

**Application Number**

P/2017/1304

**Site Address**Land North Of Totnes Road  
Collaton St Mary  
Paignton**Case Officer**

Mr Scott Jones

**Ward**

Blatchcombe

**Description**

Re-advertisement: Up to 94 dwellings (reduced from 97), associated landscaping, access and infrastructure (as revised by plans submitted 04.12.2018)

**Executive Summary**

This application is submitted in full for the construction of 94 dwellings with areas of public open space (including a play area) and balancing ponds, and a new vehicular access, as revised by plans received 4<sup>th</sup> December 2018.

The site forms part of a wider field and site that was subject to two previous planning applications for residential development in 2012 and 2013 (192 units and 175 units) whilst the site was unallocated under the previous Local Plan (1995-2011). These applications were both refused on grounds of principle and also due to various other material issues such as design, landscape impact, ecological concerns and flood risk.

The site is now allocated for development in the new Local Plan (2012-2030) as part of a wider Future Growth Area. There is an Adopted Masterplan for the area which identifies housing on the site and illustrates the provision of around 40-45 units. As such the principle of residential development is generally supported. Policy PNP24 of the Paignton Neighbourhood Plan also applies to the site.

Although the principle of residential development is supported the application is considered unsuitable in its' current form, notwithstanding extended negotiations with the applicant in order to try and resolve principal issues of concern.

The proposal is considered to present an overtly incongruous suburban development that relates poorly to the rural context, which will impact the character of the area, the wider landscape, and the setting of the nearby Grade 2\* rural Parish Church of St Mary. In addition the development is considered to present a poor residential environment for future occupiers due to the close proximity of properties and resultant potential levels of overlooking and loss of privacy. There are also highway safety concerns due to the lack of connectivity with the wider area and due to the detailed design of the internal highway network, where there is inconsistency with Torbay's detailed highway standards. There are further unresolved concerns on the risk of flooding.

Although the site sits in a sensitive bat flightpath associated with the Greater

Horseshoe Bats and South Hams SAC there are no ecological issues that should prevent the grant of permission, subject to achieving the identified mitigation and subject to Natural England's consultation response to the draft Habitat Regulations Assessment

It is concluded that due to the level of harm to the setting of the Grade2\* listed Church of St Mary, together with the level of conflict with policies within the Local Plan, the NPPF, and the Referendum Version of the Paignton Neighbourhood Plan, the proposal is not considered acceptable on planning grounds. In reaching this view Officers have taken into account the Council's inability to demonstrate a 5 year housing supply and the weight afforded to the broader public benefits of the scheme, which include the provision of open market and affordable housing, and the economic benefits of the construction phase and future household expenditure within the local area.

### **Recommendation**

Refusal, for reasons of design, amenity, landscape impact, impact upon heritage assets, highway safety, flood risk, and lack of a signed s106 legal agreement, where the level of conflict with policy guidance and the harm to the heritage asset outweighs the benefits of the proposal. —Taken as a whole, the adverse effects of granting permission significantly outweigh the benefits.

Detailed reasons are provided at the end of this report.

### **Statutory Determination Period**

13 weeks - extension of time agreed with the applicant in order to accept revised plans, re-advertise the proposals, and determine at the February 2019 Planning Committee.

### **Site Details**

The application site is the eastern half of a triangular shaped field set on the northern side of Totnes Road, west of Collaton St Mary C of E Primary School. The site has historically been locally known as the "Car Boot Field". The eastern half of the field which the application relates to is the lower half, where the land drops from west to east. The field is approximately 7.2 hectares and the application site is 4.5 hectares.

The northern boundaries of the site are clearly defined by existing hedges. The southern boundary that runs along the edge of the Totnes Road is a mixture of rural estate railings, scrub hedging and intermittent trees adjacent to a linear grass verge, which provides views across the field and to the rising rural landscape to the north and east. The western boundary of the application site cuts across the open field.

There is currently no vehicular access to the application site as the sole access point to the wider field is to the west of the application site. There is a pavement along the southern side of the Totnes Road however the northern side, along the site boundary, is a grass verge with no pavement.

On the opposite side of Totnes Road there is existing residential development in a predominantly linear ribbon form. These dwellings are generally set back from the road and the otherwise linear form is broken up by large trees and landscaping to the extent that the run of properties does not overtly read in close or distant views as an urban edge. To the west of the site there is a camping and caravan park. To the north and east there is open countryside land.

There are a number of heritage assets nearby. To the east a number of listed buildings sit within 200 metres of the site. Off Bladgon Road there is the Grade 2\* listed Church of St Mary, and Grade 2 Old School House and Old Vicarage. To the south side of Totnes Road close to the junction of Bladgon Road there are a further four Grade 2 listed properties, 391-397 Totnes Road. 300 metres to the west of the site is another Grade 2\* listed building, the 15<sup>th</sup> Century Bladgon Manor.

In the Local Plan the site is identified as part of the wider Collaton St Mary (Paignton North and West Area) Future Growth Area, and the Collaton St Mary Masterplan is an Adopted Supplementary Planning Document for the area (adopted February 2016). The land to the north, west and south of the Future Growth Area is designated as Open Countryside within the Local Plan.

Finally in terms of context the valley floor to the north of the site (close to the Bladgon Road) is a linear area with an identified risk of flooding.

#### **Date of Officer Site Visits:**

24 January 2018  
24 July 2018  
12 December 2018

#### **Detailed Proposals**

The application seeks full planning permission for 94 dwellings, as amended from 97 following the receipt of revised plans on the 4th December 2018.

The dwellings are all two-storey with pitched roofs, with three dwellings providing three floors due to accommodation being provided within the roof (described as 2.5 storey dwellings by the applicant).

The development is a mix of 2, 3 and 4 bed units provided within detached, semi-detached and short terraces of three. There are 50 detached, 20 semi-detached and 24 mini-terraced units. There are 66 open market dwellings and 28 Affordable dwellings, which equates to an affordable housing provision of 30%.

The materials are predominantly a mix of render and brick with 31 rendered properties and 51 brick properties. The remaining 12 properties are a mix of brick with stone (reconstituted) to two of the elevations. The roofs are all concrete tiles (three differing colours), the windows white UPVC, and the fascias are white with black guttering. Plot boundaries are defined by a mix of walls and hedges to public borders and fencing to private borders.

On-plot parking of between 2-3 spaces per plot is proposed throughout the development through a mixture of front parking courts, private driveways, covered porticos and garages.

The proposal includes a Locally Equipped Area of Play (LEAP) in the south west corner of the site adjacent to the Totnes Road, an informal green area to the south-east corner that is proposed to provide attenuation ponds and an informal orchard, and a further informal orchard greenspace in the north-west corner of the site.

The proposal includes the creation of a single vehicular access off the adjacent Totnes Road (A385) with proposed highway works to re-align the Paignton-bound carriageway in order to facilitate a short designated right hand turn lane into the site. Pedestrian access is proposed at three points adjacent to the Totnes Road with and access close to the LEAP and bus stop to the west and an access to the east close to the school, to supplement the central access. A linear pedestrian route is proposed within the site along the length of the border from the LEAP to the corner of the site near to the school.

### **Policy Context**

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

#### Development Plan

- The Adopted Torbay Local Plan 2012-2030 ("The Local Plan")

#### Material Considerations

- Referendum version of the Paignton Neighbourhood Plan\*
- National Planning Policy Framework (NPPF)
- Planning Policy Guidance (PPG)
- Published Standing Advice
- Planning matters relevant to the case under consideration, including the following advice and representations, planning history, and other matters referred to in this report.

\*The Paignton Neighbourhood Plan has recently completed its Independent Examination. Full Council resolved in November 2018 that the Plan should proceed to Referendum. Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a post examination draft neighbourhood development plan, so far as material to the application.

### **Summary Of Consultation Responses**

### **Urban Design Advisor (Pre-amendment comments)**

Comments based on the initial information submitted under planning application including the Design Review Panel Comments and Concept Masterplan Drawing No. CSA/2417/109, May 2016.

The site has been identified as potential for early development relative to the wider masterplan and as such the development of this site will set a precedent for the future sites in the area, particularly to the South of the A385 immediately opposite. Care should therefore be taken to achieve the required quality and establish the principles required to meet the desired density whilst maintaining the rural character.

The scheme has been developed since the pre-app however the primary concerns outlined are that many of the comments from the previous Design Review Panel are still relevant to the current proposals.

Particular concern on the lack of hierarchy to the streets, the 'suburban feel' of the scheme and the lack of legibility through the creation of minor places and landmarks, improved entrances and unclear pedestrian routes.

The current application fails to demonstrate that the topography has been sufficiently dealt with. It is not evident that the large retaining walls in rear gardens is the best solution for the site.

Landscaping proposals require further development to help define the character of the streets and the peripheral areas.

Concluding point is that there are still fundamental issues to be resolved before the application should be considered for approval.

