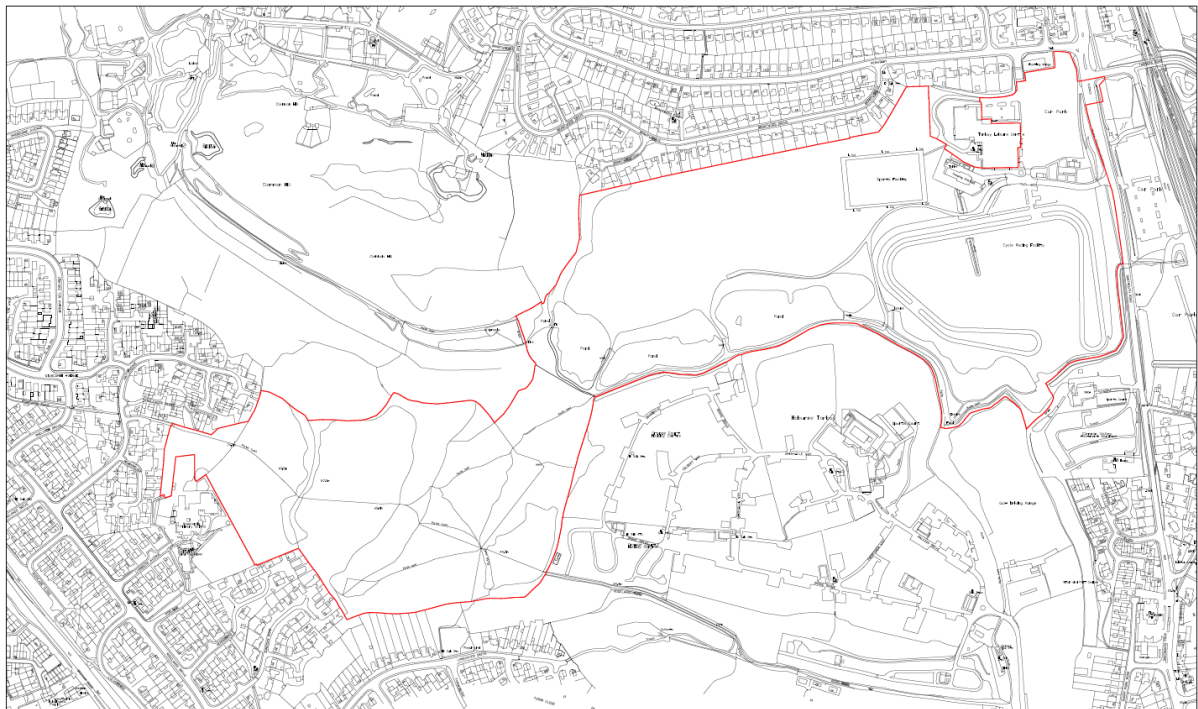




Application Site Address	Clennon Valley Goodrington, Paignton
Proposal	Provision of pedestrian/cycle path linking Haytor Avenue (north of Roselands Primary School) to Dartmouth Road (north of Torbay Velopark) with associated landscape and ecological enhancement
Application Number	P/2020/0368
Applicant	Torbay Council (Mr Neil Coish)
Agent	LHC Design
Date Application Valid	03.06.2020
Decision Due date	02.09.2020
Extension of Time Date	
Recommendation	Approval: Subject to planning conditions as outlined within the report
Reason for Referral to Planning Committee	Major Application
Planning Case Officer	Miss Rose Bailey-Clark



KEY
 Planning Application Boundary

lhc architecture urbanism landscape		CLIENT: CLENNON VALLEY, PAIGNTON PROJECT: OPENED LAND	
ULL 01/17		DATE: December 2019	
DRAWN BY: [Name]		CHECKED BY: [Name]	
APPROVED BY: [Name]		DATE: [Date]	

Report on Planning Committee Agenda 10.08.2020

Site Details

Clennon Valley is a green corridor located in the Goodrington with Roselands Ward, Paignton. It lies between Torbay Leisure Centre and Velopark, Dartmouth Road to the east and Roselands School and Haytor Avenue and to the west. Goodrington Park, Youngs Park, the beach, Torbay Golf Centre and Holburne Holiday Park are all in close proximity to the site.

The site consists of flat, low lying land to the east and rising to meet the higher lying land around Roselands to the west. On the lower land there are a number of artificial grass and grass sports pitches. South of the playing fields lies Clennon Valley Lakes, a wetland nature reserve with an active friend's group who work to protect and enhance the area.

Further west, the land rises steeply, with a number of informal footpaths running through areas of bracken and scrub on the hillside. Clennon Gorge, populated with deciduous woodland, lies to the north with corridors of trees running south across the site area.

Two fields, currently managed for hay, lie to the west, completing the link from Clennon Valley Playing Fields to the residential area around Roselands Primary School. At this point there are existing footpaths which permeate the area, linking with the Western Corridor, South Devon College and nearby homes, retail and employment areas.

In terms of the Local Plan, the site is identified as part of the Clennon Valley Leisure Hub Strategic delivery area (SPD4) and falls within the Goodrington Sands and Clennon Valley Core Tourism investment Area, as defined within Policy TO1. Part of the proposed route falls within the Clennon Hill/Roselands Valley Urban Landscape Protection Area, as defined within Local Plan Policy C5.

The proposed route crosses three non-statutory sites of nature conservation importance: Clennon Ponds County Wildlife Sites (CWS), Grange Farm Other Sites of Wildlife Interest (OSWI) and Torbay-Dartmouth Railway OSWI.

