

Friday, 31 July 2020

**PLANNING COMMITTEE**

A meeting of **Planning Committee** will be held on

**Monday, 10 August 2020**

commencing at **5.30 pm**

The meeting will be held remotely via Zoom (the links to the meeting are set out below)

<https://us02web.zoom.us/j/88674481519?pwd=K2ZMeWt3VVJoSVNVZU9jRjBpbVpiUT09>

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**Members of the Committee**

Councillor Pentney (Chairman)

Councillor Barnby

Councillor Dudley

Councillor Brown

Councillor Hill

Councillor Bye

Councillor Manning

Councillor Dart

Councillor Jacqueline Thomas

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**A prosperous and healthy Torbay**

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**Amanda Coote, Town Hall, Castle Circus, Torquay, TQ1 3DR**

Email: [governance.support@torbay.gov.uk](mailto:governance.support@torbay.gov.uk) - [www.torbay.gov.uk](http://www.torbay.gov.uk)

# PLANNING COMMITTEE AGENDA

## 1. **Apologies for absence**

To receive apologies for absence, including notifications of any changes to the membership of the Committee.

## 2. **Disclosure of Interests**

(a) To receive declarations of non pecuniary interests in respect of items on this agenda.

**For reference:** Having declared their non pecuniary interest members may remain in the meeting and speak and, vote on the matter in question. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.

(b) To receive declarations of disclosable pecuniary interests in respect of items on this agenda.

**For reference:** Where a Member has a disclosable pecuniary interest he/she must leave the meeting during consideration of the item. However, the Member may remain in the meeting to make representations, answer questions or give evidence if the public have a right to do so, but having done so the Member must then immediately leave the meeting, may not vote and must not improperly seek to influence the outcome of the matter. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.

**(Please Note:** If Members and Officers wish to seek advice on any potential interests they may have, they should contact Governance Support or Legal Services prior to the meeting.)

## 3. **Urgent Items**

To consider any other items that the Chairman decides are urgent.

## 4. **Land To The North Of Totnes Road, Collaton St Mary, Paignton P/2020/0405** (Pages 5 - 50)

Outline application for up to 73 dwellings with all matters reserved except access, new access onto the Totnes Road.

## 5. **Clennon Valley Goodrington, Paignton P/2020/0368** (Pages 51 - 74)

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.

## 6. **Beacon Hill Car Park, Beacon Quay, Torquay P/2020/0020/AD** (Pages 75 - 83)

Installation of 7 new signs around car park and footpath area (as amended by plans received 29.06.2020).

## 7. **Public speaking**

If you wish to speak on any applications shown on this agenda, please contact Governance Support on 207087 or email

[governance.support@torbay.gov.uk](mailto:governance.support@torbay.gov.uk) before 11 am on the day of the meeting.

## 8. **Site visits**

If Members consider that site visits are required on any of the applications they are requested to let Governance Support know by 5.00 p.m. on Wednesday, 5 August 2020. Site visits will then take place prior to the meeting of the Committee at a time to be notified.

### **Instructions for the press and public for joining the meeting**

If you are using an iPad you will need to install Zoom which can be found in the App Store. You do not need to register for an account just install the software. You only need to install the software once. For other devices you should just be taken direct to the meeting.

### **Joining a Meeting**

Click on the link provided on the agenda above and follow the instructions on screen. If you are using a telephone, dial the Zoom number provided above and follow the instructions. (**Note:** if you are using a landline the call will cost up to 13p per minute and from a mobile between 3p and 55p if the number is not covered by your inclusive minutes.)

You will be placed in a waiting room, when the meeting starts the meeting Host will admit you. Please note if there are technical issues this might not be at the start time given on the agenda.

Upon entry you will be muted and your video switched off so that only the meeting participants can be seen. When you join the meeting the Host will unmute your microphone, ask you to confirm your name and update your name as either public or press. Select gallery view if you want see all the participants.

If you have joined the meeting via telephone, your telephone number will appear on screen and will be displayed for all to see until the Host has confirmed your name and then they will rename your telephone number to either public or press.

### **Speaking at a Meeting**

If you are registered to speak at the meeting and when it is your turn to address the Meeting, the Chairman will invite you to speak giving the Host the instruction to unmute your microphone and switch your video on (where appropriate) therefore please pause for a couple of seconds to ensure your microphone is on.

Upon the conclusion of your speech/time limit, the Host will mute your microphone and turn off your video.

### **Meeting Etiquette for Registered Speakers - things to consider when speaking at public meetings on video**

- Background – the meeting is public and people will be able to see what is behind you therefore consider what you will have on display behind you.

- Camera angle – sit front on, upright with the device in front of you.
- Who else is in the room – make sure you are in a position where nobody will enter the camera shot who doesn't want to appear in the public meeting.
- Background noise – try where possible to minimise background noise.
- Aim to join the meeting 15 minutes before it is due to start.



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|---|--|
| Application Site Address                  | Land To The North Of Totnes Road,<br>Collaton St Mary,<br>Paignton   |
| Proposal                                  | Outline application for up to 73 dwellings with all matters reserved except access, new access onto the Totnes Road  |
| Application Number                        | P/2020/0405  |
| Applicant                                 | Taylor Wimpey UK Ltd   |
| Agent                                     | Stantec  |
| Date Application Valid                    | 29.04.2020   |
| Decision Due date                         | 29.07.2020   |
| Extension of Time Date                    |  |
| Recommendation                            | <p>Approval: Subject to;</p> <ol style="list-style-type: none"> <li>1. The conditions outlined below, with the final drafting of conditions delegated to the Assistant Director of Planning, Housing and Climate Change, and;</li> <li>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.</li> </ol> <p>The resolution of any new material considerations that may come to light following Planning Committee to be delegated to the Assistant Director of Planning, Housing and Climate Change, including the addition of any necessary further planning conditions or obligations.</p> |
| 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 Bladgon 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 15<sup>th</sup> 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 (including affordable housing) 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. The proposed highway works also include the provision of a pull-in bus stop on the A385 in place of the current bus stop within the main carriageway.

The provision of 30% Affordable Housing would secure 22 affordable homes.

The application mirrors that considered by the Authority under planning reference P/2019/0604, refused 21<sup>st</sup> October 2019 on grounds of flood risk, where there is an appeal currently in progress.

## **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

- National Planning Policy Framework (NPPF)
- Planning Practice 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/2019/0604:* Outline application for up to 73 dwellings with all matters reserved except access, new access onto the Totnes Road. Refused on grounds of flood risk, 21<sup>st</sup> October 2019. Appeal in progress.

Reason for Refusal:

*“The site is in an area that has been subject to flooding from foul and surface water sewers and the information submitted in support of the application fails to provide sufficient detail to demonstrate that the development will not contribute to further flooding, contrary to Policy PNP1 (iv) of The Paignton Neighbourhood Plan, which seeks detail on foul and surface water drainage and other key infrastructure being required when major development (as defined in the Town and Country Planning (Development Management Procedure) (England) Order 2015) applications are first submitted, and not being dealt with subsequently by conditions.”*

*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**

67 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 upon the sewer system
- Lack of detailed information on the existing sewer network
- Increased flood risk
- Inconsistent with the Local Plan
- Inconsistent with the Neighbourhood Plan.
- Inconsistent with the Collaton St Mary Masterplan
- Inconsistent with the NPPF
- Loss of farmland
- Highway safety concerns – inadequate infrastructure in terms of vehicular
- Not in keeping with the local area
- Too many homes for the site
- Overdevelopment
- Too suburban
- Brownfield sites are available
- Doesn't respond to the rural context
- cycle and pedestrian movement in the area
- 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

- Unbalanced in terms of the need for jobs and homes
- Loss of habitat
- 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 NHS.

Torbay and South Devon NHS Foundation Trust:

S106 of the Town and Country Planning Act 1990 (as amended) allows the Local Planning Authority to request that a developer contribute towards the impact a development creates on the services. The contribution in the amount £32,595.00 sought will go towards the gap in the funding created by each potential patient from this development. The detailed explanation and calculations are provided within the attached document. Without the requested contribution, the access to adequate health services is rendered more vulnerable thereby undermining the sustainability credentials of the proposed development due to conflict with NPPF and Local Development Plan policies.