### **Chairman of the Torbay Design Review Panel (Pre-amendment comments)**

Comments based on an interim Response Document (July 2018) include the following key points.

The supporting detail that expresses the contextual response is too narrow to offer the breadth of examples that would be useful in assembling the design for the site, which has new and different conditions to those present in the current village, which would need to be sensitively responded to.

Photo evidence included does not depict any semi-detached properties and whilst these may well occur in the later suburbs on the periphery of Collaton St Mary, it is these developments that are the least characteristic of the original settlement and should be regarded in Guise and Webb's terminology as a 'negative' (rather than 'neutral or 'positive') influence on future attempts to strengthen character.

Observe that in rural settlements:

- The form of streets tends in South Devon to be curvilinear (following contours) which are rarely straight, so therefore 'building lines' in rural settings are quite often curved or deflected.

- The street hierarchy tends to be pronounced, with strong contrast in width and character between main 'through streets' and smaller lanes. The pattern of the streets tends also to be radiating/focussed rather than evenly organised around a block structure, as found in urban and suburban settings.
- The form of smaller houses tends towards modesty in their architectural expression - with the lowered eaves creating architectural form which includes accommodation partially included within the roof-space (not a full two storey presentation) and an informal asymmetric composition, whereas the grander houses might have a more formal expression and have symmetrical compositional tactics. It should be noted that the scale of the existing modest rural properties tends to be reduced with a lower floor to ceiling height than contemporary expectations and this, coupled with the regularity of standard house-types, presents a primary design challenge.
- Street cross-sectional characteristics should also be noted. Relationships between pavement level and front doors (finished floor levels) may well be in response to the wider landform / drainage and therefore provides a further subtle reference to context in rural settings.
- The use of materials and finishes (appearance) tends to be quite varied, but follows a pattern based on an historical constructional sequence. Short terraces of a similar type might be in a single material and use of local stone might be more prevalent in the original core of a place. The pattern and rhythms generated are not fully random but are varied in rural settings and this 'loose organic order' can be usefully re-created.
- Detailing tends to be simple and direct (except in a few higher status dwellings) robust but minimal eaves details and porches as humble 'lean-to' types rather than formal statements of entrance predominate

The proposal has not responded positively to the Design Panel's comments.

### **Historic England**

Historic England states concern regarding the application on heritage grounds.

The proposed development is for 94 houses to be located to the north of the town between the grade II\* listed 15th century Blagdon Manor and the grade II\* listed Parish Church of St Mary, finished in 1866 and considered to be remain remarkably complete.

Although Collaton St Mary has extended to the west, the landscape around the church and the organic cluster of surrounding historic buildings has retained its rural character. This can still be appreciated through the kinetic experience around the church, on the approaches to, the views from it and the churchyard as well as wider viewpoints that take in the site and the church. The surrounding green fields reinforce the relationship between the church and the rural hinterland and its experience as a rural village church. Therefore, the setting of the church contributes to your experience and understanding of the designated asset and consequently contributes to its significance.

Historic England are not convinced that the current layout has taken into consideration the sensitivity placed on it through its contribution to the setting of the church and further steps should be taken to understand what the contribution of the site is to the significance of the asset derived from its setting.

It is the view of Historic England that the current scheme will result in harm through the erosion of the rural hinterland around the church. The harm is less than substantial but this does not mean that it is acceptable.

Conclude that the application will introduce modern urban development into the rural hinterland of the grade II\* listed Parish Church, which contributes to its significance as a rural parish church. Amendments, safeguards or further information as set out in the consultation response should be sought.

#### **Heritage Officer (Pre-amendment advice)**

The impact of the proposed scheme on the setting of the listed Collaton St Mary church group: School House (II), Vicarage (II), and church itself (II\*), two monuments and lych gate (all II) are key. Both how the church appears from the scheme, and what the views from the church and cemetery of that group will be from the scheme.

Historically Collaton was a small nucleated hamlet with dispersed properties even before the agricultural rebuilding of model farms like Collaton Farm in the 1840s/50s. Higher and Lower Yalberton to the south, and indeed Waddeton (South Hams) and Galmpton exhibited similar layouts, as do the Blagdon hamlets to the north. The response document does not explore the historical context and because of this the property layouts are unnecessarily linear.

When looking from the northeast (i.e. the direction of the church) across the development to the south west there will appear, as they rise up the slope, four rows of buildings set within three rows of street. Extant trees on the field boundaries are shown as preserved, but the planted trees are shown on plot corners or peripheries, when ideally they should be on the garden curtilage intersections as if they were standards in hedged fields, more like the pattern of the 19 century enclosures. Such planting would do much to break up the current linear nature of the plots arrayed along the street.

#### **Draft Strategic Transport (incorporating the views of the Highway Authority)**

Inadequate facilities to link to the existing network and a lack of safe and sustainable access to the site for all people. Principal concerns on the lack of a crossing point near to the two bus stops on the Totnes Road near to the west, and the lack of a secured pedestrian (and possibly cycle) path eastwards on the north side of Totnes Road to link to Blagdon Road and beyond.

The proposed vehicular junction appears acceptable.

The internal road layout raises concern. The central shared-space street is inadequately resolved to deter through-movement and is therefore likely to present a risk to road users. It does not accord with the Highway Design Guide. The wider network shows some design parameters that are inadequate for adoption purposes.

No highway drainage shall be directly connected to attenuation or pond. If this is required by the applicant, further discussions will be required with the Highways department.

Lighting along the route adjacent to the North Eastern boundary should be reconsidered. There would appear to be opportunities on the market to install lighting that can maintain dark corridors.

Finally the development would need to contribute to the Western Corridor. The total contribution due, in accordance with the SPD is £56,610. Additionally the SPD notes that improvements to the A385 Totnes Road would be required to make delivery of Collaton St Mary feasible. These costs are estimated at £1m. Based on the site and number of units proposed on the site in the Masterplan (45), this would be equal to an additional contribution of £102,273. These works would include road safety, pedestrian and cycle facilities, public transport infrastructure, rearranged parking provision, and minor congestion relief for the area from the boundary of Torbay on the A385 and the approach to Tweenaway Cross.

At present the development does not provide a safe and suitable access to the site for all users (as per NPPF). The main thoroughfares are not clearly defined and as a result the desire line for vehicles and pedestrians is not an acceptable standard. It is considered that conflict will arise in this situation between users that will result in highway safety concerns. Collectively the issues are considered to result in safety conflicts.

Should the scheme be approved, we would request the above financial contributions to reduce the impact. However, the contribution would not mitigate the lack of safe and suitable access or provide an acceptable layout.

Members will be updated of any demonstrable change to the draft comments summarised above.

### **Engineers (Drainage)**

The hydraulic modelling lacks the sufficient detail. At present it cannot be confirmed whether the surface water drainage has been designed in order that no properties on the development are at risk of flooding for the critical 1 in 100 year storm event plus 40% for climate change. In addition the surface water drainage system must be designed in order that there is no increased risk of flooding to properties or land adjacent to the site for the critical 1 in 100 year storm event plus 40% for climate change.

It should be noted that Torbay Council have identified a flood alleviation scheme immediately downstream of this development on the Yalberton watercourse. The scheme is currently identified on the Environment Agency's six year financial plan. As the surface water run-off from the proposed development is likely to impact on this watercourse upstream of the flood alleviation scheme a contribution to the funding for the flood alleviation scheme should be secured from the developer through S106 funding.

The S106 contribution to the flood alleviation scheme should be £48,692.00

### **South West Water**



No Objection. For information a public trunk water main runs through the site and no buildings/structures or alterations to ground cover (including the proposed surface water attenuation basin) will be permitted within 3.5 metres of it and neither should it be retained in private garden areas.

### **Landscape Advisor (pre-amendment comments)**

The extent and quantum of proposed residential development should be reviewed to more effectively avoid the visually more sensitive higher ground on the west part of the site, as seen in views from the churchyard of Collaton St Mary Church.

The extent of proposed residential development should be reviewed to more effectively conserve the rural setting of Collaton St Mary, in particular, the intermittent views from Totnes Road of Collaton St Mary Church tower and the important local view from Totnes Road across the west part of the Site to rising ground and hilltop woodland beyond.

Further consideration be given to the extent and design of the proposed Public Open Space, to improve on the current utilitarian design. The distribution of Public Open Space could help maintain the rural setting of the village, as well as important views.

Further consideration be given to the enhancement of landscape character, for example, by incorporating additional new trees within the residential layout, to help integrate the proposed development into the surrounding landscape and the planting of copses along some boundaries and on higher ground.

Further consideration be given to the design of the gateway location identified in the Collaton St Mary Masterplan to positively reinforce the village setting. For example, it may be appropriate to change the proposed boundary treatment in this location to 'parkland' fencing (as the existing precedent) in conjunction with open planting to maintain an attractive open setting on the village approach.