The whole site is located within the greater horseshoe bat sustenance zone and landscape connectivity zone associated with the South Hams Special Area of Conservation (SAC) at Berry Head. The whole site is located with the Critical Drainage Area (CDA) and the eastern part of the site falls within Flood Zone 3.

Description of Development

The proposal seeks the following:

- A new traffic free shared path which would link the east and west, provide sustainable transport options for local residents and tourists, connect with the

South West Coast Path. The development seeks to improve the links to Clennon playing fields, Torbay Leisure Centre and Clennon Lakes.

- The path would be 3m wide asphalt surface and would include solar power lighting on the steepest sections of the path. The proposal includes improvements to the entrance of the Velopark site, the removal of a number of barriers, a new timber bird watching screen, benches, new wayfinding and signage
- The design process has been led by ecology, and the proposal will retain and enhance existing habitats and biodiversity within the Clennon Valley.

Pre-Application Enquiry

Extensive pre-application discussions have taken place.

Engagement

Public consultation and stakeholder engagement ran for over six weeks from 17th July to 2nd September 2019. It was timed to take place around the school summer holidays and during peak tourism season. Torbay Council captured views from the local community, users and stakeholders. Key stakeholders were contacted directly by email and several meetings held. Stakeholders included Friends of Clennon Lakes, British Cycling, Torbay Leisure Centre and Mid Devon Cycling Club. People were able to respond through a consultation email, Council webpages, social media and Devon Live ran a story on the proposals.

We received 69 responses to the consultation.

- 30 supported the proposal.
- 28 generally supported and provided comments or suggestions.
- 11 did not support.

This early consultation showed a positive level of support with only a small proportion of objections. It also highlighted a number of observations, suggestions and concerns. After considering all the responses, the scheme was developed and several key changes were incorporated.

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 (TLP)
- The Adopted Paignton Neighbourhood Plan (PNP)

Material Considerations

- 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

None relevant.

Summary of Representations

Approximately thirty three objections and twenty two comments in support of the scheme had been received at the time of drafting this report. 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.

Summary of reasons for objection:

- Impact on local area
- Not in keeping with local area
- Sets precedent
- Trees and wildlife
- Residential amenity
- Over development
- Conflict between users and the speed of cyclists.
- Potential use of the path by motorcycles, mopeds and scooters.
- Disturbance and negative effect on ecology.
- The alternative option to use a route from Grange Road or Lancaster Drive.
- The need for a 'cycle path'.
- Maintenance costs.
- Light pollution.
- Loss of habitat
- The potential for future development.
- Potential for on-street parking around the west of the proposed path.
- Lack of community engagement.
- Drainage

Comments in support include:

- The improvements to walking and cycling facilities in the area;
- Links outside the Torbay boundary;
- Promotion of active travel;
- Part of the response to climate change;
- Improvements to highway matters and
- Tourism benefits.

Summary of Consultation Responses

Sport England: Thank you for consulting Sport England on the full application.

It is understood that the proposal prejudices the use, or leads to the loss of use, of land being used as a playing field or has been used as a playing field in the last five years, as defined in The Town and Country Planning (Development Management Procedure) (England) Order 2015 (Statutory Instrument 2015 No. 595). The consultation with Sport England is therefore a statutory requirement.

Sport England has considered the application in light of the National Planning Policy Framework (particularly Para 97) and Sport England's Playing Fields Policy, which is presented within its Planning Policy Statement titled 'A Sporting Future for the Playing Fields of England' (see link below):

<http://www.sportengland.org/playingfieldspolicy>

Sport England's policy is to oppose the granting of planning permission for any development which would lead to the loss of, or prejudice the use of, all/part of a playing field, unless one or more of the five exceptions stated in its policy apply.

The Proposal and Impact on Playing Field

It is proposed to create a Green Link through Clennon Valley to the south of the playing pitches. The Green Link is located on playing field land but not on playing pitches.

When considering an application of this nature Sport England need to be satisfied that the proposal meets one of the exceptions of the above policy (E.5) in that:

The proposed development is for an indoor or outdoor facility for sport, the provision of which would be of sufficient benefit to the development of sport as to outweigh the detriment caused by the loss, or prejudice to the use, of the area of playing field.

Further guidance on Exception E5 can be found on our website.

E5 is very similar in intent to the criterion within paragraph 97 of the NFFP which states:

- the development is for alternative sports and recreational provision, the needs for which clearly outweigh the loss.

The proposal is for a pedestrian/cycle way not affecting the playing pitches. In fact, the new Green Link will provide new drainage east/west of the site alongside the Green Link which the existing north/south drainage from the playing pitches will connect to. The result of this will hopefully improve moving excess water away from the playing pitches quicker to enable better pitch quality.

Conclusion

On review, the proposal broadly meets E5 and the NPPF therefore Sport England does not wish to raise an objection to this application.

The absence of an objection to this application in the context of the Town and Country Planning Acts, does not in any way commit Sport England's or any National Governing Body of Sport's support for any related application for grant funding.

If this application is to be presented to a Planning Committee, we would like to be notified in advance of the publication of any committee agendas, report(s) and committee date(s). We would be grateful if you would advise us of the outcome of the application by sending us a copy of the decision notice.

Devon Wildlife Trust: No comment supplied.

Environment Agency: No comment supplied.

Paignton Neighbourhood Plan Forum: No comment supplied.

