

Friday, 8 September 2023

PLANNING COMMITTEE

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

Monday, 18 September 2023

commencing at **2.00 pm**

The meeting will be held in the Burdett Room, Riviera International Conference Centre, Chestnut Avenue, Torquay TQ2 5LZ

Members of the Committee

Councillor Jacqueline Thomas (Chairwoman)

Councillor Cowell

Councillor Maddison

Councillor Mandy Darling

Councillor Pentney

Councillor Fox

Councillor Tolchard

Councillor Joyce

Councillor David Thomas

Together Torbay will thrive

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Governance Support, Town Hall, Castle Circus, Torquay, TQ1 3DR

Email: governance.support@torbay.gov.uk - 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. Minutes

To confirm as a correct record the Minutes of the meeting of this Committee held on 29 August 2023.

(Pages 5 - 7)

3. 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.)

4. Urgent Items

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

5. Land East of Limekiln Close, Paignton (P 2022 1173)

Outline application for up to 25 dwellings and associated works. Details of access to be determined with all other matters reserved.

(Pages 8 - 48)

The application is associated with application P/2023/0143 (Item 6 on the Agenda).

6. **Access Track South of Limekiln Close, Paignton (P 2023 0143)** (Pages 49 - 68)
Change of use of land for the establishment of a public footway/cycleway link to include improvement works to existing track.

The application is associated with application P/2022/1173 (Item 5 on the Agenda).

7. **Site at Waterside Quarry, Paignton (P 2023 0520)** (Pages 69 - 95)
Reserved Matters Application relating to Outline Application P/2019/0520 (Three new dwellings with vehicular access). Matters for approval: layout, scale, access, appearance and landscaping.

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 before 11 am on the day of the meeting.

We are using hybrid meeting arrangements to give registered speakers the opportunity to either attend the meeting in person to give their views or to attend the meeting remotely via Zoom. If you would like to attend the meeting remotely to speak you will be provided with a Zoom link to join the meeting. We also ask that you provide a copy of your speech to governance.support@torbay.gov.uk, before 11 am on the day of the meeting, so that the Clerk will be able to continue to read out your speech if you lose connection or cannot be heard in the physical meeting. Remote attendees who lose connection may still be able to follow the meeting via the live stream on the Council's YouTube channel.

Councillors who are not members of the Planning Committee will also be able to join the meeting via Zoom and must use their raise hand function to declare any interests.

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, 13 September 2023. Site visits will then take place prior to the meeting of the Committee at a time to be notified.

Live Streaming

To encourage more people to engage in our public meetings the Council is trialling streaming our Planning Committee meetings on our YouTube channel in addition to recording the meetings and publishing the recording on our website. To watch the meeting live please visit <https://www.youtube.com/user/torbaycouncil>.

We are also using hybrid meeting arrangements to enable registered speakers to either attend the meeting in person or to attend the meeting remotely via Zoom. **Anyone attending the meeting remotely must register their intention to do so by 11 am on the day of the meeting and provide a copy of their speech to governance.support@torbay.gov.uk by this deadline.** If anyone attending the meeting remotely loses connection the meeting will continue and their speech will be read out by the Clerk and they will have the option to follow the meeting via the YouTube live stream.

Minutes of the Planning Committee

29 August 2023

-: Present :-

Councillor Jacqueline Thomas (Chairwoman)

Councillors Billings (Vice-Chair), Mandy Darling, Fox, Joyce, Maddison, Pentney,
Tolchard and Virdee

(Also in attendance: Councillors Barbara Lewis, Chris Lewis and Mark Spacagna)

18. Apologies for absence

It was reported that, in accordance with the wishes of the Independent Group, the membership of the Committee had been amended to include Councillor Virdee in place of Councillor Cowell.

19. Minutes

The minutes of the meeting of the Committee held on 24 July 2023 were confirmed as a correct record and signed by the Chairwoman.

20. Singleton Gardens, Torquay (P/2022/1186)

The Committee considered an application for the erection of 7 apartments, 2 attached dwellings and extensions/refurbishments to an existing dwelling; plus associated landscaping and access work.

Prior to the meeting, Members of the Planning Committee undertook a site visit and written representations were available on the Council's website. At the meeting Mr David Redman addressed the Committee against the application and Mr Mike Cowdery, Chair of Wellswood Community Partnership, at Madam Chairman's discretion, addressed the Committee against the application. Mr Horder addressed the Committee on behalf of the Torquay Neighbourhood Plan Forum against the application. Mr Julian Bishop addressed the Committee in support of the application and Ms Ann Hodson, at Madam Chairman's discretion, addressed the Committee in support of the application.

At the meeting the Planning Officer advised, that since the report had been published a further twenty objections had been received together with two additional letters of support. However, no new material planning considerations had been raised that were not already covered within the submitted report.

Resolved:

That the application be refused for the following reasons:

1. The proposal, in the absence of a completed S106 Legal Agreement, fails to secure the necessary provision of affordable housing, contrary to Policy H2 of the Adopted Torbay Local Plan 2012-2030 and the guidance contained within the National Planning Policy Framework (NPPF). The applicant's offer of a contribution of £65,000 towards off-site affordable housing is inadequate and fails to comply with Policy H2.
2. Given the siting, scale, massing and design of the proposal as a whole, the development would fail to reflect local distinctiveness as well as fail to relate acceptably to the Lincombes Conservation Area. The proposal will result in the development of the existing garden which provides an open aspect within the Conservation Area to the detriment of this designated heritage asset. Overall the proposal is considered to fail to conserve or enhance the distinctive character and appearance of the Lincombes Conservation Area and would lead to harm to the designated heritage asset which is not outweighed by public benefit. The proposal is therefore contrary to Policies DE1 and SS10 of the Adopted Local Plan 2012-2030, Policy TH8 of the Adopted Torquay Neighbourhood Plan 2012-2030 and the guidance contained within the NPPF, in particular Paragraphs 130, 134, 199 and 202.

21. Molly Malones, Paignton (P/2023/0190)

The Committee considered an application for the erection of roof canopy with rooflights and glazing to enclose existing terrace; construction of WC building; new decking area to North and installation of solar panels.

Prior to the meeting, Members of the Planning Committee undertook a site visit and written representations were available on the Council's website. Mr Hank Hendriksen addressed the Committee in support of the application and confirmed that since receiving the planning officer's report, the applicant had explored a proposed alternative location for waste and refuse storage which was situated to the east of the toilet block and would be within an enclosed structure hidden from public view.

In accordance with Standing Order B4.1 Councillor Chris Lewis addressed the Committee in support of the application.

Resolved:

That the application be deferred.

Reasons:

1. to allow the application to be amended to extend the red line on the submitted site boundary plans to include the proposed replacement location for waste and recycling storage.

22. 43 Thatcher Avenue, Torquay (P/2023/0390)

The Committee considered an application for roof alterations from hipped to flat roof, to create first floor extension with first floor balcony to the front, replacement balustrade to the existing terrace and changes to fenestration.

The Planning Officer advised that the application had previously been deferred in order to obtain further information as to whether the proposed thickness of the floor could be reduced together with the proposed height of the ceiling and revised plans submitted. Members were informed that the applicant had now submitted amended plans which showed the external height of the proposal reduced to 8.35m, resulting in a 0.6m decrease from the proposal shown previously. The internal floors had also been reduced in thickness and the first floor parapet now measured 0.49m approximately, resulting in a decrease of 0.28m and the second floor internal floor thickness now measured 0.48m approximately, resulting in a decrease of 0.22m.

The Planning Officer advised Members that three of the windows to the rear northwestern elevation had been obscurely glazed to protect neighbouring amenity and that one window which served a non-habitable hallway remained non-glazed.

At the meeting Mr Kevin Salter addressed the Committee against the application. Mr Horder addressed the Committee on behalf of the Torquay Neighbourhood Forum. Mr Shaun Davey addressed the Committee in support of the application.

Resolved:

Approved subject to:

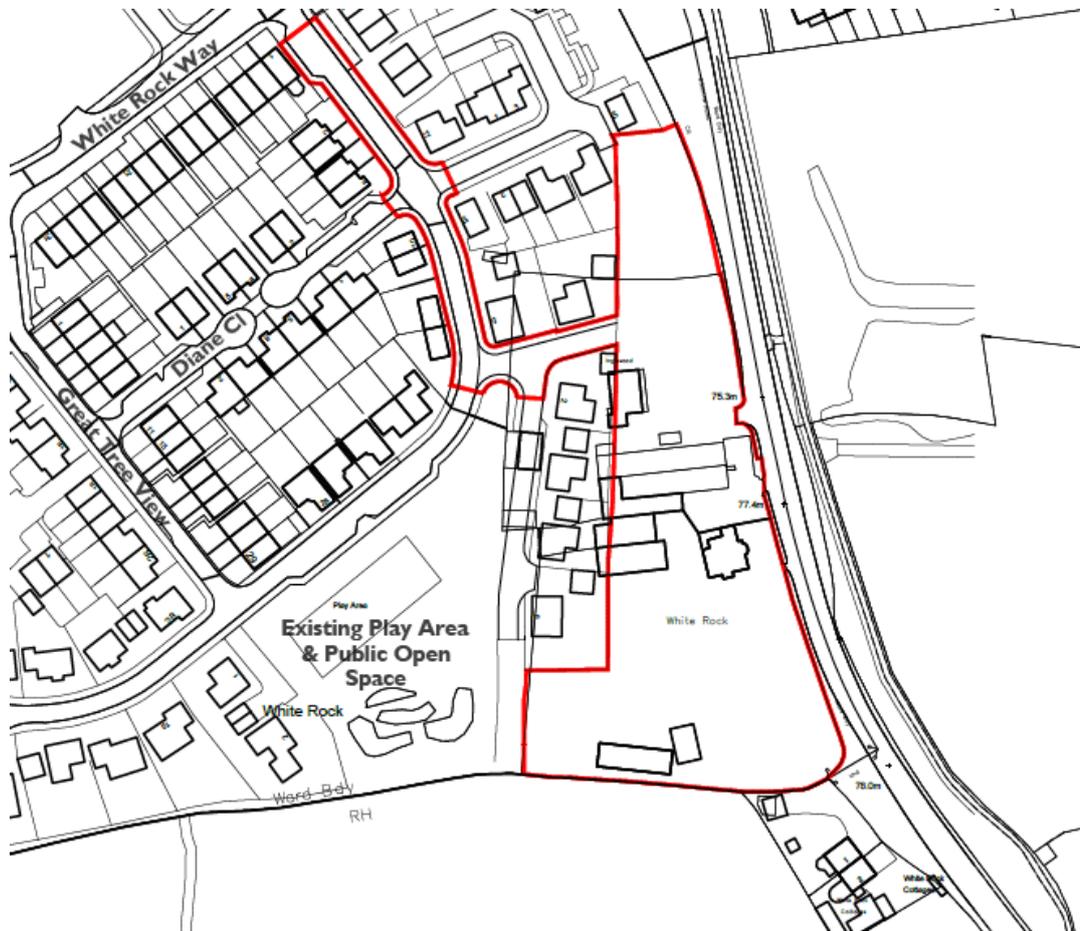
1. The conditions outlined in the submitted report with the final drafting of conditions delegated to the Divisional Director of Planning, Housing and Climate Emergency.
2. The resolution of any new material considerations that may come to light following Planning Committee to be delegated to the Divisional Director of Planning, Housing and Climate Emergency, including the addition of any necessary further planning conditions or obligations.