NHS Devon Clinical Commissioning Group (CCG):

The CCG's concern is that the GP surgeries that serve this area, namely Old Farm, Mayfield and Cornerplace are already over capacity at 106%; 141% and 239% respectively within their existing footprints. Therefore it follows that to have a sustainable development in human health terms, the whole local healthcare provision will require review. The Surgeries already have 44,296 patients registered between them and this new development will increase the local population by a further 150 to 160 persons. An obligation should be sought to the sum of £24,279 (£333 per dwelling) towards the cost mitigation of the pressures on the local healthcare facility to form part of any future s106 Agreement with the Developers.

*Officer response on the NHS comment:*

The Development Plan only seeks S106 obligations for health care from specialist accommodation for the elderly (as per Policy H6) or where development gives rise to a specific need (such as a new surgery). The obligations sought by the NHS are not considered to meet the necessary tests for obligations and cannot be sought. The obligations seek to respond to an increase in pressure upon services from additional housing, however expectations for housing growth within Torbay has been publically established for some time within the Development Plan. The site is identified for housing and it is also important to consider that the Council cannot currently demonstrate the expected 5 year housing land supply, which suggests housing growth will be lower than that projected within the Development Plan. In this particular instance in the absence of a particular policy to support the notion of health obligations it is not considered justifiable to seek the obligations on an identified housing site where growth levels are below the levels expected within the Development Plan.

## **Summary of Consultation Responses**

**Paignton Neighbourhood Forum:**

The Forum objects to the application. It appears to be little changed from the previous application P/2019/0604, so many of our objections from that previous application still apply.

We note that this proposal conflicts with the Torbay Local Plan and the Paignton Neighbourhood Plan in several respects:

1. This area is identified in the Paignton Neighbourhood Plan (Table 8.1) as appropriate for the development of 40 units during the period from 2027/2030. It is not identified as suitable for 73 units and not in the immediate future.
2. Both the Local Plan and the Paignton Neighbourhood Plan call for “in tandem” development of housing and jobs. Housing development has continued without development of jobs, therefore housing development should be paused or slowed considerably while jobs development is prioritized.
3. Flooding and sewerage concerns do not appear to have been fully addressed. This area is known to be challenged in this respect and the Paignton Neighbourhood Plan (PNP24) specifically requires that new development should “not cause any risk of flooding to existing properties.”
4. PNP24 also requires that the use of existing brownfield sites must be prioritized.
5. The development proposal does not appear to provide any of the additional infrastructure that is needed for such growth, including, but not limited to, schools, medical services, and dental services.
6. Although the addition of an east-bound bus lay-by is an improvement, there are no other strategic improvements to the A385 Totnes Road. This road already has serious traffic and safety problems. These will be substantially exacerbated by the additional housing and therefore additional travel required. Sustainable travel options are poor:
  - a. Travel by bus is unsafe because there is no safe way for pedestrians to cross the road.
  - b. Travel by cycle is unsafe because the traffic volume and narrow lanes, lacking cycle lanes, make cycling a risky proposition.
  - c. Pedestrian travel may be problematic in wet weather, with grass verges that are likely to be sodden and along with spray from passing vehicles.
7. The proposed development does not contribute to the village identity (PNP24).

We urge you to refuse the application based on the Torbay Local Plan and the Paignton Neighbourhood Plan.

**Torbay Council Strategic Planning (Policy):** Pending comment.

Previous comments on P/2019/0604: 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:** Pending Comment.

Previous comments on P/2019/0604: 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:**

Further to your letter dated 13th May 2020 regarding the above planning application I can confirm that the site specific flood risk assessment submitted with this planning application is the same as that submitted in support of planning application P/2019/1604. My comments regarding the surface water drainage for this development are therefore the same as those I attached to my memorandum dated 23rd August 2029. These comments are reproduced below:

1. The 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 an infiltration basin with a controlled discharge to the Yalberton watercourse.
2. The discharge rate proposed to the watercourse is 7.3l/sec which complies with the requirements of the Torbay Critical Drainage Area.
3. Within the flood risk assessment there are hydraulic designs for the surface water system including drawings highlighting the drainage network used within this hydraulic design. These 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.
4. As stated in the site specific flood risk assessment 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.
5. 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, I have no objections to planning permission being granted for the above development subject to a condition requiring the developer to submit their final drainage design for approval.

**Torbay Council Interim Heritage Officer:** No comment.

Previous comments on P/2019/0604: 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 appeared.

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 considerably 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:**

**South Hams Special Area of Conservation**

The site is within the Landscape Connectivity Zone for the South Hams SAC with respect to Greater Horseshoe Bats and the south-east corner of the site is within the sustenance zone associated with Berry Head and Sharkham Point GHB roost. The proposals will lead to a loss of commuting and foraging habitat (4.38ha species-poor semi improved grassland, 0.16ha dense and scattered scrub, 3m species-rich hedgerow and 148m defunct, species-poor hedgerow), which has been confirmed through survey to support small numbers of commuting Greater Horseshoe bats. It is

believed that this scheme will cause damage or disturbance at a landscape scale to GHB commuting routes, and without appropriate mitigation the application would have an adverse effect on the integrity of South Hams Special Area of Conservation (SAC).

In order to the development acceptable, all mitigation and enhancement measures to address potential impacts upon greater horseshoe bats associated with the South Hams SAC with the EclA will need to be conditioned. The mitigation designed for GHBs using the 2016 survey data remains valid and no updated survey is deemed necessary to support this application.

The details for reserved matters should include:

- the submission of a Construction Ecological Management Plan (CECoMP) and Landscape and Ecological Management Plan (LEMP) which will detail the proposed delivery of the mitigation and management measures set out in the EclA report.
- the submission of a Lighting Assessment, including a lux contour plan, for both public-realm and domestic lighting to demonstrate compliance with the submitted external lighting plan.
- the provision of the construction phase and operation phase ecological mitigation measures detailed in the EAD ecology Shadow HRA report.
- details of 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.

#### Priority Habitats

The development will present a loss of 3m species-rich hedgerow and 148m defunct, species-poor hedgerow. An overview of the mitigation is the planting of 1475m of species-rich hedgerow as indicated within final site Masterplan. The details for reserved matters should include the submission of a Landscape and Ecological Management Plan which will include details relating to habitat creation, species specification and management. This will need to be agreed with the LPA.

#### Other Habitats

The development presents a loss of 4.38ha of poor semi-improved grassland and 0.16ha of dense and scattered scrub. The proposed mitigation is the provisions of wildflower grassland (0.33 ha), Tussock grassland (0.09 ha), Wetland through proposed Sustainable Urban Drainage System (1.91 ha) including wet grassland and aquatic planting including wetland in the south east of the site and scrub planting (0.14 ha). The details for reserved matters should include the submission of a biodiversity metric calculation which use the most up-to-date metric and associated guidance documents. This calculation will secure a net gain in biodiversity.

#### European Protected Species

Bat roosts: Ground based tree roost assessments undertaken April 2016 identified one oak tree with high bat roost suitability and two ash trees with moderate bat roost suitability. These trees are to be retained in the schemes Masterplan and no further survey was, therefore, undertaken or required. Proposed mitigation is for roosting

provisions provided within integrated bat boxes within new buildings onsite. The details of reserved matters shall include bird nesting/bat roosting boxes in the design of the buildings. Prior to the commencement of any vegetation clearance or site works, a repeat ground based bat roost assessment of all trees to be impacted by the proposals, with associated mitigation/compensation measures, shall be submitted to and approved in writing by the LPA.

Hazel Dormouse: Surveys undertaken in 2016. No evidence of dormice found during these surveys. Ecological walkover surveys undertaken by EAD Ecology in May 2019 state that the site remains unchanged from 2016, but there remains the possibility that dormice may have moved into the habitats on site from 2016, from other areas of suitable habitat in the locality. The presence of dormice onsite is not deemed likely to influence the final design of the scheme or location of green infrastructure, as the habitats deemed of highest importance to dormice are being retained. However, there may well be legal implications for the development should dormice now be present onsite. Therefore, dormouse surveys should be updated and the results submitted with any future reserved matters application on site, secured by condition.

