from 2001 and 2007 include an overall increase in demand for self catering accommodation and consistent and growing demand for holiday park accommodation.

The NPPF makes little mention of tourism other than supporting sustainable rural

tourism at para. 28. Economic growth and investment in business is supported by paras 18 to 22 in the NPPF.

The proposed development would result in a notable improvement to the standard of accommodation on the site. Discussions have taken place with the applicant about the tenure of the lodges on the site. The applicant has advised that the intention is to sell all of the lodges on the site, and none would be operated on a fleet basis. This approach raises the issue of the level of occupancy as there is a risk that the lodges could be used as second homes and only occupied for a few weeks a year. Clearly a high occupancy rate would result in a greater tourism contribution to the economy of the area. In order to address this issue the applicant has been requested to ensure that there are facilities on site to enable owners to let their lodges for holiday use. A condition is suggested to ensure this provision is kept permanently available. The applicant has agreed to provide this facility on the site.

The application includes development of two dwelling houses that would front Mudstone Lane. Under application reference P/2011/0470 planning permission was granted for 12 new dwellings fronting Douglas Avenue that are adjacent to the proposed site for the two additional dwellings. The principle of constructing new dwellings on the site would be consistent with the character of the surrounding area which is predominantly residential. Policy H2 in the Torbay Local Plan 1995-2011 sets out a number of criteria for assessing new residential development. This includes the need to avoid physical and environmental constraints and promotion of food design and a high quality 'green' residential environment.

In summary, an investment in the improvement of existing holiday facilities is supported by the Torbay Local Plan 1995-2011 and the NPPF. Such investment and improvement provides valuable benefits to the local economy, and to the tourism sector specifically. However this has to be balanced against the impact of development on the environment and landscape. These issues will be addressed in detail below.

## **2. Impact on Ecology and Biodiversity -**

The application site is located in an environmentally sensitive site. It is located within the AONB. It is also subject to local landscape designations as Countryside Zone, Coastal Preservation Area and Coastal Protection Zone in the Torbay Local Plan 1995-2011. Immediately to the south of the site is a SSSI and the Berry Head Special Area of Conservation. A National Nature Reserve is designated at Berry Head which to the north of the site.

Policies in both the NPPF and the Torbay Local Plan 1995-2011 recognise the importance of these designations, particularly the AONB, SSSI and SAC designations. In reaching a decision on the application significant weight should be given to the impact of the proposal on the ecology and biodiversity. Para.

115 in the NPPF advises that;

“great weight should be given to conserving landscape and scenic beauty in Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to landscape and scenic beauty. The conservation of wildlife and cultural heritage are important considerations in these areas”.

Para. 116 in the NPPF advises that “Planning permission should be refused for major developments in these designated areas except in exceptional circumstances where it can be demonstrated they are in the public interest. Consideration of such applications should include an assessment of:

- The need for the development
- The cost of, and scope for, developing elsewhere outside the designated area
- Any detrimental effect on the environment.

Para. 118 advises that proposed development likely to have an adverse effect on an SSSI should not normally be permitted.

In para. 119 is it advised that the presumption in favour of sustainable development does not apply where development requiring appropriate assessment is being considered. This is the case for this application as there is an appropriate assessment.

Para. 125 advises that planning decisions should “limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation”.

Policy L1 in the Torbay Local Plan 1995-2011 accords priority to the conservation and enhancement of the natural beauty of the AONB. The local designations of AGLV, Coastal Preservation Area, Countryside Zone and Coastal Protection Zone are subject to Policies L2, L3, L4 and EP12 which seek to protect the natural environment and unspoilt character of these areas.

Policies NCS, NC1, NC2, NC3 and NC5 in the Torbay Local Plan 1995-2011 seek to preserve or enhance biodiversity and wildlife. Policy NC1 is relevant and makes clear that development that would harm the integrity of the SAC will not be permitted.

The submitted Environmental Statement (ES) addresses ecology issues in detail. The Ecology Impact Assessment that forms part of the ES is based on a range of habitat and faunal surveys undertaken throughout 2009, 2010 and 2013. These surveys concluded that the habitat present on the site to be of ‘negligible ecological value’. However the site has the potential to be used by a variety of protected species. The most important of these is the Greater Horseshoe Bat, which is significant in view of the Greater Horseshoe bat roost at the Berry Head

SAC. Previous bat surveys confirmed that whilst Greater Horseshoe bats forage within suitable habitat on Berry Head and within 2km of their known roost sites on the headland they regularly disperse up to 14km to the south west to forage in the wider countryside.