Chairwoman

Application Address	Site	Land To East Of Limekiln Close, Paignton
Proposal		Outline application for up to 25 dwellings and associated works. Details of access to be determined with all other matters reserved
Application Number		P/2022/1173
Applicant		Abacus Projects Ltd and Deeley Freed Estates Ltd
Agent		Cushman and Wakefield
Date Application Valid		26.10.2022
Decision Due Date		25.01.2023
Extension of Time Date		30.09.2023
Recommendation		<p>Approval Subject To;</p> <p>The completion of a Section 106 Legal Agreement to secure the heads of terms as outlined, in accordance with the adopted Planning Contributions and Affordable Housing Supplementary Planning Document, on terms acceptable to Officers.</p> <p>The conditions as outlined, with the final drafting of conditions delegated to the Divisional Director of Planning, Housing and Climate Emergency.</p> <p>The resolution of any new material considerations that may come to light following Planning Committee to be delegated to the Divisional Director of Planning, Housing and Climate Emergency, including the addition of any necessary further planning conditions or obligations.</p>
Reason for Referral to Planning Committee		Major Development.
Planning Case Officer		June Pagdin

Location Plan

See next page



Site Details

The application site is a triangular plot between the Brixham Road to the east and the rear of residential properties in Limekiln Close and Diane Close, White Rock. The proposed development site measures approximately 177m from north to south and an average of 46m in width east to west and measures approximately 0.78Ha. The application site also includes the section of highway that connects the site to White Rock Road (which is due to be adopted as public highway).

The eastern boundary of the site abuts the recently widened Brixham Road. The west and north boundaries abut the rear boundaries of the gardens to houses in Limekiln Close and Diane Close. The southern boundary of the site is marked by existing hedges. The southern boundary runs along the northern edge of a recently planted woodland area provided as part of White Rock development. The south western corner of the site abuts a track and open public space in the White Rock development. The south eastern corner abuts land in residential use at White Rock Cottages.

There is currently no vehicle access to the application site. The spur off Limekiln Close is closed off with fences installed by the owners of adjacent properties. The site boundary includes the sections of Limekiln Close and White Rock Road, which connect to the adopted highway on White Rock Way. Highway adoption of these roads is the subject of Section 38 agreements which are pending adoption.

There is no access from Brixham Road. Brixham Road has been widened and its newly aligned boundary with the site is shown on the submitted site location plan and would not encroach upon the application site.

On the opposite side of Brixham Road is a shared cycle and footway and the grounds of White Rock Primary School.

The Torbay Local Plan identifies the application site as part of the wider White Rock Site (SDP3.5). The White Rock Development is the subject of Policy PNP21 in the Paignton Neighbourhood Plan. The White Rock Area has planning permission for 350 dwellings, which is being built out.

The current application site was reserved for a future road access from Brixham Road to land to the south. That proposal has not been implemented and is now unlikely to be used for that purpose due to the land directly to the south having been planted with trees as ecological mitigation works for the White Rock development.

The application site is part of the Inglewood development site where planning permission for 373 dwellings was granted on appeal (P/2017/1133 as varied by P/2022/0112). The Master Plan for the Inglewood development identifies a pedestrian and cycle route (Northern Access Route (NAR)) running through the current application site from the southern boundary to the spur of Limekiln Close to the northwest of the site. A concurrent application (P/2023/0143) has been submitted to provide an alternative NAR route running to the west of this application site. The alternative route would join Limekiln Close at its southern spur. There is currently no pedestrian access into the site.

The application site has been included in the HELAA update exercise 2022/23 (Reference Number 21P079) to provide an estimated 19 dwellings.

Description of Development

This application seeks outline planning permission for up to 25 dwellings and details of site access with all other matters (layout, scale, appearance and landscaping) reserved.

The indicative details submitted with the application for 25 dwellings seeks to demonstrate that the level of development proposed could be appropriately achieved on the site. This includes:

- Masterplan (0779–1004B) – shows a potential residential layout along a linear road with dwellings on the western side of the site, a cluster at the south end, a spur to the north and two on the eastern edge. Buildings are shown as a mix of detached, semi-detached and short terraces. Off-road and garage parking layouts and garden divisions are indicated.
- Access and Movement Plan (0779–1005B) and Transport Note and Travel Plan (amended) – shows vehicle access from the end of the spur off Limekiln Close to the north west of the site. The route would be a cul-de-sac running south with an adopted shared surface with short spurs at the southern end and to the north as shared unadopted surfaces. Pedestrian access is proposed at two points; one at the vehicle access where the footway surface would be separate from the roadway for a short section. The second at the south west corner of the site, would be separate from the unadopted shared surface that would serve the houses in this part of the site.

Other documents submitted are:

- Building Heights Plan (0779–1006B) - two-storey with pitched roofs, and single storey garages.
- Green Infrastructure Plan (0779–1007B) - retained and enhanced hedgerows along the eastern and southern site and a bat buffer along the southern boundary.
- Site Sections (0779–1008B) - two-storey with pitched roofs.
- Access and Design Statement

- Affordable Housing Statement - identifies that 30% of units would be affordable and policy compliant in terms of tenure.
- Sustainability and Energy Statement
- Acoustic Report
- Lighting Strategy
- FRA and Drainage Scheme
- Land Contamination Report
- Tree Survey and Report
- Arboricultural Impact Assessment
- Tree Protection Plan
- Technical Highways Notes -swept paths and adoption plans related to indicative layout
- Ecological Assessment
- Ecological Habitat Management Note
- BNG Baseline Metric and Outline scheme for BNG (on-site and off-site mitigation).

Pre-Application Enquiry

Informal pre-application discussions on this site were undertaken as part of a PPA for the White Rock Area. The site is being considered under the HELAA update 2022/23.

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 Adopted Paignton Neighbourhood Plan (PNP)

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

White Rock

P/2011/0197 (Outline) : Mixed Use Development of 39 Hectares of land at White Rock, Paignton to construct up to 350 dwellings, approximately 36,800m² gross employment floorspace, a local centre including food retail (up to 1652m² gross) with additional 392m²A1/A3 use and student accommodation, approximately 15 hectares of open space, a sports pavilion and associated infrastructure and engineering works to provide access, drainage and landscaping (Outline Application). Approved with Legal Agreement 29.04.2013.

Lime Kiln Close Reserved Matters

MRM – P/2014/0071 Approval of appearance, landscaping, layout and scale in relation to 38 dwellings and associated development. Reserved Matters for P/2011/0197. Approved 16.May.2014.

MRM – P/2015/1061 Approval of appearance, landscaping, layout and scale in relation to 38 dwellings and associated development. Reserved Matters for P/2011/0197 (Variation of condition P1 of P/2014/0071). Withdrawn 18.05.2017.

NMA – P/2014/0852 Non material amendment to P/2014/0071 - Changes to materials

Linden Homes RM

MRM - P/2013/1229 Approval of reserved matters to P/2011/0197. Appearance, landscaping, layout and scale in relation to 310 dwellings and associated development.

NMA – P/2014/0853 Non material amendment to P/2013/1229- Changes to materials to reflect materials schedule and addition of a conservatory on plot 314.

Inglewood

P/2017/1133: Outline application for residential led development of up to 373 dwellings (C3) together with the means of vehicular and pedestrian/cycle access together with the principle of a public house (A3/A4 use), primary school with nursery (D1), internal access roads and the provision of public open space (formal and informal) and strategic mitigation. The proposal includes amendments to Brixham Road, Long Road junction and Windy Corner junction. Details of access to be determined with all other matters reserved. Refused. Allowed on Appeal 26.04.2021. Subject to Legal Agreement.

P/2022/0112: Variation of Appeal Conditions relating to application P/2017/1133 MOA. Conditions: 1 - Approved Plans, 9 - Landscaping Scheme, 13 - Ecology Land Management, 14 - Details of Habitat Boxes & Wildlife Info Boards, 21 - Works to Public Highway, 27 - s278 Agreement, 33 - Identification of School Land/Playing Fields. Approved 20.05.2022.

P/2022/1119: Major Reserved Matters application relating to outline consent P/2022/0112 for approval of (i) layout, (ii) scale, (iii) appearance, (iv) landscaping for the construction of 373 dwellings (Use Class C3), provision of serviced land for primary school and nursery school, internal access roads including vehicular and pedestrian/cycle access, the provision of public open space (formal and informal) and strategic mitigation. Approved 04.04.2023.

Summary of Representations

Neighbour letters were sent out on 07.11.2022. Site notices and a newspaper advertisement were displayed on 09. 11.2022.

19 objections have been received (from eleven addresses). A summary of concerns is set out below.

Reasons for objection relevant to this outline application with details of access:

- Schools and doctors oversubscribed locally
- More pressure on existing public open space
- Government housing targets imposed on local community
- Prominent on higher level land
- Dwellings unhealthy close to Brixham road eg noise
- Loss of foot/cycle link to the school and shops/local facilities -active travel adversely impacted - leaves houses isolated
- A safe link needs to be provided
- The road is not wide enough for safety
- Limekiln Close is not wide enough for two-way traffic
- The proposed link would interfere with Page 12 and garage access to 2 Limekiln Cl

- Increased traffic noise and fumes
- Parking in the area will increase
- Inadequate parking indicated on site
- Proposed Travel Plan is weak
- Noise, dust and disturbance from construction work -impact on health
- Loss of property value
- Social housing will affect property values.
- overdevelopment
- Existing houses will be overlooked and loss of privacy
- 2.5 storeys is too high
- Loss of light and outlook
- development would destroy habitat of protected species: bats, hedgehogs and slow worms resident on the site
- bird life on site will be lost
- Nature areas should be restored
- Light pollution
- loss of trees (over 20) is not Carbon Neutral
- will lead to anti-social behaviour
- Parking overspill onto neighbouring roads
- Drainage issues in area
- Application was not advertised. (Site Notices were posted in Limekiln Close)

Reasons for objection related to other matters:

- Construction of White Rock leaves mud stains on properties
- Pavements and roads not finished in White Rock
- Noise and disturbance from ongoing construction
- Vehicles have disregard for speed limit on Brixham Road
- Current development not completed yet
- Loss of agricultural land.
- When house purchased, there were assurances that no building would take place behind

Summary of Consultation Responses

Paignton Neighbourhood Forum

No response received.

Broadsands, Churston and Galmpton Neighbourhood Forum

No response received.

