

Application Site Address	Land To The North Of Totnes Road, Collaton St Mary Paignton
Proposal	Outline application for up to 73 dwellings with all matters reserved except access, new access onto the Totnes Road
Application Number	P/2019/0604
Applicant	Taylor Wimpey UK Ltd
Agent	Peter Brett Associates
Date Application Valid	18.06.2019
Decision Due date	17.09.2019
Extension of Time Date	
Recommendation	Approval: Subject to planning conditions as outlined within the report, with the final drafting of conditions delegated to the Assistant Director of Planning and Transport, and; the completion of a S106 Legal Agreement to secure Affordable Housing and other identified obligations, as outlined within the report.
Reason for Referral to Planning Committee	Major Development
Planning Case Officer	Scott Jones

Location Plan –



Site Details

The application site is part (approximately half) of a triangular field adjacent to the Totnes Road (A385) close to Collaton St Mary on the western outskirts of Paignton. The site has historically been known locally 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 measures approximately 7.2 hectares in area and the application site is 4.5 hectares.

The northern and eastern 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 permits public views across the field to the rising rural landscape to the north and east. The western boundary of the application site dissects 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 within the upper part of the wider field. 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 street 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 off Bladon Road there is the Grade 2* listed Church of St Mary, and Grade 2 Old School House and Old Vicarage. Again to the east on the south side of Totnes Road close to the junction of Bladon 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 15th Century Bladon Manor.

In the Torbay Local Plan the site is identified as part of the wider Collaton St Mary (Paignton North and West Area) Future Growth Area. It is also a site identified for housing within the Collaton St Mary Masterplan, which is an Adopted Supplementary Planning Document for the area (adopted February 2016). In terms of other relevant context the valley floor to the north/east of the site (close to the Bladon Road) is a linear area with an identified risk of flooding.

Description of Development

The application seeks outline planning permission for up to 73 dwellings with all matters reserved except for access.

The proposal includes the creation of a single vehicular access off the Totnes Road (A385) with proposed highway works to re-align the Paignton-bound carriageway in order to facilitate a designated right hand turn lane into the site. Pedestrian access is proposed at three points adjacent to the Totnes Road. There is an access towards the western corner close to a proposed play area within the site and adjacent to existing bus stops on the A385. There is also an access to the east close to the nearby

school on to the highway verge. These two access points supplement a central pedestrian access that sits aside the proposed vehicular entrance. A linear pedestrian route is proposed within the site along the length of the border adjacent to the A385 that also links these access points.

The indicative detail submitted to support the proposal for 73 dwellings seeks to show that the level of development proposal could be appropriately achieved on the site, and this includes a masterplan layout. This shows a potential residential layout set around a loop-type arrangement with small clusters of units within short off-shoots to the north and south of the site. The submitted masterplan shows what appears to be a mix of detached, semi-detached and short terraces, with off-road and courtyard parking facilities appearing to show designated parking for all properties. Garden divisions that provide private space for all properties are also shown. In terms of wider detail, the indicative layout also 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 some informal space, and further pockets of what appears to be public green space within the layout.

Pre-Application Enquiry

N/A.

Relevant Planning Policy Context

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

Development Plan

- The Adopted Torbay Local Plan 2012-2030 ("The Local Plan")
- The Paignton Neighbourhood 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.

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 and other concerns raised.

Applications

P/2017/1304: Full application for 94 (reduced from 97) dwellings, with access, landscaping and infrastructure. Officer Recommendation: Refusal, for reasons of design, amenity, landscape impact, impact upon heritage assets, highway safety, and flood risk. Application withdrawn prior to committee and not considered by Members.

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.

Summary of Representations

37 Objections. The following provides a summary of the main issues identified and where appropriate a summary response is provided by the planning officer. Where appropriate the issues raised are discussed further in the Key Issues / Material Considerations section of this report.

The concerns raised in the objections are as follows:

- Impact on bats
- Increased flood risk
- Not in keeping with the local area
- Too many homes for the site
- Overdevelopment
- Too suburban
- Doesn't respond to the rural context
- 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
- Noise pollution
- Raises the same issues as previous schemes that have been rejected
- Inconsistent with the Local Plan

- Inconsistent with the Neighbourhood Plan.
- Inconsistent with the Collaton St Mary Masterplan
- Inconsistent with the NPPF
- 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
- Local school already over-subscribed
- Impact on healthcare

Objections include those from the Collaton St Mary Residents Association and the Torbay Green Party, which both include a number of concerns including need, conflict with the development plan and NPPF, over-development, impact on ecology, poor access and highway impacts, and impact upon drainage infrastructure.

Summary of Consultation Responses

Joint Neighbourhood Forums: A joint response of all 3 Neighbourhood Plan Forums expressing why there is already a supply of housing land in excess of the NPPF and adopted Local Plan requirement.

The Neighbourhood Forums find the draft land supply statement published by Council officers does not take sufficiently into account the following:

- The assessment finds a not less than 3 year supply to be identified against the 5 year requirement given the 100% coverage of Torbay by the Neighbourhood Plans recently approved.
- The supply of deliverable dwellings exceeds 3.28 years shown in the draft.
- Review of the Local Plan housing trajectory is about to formally commence.

In conclusion, the Forums' finding is that more than a sufficient supply exists until the required Local Plan Review has been completed. They conclude that continued use of the existing Local Plan housing trajectory is no longer justifiable. A supply of at least 3 years exists that meets the requirement of NPPF14 for the purpose of decision taking as allowed for by the NPPF pending the Local Plan Review that is about to commence.

Paignton Neighbourhood Forum: The Forum objects to the application as it fails to resolve the harm that would result to the locality and occupants due to overdevelopment in direct conflict with the policies of the adopted Development Plan. It is viewed that the change in approach to an outline application for up to 73 dwellings in place of the previous detailed proposal for up to 94 dwellings has not overcome the fundamental problems (P/2017/1304). As such the proposal conflicts with the approved statutory Development Plan and all other material planning considerations for the following reasons:

Principle: It is not correct as implied in the application to assume inclusion of the site in the 'Future Growth Area' means that development of the site has approval in

principle status. The adopted Torbay Local Plan designation is conditional upon the strategic policies of SS1, SS2, SS5 and SS12 being met.

Overdevelopment: The density of development proposed conflicts directly with the adopted Local Plan and Collaton St Mary Masterplan which shows the site for 40 dwellings having regard to the importance of the landscape, biodiversity and infrastructure constraints that apply. The submitted application masterplan will create a dense urban development out of keeping with the setting of the village and nearby listed building contrary to adopted Local Plan, adopted Collaton St Mary Masterplan and Policy PNP1 (Area wide) and Policy PNP1(c) (Design Principles) of the Paignton Neighbourhood Plan.

Biodiversity: The latest proposal continues to rely on an outdated biodiversity survey (of 2016), fails to present up to date survey information that shows the 'in-combination' effect with all other plans and projects in the Collaton St Mary Area. The revised proposals therefore fail to meet the requirement of the Habitats and Wild Birds Directives, Conservation of Habitats and Species Regulations 2017, and local policy. It is critically important to accord with the Local Plan Habitat Regulation Assessment adopted by the Council in December 2015 which states that no proposal will be approved unless it can be "categorically proven" there will be no adverse impacts on European sites.

Landscape: The level of replacement and additional planting remains inadequate to compensate for the effect the proposal would have on the natural landscape views into and across the site and its contribution to biodiversity in direct conflict with adopted Local Plan Policy C4 (Trees, hedgerows and natural landscape features) and would undermine implementation of Policy PNP1 (a) (Rural Character Area) of the Paignton Neighbourhood Plan. Insufficient space is provided for within the submitted masterplan to provide for landscaping due to the density of development proposed.

