

**Application Number**

P/2011/0197

**Site Address**Land West Of  
Brixham Road  
Paignton  
Devon  
TQ4 7RZ**Case Officer**

Mr Scott Jones

**Ward****Description**

RE-ADVERTISEMENT (REVISED ACCESS DETAIL)-Mixed Use Development of 39 Hectares of land at White Rock, Paignton to construct 350 dwellings , 36,800m2 gross employment floorspace, a local centre including food retail (approx 1652m2 gross) with additional 392m2A1/A3 use and student accommodation, 15 hectares of open space, sports pavillion and associated infrastructure and engineering works to provide access, drainage and landscaping (Outline Application) -THIS APPLICATION IS ACCOMPANIED BY AN ENVIRONMENTAL STATEMENT. THIS IS A DEPARTURE FROM THE TORBAY LOCAL PLAN

**Updated Executive Summary / Key Outcomes**

The application is an outline planning proposal that returns to committee following its consideration at the November 2011 meeting.

The proposal remains unchanged and is a mixed use scheme for housing, employment land and open space / community facilities on a site partly designated for employment and partly undeveloped and unallocated farmland within the Saved Local Plan. The committee are reminded that it is an EIA (Environmental Impact Assessment) application due to the magnitude of the potential environmental impacts and the sensitivity of the site, and as such the application is accompanied by a full Environmental Statement.

Officers consider that the scheme will provide the potential for significant investment in the area that would bring forward a balanced development of employment, housing and associated community facilities. This is also supported by substantial off-site ecological enhancement works and improved public access into the countryside by way of a proposed circular woodland walk.

The scheme provides the opportunity to secure significant investment in Torbay and to provide economic growth and stimulus.

For the sake of clarity the November Committee resolution was as follows;

*Deferred for further negotiations in relation to the ecological impact, the vehicular junction/access opposite Kingsway Avenue and the terms of the Section 106 Legal Agreement. The item was also deferred for confirmation in writing that the Environment Agency was now satisfied with the proposed drainage strategy.*

Detail on the progression of the four key outstanding issues cited above is discussed below along with an update on other matters of relevance. All previous considerations are detailed in the reproduced committee report from November 2011.

### **Updated Recommendation**

Site Visit; Conditional approval (conditions to be delegated to the Executive Head of Spatial Planning), subject to the finalised resolution of matters in respect to ecology, and written confirmation from the EA in respect to their support for the flood drainage strategy, and subject to the signing of a S106 legal agreement in terms acceptable to the Executive Head of Spatial Planning within 6 months of the committee date.

### **Summary of progress on the four outstanding matters;**

#### ***1. Ecology***

The key issue is considered to be the implications of the development upon the European SAC (Special Area of Conservation) at Berry Head, where the favourable status of the Greater Horseshoe Bat roost, including the surrounding foraging area, should be maintained. Wider issues include the implications upon Cirl Buntings, an identified Priority Species and wider biodiversity concerns.

The Council's ecological advice has concluded that the scale of development is unlikely to give rise to any significant cumulative impact as long as other development proposals in the surrounding area also provide adequate on-site mitigation and compensation measures. These measures should provide for the continued use of strategic flyways and continuity of flight corridor features for the Greater Horseshoe Bat. Appropriate measures should be secured through planning conditions and/or S.106 Agreements as necessary to protect the favourable status of the Berry Head roost and foraging area.

The Authority is awaiting comment from Natural England in respect to their view on the detail and conclusions of the Habitat Regulations Assessment summarised above. Natural England have been concerned that information submitted does not provide clear assurances that the development would achieve a net biodiversity gain consistent with requirements associated with the NERC Act and PPS9 *Biodiversity and Geological Conservation*.

The RSPB have highlighted that cirl buntings thrive in the area and that not all of

the previous concerns have been fully addressed to adequately compensate for the loss of year-round cirl bunting habitat. The RSPB recommended that a financial contribution via a section 106 agreement should be made to the Council to secure cirl bunting habitat acquisition and management elsewhere if further land management and enhancement nearby cannot be secured directly.

However, the ecological advice from the Council's consultants and the view of officers is that, pending further discussion with Natural England and RSPB, the matter of the ecological impact of the development can be satisfactorily resolved. As such, officers recommend approval on ecology grounds, subject to the resolution of the outstanding detailed matters with Natural England/RSPB.

## **2. Access arrangements on to Brixham Road**

The Authority's Strategic Transportation Team now accept a second junction arrangement and are supportive of the revised junction detail on to the Brixham Road. This support is contingent upon the revised proposal for improvements to the Long Road junction and on the revised approach to the design of the new junction opposite Kingsway Avenue. This support is also subject to suitable detail, conditions and financial contributions in order to address matters of detail in the alterations to the highway.

In summary the Authority's highway advice is that the current proposals should be supported by the following;

- £15,000 for signing and lining along Long Road South from the College to Stoke Road, and in Gibson Road / Kingsway Avenue

- A refundable £25,000 bond to be used after 2 years of 50% of the site (units + residential) being occupied should rat running become an identified data led problem in either Long Road South or Kingsway. Costs of monitoring should be borne by the Applicant.

- Highways SPD contribution for general improvements to the Western Corridor to enable this development

- Sustainable transport SPD contributions to provide:

- a. a quality bus service through the site 7 days a week to service residents, employment, retail and leisure facilities on the site as well as to and from it

- b. well signed external links to the on site green corridor provision, connecting beyond the site boundaries to areas within reasonable walk / cycle distances along safe, sustainable routes and specifically to:

- i. Education Sites:

1. South Devon College,
2. Paignton Community College,

3. Roselands Primary School, and
4. White Rock Primary

ii. Cherrybrook Medical Centre,

iii. Sainsburys, and

iv. The local shops in Kingsway

- A robust Residential Travel Plan and an area wide framework Business Travel Plan for the employment areas, which will require individual occupiers to develop their own Business Travel Plans.

- All construction details including design layout and material specifications are to be agreed with the Highways Department under a Section 278 Agreement.