### **Landscape and Arboriculture Officer**

*Arboriculture:* The Arboricultural Impact Assessment shows that it is proposed to remove a number of small to medium (young to semi-mature) trees along the southern boundary. Proposed tree planting shows new trees along Totnes Road, with substantial planting (including an orchard) on the southern side of the site. There is also planting along the northern boundary (with an orchard in the north-east corner) and a line of trees along the western boundary. Planting in the centre of the site is much more limited. The arboricultural information submitted is reasonable.

*Landscape:* An area that covers the site has been identified as part of a wider future growth area as part of the Local Plan. The Collaton St Mary Masterplan includes the site as being an area of 'reduced landscape and visual sensitivity'. The Masterplan shows a development plan for the site that includes a planted buffer area along the A385 with new access routes and housing set back from the road. The current proposals however involve building immediately adjacent to the road.

These proposals would involve accepting substantially altered landscape views into the site, particularly from the south and east. Whilst the scheme does include

significant planting proposals for the boundaries and open space provision, the inner part of the site and southern middle section is significantly more limited due to the number of units included and the design. I recommend that this would substantially alter this part of the Collaton St Mary landscape and this would be contrary to the Collaton St Mary Masterplan.

### **CPRE (Torbay)(Campaign to protect Rural England)**

Object. The application conflicts with the approved Development Plan. The proposal departs from and conflicts with the submitted Paignton Neighbourhood Plan. The application fails to deliver key National Planning Policy. The application will significantly increase the risk of further overflows of untreated sewage into the natural environment and pollution of the Lyme Bay and Torbay Marine SAC. The application will have lasting and harmful significant effects on protected species within the South Hams SAC.

### **Ecology Advisor**

*General Ecology Advice:* There is no reason for refusal of this planning application on ecological grounds provided the proposals within the Ecological Impact Assessment are implemented and maintained in accordance with the Construction Ecological Management Plan and Landscape and Ecological Management Plan documents that have been produced. This includes the appointment of an Ecological Clerk of Works and appropriate post-construction monitoring. Recommend that these measures are secured via appropriately worded planning conditions when the application is determined.

*Habitat Regulations Advice:* Subject to securing the proposed mitigation measures outlined within the Shadow HRA, Ecological Impact Assessment, Construction Ecological Management Plan and Landscape and Ecological Management Plan, and conditions relating to the Control of External Light Spill to Maintain Dark Areas on Site and in Surrounding Areas and ecological monitoring to provide early warning of threats to bat commuting routes, the development would not have a likely significant effect on the South Hams SAC.

### **Natural England**

No Objection subject to appropriate mitigation being secured. Without appropriate mitigation the application would have an adverse effect on the integrity of South Hams Special Area of Conservation (SAC).

In order to mitigate the adverse effects and make the development acceptable, the following mitigation measures are required and should be secured:

- all mitigation and enhancement measures to address potential impacts upon greater horseshoe bats associated with the South Hams SAC.
- In addition, the delivery of further mitigation measures to ensure that the proposals are sufficiently robust.

Advise that an appropriate planning condition or obligation is attached to any planning permission to secure the necessary measures.

NE advice on the Authority's draft Habitat Regulations Assessment is pending. Members will be updated on this matter.

Broader ecology comments:

The proposals are not consistent with Policy SDP3, that states "On and off-site biodiversity offsetting will be required to provide a net gain in biodiversity (Policy SDP3 Paignton North and Western Area, Torbay Local Plan).

Also concern is raised that it would appear that the proposals offer limited green infrastructure provision.

Natural England Standing Advice applies.

**RSPB (Pre-amendment comments)**

The proposed development will not remove habitat used by cirl buntings.

The provision of integral nest boxes should be increased to an overall ratio of one per dwelling, set above 5m from ground level and close to the eaves, ideally facing north, and suitable dwellings can hold between 2 and 6.

Garden boundaries should be permeable so small mammals such as hedgehogs can move between gardens.

The Adoption Statement (March 2016) for the Collaton St Mary Masterplan Supplementary Planning Document (SPD) specifies that green and physical infrastructure needs to be put in place prior to any development. The SPD shows the land immediately west of the application site to be part of Green Infrastructure (GI) with public access. However, no information was presented with this application regards the nature of this GI (habitat types and management) and delivery timing. In our view, this information should be provided prior to determination of this application.

Vegetation that may host nesting birds should not be removed within the nesting season or only removed immediately following an inspection for nesting birds by a suitably qualified ecologist.

**Devon Wildlife Trust**

Concern raised regarding the potential effect of the proposed development on the greater horseshoe bat population associated with the South Hams SAC. It is particularly important to secure the protection of the north-east and north-west hedgerows from any lighting which would have the potential to curtail the flight of greater horseshoe bats along these hedgerows. Support the comments made by Natural England.

**Affordable Housing Team**

Support the number of affordable units being provided on the scheme - 28 in total with a proportionate mix of bedroom numbers and tenures. With over 1000 households currently on the waiting list these will go some way to providing the additional

affordable housing needed for the local people of Torbay.

With regards to the location of the affordable units these should be more pepper potted in terms of provision and request that a further 3 or 4 of the affordable housing units are switched with 3 or 4 open market units. As the plans currently stand 15 affordable units are located at one end of the scheme and in order to meet the Council's objectives around providing mixed and balanced communities we would like to see a small proportion of these distributed onto the wider site.

### **Strategic Policy Officer**

The site is within a Future Growth Area in the Adopted Torbay Local Plan 2012-30 and the Council cannot demonstrate a five year supply of deliverable housing. These are very significant factors that weigh in favour of the application and even if the Council was able to demonstrate a five year supply, the need for housing, and affordable housing would be a material consideration in favour of the proposal.

In order to override the above it we should be satisfied that the harm caused by the proposal is significant and demonstrable, so long that these matters are weighed against the housing/five year supply benefits arising from the proposal.

However a shortfall against five year supply does not override all other considerations, In particular if the proposal is considered to cause less than substantial (but still significant) harm to the setting of a designated heritage asset –in this case the setting of the Grade 2\* Listed Church- then NPPF paragraph 196 advises that the harm should be weighed against the public benefits.

### **Education Team**

There is a forecast shortfall in places in the Paignton area and a need for new provision. This is highlighted in the Council's published Primary Position Statements for Place Planning.

As a result of the forecast the Education Skills Funding Agency has agreed to support a new free school in the Paignton area, subject to capital funding for the new school. Obligations from the development could offset this capital cost.

### **Waste and Recycling Team**

The details provided in the Waste Management Plan concerning storage of waste and recycling containers and their collection are adequate.

Torbay Council's waste and recycling collection contractor is not obliged to drive onto any adopted roads when collecting waste and recycling.

### **Police Designing Out Crime Officer**

The play area appears quite isolated with natural policing of it limited to a few overlooking properties.

Tandem parking and reliance on garage parking has a tendency to increase parking on the street due to ease of use, which can increase local pressure and conflict. Where parking is to the side of properties windows should be provided for natural

surveillance.

All rear gardens are securely enclosed by use of a solid boundary treatment to attain 1.8m as a minimum height requirement

All dividing garden material should commence with a 1.8m high privacy screen for approximately 2m and then a 1.2m high (minimum) close boarded fence or wall, with the option to raise to 1.5 or 1.8m by use of trellis or ironwork.

All gates that lead to rear gardens must match the same height and robust construction as the adjoining boundary treatment (1.8m)

All gates that lead to rear gardens are capable of being locked from both sides by means of a key to ensure that rear gardens can be secured regardless of access or egress.

### **Community Safety Team**

No objection subject to a Construction Management Plan being secured by condition to limit the impact upon local amenity during the construction phase.

### **Summary Of Representations**

Publication type: Neighbour notification letters/Site notice/Newspaper advertisement. Initially advertised 24 January 2018 for a scheme for 97 dwellings. Re-advertised 12 December 2018 for a scheme for 94 dwellings following the receipt of revised plans.

70 representations have been received objecting to the proposals. Issues raised:

Not in keeping with the local area

Too many homes for the site

Overdevelopment

Too suburban

Doesn't respond to the rural context

Bad design

Highway safety concerns – inadequate infrastructure in terms of vehicular, cycle and pedestrian movement in the area

Loss of farmland

Impact upon the sewer system

Impact upon the South Hams SAC (bats)

Impact upon the setting of the church

Light pollution

Raises the same issues as previous schemes that have been rejected

Inconsistent with many policies of the Local plan

Inconsistent with the Neighbourhood Plan.

Inconsistent with the masterplan for the area

Unbalanced in terms of the need for jobs and homes

Loss of habitat

Presumption in favour of sustainable development should not apply due to the South Hams SAC.

Indistinct housing sprawl that would ruin the character of Collaton St Mary.  
Increase flood risk  
Local school already over-subscribed

Paignton Neighbourhood Forum object. The revisions fail to address fundamental issues previously raised and the proposal remains in conflict with the Local Plan, Paignton Neighbourhood Plan, and the Collaton St Mary Masterplan. Overdevelopment, impact on biodiversity, impact on landscape, impact on landscape, impact on drainage and flooding.