Impact on transport: The access proposed and assumptions made about the impact it would have of additional turning movements and capacity of Totnes Road as a principal highway take insufficient account of the congestion and accident record that already affect the adjacent highway network. The internal road layout shown in the application masterplan will also create major conflict between cars, pedestrians and calling delivery vehicles made worse by the density of development. The resulting impact would be contrary to Local Plan Policy TA1/TA2 and Policy PNP24 (Collaton St. Mary Village) of the Paignton Neighbourhood Plan.

Impact on drainage and flooding: The proposal fails to demonstrate sufficient regard has been given to flash flooding that occurs immediately to the south east of the site which results in the water course breaching its banks and combining with foul water to the detriment of the area. For surface water disposal the SUDS scheme proposed fails to demonstrate there will be no increase in risk to existing properties. For waste water disposal (sewage) inadequate information is presented that demonstrates there is capacity to accommodate the additional flow as vague and insufficient details are given in the application of the foul water connection point proposed in Totnes Road where existing problems of foul water flooding occur.

In conclusion: There are no benefits or other material considerations in the proposal that either alone or taken together would outweigh the harm that would result. On the contrary, the proposal fails to make provision for a balance of jobs and homes, and provision for sustainable development contrary to the National Planning Policy Framework and key purpose of the adopted Local Plan, Collaton St. Mary Masterplan and Paignton Neighbourhood Plan.

Torbay Council Strategic Planning (Policy): The Development Plan for the area comprises of the Adopted Torbay Local Plan 2012-30 (December 2015), and the Adopted Paignton Neighbourhood Plan (June 2019). The Collaton St Mary Masterplan was adopted as SPD in 2016 and is a material consideration, along with the explanatory and justification text in the Local Plan and Paignton Neighbourhood Plan policy documents.

The site is part of a wider strategic allocation within the Local Plan and Policy PNP24 of the Paignton Neighbourhood Plan sets out that development is “supported where the proposals are in accordance with the adopted Masterplan for the area”. There are additional caveats and requirements across the Development Plan policies to consider, particularly in relation to the detail.

The current proposal does appear to be fairly consistent with the adopted Masterplan proposal. Although a larger number of dwellings are proposed, the layout and number shown within the Masterplan are indicative. The indicative layouts in the Masterplan are highly schematic and should not be taken as a ceiling on the number of dwellings that can be achieved so long as access, sustainable drainage, landscaping etc. matters can be satisfactorily addressed.

In regard to objections on the grounds of need it is argued within representations that the Local Plan’s level of growth is not justified. Such matters would need to be considered through the upcoming review of the Local Plan and it is not appropriate to consider these through a planning application on a strategically allocated site such as this. The Neighbourhood Plan has been through independent examination and Council approval process very recently which confirmed that it met the Basic Conditions including not revising strategic growth figures or undermining strategic policies. As set out above, the Neighbourhood Plan supports the growth set out in the Local Plan. If the Local Plan was considered to be out of date (as argued in the representations), then the Presumption in Favour of Sustainable Development in paragraph 14 of the NPPF is triggered.

In regard to objections re phasing it is not considered that the phasing in part 8 (and Table 8.1) of the Paignton Neighbourhood Plan can be taken as a phasing policy as it is not upper case policy. It is therefore to be considered as a material consideration. Treating it as a “phasing lock” policy would be tantamount to promoting less development than the Local Plan, contrary to the basic conditions governing neighbourhood plans and the guidance on Neighbourhood Plans in the NPPF which, by virtue of being adopted, the Neighbourhood Plan has been agreed by the Council not to do.

With regards to housing supply, we recently published our initial assessment that showed there was currently less than 5 years’ housing supply in Torbay, which does

trigger the presumption in favour of sustainable development, particularly against the Local Plan policies. A consultation has been undertaken and a range of responses received. It is not likely that the final outcome will increase the housing supply above 5 years but I am not able to confirm the precise outcome at this time.

Objectors have raised a number of concerns about details of the applications, but the level of conflict would need to be “significant and demonstrable” given the tilted balance in favour of granting planning permission. As discussed the site is allocated for development in the Development Plan, and can therefore be considered broadly in accordance with the Development Plan taken as a whole. As stated, Policies SS2 and SDP3 are strategic policies, and Policy PNP24 seeks to tie in development with the Masterplan principles.

Residents have reasonably been very concerned about surface water flooding and sewer overflows arising from storm water. The proposals will need to ensure that they do not worsen the situation either through surface water run off or placing additional pressure on the shared sewer but this will be for the drainage lead to comment on. Similarly there are a number of detailed design, access, ecology, heritage etc. issues that need to be considered. However, as set out above, both sites are allocated in the adopted Local Plan for residential development, and the presumption in favour of sustainable development applies to them.

In summary the presumption in favour of sustainable development applies to proposals in the Future Growth Area. This does not mean that poor quality developments or those that divert significantly from the Masterplan should be approved. However, the bar to resist proposals is much higher, because the principle of development has been established.

Torbay Council Strategic Planning (Transport) - Incorporating the views of the Highway Authority: The revised access has responded to concerns on having a visibility of 2.4x70m and now accords with the Torbay Council Highways Design Guide (page 24) in that for strategic routes with a speed of around 35-41mph the visibility should be 90m as a minimum. The resubmitted access plan has resolved this initial concern and the main vehicular access arrangement is now considered acceptable.

In regard to wider access and movement matters the NPPF is clear that any proposal should ensure that: appropriate opportunities to promote sustainable transport modes can be – or have been – taken up; safe and suitable access can be achieved for all users; and any significant impacts on the transport network, or on highway safety, can be mitigated (Para 108 NPPF 2019). In this case the wider pedestrian, cycle and bus access opportunities require improvement. It is therefore herein highlighted that improved access across that A385 should be achieved towards the top of the site in the area of the bus stops by with an extended footway and crossing point. In addition pedestrian access should be secured towards Blagdon Road (and school and church) through the provision of a foot/cycle path within the highway verge as there is no current footpath in this location. These works should be achieved through condition or similar.

In terms of other matters Torbay Local Plan Policy SS7 and the Planning Contributions and Affordable Housing SPD will also apply (to the non affordable dwellings). In the

case of Sustainable transport it is indicated as “trip rate x £171” per dwelling. In this case the trip rate is equal to 4.854 (Appendix F of the Transport Assessment – TRICS output page 5) per dwelling, multiplied by £171 equals £830 per non affordable dwelling built following any reserved matters or full planning consent. Alternatively the SPD also makes an assumption on a trip rate specific to different sized dwellings. This method could be used but can only be calculated following the detail planning application. This funding would support strategic connectivity from Collaton St Mary to employment areas along the Western Corridor and into Paignton Town Centre. An obligation should be secured via a S106.

In addition Torbay Local Plan Policy SS6.2 and SDP3, indicates that development along the Totnes Road area (SDP3.3) will require infrastructure improvement works to the A385 Totnes Road. As noted in the Planning Contributions and Affordable Housing SPD, this is estimated at £1m (para 4.2.7) and it is appropriate to divide that amongst the properties proposed, using the numbers as set out in the Adopted Masterplan. In total, the Adopted Masterplan supports approximately 460 homes (£2,174 per dwelling). That same Adopted Masterplan estimates 55 dwellings on this site. Therefore £119,500 towards the development and implementation of the scheme.

Finally in order to relocate the 30/40mph speed limit a contribution is required as this cannot be delivered under S278. The estimate to undertake this work is £8,000. These matters should be secured within the decision making process.

Torbay Council Drainage Engineer: The revised submitted flood risk assessment identifies that infiltration testing has been undertaken on the development site and the proposed surface water drainage strategy for the development incorporates the use of SUDS features. In addition the assessment identifies a controlled discharge to the Yalberton watercourse.