South Hams District Council

12.04.2023: Officers have now reviewed the proposal and confirm that South Hams District Council has no comments to make on the application.

03.07.2023: With regards to the BNG Strategy, the planning history of the site where the offsite planting is to be carried out has only one application for a wildlife building (2018) [the bat house]. Providing the final BNG strategy incorporates native species and reflects the landscape character of the surrounding area, no objections from South Hams District Council.

Torbay and South Devon NHS Foundation Trust 23.11.2022 and 06.04.2023

Further to NPPF and Torbay Local Plan Policies SS11 and SC1 for a Healthy Torbay, the TSDFT is operating at full capacity. The proposed development would potentially create

a long-term impact on the Trust's ability to provide safe, accessible and sustainable service delivery to current and new residents. Contributions are sought to mitigate this direct impact and compliant with CIL Regulation 122 and Appendix G the amount sought for 25 dwellings is 10,945 to be secured through a s106 agreement.

Historic England 16.11.2022 and 27.03.2023

We suggest that you seek the views of your specialist conservation and archaeological advisers. It is not necessary to consult us on this application again, unless there are material changes to the proposals. However, if you would like advice from us, please contact us to explain your request.

Devon County Council Historic Environment 24.03.2023

No objection. Looking at the extent of previous development within the site, and also the evidence from archaeological evaluation of the Inglewood/White Rock site to the south, I do not think that the level of archaeological potential warrants any further archaeological work.

Torbay Council Housing Strategy and Enabling Officer 14.12.2022

The applicant has confirmed within the submitted Planning Statement that the development will provide 25% affordable housing in accordance with the Council's preferred tenure mix and in accordance with other prevailing requirements such as accessibility standards. As such the application is compliant with Policy H2. The policy requirements should be secured by way of section 106 agreement.

Community Safety 29.03.2023

No objections subject to the inclusion of a condition securing a Construction Management Plan.

Ecology Advisor (Devon County Council)

07.12.2022: Further information required prior to determination.

Dark Landscape Corridors for Bats - a 10m grassy corridor is required adjacent to flight lines. Plans show 7m justification or amendment required. Details of composition of ecological buffer to south and management responsibility -part falls outside the site boundary. Management responsibility for maintaining low lighting levels. Further mitigation may be required upon receipt of requested information.

A CEMP will be required at RM stage. A LEMP will be required at RM stage. Tree Protection fencing will be required and may require further mitigation upon receipt of requested information. Request condition that LEMP will include habitat creation, species specification and management.

Request condition that no external lighting be installed without permission and implement in accordance with the Ecological Impact Assessment.

GBH – European Protected Species Licence required re -potential loss of 3 roosts. Proposal must meet derogation tests. Proposed mitigation - bat house and bat roost boxes – details of design to be secured at reserved matters stage.

Dormice and ciril buntings - further information required – previous survey findings. Further mitigation may be required.

Newt relocation and on-site habitat required in LEMP and in accord with EIA.

Restrict vegetation clearance to outside of bird nesting season. Repeat badger survey required before any site works commence. Hedgehog boundary plan to be submitted at RM stage.

BNG: A baseline metric is required for this outline application and an indication that a BNG can be achieved. RM's will need to include full BNG metric.

Invasive species - CEMP at RM stage and in accordance with the EIA

27.06.2023: HRA - Content with the justification provided by the applicant and the conclusions of the HRA that there would be no adverse impact on habitats of protected GHBs and the South Hams SAC subject to proposed mitigation and mitigations already carried out in vicinity.

BNG – No objection to the proposed 10% biodiversity net gain off-site – this will need to be secured through the planning process. Recommends conditions to secure detailed biodiversity metric and a LEMP (for on-site and off-site lands for 30yr period) at RM stage.

Torbay Council Ecology Officer 15.05.2023

This application will require ecological mitigation. The effectiveness of ecological mitigation relies on appropriate monitoring. The Torbay Planning Contributions and Affordable Housing SPD states that where mitigation measures or compensation land are necessary to address the ecological impacts of a development and to secure a net gain in biodiversity, the Council will require a monitoring contribution. This contribution is required to enable a suitably qualified ecologist to ensure that the mitigation measures or compensation land has been implemented appropriately post development, are being maintained effectively, and to identify any remedial works where necessary.

It is anticipated that the ecological mitigation measures associated with this development would give rise to a need for one full day of monitoring per annum, to assess the Greater Horseshoe bat mitigation, offsite habitat creation and linkages to the wider site. Monitoring would be carried out on years 1, 3, 5, 10, 15, 20, 25 and 30 of the development (8 occasions). Charged at a rate of £300 per day, this results in the requirement for a monitoring contribution of £2,400.

Natural England

29.11.2022: A Habitats Regulation Assessment is required. The development is within the Greater Horseshoe Bat Sustainance Zone and Landscape Connectivity Zone of the South Hams Special Area of Conservation. Your HRA should assess whether the proposal could result in impacts on greater horseshoe bat roosts or foraging and commuting routes, for example by removing lengths of hedgerow or from artificial lighting. We advise that you follow the detailed guidance in the *South Hams SAC – Greater horseshoe bat Habitats Regulations Assessment Guidance* (October 2019).

Impacts should be avoided wherever possible, for example by retention of hedgerows and through restricting lighting. The Institute of Lighting Professionals has produced practical guidance on considering the impact on bats when designing lighting schemes - Guidance Note 8. Bats and 1. Artificial Lighting. They have partnered with the Bat Conservation Trust and ecological consultants to write this document on avoiding or reducing the harmful effects which artificial lighting may have on bats and their habitats. Where impacts on bat habitat cannot be avoided, a detailed HRA may be required and surveys may be necessary, as set out in the guidance. Any mitigation measures deemed necessary must be secured through planning conditions or obligations.

03.05.2023: Further information required: an assessment of the adequacy of the greater horseshoe bat surveys in accordance with best practice guidance. If deemed necessary, additional survey data.

27.06.2023: HRA Re-consultation with NE is not necessary provided that the LPA Ecologist is satisfied with the justifications provided by the applicant.

04.08.2023: The Appropriate Assessment has been revised. We note that justification has been provided by the applicant to support the level of ecological survey work in this application, and that your Council's Ecologist is content with this reasoning. The AA has been revised and concludes that Torbay Council is able to ascertain that the proposal will not result in adverse effects on the integrity of the South Hams Special Area of Conservation (SAC). As competent authority, it is your responsibility to be accountable for any such conclusions. As such, Natural England advises that we concur with the assessment conclusions, providing that all mitigation measures specified in the AA are appropriately secured by conditions in any planning permission given.

Arboriculture and Green Infrastructure Manager (Swisco)

20.12.2022

Arboriculture

The arboricultural information is not sufficient to enable an informed decision to be made. The categorisation of the trees in the submitted Tree Constraints Plan is agreed with. The Design and Access statement in section 2.5 identifies two key pine trees for retention. Category B Walnut should be considered a constraint and be retained in accord with BS5837. Robust justification will be required for the removal of the Walnut.

The removal of the C category trees is acceptable.

In addition, a tree protection plan will be required to ensure that retained trees and hedges are adequately protected during the lifespan of the development.

The green infrastructure plan lacks sufficient detail with which to make an informed decision. The green infrastructure/landscape plan will need to show that the mitigation is sufficient to offset the vegetation loss this should be a multidisciplinary approach with input from an ecologist.

Roadside boundary - is the 5m ecology corridor able to be guaranteed owing to the proposed roadworks going ahead in the early part of 2023.

Open spaces contribution.

We would be looking for open spaces contributions as per the Adopted SPD.

05.04.2023:

The Tree Survey should accurately represent the tree population on the site. Welcome retention of Walnut (G13.3.). Ground condition remediations within its RPA are required. We would be looking for open spaces contributions as per the Adopted SPD.

Waste and Recycling Officer (Swisco) 18.04.2023

Details of recycling and waste storage arrangements are to be provided at the reserved matters stage, request for a planning condition on waste and recycling with the arrangements being agreed before occupation. The proposed dwellings will need individual containers 240 Litre bin for refuse; 2 x 55 Litre recycling boxes; blue bag and a food waste bin. An opt-in garden waste collection (240L bin) is available to residents.

TC collection vehicles will not drive onto unadopted surfaces without a formal indemnity in place and residents would need to bring waste and recycling to the adopted highway for collection.

A swept path analysis has been completed but the height of the vehicle used for the tracking is lower than the ones TC uses. This is unlikely to cause a problem at this development but attach the dimensions of our refuse and recycling collection vehicles.

Request waste management contributions for this development: £90 per dwelling for provision of bins and £72 per dwelling towards collection service vehicles. As per the table in SPD.

02.08.23: No further comments. (Revised swept paths submitted).

Drainage Engineer (Torbay Development Agency):

28.11.2022: The application is accompanied by an FRA and drainage strategy. The strategy identifies discharge of SWD using infiltration in the form of a soakaway and infiltration testing has been undertaken at the proposed location of the soakaway. Some details have been provided but additional information is required on pipe lengths, gradients and the impermeable areas draining into each pipe length. This information is required prior to determination.

09.05.2023:

Further to your email dated 20th April 2023 providing additional surface water drainage details for the above development, I can confirm that providing the surface water drainage is constructed in accordance with the submitted hydraulic design and drawings, I have no objections on drainage grounds to planning permission being granted for this development.

South West Water 08.11.2022 and 27.03.2023

No objection subject to details of surface water drainage being submitted for prior approval and would further comment that there are public water mains crossing the site. The applicant/agent is advised to contact South West Water if they are unable to comply with our requirements with regards to Asset Protection, Clean Potable Water, Foul Sewerage Services and Surface Water Services.

16.08.23 South West Water is able to provide clean potable water and provide foul sewerage services. Surface Water run-off proposals to discharge into the ground (infiltration) is acceptable and meets with the Run-off Destination Hierarchy.

Police Designing Out Crime Officer 14.11.2022

No objection. Advises of the Building Regulation requirements for ADQ and recommends Secured by Design suppliers.

Design

Crime, fear of crime, ASB and conflict are less likely to occur if the following attributes of Crime Prevention through Environmental Design (CPTED) are also considered in the design and layout of the proposed scheme:-

Access and movement (Permeability) –

Places with well-defined routes, spaces and entrances that provide for convenient movement without compromising security.

Pathways where possible, should not be designed so they run directly adjacent to rear or side boundaries of dwellings or close to doors and windows as this has proven to generate crime and ASB. It would be recommended there is a buffer between the access path and dwelling's boundary at the southern point of the development. The rear boundary treatment could have a buffer zone with defensible planting. Where the path meets the side and front curtilage of the property there should be a boundary treatment of 1.2m high which could be as an example railing or a small hedging which clearly demarcates between private and public land.

Structure – (Design & Layout) –

Places that are structured so that different uses do not cause conflict

Surveillance (Natural, Formal & Informal) –

Places where all publicly accessible spaces are overlooked.

Ownership –

Places that promote a sense of ownership, respect, territorial responsibility and community.