It is anticipated that a highways officer will be available to respond to questions on this issue at the committee meeting.

### **3. S106 terms**

An independent viability assessment has been carried out and discussions about the viability of the scheme and the consequent content of the s106 agreement are ongoing. Officers will be requesting that the detail of the heads of terms of the s106 agreement be delegated to the Executive Head of Spatial Planning for final resolution. Further information has been requested in relation to the viability of the proposals and the cash flow for the developer which will ultimately determine the extent of the Agreement.

Matters currently being discussed as potential s106 heads of terms include the following:

1. The provision of on-site affordable housing. The current offer from the developer has increased from 15% to 20%, discussions are ongoing as to whether or not this is the appropriate figure. In any event a deferred contributions arrangement should be secured in relation to any matter not achieving the Council's current policy position in relation to the current viability of the project.

2. Phasing arrangements to secure the timely provision of affordable housing, serviced employment land, employment buildings, commuted payments, highway works, strategic landscaping, public open space and other key elements of the scheme.

3. A commuted sum payment to defray the costs of infrastructure (current offer £500,000), including education, off-site highway works, public transport, libraries etc) - subject to resolution of IVA and to incorporate a deferred contributions

arrangement in the event that the contribution falls below the Council's policy, subject to further negotiations on the viability of the scheme.

4. CHP Plant - Delivery of future-proofing infrastructure to serve a Combined Heat & Power supply. Total cost of all work, including building, boilers and pipe work to serve development has been costed at £2M. The precise level of future proofing is to be agreed.

#### 5. Western Bowl

- Completion of 40,000 sq ft of employment space, capable of single or multiple occupation, triggered in accordance with the phasing plan
- Construction of new access and spur road to service the site and the 40,000 sqft building within 6 months of planning consent.
- Implementation of strategic landscaping, strategic drainage and flood attenuation early in the phasing of the development
- The provision of additional employment space in the Western Bowl at agreed trigger points in the phasing of the scheme or alternative arrangements to secure employment provision, subject to further negotiations on the viability of the scheme.

The purpose behind the above is to secure the delivery of employment space in the Western Bowl. In the absence of clauses to secure its provision, the employment space is unlikely to be delivered, as the viability assessment demonstrates that the development in the Eastern bowl is subsidising the Western Bowl.

At the present time the developer is willing to sign up to an agreement to deliver 20-40,000 sqft, but not the remainder of the employment space in the Western Bowl.

It is noted that there is employment provision in the Eastern Bowl that will make a significant positive contribution to Torbay's employment space.

#### 6. Eastern Bowl

- Innovation Centre land to potentially be provided free of charge to Council, with freehold interest and serviced. Acceptance that the Council be required to deliver Innovation Centre within specified period (TBA), or develop an alternative acceptable scheme.
- New access to be provided very early in the development, possibly 6 months from OPP (without prejudicing reserved matters).

#### 7. Other Matters

- Provision of potential drainage infrastructure as deemed necessary, subject to outstanding comments from the Environment Agency.
- Provision of further ecological enhancement measures, as deemed necessary through ongoing discussions with Natural England and the RSPB

#### **4. Drainage and Flood Risk:**

The Water Resources chapter of the EA and the Flood Risk Assessment by Clarkebond, dated February 2011, provide an assessment of the drainage capacity of the site and the risk of flooding as a result of the proposed development.

The FRA document also sets out appropriate measures to reduce flood risk. The Environment Agency has requested further information in this regard and this was submitted on 01 November. This latest information provides a strategy for the sustainable drainage of the surface water within the Western Bowl. As identified at the bottom of page 2 of the supporting information from Clarkebond, dated 31 October, the strategy includes the following:

- provide soakaways where practical – subject to confirmation through site soils testing,
- in the absence of confirmed site soils a worse case strategy is presented assuming that infiltration is not feasible, the worse case strategy is presented on the basis of:
  - providing permeable paving to the site car parking (where practical),
  - provide a new on-line attenuation basin to accommodate up to the 100 year event with 30 % allowance for Climate Change
  - provide a complex control to restrict discharge from the proposed on – line attenuation basin to Greenfield Runoff Rate (as identified in the original FRA).
- The scheme also provides 3 No. new gullies or the modification of the existing hedge line to naturally shed flows from the road to the existing attenuation basin (lagoon).
- Provide a 100m<sup>3</sup> sump within the existing attenuation basin (lagoon).

The result of this strategy will be that the site will be self sufficient in drainage terms and will not rely on the existing lagoon near to Long Road. In addition, the strategy includes improvements to resolve existing flooding problems on Long Road.

The responses of South West Water, the Environment Agency and the Council's

drainage engineer in respect of this revised strategy are awaited, but it is anticipated that the response will be positive, given the ongoing discussions that have taken place between the applicant and these organisations.

It will remain necessary for the applicant to carry out foul drainage investigations to establish whether capacity is available in the public sewer network. If the result of these investigations leads to the requirement for improvements to the network, these will need to be funded by the developer.

Planning conditions will be required to secure the appropriate surface water drainage scheme and to ensure that development does not commence until foul drainage investigations and the identified improvements have been undertaken.

As such, officers recommend approval on drainage grounds, subject to the resolution of the outstanding detailed matters with the Environment Agency.

### **Summary Of Updated Consultation Responses**

For previous comments please refer to accompanying details within the reproduced November 2011 committee report.

Update comments:

#### *Natural England:*

Latest correspondence states that Natural England will comment shortly on the conclusions of the Authority's HRA (Habitat Regs Assessment), in respect to effect on the local Greater Horseshoe Bat colony. Natural England maintains the view that the current mitigation does not satisfy NERC and PPS9 responsibilities in respect to protected species and wider biodiversity protection.

#### *RSPB:*

A response to the updated November ecology statement advised that not all of the previous concerns have been fully addressed and therefore to adequately compensate for the loss of year-round habitat it is recommended that the Authority seek a financial contribution via a S106 to secure cirl bunting habitat acquisition and management elsewhere.