The hydraulic designs are based on the current masterplan layout for the site and these demonstrate that there is no risk of flooding for the critical 1 in 100 year storm event plus 40% for climate change.

As the final layout for the development and hence design for the surface water drainage system may change between the current outline and detailed design any changes to the surface water drainage during detailed design must be submitted to the planning authority for approval prior to construction works commencing on site.

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. In accordance with previous correspondence relating to a section 106 contribution a previously agreed figure of £915 per dwelling has been identified. As a result the S106 contribution from this development to the flood alleviation scheme should be in the sum of £66,795 (73 x £915).

Based on the above comments there is no objection to planning permission being granted for the above development subject to a condition requiring the developer to submit their final drainage design for approval, together with the funding above being secured.

Torbay Council Interim Heritage Officer: Of the heritage assets potentially affected the Church of St Mary is of high significance, reflected by its designation at Grade II* listed. In relation to the impact upon the setting of this building, the proposed development will introduce new built form into a part of the Church's wider setting and will extend the built area of Collaton St Mary. The western part of the Site currently has some limited, partial views of the Church. The heritage assessment fairly acknowledges that the proposed development and associated landscaping will block localised experience of the asset's significance from within the application site, although some views of the Church will still be maintained from within the site between new housing units and over those units set at a lower level.

The submitted heritage assessment suggests that the proposed development is considered to cause a minor level of harm within the spectrum of less than substantial harm to the significance of the Church of St Mary. In my view this is a reasonable conclusion, nevertheless the conclusion remains that some harm will still result. The latest proposal is a clear improvement over that previously withdrawn however there remains some adverse impact upon the setting of the Church of St. Mary, by virtue of the erosion of the rural context, which will be replaced by a more suburban development, although the Design and Access statement illustrates how the form of development has been planned to better respect the village character. However, it is accepted that the degree of impact is limited in terms of the wider context of the Church. The layout now proposed also includes a designed 'framed view of the church' and is more respectful of importance of the building and more akin to a traditional pattern of development where the status of church would have apparent.

The current outline layout has taken into consideration the heritage sensitivity (and other issues) placed on the site due to its contribution to the setting of the church. The Design and Access statement submitted with the application illustrates how such factors have been considered and as a consequence how the scheme has evolved considerable and now acknowledges the importance of the constraints and seeks to respond to them. Whilst in outline form the design and access statement provides a degree of confidence that the importance of responding to the special character of the locality has been recognised.

Paragraph 196 of the National Planning Policy Framework (NPPF) provides for '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'. Thus the decision process will need to weigh the benefits of the proposal against the harm arising, which in this case are considered to fall in the less than substantial category.

Torbay Council Planning/Ecology Advisor: The site is dominated by species-poor semi-improved grassland. It is bordered by species-rich hedgerows on the north-eastern and north-western boundaries; scattered trees and scrub occur along the

southern boundary. The site is located within a South Hams SAC Greater Horseshoe Bats 'Sustenance Zone' and 'Strategic Flyway'.

Ecological Constraints include the use of site by foraging and commuting bats (including greater horseshoe bats), a low population of reptiles, a hedgehog population, a badger sett located adjacent to the north western boundary and three outlier setts along the northern boundary, breeding birds using the site.

I concur with the assessment of the likely effects on ecology set out in the submitted EclA and are satisfied that the key ecological issues will be addressed by the applicant through the proposed mitigation and management.

There are currently no ecological grounds for the objection to the above outline application, subject to the proposed mitigation, monitoring and suggested additional bat monitoring being secured.

Future reserved matters application should:

- Seek to identify and pursue opportunities for securing measurable net gains for biodiversity through on and off-site biodiversity offsetting in order to comply with the guidance contained within the NPPF, Torbay Local Plan Policy NC1.
- Incorporate the delivery of enhanced green infrastructure. Green infrastructure can relate directly to place-making and enhancing local character. By incorporating it within the design of the development it can provide more meaningful landscape spaces and it can link areas of the development through common ground.
- Consider the connectivity of the landscape and context of the wider environment – sympathetic planting of natural features prevents fragmentation of the habitat and allows many species to continue to move about the site freely. Native-species hedges should be used rather than fences to define property boundaries. Opportunities to improve/maintain habitat connectivity should be considered early in the design stage.
- Include a Lighting Assessment, including a lux contour plan, for both public-realm and domestic lighting to demonstrate compliance with the submitted external lighting plan, this should be secured via a planning condition.
- Include a CEMP and LEMP detailing the proposed delivery of the mitigation and management measures set out in the EclA report which should be secured via a planning condition.
- Secure the provision of the construction phase and operation phase ecological mitigation measures detailed in the EAD ecology Shadow HRA report.
- Secure the post-construction monitoring of the dark bat corridor to ensure that light levels below 0.5 lux are being achieved.

- The applicant should also undertake monitoring of the bat dark corridor during the construction phase which is not included within the current proposed mitigation/monitoring measures. This, along with the post construction monitoring should also include the use of automated bat surveys rather than purely lux level monitoring so that the success of the proposed mitigation can be reviewed.

Habitat Regulations Assessment Ecology Advisor: In regard to the South Hams SAC (with respect of the greater horseshoe bat feature only) it is concluded that in light of the mitigation measures identified and consideration of the implications for the sites Conservation Objectives in Section 16 and 17 of the HRA/AA the application will not adversely affect the Integrity of the South Hams SAC - alone or in combination with other plans or projects.

Mitigation, as outlined in the HRA/AA will ensure that the likely significant effects on the greater horseshoe bat foraging/commuting habitats around the site and in combination with other plans or projects are avoided.

The various mitigation measures should be secured through conditions and/or appropriate clauses in the Section 106 Agreement attached to any planning consent. It is therefore concluded that this proposal will not adversely affect the integrity of the South Hams SAC.

Proposed conditions:

- Control of External Light Spill to Maintain Dark Areas on Site and in Surrounding Areas
- Construction Environmental Management Plan – Biodiversity
- Landscape and Ecological Management Plan (LEMP) or equivalent
- Ecological monitoring to provide early warning of threats to bat commuting routes

Torbay Council Affordable Housing Team: Torbay Council's affordable housing policy requires 30% affordable housing to be provided on a scheme of this size. As a result we will expect to see 22 of the 73 homes on this site as affordable housing. Furthermore, the expected mix on bedroom numbers should be proportionate to the mix as a whole.

Torbay Council Education Team: The latest published position statements reiterate that the need and demand for school places in Paignton remains high and particularly now in the secondary sector.

S106 contributions should be sought in-line with the Adopted SPD for education particularly to address the shortfall in the older year groups in primary and across the whole of the secondary sector.

Torbay Council Natural Environment Services Team: No comment supplied

Natural England: Summary of Natural England's advice; no objection - subject to appropriate mitigation being secured, to avoid having an adverse effect on the integrity of South Hams Special Area of Conservation (SAC).

Natural England notes that the Authority, as competent authority, has undertaken an appropriate assessment of the proposal in accordance with Regulation 63 of the Conservation of Species and Habitats Regulations 2017 (as amended). Your appropriate assessment concludes that your authority is able to ascertain that the proposal will not result in adverse effects on the integrity of any of the sites in question. Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England advises that we concur with the assessment conclusions, providing that all mitigation measures are appropriately secured in any permission given.

Further matters include that the proposed development is within an area that Natural England considers could benefit from enhanced green infrastructure (GI) provision. Multi-functional green infrastructure can perform a range of functions including improved flood risk management, provision of accessible green space, climate change adaptation and biodiversity enhancement. As part of Torbay Council's commitment towards Green Infrastructure, we are keen to see the integration of this important element into the proposals. This will facilitate a holistic approach and ensure that the development proposals are capable of delivering an environmentally sustainable package. If you have not already done so, we would encourage you to liaise with Torbay Council's green infrastructure officer, to explore opportunities to strengthen Green Infrastructure.