Cirl Bunting: The site falls within a Cirl Bunting consultation Zone. Cirl Bunting surveys were undertaken in 2016 and no evidence of Cirl Bunting breeding was found during these surveys. Ecological walkover surveys undertaken by EAD Ecology in May 2019 state that the site remains unchanged from 2016, but there remains the possibility that Cirl Bunting may have moved into the habitats on site since the 2016 surveys, from other areas of suitable habitat in the locality. The presence of Cirl Bunting onsite is not deemed likely to influence the final design of the scheme, given the site is becoming unsuitable for Cirl Bunting due to the loss of potential foraging habitat. However, there may well be implications for the development should breeding Cirl Bunting now be present onsite with regards to payments for offsite compensatory Cirl Bunting habitat. Therefore, Cirl bunting surveys should be updated and the results submitted with any future reserved matters application on site along with associated mitigation/compensation measures.

Badgers: All of the badger setts are located along the northern boundary and within the proposed wildlife corridor. This corridor would provide cover and screening from the development and limit public access to the badger setts. Losses to foraging habitat will be off set through the proposed new habitats which include hedgerow and wildflower meadow. Proposed that prior to the commencement of any vegetation clearance or site works, a repeat survey for the presence of badgers on the site and surrounding suitable habitat, with associated mitigation/compensation measures, shall be submitted to and approved in writing by the LPA. The Construction Ecological Management Plan (CECoMP) to be submitted at reserved matters is to include details of protection of badgers throughout construction.

Nesting Birds: Proposed that vegetation removal is during winter and for roost provision in new buildings. The details of reserved matters shall include bird nesting/bat roosting boxes in the design of the buildings. No vegetation clearance shall take place during the bird nesting season (01 March to 31 August, inclusive) unless the developer has been advised by a suitably qualified ecologist that the clearance will not disturb nesting birds and a record of this kept.

Reptiles: Reptile surveys were undertaken in 2013 and found the presence of slow worm and grass snake within rank poor semi-improved field margins, scrub and hedgerows. Updated ecological walkover surveys in May 2019 indicated the habitats within the survey area have remained unchanged since the previous reptile surveys were undertaken and therefore reptiles are assumed present in all suitable habitat onsite – no updated survey required at reserved matters.

**Torbay Council Affordable Housing Team:**

Housing Services are very pleased to see a policy complaint scheme being presented. Of the 73 units being provided on the scheme 22 of these will be for affordable housing and with over 1200 households currently on the waiting list these will go some way to providing the additional affordable housing needed for the local people of Torbay.

Dwelling types, size, tenure and location of the affordable units were discussed on the previous application (P/2017/1304) and further discussion around these areas will be need to be had moving forward on this new application. A reminder also that the size of the dwellings will need to be proportionate to the mix as a whole and we would also expect to see one of the affordable units to be built as a wheelchair adapted unit.

Providing the above areas are agreed satisfactorily which I am sure they will then Housing Services would be supportive of the application.

**Torbay Council Education Team:** Pending comment.

Previous comments on P/2019/0604: 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:**

As an overview there are no significant arboricultural issues that are demonstrated by the masterplan. The spatial arrangement between the trees and properties is adequate and is unlikely to cause future issues/concerns with the trees. The loss of the trees from the along the road to accommodate the visibility splay will need to be mitigated for within the landscape proposals or, if not sufficiently adequate, they should be mitigated for as per a CAVAT assessment of the trees. The trees around the periphery of the site will have sufficient room to be protected throughout the development with the primary buffer along the hedge and tree line being the bat/ecology corridor. There is sufficient room for significant landscaping to take place with a mixture of planting already indicated within the submitted scheme.

In essence the scheme appears to be sustainable from an arboricultural perspective but it may be that we will require further documentation such as drainage and utility plans. This may well further to the need for the developer to reference back to the project arboriculturist to provide advice/method statements as necessary. Detailed landscape design will also be required.

**Torbay Council Community Safety Officer:**

Further to your recent consultation regarding the above application I would confirm that I have reviewed the acoustic consultant's report and can confirm that I have no objections. However, I would suggest the inclusion of a condition requiring a construction management plan being submitted to the Local Authority for approval prior to any works commencing on site. This report should address issues relating to the control of construction noise, and dust. Should you have any further queries please let me know.

**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.

In order to mitigate adverse effects and make the development acceptable, the mitigation measures are required (from Shadow HRA, EAD Ecology, May 2019).

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.

Further to your e mail of 27 July 2020 regarding the above application & our subsequent telephone conversation I would firstly re-confirm the earlier comment that South West Water has no objection and would add that we have reviewed the impact

of the development upon the public sewerage network and capacity is available to support it.

It is noted that in response to the earlier application P/2019/0604 we provided further more detailed comments in relation to how South West Water will if required deliver the necessary improvements to our infrastructure should it be deemed necessary which will clearly apply to the current application and indeed any development proposals within your Council area.

We did touch briefly upon the public water main within the site and that we have already been dealing directly with the applicant over its diversion and that this need not be considered by yourselves in term of determining the application.

Previous comments on P/2019/0604:

We have carried out a review for the above proposed development and I am pleased to provide reassurance that South West Water can provide foul sewerage services for the site.

With regard to the specific area of Collaton St Mary, this has also been reviewed by our Supply and Team Strategy Team using information we have received at pre-planning stage and the Local Planning Authority. We use this information, along with growth forecasts and enquiries from developers to update our planning process. We then assess whether there may be a need to increase the capacity of the clean and waste water assets to receive the increase in flow. Any work that is required is usually planned into our 5 year business planning cycle, unless circumstances indicate otherwise.

With this in mind, our aim is to ensure that:

- Customers who are connected downstream of a development do not experience a lower level of service as a result of the extra demand from the development.
- There is no deterioration of the environment as a result of the increase in flows from a development.

The change in how we charge developers within the 'New Connections and Developer Services Charging Arrangements' are also set in such a way to recover monies from developers through the infrastructure charge to fund off-site reinforcement where there is a need to increase capacity of networks in consequence of growth.

Post October 2019 Planning Committee comments on the general Collaton St Mary capacity concerns:

I am pleased to provide comments on the points raised to give reassurance to the LPA, Councillors and residents as to how we will manage our clean and waste water services for new developments.

Prior to 1 April 2018, each new development site would be reviewed on a case by case basis and should there be a need for off-site reinforcement to support the development, the activities would be funded by the individual developments if this was not recognised in the South West Water business plan.

This was formalised with the developer by either using a Section 106 contribution, or in more recent years, via a planning condition. However, the significant change in the Developer Services Charging Arrangements on 1 April 2018 which was brought forward by Ofwat, moved the off-site reinforcement to be funded by the infrastructure charge (authorised by Section 146(2) of the Water Industry Act 1991 which is applied to each new property (or commercial property based on loading) to recover the costs of network reinforcement involving new development.

The infrastructure charge will allow new development to progress without any adverse impact upon the levels of serves experienced by our existing customers as a consequence of new development. Our Asset Management Team will be carrying out an evaluation of the waste water assets in Collaton St Mary and this information will allow us to review if there is a need to carry out off-site reinforcement to support the developments in the area. The review will be based on the overall master plan of this area to ensure we look at the holistic view of development in this area.

I trust this provides the clarity required from SWW as to how we will review the area and how this also is to be funded should there be a requirement to reinforce the network to support these developments

**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 outline application for access only to be determined at this stage. For ease of reference and to avoid much duplication please find attached copies of my previous responses for the above scheme as the content of each remain valid, where relevant, and should be considered in the decision making process for the above, particularly with regard to the physical security elements of dwellings and parking provision and parking design.