Collaton St Mary Residents Association object, number of objections raised.

Torbay and South Devon NHS Foundation Trust object to the proposal unless a contribution to meet the addition patient demand of £83,156.00 is secured as the Trust is operating at capacity.

Torbay Green Party object on a number of grounds.

Stoke Gabriel Parish Plan Group object.

### **Relevant Planning History**

#### **Pre-Applications**

DE/2015/0454: Development of 95 dwellings including associated access, car parking, landscaping and drainage infrastructure. Decision: Split decision, principle of residential accepted, design concerns raised and other matters raised in terms of further exploration needed.

#### **Applications**

*P/2013/0572*: Outline application for proposed residential development (up to 175 units) and associated development including provision of open space, landscaping, ponds and other associated development. All matters reserved for further consideration except access. This is a departure from the Local Plan. Refused 14.08.2013. Appeal Withdrawn.

Refusal Reasons: (1) Principle, (2) Landscape Impact, (3) Protected Species (4) Flood Risk, (5) Lack of signed S106, (6) Highway Impact.

*P/2012/1037*: Full application for development to include 197 residential units, a local centre building (ground floor only) comprising Use Class A1 floor space of 460sqm new vehicular access to Totnes Road , internal road layout, car parking, open space, landscaping, ponds, services and infrastructure and all other associated development. Refused 12.12.2012.

Refusal Reasons: (1) Principle, (2) Design and Layout, (3) Landscape Impact, (4) Lack of signed S106.

## **Design Review Panels**

*March 2016 DRP (Pre-application DE/2015/0454):*

Summary of key points:

There appears to be a gap between the analysis of the site and the vision projected for the development - the essential proposition needs to be rural rather than suburban.

The layout needs to be influenced and informed by a 'place-making' approach, rather than one led by the road layout. Roads need to become streets, parking needs sensitive handling and landscape design needs to reinforce the character of the development. If the form of the streets become less regular then their character becomes more rural and opportunities are created along them for parking, etc.

Once a more successful layout has been developed then clear parameter plans ought to be prepared and adopted through a condition in the planning permission which capture the essential strategies of the layout and ensure that there is no slippage between an outline consent and any reserved matters submissions.

The way in which the layout and individual house types respond to the slope should be assured and effortless - it ought to be an ambition of the development to achieve the least amount of earth-moving and levelling of the site in order to make a viable development.

The site continues to be in a sensitive location and accurate landscape and visual impact assessments should be used to test the revised ideas before submission.

The connections from this new community to the other parts of Collaton St Mary need to be more confidently attempted - in order that active modes of travel (walking and cycling) are firmly promoted.

See great potential in this residential development and believe that it could be a highly desirable and therefore high-value opportunity - providing that the design ambition captures all the opportunities of this potentially beautiful site.

*September 2012 DRP (Application P/2012/1037):*

Summary of key points:

The design does not make a good case for a major incursion into this relatively unspoilt valley setting.

Perceive the proposals to be a fairly standard suburban character is being imposed on a landscape setting which is essentially rural.

The architectural design is undistinguished.

The landscape strategy needs to integrate more successfully and could be used to

sub-divide and reduce the scale.

Anticipate that the quantum of development would need to be reduced dramatically.

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

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

The application site is within a wider area identified as a Strategic Delivery Area (SDA) within the Torbay Local Plan (Policy SS1 *Growth Strategy for a prosperous Torbay* and illustrated within Figure 4 of the Local Plan). This Policy identifies areas for the delivery of growth and change in Torbay for the Local Plan period. The site forms part of the Paignton North and Western Area SDA. Strategic Delivery Area Policy SDP3 (*Paignton North and Western Area*) identifies that 460 houses could be provided within the Totnes Road/ Collaton St Mary Future Growth Area over the plan period.

In addition to the above the site is also part of a wider Future Growth Area as identified within Policy SS2 (*Future Growth Areas*), where it sits in the identified *Paignton North and West Area, including Collaton St Mary* (Policy SS2.2). Policies SS1 and SS2 identifies that Future Growth Areas are areas within SDAs that show broad locations where the Council will seek to work with landowners and the community, through neighbourhood planning and/or master-planning, to identify in more detail the sites, scale of growth, infrastructure etc that is required to help deliver the aspirations of the Local Plan. Policy SS2 states that development within Future Growth Areas must be integrated with existing communities, reflect the landscape character of the area, and be timed in accordance with provision of essential infrastructure.

The site is also subject to an adopted masterplan for the wider Future Growth Area (adopted February 2016). The Collaton St Mary Masterplan identifies the application site for residential development with some areas of green space to the south east of the site. The Masterplan identifies the site as being phase 4, the final phase of the wider Collaton St Mary Masterplan area. However the masterplan states that these elements of the masterplan can be delivered earlier without negatively impacting upon other phases should the need or desire to develop these areas arise sooner. The plan does however state that development in this area will need to ensure that they are properly supported by infrastructure, particularly drainage/flood prevention measures and the retention/improvement of darkened corridors for greater horseshoe bats.

In-line with Local Plan policy and the adopted Collaton St Mary Masterplan, the principle of residential development in this area is accepted.

The Paignton Neighbourhood Plan Referendum Version does not identify housing sites however locational Policy PNP24 (*Collaton St Mary Village*) does outline that any further development beyond the currently developed areas will only be supported where the proposals are in accordance with the adopted masterplan for the area. As the application site is identified as a potential site for housing within the adopted masterplan the Neighbourhood Plan (referendum Version) is considered to support the principle of housing development.



## **Design and Layout**

Achieving good design is a central focus of the Local Plan with one of the five key aspirations being to conserve and enhance a superb natural built environment. The aspiration is stated to be achieved (in-part) by the desire to ensure new development makes a positive contribution to local character and identity, including wider landscape character, and to avoid mediocre design by the use of tools, which include the Torbay Design Review Panel. Policy DE1 (Design) is the principal policy within the Local Plan that reinforces the broader aspiration. Policy PNP1 (c ) and (d) of the Paignton Neighbourhood Plan sets out local design criteria, whilst PNP24 seeks development to be designed in such a way that it re-establishes the village character and respects prominent landscape and other features.

Achieving good design is also a clear thread in government guidance and Part 12 of the NPPF “Achieving well-designed places” offers key guidance. Paras 124, 127, 129 and 130 are particularly relevant and accumulatively inform that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve, that good design is a key aspect of sustainable development, and the importance of design being sympathetic to local character (built environment and landscape setting). Para 130 is clear that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

The revised proposal is for 94 dwellings, all of which are two storey (the three dwellings described by the applicant as 2.5 storey are principally two-storey with pre-designed accommodation within the roof). The dwellings are provided in a mixture of detached, semi-detached and short terraced properties, however the footprints of buildings follow a regular rectangular pattern and the built form is predominantly a simple gabled design. The materials are predominantly a mix of render and brick, with 31 rendered properties and 51 brick properties. The remaining 12 properties are a mix of brick with stone (reconstituted) to two of the elevations. The roofs are all concrete tiles (three differing colours), the windows all white UPVc, and the fascias are white with black guttering. Plot boundaries are defined by a mix of walls and hedges to public borders and fencing to private borders.

An earlier iteration of the scheme was considered by the Torbay Design Review Panel in 2016 and the applicant also had a larger scheme for the entire field considered by the Torbay Design Review Panel in 2012. The conclusions and advice to both schemes emphasised concerns on the suburban nature of proposals and the requirement for a successful solution to better respond to the rural context and landscape character.

The proposed layout and quantum of development is considered to present a suburban grain that is at odds with the broader rural character of Collaton St Mary. The general building form and arrangement is generally replicated throughout the development and the mainly consistent form and arrangement fails to adequately resolve a suitably variegated townscape, which has been highlighted as an integral element to secure a more rural character. The concerns are discussed in more detail

below.

The repetitive building arrangement and form presents a standard and somewhat un-unique street arrangement that fails to draw on the characteristics of Collaton St Mary and the surrounding rural hamlets, where building patterns are more varied.

The building form is principally the same throughout the scheme, with two-storey properties of similar scale under simple gabled roofs. The similarity of the building forms through the scheme presents an un-unique development that fails to respond to the built character of Collaton St Mary and the surrounding rural hamlets.

The materials, which are principally render and brick with occasional partial use of reconstituted stone under concrete tiled roofs fails to positively respond to the rural character, where natural materials (such as local stone and slate) are more prevalent. Within the scheme the limited and sporadic use of stone appears somewhat contrived and does not respond to the more organic evolution of villages that often presents more distinct pockets of buildings with a certain character type. In addition to the façade material the singular solution for the windows, i.e. white UPVc throughout the scheme, again reinforces the concerns on the suburban nature of the proposals and the failure to present a satisfactory locally distinct development.