Physical protection –

Places that include necessary, well-designed security features as required by ADQ and SBD Homes 2019. Rear boundary treatments must be robust and attain a minimum height of 1.8

m. If greater surveillance is required, the solid boundary treatment could be reduced to 1.5m with a trellis topping of 0.3m or 0.6m. Where gates are installed for access into private rear gardens these should be the same height of the adjoining boundary treatment, robustly constructed and be lockable from both sides, by means of a key for example.

Access into the ecology/landscape buffer zones should be gated to prevent access to the rear and side of private boundary treatments. Access should only be for authorised persons such as maintenance staff.

Activity –

Places where the level of human activity is appropriate to the location and creates a reduced risk of crime and a sense of safety at all times.

Management and maintenance –

Places that are designed with management and maintenance in mind, to discourage crime in the present and the future.

Parking

Tandem parking should be avoided as it is likely that from a practical and convenient point of view only one of the spaces will be used which will encourage unplanned parking elsewhere. The 'elsewhere' has real potential in creating vehicle and parking related problems which the police can spend a lot of time dealing with.

Highway Authority (Swisco) and Transport Planning

Received 24.01.2023: Based upon the information submitted at the time of writing, the Highway Authority requires further information to ensure that acceptable highway safety can be achieved and that there is not a severe impact on the highway network. In order to alleviate concerns from the Highway Authority the applicant will be required to provide the following:

- Visibility splays in both the primary and secondary directions should be provided for the site access;
- Submit a Highway Adoption Plan for the site to illustrate adoption of the western boundary verge of the site and extend the shared surface through the development to connect to Limekiln;
- Further information relating to the location of cycle parking; and
- A review of PIC data for the latest 5-year period

07.06.2023:

The submitted Technical Note demonstrates that visibility splays are acceptable. Highway Adoption Plan not submitted- one will be required. Cycle stores maybe in rear gardens unless there is no side/rear access – in such cases storage must be at the front of the property. Collision data – operational safety issues not exacerbated by the proposed development. Swept paths should not overrun private (unadopted) surfaces as at south end of site – swept path analysis requires amendment. The strategic pedestrian/cycle way for Inglewood (Northern Access Route) must be constructed to adoptable standard (and LTN1/20) with sufficient lighting and minimum of 3m wide. Recommend connection to White Rock Play Area.

25.07.2023:

The updated swept path analysis for the indicative road adoption scheme is acceptable. With regards to design of the junction, the principles of Manuals for Streets would apply to any traffic calming and visibility splays (max boundary heights of 600mm within a visibility splay). Detailed drawings would be required with details of Layout.

Sustainability Officer 03.04.2023

I have reviewed the Energy and Sustainability Statement for the above application. I have focussed on the requirements to meet SS14 and ES1 of the Local Plan only. Comments that Torbay Council has committed to becoming carbon neutral by 2030 (supersedes 50 % reduction commitment made in 2014). New Building regulations must be met and preferably exceeded. Need commitment to passive design. Homes should be constructed

to be Net zero carbon heat ready. Need a commitment to renewables actually being installed and used.

Request a condition requiring a detailed energy and sustainability statement at the reserved matter stage(s). This will need to outline the specific details that will be incorporated into the site to meet Policy SS14 and ES1.

Wales and West Utilities 27.03.2023

Wales & West Utilities have no objections to these proposals, however our apparatus may be at risk during construction works and should the planning application be approved then we require the promoter of these works to contact us directly to discuss our requirements in detail. Should diversion works be required these will be fully chargeable.

National Grid

No objection. There are no National Grid assets in the area.

Planning Officer Assessment

1. The Principle of Development,
2. Design and Visual Impact,
3. Residential Amenity,
4. Highways Access and Safety,
5. Landscape and Green Infrastructure
6. Ecology and Biodiversity,
7. Flood Risk and Drainage,
8. Low Carbon Development,
9. Affordable Housing,
11. Housing Supply.

1. The Principle of Development

The proposal is for outline planning permission for up to 25 residential dwellings on the land. The relevant policies of the Development Plan are Policies SS1, SS2 and H1 of the Torbay Local Plan, Policies PNP21 of the Paignton Neighbourhood Plan and the NPPF.

Policy SS1 identifies White Rock as a Strategic Delivery Area and a sustainable location for future growth. Policy SS2 identifies White Rock as Future Growth Area (SDP3.5 White Rock). The application site forms part of the Future Growth Area where there is a presumption in favour of sustainable development.

Policy SS3 sets out that planning applications that accord with the policies of the Local Plan and Neighbourhood Plan will be approved.

The application site is part of the wider White Rock development site identified in the Paignton Neighbourhood Plan (Policy PNP21) for employment and housing development, enhancement of South Devon College, ecological assets and community uses .

While the application site has not been identified as a specific allocation in the Torbay Local Plan 2012-2030 or the Paignton NP for additional units, the proposal to provide housing on this site is, in principle, one that is in accord with the Policies of the Torbay Local Plan and the Paignton Neighbourhood Plan.

Policies SS12 and SS13 set out the Council's intention to maintain a rolling five-year supply of deliverable sites. Policy H1 of the Torbay Local Plan states that proposals for new homes within the Strategic Delivery Areas will be supported subject to consistency with

other Policies of the Plan and subject to nine criteria, notably including the need to provide a range of homes to meet the objectively assessed needs and maintain a rolling 5-year supply of deliverable sites.

It is relevant to appreciate that the Council cannot currently demonstrate a 3 or 5- year housing land supply and for decision making this means that the policies most important for determining applications for housing in the Neighbourhood Plan and the Local Plan (site allocations) are considered to be out of date. The policies, therefore, should be afforded limited weight within the current decision-making process. In terms of determination of applications for housing the 'tilted balance', as set out in Paragraph 11 of the NPPF, guides to granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF.

In summary, while the site may not be specifically allocated in the Neighbourhood Plan, it falls within a Strategic Delivery Area and accords in principle with the Policies of the Torbay Local Plan and the area designation in the Neighbourhood Plan of the White Rock Area.

The site has been put forward in the HELAA review 2022/23 (Site reference number 21P079) for residential use with a yield of 19 units. It is graded yellow (minor constraints). The outcome of this review is pending.

Due to the reasons stated above the principle of residential development on this site is accepted, when considering strategic policies SS1, SS2 and SS12 of the Torbay Local Plan and Policies PNP1 and PNP21 of the Paignton Neighbourhood Plan, and the Development Plan as a whole.

The Local Plan Policies set out criteria that must be met to achieve satisfactory sustainability and design. In this location Policy SS2 requires developments to provide a bespoke mitigation plan for the Greater Horseshoe Bats to demonstrate sustaining an adequate area of non-developed land for local foraging and flyways. Developments are required to deliver a range of housing types including family and affordable housing, links to services, facilities, leisure, integrated green infrastructure and high-quality design including sustainability and energy efficiency. The principle is, therefore, subject to other material considerations, which will be discussed in more detail below.

2. Design and Visual Impact (Layout, Scale and Appearance)

The application seeks consent for the location of the proposed access, being in outline with all other matters reserved for future consideration. The submitted information does include an indicative site layout and potential 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 25 dwellings) could be appropriately achieved in terms of its layout, design and character, without undue visual impact.

The NPPF states (Paragraph 126) that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve and furthers that good design is a key aspect of sustainable development. Several expected design outcomes follow in Paragraph 130 and the Framework furthers, in Paragraph 134, that development that is not well designed should be refused.

There is consistency with the NPPF across Local Plan Policies SS2 (Future Growth Areas), SS11 (Sustainable communities) and DE1 (Design). Policy SS2 seeks development to integrate with existing communities and reflect landscape character, Policy SS11 states

that development must help to create cohesive communities within a high-quality built and natural environment. The policy also includes expectations for development to help develop a sense of place and local identity, deliver development of a type, scale, quality, mix and density appropriate to its location, and protect and enhance the natural and built environment. Policy DE1 states that proposals will be assessed against their ability to meet design considerations such as whether they adopt high quality architectural detail with a distinctive and sensitive palette of materials and whether they positively enhance the built environment.

Design outcomes are also prominent within the Paignton Neighbourhood Plan with PNP1 (Area Wide) including reference to enhancement of local identity, PNP1(a) citing the importance of development responding positively to its context when in the Rural Character Area, PNP1(c) again identifying the importance of strengthening local identity, and PNP21 (White Rock) expresses the importance of sensitive development within its context.

Scale and density

The site area is 0.78Ha. The proposal for 25 units on the site would result in a density of 32 dwellings per Hectare. This is a reasonable density for an urban site. However, the details of layout and appearance provide a clearer indication of whether a proposal can be accommodated on a site.

The indicative masterplan demonstrates a typical domestic scale. All buildings are two-storeys with pitched roofs. One building appears to offer accommodation within the roof, with rooflights (not dormer windows).

Site Sections illustrate the two-storey nature of the development would be feasible. With slab levels following the incline of the land, the roofline would step down towards to the north and east. The line of houses at the south end of the site would be on the highest land but inset from the southern boundary by approximately 12-16m. Enhanced tree planting would be required to screen the upper floors from the woodland area and from Brixham Road.

The surrounding housing in Lime Kiln Close and at White Rock Cottages are two-storeys high and the indicative proposal demonstrates that the scale of buildings could be accommodated in buildings of appropriate heights.

Layout

The application is supported by an Indicative Masterplan that presents how the amount of development could be laid out. The site is bordered by residential properties to the north (Diane Close) and west (Limekiln Close), Brixham Road to the east and woodland to the south. The layout provides a single vehicle access and no-through road with culs-de-sac at the north end and south end. The dwellings are mainly positioned on the western side of the site but five are positioned on the east side, bordering the Brixham Road, albeit separated by a proposed new hedgerow. The properties are shown as two storey – amended proposals have omitted two-and-a-half storey houses (rooms in the roof) due to potential impact on the existing properties in Limekiln Close.

The layout indicates that car parking would be provided together with garages to meet the requirement for two spaces per dwelling (assuming they are houses and not flats). The layout also indicates gardens for most properties of around the 55sqm set out in the Torbay Local Plan. However, the four units to the northern end have smaller gardens. These gardens and three at the south end abut the boundary with Brixham Road, which raised concerns about ambient noise (see amenity section of this report).

The suggested distances between properties are generally 20m or more for directly facing

elevations. Due to the indicative nature of the outline proposals, it is not definite that the distances between facing windows are acceptable. The suggestion of planting within private gardens to reduce sight lines is illustrative and not easily secured or maintained and should not be relied upon. Satisfactory distance and orientation are more reliable resolutions of intervisibility issues. These would depend upon room positioning and window orientation, which would be assessed at Reserved Matters stages.

In terms of the character, the layout presents a mainly semi-detached form of development with slightly staggered building lines along the internal roads. These elements present a suburban form of development that responds to the context.

All matters considered the indicative layout and arrangement of building and landscaped areas is considered acceptable.