From a designing out crime, fear of crime, antisocial behaviour and conflict perspective please find the following few additional points for consideration should a more detailed application evolve:-

There should be specific reference to Designing out Crime and/or Crime Prevention per se, either as an addendum to the current Design and Access Statement (DAS) or as a standalone document, as without any detail there is no way of knowing if these key matters have been considered for the scheme.

However having reviewed the illustrative masterplan it is considered that there are many positive aspects such as back to back gardens, active frontages and good levels of overlooking of public open spaces and play areas.

I would really appreciate being consulted as and when more detailed designs evolve especially with regard to the proposed cycle and pedestrian link to the existing school.

## **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
8. Other Considerations

#### **1. Principle of Residential Development**

1.1 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.

1.2 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.

1.3 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.

1.4 As a material consideration the previous proposal under planning reference P/2019/0604 was not refused on grounds of principle.

1.5 Due to the reasons stated above the principle of residential development on this site is accepted, when considering strategic policies SS1, SS2, SS5 and SS12 of the Torbay Local Plan and Policies PNP1 and PNP24 of the Paignton Neighbourhood Plan, and the Development Plan as a whole, subject to other material considerations, which will be discussed in more detail below.

## **2. Design and Visual Impact**

2.1 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.

2.2 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.

2.3 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.

2.4 Consultee comments received from the Paignton Neighbourhood Forum cite a concern that the proposal presents a higher number of dwellings to the indicative lower number of dwellings within the adopted Masterplan, which aligns with broader comments that the proposal will create a dense urban development out of keeping with the setting of the village.

2.5 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.

2.6 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.

2.7 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.

2.8 The number of units sought within this current application has been reduced to upto 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.

2.9 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.

2.10 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.

2.11 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.

2.12 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.

2.13 As a material consideration the previous proposal under planning reference P/2019/0604 was not refused on grounds of design or visual impact.

2.14 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**

3.1 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.

3.2 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).

3.3 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.

3.4 In terms of the heritage context for this proposal there are a number of heritage assets nearby. To the east off Bladon 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 15<sup>th</sup> Century Bladon Manor.

3.5 In terms of context Historic England were consulted but have not provided comments. They were also consulted on the previous application for 73 dwellings and did not offer comment, 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.

3.6 In terms of 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.

3.7 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.

3.8 The current application is considered 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.

3.9 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 was not challenged by the Council's interim conservation advisor during the previous application and is considered a reasonable retained conclusion in the absence of any demonstrable change in the physical context of the area or planning guidance.

3.10 Considering the submitted detail and the advice received it is considered that, in terms of layout, the latest proposal is again aligned with the previous application which, itself presented 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). Again 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.

3.11 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).

3.12 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, the provision of public open space and enhanced public transport infrastructure. 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.

3.13 As a material consideration the previous proposal under planning reference P/2019/0604 was not refused on grounds of impact upon heritage assets.

3.14 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.

3.15 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**

4.1 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.

4.2 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.

4.3 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.

4.4 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.

4.5 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.

4.6 As a material consideration the previous proposal under planning reference P/2019/0604 was not refused on grounds of residential amenity.

4.7 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**

5.1 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.

5.2 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.

5.3 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.

5.4 Comments received have raised objections to the proposal on highway grounds. The Paignton Neighbourhood Forum have raised concern about the impact of additional traffic and poor sustainable travel options.

5.5 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. The visibility standard of the junction 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.

5.6 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.

5.7 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 on the inbound side of the road. Although these details are not shown on the submitted plans these works can 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.

5.8 The proposal does include the provision of a pull-in bus stop in the general location of the current in-carriageway bus stop eastbound. This is a material benefit, along with the crossing refuge that is to be sought as outlined above, to the existing sustainable transport network.

5.9 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 previous 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). These comments are still considered relevant and subject to confirmation the obligations should be sought in-line with previous levels suggested.

5.10 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 in-line with previous transport comments unless otherwise confirmed.

5.11 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 and this should again be sought unless transports comments are received that confirm otherwise.

5.12 As a material consideration the previous proposal under planning reference P/2019/0604 was not refused on grounds of highway safety.

5.13 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**

6.1 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.

6.2 Policy PNP1 (Area Wide) of the Paignton Neighbourhood Plan states that development will not be supported where the development proposal would result in an adverse impact on a European protected site and 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 policy furthers that hedgerow habitat should be provided on at least one development boundary wherever possible, and that bat and bird boxes should be featured.

6.3 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).

6.4 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.

6.5 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.

6.6 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.

6.7 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.

6.8 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.

6.9 As a material consideration the previous proposal under planning reference P/2019/0604 was not refused on grounds of highway safety.

6.10 In-line with the conclusions above 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**

7.1 National guidance contained within the NPPF cites that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere (Para 163). It also guides that Major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate (Para 165).

7.2 Policy ER1 of the Local Plan 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. In regard to foul waters Policy ER2 of the Local Plan includes reference that development proposals should provide appropriate sewage disposal systems with separate foul and surface water, which seek to use sustainable measures and reduce water being discharged into shared sewers.

7.3 The Paignton Neighbourhood Plan has two key policies relating to drainage and flood risk. Policy PNP1 (Area Wide) Section (i) *Surface Water* cites that developments will be required to comply with all relevant drainage and flood risk policy. It furthers that proposals which achieve more than sustainable drainage improvements and move beyond Sustainable Urban Drainage systems (SUDs) by keeping surface water out of the combined sewer network at source are encouraged. PNP24 (Collaton St Mary) cites that foul and surface water disposal have become a significant problem in the area and furthers that residential development proposals where appropriate will be required to demonstrate (i) that sufficient capacity exists to accommodate the additional development and not cause any risk of flooding to existing properties, and (ii) there is infrastructure in place to provide for, and service, such growth and development.

7.4 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.

7.5 A flood risk assessment has been submitted with the development and there are accompanying surface water drainage plans that illustrate a drainage solution that utilises attenuation tanks and balancing ponds. These are situated in the eastern corner of the site and integrate into a wider area of public open space. The attenuation will discharge to a local watercourse at a rate equivalent to greenfield run-off. Foul sewerage is to be connected to the Public Sewer system that runs along Totnes Road.

7.6 The previous application (P/2019/0604) was refused for the following reason: *“The site is in an area that has been subject to flooding from foul and surface water sewers and the information submitted in support of the application fails to provide sufficient detail to demonstrate that the development will not contribute to further flooding, contrary to Policy PNP1 (iv) of The Paignton Neighbourhood Plan, which seeks detail on foul and surface water drainage and other key infrastructure being required when major development (as defined in the Town and Country Planning (Development Management Procedure) (England) Order 2015) applications are first submitted, and not being dealt with subsequently by conditions”.*

#### Surface water

7.6 In regard to surface water management the Council's drainage engineer has reviewed the proposal 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. This is considered to accord with Policy PNP(iv) as there is a detailed scheme that shows that an appropriate surface water management system can be achieved for the indicative layout. By necessity as this

is an outline scheme the layout may change and hence any future reserved matters would need to be accompanied by a detailed strategy that responds to the final proposed layout should outline consent be granted.

7.7 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).

#### Foul water

7.8 As detailed within the submitted information the proposal is to connect to the Public Sewer adjacent to the site. South West Water do not object to this proposal and have re-confirmed that they have reviewed the impact of the development upon the public sewerage network and that capacity is available to support it. South West Water have also re-confirmed that South West Water will if required deliver the necessary improvements to our infrastructure should it be deemed necessary which will clearly apply to the current application and indeed any development proposals within the Council area.

7.9 It is noted that there is a high degree of public concern relating to the impact of foul sewerage and the inability of the local infrastructure to cope with the additional level of development proposed.

7.10 South West Water have previously carried out a review and provided reassurance that South West Water can provide foul sewerage services for the site. They also confirmed that with regard to the specific area of Collaton St Mary that this has also been reviewed by the Supply and Team Strategy Team using information received at pre-planning stage, by the Local Planning Authority, and growth forecasts and enquiries from developers. The strategic planning work that is subsequently required is usually planned into a 5 year business planning cycle, unless circumstances indicate otherwise, with the aim to ensure that:

- Customers who are connected downstream of a development do not experience a lower level of service as a result of the extra demand from the development.
- There is no deterioration of the environment as a result of the increase in flows from a development.