This site forms one of the key areas within a narrow bat dispersal corridor. Whilst the site is not considered to have the potential to be highly suitable foraging habitat itself, the routes through and adjacent to the holiday park are important to the function of the roost and therefore of international ecological value. The site falls within a 'pinch point' and is sensitive to potential impacts upon the greater horseshoe bat interest. The greater horseshoe bat commuting habitat is highly constrained at this pinch point due to the proximity of the holiday park to the coastal strip with the narrow coastal path appearing to offer the key link between the roost and the surrounding countryside.

Natural England's initial consultation response raised an objection to the proposed development on the grounds that the proposal would result in likely significant effects upon the greater horseshoe bat interest and calcareous grassland associated with the South Hams SAC. The key issues identified related to;

- a) concern about light impacts that could affect the use of the area by the greater horseshoe bats which tend to avoid artificially lit environments.
- b) Whether the proposed mitigation works would provide sufficient certainty that there would be no short term detrimental impacts.
- c) Insufficient information about planting proposals and the implications of opening up pedestrian routes to the coast
- d) Concern about mitigation proposals in relation to the pinch point of the holiday park being situated in close proximity to the coastal path that is used by greater horseshoe bats for commuting.
- e) Seeks clarification of existing and proposed occupancy rates to inform an assessment of the effect of the development on the calcareous grassland at Berry Head.
- f) Requests submission of further information to assess the impact of the proposed development on the landscape.

Following negotiations with the Council's Ecological consultant and Natural England further bat survey work has been carried out in July 2014 to establish use by greater horseshoe bats, of the vegetated cliff slopes below the coastal path directly east of the southern half of the application site. This work confirmed that greater horseshoe bats are not confined to just the narrow corridor along the

coastal footpath, but instead also fly along the cliff slopes where they find shelter within the scrub and trees. This additional information is important to provide evidence that with the proposed development of the site would still provide sufficient space and conditions for greater horseshoe bats to fly south along the narrow coastal strip adjacent to the boundary of the site.

This additional survey work has informed the submission of revised plans that included the provision of additional planting around the eastern boundary of the site.

Natural England has responded to the first draft of the HRA and AA. They have asked for clarification on a number of issues, and advised that until these issues are resolved that NE will not be in a position to agree with the conclusions of the Appropriate Assessment.

In their consultation response the RSPB advised they are very concerned that this proposal will result in direct impacts on bats and indirect impacts on habitats of value to cirl buntings and existing calcareous grassland and scrub. They advise that there are records of cirl bunting breeding territories to the south and north east of the application site. There is a risk that, unless amendments are made to widen the availability of coastal habitat for cirl buntings at the application site, redevelopment will result in severing the link between territories, isolating the cirl buntings at Berry Head.

Similarly the RSPB have responded to the first draft of the HRA and AA. They have also raised a number of concerns in response to the revised plans. These include insufficient information in the draft LEMP and CEMP, concern about annual cutting of new hedgerows and tree planting which will reduce their value as wildlife habitats ( a minimum period of two years is recommended and not all vegetation cut at once), and lack of information about provision of a 5 metre vegetated buffer between the lodges and the cliff edge in the event of coastal erosion.

As well as bat surveys a number of other surveys were carried out: breeding bird surveys, reptile surveys and badger surveys. The breeding bird survey indicated that 24 species of bird were breeding within the survey area. No cirl buntings were recorded within the site or its immediate surrounds. The bat activity surveys identified at least eleven species of bat within the site. Evidence of bat use was found in two buildings that will be demolished, a derelict barn adjacent to the southern boundary of the site and a chalet building within the southern half of the site. The badger survey identified a badger sett comprising two active holes and at least 4 disused holes located within an area of scrub between the eastern boundary of the site and the coastal path. In the reptile survey undertaken in 2010 a 'good' population of slow worms was recorded.

The Environmental statement confirms that controls such as timing of site

clearance and stripping and the methods employed to undertake these works that will be required to minimise wildlife mortality. Measures such as setting up root protection zones to protect hedges and trees which will be retained, controls over temporary storage areas, demolition and construction only occurring in daylight hours, dampening dust and workers will be inducted regarding the sensitive nature of adjoining designated sites.

Measures are proposed to provide ecological mitigation and enhancement on the site. These include new dedicated bat roosting facilities to compensate for roost loss and planting two large broadleaf trees either side of the internal access road to improve two bat commuting routes which cross through the centre of the site.