South West Water: South West Water has no objection. A public water main lies within the site (running parallel to the A385), this must be retained either in the new road layout or areas of public open space. Its retention in private garden areas or beneath the potential surface water attenuation ponds shown on the master plan will not be permitted.

Environment Agency: No comment supplied.

RSPB: No comment supplied.

Devon Wildlife Trust: No comment supplied

Police Designing Out Crime Officer: Thank you for requesting consultation on the above application which is for access only to be determined at this time as such I would like to advise that I have nothing further to add to comments previously submitted within the previous application, the contents of which remain valid where relevant and should be considered in the decision making process for the above.

The illustrative masterplan for the above proposed development is noted but should the planning process evolve I would welcome early consultation with regard to a detailed design and layout of the proposed scheme to ensure that opportunity for crime, fear of crime, antisocial behaviour and conflict are minimised.

Key Issues/Material Considerations

Planning Officer Assessment

1. Principle of Residential Development
2. Design and Visual Impact
3. Impact on Heritage Assets
4. Impact on Residential Amenity.
5. Impact on Highway Safety.
6. Ecology and Biodiversity
7. Drainage and Flood Risk

1. Principle of Residential Development

The application site is located within a wider Strategic Delivery Area (SDA), as designated in the Torbay Local Plan under Policy SS1, which identifies areas for the delivery of growth and change in Torbay for the period of the Local Plan. In addition to the above the site is also part of a wider Future Growth Area as identified within Policy SS2 of the Torbay Local Plan, where it sits in the identified *Paignton North and West Area, including Collaton St Mary* (Policy SS2.2). The site forms part of the Paignton North and Western Area SDA and Policy SDP3 of the Torbay Local Plan identifies that 460 houses could be provided within the Totnes Road / Collaton St Mary Future Growth Area over the plan period. 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.

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 of the site near to the A385. The Masterplan identifies the site as being phase 4, the final phase of the wider Collaton St Mary Masterplan area. However the Masterplan also 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 Paignton Neighbourhood Plan does not identify housing sites however 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 is considered to support the principle of housing development on this site. The current proposal is considered to be generally consistent with the Masterplan proposal, as although a larger number of dwellings are proposed, the layout and number shown on the masterplan are indicative and the indicative layouts in the Masterplan are highly schematic and should not be taken as a ceiling on the number of dwellings that can be achieved.

The Paignton Neighbourhood Forum states that it is not correct to assume that the inclusion of the site in the 'Future Growth Area' makes the proposal acceptable in principle, as the adopted Torbay Local Plan designation is conditional upon the strategic policies of SS1, SS2, SS5 and SS12 being met. This opinion is not shared by the Council's Strategic Planning Policy Team, where the advice is that the Policy landscape within the Development Plan, as outlined above, establishes the principle of the development. Wider considerations will be discussed in more detail within this report but it is concluded that the proposal accords with the strategic policies SS1, SS2, SS5 and SS12.

Due to the reasons stated above the principle of residential development on this site is accepted, when considering the Development Plan as a whole, subject to other material considerations, which will again be discussed in more detail below.

2. Design and Visual Impact

Whilst the proposal only seeks detailed consent for the proposed access, being in outline with all matters reserved for future consideration, the submitted information does include an indication of a proposed site layout and further detail on the likely character and appearance of the development. It is necessary to consider whether the submitted detail indicates and ultimately provides sufficient comfort that the amount of development (up to 73 dwellings) could be appropriately achieved in terms of its layout, design and character, without undue visual impact.

Achieving good design is a central thread within 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 offers that 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.

In regard to the Local Plan Policy SS2 (TLP) states that development delivered within each of the Future Growth Areas must be integrated with existing communities, and reflect the landscape character of the area as informed by Torbay's Landscape Character Assessment (2010). Policy SS8 (TLP) states that development proposals outside of the AONB designation (the site is not within the AONB) will be supported where they conserve or enhance the distinctive character of Torbay, or where the impact is commensurate with the landscape importance. Policy SS11 (TLP) states in part that development should be of an appropriate type, scale, quality, mix and density in relation to its location. In terms of non-strategic policies Policy DE1 (TLP) outlines a number of factors towards securing development that is well-designed and that respects Torbay's special qualities. Further to these Local Plan policies 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 (of Collaton St Mary) and respects prominent landscape and other features.

Consultee comments received from the Paignton Neighbourhood Forum cite a concern that the proposal is an overdevelopment of the site that conflicts with the indicative lower number of dwellings within the adopted Masterplan, that will create a dense urban development out of keeping with the setting of the village, and also that the level of replacement and additional planting would be inadequate to compensate for the effect the proposal would have on the natural landscape views, with insufficient space provided for within the submitted masterplan to provide for landscaping due to the density of development proposed. A number of public objections similarly raise concerns in terms of the landscape and character impacts, generally citing the scheme as an overdevelopment of the site that would harm the character of the village and wider area.

In terms of the proposal the application is supported by an indicative masterplan that presents how the amount of development could be laid out within the site, together with a design and access statement that seeks to recognise the local character and suggest design strategies to resolve an acceptable form of development that could form part of a future reserved matters application. There is also a supporting landscape and visual impact assessment which concludes on the suggested developments' likely visual impact. This concludes that the character of the current proposals will ensure that the scheme is well related to its edge-of-settlement character, and will provide an appropriate rural – urban interface, and that the proposed development will not give rise to any significant landscape or visual effects, and will be well related to the surrounding landscape and townscape.

It is considered that the indicative masterplan submitted within the application presents a broadly similar layout to that shown for the site within the adopted Masterplan, with a single access point and a circular road arrangement that loops to the far northern edge of the site. The most observable divergence that the indicative layout has with the adopted Masterplan layout is the greater extent of development adjacent to the Totnes Road, where rather than a continuous green edge there is proposed development within the central section of the frontage, separating a proposed play space to the west and a proposed open space (including attenuation pond) to the east along this frontage. The accompanying design and access statement explores the design process that has informed the indicative masterplan and suggests how the layout and future form of development could reflect South Devon village vernacular, with 'village mews', 'village street', 'village edge' and 'rural courtyard' forming four concepts for character areas within the development.

The indicative layout and supporting information seeks to tackle the various design concerns that Officers held on the previous application for 94 (reduced from 97), which was ultimately withdrawn by the applicant prior to a decision being made on the application. Previous concerns in terms of design and visual impact centred on the development presenting an incongruous suburban form development that related poorly to the rural context, together with it presenting a poor residential environment for future occupiers due to the close proximity of properties and resultant potential levels of overlooking and loss of privacy.

The number of units sought within this current application has been reduced to 73, which in terms of the layout has principally removed a linear street from the development, returning it broadly to a singular loop towards the north edge akin to the

adopted masterplan layout. The removal of a road and the provision of 21 less dwellings presents a less dense form of development with more public open space, larger gardens, and greater separation distances between buildings, which in turn presents greater internal planting potential than previously shown. On balance the reduced density and additional potential for substantive planting of trees, and for larger areas of public open space, will help to break up the built form and soften views of the development both internally and externally. The proposal would provide a basis for the form and character of a future reserved matters scheme to be well related to its edge-of-settlement location, and thus provide an appropriate rural – urban interface as concluded within the submitted landscape assessment.

In regard to design and residential environment the proposal seeks to respond to Officers previous concerns (on the scheme for 94 dwelling) regarding overdevelopment and a cramped form of development, which was 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.