#### *Environmental Protection & Consumer Health:*

It would be prudent to attach a condition in respect to the submission of detailed plans for the new dwellings proposed adjacent to the existing business premises including the mitigation methods that they will be using to prevent the residents being caused a nuisance from an already established business.

### **Conclusions**

The proposal provides the potential for significant investment in the area which would bring forward a balanced development of housing with associated

community facilities. This will be likely to benefit the established local community, and will provide a range of employment opportunities through the local centre, office development and industrial units.

The mix of uses and the broad development proposals are considered commendable in terms of their planning merit and the fostering of regeneration and economic benefit for Torbay.

The four key outstanding matters, in respect to access, ecological mitigation, resolution of the detail of the 106 agreement, and comments from drainage experts, are either resolved or close to resolution.

Officers support the scheme and consider that the outstanding matters can now be delegated to the Executive Head of Spatial Planning for resolution.

PLEASE REFER TO THE PREVIOUS COMMITTEE REPORT BELOW FOR THE FOLLOWING;

- SITE DETAILS
- DETAILED PROPOSALS
- SUMMARY OF REPRESENTATIONS
- SUMMARY OF CONSULTATION RESPONSES
- PREVIOUS CONSIDERATIONS /CONCLUSIONS AND RECOMMENDATIONS

**Conditions -**

Full schedule to be completed, conditions to be delegated to the Executive Head of Spatial Planning

**PREVIOUS COMMITTEE REPORT – NOV 2011 -**

**Executive Summary / Key Outcomes**

The application is an outline planning proposal for a mixed use scheme for housing, employment land and open space / community facilities, for a site partly designated for employment and partly undeveloped and unallocated farmland within the Saved Local Plan. This is an EIA (Environmental Impact Assessment) application due to the magnitude of the potential environmental impacts and the sensitivity of the site. As such the application is accompanied by a full Environmental Statement.

Holistically the proposal provides the potential for significant investment in the area that would bring forward a balanced development of employment, housing and associated community facilities, supported by substantial off-site ecological enhancement works and improved public access into the countryside by way of a proposed circular woodland walk.



The mix of development is considered acceptable and the proposal is supported on planning merit subject, principally, to the resolution of i) the access arrangements to the eastern bowl adjacent to Brixham Road, ii) suitable off site ecological enhancement to mitigate against potential implications upon protected species, and iii) the resolution of outstanding s106 viability matters. These matters appear resolvable should the Committee be minded to approve the scheme and it is therefore anticipated that members would be in a position to approve subject to the resolution of the outstanding matters.

### **Recommendation**

Site Visit; Conditional approval (conditions to be delegated to the Executive Head of Spatial Planning), subject to the satisfactory resolution of matters in respect to ecology, access, viability, flood risk (in respect of further comment requested from the Environment Agency), the views of Environmental Protection in respect of the submitted noise assessment; and subject to the signing of a S106 legal agreement in terms acceptable to the Executive Head of Spatial Planning within 6 months of the committee date.

### **Site Details**

The application site comprises a 39 hectare plot of land bound to the east by Brixham Road and to the north in part by buildings off Long Road and in part by Long Road itself. The southern boundary of the site also comprises the Authority boundary between Torbay and South Hams. At present there are a number of buildings to the east of the site and recently constructed road infrastructure which has been constructed in connection with earlier approvals at the site. The developed and previously developed portions of the site comprise 6.8 hectares. The site comprises two topographical 'bowls' one to the west and one to east of the site, with higher ground towards the centre of the site.

To the south and west are a number of wooded areas; Waddeton Road Plantation, Shopdown Copse and Peter's Copse. A number of hedgerows cross the site.

The eastern section of the site is allocated in the Saved Local Plan for new employment uses surrounded by strategic landscaping. The remainder of the site is within the Countryside Zone and the majority of the site (excluding the area to the north east adjacent to Long Road and accessed via Waddeton Close) is within an Area of Great Landscape Value. Brixham Road, running north/south to the east of the development site, is part of the Major Road Network.

The extent of additional land within the applicants control is also indicated on the submitted O/S plan and the extent of land within the applicants control provides the opportunity to secure appropriate off-site landscaping and ecological mitigation.

## **Detailed Proposals**

This application is in outline with all matters reserved except for access. Therefore all drawings and illustrative material submitted with the application are indicative apart from those which detail the new junctions and accesses into the site. One of these is proposed from the eastern bowl onto Brixham Road, approximately opposite the Kingsway Avenue junction. The second is from Woodview Road into the western bowl, between existing employment buildings within the Woodview Road industrial estate.

The eastern part of the site would accommodate the following uses:

- 11,495 sqm employment (offices)
- Energy centre
- 350 dwellings
- Student accommodation (approx 50 units)
- 392 sqm general retail
- 1,188 sqm food retail
- Community building

The western part of the site would accommodate the following uses:

- Up to 25,319 sqm employment floorspace within use classes B1 (office), B2 (General industry) and/or B8 (Storage and distribution). This is indicated as being distributed between 8 buildings.

The masterplan drawings indicate 8.4 hectares of public open space including local areas of play, local areas of equipped play, a grass football pitch adjacent to the community buildings, and a multi-use games area. An area of allotments is also proposed.

A number of areas of off site mitigation in the form of woodland planting are proposed. The total provision extends to some 9Ha and whilst the vast majority of this planting was required by the 2005 consent relating to the business park, additional planting is proposed around the Western Bowl. In addition, changes have been made to the planting following the initial submission of the scheme, these changes effectively provide a more continuous link for the woodland walk that is proposed within the new woodland and provide enhance connectivity for biodiversity purposes.

This is an EIA (Environmental Impact Assessment) application due to the magnitude of the potential environmental impacts and the sensitivity of the site. As such the application is accompanied by a full Environmental Statement (ES). The ES provides details on the following areas of assessment:

Landscape and Visual Impact  
Lighting Impacts

Ecology and Nature Conservation  
Cultural Heritage  
Water Resources  
Traffic and Transport  
Noise and Vibration Impacts  
Socio Economic Effects

These issues have been considered in detail in consultation with relevant statutory and non-statutory bodies and the prime material considerations are covered within the main body of this report.