In the Environmental Statement it is concluded that the proposal would result in a negative residual impact on herring gulls due to the loss of nesting habitat. The ES considers that given the adaptability of the bird it is anticipated that the breeding pairs using the site will find alternative nesting habitat and so the impact will not be significant in the long term.

Lighting on the application site is a significant issue because Greater Horseshoe bats are a very light sensitive species and avoid flying in high light levels wherever possible. The redevelopment proposals have the potential to result in increased light levels and potentially lead to light spill onto the known regularly used commuting routes. In support of the application an assessment of lighting levels on the site pre and post development has been submitted. This concludes that a number of receptors are predicted to receive an adverse significance of effect. However, the majority are expected to receive a no adverse and beneficial significance of effect due to reduced or equal resultant lighting levels when compared to the existing condition. It should be noted that a detailed lighting design has not been submitted. For the application 'typical' lighting parameters have been developed.

Following negotiations the applicant has submitted a plan showing the areas of the site where dark corridors will be maintained with a light level of no more than 0.5 lux.

The Environmental Statement also addresses the issue of habitat change as a result of visitor pressure. It is recognised that increased visitors to the South Hams SAC could lead to the disturbance of animals and the trampling of ground flora, in particular the calcareous grassland for which the SAC is designated for. The applicant advises that there are currently 1002 bed spaces at the site which include 932 chalet spaces, 66 spaces resulting from the lodges constructed as part of the Phase 1 redevelopment of the site and 26 spaces associated with staff accommodation. Post redevelopment there would be 432 spaces in the new lodges, 66 spaces from the lodges in phase 1, 26 spaces for staff accommodation and 10 spaces from the construction of two private houses, making a total of 524.



From the evidence submitted by the applicant it appears unlikely that visitor numbers and consequently visitor pressure will increase at Berry Head as a result of the proposed development.

As the application site is in close proximity to a European designated site it has the potential to affect its interest features. European sites are afforded protection under the Conservation of Habitats and Species Regulations 2010, as amended. As the competent authority the Council should have regard for any potential impacts that a plan or a project may have. This assessment is carried out through the HRA and AA process. The AA needs to reach the conclusion that the proposed development will not result in any adverse residual effect on the integrity of the SAC. If insufficient information has been submitted to reach this decision the application should not be approved as it would be in breach of the above legislation.

At the current time both Natural England and the RSPB have raised concern about the proposed development. If these cannot be satisfactorily addressed planning permission should not be granted.

### **3. Landscape and Visual Impact -**

The application site is within the AONB, and is designated as Countryside Zone, Coastal Preservation Area and Coastal Protection Zone in the Torbay Local Plan 1995-2011. Para. 115 in the NPPF advises that great weight should be given to conserving landscape and scenic beauty in AONBs, which have the highest status of protection in relation to landscape and scenic beauty. Para. 116 advises that planning permission should be “refused for major developments in these designated areas except in exceptional circumstances and where it can be demonstrated they are in the public interest.

Policy L1 in the Torbay Local Plan 1995-2011 states that conservation and enhancement of AONBs will be given priority over other considerations. Policy L3 relates to Coastal Preservation Areas and limits development to those required for the economic and social well being of the locality that cannot reasonably be accommodated elsewhere and permits improvement of facilities on chalet sites which would make little impact on the character of the protected area. Policy L4 relates to the Countryside Zone permits the development of tourist facilities providing the rural character, and wildlife habitats are not adversely affected and mitigation measures are carried out to minimise any harm to the environment.

Both the Torbay Landscape Character Assessment and the Brixham Urban Fringe Landscape Study are also relevant to the determination of the application. In the Torbay Landscape Character Assessment the site falls within the ‘Open Coastal Plateau Character Type’. The holiday camps within this area are considered to be highly prominent and to detract from the character of the area and sense of place. The management strategy is to enhance, specifically with

new and reinforced screening. The Brixham Urban Fringe Landscape Study identifies Riviera Bay as being visually significant. It advises that any redevelopment proposals should include drawing back from the cliffs and opening up the coastal corridor. It is stated that the coastal corridor should be widened to a minimum of 50 metres.

In support of the application a Landscape and Visual Impact Assessment has been submitted by the applicant. This includes an assessment of the proposed development from 14 different viewpoints. The report assesses the potential impacts of the development and the mitigation proposed. In the report it is advised comparing the sensitivity of the receptors to the magnitude of predicted change allowed the significance of effects to be assessed. The conclusion reached is that the overall significance of landscape effects during construction are assessed as moderate and adverse (not significant) and once the proposed development is complete assessed as moderate and beneficial (not significant). The overall significance and nature of visual impacts will be moderated and adverse during construction and minor/moderated and beneficial once the proposed development is complete.