Appearance (form and materials)

The indicative masterplan presents a suburban layout. The appearance of semi-detached and detached properties of uniform type is predominant with one or two variations on corner plots. The dwellings generally have ridged roofs but with occasional hipped roofs and one apex. Materials would be determined at Reserved Matters stage.

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 PNP21 of the Paignton Neighbourhood Plan and the NPPF.

3. Residential Amenity

The Torbay Local Plan contains policies to ensure that appropriate residential standards are achieved in residential schemes, including size standards, through Policy DE3, and that development meets the needs of residents and enhances their quality of life, through Policy SS11. The Paignton Neighbourhood Plan, in Policy PNP 1(d) (Residential Development), presents guidance on supporting elements required for residential units and the NPPF (Para 130) 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 and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

Future Occupiers

The quality of the future residential environment is assessed in terms of the size and quality of the internal living spaces, the levels of outlook and natural lighting afforded key habitable rooms, levels of privacy, along with the quality of outdoor spaces and access to waste, cycle and car parking facilities, which are all integral elements for household developments. The aspiration is to secure a good level of amenity for future residents.

The submitted Design and Access Statement indicates that these would be 2 and 3-bedroom houses. The housing mix and number of bedrooms, however, is not defined in the description of development and could vary at Reserved Matters stage. The submitted layout is indicative and therefore the compliance of the scheme with policy design expectations cannot be fully assessed at this stage. The layout indicates amenity areas and parking facilities, which appear, on average, to be in accordance with the standards in the Torbay Local Plan. The distances between properties are generally acceptable. There may be some natural overlooking of gardens, but this is commonplace within residential environments and there are no unacceptable, i.e. overly dominant, relationships. In terms of the internal living spaces all houses and flats are indicative at this stage and would be assessed in detail at Reserved Matters stage.

In terms of ancillary elements of parking, cycle parking and waste storage, details would be sought on the location and form of cycle parking and bin storage to meet required standards at reserved matters stage.

Noise

The NPPF requires development to avoid noise giving rise to significant adverse impacts on health and the quality of life. The recommended NPSE Policy reinforces this approach and aims for developments to mitigate and minimise adverse impacts on health and quality of life. Expected internal and external noise levels are set out in BS 8233:2014. Noise levels should not exceed 35dB in living rooms and 30dB at night in bedrooms. For external amenity spaces this figure is 50dB and, in locations close to strategic roads, 55dB.

The application site is adjacent to the Brixham Road, a busy "A" Road, which provides a link between Brixham and the rest of the Torbay area and beyond. An acoustic report was submitted, which assessed the impact of noise from the local road network (including recent capacity increases and speed reductions on Brixham Road) on the residential environment of the site.

The report concluded, in Section 8, that it would be necessary to design the fabric and ventilation of the proposed dwellings to control the levels of internal environmental noise internally to meet the BS levels (insulation on elevations, glazing and extraction vents). Section 9 shows that the amenity areas of 8 dwellings on the Brixham Road side of the site would have noise levels over 55dB during day times. With regard to external spaces, the report recommended the installation of 2-metre-high (10kg/m²) fences to reduce noise levels in amenity areas down to 55-60dB.

It is recommended that a condition is applied requiring the internal and external noise levels to comply with BS standards and for details of mitigation measures to achieve those standards be submitted at RM stage and evidence that the levels are achieved be submitted prior to first occupation.

Subject to conditions as suggested the proposed residential environment is considered acceptable for all future users and would accord with Policies SS11, DE1 and DE3 in the Torbay Local Plan, PNP1(d) of the Paignton Neighbourhood Plan, and advice contained within the NPPF regarding creating good quality living environments.

Neighbouring occupiers

The construction phase would have some temporary impacts on the amenity of neighbouring occupiers. However, such impacts 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.

Concerns were expressed by neighbouring occupiers over the following:

- Noise, dust and disturbance from construction work -impact on health
- Loss of property value
- Social housing will affect property values.
- will lead to anti-social behaviour
- overdevelopment
- Existing houses will be overlooked and loss of privacy
- 2.5 storeys is too high
- Loss of light and outlook
- No2 Limekiln Close's garage is close to the access

The concerns expressed over Highway, parking and ecological impacts are considered in Sections 4, 5 and 6 of this report.

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 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.

Details of the scale and appearance would be established within future reserved matters applications, but the indicative layout and sections illustrate that the scale of residential development proposed would be unlikely to result in significant loss of outlook or natural light. The properties are expected to be set at appropriate distances from the rear elevations of houses in Limekiln Close. The indicative layout shows that most facing elevations are 20m apart. Details of the layout and windows positions would be submitted as part of reserved matters applications and the issue of privacy and avoidance of overlooking would be fully assessed at that stage. It is noted that the applicants have provided an amended indicative building heights plan, which removes any buildings over two storeys, in order to avoid over-dominant relationships between dwellings within the site and with dwellings on the adjacent land in Limekiln Close. There is likely to be some natural overlooking of gardens, but this is a common situation within residential environments and there are no unacceptable, i.e. overly dominant, relationships in the indicative scheme. The submitted proposal is therefore considered to demonstrate a reasonable level of amenity for future and existing occupiers.

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 treatments, refuse storage, landscaping, and so on. However, based on the indicative masterplan and supporting information currently submitted, it appears that a development of up to 25 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.

In summary, and subject to conditions, 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 and the NPPF.

4. Highways Access and Highway Safety

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

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

The site falls within the Western Corridor area identified in the Paignton Neighbourhood Plan (PNP22). In this area development proposals are required to enable or provide active travel facilities, wherever achievable. The policy seeks to secure safe and continuous cycling and pedestrian pathways to schools, employment areas and across countryside. Area-Wide policies require that sustainable modes should be encouraged and that suitable parking and cycle facilities be provided within residential developments.

Site Access

The Outline application seeks approval of the proposed Site Accesses for vehicles and other forms of transport e.g. walking and cycling.

Vehicle Access

With regards to vehicle and cycle access, the development would be served by a single new access from the end of the spur of Limekiln Close into the north west of the site. The Councils' Highway Engineers and Strategic Transport Officer have considered the junction position and supporting transport information and has raised no objections in principle in relation to the proposed vehicular access arrangements. However, they have requested that a highways adoption plan be submitted. An indicative road adoption plan for the illustrative masterplan was submitted. This was acceptable. A road adoption plan can be secured by condition further to Reserved Matters details for layout and this is recommended.

Pedestrian Access

With regards to pedestrian access, two points are proposed: the first as for vehicles, in the north west of the site, the second in the south west of the site. The Highway and Strategic Transport Teams have requested that this be secured by condition to be 3m wide and connect into the Northern Access Route for Inglewood.

Visibility splays

The proposed site access would continue a straight section of Limekiln Close, which is due to be adopted as public highway. The proposal is for the access road from this point to be adopted. It would, therefore, need to be designed and constructed to adoptable standards, including visibility splays for vehicles and pedestrians turning into the parking and garage spaces near to the access point. At present the access has been closed off with a 2m close boarded fence. This would need to be removed and the appropriate visibility splays provided.

The original Highways comments requested visibility splays for the site access. The visibility splay drawings in the submitted Highways Technical Note (KTC February 2023) demonstrate 2.4m x 43m splays at the junction of Limekiln Close and White Rock Way. These are measured against the technical standards in the Design Manual for Roads and are considered acceptable by the Highways Department.

The occupants of No 2 Limekiln Close have a garage positioned near to the boundary of the site adjacent to the proposed vehicle access point to the site. They have expressed concern about the speed and visibility for cars entering and leaving the site not having adequate visibility of the garage manoeuvring and forecourt area for No 2 (and vice versa). It would be reasonable to request a scheme of traffic calming measures to ensure that a safe junction design including appropriate visibility splays are achieved for this garage

entrance and that traffic is appropriately slowed down on this stretch of the road to enable the occupants to continue to use their garage safely. This can be secured by a condition requiring a scheme to be submitted as part of the Reserved Matters application for site layout.

The amended indicative masterplan removed two car parking spaces which would have opened onto the access road in the vicinity of that garage. It is anticipated that vehicles would be proceeding at a low speed at this point. Highways have not objected to this proposed indicative arrangement. However, detail of the road layout and any traffic management scheme would be required at Reserved Matters stage for the site layout and would be required to meet the standards in Manual for Streets.

PICS

The applicant provided PICs data and the Highways Department considers that there are no operational safety issues that would be exacerbated by the proposed development.

Sustainable Transport contributions

The development would generate net additional trips and, therefore, gives rise to a need for contributions to sustainable transport further to the Planning Obligations SPD. Contributions are used towards sustainable transport and highway works that improve road safety, promote active travel or improve capacity/accessibility of public transport. The requested amount for this development would be based on the number and size of the dwellings as set out in Table 4.2 of the SPD. This contribution can be secured through a Section 106 agreement and this is recommended.

Parking

Policy TA3 and Appendix F of the Local Plan states the minimum dimensions for parking spaces, including garages.

The submitted Design and Access Statement and Highways Technical Notes set out that each dwelling would be provided with two car parking spaces either as garages or open spaces. These are shown on the indicative layout plans. Cycle storage would be provided within private amenity areas. This meets the requirement set out in Appendix F of the Torbay Local Plan and demonstrates the capacity of the site for the number of houses. The parking standard for flats is one per unit. Details of internal site layout and hard landscaping together with housing-size mix and layout would be the subject of reserved matters applications.

Neighbouring occupiers have expressed concern about the potential for overspill parking on the roads around the site. However, the outline indicative proposal demonstrates that the Council's parking standards could be met. Proposals submitted under Reserved Matters applications would be required to comply with those standards. As such, the outline proposal is unlikely to result in significant impacts on highway safety and convenience of neighbouring road users as a result of parking overspill.

The submitted documents set out that electric charging for one vehicle at each dwelling would be provided. Details can be sought to accord with Development Plan expectations, at reserved matters stage. This can be secured through a condition, as recommended.

Loss of NAR - connection to Section 106

The approved route of the Northern Access Route a strategic permissive footway and cycle way linking Inglewood development site (school site, pub/restaurant and 373 residential dwellings) with White Rock shops, college and additional public transport links). The route is indicated in Planning Permission P/2017/1133 (Outline as varied by P/2022/0112) and P/2022/1119 (Reserved Matters). The approved route is shown on the approved plans

and its provision and maintenance are secured through the Section 106 Agreement for the outline permission. The approved route is required to be 3m wide and to accommodate pedestrians and cyclists and to be segregated (from cars). Full details of the NAR route (surface, lighting, drainage and construction) are sought through a condition on the Reserved Matters application.

The submitted scheme for this application does not propose making provision for the northern section of the NAR through the site. Therefore, an alternative route is required that meets the design parameters and Section 106 obligations for provision in perpetuity and ongoing maintenance.