### **Summary Of Consultation Responses**

#### *Torbay Design Review Panel:*

Comments on the live outline application commend the clarity of the proposal and the evolution of the scheme and the improvements from the previous scheme. Key points noted are;

1. The entrance to the development, in particular the nature of the junctions to Brixham Road is critical to the success of the development both in terms of place-making and in making the vital connections to Goodrington.
2. Questioned the potential to lessen the dominance of the roundabout infrastructure inherited from the business park aspirations in the eastern bowl area.
3. Supports the more successful integration of the park, amenity area and open spaces.
4. Questioned the layout around the retail unit and the potential to provide a more continuous, balanced street scene.
5. The road infrastructure supporting the configuration of the housing was thought to be very conventional and the site could sustain more innovative and bespoke street design.
6. A sense remains that the landscape strategy is filling in the gaps or being used as screening rather than helping to determine the character of the place.
7. Pleased to see the emerging strategy for district heating.

#### *Natural England:*

Natural England object to the proposed development on the basis that the application contains insufficient information to effectively determine the impacts upon the Greater Horseshoe Bat interest associated with the South Hams SAC (Special Area of Conservation).

Considerations of impact include that the proposed development is within the identified sustenance zone and within 400metres from a strategic flyway.

Further information, provided on 21 October 2011, is considered not to have satisfied matters in respect to methodology, off-site biodiversity enhancements, biodiversity losses and gains, and green infrastructure.

*RSPB:*

The site is located in an area that is extremely valuable for ciril buntings, which is a rare and priority species. Parts of the site have been recorded as breeding territory and further territories have been recorded within a 1km radius of the site. Negative impacts at construction and post-development stages have been identified and the RSPB consider that should permission be granted, consent should be made conditional on the following;

- no vegetation clearance during the breeding season
- existing habitat of value for ciril buntings should be retained where possible
- where there is a loss of ciril bunting habitat on site there should be mitigation, ideally via off site replacement habitat
- should replacement habitat not be secured, funding to secure appropriately managed land within the Borough should be sought via S106.

*The Barn Owl Trust:*

Although the Environmental Statement provides no evidence at any of the surveyed buildings within the site, the surrounding area does provide suitable foraging habitat for Barn Owls. The trust holds 53 records of Barn Owls within a 5km radius of the site. There is hence good reason to believe that Barn Owls may use the area and the lack of provision within the development is a wasted opportunity. Considering the duty to have regard to the purpose of conserving biodiversity the trust recommends that permanent provision be sought in at least two buildings on the periphery of the site, ideally facing West or South, inline with Natural England advice '*Barn Owls and Rural Planning Applications*'.

*Torbay Coast and Countryside Trust:*

Comment provided in respect of biodiversity, green infrastructure/ access to the countryside, food growing, orchard provision, open space and water management. The trust states that the scheme incorporates a number of commendable green infrastructure features, they confirm that the woodland walk is welcomed, as is allotment space and the potential for a community orchard. Comments do however conclude that current proposals still do not sufficiently address the loss of biodiversity onsite, specifically in regard to the impact upon the Greater Horseshoe Bat. In this regard the trust advises that significant

amendments should be made to address the issues before the application is determined.

*Environment Agency:*

Measures over and above those identified within the Flood Risk Assessment by Clarkebond, dated February 2011, will need to be implemented, as failure to achieve such measures risks an increase in flood risk which would be contrary to guidance in PPS25. Supplementary comments, dated 28 September 2011, state that, although improvements have been made, there remains a degree of uncertainty as to flood risk that will need to be addressed prior to determination. At the very least a revised Drainage Strategy Drawing should be submitted.

Since these comments have been made further information has been submitted for consideration and it is anticipated that this will overcome the Environment Agencies outstanding concerns in this respect. This matter is considered further within the main body of the report.

*Drainage Department:*

The proposals for the surface water drainage within the eastern bowl are in accordance with a previously agreed drainage strategy for this area. This involves the assumption of individual soakaways for each residential property, which may however be precluded due to ground conditions. An alternative strategy should be identified if this is proven to be the case. The tanked attenuation feature in the western bowl is accepted, following discussions and agreement with South West Water. It would also be beneficial for the detailed design stage to identify elements of car parking and highways which could be constructed using permeable paving in order to further reduce surface water runoff and reduce the risk of flooding.

*South West Water:*

The details of the scheme are acceptable in terms of the potential impact upon the public surface water drainage network.

Regarding foul drainage investigations are required to establish whether capacity is available in the public sewer network. The investigations would need to be funded by the developer as will any improvements necessary and planning permission should not be granted until any developer financial contributions are secured by way of a S106. Until such time as the investigations have been undertaken and the cost of any improvements identified, it is suggested that planning conditions are attached to preclude development until such time as the investigation has been carried out and any necessary improvements have been completed at the developer's expense.

*Police Architectural Liaison Officer:*

The development has the potential to alter the social structure of the area. However these potential changes can be mitigated by good design which can be

applied when the detailed reserved matters applications are made.

*Devon County Council:*

As the adjoining mineral planning authority the Council does not wish to raise any objection.

*Strategic Transport / Highways:*

Whilst there is support for the development in general from highways, there is concern over the proposals to provide an additional unrestricted traffic lighted junction into the site. Although the proposal for further growth in the area is acceptable, with appropriate contributions towards the western corridor improvements, the case for the need for a further signalised junction has not been successfully made.

There are already four signalised junctions with a further junction already agreed within a 1.8km stretch of the Brixham Road, which is part of the Major Distributor Network. Policy states that new access points will not be permitted where they would reduce road safety or detract or conflict with the function of the route. Although the Traffic Assessment attempts to show that the delay is acceptable, any signalised junction introduces a delay to a network and for a major network this is unnecessary delay. Highways contend that such delay would fall foul of the policy on conflicting within the function of the route.