The change in how they charge developers within the 'New Connections and Developer Services Charging Arrangements' are also set in such a way to recover monies from developers through the infrastructure charge to fund off-site reinforcement where there is a need to increase capacity of networks in consequence of growth.

7.11 As a material consideration since the previous decision South West Water have

provided further comment on the strategic needs for Collaton St Mary due to the high level of local concern, in terms of how they seek to manage capacity and deal with growth, as below.

7.12 South West Water outlined in December 2019 that there has been a 'model shift' in how they operate following significant change in 2018 brought forward by Ofwat (The Water Services Regulation Authority), and they now no longer rely on the planning system to secure funding for changing needs in capacity. They confirmed that where they previously engaged with the planning process on a case-by-case assessment and sought necessary funding via conditions or S106 legal agreements, they now operate a model that is detached from and does not rely on the planning system. The 'new' system now secures infrastructure funding through developer connections charges (and strategic delivery plans), which they cite should allow new development to progress without any adverse impact upon the levels of service experienced by existing customers as a consequence of new development. The 'new' model of management outlined by SWW and summarised above clearly outlines that SWW no longer rely on the planning system to deliver necessary infrastructure and hence there would appear no sound planning reason not to support the proposal on flood risk and drainage grounds, where there is support from the Lead Local Flood Authority in terms of surface water and the statutory undertaker in terms of foul water.

7.13 As an anecdotal note SWW have confirmed that their Asset Management Team will be carrying out an evaluation of the waste water assets in Collaton St Mary and this information will allow them to review if there is a need to carry out off-site reinforcement to support the developments in the area. They have confirmed that this review will be based on the overall master plan of this area to ensure we look at the holistic view of development in this area.

7.14 The previous refusal for flood risk reasons is a material consideration however the comments above are also new and a material consideration. It is also a material consideration that development of upto 100 houses was resolved to be approved at the July Planning Committee with a similar proposal to connect to the existing Public Sewer for foul water disposal.

7.14 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 surface water 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*

8.1 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 when considered as a whole. As stated within this report the site is allocated and the proposals are in broad accordance with the adopted masterplan for the area.

8.2 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.

8.3 The provision of housing is a significant benefit within the planning balance, certainly in light of the current published position where the Authority can only demonstrate a 3 year supply, which is a significant shortfall. The provision of 22 affordable homes is also a significant material benefit.

8.4 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 as it triggers a tilted balance in favour of sustainable 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 identified 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 NPPF definition of sustainability has three aspects which are economic, social and environmental. Each of which shall be discussed in turn:

#### **The Economic Role**

Housing development is recognised as an important driver of economic growth and there would be economic benefits to the construction industry from the proposed development.

Once the dwellings were occupied there would be an increase in the level of disposable income from the occupants some which would be likely to be spent in the local area and an increase in the demand for local goods and services.

There are no adverse economic impacts that would arise from this development

In respect of the economic element of sustainable development the balance is considered to be in favour of the development

#### **The Social Role**

The principle social benefit of the proposed development would be the provision of additional housing, including 30% affordable housing. Given the NPPF priority to significantly boost the supply of housing the additional dwellings to be provided must carry significant weight in this balance.

The proposed development will provide a Local Area of Equipped Play as a social benefit to the village and financial contributions will be provided towards education infrastructure demands.

Impacts on neighbour amenity have been discussed above where it is concluded that it would be possible to develop this site as proposed without significant harm to residential amenity.

NHS requests for financial contributions towards health care however cannot be accommodated within the current Development Plan framework as the development was anticipated within the Local Plan and no need for financial contributions was identified at that time.

On balance, the social impacts of the development weigh in favour of the development

### **The Environmental role**

With respect to the environmental role of sustainable development, the elements that are considered to be especially relevant to the proposed development are impacts on the landscape, ecology and bio-diversity and surface and foul water drainage. These matters have been considered in detail above.

The environmental benefits identified are either marginal in the case of any biodiversity net gain or essentially mitigation as in the case of any landscape/ecological measures to be applied to the development. Moreover, those 'benefits' have to be set against the loss of an area of open field, leading to a change in the local environment and landscape. These impacts are not considered to be significant however and it has to be appreciated that the site is identified for housing within the Development Plan.

The proposed development is in a sustainable location inasmuch as it borders and forms part of the existing urban area and is located in close proximity to local amenities of West Paignton where there are also public transportation links.

It is concluded that the environmental impacts of the development weigh neutrally within the planning balance.

### **Sustainability Conclusion**

Having regard to the above assessment the proposed development is considered to represent sustainable development.

### **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. Legal agreement should secure adoption or management arrangements for the public open space secured in a future RM application commensurate with the indicative masterplan.

### **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.

### **Sustainable Urban Drainage System**

Details pertaining to the ongoing management of the proposed SUDs within public areas, by a management company, shall be secured in order to secure certainty on future maintenance and effectiveness of the system.

### **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. The provision of 22 affordable homes is also a significant material benefit.

The provision of a public play area is also a significant public benefit, certainly in light of the current absence of child's play facilities within the area. The nearest formal play area being at Claylands near the junction of Borough Road and Brixham Road.

The provision of enhanced public transport facilities is also a material benefit with the proposal including the provision of a pull-in bus stop on a strategic road, in place of the existing in-carriageway bus stop. It is also proposed to secure a central crossing

refuge, which will also improve the access to the eastbound bus stop where there is currently no crossing facilities to aid crossing a strategic road.

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 in this report, 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 and further scrutiny.

### **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.

There is additional detail from SWW as the statutory undertaker in terms of strategic Public Sewer capacity which is considered to present more certainty that the proposal

would not present a risk of flooding.

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 where the Council cannot demonstrate a 5 year housing land supply and is significantly below the level of housing growth expected.

### **Officer Recommendation**

Approval: Subject to;

1. The conditions outlined below, with the final drafting of conditions delegated to the Assistant Director of Planning, Housing and Climate Change, and;
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, Housing and Climate Change, 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 for layout and/or external appearance 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 for layout 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 for layout and/or landscaping 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 Adoption**

No dwelling shall be occupied until all estate roads required for access to that dwelling have been constructed to adoptable standards in accordance with the Torbay Highway Design Guide for New Developments in force at the time of commencement of the development and an agreement has been entered into between the developer and the Council as Highway Authority under Section 38 of the Highways Act 1980 for the adoption of the estate roads.

Reason: To ensure that the estate roads serving the development are completed to an acceptable standard and are available for use by the occupants and other users of the development, in the interests of amenity and highway safety, in accordance with Policies DE1, DE3 and TA2 of the Torbay Local Plan 2012-2030.

## **7. Highway Works**

Prior to commencement of development, a S278 Agreement shall be entered into with the Highway Authority to secure the access works, the bus lay-by, the pedestrian crossing facilities adjacent to the existing bus stops to the west of the site within the vicinity of the proposed LEAP and crossing 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.

This need to be a pre-commencement condition as it relates to works outside of the application site and engagement of third parties.

### **8. Flood risk**

As part of any reserved matters application for layout 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.

### **9. Biodiversity enhancement measures**

The details for reserved matters of layout and landscaping shall include the submission of a biodiversity metric calculation which use the most up-to-date metric and associated guidance documents. This calculation will secure a net gain in biodiversity.

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. Dormouse surveys**

Unless otherwise agreed with the LPA the details for reserved matters of layout and/or landscaping will include the submission of a repeat hazel dormouse survey, along with associated mitigation/compensation measures, and this shall be submitted to and approved in writing by the LPA.

The development shall proceed in accordance with any 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.

### **11. Cirl Bunting surveys**

Unless otherwise agreed with the LPA the details for reserved matters of layout and/or landscaping will include the submission of repeat Cirl Bunting surveys, along with associated mitigation/compensation measures, and this shall be submitted to and approved in writing by the LPA.

The development shall proceed in accordance with any 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.