A landscape report on the submitted scheme has been prepared for the Council. This reaches an alternative conclusion to the submitted LVIA. The Council's report assesses the existing development as having a substantial (significant) adverse impact on the landscape character. It is advised that the proposed development would slightly reduce the adverse impacts through proposed mitigation however it is concluded that development on the site would continue to have a significant adverse visual impact on views from the South West Coast Path. The Landscape Officer considers that the submitted LVIA has underestimated the visual impact of the proposed development and overestimated the benefits of the proposed mitigation in reaching its conclusion. She concludes that the proposal is not considered acceptable in landscape terms and is not supported.

The Landscape Officer has reviewed the revised plans and advises that she does not feel able to remove the landscape objection at this stage. She notes that the proposal does not provide the recommended buffer to the cliffs/coast path referred to in the Urban Fringe Study and the section show that many of the proposed chalets will be at a higher level and more prominent than the existing chalets. She recommends that more trees should be planted along the frontage along with the coastal hedgerow, between the main car park and houses on Douglas Avenue and along the edge of the existing coastal scrub. In her opinion to achieve a substantial and effective landscape scheme more lodges should be removed from the scheme, but in the absence of this there are still opportunities to increase planting and to reduce the height and prominence of the lodges.

The applicant has been requested to respond to these comments and further revised plans are awaited.

The AONB officer objects to the proposal. He is of the opinion that as originally submitted the proposal does not give sufficient attention to conserving or enhancing the natural beauty, landscape character or scenic quality of this vulnerable part of the South Devon AONB. He considers that “the proposed development remains large scale, still encroaches to an unacceptable degree upon the South West Coast path and does not significantly improve the experience of the coastal corridor of users of the coast path. Critically the proposed development fails to provide a buffer as set out within the Brixham Urban Fringe Landscape Study.... The application fails to improve on the current situation, impact adversely on landscape character and fails to replace the boundary .. with a more sympathetic alternative”. An updated consultation response to the revised plan is awaited.

An Arboricultural impact assessment has been submitted in support of the application. This identifies a number of trees that will be felled on the site. The majority of these trees are classified as ‘U’ which are recommended to be removed. Three trees categorised as ‘B’ (higher quality) and three categorised as ‘C’ (low quality) are proposed to be felled. A plan showing the location of a protective barrier required to form a construction exclusion zone (CEZ) has been submitted. Detailed landscape plans showing areas of new planting on the site have been submitted. The Arboricultural officer has advised that the scheme is acceptable on Arboricultural merit with the exception of the north west corner of the site. This is considered in the section below.

#### **4. Highways and access to the site -**

In support of the application a Transport Statement and Travel Plan have been submitted. It is proposed to retain the existing accesses to the north and south parts of the site with no alterations to either access.

In the Transport Assessment data from the TRICS database is used to calculate the existing trip generation rates and the proposed trip generation rates. In addition an analysis of existing and proposed bed spaces is also included. It is concluded that due to the reduction in the number of units of accommodation proposed on the site the trip generation rates will be decreased. It is noted that these calculations have not taken into account previous and proposed occupancy levels, which have been considered as part of the assessment of the development on the environment. Due to the reduction in capacity on the site it is unlikely that a calculation including occupancy rates would result in a notable increase in trips to and from the site and therefore this analysis has not been requested from the applicant.

In the Travel Plan it is identified that there is footpath access to the site along Mudstone Lane. There are bus stops outside the site. It is proposed that secure

covered cycle parking will be provided on site for staff and visitors. All lodges will have a dedicated space to store at least one bicycle. A number of measures are proposed in the Travel Plan to encourage sustainable methods of travel for staff and visitors.

Strategic Transportation have advised that they have no objection in principle to the proposed development providing visibility at the main access is improved. A visibility splay of 2.4m by 33 metres is requested to provide clear visibility. In addition a contribution of £2000 is requested to update current road signing which will help unnecessary traffic movements from entering the AQMA risk area of Bolton Cross. The applicant has agreed to make this contribution and this is addressed in the S106 agreement.