Further design concerns include the prevalence of blank gables within the streetscene and the blank gables adjacent to public walkways. These appear the result of imposing somewhat standard housing types upon the layout that fails to reflect the more organic nature or rural layouts and rural building forms. It is noted that the submitted Design and Access Statement presents a concept of natural surveillance over the footpath adjacent to the Totnes Road, however the layout plans and elevations appear to show blank gables along to three of the four properties.

The scheme has also failed to adequately resolve the provision of incidental public space through the scheme, which fails to respond to previous design review advice, and the scheme presents limited landscaping within the site away from the borders, which imparts a much harder built suburban character to the development, and a disconnect with the rural landscape character of the area.

Principally for the reasons above it is concluded that the development presents an unsatisfactory suburban form of development within a rural landscape-led context, and thus fails to adequately respond to its context. The development also presents an unsatisfactory presentation to the public realm through the extent of the provision of blank facades to prominent elevations within the public realm and prominent elevations that face key pedestrian routes, to the detriment of the streetscenes and to public safety.

The proposal is considered contrary to Policies DE1, H1, SS1, SS2, SS10 and SS11 of the Local Plan in terms of poor design.

The proposal is considered contrary to Paras 124, 127 and 130 of the NPPF in terms of poor design. The proposal is also considered contrary to Para 129 of the NPPF where fails to have due regard to the concerns of the Torbay Design Review Panel.

The proposal is also considered contrary to the design guidance contained within the Adopted Collaton St Mary Masterplan.

The proposal is considered contrary Policies PNP1 and PNP24 of the Referendum Version of the Paignton Neighbourhood Plan.

### **Residential Amenity**

One of the Core Planning Principles of the NPPF seeks to secure a high standard of amenity for all existing and future occupiers of land and buildings. Policy DE3 of the Local Plan states that all development should be designed to provide a good level of amenity for future residents or occupiers, and should not unduly impact upon the amenity of neighbouring and surrounding users. It is noted that the adopted masterplan for the area indicates that the site, along with a separate area of land nearby (both referred to as Phase 4), could potentially deliver around 105-110 units. The masterplan suggests that the site under consideration would provide less than half of the total.

In regard to residential development due consideration needs to be given to the adequacy of internal space and external amenity space, and whether the relationships between properties and plots would not unduly affect the amenities or privacy of occupiers, including through loss of light, overshadowing or overlooking.

In regard to the potential impact upon existing neighbouring uses the site is quite isolated and principally borders agricultural land and a relatively wide strategic highway. Adjacent occupiers are limited to the southern side of the Totnes Road where they are generally set back from the highway and screened by strong front border treatments. Due to the distances involved the amenity of adjacent occupiers along the Totnes Road would not be unduly impacted. The impact of light-spill from headlights, principally from use of the proposed junction, has also been considered and due to the border treatment and distances involved the impact of headlights upon the amenity of occupiers opposite is expected to be limited. The south-east corner of the site abuts a primary however the development proposes a greenspace with drainage ponds on the land adjacent to the school, which would not impact on the amenities of the school.

In regard to the amenities of future occupiers of the development the internal habitable environments of the dwellings are considered acceptable. The dwellings are suitably sized in terms of floorspace and accord with the size standards outlined within Policy DE3 of the Local Plan. The dwellings range from 72sqm for the smaller two-bed properties, up to 145sqm for the largest four-bed properties. In addition the dwellings appear to offer suitable natural lighting to key rooms with appropriate outlooks.

In terms of outdoor amenity space the Local Plan guides that all new dwellings should seek to secure at least 55sqm of usable outdoor amenity space. The submitted "gardens" plan indicates that garden sizes will range from 56sqm to 235sqm, although the majority will be afforded around 70-90sqm. The sizes do include areas of steeply sloping banking in areas and constrained side areas, which are areas that are not

particularly usable, however notwithstanding the incorporation of these areas, the size of gardens would meet or exceed the expected minimum garden size for new dwellings.

In regard to overlooking and privacy, although the Authority does not have specific design parameters for residential layouts there is a broad understanding that a separation distance of 21m in a back-to-back arrangement would generally provide an acceptable level of privacy for future occupiers for two-storey development. There is also a general understanding that distances may need to be increased on uneven land or where the number of storeys is increased. The development generally proposes back-to-back distances of between 19m and 22m. There are however certain plots that show oblique distances less than the prevailing distance, down to around 15m between plot 60 and plot 83 for example.

Across a number of plots that hold back-to-back distances between 19m and 21m there is however a level difference due to the topography of the site, this presents a number of properties that are 3m or 4m higher or lower than corresponding properties. Again although the Authority does not hold specific design requirements there is a broad understanding that where relationships are uneven, distances between properties should be increased to afford occupiers adequate amenity. An additional 2m separation distance for every 1m difference in levels is an oft-cited standard. Using the methodologies cited above it would be reasonable to conclude that across a number of properties back-to-back distances of around 27m-29m would be more appropriate to secure adequate levels of privacy. This concern also relates to relevant plots where raised terraces reduce the distances to plots set on lower levels and where such terraces sit in close proximity to boundaries with adjacent plots, to the detriment of amenity through loss of privacy and overlooking. An example is the relationship between plot 61 and plots 82, 83 and 60.

In terms of front-to-front relationships it is generally accepted that the distance between properties can be less than the back-to-back arrangement as the front of properties are naturally less private where they front on to the public domain. The central street within the development presents a number of properties that face each other at distances of around 11m and 12m. When considering the design of the properties, i.e. where there is little relief in terms of the orientation emphasis of properties with fairly standardised layouts sitting face to face, the level of inter-looking is likely to diminish the quality of the residential environment afforded future occupiers.

When considered in the round, the relationships to the front and back combined are likely to demonstrably impact the quality of the residential environment for future occupiers of some of the proposed dwellings. Such impacts are heightened for plots 73-83 who will experience little respite from overlooking with both front and rear aspects effected. It is, for these reasons, concluded that the residential amenity for future occupiers would be unacceptable.

In terms of light and overshadowing, the relationships detailed above will present properties in closer proximity, depending on the street alignment and presence of sloping land, with potential impacts in terms of overshadowing and loss of sunlight to lower plots and gardens, which would again diminish the quality of some of the plots.

When considering the extent of concern across the layout the expected level of impact upon the quality of the residential environment it is considered by Officers to be an indicator of an overdevelopment of the site.

It is considered that the proposals present an unsatisfactory residential environment for future occupiers due to the reasons stated above, contrary to the aspirations of Policies H1, DE1 and DE3 of the Local Plan, which seek to secure high quality living environments within well-designed places that afford future occupiers a good level of amenity. The development is also contrary to the NPPF in this regard.

### **Landscape Impact**

The site forms part of the rural setting on the western edge of Collaton St Mary. The rural setting is principally apparent in northern and eastern views from Totnes Road approaching the village where there are intermittent open views across the site to rolling hills and views of Collaton St Mary Church. The site and rural setting is also apparent in outward views from the churchyard westwards over the valley floor towards the rising ground of the site and its surrounds.

It is noted that the adopted masterplan for the area indicates that the site, along with a separate area of land nearby (both referred to as Phase 4), could potentially deliver around 105-110 units. The masterplan suggests that the site under consideration would provide less than half of the total.

In terms of landscape character the Torbay Landscape Character Assessment identifies that the site lies within a Torbay Landscape Character Type 1 “Rolling Farmland” and is part of the sub-divided area of “Blagdon Barton”. Key landscape characteristics of the site and surrounding landscape of particular relevance to the application are the mixed farm land on rolling hills, the vegetation cover provided by hedgerows and banks containing trees and tree groups, areas of vegetation within and around the various developments providing a degree of assimilation, and narrow copses often present beside lanes and streams and occasional hill-top woodlands.

In terms of further policy-based landscape information that is relevant the Collaton St Mary Masterplan identifies a number of key views around the site, which include glimpsed views from Totnes Road looking north-east towards Collaton St Mary Church tower and broader views to rising ground and woodland, views from Collaton St Mary Church churchyard looking south-west towards the upper west part of the site, and views from Blagdon Road looking south-west where there are filtered views into the Site through the sparse boundary hedgerow beyond the foreground linear.

The Council’s landscape advisor assessed the original scheme for 97 dwellings, including the supporting Landscape and Visual Impact Assessment (LVIA). The assessment raised a number of concerns and recommendations, the key points being concern on the extent and quantum of development being proposed in terms of the impact of views from the churchyard and the intermittent views along Totnes Road. The lack of rural character to the public open space and how its distribution would not successfully secure a rural setting. The insufficiency of the landscaping to enhance

character. And the lack of suitable resolution for the development to contribute as a gateway feature in terms of reinforcing an open village feel to the area.

The revised proposals are supported by an amended LVIA and a response document to the specific landscape concerns raised by the Council's landscape advisor, which included photomontages as requested by officers.