Devon and Cornwall Police:

From a designing out crime, fear of crime, antisocial behaviour (ASB) and conflict perspective, please find the following comments for consideration:-

- The 3 metre width of the path is much supported as this should allow users to pass without too much infringement on others personal space.
- Routes for pedestrians and cyclists should be well designed and integrated to provide a network of supervised areas to encourage legitimate use and reduce crime and ASB.
- To reduce the potential for conflict between pedestrians and cyclists it is recommended that polite notices/signage are strategically placed along the path advising users to keep left as much as possible. This will assist greatly in managing movement along the route and reduce opportunity for irritation and conflict.
- The path should be designed so it is as visually open as possible and users have clear sight ahead
- Careful consideration will need to be given to the type of planting/landscaping adjacent to the path so it can be easily managed and maintained and should not impede on natural surveillance, create hiding places, encroach onto the path or create pinch points.
- There are two trains of thought with regard to lighting the path; one being that if the path is lit (or part of it) but lacks natural surveillance this could give a false sense of safety/security but on the flip side when a place that the public are permitted access lacks surveillance but is well lit this can attract unwanted or antisocial behaviour but by not lighting the path may result in the path being underused during the dark hours due to an increase in the fear of crime. From a safety and security perspective appropriate lighting in the right places generally has the most impact and benefits when supported with a good level of natural surveillance but I appreciate that this is not always practical or realistic for many walking and cycling routes. A compromise to encourage use during winter months (dark mornings and late afternoons) could be for lighting to be installed but only activated at certain times

- Before placing any seating (or structure capable of being sat upon) the context in terms of the physical and social environment should be carefully considered. Seating in a positive way can be a valuable amenity but can also become a focus for unwanted loitering/gatherings and ASB, whereas at a different point on the same route, perhaps with better natural surveillance, it could prove problem free. Where seating is necessary but inappropriate loitering is a concern perhaps consider the use of single seats or stools set several metres apart to deter congregating. In some locations the use of leaning bars might be more appropriate than seats. Ideally the seating should be vandal resistant.
- Having reviewed the public comments it is noted that there are concerns over bikes gaining too much speed at specific locations on the path. Carefully thought out and well-designed physical barriers installed at concerned locations should be considered to prevent this from happening. Physical barriers may also be required where 'desire lines' (unsanctioned direct routes) could be created.
- It is recommended that where possible the path is designed so it will enable access for emergency and service vehicles. To prevent unauthorised vehicular access these access points should have an access control gate or barrier.

RSPB: No comment supplied.

Arboricultural Section: There is no arboricultural information submitted with the application. However the site has been walked and the route of the cycle path approximated. There will be an impact on trees however the majority are Ash trees that are in various stages of Ash Dieback infection with the resulting effect that they will have to be removed.

I have no objections to the proposals but a pre-commencement condition for a tree protection plan (TPP) and arboricultural method statement (AMS).

South West Water: No comment supplied.

Torbay Coast and Countryside Trust: No comment supplied.

Natural England:

Natural England has not assessed this application for impacts on protected species. Natural England has published Standing Advice which you can use to assess impacts on protected species or you may wish to consult your own ecology services for advice.

Natural England and the Forestry Commission have also published standing advice on ancient woodland and veteran trees which you can use to assess any impacts on ancient woodland.

The lack of comment from Natural England does not imply that there are no impacts on the natural environment, but only that the application is not likely to result in significant impacts on statutory designated nature conservation sites or landscapes. It is for the local planning authority to determine whether or not this application is

consistent with national and local policies on the natural environment. Other bodies and individuals may be able to provide information and advice on the decision making process. We advise LPAs to obtain specialist ecological or other environmental advice when determining the environmental impacts of development.

We recommend referring to our SSSI Impact Risk Zones (available on Magic and as a downloadable dataset) prior to consultation with Natural England. Further guidance on when to consult Natural England on planning and development proposals is available on gov.uk at <https://www.gov.uk/guidance/localplanning-authorities-get-environmental-advice>.

Torbay Council Drainage Engineer:

- Part of the site lies within Flood Zone 3 and as a result the developer has submitted a site specific flood risk assessment.
- The provision of pedestrian and cycle path can be classified as water compatible development which is allowed in Flood Zone 3.
- The developer is proposing to install a stone drainage trench alongside the cycle path through Clennon Valley which will allow surface water to infiltrate into the ground.

Providing the development is undertaken in accordance with the submitted flood risk assessment I have no objections on drainage grounds to planning permission being granted.

Senior Environmental Health Officer:

Further to your recent consultation regarding the above application I would confirm that that I have no objections. Should you have any further queries then please let me know.

County Archaeologist & Historic Environment Manager:

I refer to the above application. The proposal is sited in an area of archaeological potential. It is probable that groundworks on such a lengthy linear construction through largely green field areas will expose and destroy archaeological and artefactual deposits. The impact of development upon the archaeological resource here should be mitigated by a programme of archaeological work that should investigate, record and analyse the archaeological evidence that will otherwise be destroyed by the proposed development.

I recommend that this application should be supported by the submission of a Written Scheme of Investigation (WSI) setting out a programme of archaeological work to be undertaken in mitigation for the loss of heritage assets with archaeological interest. The WSI should be based on national standards and guidance and be approved by the Historic Environment Team.

If a Written Scheme of Investigation is not submitted prior to determination the Historic Environment Team would advise, for the above reasons and in accordance with paragraph 199 of the National Planning Policy Framework (2018) and Policy

SS10 in the Torbay Local Plan 2012 - 2030, that any consent your Authority may be minded to issue should carry the condition as worded below, based on model Condition 55 as set out in Appendix A of Circular 11/95, whereby:

'No development shall take place until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI) which has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out at all times in accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the Local Planning Authority.