The applicant responded to the request for an improvement to the visibility splay in the submission of a technical note that sets out in detail the reasons why the applicant does not intend to improve the visibility at the access to the site. This is due in part to there being no accidents recorded on Mudstone Lane between 1.12.08 and 30.11.13 and because the proposed development would deliver a reduction in the use of the junction. It is the applicant's opinion that the current arrangement also contributes to keeping vehicle speeds below the 30 mph limit. An increase in the visibility splay would be likely to lead to increases in vehicle speeds and therefore greater safety issues for southbound drivers and pedestrians than currently. In addition any works to implement an increased visibility spaly would also require the removal of the existing devon bank and quite possibly a number of trees.

Strategic Transportation are of the opinion that it is desirable for the access should be improved. They consider that a well designed access is important for the safety and convenience of all road users. Whilst noting there will be fewer units on the site, the fact remains it is a substandard access and does not promote safety. However in response to the applicant's case they have concluded on the basis that the proposed development would reduce trip numbers, even though the access is sub- standard, at appeal, the Council would be hard pressed to prove that as a result of the proposed development the situation would be any worse than it currently is. In this case it is considered that there would be insufficient grounds to refuse the application because of the substandard access.

## **5. Design and external appearance -**

All of the 72 holiday lodges would have an identical appearance and size. They would be single storey and would be finished with timber profile cladding on the walls and have a tiled roof. The roof would have a shallow pitch. The lodges would be identical to those approved under application reference P/2011/0470 that are now on site. The lodges would be a pre- manufactured which means they would technically be a caravan, and would be subject to site licensing controls. They would sit above slab level in the same way as a caravan does.

Each lodge would have an external deck area.

The use of a dark brown cladding and dark coloured roof material would be visually recessive when viewed from a distance. In comparison with the existing chalets on the site which have flat roofs the actual height of the proposed lodges would be higher than the existing chalets. In considering the existing development on the site in comparison with proposed development there are a number of points to note. The existing chalets have an outdated appearance and have no design merit. They don't make a positive contribution to the appearance and character of the area. The proposed lodges would have a modern appearance. A significant change between the existing and proposed development is the form/layout of buildings on the site. The existing chalets comprise terraces of development following the contours of the site. The proposed lodges would be detached and would have space between each lodge which would reduce the visual impact of the development. The spaces do provide the opportunity for landscaping to be provided between the lodges which would reduce their visual impact when viewed from the coastal path. It should be noted that the submitted sections to show that in a number of cases the lodges would be higher than the existing development on the site which would add to their prominence when viewed from the coastal path.

The proposal includes the construction of two detached dwellings in the north west corner of the site at the junction of Douglas Avenue and Mudstone Lane. The proposed dwellings would be two storeys in height. Their design and external appearance would differ from those approved under application reference P/2011/0470 which have a more contemporary appearance and largely have first floor accommodation within the roof space. There are a variety of forms of residential development in the area. The proposed dwellings would not be inconsistent with the established character and would constitute an appropriate form of development in this location in design terms. The choice of materials would be important to assimilate the development into the street scene. A condition can be imposed to ensure that the materials would be appropriate for the location.

On this part of the site there is currently a large single storey building in use as staff accommodation. It is screened by existing mature trees along the site boundary, but remains visible in the street scene. The demolition of this building would be acceptable as it makes no positive contribution to the appearance and character of the area.

The Arboricultural Officer has raised concerns about the impact of the two new dwellings on existing mature trees on the north and west boundaries of the site. He is concerned that removal of trees to form the shared driveway will open up the group, divide its efficacy as a visual amenity and allow new wind loadings to potentially damage previously sheltered adjacent trees. He has also raised concerns that the trees will overshadow the proposed dwellings leading to a

future pressure to fell. The Arboricultural Officer has advised that if the proposed dwellings were re-sited to the south and dwelling H1 moved further east this would overcome his objection. Revised plans showing these revisions are awaited.

The proposal also includes replacement of the existing facilities building on the site. The existing facilities building is large in size. It is predominantly single storey and part two storey with a flat roof. It is visible from Mudstone Lane. The proposed replacement facilities building would be sited in a similar location to the existing building, adjacent to the northern entrance to the site. The proposed building would be part single storey and part two storey, with a flat roof. It would have a smaller footprint than the existing building. The external detailing would be relatively straightforward and functional. The building would open onto a terrace area on the south east side. Again the materials would be important to the appearance of the building and this detail can be addressed by means of a condition. The first floor of the facilities building would provide a self contained one bedroom flat with a first floor terrace area.

## **6.Economy -**

The proposal represents an investment in an existing outdated holiday park. The stock of accommodation on the site would be notably updated and a new facilities building provided to support the tourist use of the site. This investment in an existing tourist facility is welcomed and would be beneficial to the local economy. In the Torbay Local Plan 1995-2011 in the explanation to Policy TUS it is stated that “tourism is the cornerstone of the economy of Torbay”. In addition “sustaining the tourism industry is a main strand in Torbay’s Economic Development Strategy”.