In regard to the concerns relating to the quantum of development and the views from the church and from along the Totnes Road the applicant cites that the houses closest to the public open space, on the highest ground, have been pushed further east onto lower ground and that photomontages supplied help illustrate acceptability. The public open spaces have been redesigned to present a more natural and varied character. That the provision of additional trees within the development help to break-up the linear nature of the streets. And that the boundary treatment along the Totnes Road has been adjusted to respond to the desire for a more open setting for the development's edge.

It is suggested within the submitted LVIA that the direct development effects on the landscape would be slightly beneficial on hedgerows and trees and moderately adverse on the farmland character of the site. It suggests that indirectly there would be a slight adverse impact upon the broader landscape character, and neutral impacts upon the settlement and value of the landscape. In terms of visual effects it suggests that there would be moderate adverse effects from the Totnes Road and adjacent properties and slight adverse (moving to insignificant over time) effects from the churchyard.

Notwithstanding the amendments it is Officer's opinion that there remains little evidence that the proposals would successfully create a distinctive character in landscape terms that responds adequately to the rural context. Outside of certain peripheral areas that are absent of development, essentially to respond to contour, drainage and bat constraints, the site remains more or less fully developed. The prominent landscape features remain largely around the borders of the site and although the revised scheme has sought to introduce additional planting within the development the planting appears heavily constrained by the lack of space around and between buildings. It is therefore likely to have a limited benefit in terms of assimilating the proposed development into the surrounding landscape, in particular from elevated views such as from the churchyard of Collaton St Mary church.

The photomontages that have now been provided are considered to reinforce the initial concerns of the Council's landscape advisor in terms of how incongruous the development would sit in the locality in terms of a suburban insertion into a rural landscape context, when viewed from the Totnes Road and from the churchyard. It is considered that the effects are likely to be amplified through the seasons when there is less tree cover, where it is noted that the submitted montages do not include "winter" views. These concerns somewhat accord with the Council's landscape advisors initial comments that certain visual effects "substantially downplay" the actual visual effects likely to occur.

The Council's Arboriculture and Landscape Officer has reviewed the revised scheme

and concludes that the development would substantially alter part of the Collaton St Mary landscape and would be contrary to the Collaton St Mary Masterplan, as the proposals would involve accepting substantially altered landscape views into the site, particularly from the south and east, noting that landscaping within the inner part of the site and southern middle section is significantly more limited due to the number of units included and the design.

The proposed development does not therefore fully meet the requirements of Policies SS2, SS3, H1, DE1 of the Torbay Local Plan, the adopted Masterplan for Collaton St Mary, or the NPPF, particularly paragraphs 127 and 170. Or Policies PNP1 (c) or (d) or PNP24 of the Referendum Version of the Paignton Neighbourhood Plan.

### **Heritage Impacts**

There are a number of heritage assets nearby, to the east of the site a number of listed buildings sit within 200 metres. Off Bladgon Road there is the Grade 2\* Parish Church of St Mary, and Grade 2 Old School House and Old Vicarage buildings. To the south side of Totnes Road close to the junction of Bladgon Road there are a further four Grade 2 listed properties, 391-397 Totnes Road. Finally 300 metres to the west of the site is another Grade 2\* listed building, which is the 15<sup>th</sup> Century Bladgon Manor.

Although Collaton St Mary has experienced extending development the landscape around the church and adjacent listed buildings has retained its rural character, which is appreciated on the approaches to these buildings and, certainly in terms of the church, the views from within the churchyard. When viewed from the raised land of the rear churchyard the site is clearly visible and forms part of the rural landscape. This landscape is principally absent from incongruous development with an open vista of undisturbed rolling countryside within only glimpsed views of the ribbon development along the Totnes Road present. The Paignton fringes and mid-20<sup>th</sup> Century St Mary's Park are obscured from view due to the topography and established buildings and landscaping. The rolling landscape strongly reinforces the historic rural context of the Parish church and contributes to the experience and understanding of the designated asset and consequently contributes to its significance.

Historic England are not convinced that the current layout has taken into consideration the sensitivity placed on it through its contribution to the setting of the church. It is the view of Historic England that the current scheme will result in harm through the erosion of the rural hinterland around the church and note that the harm is less than substantial, but this does not mean that it is acceptable.

The Council's Conservation Officer had previously concluded that the supporting documents did not explore the historical context and because of this the resulting layouts were unnecessarily linear. There was principally concern that four rows of buildings set within three rows of street, with limited planting that would do little to break up the development, would present a suburban entity within the setting of the church, which would harm the heritage asset.

Considering the advice above it is acknowledged that the development would have an impact on the setting of listed buildings in the area, but principally the setting of the

Grade 2 \* Parish church, where there will be direct visual link. Historic England has advised that the level of harm is likely to be less than substantial, but are minded to advise that this does not necessarily mean that the level of harm should be considered acceptable.

In policy terms H1 (Listed Buildings) of the Torbay Local Plan is clear that development proposals should have special regard to the desirability of preserving any listed building and its setting. This is aligned with the duties for decisions as laid out within the Planning (Listed Buildings and Conservation Areas) Act 1990 c.9 para 66, where decisions shall have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses. The NPPF also offers key guidance and iterates that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance (Para 193). It furthers that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification (Para 194). In relation to the level of harm relevant to this proposal English Heritage view that the level of harm to be less than substantial. The NPPF guides that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use (Para 196).

In this instance the impact on the setting of the Grade 2\* Parish Church of St Mary and other listed buildings needs to be weighed against the public benefits of the proposal. In this instance the public benefits being the provision of 94 houses, of which 30% will be affordable, which is not above the policy complaint level of affordable housing. In addition the scheme will deliver construction jobs and the resultant households and their expenditure within the local economy will also be a public benefit.

Officers are mindful that the site is identified for housing and the principle of housing is not objected to per se. Officers are also minded that the adopted masterplan for the area indicates that the site, along with a separate area of land nearby (both referred to as Phase 4), could potentially deliver around 105-110 units. The masterplan suggests that the site under consideration would provide less than half of the total. There are some longstanding and fundamental concerns about design through previous Design Review Panels and design advice which appear intrinsically linked to the quantum of development being sought. Having due regard to the NPPF's view that great weight should be given an asset's conservation, regardless of the level of harm, and that any harm should require clear and convincing justification, Officers are unconvinced that the public benefits justify the harm to the identified heritage asset. Officers are also mindful whether the benefits of the scheme could not be delivered in a different form of residential development that did not result in the obvious harm to the setting of important heritage assets (and the landscape character of the area)

On balance although the level of harm is less than substantial there is an absence of



justification to accept the level of harm, and therefore the balancing exercise weighs against the proposal in its current form. The proposal, in terms of heritage assets, is considered in conflict with Policy HE1 of the Torbay Local Plan and Paragraphs 193, 194 and 196 of the NPPF. In reaching this conclusion Officers have duly considered the general duties as respects listed buildings under the Planning (Listed Buildings and Conservation Areas) Act 1990 c.9 para 66.

### **Highway Safety, Access and Parking**

The proposal includes the creation of a single vehicular access into the site located approximately 125m from the eastern corner of the site (that borders the school), which locates the junction opposite the property Urana. The junction includes a degree of road widening to secure a right-hand turn into the site. Accompanying the junction there is a proposed central pedestrian refuge crossing. Additional highway works are proposed to the west at the existing Paignton-bound bus stop to create a pull-in. In terms of pedestrian access points a link is proposed adjacent to the Paignton-bound bus stop and there is a pedestrian access in the eastern corner near to the school. Between the two pedestrian access points along the border with the Totnes Road there is a proposed footway west of the proposed junction and a proposed foot/cycle way to the east of the proposed junction.

In regard to the highway works and proposed access and egress arrangements into the site the junction is considered adequate to serve the development with the right-hand turn sufficient to serve the expected traffic movements. The central reservation adjacent to the junction is welcomed however the absence of a similar provision adjacent to the two bus stops further west will create a safety concern in terms of encouraging unsafe crossing of a busy highway by pedestrians. It is the view of the Highway Authority that an island and the appropriate highway widening should be secured to deliver a crossing point where there will be an obvious desire to cross. The eastern footway aside the proposed junction serves no purpose and the Highway Authority has raised concern on its purpose and how its provision may encourage unsafe crossings. It is recommended that the footway extension is removed. Further although the foot/cycle access point at the eastern corner of the site onto the highway verge is welcomed there is no detail that provides certainty that any foot/cycle way could be extended down to the school / Blagdon Road Junction. In terms of connectivity and highway safety it is considered vital that such a route is shown to be deliverable and delivered as part of any substantial residential development on the northern side of the Totnes Road, as crossing to the existing pavement on the southern side to a crossing close to Ocean BMW is not likely to be considered desirable by pedestrians and would encourage unsafe crossing of a busy highway.