The existing junction on Long Road has already been provided to give access to this area. However, a new second access for public transport, pedestrians and cyclists would be agreeable.

£500,000 highway contributions should be sought to support the following improvements;

- Provision of an additional lane heading North West away from the Long Road Junction
- Provision of an additional lane heading South East towards the Long Road Junction
- Provision of an additional lane between Yalberton Road and Borough Road

*Environmental Protection & Consumer Health:*

A number of investigations have been carried out previously in the development area and results show that the level of contamination is minimal and that only arsenic is at an elevated level. Although arsenic is naturally occurring it nevertheless can have serious health impacts. It is therefore advised that a full survey of the residential areas be carried out and mitigation measures be put in place if necessary. The proposal is recommended for approval with conditions relating to ground investigations.

*Torbay Development Agency:*

The TDA has requested that a minimum of 40,000 square feet of commercial units are built prior to the completion of a certain number of residential dwellings in order to ensure the tandem delivery of homes and jobs. There is no minimum specification required for these units other than that each unit should be delivered with the necessary infrastructure and wiring to connect into the energy centre or bolt on solar and PV panels. It is envisaged that the remainder of the commercial units would be delivered on a pre-let basis. The delivery of units could be secured via phasing arrangements / delivery triggers in the s106. The delivery of key elements of the scheme is to be subject to further consideration once the full independent viability assessment is available.

### **Summary Of Representations**

#### *Community Consultation -*

The application is accompanied by a Statement of Community Involvement. The scheme has been subject to extensive community engagement and has changed over time to reflect comments made by community and other stakeholders. Early engagement took place at pre-application stage and following the submission of the application the White Rock Neighbourhood Forum was set up to ensure that the community and all relevant stakeholders were fully involved in the consultation process. The relevant stakeholder groups included the community partnership, local councillors, and South Devon College.

Extensive exhibitions have been held consisting latterly of a three day exhibition in a local hall and consultation boards within two local libraries. In order to ensure that knowledge of the event reached potential interested leaflets were posted to 400 local residents and a number of public notices were placed in the local press. Key stakeholders were also contacted by letter.

174 people attended the three day exhibition and 41 comments were received via the optional feedback forms.

It was considered that the sessions and formal responses generally identified that the cumulative effect of a number of proposals within the area was a concern, particularly in relation to traffic.

Further consultation with the interested parties was undertaken in November 2010 with a Project Team feedback which discussed the key issues which were raised.

Feedback in relation to the public consultation exercise itself has been very positive and it is considered that the local community has been included successfully in this process. In fact many have viewed this as a potential exemplar scheme for community engagement that sets a benchmark standard for other developers to follow.

The following lists the key issues raised in the representations, a copy of all the representations has been provided for members:

- Traffic congestion
- Concerns about new junction
- Danger to pedestrians and cyclists
- Concerns about rat-running/large vehicles in residential areas & country lanes
- Concerns about the food retail
- No need for new retail
- No need for commercial premises/many vacant available
- Departure from local plan
- Loss of open space/habitats/agricultural land
- No need for new housing
- Concern that housing would be unaffordable
- Student accommodation should be closer to college
- Development would result in need for more health care facilities
- Cumulative impact with other developments in vicinity needs to be considered
- Damaging to tourism industry
- Concerns about flooding
- Impact of proposed footpaths on adjacent farm
- Advantages to community from open space, woodland and allotments
- Need for housing

### **Relevant Planning History**

P/1994/0914	Erection of buildings for classes B1, B2 and B8 use together with associated works (in outline) – PER – 03/03/1995
P/1999/1641	Variation of condition (b) of planning application P/1994/0914 to extend period for outline approval to March 2002 – PER – 31/01/1999
P/199/1642	Construction of service roads and groundworks incidental to the use of land uses (employment)- PER – 31/01/1999
P/2001/1047	Erection of employment units for classes B1, B2 and B8 – PER – 18/10/2001
P/2001/1662	Erection of employment units for class uses B1m B2 and B8 additional land for car parking and first floor accommodation – PER – 18/02/2002
P/2003/1057	Erection of employment units for class B1, B2 and B8 uses – PER – 11/08/2003
P/2003/1693	Erection of employment units for class B1, B2 and B8 uses with car parking – PER – 02/12/2003
P/2004/1621	Outline application for the erection of buildings comprising a business park totalling not more than 55,740 sqm of accommodation (including ancillary accommodation)



	comprising a hotel/conference facility (use class C1), Creche (use class D1), restaurant and/or public house (use class A3/A4), Health and fitness centre (use class D2) and small scale retail units (falling within use classes A1, A2 and/or A3) with associated infrastructure and engineering works to facilitate access, parking, landscape and drainage requirements (in outline) – PER - 04/08/2005
P/2006/1843	Roads, sewers, attenuation tanks and enabling works – PER – 11/04/2007
P/2007/0970	Construction of roads, sewers, attenuation tanks, utilities/services, street furniture and enabling works, lighting and landscaping works – PER – 15/08/2007
P/2010/1379	Formation of 61 bed hotel (c1) and pub/restaurant (A3/A4 with associated car parking and landscaping – PER – 25/05/2011

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

#### **Principle and Planning Policy -**

It is first recognised that the proposal is a departure from the provisions of the local plan, as a substantial part of the residential element sits over land designated for employment use, which was granted permission as such in 2005 but has not come forward. For the ease of understanding, this previous approval is considered to relate to an area of the site loosely termed as the ‘eastern bowl’.

The proposal also introduces development adjacent to Shopdown Copse on land loosely termed as the ‘western bowl’. For clarity the western bowl is an area of undeveloped farmland sited immediately adjacent to the existing Woodview Road business park, although this is visually severed from the eastern bowl by a raised copse. This commercial and industrial development on the western bowl is in lieu of the allocation for employment on the eastern bowl, which is now to provide a mix of uses, but primarily residential development.