Reason

'To ensure, in accordance with Policy SS10 of the Torbay Local Plan 2012 - 2030 and paragraph 199 of the National Planning Policy Framework (2018), that an appropriate record is made of archaeological evidence that may be affected by the development'

This pre-commencement condition is required to ensure that the archaeological works are agreed and implemented prior to any disturbance of archaeological deposits by the commencement of preparatory and/or construction works.

I would envisage a suitable programme of work taking the form of a walkover survey followed by targeted archaeological monitoring of consented groundworks and the recording of any features or finds that are observed. The results of the fieldwork and any post-excavation analysis undertaken would need to be presented in an appropriately detailed and illustrated report, and the finds and archive deposited in accordance with relevant national and local guidelines.

I will be happy to discuss this further with you, the applicant or their agent. The Historic Environment Team can also provide the applicant with advice of the scope of the works required, as well as contact details for archaeological contractors who would be able to undertake this work. Provision of detailed advice to non-householder developers may incur a charge. For further information on the historic environment and planning, and our charging schedule please refer the applicant to: <https://new.devon.gov.uk/historicenvironment/development-management/>.

Key Issues/Material Considerations

Planning Officer Assessment

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

1. Principle of Development

The TLP makes strong links to walking and cycling in its health and transport aspirations and policies. Aspiration 2: *Achieve a better connected, accessible Torbay with essential infrastructure*, paragraph 4.3.8 supports the role of green infrastructure and proposals which improve connectivity for walking and cycling.

Policy SS6: *Strategic Transport Improvements* (TLP) supports the development of public rights of way and the cycling network. The role of this route linking key residential and employment centres is supported. Policy SS11 *Sustainable Communities* (TLP) seeks to create well connected, accessible and safe communities.

TLP Policy SS1 allocates future growth areas and Clennon Valley is referred to specifically as a strategic delivery area (Policy SDP4; *Clennon Valley Leisure Hub*). Policy SS1 supports urban regeneration that creates sustainable living and leisure environments. Policy SDP4 seeks to develop Clennon Valley as an outstanding leisure and recreation venue which would be recognised as an important destination for the whole Bay. This policy states that proposals should enhance green infrastructure and consist of a green infrastructure-led design approach. PNP Policy PNP25 (*Clennon Valley*) supports proposals which retain and enhance the landscape character of the valley, safeguard the footpaths used by residents. It goes on to seek improvements to the tourism offer which are all weather attractions and provide facilities that will be resilient to flood risk.

This proposal would provide the start of a green link to ultimately connect South Devon College, Paignton Community College, Paignton Zoo, Long Road South Business Park and the wider countryside to Quaywest, Goodrington Sands and the sea. The proposed safe, off-road shared path would promote active transport and provide a link from Goodrington's beaches and sports facilities to the residential area at the top of the valley. The proposal is considered to be consistent with the aspirations of policies SS1, SDP4 and PNP25.

PNP Policy PNP1(h) requires new development to provide 'comprehensive direct networks for walking, cycling and public transport within and beyond the development'. Policy PNP25 states that 'development proposals will be supported that 'safeguard footpaths and facilities used by local residents'. The proposed shared path is considered to be comply with these Policies.

The site is part of the Goodrington Sands and Clennon Valley Core Tourism Investment Area (CTIA) as defined in TLP Policy TO1. This Policy supports in principle the improvement of existing and provision of new tourist attractions, particularly proposals that make positive use of Torbay's marine environment, culture, heritage, biodiversity and Geopark. The proposed green link is considered to be aligned with the aspirations of this Policy.

TLP Policy C5, Urban Landscape Protection Areas (ULPAs), specifies that development within an ULPA will only be permitted where:

1. It does not undermine the value of the ULPA as an open or landscaped feature within the urban area; and
2. It makes a positive contribution to the urban environment and enhances the landscape character of the ULPA.

The proposal includes planting along the boundaries of the pathway and the natural features which make the landscape attractive are retained. The design of the proposal has been led by ecology and the proposed planting would allow the path to settle into the hillside with minimal visual intrusion. It is considered that the proposed path would make a positive contribution to the ULPA and would increase its value as an open feature by improving its accessibility. The proposal is therefore considered to be in accordance with TLP Policy C5.

The Council has also shown commitment in the Local Transport Plan (2011–2026) to provide safe, sustainable and low carbon choices and make Devon the ‘place to be naturally active’. The plan aims to deliver a number of sustainable transport improvements on the network. Clennon Valley has been identified as one to be delivered within the plan period.

Torbay Council’s Green Infrastructure Plan also supports the link and states ‘it is important to plan strategically in order to deliver a healthy natural environment’.

The route is only one element of the overall walking and cycling network in the Bay. Work is currently being undertaken through a commissioned Local Cycling and Walking Infrastructure Plan (LCWIP) to assess and prioritise our network and ensure improvements are programmed to encourage active travel. It should be noted that additional works are planned to the highway at both Dartmouth Road and Tanners Road to the east and the connection with the Western Corridor via Roselands. Once completed the entire route would be approximately 2.5km long.

The application has been submitted during the global Covid-19 pandemic. Walking and cycling is being seen as an important part of UK resilience against the Covid-19 coronavirus. Investment in walking and cycling schemes can help address these challenges by supporting improved public health through active travel, providing access to centres of employment, education and residential, cutting carbon emissions.

Finally, it is also worth noting that on 28th July 2020 the Department for Transport set out a clear statement of intent with in ‘Gear Change – a bold vision for cycling and walking’. The document is clearly putting cycling and walking at the heart of transport, place making and health policy.