Policy TU9 in the Torbay Local Plan 1995-2011 supports upgrading of facilities in a holiday park subject to criteria relating to impact on landscape, nature conservation, highways and residential amenity.

Policy TO1 in the new Local Plan is also relevant to the determination of this application as no objections have been received to this Policy. It states “the Council wishes to see the quality of accommodation improved with a wider range of new and refurbished facilities and services”.

The applicant has submitted a Tourism and Economic statement in support of the application. In this statement the applicant makes a comprehensive case for redevelopment of the site. It is advised that under investment by predecessor owners has resulted in a significant deterioration in the fabric of existing holiday chalet buildings. The chalets were constructed in the 1970s to a relatively low specification. In addition although most of the central facilities are adequate, they too require updating in to meet the needs of a changing tourism market. Since acquisition Park Holidays have invested hundreds of thousands of pounds in annual maintenance and also committed capital sums to double glaze the units

and improve fittings. Discounting and a relatively low tariff has allowed the business to continue to operate. The applicants advise that maintaining the status quo in this manner is not considered to be a sustainable business format. In 2012 11 holiday lodges were permitted on the site and proved successful. It is now proposed to redevelop the whole park with holiday lodges. The applicant advises that in order to make the proposition financially viable sale of the lodges will be required as means of recouping the investment within a realistic timeframe. It is advised that sub letting arrangements will be encouraged by the park operator that will mean the lodges would be optimised for holiday purposes. The applicant suggests that Riviera Bay would become one of if not the largest all-lodge development in Devon.

The applicants have confirmed that of the 11 lodges approved and sited during 2013 in January 2014 only 3 remained to be sold. Of the 8 in use, 5 are subject to subletting activity; two via Park Holidays and three by private concerns.

The proposed investment and upgrading of the accommodation on the site would improve the stock of holiday units in Brixham in accordance with "Turning the Tide". This site is well located for a tourism use as it has good sea views over St Mary's Bay. The retention of the site for a holiday use would be beneficial to Brixham in terms of employment provided on the site and secondary servicing that would occur. The applicant advises that there are currently 32 full time and part time posts on the site and as a result of the proposal there would be 28 full and part time posts plus contract cleaners. The proposed development would result in a net reduction of 4 jobs. In accordance with the SPD "Planning contributions and affordable housing" a contribution has been requested to offset the impact of this reduction in employment.

In order to facilitate sub letting of the lodges to encourage maximum occupancy it has been agreed with the applicant they will provide facilities for owners to sublet. Details of how this would work and a control to ensure that it would be permanently provided can be addressed by condition.

## **7. Ground stability -**

The applicant has submitted cliff stability and ground stability reports in support of the application. The initial cliff stability report identifies that in terms of the geology of the site it can be divided into two conceptual zones. The northern zone consists of limestone cliffs and the southern zone comprises a mudstone slope. The northern limestone cliffs have historically been relatively stable however between 1937 and 1953, there appears to have been a significant rock fall onto the beach and the cliff top regressed 5-10m. Since this date, the cliff line in the northern section appears relatively unchanged.

The historical maps show significant and regular topographic changes in the southern section of the site. Over the period 1864-1981 the crest of the slope

regressed an average of 20m and a maximum of 40m in localised areas. This represents an average rate of regression of 0.2m/yr and a maximum rate of 0.3m/yr. The toe of the slope regressed an average of 25m and a maximum of 60m. This regression appears to have occurred in a series of local events, causing retreat over relatively localised areas of the slope crest. It is noted that the landslide is active and that there is potential for further movement. This is indeed the case as the Cliff Stability Report was produced in 2011 and further landslides occurred in the winter of 2013/14 which have resulted in the coastal path adjacent to the site being closed and a diversion being put in place.

In addition, three gullies have formed in the southern section. One of these is shown on the maps from 1953. A further two are likely to have formed between 2000 and 2007. A phase II report divides the geotechnical areas into a northern zone, central zone and southern zone. It is predicted that the 100 year regression of the cliff for the northern zone will be 10 metres, 45 metres for the central zone and 40 metres for the southern zone.