The indicative masterplan appears to present a more appropriately resolved layout with a demonstrable easing of the previous pressure upon space. The layout suggests that garden space could be adequately resolved to meet the standard expected within the Development Plan of 55sqm whilst also reflecting the more spacious character of the rural edge development. The more spacious layout also largely resolves previous concerns on the inter-relationships between properties and plots and the potential impact of proximity on the privacy afforded future occupiers. The suggested distances between properties are largely in excess of the 20m guide for back-to-back plus an allowance for likely level changes, which indicates that the 20m guide should be increased to secure suitable levels of privacy. The suggestion of planting within areas of the development has further potential to remove direct sight-lines, which is welcomed in principle. It should be noted however that these distances are illustrative only, but serve to demonstrate what could be achieved. A detailed layout and residential relationships would be considered in detail at the reserved matters stage.

In terms of other matters the indicative masterplan appears to contain adequate parking to meet the expected levels of 2 spaces per dwelling. Further details will be required as part of a reserved matters submission to enable the precise parking arrangement to be properly scrutinised, but it appears, based on the space available, that an adequate parking arrangement could be provided for the proposed number of units without needing to significantly compromise on other important aspects of the scheme, such as dwelling sizes, the availability of landscaping and amenity space etc.

In the absence of more detailed information relating to building levels, the siting of openings within the proposed buildings, and other information concerning the proposal's layout, appearance and scale, it is not possible at this time to ultimately determine the acceptability of the proposal in these respects. These matters will need to be addressed at the reserved matters stage, and a range of conditions are recommended to ensure that adequate details are submitted for the Council's consideration. These include details such as boundary treatment, refuse storage, landscaping, and so on. However, based on the indicative information submitted, it appears that a development of up to 73 dwellings could, in principle, be achieved at the site in terms of its layout, appearance, scale, and the associated impacts on visual

and residential amenity, based on the indicative masterplan and supporting information currently available.

It is considered that the proposed access arrangements would not result in unacceptable harm to the character of the area. Based on the indicative information provided, the proposed development is, for the reasons above, considered to demonstrate the potential to provide a satisfactory form of development in terms of layout, in accordance with Policies SS2, SS3, H1 and DE1 of the Torbay Local Plan, Policies PNP1 and PNP24 of the Paignton Neighbourhood Plan, the adopted Masterplan for Collaton St Mary, and the NPPF.

3. Impact on Heritage Assets

As an outline proposal with all other matters reserved for future consideration except for the access, it is necessary to consider the likely impact upon heritage assets of the expected scheme, informed by the submitted supporting information.

The NPPF guides that when considering the impact of a proposed development on the significance of a designated heritage asset, that 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). The NPPF further states that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification (Para 194). It guides that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use (Para 196).

In terms of the local Development Plan it is guided that development proposals should have special regard to the desirability of preserving any listed building and its setting (Policy HE1 of the TLP). 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.

In terms of the heritage context for this proposal there are a number of heritage assets nearby. To the east off Bladgon Road there is the Grade 2* Parish Church of St Mary, and Grade 2 Old School House and Old Vicarage buildings, in addition to a further four Grade 2 listed properties set off the Totnes Road (No.s 391-397). To the west (approximately 300 metres) of the site is another Grade 2* listed building, which is the 15th Century Bladgon Manor.

In terms of consultee comments the Paignton Neighbourhood Forum has raised concern on the potential harm on the setting of the nearby listed Church, and similar concerns have been raised within a number of the public objections. Historic England were consulted but have not provided comments, but it is noted that they previously objected to the scheme for 94 dwellings due to the likely impact upon the setting of the Grade 2* Church on grounds of the likely impact upon the rural setting of this building.

In terms of context around the church and the organic cluster of surrounding historic buildings the rural character and setting is largely retained, and notably the surrounding green fields reinforce the relationship between the church and the rural hinterland and ultimately how it is experienced as a rural village church.

The previous proposal for the development of the site submitted under planning reference P/2017/1304 (for up to 94 dwellings) attracted significant concerns regarding the impact upon heritage assets both from the Council's Conservation Officer and also Historic England. As mentioned above Historic England advised that they were not convinced that the previous proposal had taken into consideration the sensitivity placed on it through its contribution to the setting of the church and they suggested that further steps should be taken to understand what the contribution of the site is to the significance of the asset derived from its setting.

The current application seeks to resolve these previous concerns and notably the application proposes 21 less dwellings and has removed a road from the layout within an outline proposition for up to 73 dwellings, which presents a marked reduction from the previous scheme and a far less dense form of development. In addition additional planting has been introduced within the centre of the development in order to present a stronger landscape concept that will help break up and soften the form of development. In addition the contextual village character has been more greatly assessed within the current Design and Access Statement, also to present a concept for a less suburban form of development within a future reserved matters application.

In relation to the resulting impact upon the setting of the church although the proposal will still introduce development into a part of the Church's wider setting and will extend the built area of Collaton St Mary, the impact is considered to have lessened over that of the previous scheme considered under application reference P/2017/1304. The submitted heritage assessment acknowledges the relationship and concludes that the proposed development is likely to cause a minor level of harm within the spectrum of less than substantial harm to the significance of the Church of St Mary. This conclusion is not challenged by the Council's interim conservation advisor and is considered a reasonable conclusion

Considering the submitted detail and the advice received it is considered that, in terms of layout, the latest proposal is a clear improvement over the previously withdrawn scheme, notwithstanding that there remains some adverse impact upon the setting of the Church of St. Mary (by virtue of the erosion of the rural context). However it is accepted that the degree of impact is now limited in terms of the wider context of the church as the development parameters are more respectful to the rural context and the importance of the building and its setting, and thus presents a framework for a more appropriate pattern of development within a future reserved matters application.

Para 196 of the NPPF guides that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, the harm should be weighed against the public benefits of the proposal. Thus the decision process should weigh the benefits of the proposal against the harm arising, which in this case are considered to fall in the less than substantial category. This balancing exercise also needs to consider further advice contained within the NPPF that where a development proposal will lead to less than substantial harm to the significance of a

designated heritage asset, this harm should also consider an optimum viable use of a site (Para 196).

Considering the conclusions above in this instance the impact on the setting of the Grade 2* Parish Church of St Mary and the other listed buildings needs to be weighed against the public benefits of the proposal. In this instance the public benefits being the provision of up to 73 dwellings, of which 30% will be affordable, in addition to the delivery of construction jobs and the resultant households and their expenditure within the local economy. Officers are mindful that the site is identified for housing and the principle of housing is not objected to per-se. Officers are also mindful that the adopted masterplan for the area identifies the site for housing with a similar indicative form of development.

On balance, with a less than substantial level of harm, when considering the Development Plan and the NPPF, the proposed access arrangements and indicative layout, in terms of heritage assets, are considered suitable for approval in accordance 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.

4. Impact on Residential Amenity

Policy DE3 of the Torbay Local Plan states that development should not unduly impact upon the amenity of neighbouring and surrounding occupiers. The Paignton Neighbourhood Plan is largely silent on the matter of amenity but expectations aligned with elements of DE3 are stipulated within Policy PNP1.

The construction phase will naturally have some temporary impacts however such impacts are not unusual and can be limited through restricting hours of construction and agreeing processes to limit delivery and construction movement and parking impacts through the use of a planning condition. As the site lies across a busy road from the nearest residential properties the impact is likely to be limited, certainly towards the rear of these buildings and their plots, where quieter areas are more likely to exist away from the road.

In terms of the finished development the residential use aligns with the residential uses nearby and the additional dwellings would not result in undue noise or general disturbance for existing occupiers in the area or the school.

In terms of scale and appearance this will be established within a future reserved matters application, but there is unlikely to be any loss of outlook or light due to the modest scale of residential development and the fact that properties are expected to be set some distance away across a relatively wide public road. The school is also likely to be unaffected.