Internally within the site the development proposed a network of roads, mostly with footways. The central street is however designed as a shared space with no footways provided. Generally the layout is not considered acceptable by the Highway Authority as historic concerns do not appear to have been addressed by the current detailed design. Of particular concern is the road widths and lack of footways and although the Torbay Highway Design Guide allows for flexible arrangements in appropriate locations it is considered that the layout of this development and extent of 'shared space' is not conducive to the arrangement. It is considered that the layout requires

further modification to discourage the flow of traffic towards the central area shared surface and to encourage through-traffic westwards. The central square shared surface area also likely to encourage inappropriate parking problems, which may present access issues and neighbour conflict. The design also currently fails to demonstrate how parking problems can be avoided without the need for parking restrictions. In addition to the above some of the curves in the highway do not meet the design guide criteria, again this challenges the acceptability of the layout on safety grounds. The Highway Authority have also raised concerns on the materials plan for the highway and the matter is currently not acceptable. It is considered that these issues need to be remedied in order to make the layout acceptable and adoptable. In terms of pedestrian movement the footpath (noted as being adoptable) connecting the bus stop into the development is considered too narrow and, along with the linear boundary route, should be shared cycle use.

In terms of parking the development accords with the expectations of the Local Plan with at least two car parking spaces per dwelling on-plot. It is noted that the proposed garages do not meet the size expectations within the Local Plan however as these are additional spaces the concern over this is limited.

In-line with the comments above, due to the concerns on the internal highway layout and due to the absence of adequate pedestrian and cycle linkages within the site and to the wider area, the development has poor connectivity and is likely to present a risk to highway safety, contrary to Policies TA1 and TA2 of the Local Plan and advice contained within the NPPF.

## **Ecology and Arboriculture**

The site is an open grass field with tree lined borders and the application is supported by a number of ecology-based documents. These include a shadow Habitat Regulations Assessment as the site lies within a known flyway of the Greater Horseshoe Bat (GHB) associated with the South Hams SAC. The key ecological issues relate to the use of the site by GHBs, consideration of reptiles, principally slow worms, and foraging badgers (as there is a sett in the north-west corner), along with broader biodiversity issues.

The submitted information proposed a mitigation that includes creating an exclusion zone around the badger sett, retaining and enhancing hedgerows, creating a 10m wide 'dark' wildlife corridor (<0.5 lux), suitable habitat/ tree planting, installation of a range of bird and bat boxes on new residential builds, garden fence small mammal passes, and wetland planting in association with the sustainable urban drainage area.

In regard to the 'dark' area the proposals include suitable phasing in the shadow HRA which seeks to ensure early establishment mitigation. The External Lighting Statement (2018) details the proposed strategy to minimise light levels particularly within the 'dark' corridor with measures including not using street lighting in some areas, the application of 50% transmittance glazing on some plots, and covenants to prevent installation of external household lighting. Additional hedgerow planting to

minimise light spillage is also proposed.

The Council's ecology advisor has concluded that there is no reason for refusal of the planning application on ecological grounds provided the proposals are implemented and maintained in accordance with the ecology documents that have been produced.

The Council's draft HRA has been submitted to Natural England for comment and Members will be updated on any demonstrable comment that is not aligned with the ecological advice officers are currently working with, that subject to achievable mitigation the proposal is considered acceptable on ecology grounds.

The Council's arboricultural officer has reviewed the submitted information and has concluded that the detail is generally satisfactory.

The proposal is considered acceptable on ecological and arboricultural grounds for the reasons stated above, in-line with the aspirations of Policies NC1 and C4 of the Local Plan and advice contained within the NPPF.

### **Drainage and Flood Risk**

The site sits in an area with a low risk (Flood Zone 1) of flooding, however there is a linear area of heightened flood risk to the north that follows the valley floor from west to east. The site is also within a Critical Drainage Area as designated by the Environment Agency.

A flood risk assessment has been submitted with the development and there are accompanying surface water drainage plans that illustrate a drainage solution that utilises attenuation tanks and balancing ponds. These are situated in the eastern corner of the site and integrate into a wider area of public open space.

The Council's drainage engineer has reviewed the submitted detail and raised concern on the level of information. Principally the system lacks detail and therefore fails to demonstrate it accords with the requirement to be designed to cater for the 1 in 100 year critical storm event plus 40% for climate change, to ensure there is no additional risk of flooding from the development.

Within the surface water system there is an infiltration basin and the results of infiltration testing has been summarised within the flood risk assessment. However, there are no details of where these infiltration tests have been carried out, the depth of the infiltration testing or the detailed site records of the infiltration testing. These are required in order to confirm that the testing has been carried out in accordance with BRE 365 and at the invert level and location of the infiltration basin.

In addition the masterplan identified a flood alleviation scheme immediately downstream of this development on the Yalberton watercourse. The scheme is currently identified on the Environment Agency's six year financial plan. As the surface water run-off from the proposed development is likely to impact on this watercourse upstream of the flood alleviation scheme a contribution to the funding for the flood

alleviation scheme should be secured from the developer through S106 funding. The S106 contribution to the flood alleviation scheme should be £48,692.00

South West Water do not object and only advise that a public trunk water main runs through the site and no buildings/structures or alterations to ground cover (including the proposed surface water attenuation basin) will be permitted within 3.5 metres of it and neither should it be retained in private garden areas.

The Environment Agency has not offered comment.

In accordance with the concerns raised by the Council's drainage department acting as the Lead Local Flood Authority the development presently fails to demonstrate that the risk of flooding would not be increased and fails to secure, through a s106 funding mechanism, necessary strategic infrastructure. The proposal is considered contrary to Policies ER1, ER2, SS2 and SS7 of the Local Plan and advice contained within the NPPF.

### **Other Material Considerations**

#### **5 year housing supply**

The Council has between around 3.8 - 4.5 years' housing supply based on an assessment at December 2018.

Paragraph 11 of the NPPF outlines that plans and decisions should apply a presumption in favour of sustainable development. For decision-taking this means approving development proposals that accord with an up-to-date development plan without delay, or the granting of permission where there are no relevant development plan policies or where the most important policies are out-of-date. A lack of a demonstrable 5 year housing supply principally renders the most relevant policies of an otherwise up-to-date development plan out-of-date.

In such circumstances, permission can only be refused (according to the NPPF) according to two tests-

- 1) There are specific policies in the NPPF that provide a clear reason for refusal, or
- 2) The adverse impacts of granting permission would significantly and demonstrably outweigh the benefits (when assessed against the Framework as a whole).

This presumption in favour is often referred to as the 'tilted balance'.

It must be remembered that the NPPF is only a material consideration. It has no power to supersede an adopted development plan. However it does set out clearly that decision makers must give significant weight to housing supply considerations.

Notwithstanding the above as the proposal is considered to cause less than substantial harm to a heritage asset, and may affect a designated Special Area of

Conservation, the proposal should be considered without using the 'tilted balance', as laid out Paragraph 11 of the NPPF. The benefits of the scheme are still relevant as a material and the provision of 94 homes would help address the lack of a 5 year housing supply and the public benefit of this should be afforded due weight in the decision making process. The residential profile of the development is considered to provide a good balance and mix of types and tenures, providing much needed family housing, and this includes a proposal to provide 30% affordable housing across the site. In the absence of a 5 year housing supply these are important considerations and must be weighed in favour of the development.

### **Public Benefit**

In addition with the provision of 94 new homes that would contribute towards meeting the Council's housing land supply, in accordance with the Government's growth agenda and the Council's growth agenda, the proposal could have a number of benefits to the local economy. Jobs are likely to be created through the construction process, and support the supply chain during construction. Occupiers of the proposed dwellings would contribute to the local economy by using local amenities and services. This would be a form of public benefit by providing additional income to many local businesses.

The weight to be attached to the public benefit is a judgement for the decision maker, but it is the view of Officers' that the provision of housing and the related economic benefits carry quite significant weight. However the principle of housing on the site is not disputed, the site is clearly identified for housing and the adopted masterplan identifies the site for housing, and it is undetermined whether the benefits of the scheme could not be delivered in a different form of development that presents conformity with the Local Plan, Emerging Paignton Neighbourhood Plan, and the NPPF.

### **S106/CIL and Affordable Housing**

#### **Affordable Housing:**

Affordable housing provision is required from this development in accordance with Policy H2 of the Torbay Local Plan.

For the development of greenfield sites Policy H2 for schemes of 30+ dwellings seeks 30% affordable housing, of which 5% should be self-build plots (in-line with Policy H3 of the Local Plan).

The proposal includes 28 affordable housing units, which equates to a policy compliant 30% level. The proposal does not propose to provide self-build plots and has sought to justify this within supporting documentation. The Council's affordable housing team has not questioned the lack of self-build.

The provision provides a mix of 2, 3 and 4 bed properties (15x2-bed, 10x3-bed and 3x4-bed). This is not questioned by the Council's affordable housing team and the mix of units is considered acceptable.