In the Shoreline Management Plan (Draft Final) Durlston Head to Rame Head 2010 the management policy for the area between Berry Head and Sharkham Point is one of 'No Active Intervention'. It is evident that there will be cliff erosion in the future that will affect the proposed lodges. The applicant has been asked to clarify the position for drawing back development from the cliff edge. The Council's Senior Engineer has noted the submission of a plan showing an exclusion zone for development as part of the application. However some of the proposed lodges would be sited within this exclusion zone. The applicant has been requested to submit an updated report from their consultant on their views of development within the exclusion zone and the acceptable risks. This additional information is awaited.

#### **8. Impact on residential amenity -**

Residents in Douglas Avenue and St Mary's Drive have submitted objections to the application. Concerns have been raised by residents in Douglas Avenue about the proposed lodges being higher than the existing chalets on the site. The submitted sections do indicate that generally this will be the case. The proposed lodges will be sited approximately 30 metres from properties in Douglas Avenue and will be separated by a landscaped strip and line of parking spaces. It is considered that the proposed lodges would not have an overbearing impact on properties in Douglas Avenue due to the distance that they are sited from these properties.

Residents in St Marys Drive have raised concerns about disturbance from noise, light and loss of privacy. The proposed lodges will be sited in excess of 20 metres from the properties in St Mary's Drive. It is considered that this is sufficient distance to prevent an overbearing relationship of buildings. The existing boundary fence will prevent overlooking between buildings. As the



number of units on the site would be decreased it would be difficult to substantiate an argument that the proposal would result in an increase in noise. Light from the application site will be screened by the existing timber boundary fence. External lighting for the development will be minimal due to the ecological sensitivity of the site and would be unlikely to detract from the residential amenity of adjoining occupiers.

### **9. The Coastal Footpath -**

Representations have been received from the South West Coast Path National Trail Officer and the Hon Sec of the South West Coast Path Association who have requested that the opportunity should be taken to re-position the coast path inland. The coast path adjacent to the site has been closed due to a cliff fall since February 2014. In addition the South West Coast Path Association has also suggested that the proposed development offers an opportunity to make a distinct improvement to the landscape environment of the coast path.

The issue of the diverted coast path has been discussed with the Council's footpath officer and the applicant. The footpath officer considered that there were two options that could be explored. The first was to provide a short term improvement by diverting the existing footpath slightly to the west to avoid the cliff fall area. This would be on land within the ownership of Park Holidays who would be agreeable to a minor rerouting of the footpath. This would not be a straightforward issue to resolve as there is a badger sett in the area and even a minor rerouting of the coastal path would have to be subject of an HRA assessment. This matter would need to be addressed separately to the determination of this application.

The footpath officer will also examine the possibility of a long term solution of providing a new route to the coastal path that would follow the western boundary of the site. It is considered unreasonable to expect Park Holidays to provide a new route for the footpath through their site which is privately owned land. The proposed layout of the site would not provide sufficient space for the footpath to be located on the seaward side of the lodges, which would be preferable in terms of the quality of path that would be provided. In addition the provision of a public right of way through privately owned land would present security and privacy issues for occupants of the lodges.

There does not appear to be a simple solution to rerouting the coastal path as part of this application. This is a matter that requires further consideration by the footpath officer and most practicably should be addressed separately to the determination of this application.

### **9. S106 Obligations -**

Planning obligations are sought to off set the impact of new development on local infrastructure. In accordance with the Council's SPD "Planning Contributions and

Affordable Housing: Priorities and Delivery” contributions are required to off set the proposed new residential development as follows;

Waste Management	£ 100.00
Lifelong learning	£ 170.00
Greenspace and Recreation	£3970.00
South Devon Link Road	£1540.00
Admin charge	£ 289.00

Total for residential development £6069.00

No sustainable transport contribution has been sought because the proposed development would reduce the volume of traffic movements to and from the site.

A monitoring contribution of £15,000 is sought in order that the Council can ensure the lodges are used for holiday purposes only and not for permanent residential use.

The proposal would result in a loss of four full time jobs on the site because of the proposed change in the way in which the site would operate. A contribution of £8240 is sought to address this.

The Senior Transport Officer has requested a contribution of £2000 to update current road signing which will help unnecessary traffic movements from entering the Air Quality Management Area risk area of Bolton Cross.

Total S106 contributions required are £31,309. The S106 agreement has been prepared and signed by the applicant.

### **Conclusions**

In conclusion, the proposed development constitutes an investment in an existing holiday park and would result in upgrading the stock of self catering holiday units in Brixham, with a new facilities building. This would be a positive benefit to the economy and support the tourism industry in Torbay. The principle of the development would be consistent with the objective of Policy TU9 in the Torbay Local Plan 1995-2011.