The accompanying application P/2023/0143 is relevant. This proposes an alternative route for the northern section of the NAR, which runs to the west of this application site and connects into the end of the southern spur of Limekiln Close. An agreement of public easement across the various ownerships has been drafted and signed to secure the right of way for pedestrians and cyclists in perpetuity. Maintenance of the route has also been secured through that agreement.

Implementation of an acceptable alternative for this section of the NAR is required before the commencement of development on this application site, which would remove the possibility of providing the route through this site to the required standard (notably the width, gradients and surfaces and design principles of LTN1/20). This can be achieved through a condition securing implementation of the works in the relevant application for the alternative route (P/2023/0143) prior to commencement of site development (excluding ecological mitigation works) and this is recommended.

It is also recommended that a footway connection is secured between the NAR alternative route and the south west pedestrian access point to this application site prior to commencement of development on the site to ensure adequate connectivity to the surrounding open spaces. As that short connecting section would be outside this application site, this would need to be secured through a Grampian style condition (requiring the connecting works to be complete before another event such as development commencement).

Internal Road Network

The Outline application seeks approval for site access. Site layout matters, including internal roads and paths, are reserved matters.

However, an indicative access and movement plan (0779-1005-B) has been provided. This shows that vehicles and pedestrians would have segregated surfaces at the site entrance but the short spur to the north and the longer spur to the south would be shared surfaces. These are shown as adopted (or adoptable standard) surfaces except for the short spur in the south west corner, which would be unadopted.

The proposed network is considered acceptable in principle. Consultation with Highways and Waste has raised points for clarification, such as swept paths for refuse vehicles being accommodated within the adopted highway and lighting. These are detailed considerations that can be secured at Reserved Matters stages. A road adoption plan and swept path diagram were submitted for the indicative masterplan layout. These were assessed by Highways and found to demonstrate acceptable waste and emergency vehicles access to all areas. Full details can be secured by condition to be provided with reserved matters applications for layout.

The proposal is considered to demonstrate an acceptable road layout.

The site has pedestrian entrances and segregated surfaces for short stretches at the north end and the south end. The centre of the site is shown as a shared surface. In these areas traffic speeds are normally restricted and the layout can contain design elements to achieve speed restriction. Details would need to be compatible with highway adoption standards at reserved matters stages.

Cycle access to the site would be principally from the northern access and shared surfaces. Access for residents of the site would be available from the south west corner.

Travel Plan

A Travel Plan Statement has been submitted with the application (referenced P-2022-1173-5 and dated September 2022) The Statement outlines a strategy of providing cycle parking, a residents' travel information pack, one voucher towards a variety of active travel products (public transport tickets, cycles, fitness tracker) to value of 150 GBP per dwelling, a residents' notice board and information about car sharing networks.

It is recommended that the implementation and monitoring of the Travel Plan be secured through Section 106 obligations.

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 111), the proposal is, subject to securing sustainable transport financial obligations 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.

The proposals, subject to conditions recommended above, are considered to present an acceptable scheme in terms of access and demonstrates an acceptable layout, in accordance with Policies DE1, TA1, TA2 and TA3 of the Torbay Local Plan, Policy PNP1(h) of the Paignton Neighbourhood Plan and the NPPF.

5. Landscaping, Green Infrastructure and Public Open Space

Landscaping is a key component of placemaking and in a rural context is an important influencer of character. The importance of contextual and effective landscaping is highlighted within the NPPF within Chapter 12, Achieving well-designed places, as part of the drive towards delivering visually attractive development that also responds to and is sympathetic to local character (Paragraph 130). The NPPF also makes reference to the important contribution of trees to the character and quality of urban environments (aside benefits of adapting to climate change) and states that decisions should ensure that new streets are tree-lined, that other opportunities are taken to incorporate trees elsewhere in developments (such as parks and community orchards), and that existing trees are retained wherever possible.

At a local level the Development Plan seeks high quality landscaping in Policy DE1 and Policy C4 states that development will not be permitted where it would seriously harm protected trees or veteran trees, hedgerows, ancient woodlands or other natural features of significant landscape, historic or nature conservation value. The policy also states that development proposals should seek to retain and protect existing hedgerows, trees and natural landscape features wherever possible, particularly where they serve an important biodiversity role.

Policy PNP1(c) of the Paignton Neighbourhood Plan includes relevant references to development proposals, where possible, retaining existing natural features, and furthers that hedgerows should be provided to at least one boundary and also should include tree

planting.

The indicative masterplan layout provides for replanting of the hedgerow on the Brixham road boundary (which was thinned at the time of the Brixham Road widening works) to a width of 5m along the inside of the eastern boundary.

The submitted Tree Survey, Arboricultural Impact Assessment and Tree Protection Plans together with the Green Infrastructure Plan (0779-1007-B) show retention of a walnut tree near the site access and Austrian Pine trees on the south east corner of the site. All other trees are shown as removed. Compliance with principles of these documents can be secured through condition.

The Green Infrastructure (GI) Plan (0779-1007 - shows provision of an “Ecology Corridor” on the south boundary. The GI layout indicates this is hedgerow and grass. Part is within the application site. This area would need to be fenced off from the rear gardens of residential units to prevent encroachment by human activity and light spill into the corridor. Part of the Ecological Corridor is outside the site – on land to the south, which is covered by the LEMP for White Rock to be retained as woodland for bat foraging and flyway. A scheme for fencing and enhancement planting along the east and south boundaries with native species hedgerow and trees will be required at RM stage.

Planting within the street-scene would be required as part of detailed landscape plans at Reserved Matters stage. Off-site replacement planting is proffered in the Biodiversity Net Gain Strategy (see Ecology Section below). The provision, retention and maintenance of trees on adopted highway land and any new boundary planting on the garden/road interfaces would also need to be secured through reserved matters (landscaping) and a LEMP.

Public Open Space

Residential developments are expected to provide play and open spaces wherever practicable. Local Plan Policy SC2 sets a framework for provision of new recreational development. Policy SS9 Green Infrastructure is also relevant and advocates links between open spaces and residential areas.

The scheme does not include play space or public open space. The Council’s Adopted Planning Obligations and Affordable Housing SPD does not require on-site provision in schemes of this size.

However, the site is very close to the children’s play area and open space in the White Rock area and the adjacent woodland walk. The Council’s Green Infrastructure Team have requested contributions to off-site open space provision in accordance with the Planning Obligations and Affordable Housing SPD (Dec 2022). Table 4.8 of the SPD sets out the rate of contribution dependent on the size of dwelling. These can be secured through s106 agreement for provisions and improvements in the vicinity of the site. This is recommended.

Subject to the recommended conditions and s106 obligations, the outline indicative scheme is considered to present a scheme that is consistent with the Section 12 of the NPPF, and would be consistent with Paras 126, 130 and 131. The landscaping is also considered acceptable and considered compliant with Policies DE1, C4 and SC2 of the Torbay Local Plan and Policy PNP1(c) of the Paignton Neighbourhood Plan and the NPPF.

Policies NC1, SS2, SS8 and SS9 of the Torbay Local Plan PNP1, PNP1(a) and PNP21 of the Paignton Neighbourhood Plan and guidance within the NPPF require development to duly consider biodiversity and take opportunities for enhancement, proportionate to the context and development. Policy PNP21 d) seeks to improve the connectivity of local ecological and wildlife assets.

The key ecological issues relate to the use of the site by GHBs, along with considerations regarding reptiles (principally slow worms) and foraging badgers together with broader biodiversity enhancement aspirations.

An Ecological Impact Assessment (NPA 30.09.2022) was submitted with the application, which identified that:

- there may be a bat roost in a structure on the southern boundary
- the southern hedgerow is an important commuting route for GHB's.
- there was a slow worm population on site.

The report and addendum (Ref No. 115-P02 dated 05.06.2023) advocated the following mitigations:

- Retention of southern boundary hedgerow and an 8m ecology buffer (revised from 7m) along the south boundary,
- Restriction of light spill onto the southern hedge of 0.5lux maximum,
- Hedge protection fencing on this boundary to be erected prior to construction,
- New species-rich hedge along east boundary,
- Tussocky grassland and log piles at base of hedgerows,
- LEMP to set out sensitive management of habitats,
- Clearance of invasive species under guidance of Devon Wildlife,
- Demolish shelter with NE licence and
- Construct bat house,
- Dwellings to incorporate bat boxes,
- Tree protection fencing (see TPP),
- Avoid vegetation removal during March to August nesting season,
- Translocation of slow worms (this took place in advance of the Brixham Road widening works),
- Sensitive vegetation clearance and site construction,
- Boundaries to include gaps to prevent fragmentation of habitats,
- Update badger survey prior to construction.

A summary of these measures is indicated on the Green Infrastructure Plan (0779-1007-B).

A Lighting Assessment was submitted (Hydrock, Ref No 25884-HYD-XX-XX-RP-E-0001, dated 14 March 2023) with regards to ecological impacts, principally minimising light spill onto the hedgerows on the south boundary and neighbouring residential properties. The recommendations are for street lamp columns to be 4m max height, lights to be LED, warm white and part-night lighting scheme (off between 12midnight and 5.30am) and 2m high solid fences along the southern boundary. Compliance with these parameters and details of a lighting scheme can be required at Reserved matters stage through a condition. Additional measures along the eastern hedgerow are likely to be required.

A Habitat Regulations Assessment was requested by Natural England as the site has a potential bat roost and lies within a known flyway of the Greater Horseshoe Bat (GHB) associated with the South Hams Special Area of Conservation (SAC). DCC Ecologist 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.

With regards to slow worms, much of the site was cleared to facilitate highway works to the Brixham Road to the east of the site in autumn of 2022. The slow worm population was translocated under guidance from Devon Wildlife Consultants. The process is set out in NPA's Habitat management Note (Received 24.04.2023 and referenced P 2022-1173-7). NB the final site compound proposals in the CEMP and CMP for Inglewood highway works (Ref No CN/2022/0079) did not include this application site.

Policy NC1 of the Torbay Local Plan and the NPPF seek biodiversity net gain on development sites. The Council's Ecology Advisor requested a biodiversity baseline metric (from prior to any vegetation clearance on the site) and a biodiversity net gain strategy for this outline application. These were submitted in June 2023.

Biodiversity Net Gain Strategy (116 BNG Strategy P01)

- to achieve net gain through on-site mitigation (as shown on the GI Masterplan - 0779-1007-B) and
- off-site mitigation on part (0.6Ha) of a field adjacent to White Rock to be changed from winter feed crop (kale and grazing) to 50% Other neutral Grassland and 50% Mixed Native Scrub and 4 native trees. NB this field is not part of the Ecological Mitigation works for either White Rock or Inglewood developments.

Biodiversity Baseline Metric – (Referenced P-20232-1173-8) is based on the outline strategy and illustrates the following:

- a loss of habitat units on the site, to be addressed through off-site works,
- a net gain in hedgerows on the site.
- Overall, there would be a net gain of 28% in habitats and 87% in hedgerows.

Future reserved matters can be conditioned to include detailed measures to enhance biodiversity in accordance with the Outline BNG Strategy.