### **12. Badger surveys**

Prior to the commencement of any vegetation clearance or site works, a repeat survey for the presence of badgers on the site and surrounding suitable habitat, with associated mitigation/compensation measures, shall be submitted to and approved in writing by the LPA.

The development shall proceed in accordance with any 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.

### **13. Nesting birds / bats**

The details of reserved matters for layout and external appearance shall include bird nesting/bat roosting boxes in the design of the buildings.

No vegetation clearance shall take place during the bird nesting season (01 March to 31 August, inclusive) unless the developer has been advised by a suitably qualified ecologist that the clearance will not disturb nesting birds and a record of this kept.

The development shall proceed in accordance with any 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.

### **14. Reptiles**

The Construction Ecological Management Plan (CEcoMP) to be submitted as part of the first reserved matters application and is to include details of protection of reptiles throughout construction.

The development shall proceed in accordance with any 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.

### **15. 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.

This needs to be a pre-commencement condition to ensure impacts of development are mitigated from the very start of development.

#### **16. Travel plan**

The Travel Plan hereby approved 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.

#### **17. 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 details shall include the provision of electric vehicle charging facilities to all dwellings.

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, Policies SS14 and TA3 (and Appendix F) of the Torbay Local Plan 2012-2030.

#### **14. Phasing**

A phasing plan shall be submitted to and approved in writing by the Local Planning Authority as part of the first application for reserved matters approval of layout. The plan shall demonstrate how the development will be implemented in relation to an agreed timetable of works, and shall include the provision of play space, open space, and allotments, landscaping and ecological enhancement, amenity footpaths, highway works and other ancillary infrastructure. The development shall then be implemented in accordance with the approved phasing plan.

Reason: To ensure that necessary elements of the scheme are implemented within acceptable parameters and at an appropriate stage, to comply with policies SS2, SS9, Page 116, SS10, NC1 and DE1 of the adopted Torbay Local Plan 2012-2030 and policies PNP1(a), PNP19 and PNP24 of the Paignton Neighbourhood Plan.

## **15. Play Areas**

The reserved matters for layout and landscaping shall include details of local play commensurate to a LEAP as detailed within the adopted Planning Contributions and Affordable Housing SPD that details the type and provision of play for a variety of ages of children. The detail shall include appropriate provision of impact absorbing surface treatments, means of enclosures and litter and seating facilities. The reserved matters shall seek to secure appropriate levels of natural surveillance to all play areas and an appropriate buffer distance from properties to ensure neighbour amenity is not unduly impacted. The approved play areas shall be provided prior to the first occupation of the 50th dwelling or in accordance with the phasing plan submitted to and approved in writing by the Local Planning Authority pursuant to Condition 14 and maintained for public use at all times thereafter.

Reason: To ensure that the development provides a range of physical, social and green infrastructure, including local play spaces, in accordance with Policies SS7, SS9, SS11 and DE1 of the adopted Torbay Local Plan 2012-2030 and Policy PNP24 of the Paignton Neighbourhood Plan.

## **16. Parking Provision**

The reserved matters shall include details for the parking of vehicles for all dwellings. The approved parking facilities shall be provided in full for each dwelling prior to its first occupation and shall be maintained for the purposes of parking at all times thereafter.

Reason: To ensure adequate parking is provided to support an adequate residential environment, protect the amenities of the area and maintain highway safety, in accordance with Policy TA3 of the adopted Torbay Local Plan 2012-2030.

## **17. Landscape provision and maintenance**

All planting, seeding or turfing comprised in the approved details of landscaping reserved matters shall be carried out in the first planting and seeding season following the first occupation of the development unless otherwise agreed in writing with the Local Planning Authority within a phasing plan pursuant to Condition 14. Any trees or plants which within a period of 10 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: To secure an appropriate form of development in accordance with Policies NC1, C4 and DE1 of the adopted Torbay Local Plan 2012-2030 and PNP1(a), PNP1(c), PNP19 and PNP24 of the Paignton Neighbourhood Plan.

## **18. Removal of PD – boundary treatments**

Notwithstanding the provisions of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (or any Order revoking, re-enacting, or further amending that Order), no development of the types describes in Schedule 2, Part 2, Classes A and B including gates, fences, walls or other means of enclosure and means of access shall be erected or constructed between the buildings and the estate roads unless permission is granted by the Local Planning Authority.

Reason: In order to safeguard the character and visual amenities of the locality, in accordance with Policies DE1 of the Torbay Local Plan and PNP1(a), PNP1(c) and PNP24 of the Paignton Neighbourhood Plan.

### **19. Removal of PD – roof extensions and hardstandings**

Notwithstanding the provisions of Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (or any Order revoking, re-enacting or further amending that Order), no development of the types described in Schedule 2, Part 1, Classes B, C and F of the Order, including the construction of dormers, roof alterations and provision of hardstandings, shall be carried out on the site, other than that hereby permitted, unless the permission in writing of the Local Planning Authority is obtained.

Reason: To protect the appearance of the area, to prevent the increased risk of flooding elsewhere and in the interests of amenity.

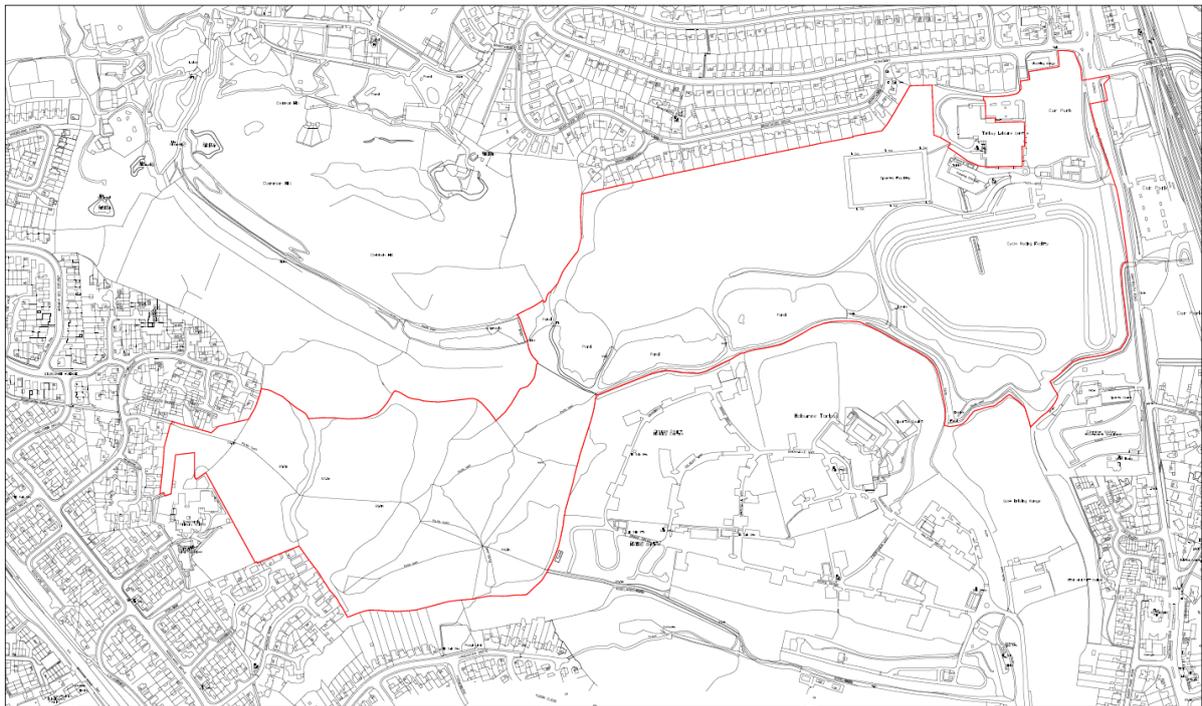
### **Development Plan Relevant Policies**

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



|   |  |
|---|--|
| 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  
 LHC DESIGN LTD  
 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000

**CLENNON VALLEY, PAIGNTON**  
 OPENED LAND  
 SITE LOCATION PLAN  
 December 2019  
 Prepared by: [Name]  
 Checked by: [Name]  
 Drawn by: [Name]