The overall scheme mix provides the right conditions for employment land to come forward, and will also result in a balanced development that would create jobs, housing and community facilities.

Although it is noted that the application is in outline with only access fixed, the large amount of contextual detail submitted provides for a strategic approach that will deliver housing, offices and retail within the eastern bowl in order to enable employment development to come forward in the western bowl.

#### *Employment provision*

The proposed employment development provides industrial (B-Class), office and retail opportunities, supportive of Local Plan Employment Policies, which seek new jobs and economic regeneration within sustainable locations that can be

easily accessed. The retention of employment land previously established, albeit predominantly moved from the eastern bowl to the western bowl, also satisfies the retention of specifically allocated land.

In regard to the movement of the employment development away from the allocated site there is acceptance that the choice of location within the Western Bowl is a suitable location for such a development. This would extend and support the existing established employment site on Woodview Road and would also provide fresh opportunities for a full range of businesses from large-scale employers down to those requiring starter units. The proposed site is also retained within a location that can encourage sustainable travel to work patterns, as it sits close to established residential areas and strong public transport links.

#### *Residential element*

The proposed housing on land designated for employment within the eastern bowl adjacent to Brixham Road appears acceptable in terms of its general planning merit, as provision is made for employment elsewhere within the site. As the scheme provides replacement serviced employment land within the area of the western bowl, supplemented by office and retail development maintained within the eastern bowl, the addition of housing within the scheme supports rather than weakens the employment potential of the site. Such higher value uses enable the development to provide a robust mix that facilitates employment generation and the creation of a sustainable community.

The Government's Draft National Planning Policy Framework has recently been issued for consultation and indicates the Government's intention to introduce a 'presumption in favour of sustainable development' and a clear intention to increase the supply and delivery of housing. The ministerial forward to the document indicates that development that is 'sustainable' should be approved without delay. The draft NPPF also requires that the Local Plan meets the full requirements for market and affordable housing, and planning authorities should maintain a 5 year (plus 20%) supply of specific deliverable sites. Whilst this direction of travel is not established fully, due to the draft nature of the NPPF it is considered material to consider the nature of the development in this context.

There is also a significant amount of information about the extent of housing need most recently identified in the Exeter and Torbay Strategic Housing Market Assessment (2011 Update) which highlights a need for the delivery of around 820 dwellings a year. The evidence of need is likely to continue to be a material consideration even when the Localism Bill becomes law. Whilst this need should be measured against the significant constraints to development in Torbay, it is likely that the Council will seek to provide around 500 dwellings per year within the forthcoming plan period.

The Ministerial Statement accompanying the 'Planning for Growth' White Paper indicates a presumption in favour of development except where it would

compromise key sustainable development principles and as stated, the emerging National Planning Policy Framework encourages growth and looks set to retain a 5 year housing supply target plus 20%.

The proposed site at White Rock will enable the provision of some 350 dwellings in a sustainable location, served by good transport links and services. The housing development will also act as a pump priming use for the development of serviced employment land within the Western Bowl. The mixed use nature of the scheme will ensure that there is an appropriate balance of uses in order to provide for a vital and viable community.

With employment potential safeguarded and housing policy set out above, the key further consideration in respect to the housing subsequently falls on the suitability of the site which has not previously been designated for such a use. Policy guidance outlines that housing schemes should be sustainable and respond to the local housing need, within appropriate locations. They should provide an appropriate mix and density, ensure good access to facilities and infrastructure, and avoid physical and environmental constraints. The scheme is considered to be consistent with these aims. In regard to environmental constraints, although the matters of land contamination and flood risk appear acceptable, ecological constraints remain unresolved and will be discussed later in this report.

#### *Community / open space provision*

In addition to the housing and employment land, the scheme proposes a large degree of public open space, which includes 8 hectares of informal open space, a full size grass football pitch, a multi use games area, equipped play facilities and further open greenspace for allotments / community orchards. The provision of these supportive community facilities, including a community pavilion building, is considered entirely appropriate and is inline with the objectives of providing balanced developments that meet the wider recreational needs of the area. The inclusion of these land uses is considered a significant positive aspect of the development. Certain of these elements, such as the extent of public open space and the provision of the community pavilion.

To conclude, in respect to principle and planning policy, the scheme provides a complimentary and extensive mix of uses within a sustainable location close to established transport links, employment land and residential suburbs. The scheme is therefore considered to sit comfortably with Local Plan Housing, Employment and Retail Strategies, notwithstanding that the scheme departs from land use allocations within the Local Plan.

Notwithstanding these points it is also accepted that the proposals should not adversely affect the built or natural environment and the implications of the development, most importantly in terms of landscape and ecology, will be discussed separately within this report.

**Retail -**

The eastern bowl is expected to provide a local centre with retail space and offices. The retail assessment (dated September 2011) provided with the application, followed discussions with officers. The retail assessment demonstrates that the retail provision is appropriate in this case.

The store will provide for primarily top-up and basket shopping with limited provision for weekly shopping for smaller (single and double person households). The retail impact of the store is not assessed as being significant, the shop will anchor a new local centre to support both the new development and existing housing at Kingsway and the wider Goodrington area over the Brixham Road. The impact on existing retail provision within the local and wider Paignton area is assessed as being very limited (see para 3.4.14 of the retail assessment in particular for detail).

**Economy -**

The masterplan proposes approximately 39,700m<sup>2</sup> of employment related floor space, which is distributed across both the eastern and western bowls. Approximately 13,895m<sup>2</sup> within the Eastern Bowl (including retail provision) and approximately 25,805m<sup>2</sup> within the Western Bowl.

The western bowl is intended to provide flexible serviced accommodation for larger employment providers. Although with flexibility in mind it is also envisaged that the development will also look to cater for starter units.

In terms of job creation the development is expected to create between 1170 and 1350 full time equivalent jobs (including the adjacent hotel and pub site on the corner of the Long Road junction which has been annexed from the proposal and is currently being developed out).