2. Ecology and Landscape

The National Planning Policy Framework (NPPF) includes the Government’s policy on the protection of biodiversity through the planning system. Planning policies and decisions should contribute to and enhance the local environment by minimising impacts on, and providing net gains in, biodiversity. Plans should promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue

opportunities for securing measurable net gains for biodiversity.

TLP Policy NC1: Biodiversity and Geodiversity seeks for development to duly consider biodiversity and take opportunities for enhancement, proportionate to the context and development. This Policy also states that development in locally important wildlife sites will only be permitted where there are no reasonable alternative sites, where the reasons for development clearly outweigh damage to conservation interests, where every effort has been made to minimise damage and where appropriate mitigation and compensation can be put into place.

Policy SS8: *Natural Environment* requires all development to have regard to its environmental setting and should positively contribute to conservation and enhancement of natural assets and setting of the Bay.

Policy SS9: *Green Infrastructure* also seeks a green-infrastructure led approach which considers the landscape context and relationship with green infrastructure.

Policy PNP25: Clennon Valley support proposals which retain and enhance the landscape character of the valley.

Policy PNP1 (c): *Design Principles* includes a number of aspirations for development to secure, where possible and appropriate to the scale and size of development. PNP1 (c) includes reference to safeguarding biodiversity and geodiversity by ensuring that layout and design will protect existing features of biodiversity value on site and biodiversity connections with related sites, and ensure that features of geodiversity value are protected and wherever possible enhanced in their condition and future management.

The site lies within the South Hams Special Area of Conservation greater horseshoe bat 'Sustenance Zone' and 'Landscape Connectivity Zone'. The proposed route passes through a range of habitats, including poor semi-improved grassland, semi-improved neutral grassland, dense scrub, ponds (Clennon Valley Lakes), amenity grassland (playing fields) and broadleaved woodland. The route would also pass through the non-statutory designated sites Clennon Ponds County Wildlife Sites (CWS), the Grange Farm Other Sites of Wildlife Interest (OSWI) and Torbay-Dartmouth Railway OSWI, these site are Locally Important Wildlife Sites, as designated in TLP Appendix D.

An Ecological Impact Assessment (EclA) was undertaken and submitted as part of the application. The ecological baseline was derived through desk study and ecological site surveys, including Extended Phase 1 Habitat, brown hairstreak, great crested newt, reptile, bird, dormouse, badger and bat activity surveys.

Firstly, with regard to the South Hams SAC, the proposal has been screened in accordance with the South Hams SAC Habitat Regulations Assessment Guidance and the Council has concluded that there would be "no likely significant effect" on the SAC as a result of the proposed path. Natural England been consulted and have advised that they have no comment, which implies that they consider that there would be no

'likely significant effect' of the proposed development on any European protected sites. The RSPB and the Devon Wildlife Trust did not respond to the consultation request.

The route proposes integrated ecological design measures, where possible, to provide features that protect and enhance the retained habitats within and adjacent to the site.

The application included an Ecological Constraints and Opportunities Plan which highlights the following key features:

- The route has been designed to avoid sensitive ecological features and protected species and to retain ecologically important habitat.
- Wildflower meadow planting adjacent to cycle route where ground disturbance during construction works is likely to occur.
- Bat friendly lighting design, restricted to low-intensity way-finding LED lighting fitted with 'bat hats'. The lighting would be provided only where required for safety.
- Adjacent offsite habitat enhancement will include enhanced management, native shrub planting and wildflower meadow seeding.
- The creation of a new, sealed surface path has the potential to reduce the use of informal routes through the site, which would in turn reduce ecological disturbance.
- The upgrading of existing bins to dog and litter bins to mitigate any potential increases in dog fouling.

There are no predicted negative impacts on the non-statutory designated sites as the proposed route is set back from the edge of the ponds along the majority of the route and is screened by existing woodland / trees. Given that the majority of the proposed route is already used by pedestrians, increased disturbance is unlikely to have a significant impact on wildlife present within these sites.

Mitigation measures have been provided which would ensure that any significant effects on notable habitats or species are avoided and ensure legal compliance with regards to the risks relating to breeding birds, amphibians and reptiles, which can be secured by appropriate planning conditions.

TLP Policy C4: Trees, hedgerows and natural landscape features states that proposals should retain veteran trees and hedgerows where possible. The proposed route has been carefully designed to minimise any impact to existing trees. There are two locations in particular where there may be some adverse impact to existing trees.

Firstly, the proposed path next to where it joins the hay meadow. Due to site constraints, there will be some impact to nearby trees, which are mostly common ash. Secondly, there may be some potential conflict between scrub and existing natural plant regeneration, some of which have grown into small trees. The route at this point has been designed to avoid the most valuable trees in terms of size and potential habitat. Areas of native planting will be added to this area as part of the proposals.

The Council's senior arboriculture officer has advised that the majority of the trees which may be impacted are Ash trees that are in various stages of Ash Dieback infection with the resulting effect that they will have to be removed regardless. A planning condition will be used to secure the submission of a tree protection plan and arboricultural methods statements prior to the commencement of works to ensure that retained trees are adequately protected.

The route would have no significant negative effects on any designated sites of nature conservation importance, and no likely significant effects on European designated sites are predicted. In addition, no significant negative effects to any habitats or notable species are predicted. All negative impacts would be short-term and impacts to all ecological receptors are predicted to be Neutral or Positive in the medium-term onwards.

The proposal would achieve 'Biodiversity Net Gain' (measured using the Natural England Biodiversity Metric 2.0), avoid significant harm and has potential to protect, maintain and enhance the biodiversity interest of the site and adjacent habitats. This is therefore in accordance with Policy NC1.