In terms of privacy, inter-visibility and overlooking, again when considering the distances involved, and taking into account the topography, the relationships across

the Totnes Road are considered acceptable in terms of the likely impact of the development upon existing occupiers. The school is also likely to be unaffected.

In summary the proposed access arrangements and indicative layout and supporting information are considered to demonstrate the potential to provide a satisfactory form of development in terms of protecting the amenities of adjacent occupiers or the school, in accordance with Policies DE1 and DE3 of the Torbay Local Plan, Policy PNP1 of the Paignton Neighbourhood Plan, the adopted Masterplan for Collaton St Mary, and the NPPF.

5. Impact on Highway Safety

The NPPF guides that in assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location; b) safe and suitable access to the site can be achieved for all users; and c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree (Para 108). It also furthers (Para 109) that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

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

The Paignton Neighbourhood Plan is largely silent on access and highway matters beyond guiding that appropriate infrastructure should be in place for development, that sustainable modes should be encouraged and that suitable parking and cycle facilities should be provided within residential development.

Comments received have raised objections to the proposal. The Paignton Neighbourhood Forum have raised concern about the access proposed and assumptions made about the impact it would have, including the capacity of Totnes Road, offering that the scheme takes insufficient account of the congestion and accident record that already affect the adjacent highway network. There are also concerns on the internal road layout shown in the application masterplan. Various public objections also raise highway concerns in terms of congestion and highway safety.

In regard to vehicular access the development would be served by a single new access junction which includes a right hand turn lane off the Totnes Road. Through revised plans the visibility standard accords with the Council's design criteria for the road speed, with 90m visibility in both directions. The Councils' Highway Engineers and Strategic Transport Officer have considered the junction detail and supporting transport information and has raised no objections in relation to the proposed vehicular access arrangements. It is considered that the proposal would not result in significant harm to highway safety or amenity and would accord with local and national guidance.

The proposed site layout is not being applied for at this time however indicative details have been provided, including the proposed pedestrian and cycle links. The layout details provided indicate a network of pedestrian and cycling links through the proposed public open space areas, with connections to the wider highway network at two further points along the Totnes Road to the eastern and western edges of the site frontage, together with a potential pedestrian/cycle link to the school grounds. On the information provided the wider pedestrian, cycle and bus access opportunities shown are considered to require improvement. It is highlighted that improved access across the A385 should be achieved towards the top of the site in the area of the bus stops, with an extended footway and provision of a crossing point. In addition to this pedestrian access should be secured towards Blagdon Road (and school and church) through the provision of a foot/cycle path within the highway verge linking to the pedestrian exit route shown within the masterplan, as there is no current footpath in this location. Although these details are not shown on the submitted plans these works could be secured through a planning condition and should these be secured the indicative layout does not raise any significant concerns at this stage. Ultimately further scrutiny will be given to the internal layout at reserved matters stage.

In regard to other matters Torbay Local Plan Policy SS6.2 and SDP3, indicates that development along the Totnes Road area (SDP3.3) will require infrastructure improvement works to the A385 Totnes Road. As noted within the Councils combined highway and transport comments the Planning Contributions and Affordable Housing SPD estimates improvement works to circa £1m (para 4.2.7) and based on the scale of the development proposed a proportionate funding level of £119,500 towards the development and implementation of this scheme should be secured (via S106 legal agreement).

In terms of other matters funding to secure improved sustainable transport links should be secured in accordance with Torbay Local Plan Policy SS7 and the Planning Contributions and Affordable Housing SPD (to the open market dwellings). In this case the trip rate presented within the submitted Transport Assessment equals an obligation level of £830 per open market dwelling following any reserved matters approval. This funding would support strategic connectivity from Collaton St Mary to employment areas along the Western Corridor and into Paignton Town Centre. Again this obligation should be secured via a S106 legal agreement.

Finally the proposal indicates that the 30/40mph speed limit boundary should be relocated. In order to relocate the 30/40mph speed limit a contribution is required as this cannot be delivered under S278 and should be secured via a S106 legal agreement. The estimate to undertake this work is £8,000.

Considering the points above, and having regard to guidance contained within the NPPF which states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe (Para 109), the proposal is, subject to securing the identified off-site sustainable transport links and financial transport obligations towards the western corridor improvements, sustainable travel and a local traffic order, considered acceptable on highway and movements

grounds, and in accordance with the Policy TA2 of the Torbay Local Plan, The Paignton Neighbourhood Plan and the NPPF.

6. Ecology & Biodiversity

Policy NC1 of the Torbay Local Plan and guidance within the NPPF seeks for development to duly consider biodiversity and take opportunities for enhancement, proportionate to the context and development.

In terms of the ecology context 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 Special Area of Conservation (SAC).

Considering the context the key ecological issues relate to the use of the site by GHBs and the consideration of the likelihood of a significant effect, along with broader ecology considerations regarding reptiles (principally slow worms), and foraging badgers (as there is a sett in the north-west corner), together with broader biodiversity enhancement aspirations.

In regard to the potential impact upon GHBs associated with the South Hams SAC the proposals include the creation of a 10m wide 'dark' wildlife corridor (<0.5 lux) along the northern and eastern boundaries, incorporating existing landscaping and further planting. In addition the supporting information details construction phase managing to limit impacts, and operation-phase mitigation through additional planting and ongoing management to principally limit light-spill. The Council's ecology advisor has undertaken a Habitat Regulations Assessment / Appropriate Assessment which concluded that subject to achieving the outlined mitigation through planning conditions the development would not have a likely significant effect on the South Hams SAC. The Council's HRA has been submitted to Natural England for comment and Natural England support the findings, that subject to achievable mitigation the proposal is considered acceptable with the conclusion of no likely significant effect.

In regard to wider ecology considerations the submitted information proposes a mitigation strategy that includes creating an exclusion zone around the badger sett, retaining and enhancing hedgerows, 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. The Council's ecology advisor has concluded that that there is no reason for refusal of the planning application on broader ecological grounds provided the proposals are implemented and maintained in accordance with the ecology documents that have been produced.

In terms of broader biodiversity aspirations in-line with advice from Natural England and the Council's ecology advisor future reserved matters should duly consider and propose measures to enhance biodiversity.

In-line with advice from Natural England and the Council's ecology advisors the proposal is considered acceptable on ecological and biodiversity grounds for the reasons stated above, in-line with the aspirations of Policies NC1 and C4 of the Local

Plan, The Paignton Neighbourhood Plan, and advice contained within the NPPF.

7. Flood Risk and Drainage

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 revised 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 revised detail and has concluded that the submitted detail demonstrates that there is no risk of flooding for the critical 1 in 100 year storm event plus 40% for climate change, subject to a final layout for the development and design being submitted to the planning authority for approval prior to construction works commencing on site. This can be achieved by a planning condition.

In terms of other matters there is an identified flood alleviation scheme immediately downstream of the development on the Yalberton watercourse and the council's drainage engineer has identified that as the surface water run-off from the proposed development is likely to impact on this watercourse a contribution to the funding for the flood alleviation scheme should be secured from the developer through S106 funding. In accordance with previous correspondence relating to a section 106 contribution a figure of £915 per dwelling has been identified, which would present an obligation from this development to the flood alleviation scheme to the sum of £66,795 (73 x £915).

Based on the above comments there is no objection to planning permission being granted for the above development subject to a condition requiring the developer to submit their final drainage design for approval, together with the funding above being secured.

The proposal is considered, subject to the above, in accordance with Policies ER1, ER2, SS2 and SS7 of the Local Plan, the Paignton Neighbourhood Plan, and advice contained within the NPPF.