The location of the affordable housing units is detailed within the submitted plans. 15 of the units are proposed within the area adjacent to the Totnes Road. 8 units are proposed along the northern side of the central street. 3 units are proposed within the short terrace at the northern end of the site. And 2 are proposed within the street fronting the north-eastern boundary of the site. The Council's affordable housing team has raised some concern in terms of the location of the units and wishes to see a reduction of affordable housing units near to the Totnes Road with some of these (3 or 4) distributed within the wider site, in order to meet the Council's objectives around providing mixed and balanced communities.

Subject to some minor alterations to the distribution the provision of affordable housing is considered consistent with the policy expectations of Policy H2 of the Torbay Local Plan.

**S106:**

Subject to some minor alterations to the distribution the provision of affordable housing is considered consistent with the policy expectations of Policy H2 of the Torbay Local Plan.

**Site Acceptability Measures**

**Highways**

Improvements to the A385 Totnes Road are required to make the delivery of the Collaton St Mary masterplan area feasible. The costs are estimated at £1million, with the cost spread across the developments in the masterplan area. Based on the total estimated cost and the expected number of dwellings within the masterplan area and within this particular site a contribution £102,273 should be secured. These works would include road safety, pedestrian and cycle facilities, public transport infrastructure, rearranged parking provision, and minor congestion relief for the area from the boundary of Torbay on the A385 and the approach to Tweenaway Cross.

**Flood Works**

Strategic flood alleviation works are required to secure a flood alleviation scheme on the Yalberton watercourse. As there are proposed to be approximately 500 new properties constructed within the catchment drainage to the Yalberton Watercourse the contribution for each property should be secured. As the proposal is for 94 properties proposed the S106 contribution to the flood alleviation scheme should be  $94 \times £518 = £48,692.00$ .

**Sustainable Development Obligations**

**Sustainable Transport**

£56,610 – In accordance with the adopted SPD considered, towards ongoing projects to improve the cycling links to the Town Centre which, as part of ensuring a safe access for all users, should also be continued to by the development.

**Greenspace and Recreation**

No obligation request raised by Natural Environment Services.

**Education**

£498,870.00 - Obligations in-line with the adopted SPD should be sought to secure increased school capacity within Paignton.

**Lifelong Learning Obligations**

£17,097.00 - Obligations in-line with the adopted SPD should be sought to secure library improvements within the area.

**Waste and Recycling**

£5,610 - Obligations in-line with the SPD should be secured to provide waste and recycling facilities for properties that will be served by the Local Authority waste collection provider.

**CIL:**

The CIL liability for this development is Nil.

**EIA/HRA****EIA:**

In-line with the EIA Regulations 2017 due to the scale, nature and location this development will not have significant effects on the environment and therefore is not considered to be EIA development.

It is noted that the Authority issued a Screening Opinion on the 26 May 2016 based on 110 dwellings that concluded that the proposal would not be EIA development.

**HRA:**

The application site is within a strategic flyway/sustenance zone associated with the South Hams SAC.

A Habitat Regulations Assessment has been carried out for this development. The proposed development is unlikely to have a significant effect on the South Hams SAC. Natural England have been consulted and Members will be updated on any judgment that conflicts with the Local Authority's draft HRA conclusions.

The application is suitable for approval subject to any other relevant material planning considerations/subject to securing the mitigation measures either by condition or s106 agreement as may be appropriate and any other relevant material planning considerations.

**Human Rights and Equalities Issues**

Human Rights Act: The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has

been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance

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

### **Proactive Working**

In accordance with the guidance contained in the National Planning Policy Framework the Council works in a positive and pro-active way with Applicants and looks for solutions to enable the grant of planning permission. However in this case notwithstanding pre-application advice and ongoing discussions throughout the course of the application concerns principally over the design, highway layout and visual impact of the scheme, including the impact upon the setting of heritage assets, have failed to be adequately addressed and the recommendation is therefore one of refusal.

### **Conclusions**

The proposals are considered contrary to Policies SS1, SS2, SS6, SS7, SS11, SS12, SDP3, TA1, TA2, HE1, H1, DE1, DE3, ER1 and ER2 of the Torbay Local Plan 2012-2030 for the following reasons.

The proposal presents poor design that fails to respond positively to the rural context, which would harm the setting of a heritage asset, and fails to present an acceptable residential environment for future occupiers, due to close proximity of properties on sloping ground that is likely to present unacceptable inter-looking and overlooking. The proposal fails to secure adequate connectivity and fails to secure an acceptable highway layout, which will present a risk to highway safety. The proposal also fails to demonstrate that there would be no increased risk of flooding and fails to deliver security on the delivery of affordable housing and other necessary planning obligations necessary to mitigate its likely impacts.

The weight afforded the provision of housing, including a policy compliant level of affordable housing, and the general construction benefits that would be expected with such a housing scheme, has been considered against the level of conflict with the Local Plan, NPPF and the Emerging Paignton Neighbourhood Plan in terms of issues raised above, including the Council's duty to give great weight to the protection of the setting of heritage assets, which includes the nearby Grade 2\* Church of St Mary.

As the proposal is considered to cause less than substantial harm to a heritage asset, and may affect a designated Special Area of Conservation, the proposal should be



considered without using the 'tilted balance' as laid out Paragraph 11 of the NPPF in this instance. The application is recommend for refusal.

Officers have weighed up the benefits of the proposal and taken into account the shortfall against 5 year housing supply, However the adverse effects of granting planning permission, taken as a whole, are considered to significantly outweigh the benefits.

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

#### **Design and visual impact**

The proposed development, by reason of its design, layout, and density, would present an overdevelopment of the site and a visually discordant form of development that would fail to relate satisfactorily to Collaton St Mary and the wider rural setting, and therefore would fail to deliver a sustainable form of development that would integrate effectively with the surrounding area. The proposal comprises a suburban form of development and vernacular that would fail to respect the 'edge of settlement' rural character of the site and would fail to provide a high quality development. As such the proposal fails to meet the objectives of Policies H1, DE1, SS2, SS10 and SS11 of the Torbay Local Plan 2012-2030 and advice contained within the NPPF, particularly paragraphs 122, 124, 127, 129 and 130.

#### **Residential quality**

The proposal, by reason of its layout and detailed design, would present an overdevelopment of the site to the detriment of the residential amenity of future occupiers, through the creation of building proximities and plot layouts that would afford undue overlooking and loss of privacy between properties and private garden areas, contrary to Policies H1, DE1 and DE3 of the Torbay Local Plan 2012-2030 and advice contained within the NPPF, particularly paragraphs 127 and 130.

#### **Heritage**

The proposal would, by reason of its design, layout and density, present an overdevelopment of the site and, by virtue of its overtly suburban form, an incongruous form of development within the rural landscape setting of the Grade 2 \* Parish Church of St Mary. Due to the existing unspoilt nature and quality of the landscape within the setting of this rural parish church the proposal would result in less than substantial harm to its setting but one that is still significant and not outweighed by the public benefits of the proposal. The proposal is hence considered contrary to Policies SS1, SS2, SS10, HE1, H1 and DE1 of the Torbay Local Plan 2012-2030 and advice contained within the NPPF, particularly paragraphs 193, 194 and 196.

#### **Highways**

The proposal, due to the absence of adequate pedestrian connectivity to the wider area is likely to encourage pedestrian movement patterns that would increase the risk of danger to highway users. The proposal would also employ an internal highway configuration that conflicts with the Torbay Highway Design Guide and fails to adequately resolve safety concerns in terms of pedestrian and vehicular movement

within the central “shared street”. As such, the proposal would fail to deliver a safe and secure environment for all highway users, contrary to Policies TA1, TA2 and DE1 of the Torbay Local Plan 2012-2030 and advice contained within the NPPF, particularly paragraphs 108, 109 and 110.

### **Flood Risk**

In the absence of necessary design details in relation to the surface water drainage system, designed in order that no properties on the development are at risk of flooding for the critical 1 in 100 year storm event plus 40% for climate change, the development fails to demonstrate that the risk of flooding to land or buildings, within the site or elsewhere, would not be increased within a designated Critical Drainage Area. The proposal is therefore considered contrary to Policies ER1 and ER2 of the Torbay Local Plan 2012-2030 and paragraphs 163 and 165 of the NPPF.

### **S106**

In the absence of a completed legal agreement under Section 106 of the Town and Country Act 1990 (as amended), the development fails to secure necessary site acceptability mitigation to deliver flood risk alleviation works and highway network works, fails to secure the delivery of affordable housing, and the physical, social and community infrastructure necessary to make the development acceptable in planning terms. The development therefore fails to satisfy the aims of Policies SS6, SS7 and the Council's SPD "Planning Contributions and Affordable Housing: Priorities and Delivery". The Local Planning Authority considers that it would be inappropriate to secure the required obligations and contributions by any method other than a legal agreement and the proposal is therefore contrary to Policies SS6, SS7, H2, ER1, ER2, TA1, TA2, SC3 and W1 of the Torbay Local Plan 2012-2030 and advice contained within the NPPF, principally paragraphs 54 and 56.