It is considered that the proposal is acceptable on ecological and biodiversity grounds for the reasons stated above, in-line with the aspirations of policies within the TLP and PNP, and advice contained within the NPPF. There is considered to be no reason for refusal of this planning application on ecological grounds provided the proposals within the submitted ecology report are implemented and maintained. This includes provision of a Construction Ecological Management Plan and Landscape and Ecological Management Plan. It is recommended that these measures are secured via appropriately worded planning conditions should the application be positively determined.

3. Design and Visual Impact

Achieving good design is a central thread within government guidance and Part 9 of the NPPF 'Promoting sustainable transport' offers key guidance. Paragraphs 102, 103 and 104 are particularly relevant and promote the use of high quality walking and cycling networks and supporting facilities.

Policy DE1: *Design* of the TLP sets out design considerations for development. It requires the need to ensure equality of access and use for all sectors of the community. In addition to the above Policy PNP1 (c) of the PNP sets out local design criteria and seeks for development to retain existing natural and manmade features and retain important vistas.

The ability for a range of users to access the area is a key functional benefit of the scheme. The careful consideration of the route to balance the ease of access, the impact on landscape, ecology, trees and hedgerows acknowledges the existing landscape and landform. The natural features which make the location distinctive and

attractive are retained. The design process has been led by ecology, and the proposal includes a number of measures to safeguard and enhance local biodiversity.

The Design and Access statement references the work undertaken to understand the impact of the proposal on local and long distance views from key vantage points. Residents local to Clennon Valley Playing Fields have open and elevated views south-west towards the site. During construction, and when first opened, the visibility will be greatest however, when the proposed planting and the wildflower grass margins to the path have established, the path should settle into the hillside with minimal visual intrusion.

Looking across the Clennon Valley Playing fields in winter, the proposed path is visible on the hillside, seen amongst existing trees. The path route has been designed to follow the existing contours of the hillside and to minimise any impacts with trees. As the planting along the route establishes, the visibility of the path would reduce. As the path is seen through the retained existing tree cover, its visibility is low.

Policy DE1 also references the quality of public space. The route is aimed at being legible and accessible to all users. It also provides a clear opportunity to improve opportunities for active lifestyles including walking and cycling.

Bearing the above points in mind, it is considered that the proposal would not result in unacceptable harm to the character of the area. The proposal is therefore deemed to comply with Policy DE1 of the TLP and Policy PNP1(c) of the PNP.

Reference has been made in the public comments to alternative routes. Careful examination has taken place to assess local topography, ecological, tree and landscape impacts. Other routes either by existing roads have clear topographical issues and were not considered direct, therefore were discounted. The potential to use existing public rights of way have also been considered, but discounted due to existing narrow widths of the path and the impact that widening this path would have on trees.

4. Impact on Residential Amenity

Policy DE3 *Development amenity* of the TLP states that development should not unduly impact upon the amenity of neighbouring and surrounding occupiers, the closest of which are to the north and west of the application site. The PNP is largely silent on the matter of amenity, but expectations aligned with elements of DE3 are stipulated within Policy PNP1. Paragraph 127 of the NPPF guides that decisions should ensure that developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

One of the aims of the extensive public consultation in September 2019 was to understand any issues of amenity for local residents. The impact of visual intrusion has been discussed elsewhere in this report.

Public comments have highlighted the potential for an increase in on-street parking in the Roselands area due to increased use of the proposed route. Although the application is for the new green link, it forms part of much wider network improvements. The local area is restricted in terms of parking availability and in some ways this would 'self police' the ability for vehicles to be parked. The proposed route is intended to serve the local neighbourhood and encourage local people to visit the area. The path provides wider connectivity and is not circular, therefore the expectation is not for people to access it from this point by car.

The potential for anti-social behaviour and the fear of crime has been raised, but there is no evidence to suggest the route would exacerbate or generate negative behaviour. The proposal includes a number of signs to inform users of the shared nature of the path and staggered gates are proposed to limit the speed of cyclists around Clennon Lakes.

Concerns were also raised around the potential for motorcycles using the route. We note the difficulty in preventing access from motorcycles. The usual Highway Code and enforcement would apply as with any off road route.

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.

The proposed route is sufficiently distant from neighbouring properties and it is considered that its use would not result in significant levels of noise or disturbance to neighbouring occupiers.

In summary, the proposal is deemed to provide a satisfactory form of development in terms of protecting the amenities of adjacent in accordance with Policies DE3 of the Local Plan and Policy PNP1 of the Paignton Neighbourhood Plan.

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 TA1 *Transport and accessibility* of the Local Plan seeks to create to develop a sustainable and high quality transportation system which recognises walking and cycling as being at the top of the transport hierarchy.

Policy TA2 *Development Access* 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 PNP guides that sustainable modes of transport should be encouraged.

The potential conflict between walking, cycling and dog walkers has been raised by a small number of residents. The National Cycle Network operates successfully in a range of ecologically sensitive areas and promotes safe access for all users. The scheme has been designed to ensure it accords with national standards (including Sustrans guidance) and requirements for a shared path. The proposal also includes a number of signs to inform users of the shared nature of the path and raise awareness that birds may cross over the path around the lakes. Details will be secured through the use of a planning condition. Two sets of staggered gates/barriers are proposed around Clennon Lakes, which would limit the speeds of cyclists in this area. Due to the winding nature of the path as it progresses up the valley slope, it is not anticipated that users would be travelling at high speeds. The scheme would also provide improvements to the existing bins within the site by upgrading them to dual dog and standard bins.