The Council's Ecology Advisor has concluded 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.

To ensure protected species and habitats would not be unduly harmed and that biodiversity aspirations could be met, in accordance with guidance contained within the NPPF and the Development Plan, notably policies SS8, SS9, NC1, C4 of the Local Plan and PNP1, PNP1(a) and PNP21 of the Paignton Neighbourhood Plan. the following conditions are, therefore, recommended:

1. No vegetation clearance or demolition during bird nesting season
2. a pre-commencement repeat badger survey and mitigation/compensation measures
3. boundary plan within RMs - ecological mitigation/enhancement measures included
4. RMs shall include a detailed Lighting Scheme (protect southern and eastern hedgerows)
5. A Construction Environmental Management Plan (CEMP) lighting and other measures of environmental protection during the construction phase.
6. A Landscape and Ecological Management Plan (LEMP) habitat creation, species specification and management of on-site and off-site land.
7. in accord with Ecological Impact Assessment – light control, ecology buffers on boundaries, bat house adjacent to the southern hedgerow, habitat creation.
8. Obtain bat licence from NE
9. RMs to include bat roosting boxes in buildings

10. Restrict external lighting within plots.
11. An ecological monitoring strategy shall be submitted for approval.
12. RM's shall include re-submission of BNG proposals and a BNG Metric calculation to secure a net gain over pre-site clearance condition.

It is anticipated that the ecological mitigation measures associated with this development would give rise to a need for one full day of monitoring per annum, to assess the Greater Horseshoe bat mitigation, offsite habitat creation and linkages to the wider site. Monitoring would be carried out on years 1, 3, 5, 10, 15, 20, 25 and 30 of the development. Charged at a rate of £300 per day, this results in the requirement for a monitoring contribution of £2,400. This can be secured through a s106 planning obligation.

Derogation Test

The authority must consider whether the proposal meets the three derogation tests of the Conservation of Habitats and Species Regulations 2017 (as amended), and accordingly whether Natural England are likely to grant a Bat Mitigation Class Licence which would permit the proposal to lawfully proceed, should one be applied for. The tests are sequential. The third test I have concluded below.

- i) There must be 'no satisfactory alternative';*
- ii) The consented operation must be for 'preserving public health or public safety or other imperative reasons for overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment';*
- iii) The action authorised 'will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range'.*

With regards to the first test "a satisfactory alternative" is a scheme that delivers the objective that the project is seeking to deliver in a way which is less damaging to European sites when compared to the original proposal. The project proposes provision of 25 residential dwellings. No other satisfactory alternative sites have been put forward to make this provision.

With regards to the second test, the Council is required by the Secretary of State to ensure sufficient housing land to meet the objectively assessed need for a five-year supply of housing. Torbay Council currently has a 2.52-year supply. The site would contribute to meeting the identified need, which is a public interest of significant weight with social and economic benefits. Given the context of housing land supply, the proposal is considered to be an overriding public interest and to meet the first two derogation tests.

With regards to the third test, the DCC Ecologist considers that, given the mitigation and compensation measures included within the Ecological Impact Assessment and the Biodiversity Net Gain Strategy, the third test of the Habitats Regulations is satisfied. It is reasonable to conclude that Natural England would grant an EPS licence for this development, should one be sought.

Subject to the recommended conditions and planning obligations, the development is deemed to accord with policies SS8, SS9 and NC1 of the Torbay Local Plan and policy PNP1(c) and PNP21 of the Paignton Neighbourhood Plan.

7. Flood Risk

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. The Paignton Neighbourhood Plan offers similar plan-wide aspirations in Policy PNP1(i).

The site sits in an area with a low risk of flooding (Flood Zone 1) and is not subject to surface water flooding. The site is within a Critical Drainage area as designated by the

Environment Agency.

A Flood Risk assessment has been submitted with the application and accompanying surface water drainage scheme that would discharge surface water using infiltration to a soakaway. Supplementary drawings and information regarding pipe lengths and gradients and the areas discharging to each pipe length were submitted at the request of the Drainage Team. The proposed design aligns with the layout of the site in the Indicative Masterplan

The Council's Drainage Engineer has reviewed the proposed surface water proposal and does not object. Subject to implementation in accordance with the submitted information, the scheme is considered to be designed in order that there is no risk of flooding to property on the site or increased risk of flooding to property or land adjacent to the site (for critical storm events plus 50% for climate change).

South West water had no objection subject to details of surface water drainage being submitted for prior approval. They comment that there are public water mains crossing the site and advise the applicants to contact them as necessary with regards to these assets.

Subject to a condition requiring implementation in accordance with the approved Drainage Strategy or other to be agreed in writing with LPA, the scheme accords with Policies ER1 and ER2 of the Torbay Local Plan and policy PNP1(i) of the Paignton Neighbourhood Plan.

8. Low Carbon Development

The NPPF states that the planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.

Policy SS14 of the Local Plan relates to 'Low carbon development and adaptation to climate change' and seeks major development to minimise carbon emissions and the use of natural resources, which includes the consideration of construction methods and materials. Policy ES1 seeks all major development proposals to make it clear how low-carbon design has been achieved, and that proposals should identify ways in which the development will maximise opportunities.

Paignton Neighbourhood Plan Policy PNP1(f) states that new development should aim to achieve where appropriate and subject to viability:

- i) the latest developments in sustainable construction and water management technologies that mitigate and adapt to climate change;
- ii) the use of reclaimed materials and natural finishes;
- iii) include soft landscaped areas for natural drainage of rain water, and compensate fully for any existing soft area lost to development;
- iv) on-site renewable energy generation to achieve 20% of subsequent in-use requirement wherever possible. Solar arrays will be encouraged where they do not adversely affect residential amenity or a vista of landscape value...;
- v) connecting cycleways and footpaths where development involves new road infrastructure.

Low carbon and energy aspirations are considered in the submitted Energy and Sustainability Statement (D. Evans October 2022, Referenced No P2022-1173 -3). It illustrates how the proposed development could be designed using the Energy Hierarchy

principles to deliver carbon dioxide savings using a fabric-first approach with passive design, high efficiency boilers, high efficiency lighting and on-site renewables. However, the report does not make specific calculations of carbon reduction or specific commitments to any identified design solutions. The statement has been overtaken by the Council's commitment to become carbon-neutral by 2030, which is a material planning consideration, and the current Building Regulations. It does not fully acknowledge the Future Homes standards to be introduced in 2025.

The Council's Climate Emergency Officer has commented that the scheme requires commitment from the applicants through a detailed energy and sustainability statement and has requested a condition to secure commitments at reserved matters stage to conserve energy, avoid overheating, make efficient use of energy and water and to use on-site renewable energy technology in accordance with the Local Plan and Neighbourhood Plan. This shall include detailed plans of where the renewable energy sources would be located and calculations of the power demand and generation.

Therefore, a condition is recommended to secure at reserved matters application relating to the proposal's layout, scale and appearance, the above details of energy efficiency measures and sustainable construction.

The proposal is considered, subject to an appropriate planning condition, to have the potential to deliver on the low-carbon aspirations of the Development Plan and the NPPF.

9. 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 15-29 dwellings that 25% of the units should be affordable housing. At 25% the scheme is expected to secure 5 affordable units.

The provision should be secured via a S106 with elements of the provision, such as location, size and tenure mix, being agreed through the reserved matters stage when the form and layout is progressed beyond the current indicative stage. Tenure will be expected to be in accordance with Policy H2 (1/3 social rented housing, 1/3 affordable rent and 1/3 shared ownership housing). The amenity for future residents will be expected to be to the same standards as for market housing.

The submitted Planning Policy and Affordable Housing Statement sets out, in Section 5, a commitment to provide 25% of dwellings as affordable units in accordance with the Policy H2, including the tenure specification.

In addition to the requirements of the Legal Agreement a planning condition is recommended to secure that all applications for reserved matters relating to the proposal's layout and scale shall include a scheme of affordable housing shall be submitted for the written approval of the Local Planning Authority, which shall include information about the siting, size, and tenure type of the affordable units.

The Council's Housing Delivery Officer supports the proposal in terms of an affordable housing offer.

11. Housing Supply

The Council cannot currently demonstrate a 3- or 5-year housing land supply, as sought by Government. The five-year supply position represents a significant shortfall and must be treated as an important material consideration weighing in favour of the proposal.

Considering the housing supply position, it is advised that in determining the application,

the presumption in favour of sustainable development at Paragraph 11 of the NPPF must be applied. Paragraph 11 of the NPPF outlines that decisions should apply a presumption in favour of sustainable development, which means approving development proposals that accord with an up-to-date development plan without delay.

It is concluded within this report that the development accords with the Development Plan when considered as a whole and hence there is support for the grant of permission, in-line with the guidance within the NPPF (Para 11). Were Members of a different judgment and were to consider the proposal to conflict with the Development Plan it should be noted that the absence of a 3- or 5-year housing supply principally sets a higher benchmark to resist development. In such a circumstance development should only be refused where any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits.

12. Health and Wellbeing

Policy SC1 requires development to contribute to the health and well-being of the community helping to deliver healthy lifestyles and sustainable neighbourhoods proportionate to the scale of the proposal. In particular, Policy SC1.3 seeks improvement to access to medical treatment services including healthcare clusters.

The NHS Trust was consulted on this application and has responded that health care services in the vicinity are under great pressure. The proposed development would potentially create a long-term impact on the Trust's ability to provide safe, accessible and sustainable service delivery to current and new residents. The proposal does not include the provisions of facilities to address this impact. Contributions are, therefore, sought to mitigate this direct impact and the amount sought is £521 per dwelling (£10,945 for 25 dwellings). This can be secured through a s106 agreement to accord with Policy SC1.3 of the Torbay Local Plan.

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. The development would see the use of land within a designated growth area. Once the development is 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 5 Affordable Housing units. Given the NPPF priority to significantly boost the supply of housing the additional dwellings to be provided must carry significant weight in this balance, with the benefit heightened by the inclusion of 25% of the units being Affordable units. 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 development is supported by drainage, landscaping and ecological and Biodiversity Net Gain measures to mitigate impact, as detailed in this report. 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.

Statement on Human Rights and Equalities Issues

Human Rights Act - The development has been assessed against the provisions of the Act, and in particular Article 1 of the First Protocol and Article 8 of the Act. 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

CIL

Not applicable to this major development as set out in the Council's CIL Charging Scheme.

S106

The following are draft heads of terms for a legal agreement, which should be completed prior to a planning consent being listed. 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.

- 25% Affordable Housing (5 units),
- NHS health and wellbeing contribution at £521 per dwelling,
- Sustainable Transport Contributions in accordance with the adopted SPD,
- Green Space and Recreation off site contributions in accordance with SPD,
- Biodiversity Net Gain and ecological mitigation to be provided on-site and off-site prior to commencement of development,
- Ecological Monitoring fee (£2,400),
- Education - contributions in accordance with the adopted SPD,
- Lifelong Learning Contribution in accordance with the adopted SPD,
- Waste and recycling Contribution in accordance with the adopted SPD.
- Connecting foot and cycle path between the south west access point of the site and the surface of the NAR (shown in Plans for P/2023/0143) provide before first occupation.
- Travel Plan Implementation and monitoring (£1,500)
- Administration and Monitoring charge of 5% (towards cost incurred by the Council in monitoring compliance, collection , allocation and expenditure of contributions).