8. Other Considerations

Housing Supply

The Council cannot currently demonstrate a 5 year housing land supply, as sought by Government, and the proposal will help with the delivery of housing with a form of development that is considered to accord with the Development Plan. As stated within this report the site is allocated and the proposals are in broad accordance with the adopted masterplan for the area. Paragraph 11 of the NPPF outlines that decisions should apply a presumption in favour of sustainable development, which means approving development proposals that accord with an up-to-date development plan

without delay.

It is concluded that the development accords with the Development Plan and hence there is support for the grant of permission, in-line with the guidance within the NPPF (Para 11). Were this judgment different and the proposal considered to conflict with the Development Plan it should be noted that the absence of a 5 year housing supply principally sets a higher benchmark to resist development. In such a circumstance development should only be refused where any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits. As stated the land is allocated for housing and the development broadly accords with an adopted masterplan for the area, that is itself supported within the Neighbourhood Plan, the conclusion would in such a circumstance be that the adverse impacts are not significant and demonstrable in this context, and the tilted balance in favour of granting permission should apply.

Sustainability

Policy SS3 of the Local Plan establishes the presumption in favour of sustainable development.

The site is identified for housing within the Development Plan and is hence broadly considered a sustainable site for future residential development.

The proposal is supported by a travel plan that seeks to provide the parameters to help the development minimise the use of the private car. This for example includes providing cycle parking facilities for all dwellings and good quality pedestrian and cycle networks within the development.

The proposal is supported by an energy statement that presents proposed measures by the developer to reduced CO2 emissions, delivered through a combination of passive and active design measures, in the form of demand-reduction measures and energy-efficiency measures.

Local Finance Considerations

S106:

The following are draft Heads of Terms for a legal agreement, which should be completed prior to a planning consent being issued. Triggers and instalments in relation to the proposed financial contributions are to be agreed as part of the detailed negotiation of the legal agreement. It is recommended that authority to progress and complete the legal agreement be delegated to officers.

Highway works

In-line with Torbay Local Plan Policy SS6.2 and SDP3 development along the Totnes Road area (SDP3.3) will require infrastructure improvement works to the A385 Totnes Road. Based on the scale of the development expected within the area and within this site a proportionate funding level of £119,500 towards the development and implementation of this scheme should be secured.

In order to relocate the 30/40mph speed limit a contribution is required. The estimate to undertake this work is £8,000.

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. The level of funding should be secured based on a figure of £915 per dwelling. As a result the S106 contribution from this development to the flood alleviation scheme should be in the sum of £66,795 (73 x £915).

Affordable Housing

Affordable housing provision should be secured from this development in accordance with Policy H2 of the Torbay Local Plan, which states that for development of greenfield sites for schemes of 30+ dwellings that 30% should be affordable housing. At 30% the scheme is expected to secure 22 affordable units.

The provision should be secured via a S106 with elements of the provision, such as location and mix, being agreed through the reserved matters stage when the form and layout is progressed beyond the current indicative stage.

Sustainable Transport

In accordance with Torbay Local Plan Policy SS7 and the Planning Contributions and Affordable Housing SPD (to open marking housing only) Sustainable Transport obligations should be secured at a rate of £830 per eligible dwelling. Based on "trip rate x £171" per dwelling where the trip rate is equal to 4.854 (Appendix F of the Transport Assessment – TRICS output page 5) or other alternative method as agreed. This funding would support strategic connectivity from Collaton St Mary to employment areas along the Western Corridor and into Paignton Town Centre.

Greenspace and Recreation

No obligation request raised by Natural Environment Services. It is noted that the indicative masterplan includes a LEAP to provide local plan space together with more informal space. The provision of a LEAP is considered commensurate for the scale of development in the absence of further comment from the Councils Natural Environment Services Team.

Education

Obligations in-line with the adopted SPD should be sought to secure increased school capacity within Paignton, based on the provision of open market housing, the detail of which will come forward at reserved matters stage.

Lifelong Learning Obligations

Obligations in-line with the adopted SPD should be sought to secure library improvements within the area, based on the provision of open market housing, the detail of which will come forward at reserved matters stage.

Waste and Recycling

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:

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.

HRA:

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

A Habitat Regulations Assessment / Appropriate 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 concur with the Council's conclusions, subject to securing the proposed mitigation measures.

Planning Balance

The planning assessment considers the policy and material considerations in detail. It is considered that the scheme in terms of addressing the Development Plan aspiration to provide housing would produce a significantly positive impact overall and help with the supply of much needed housing. It is acknowledged that there are concerns about the potential impact upon setting of the listed church and broader landscape impact, however on the information available this is not unacceptable, subject to the planning conditions and obligations detailed below, and bearing in mind that a number of elements, including the layout, scale, appearance and landscaping for the development will need to be the subject of reserved matters applications.

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

Conclusions and Reasons for Decision

The site is identified for housing within the Development Plan and the proposal does appear to be fairly consistent with the associated adopted Masterplan for the area.

Key public concerns regarding the impact upon the Greater Horseshoe Bats and flooding are resolved to the satisfaction of the statutory consultees on these matters, and the highway authority does not object to the access or impact upon the road network.

There is a degree of impact upon the landscape and setting of the nearby listed church, however these impacts are not considered significant and are outweighed by public benefits.

In-line with the above conclusions, and the detail contained within this report, the proposals are considered to be in accordance with the provisions of the Development Plan. The NPPF states that development proposals that accord with an up-to-date development plan should be approved without delay.

Due to the level of accordance with the Development Plan and in the absence of material considerations that weigh sufficiently against the proposal, the Officer recommendation is one of approval, subject to suitable conditions, and securing a S106 Legal Agreement to secure the identified mitigation and affordable housing in-line with adopted policy.

The proposal is ultimately considered a good use of an identified site that would provide much needed housing to help meet local need.

Officer Recommendation

Approval: Subject to;

1. The conditions outlined below, with the final drafting of conditions delegated to the Assistant Director of Planning and Transport;
2. The completion of a S106 Legal Agreement to secure the heads of terms above, in accordance with the adopted Planning Contributions and Affordable Housing Supplementary Planning Document, on terms acceptable to Officers.

The resolution of any new material considerations that may come to light following Planning Committee to be delegated to the Assistant Director of Planning and Transport, including the addition of any necessary further planning conditions or obligations.

Conditions

Standard time condition:

That in the case of any reserved matter, an application for approval must be made not later than the expiration of three years beginning with the date of the grant of outline planning permission; and

That the development to which this permission relates must be begun not later than two years from the date of the final approval of the reserved matters, or in the case of approval on different dates, the final approval of the last such matter to be approved.

Reason: To comply with Section 91 of the Town and Country Planning Act, 1990.

1. Reserved Matters condition

An application for the following reserved matters shall be submitted to the Local Planning Authority for its approval in writing:

- (i) layout,
- (ii) scale,
- (iii) appearance; and
- (iv) landscaping.

The details of the reserved matters shall be consistent with the details submitted and approved pursuant to the outline consent.

Approval of all reserved matters shall be obtained from the Local Planning Authority in writing before any development is commenced, and the development shall be undertaken in accordance with the approved reserved matters.

Reason: To enable the Local Planning Authority to control the development in detail and to comply with Section 92 of the Town and Country Planning Act 1990 (as amended).

2. Control of External Light Spill to Maintain Dark Areas on Site and in Surrounding Areas

All reserved matters applications shall include a Lighting Assessment, including lux contour plan, for both public-realm and domestic lighting in combination with any existing light sources in the locality to demonstrate compliance with the 0.5lux design parameter set out in the Shadow HRA (EAD Ecology, May 2019).

Reason: To secure a satisfactory form of development in accordance with Policies SS2, SS8 and NC1 of the Torbay Local Plan 2012-2030.