Devon and Cornwall Police have supported the proposal. The 3m wide path should allow users to pass without infringement on others personal space and the 3m wide shared path design is similar to that delivered throughout Devon and elsewhere on the Sustrans network.

With regard to inclusive access, the paved route will increase accessibility for all users when compared to the existing footpath network and provide a safer alternative to the road. The route is sloping, up to 1 in 8 in some areas, which is not ideal for wheelchair users or the mobility impaired, however, it is considered that the proposed off road route would provide significantly improved access to Clennon Valley and Clennon Lakes when compared to the existing situation, which consists of informal paths that are often muddy/slippery and involve steps or are gravelled. The route would allow the area to be accessed by mobility scooter, buggy/prams and bikes users. Seats are proposed at regular intervals to allow rest points, and the path will be defined by the marker lights which will aid orientation in dim light conditions.

Considering the points above, and having regard to guidance contained within the NPPF, the proposal is considered acceptable on highway and movements grounds, and in accordance with the Policies TA1 and TA2 of the TLP, The Paignton Neighbourhood Plan and the NPPF.

6. Drainage and Flood Risk

Policy ER1 of the TLP states that proposals should maintain or enhance the prevailing water flow regime on-site, including an allowance for climate change, and ensure the risk of flooding is not increased elsewhere, which is aligned with guidance contained

within the NPPF. Policy PNP1(i) Surface Water of the PNP cites that developments will be required to comply with all relevant drainage and flood risk policy.

Part of the site lies within Flood Zone 3 and as a result the application includes a site specific flood risk assessment. The provision of pedestrian and cycle path is classified as water compatible development which is allowed in Flood Zone 3. The proposal includes installation of a stone drainage trench alongside the pathway surface through Clennon Valley which will allow surface water to infiltrate into the ground. The Council's drainage engineer has raised no objections to the scheme. The proposal is considered to accord with the TLP Policy ER1 and Policy PNP1 (i) of the PNP.

7. Other Considerations

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.

Local Finance Considerations

S106: Not applicable. CIL: N/A

EIA/HRA

EIA: As the site is over 5ha in area an Environment Impact Assessment screening has been undertaken, the result of this was that the proposal did not require an EIA.

HRA: The application site is within the sustenance zone associated with the South Hams SAC. The application has been screened and the Competent Authority have concluded that there would be no likely significant effect on the European Designated Site. Natural England have been consulted and have also advised of no predicted likely significant effects.

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 improvements to our walking and cycling network, would produce a significantly positive impact overall and help with the links between neighbourhoods,

education, leisure, employment and green infrastructure. The impact is considered minimal and will positively impact on landscape and ecology.

Sustainability

The elements that are considered to be especially relevant to the proposed development are impacts on the landscape, ecology, bio-diversity and surface and foul water drainage. These matters are considered in detail above.

The proposal would achieve 'Biodiversity Net Gain' (measured using the Natural England Biodiversity Metric 2.0), avoid significant harm and has potential to protect, maintain and enhance the biodiversity interest of the site and adjacent habitats.

It also clearly demonstrates that it contributes to the Council's response to climate change by providing a route which encourages walking and cycling. It therefore accords with Policy SS14: Low carbon development and adaptation to climate change.

Conclusions and Reasons for Decision

The route has been part of core planning policies set out in the Local Plan and Local Transport Plan. The proposals are also supported by the Green Infrastructure plan and Paignton Neighbourhood Plan.

Key public concerns around the role of the route for cyclists have taken into consideration the comments from Devon and Cornwall Police. The submitted Ecological reports have demonstrated the minimal impact it will have on the area.

The proposed new path would provide a strategic traffic free link for pedestrians and cyclists, connecting where people live with their jobs and leisure activities. The ecology led design would ensure important habitats are retained and enhanced, with new wildflower species rich grassland and areas of scrub proposed.

Using best practice design guidance from Sustrans, the proposed path allows access for all users on a shared tarmac route which, although steep in places, offers a less steep gradient than nearby busy roads.

Improved signage and an updated crossing over Dartmouth Road will help to promote the path as a viable route.

The design has been carefully planned to work with the contours of the steep hillside, and to avoid trees and important habitat where ever possible. New native planting and wildflower seeding will enhance the biodiversity and habitats for wildlife.

Improving the surfacing at the entrance to Torbay Velopark and replacement of large barriers with timber bollards will enhance the arrival experience and help provide improve the public realm.

The proposal is therefore considered to be in accordance with the provisions of the Development Plan.

Officer Recommendation

That planning permission is granted, subject to the conditions stated below.

Conditions

Ecology

The development hereby approved shall be carried out in strict accordance with the recommendations of the Ecological Impact Assessment (plan reference 'P2020-0368-4' received 03.06.2020).

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

Landscape and Ecological Management (LEMP)

No development shall take place, including ground works and vegetation clearance until a Landscape and Ecological Management Plan (LEMP) has been submitted to and approved in writing by the local planning authority. The LEMP shall be prepared in consultation with the Friends of Clennon Lakes to ensure integration with their current management of the site. The content of the LEMP shall be prepared in accordance with the specifications in BS42020; clause 11.1 and shall include the following

- a) Description and evaluation of features to be managed.
- b) Ecological trends and constraints on site that might influence management.
- c) Aims and objectives of management.
- d) Appropriate management options for achieving aims and objectives.
- e) Prescriptions for management actions.
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five year period).
- g) Details of the body or organisation responsible for implementation of the plan.
- h) 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 development and 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. This needs to be a pre-commencement condition to ensure appropriate mitigation at all stages of development.