The scheme, when taken as a whole, is considered to support the growth and expansion of the area as a significant employment provider for Torbay. It is however pertinent to appreciate that with distinct areas and forms of development, in conjunction with the relocation of the bulk of the employment land away from that which is designated, it is vital to ensure a balanced delivery of uses. Delivery of the employment provision in this context is key, and further discussion will need to be had to cement agreement on the delivery milestones for the employment generating uses within the s106 agreement.

The concept of higher value uses, such as residential, providing pump priming in order that serviced employment land can come forward, makes it important to tie down the phasing between the various elements of the scheme. This will ensure the delivery of all of the core elements. It is envisaged that suitable phasing arrangements can be provided through appropriate clauses within an accompanying S106 legal agreement.

### **Ecology / Environmental Enhancement -**

*Ecology* - The proposal seeks to address the ecological implications of the development upon the favourable status of the Greater Horseshoe Bat and provide biodiversity off setting for that which is lost to development. The development includes significant off-site landscape and ecological enhancements that seek to address the on-site impacts largely focused around the implications of the loss of potential foraging land for the bats.

The lighting assessment submitted with the application looks at the likely impact on lighting levels both from a visual impact perspective and in relation to the likely impact on wildlife (most notably bats). The assessment provides the background against which a detailed lighting strategy can come forward at reserved matters stage.

As matters stand Natural England object to the proposals and negotiations between the developer, Natural England and Kestrel Consultants (the ecologists acting on behalf of the Council in this case) are ongoing.

Wider concerns pertaining to the likely impact upon Cirl Buntings and Barn Owls are also under discussion.

There would appear scope for resolution of this matter and it is requested of members that resolution to grant is subject to the acceptable conclusion of this matter to the satisfaction of the Executive Head of Spatial Planning in consultation with Natural England and the Council's instructed ecologists.

Kestrel Consultants are to provide Habitats Regulations advice to the Council in this regard and it is anticipated that this advice will clarify the approach that should be taken to the ecological mitigation measures in this case.

### **Landscape -**

The majority of the site sits under the designation of an Area of Great Landscape Value and the western bowl and central area sits under the designation of a Countryside Zone. The former seeks to ensure development maintains or enhances the special landscape character of the area and the latter seeks to protect against urban sprawl and the merging of developments.

The topography of the site and its rural hinterland is characteristically that of undulating farmland with intermittent settlements and minor rural roads. From visual assessments submitted with the application it is apparent that there are sporadic strategic viewpoints towards the site from afar.

The proposal seeks to provide strategic landscape planting and the strengthening of existing landscape buffers along the southern and eastern borders of the site to mitigate any likely visual impact of the proposal as it would

be perceived.

As the proposal is in outline with only indicative information the reserved matters stage is expected to provide further appreciation of this matter, with the potential to secure appropriate positioning, scale and elevation treatment that could aid in lessening the developments prominence.

However, as matters stand by setting development within the two bowls and using the higher points for less impacting development, i.e. the provision of public open space and community facilities, the development, together with the strategic landscape planting, provides a suitable scheme for ensuring the suitable protection of the landscape character.

### **Access -**

There are to be three principle vehicular access points into the development, the existing access off Long Road supplemented by two new access points. One access looks to serve the eastern bowl off Brixham Road and one of which serves the western bowl development off Woodview Road within an area of existing industrial development.

#### *Brixham Road Access:*

A new signalised junction is proposed off Brixham Road which will form a crossroads with Kingsway Avenue with an integrated pedestrian crossing. The access is proposed in order to supplement the existing access off Long Road for the residential development and to provide simpler navigation to the proposed local centre. As the Brixham Road is part of the Major Road Network Local Plan Policy T18 provides key policy guidance, which outlines that new access points will not be permitted where they would reduce road safety or detract from the or conflict with the function of the route. As matters stand technical data has been submitted to support the functionality of the signalised junction.

The Authority's Highways Department accept that the junction could work, however they do not support this option as they believe it would conflict with the function of the Major Road Network. They maintain that there is sufficient capacity within the existing Long Road junction and that there is no technical requirement for a second junction. They have also expressed that should a second access be considered it should be more submissive to the function of the major road network and should be non-signalised junction.

The applicant has expressed that there are wider benefits to accepting a signalised junction, which technical data shows would work, in that it would improve connectivity with the neighbouring estates and community facilities (such as schools) and improve the internal layout and general connectivity to the local centre in this part of the site.

It is anticipated that a highways officer will be available to respond to questions

on this issue at the committee meeting.

*Woodview Road Access:*

The access point into the employment area in the western bowl is considered acceptable as it does not conflict with the function of the existing route.

*Drainage and flood risk:*

The Water Resources chapter of the EA and the Flood Risk Assessment by Clarkebond, dated February 2011, provide an assessment of the drainage capacity of the site and the risk of flooding as a result of the proposed development.

The FRA document also sets out appropriate measures to reduce flood risk. The Environment Agency has requested further information in this regard and this was submitted on 01 November. This latest information provides a strategy for the sustainable drainage of the surface water within the Western Bowl. As identified at the bottom of page 2 of the supporting information from Clarkebond, dated 31 October, the strategy includes the following:

- provide soakaways where practical – subject to confirmation through site soils testing,
- in the absence of confirmed site soils a worse case strategy is presented assuming that infiltration is not feasible, the worse case strategy is presented on the basis of:
  - providing permeable paving to the site car parking (where practical),
  - provide a new on-line attenuation basin to accommodate up to the 100 year event with 30 % allowance for Climate Change
  - provide a complex control to restrict discharge from the proposed on – line attenuation basin to Greenfield Runoff Rate (as identified in the original FRA).
- The scheme also provides 3 No. new gullies or the modification of the existing hedge line to naturally shed flows from the road to the existing attenuation basin (lagoon).
- Provide a 100m<sup>3</sup> sump within the existing attenuation basin (lagoon).

The result of this strategy will be that the site will be self sufficient in drainage terms and will not rely on the existing lagoon near to Long Road. In addition, the strategy includes improvements to resolve existing flooding problems on Long Road.