There are a number of environmental issues that have to be addressed by this application. The site is in a highly sensitive area in terms of its impact on ecology and landscape due to its location adjacent to the South Hams SAC, a SSSI, within the AONB and proximity to the coast. Paragraph 116 in the NPPF advises planning permission should be refused for major developments within the AONB except in exceptional circumstances and where it can be demonstrated that they are in the public interest. Consideration of applications should include the need for development, the cost of and scope for developing elsewhere outside the

designated area and any detrimental effect on the environment and the extent to which they could be moderated.

The application site is in a unique location which is appropriate for holiday use given its location adjacent to St Mary's Bay. The continued use for tourism would make a positive contribution to the local economy. The quality of the existing accommodation on the site is poor and there is a demonstrable need to update it. Without an investment in the holiday park there is a risk that the existing operation would become unviable. It is noted that a number of holiday parks have closed in Brixham in the last few years including Pontins at Wall Park. It is highly unlikely that an alternative site outside the AONB could be provided for this holiday use and therefore there is no scope for this development to be located elsewhere.

In order to inform consideration of the ecological impact of the development considerable survey effort and work has been carried out to assess the impact of the development on the Greater Horseshoe Bat which uses routes adjacent to and across the site to reach important foraging areas. There is a pinch point on this route adjacent to the site and it is important to ensure that the proposal would not have a negative impact on the ability of Greater Horseshoe Bats to continue to use their commuting routes. In addition Greater Horseshoe Bats use two routes to fly through the site. The level of information that has to be submitted to address this issue is high in order to provide the certainty required that the proposed mitigation measures on the site would be acceptable. The Council has to carry out a Habitats Regulation Assessment and an Appropriate Assessment to determine whether the proposed development will result in any adverse residual effect on the integrity of the SAC. This work is still being carried out and will be completed by the committee meeting.

Para.118 in the NPPF advises "When determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles: - if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused"

There are important views from the coastal path to the site which are material to the landscape and scenic beauty of the AONB. The proposed lodges would be visually recessive due to the use of dark coloured cladding and tiled roofs. In addition the proposed reduction in the density of development on the site offers the opportunity for additional landscaping between lodges to assimilate the development into the landscape. The submitted sections indicate that the lodges would in a number of instances be higher than the existing buildings on the site which would increase their prominence in views across the site. There are objections from both the Landscape Officer and the AONB Office about the impact of the development on the landscape and visual character of the area.

The applicant has agreed to revise the landscape scheme and has submitted revised plans showing increased planting on the site. A revised consultation response from both the Landscape Officer and the AONB Office is awaited.

The applicant has submitted information to show that the site is adjacent to an area of active cliff erosion. The Council's engineer has requested further information from the applicant to clarify the risk of siting lodges in the locations identified. The permanent buildings on the site would be on the landward side of the 100 year build line. Further information on this matter has been requested and is awaited.

Considerable negotiations have been carried out with the applicant since the application was submitted in respect of the issues identified above. A large amount of work has been carried out by the applicant to satisfy issues raised by officers and consultees. Providing an acceptable level of detail is submitted the proposal would constitute an appropriate form of development in this location.

### **Condition(s)/Reason(s)**

01. Lodges to be occupied for holiday use only
02. Ecological monitoring and early warning strategy
03. Contaminated land assessment
04. Remediation strategy for contaminated land
05. Parking retained on site
06. Landscape implementation
07. Construction and Environmental Management Plan
08. Landscape and Ecological Management Plan
09. Bird Breeding season
10. Development to accord with arboricultural report, its plans and methodologies
11. Details of types of porous surfaces to be submitted within the root protection areas of trees to be retained
12. No external lights on lodges
13. Submission of details about how the applicant or future freehold owner of the site will provide facilities to support and encourage sub letting of the lodges
14. Slab and ridge levels to accord with submitted plan
15. Detailed design for the surface water drainage system must be submitted to and approved before work commences on site
16. New facilities building to be provided within 12 months of the demolition of existing facilities building and to be kept permanently available to serve the site
17. European protected species licence if required
18. Retention of bat commuting habitat and the 'dark areas' as shown on submitted drawing no. P.01.07

19. Set of agreed criteria to trigger contingencies (should coastal retreat result in the loss of land at the cliff edge)
20. Integrated lighting and landscape design strategy
21. Use of tinted glass on lodges 39,40,41,43,44,45,73 and 74
22. Provision of new bat roosts
23. Schedule of materials for development

### **Relevant Policies**

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