CEcoMP

No development shall take place (including ground works, vegetation clearance) until a Construction Ecological Management Plan (CEcoMP) has been submitted to and approved in writing by the local planning authority. The CEcoMP shall be 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 CEcoMP, 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 CEcoMP 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. This needs to be a pre-commencement condition to ensure appropriate mitigation at all stages of development.

Lighting

Lighting shall be installed in strict accordance with the approved lighting plan and lighting specification (plan references '18108 L01.06 C01' and 'P2020-0368-3' received 03.06.2020) and shall be retained as such for the life of the development unless otherwise agreed in writing with the Local Planning Authority. Should any of the lighting become damaged and need replacement, it shall be replaced with external lighting of the same type and specification. No other external lighting shall be provided.

Reason: To ensure that the development duly considers protected species in accordance with Policies NC1 of the Torbay Local Plan 2012-2030.

Signage and Barriers

Detail of signage

Prior to the first use of the path hereby approved, details of the signage and cycle barriers to be provided at the locations indicated on the plans with the reference

numbers: 18108 L01.03 C03 (Plan 1) and 18108 L01.04 C02 (Plan 2), (received: 28.07.2020) shall be submitted to and approved in writing by the Local Planning Authority. Once agreed, the approved signage and barriers shall be provided prior to the development being brought into use and shall be maintained for the lifetime of the development in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the route remains safe and available for use in accordance with Local Plan Policies TA1 and TA2.

Archaeology

No development shall take place until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI) which has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out at all times in accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the Local Planning Authority.

Reason: To ensure, in accordance with Policy SS10 of the Torbay Local Plan 2012 - 2030 and paragraph 199 of the National Planning Policy Framework (2018), that an appropriate record is made of archaeological evidence that may be affected by the development.

This pre-commencement condition is required to ensure that the archaeological works are agreed and implemented prior to any disturbance of archaeological deposits by the commencement of preparatory and/or construction works.

Management plan – surface and lighting

Prior to the first use of the path hereby approved, a scheme of maintenance for the path (including clearance and lighting checks) shall be submitted to and approved in writing by the Local Planning Authority. Once agreed the approved maintenance scheme shall be adhered to for the lifetime of the development in accordance with the approved details unless otherwise agreed in writing by the local planning authority.

Reason: To ensure that the route remains safe and available for use in accordance with Local Plan Policy TA1.

CMS

No development (including demolition and ground works) shall take place until a Construction Method Statement (CMS) has been submitted to and approved in writing by the Local Planning Authority. The approved CMS shall be adhered to throughout the construction. The CMS 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.

- d) Measures to limit dirt / materials on the highway
- e) Measures to control dust and dirt during construction.
- f) Measures to minimise noise nuisance to neighbours from plant and machinery as defined in BS 5528: Parts 1 and 2: 2009 Noise and Vibration Control on Construction and Open Sites shall be used.
- g) 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.
- h) Deliveries to and removal of plant, equipment, machinery and waste from the site must only take place within the permitted hours detailed above.
- i) Procedures for maintaining good neighbour relations including complaint management.

The approved CMS shall be adhered to throughout the construction phase.

Reason: To ensure that the construction works are carried out in an appropriate manner to minimise the impact on the amenity of neighbouring uses and in the interests of the convenience of highway users. These details are required pre-commencement to ensure appropriate mitigation at all stages of development.

Soft Landscaping Implementation

All planting, seeding and turfing comprised in the approved details of landscaping (plan references '18108 L01.03 C02 Plan 1' and '18108 L01.04 C01 Plan 2', received: 16.04.2020) shall be carried out in the first planting and seeding season following the completion of the green link path hereby approved, or at such other time as agreed by the Local Planning Authority in writing. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next available planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: In the interests of the amenities of the area and in accordance with Policies SS8, SS9, C4 and NC1 of the Torbay Local Plan 2012-2030.

Tree Protection Plan and Arboriculture Method Statement

No operations shall commence on site in connection with the development hereby approved, until a detailed Arboricultural Method Statement (AMS) and Tree Protection Plan (TPP) have been submitted to and approved in writing by the Local Planning Authority. The approved AMS and TPP shall be adhered to throughout the construction process.

Reason: In the interest of visual amenity and to prevent harm of trees in accordance with Policies C4 and DE1 of the Torbay Local Plan 2012-2030 and the guidance contained in the NPPF. These details are required pre-commencement to ensure appropriate mitigation at all stages of development.

Relevant Policies

The Adopted Torbay Local Plan 2012-2030

SS1 - Growth Strategy for a prosperous Torbay
SS6 - Strategic transport improvements
SS9 - Green Infrastructure
SS8 - Natural Environment
SS11 - Sustainable Communities Strategy
SS14 – Low Carbon development and adaptation to climate change
SDP4 – Clennon Valley leisure hub
SDP1 - Paignton
TA1 - Transport and accessibility
TA2 - Development access
DE3 - Development Amenity
C4 - Trees, hedgerows and natural landscape features
NC1 - Biodiversity and Geodiversity
DE3 - Development Amenity
SC1 - Healthy Bay
SC2 - Sport, leisure and recreation
TO1 – Tourism, events and culture
C5 - Urban Landscape Protection Areas
DE1 - Design
ER1 – Flood Risk

The Adopted Paignton Neighbourhood Plan

PNP25 - Clennon Valley
PNP1 (h) – Sustainable Transport
PNP1 (c) - Design Principles
PNP1 (i) - Surface Water