## **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 17<sup>th</sup> July to 2<sup>nd</sup> 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 28<sup>th</sup> 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

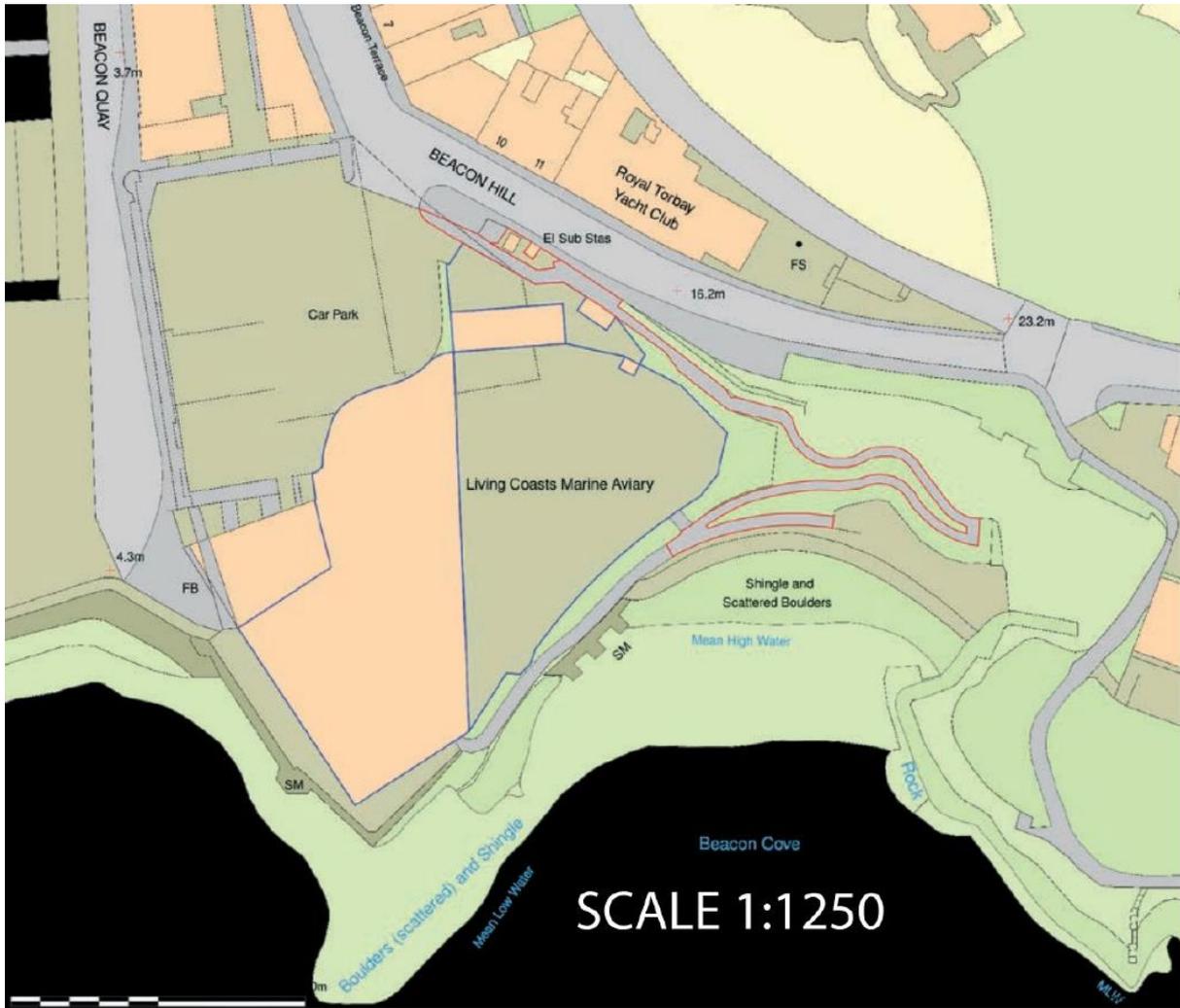
### The Adopted Paignton Neighbourhood Plan

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



|   |   |
|---|---|
| Application Site Address                  | Beacon Hill Car Park<br>Beacon Quay<br>Torquay<br>TQ1 2BG   |
| Proposal                                  | Installation of 7 new signs around car park and footpath area (as amended by plans received 29.06.2020).  |
| Application Number                        | P/2020/0020/AD  |
| Applicant                                 | Living Coasts   |
| Agent                                     | Enigma Signage  |
| Date Application Valid                    | 03.02.2020  |
| Decision Due date                         | 05.02.2020  |
| Extension of Time Date                    | 28.04.2020  |
| Recommendation                            | Approval: Subject to planning conditions as outlined within the report, with the final drafting of conditions delegated to the Assistant Director of Planning, Housing and Climate Emergency. |
| Reason for Referral to Planning Committee | The application pertains to land that is owned by Torbay Council asset and objections have been received.   |
| Planning Case Officer                     | Craig Davies  |

# Location Plan



## **Site Details**

The site comprises the grass verge adjoining the car park at Beacon Quay as well as the footpath which leads from the car park to Beacon Cove along the northeastern boundary of the Living Coasts Marine Aviary.

In terms of the designations within the Development Plan, the site is located towards the southeastern edge of Torquay Town Centre, within the Torquay Harbour Conservation Area, within the Core Tourism Investment Area, adjacent to the South West Coast Path, within the Coastal Change Management Area, and within a Community Investment Area. The site is also in proximity to Grade II listed buildings and structures including the Royal Torbay Yacht Club, 9-11 Beacon Terrace, Haldon Pier and South Pier, and Grade II\* listed buildings and structures including 1-8 Beacon Terrace and the Beacon Quay Slipway.

Date of officer site visit: 11.02.2020.

## **Description of Development**

The application seeks advertisement consent for 7 proposed signs (Sign B, Sign F, and Signs 1-5):

- 'Sign B' would be a freestanding sign with dimensions of 3.1m (height) x 1.325m (width) x 0.15m (depth), sited perpendicular to the public highway on the grass verge adjoining Beacon Hill and the Beacon Quay car park. The proposed sign would be double sided and would comprise of aluminium composite (ACM) trays on an aluminium structural framework.
- 'Sign F' would be a wall-mounted sign with dimensions of 1.25m (height) x 0.85m (width) x 0.03m (depth), attached to the fence at the entrance to the footpath that leads from the car park to Beacon Cove. The proposed sign would comprise of an aluminium composite (ACM) tray on a timber subframe.
- 'Signs 1-5' would be wall-mounted signs each with dimensions of 1.1m (height) x 0.725m (width) x 0.03m (depth), attached to the fence at various points along the footpath that leads from the car park to Beacon Cove. Each of the proposed signs would comprise of an aluminium composite (ACM) tray on a subframe.

The proposal also includes the removal of a number of the existing signs that would become redundant as a result of the proposal.

The proposed signs would provide visitors to the site with general information regarding Beacon Cove as well as information regarding the site's history. It should be noted that the images indicated on the submitted elevations are indicative only as the content of the proposed signs may change periodically.

It should be noted that after advertising and in response to comments provided by this Department, the applicant revised the proposal by re-siting the proposed Sign 1 (so that it would be attached to the fence in the same manner as Signs 2-5), and by making Sign B (which was originally proposed to be partially internally illuminated) non-illuminated. Given that the revised proposal would have a lesser impact on external parties than that which was previously advertised, it was not deemed necessary to readvertise the application.

## **Pre-Application Enquiry**

N/A

### **Relevant Planning Policy Context**

Development Plan

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

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**

There have been no previous planning decisions of particular relevance to the current proposal.

### **Summary of Representations**

2 letters of objection were received in which the following matters were raised:

- Negative visual impact.
- Impact on outlook.
- Impact on highway safety.
- Impacts relating to the proposed illumination of 'Sign B'. (It should be noted that after advertising, the applicant revised the proposal by making the proposed 'Sign B' non-illuminated.)