The responses of South West Water, the Environment Agency and the Council's drainage engineer in respect of this revised strategy are awaited, but it is anticipated that the response will be positive, given the ongoing discussions that have taken place between the applicant and these organisations.

It will remain necessary for the applicant to carry out foul drainage investigations to establish whether capacity is available in the public sewer network. If the

result of these investigations leads to the requirement for improvements to the network, these will need to be funded by the developer.

Planning conditions will be required to secure the appropriate surface water drainage scheme and to ensure that development does not commence until foul drainage investigations and the identified improvements have been undertaken.

#### **Ground investigations and noise assessment -**

The Environmental Statement provides a noise assessment for both during and after construction and the application also includes a comprehensive ground conditions report.

In respect of ground conditions, it is considered, following a response from the Council's Environmental Protection team, that the report is satisfactory and the matter of further on-site investigation can be dealt with by way of conditions. Comments are awaited in respect of the noise assessment report, however, it is not envisaged that there will be an over riding concern in that regard.

#### **Climate change -**

The application has an embedded sustainability strategy that has sought to reduce energy consumption and fossil fuel emissions through a tiered hierarchy of using less energy, supplying energy efficiently and assess potential use of low or zero carbon sources. The sustainability statement submitted in support of the application demonstrates the developments capacity to adapt to future demands. In addition, it sets out the development's provision of appropriate sustainable energy resources and the way in which the scheme operates within environmental limits.

All homes will, as a minimum, target the Codes for Sustainable Homes standard, with later phases expected to reach Code levels 4 or 5.

The indicative masterplan allows for a site-wide district heating and power distribution centre, which could also potentially serve adjacent users within the area. The delivery of such a system is subject to a detailed viability assessment. The scheme could potentially either deliver a site/district heating and power system, or future proof the development with the infrastructure for future delivery.

The approach to drainage will deal with storm water as close to source as possible and within the confines of the site. The site is well located and well provided in terms of local services, public transport, and connectivity.

#### **Viability / S106 / CIL -**

The developer accepts that the proposals may generate the need for financial contributions for social and physical infrastructure. The scheme is currently being appraised in respect to its viability and a summary document is expected to be presented to members prior to the committee. Notwithstanding this the



developer has identified the following heads of terms;

Proposed S106 Heads of Terms –

1. Development Phasing and associated 'enabling' works to deliver serviced employment land in the western bowl.
2. Affordable housing.
3. Off-site landscaping and landscape management plan for the off-site works.
4. Transport improvements
5. Western corridor road studies.
6. One-off or phased contributions inline with the Council's SDP in regard to:

- Stronger communities
- Education
- Lifelong learning
- Greenspace and recreation
- Waste and recycling
- Monitoring obligations

### **Conclusions**

The proposal provides the potential for significant investment in the area which would bring forward a balanced development of housing with associated community facilities, which could also benefit the established local community, along with differing forms of employment provided by a local centre, office development and industrial units.

The broad parameters of this outline proposal are considered commendable in terms of their planning merit and the fostering of regeneration and economic benefit for Torbay.

Notwithstanding the above there are key outstanding matters, in respect to achieving the right access solution, a suitable level of ecological mitigation, and establishment of the situation of viability. All three matters require further justification or adaptation, but they each appear to have the potential for positive resolution should the committee be minded to delegate matters to the Executive Head of Spatial Planning.

### **Conditions -**

Full schedule to be completed

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

01. Prior to the commencement of development, details of the provision to be made for foul water drainage and the disposal of sewage from the site shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be implemented in accordance with those agreed

details.

Reason: To provide a satisfactory form of development

02. No vegetation clearance that involves the removal of habitats such as scrub or hedges, including bramble patches, shall occur during the established breeding season for Cirl Buntings unless otherwise submitted to and agreed in writing by the Local Planning Authority.

Reason: To limit the potential impact upon the Cirl Bunting population, in accordance with Policy NC5 of the Saved Adopted Torbay Local Plan 1995-2011.

03. Prior to the commencement of works, a survey shall be carried out to determine the level of arsenic and shall be submitted to and approved in writing by the Local Planning Authority. This shall include all of the following elements unless specifically excluded, in writing, by the Local Planning Authority.

1. The results of the arsenic survey and risk assessment and method statement based on those results giving full details of the remediation measures required and how they are to be undertaken.

2. A verification report on completion of the works set out in (1) confirming the remediation measures have been undertaken in accordance with the method statement and setting out measures for maintenance, further monitoring and reporting.

Reason: To ensure a suitable form of development that protects human health

04. No building hereby permitted shall be occupied, and no connection to the public sewerage system shall take place, until all improvements to the public sewerage network, rendered necessary by the development site as a whole, have been completed to the Local Planning Authority's satisfaction.

Reason: To provide a satisfactory form of development

### **Relevant Policies**

- BES Built environment strategy
- BE1 Design of new development
- ES Employment and local economy strategy
- E1 New employment on identified sites
- E119D Long Road South, Paignton (New Policy)
- E5 Employment provision on unidentified sites
- E9 Layout, design and sustainability
- TS Land use transportation strategy

T1 Development accessibility  
T2 Transport hierarchy  
T3 Cycling  
T18 Major Road Network  
T22 Western Corridor  
T26 Access from development on to the highway  
NCS Nature conservation strategy  
NC1 Protected sites - internationally import  
NC5 Protected species  
LS Landscape strategy  
L2 Areas of Great Landscape Value  
L4 Countryside Zones  
L8 Protection of hedgerows, woodlands and o  
L9 Planting and retention of trees  
L10 Major development and landscaping  
EPS Environmental protection strategy  
EP1 Energy efficient design  
EP7 Contaminated land  
CFS Sustainable communities strategy  
CF6 Community infrastructure contributions  
CF7 Educational contributions  
HS Housing Strategy  
H2 New housing on unidentified sites  
H9 Layout, and design and community aspects  
SS Shopping strategy  
S11 New Local Centres