3. Construction Environmental Management Plan – Biodiversity

All reserved matters applications shall include a Construction Environmental Management Plan (*CEMP: Biodiversity*), which shall have been prepared in accordance with specifications in BS42020; clause 10.2 and shall include the following.

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of 'biodiversity protection zones'.

- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- d) The location and timing of sensitive works to avoid harm to biodiversity features. This includes the use of protective fences, exclusion barriers and warning signs.
- e) The times during construction when specialist ecologists need to be present on site to monitor works to ensure compliance with the CEMP: Biodiversity, and the actions that will be undertaken.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.

Reason: To secure a satisfactory form of development in accordance with Policies SS2, SS8 and NC1 of the Torbay Local Plan 2012-2030.

4. Landscape and Ecological Management Plan (LEMP) or equivalent

All reserved matters applications shall include a Landscape and Ecological Management Plan (LEMP), prepared in accordance with the specifications in BS42020; clause 11.1, which shall be submitted and shall include, but not be limited to, the following.

- a) Description and evaluation of features to be managed, which shall include all of the mitigation measures set out in the assessment documents.
- b) Ecological trends and constraints on site that might influence management.
- c) A habitat phasing plan to ensure habitat is established and functional in advance of impacts.
- d) Aims and objectives of management.
- e) Appropriate management options for achieving aims and objectives. Noting the comments from Natural England with regards to preferred hedgerow management options.
- f) Prescriptions for management actions.
- g) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five year period).
- h) Details of the body or organisation responsible for implementation of the plan.
- i) On-going monitoring and remedial measures for biodiversity features included in the LEMP.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(s) responsible for its delivery.

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

Reason: To secure a satisfactory form of development in accordance with Policies SS2, SS8 and NC1 of the Torbay Local Plan 2012-2030.

5. Ecological monitoring to provide early warning of threats to bat commuting routes

All reserved matters applications shall include a monitoring strategy which shall be prepared with the purpose *'provide early warning of any change in site conditions (such as those brought about by loss of suitable habitat features or adverse light spill) that are likely to impair or disturb greater horseshoe bats being able to commute through the site adjacent to the site boundary'*. The strategy will be prepared in accordance with the specifications in BS42020; clause 11.2.3 and shall include the following.

- a) Aims and objectives of monitoring to match the stated purpose;
- b) Identification of adequate baseline conditions prior to the start of development (including light levels within the dark areas);
- c) Appropriate success criteria, thresholds, triggers and targets against which the continued effectiveness of the bats' commuting routes can be judged;
- d) Methods for data gathering and analysis (to include appropriate bat surveys and light monitoring);
- e) Location of monitoring/sampling points;
- f) Timing and duration of monitoring;
- g) Responsible persons and lines of communication;
- h) Contingencies and remedial measures that will be triggered should monitoring detect a change in site conditions;
- i) Review, and where appropriate, publication of results and outcomes.

A report describing the results of monitoring shall be submitted to the Local Planning Authority at intervals as identified in the Strategy. The report shall also set out where the results from monitoring show that site conditions are changing and consequently how contingencies and/or remedial action will be identified, agreed with the local planning authority, and then implemented so that the development still delivers the fully functioning bat commuting routes associated with the originally approved scheme. The monitoring strategy will be implemented in accordance with the approved details.

Reason: To secure a satisfactory form of development in accordance with Policies SS2, SS8 and NC1 of the Torbay Local Plan 2012-2030.

6. Highway Works

Prior to commencement of development, a S278 Agreement shall be entered into with the Highway Authority to secure pedestrian crossing facilities adjacent to the existing bus stops to the west of the site within the vicinity of the proposed LEAP and adjacent to the proposed vehicular junction, together with works to create a foot/cycle route that connects the eastern edge of the site to the junction/crossing of Blagdon Road. The agreed works shall be delivered in accordance with the Agreement.

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

7. Flood risk

As part of any reserved matters application a scheme for the treatment of surface water that demonstrates that the risk of flooding would not be increased, which is in-line with the design parameters outlined within the submitted and approved Flood Risk Assessment, shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in full prior to the first occupation of the development unless a phasing plan has been submitted to and approved by the Local Planning Authority, and shall be subsequently maintained thereafter.

Reason: To ensure that there are no increased flood risk, in accordance with Policies ER1 and ER2 of the Torbay Local Plan, the Paignton Neighbourhood Plan, and advice contained within the NPPF.

8. Affordable Housing

As part of any application for reserved matters relating to the proposal's layout and scale, a scheme of affordable housing shall be submitted for the written approval of the Local Planning Authority. The submitted details shall include information about the siting, size, and tenure type of the affordable units. The development shall be undertaken in accordance with the approved details.

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

9. Biodiversity enhancement measures

As part of any reserved matters relating to layout, appearance and landscaping proposed measures to enhance biodiversity, including the assessment principals that have informed the proposals, shall be submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented in full prior to the first occupation of the development, unless a phasing strategy has otherwise been agreed in writing, and shall be permanently managed and maintained at all times thereafter in accordance with the approved detail.

Reason: in the interests of biodiversity, in accordance with Policies SS8 and NC1 of the Torbay local Plan 2012-2030, the Paignton Neighbourhood Plan and the NPPF.

10. Construction method statement

No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the Local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- a) The parking of vehicles of site operatives and visitors.
- b) Loading and unloading of plant and materials.
- c) Storage of plant and materials used in constructing the development.
- d) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate.
- e) Wheel washing facilities.
- f) Measures to control the emission of dust and dirt during construction.
- g) A scheme for recycling/disposing of waste resulting from demolition and construction works, with priority given to reuse of building materials on site wherever practicable.

- h) Measures to minimise noise nuisance to neighbours from plant and machinery.
- i) Construction working hours from 8:00 to 18:00 Monday to Friday, 8:00 to 13:00 on Saturdays and at no time on Sundays or Bank Holidays.

Reason: In the interests of highway safety and local neighbour amenity, in accordance with Policy TA2 and DE3 of the Torbay Local Plan 2012-2030.

11. Travel plan

The submitted Travel Plan shall be implemented in full. Should the annual review show that the development is failing to secure a modal shift of 30% of potential users to sustainable modes of travel, additional measures, in discussion with the Local Planning Authority, shall be agreed and implemented.

Reason: To reduce the impact of the development upon the transport network, in accordance with Policy TA2 of the Torbay Local Plan 2012-2030.

12. Energy

As part of any application for reserved matters relating to the proposal's layout, scale and appearance, details of energy efficiency measures shall be submitted for the approval in writing by the Local Planning Authority. The measures in relation to each residential unit shall be completed, in accordance with the approved details, prior to the first occupation of that unit.

Reason: In the interests of sustainable development and in accordance with Policy PNP1 of the Paignton Neighbourhood Plan and Policy SS14 of the Torbay Local Plan 2012-2030.

Development Plan Relevant Policies

SS1 - Growth Strategy for a prosperous Torbay
SS2 – Future Growth Areas
SS3 - Presumption in favour of sustainable dev
SS8 - Natural Environment
SS9 – Green infrastructure
SS10 – Conservation and the historic environment
SS11 - Sustainable Communities Strategy
SS12 - Housing
SS13 - Five Year Housing Land Supply
SDP3 – Paignton North and Western Area
TA1 - Transport and accessibility
TA2 - Development access
TA3 - Parking requirements
C4 - Trees, hedgerows and natural landscape
H1LFS - Applications for new homes_
H2LFS - Affordable Housing_
DE1 - Design
DE3 - Development Amenity
ER1 - Flood Risk
ER2 - Water Management

W1 - Waste management facilities

PNP1 – Area Wide

PNP24 – Collaton St Mary Village