1 letter of representation (neutral) was received which raised the matter of the layout of the vehicular entrance to the car park. (It should be noted that this is not considered to be relevant to the proposal under consideration which is for signage.)

1 letter of support was received in which the following matters were raised:

- Application forms a part of the wider Beacon Cove community project.
- Positive change for the area.
- Provides a much improved welcome to the area.
- Will provide information regarding the history of the area.

### **Summary of Consultation Responses**

**Torquay Neighbourhood Plan Forum:** No response received.

**The Council's Highways Engineer:** "As there are no proposals to advertise on the adopted highway, Highways have no technical issues with this application."

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

1. Visual Impact / Impact on Conservation Area
2. Impact on Residential Amenity
3. Impact on Highway Safety

## **Planning Officer Assessment**

### **1. Visual Impact / Impact on Conservation Area**

Paragraph 124 of the National Planning Policy Framework (NPPF) states that 'good design is a key aspect of sustainable development, creates better places in which to live and work, and helps make development acceptable to communities'. In addition, paragraph 130 states 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'. Policy DE6 of the Local Plan states that advertisements will not be permitted where they would harm, amongst other things, visual amenity. Policy DE1 of the Local Plan states that proposals will be assessed against a range of criteria relating to their function, visual appeal, and quality of public space. Policy TH8 of the Neighbourhood Plan requires that developments be of good quality design, respect the local character in terms of height, scale and bulk, and reflect the identity of its surroundings. Policy SS10 of the Local Plan states that proposals within Torbay's Conservation Areas will be assessed on the need to conserve and enhance the distinctive character and appearance of Torbay's Conservation Areas whilst allowing sympathetic development within them. Policy HE1 of the Local Plan states that development proposals should have special regard to preserving any listed building and its setting.

Given its siting, scale, and design, it is considered that the proposed signage would not result in unacceptable harm to the character or visual amenities of the locality, the conservation area, or the nearby listed buildings. Signs 1-5 would be attached to the fence along the footpath that leads from the Beacon Hill car park to Beacon Cove, and would therefore be functional but visually discrete. While Signs B and F would be larger and more prominently sited, it is noted that they have been designed in a manner that responds to the site's maritime setting in proximity to Torquay Harbour by incorporating the shape of a sail for the proposed signs. The design of Signs B and F would accord with that of an existing sign lower down Beacon Hill close to the Harvester restaurant at Beacon Quay and, although Sign B in particular would be relatively large, it would also be of a similar scale to that of the existing sign. It is important to note that the proposal also includes the removal of existing redundant signage, thereby ensuring that the proposal avoids creating a cluttered appearance. Subject to a condition to ensure that the existing redundant signs are removed, it is considered that the proposal would rationalise the signage in this locality and would serve to provide visitors with worthwhile information without resulting in any harm to visual amenity.

The proposal is considered to be in accordance with Policies DE6, DE1, SS10 and HE1 of the Local Plan, Policy TH8 of the Neighbourhood Plan, and the guidance contained in the NPPF.

### **2. Impact on Residential Amenity**

Policy DE3 of the Local Plan states that development proposals should be designed to ensure an acceptable level of residential amenity.

Given its siting, scale, and design, it is considered that the proposal would not result in any unacceptable harm to the amenities of neighbours. While objector's have raised concerns regarding the proposal's impact on their outlook, it is important to note that

whereas the advertised proposal included Sign B being internally illuminated, the applicant has since revised the proposal by making the proposed Sign B non-illuminated. It is reiterated that the proposal also includes the removal of existing redundant signage, and it is therefore considered that the proposal would not result in any significant increase in the amount of signage in this locality and would not result in any unacceptable loss of outlook.

The proposal is considered to be in accordance with Policy DE3 of the Local Plan.

### **3. Impact on Highway Safety**

Policy DE6 of the Local Plan states that advertisements will not be permitted where they would undermine public safety. Policy TA1 of the Local Plan seeks (amongst other things) to improve road safety, and to reduce the impact of signage to avoid the proliferation of unnecessary clutter. Policy TA2 seeks to ensure an adequate level of accessibility and safety for vehicles and pedestrians, including through maintaining a satisfactory standard of visibility.

Signs 1-5 and Sign F would all be attached to existing fences and would therefore not result in any impact on visibility for pedestrians or for drivers of vehicles. While Sign B would be relatively large, it would replace an existing sign that is to be removed, and would be sited in a position that would be sufficiently set back from the public highway so as to avoid impairing visibility. It is noteworthy that the Council's Highways Engineer has assessed the proposal and has raised no objections, and that, following revisions to the proposal, none of the proposed signs would involve any illumination.

The proposal is considered to be in accordance with Policies DE6, TA1 and TA2 of the Local Plan.

### **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**

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.

### **Planning Balance**

The proposed signage would provide visitors with worthwhile information and would help to promote Beacon Quay as a destination, thereby making a positive contribution to the Core Tourism Investment Area, and would not result in any unacceptable harm in terms of visual amenity, residential amenity, or highway safety. Subject to the planning conditions detailed below, no unacceptable material planning harm has been identified and the proposal is in accordance with Development Plan policies.

### **Conclusions and Reasons for Decision**

The proposal would not result in any unacceptable harm to (i) the visual amenities of the locality, the conservation area, or the nearby listed buildings; (ii) the residential amenities of neighbouring properties; or (iii) highway safety. The proposal is therefore considered acceptable, having regard to the Local Plan, the Neighbourhood Plan, and all other material considerations.

### **Officer Recommendation**

That advertisement consent be granted, subject to the conditions detailed below, and that the final drafting of conditions and the addressing of any further material considerations that may come to light be delegated to the Assistant Director of Planning, Housing and Climate Emergency.

### **Conditions**

#### **Removal of Existing Signage**

Prior to the installation of the signage hereby approved, the existing signage that is labelled “signs to be removed” and “43780(a)” and “43780(b)” on the elevational drawings with reference 43780/P01/19 (1 of 3), received 29.06.2020, shall be permanently removed from the application site.

Reason: In the interests of visual amenity, neighbouring amenity, and highway safety, and in accordance with Policies DE1, DE3, DE6, SS10, HE1, TA1 and TA2 of the Adopted Torbay Local Plan 2012-2030, and Policy TH8 of the Torquay Neighbourhood Plan.

#### **Siting**

For the avoidance of doubt, the signage hereby approved shall be sited in the positions shown on the plan with reference 43780-P01-19 (3 of 3), received on 29.06.2020, and not in the positions shown on the 3D aerial view on the plan with reference 43780/P01/19 (2 of 3).

Reason: For the avoidance of doubt in light of the discrepancy between the siting of the signage on the respective drawings, and in the interests of visual amenity in

accordance with Policies DE1, DE6, SS10 and HE1 of the Adopted Torbay Local Plan 2012-2030, and Policy TH8 of the Torquay Neighbourhood Plan.

### **Standard Advertising Condition**

1. No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.
2. No advertisement shall be sited or displayed so as to—
  - (a) endanger persons using any highway, railway, waterway, dock, harbour or aerodrome (civil or military);
  - (b) obscure, or hinder the ready interpretation of, any traffic sign, railway signal or aid to navigation by water or air; or
  - (c) hinder the operation of any device used for the purpose of security or surveillance or for measuring the speed of any vehicle.
3. Any advertisement displayed, and any site used for the display of advertisements, shall be maintained in a condition that does not impair the visual amenity of the site.
4. Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a condition that does not endanger the public.
5. Where an advertisement is required under these Regulations to be removed, the site shall be left in a condition that does not endanger the public or impair visual amenity.

Reason: To comply with the provisions of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

### **Informatives**

01. 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.

### **Relevant Policies**

#### **Torbay Local Plan Policies**

SS3 – Presumption in favour of Sustainable Development.

DE6 – Advertisements.

DE1 – Design.

DE3 – Development Amenity.

SS10 – Conservation and the Historic Environment.

HE1 – Listed Buildings.

TA1 – Transport and Accessibility.

TA2 – Development Access.

**Torquay Neighbourhood Plan Policies**  
TH8 – Established Architecture