EIA:

Due to the scale, nature and location this development would not have significant effects on the environment and, therefore, was 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 impacts of the scheme are not unacceptable, subject to the planning conditions and obligations detailed below, and bearing in mind that a number of elements, including the layout, scale, appearance and landscaping for the development will need to be the subject of reserved matters applications.

Conclusions and Reasons for Decision

The White Rock area is identified for housing within the Development Plan and the proposal would create additional dwellings within the overall area of White Rock and not render the approved outline permissions for White Rock (P/2011/0197) unimplementable,

Concerns regarding the impact upon the Greater Horseshoe Bats and flooding are resolved to the satisfaction of the statutory consultees on these matters.

The Highway Authority does not object to the proposed vehicle access and its impact upon the road network. However, details would fall to be assessed under Reserved Matters applications.

The impacts upon the character of the area, landscape and amenity of neighbouring residential occupiers have been assessed as far as is possible at outline stage. The impacts are not considered significant. However, details would fall to be assessed under Reserved Matters applications.

In-line with the above conclusions and the assessment within this report, the proposals are considered to be in principle accordance with the provisions of the Development Plan and to demonstrate that an acceptable scheme can be accommodated on the site. 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 Section 106 Agreement to secure the identified heads of terms in line with adopted policy.

The proposed development is considered to represent sustainable development and is acceptable, having regard to the Torbay Local Plan, the Paignton Neighbourhood Plan, the NPPF, and all other material considerations.

The NPPF guides that decisions should apply a presumption in favour of sustainable development and for decision making that means approving development proposals that accord with an up-to-date development plan without delay. For housing proposals within situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites, the NPPF guides to granting permission unless the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed or where any adverse impacts of doing so would significantly and demonstrably outweigh the benefits (25 dwellings and 25% affordable), when assessed against the policies in the NPPF when taken as a whole. Subject to the recommended conditions and planning obligations, there are no impacts on protected areas or assets of particular importance to provide a clear reason for refusal.

Officer Recommendation

Approval: Subject to;

1. The completion of a Section 106 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.
2. The conditions outlined below, with the final drafting of conditions delegated to the Divisional Director of Planning, Housing and Climate Emergency,
3. The resolution of any new material considerations that may come to light following Planning Committee to be delegated to the Divisional Director of Planning, Housing and Climate Emergency, including the addition of any necessary further planning conditions or obligations.

Conditions

Standard Time Limit:

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 shall be begun not later than five years from the date of this permission or not later than two years from the date of the approval of the last of the reserved matters to be approved.

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

1. Reserved Matters

Details of the reserved matters set out below (herein after called the “reserved matters”) shall be submitted to and approved in writing by the Local Planning Authority in accordance with the above time limits:

- (i) layout,
- (ii) scale,
- (iii) appearance(including schedule of external materials to include hard-surfaced areas); and
- (iv) landscaping (to include soft landscaping, boundary treatments, screening and all means of enclosure)

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. The details of reserved matters shall in general accord with the Green Infrastructure Plan (0779-1007-B).

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. CMP

No development (including ground works) or vegetation clearance works shall take place until a Construction Method Statement for the development has been submitted to and approved in writing by the Local Planning Authority. The Statement shall provide for:

- (i) The parking of vehicles of site operatives and visitors.
- (ii) Loading and unloading of plant and materials.
- (iii) Storage of plant and materials used in constructing the development.
- (iv) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate.
- (v) Wheel washing facilities.
- (vi) Measures to control the emission of dust and dirt during construction.
- (vii) A scheme for recycling/disposing of waste resulting from construction works, with priority given to reuse of building materials on site wherever practicable.
- (viii) Measures to minimise noise nuisance to neighbours from plant and machinery. Construction working hours, for the principal access onto Brixham Road and first phase of residential development shall be from 07:30 to 18:00 Monday to Friday, 08:00 to 13:00 on Saturdays and at no time on Sundays or Bank Holidays, unless otherwise agreed in writing by the Local Planning Authority
- ix) Details of how lighting will be controlled during the construction phase of development.

The approved Statements shall be adhered to throughout the construction period of the phase of the development that they relate to.

Reason: In the interests of highway safety and the amenities of surrounding occupiers during the construction of the development further to Policies TA2 and DE3 of the Torbay Local Plan 2012-2030. This needs to be a pre-commencement condition to ensure that the impacts of construction on neighbour amenity and highway safety and convenience are mitigated from the outset of development.

3. CEMP

No development (including ground works) or vegetation clearance works shall take place for any part of the development until a Construction and Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall be prepared in accordance with specifications in clause 10.2 of BS 42020:2013 (or any superseding British Standard) and shall include the following:

- (i) Risk assessment of potentially damaging construction activities.
- (ii) Identification of "biodiversity protection zones".
- (iii) Practical measures (both physical measures and sensitive working practices) to avoid or reduce environmental impacts during construction.

- (iv) 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, covering of trenches at night, impermeable boundaries to include hedgehog holes.
- (v) removal of invasive species.
- (v) The times during construction when specialist ecologists need to be present on site to monitor works to ensure compliance with the CEMP, and the actions that will be undertaken.
- (vi) Responsible persons and lines of communication.
- (vii) The role and responsibilities on site of an ecological clerk of works or similarly competent person.
- (viii) Details of how lighting will be controlled during the construction phase of development to achieve darkness at sunrise and sunset and spillage of less than 0.5Lux.

The approved CEMP shall be adhered to and implemented throughout the construction period of the development, strictly in accordance with the approved details.

Reason: To ensure that all existing trees and hedges and new planting on the site and on adjacent sites and off-site ecological mitigation works are adequately protected while development is in progress, in accordance with Policies C4 and NC1 of the Torbay Local Plan 2012 and the National Planning Policy Framework. This needs to be a pre-commencement condition to ensure that the impacts of construction on biodiversity and habitats are mitigated from the outset of development.

4. LEMP

The reserved matters applications for Layout and Landscape matters shall include a Landscape and Ecological Management Plan (LEMP) for the development . The LEMP shall be consistent with the principles established in the Green Infrastructure Plan and the Ecological Assessment (NPA 10874 114, NPA, 30th September 2022) and Ecology Addendum (115 P02, NPA, 5th June 2023).

The LEMP shall include:

- details of habitat creation, including an 8m buffer on the south boundary and 5m buffer on the east boundary of the site,
- species specification and
- management of on-site and off-site land.

The LEMP shall include an implementation strategy and timetable for implementation and maintenance for a 30-year period.

The development shall be implemented in accordance with the approved LEMP and with the approved timetable for the duration of the agreed management plan period.

Reason: To ensure that all existing trees and hedges and new planting on the site and on adjacent sites and off-site ecological mitigation works are adequately protected and maintained, in accordance with Policies C4 and NC1 of the Torbay Local Plan 2012 and the National Planning Policy Framework.

5. Tree Protection during construction

No development (including ground works) or vegetation clearance works shall take place for any phase of the development until a Tree Protection Plan for that phase has been submitted to and approved in writing by the Local Planning Authority. This information shall be prepared in accordance with BS 5837:2012 (or any superseding British Standard) and include details of tree protection fencing, which must be erected prior to the commencement of the development and retained until the completion of the development in the phase of the development that they relate to. No vehicles, plant or materials shall be driven or placed within the areas enclosed by the fences.

The approved Tree Protection Plans shall be adhered to throughout the construction of the development.

Reason: To ensure that all existing trees and hedges on the site and on adjoining sites are adequately protected while development is in progress, in accordance with Policy NC1 of the Torbay Local Plan 2012 and the National Planning Policy Framework. This needs to be a pre-commencement condition to ensure that the impacts of construction on biodiversity and habitats are mitigated from the outset of development.

6. Landscaping Scheme.

Full details of both soft and hard landscape works should be submitted as part of application(s) for reserved matters approval as required by Condition 1. The landscaping details to be submitted shall include:

- a) existing and proposed finished levels and contours,
- b) trees and hedgerow to be retained;
- c) planting plans, including specifications of species, sizes, planting centres, number and percentage mix, and details of seeding or turfing;
- d) hard surfacing;
- e) means of enclosure and boundary treatments;
- f) Any other structures (such as furniture, refuse or other storage units, signs, lighting).

Reason: In the interests of visual amenity and in accordance with Policies DE1 and C4 of the Adopted Torbay Local Plan 2012-2030, Policy PNP1(c) of the Paignton Neighbourhood Plan and the guidance contained in the NPPF.

7. Bird Nesting and Vegetation Clearance

No tree works or felling, cutting or removal of hedgerows or other vegetation clearance works shall be carried out on the site during the bird breeding season from March to September, inclusive. If this period cannot be avoided, these works shall not be undertaken until a statement of the reasons for non-avoidance has been submitted to and approved in writing by the Local Planning Authority. The works shall not be undertaken except in the presence of a suitably qualified ecologist. If breeding birds are found or suspected to be present on the part of the site the subject of such works, the works will not be permitted until the ecologist is satisfied that such breeding is complete.

Reason: To prevent harm to nesting birds in accordance with policy NC1 of the Torbay Local Plan 2012-2030 and the guidance contained in the NPPF.

8. Ecological Measures

The development shall be carried out in accordance with the recommendations set out in the submitted Ecological Impact Assessment (NPA 10874 114 P01) and the Green Infrastructure Plan (Drawing number 0779-1007B). These measures shall include:

- i) an 8m ecology buffer on southern boundary and a 5m ecology buffer on the

east boundary,

- ii) a bat house adjacent to the southern hedgerow,
- iii) tussocky grass and wood piles adjacent to the hedgerows,
- iv) bat roosting tubes/boxes in dwelling houses,
- v) hedgehog gaps in fences.
- vi) prior to commencement of any site works or clearance, a repeat survey for the presence of badgers on the site and surrounding habitat with associated mitigation/compensation measures.

The measures shall not be discharged until a qualified consultant ecologist confirms implementation in writing to the Local Planning Authority.

The Developer must obtain Licence from NE prior to commencement of clearance, demolition or other works to the structure on southern boundary.

Associated reserved matters applications shall include proposals to include bat roosting boxes in the design of the buildings and details of the location and design of the bat house.

Reason: In the interests of protecting and maintaining the habitat of legally protected species in accordance with Policy NC1 of the Adopted Torbay Local Plan 2012-2030 and the guidance contained in the NPPF.

9. Ecological Monitoring

Prior to the first occupation or use of the development hereby permitted, a Greater Horseshoe Bat (GHB) and Cirl Bunting Monitoring Strategy shall be submitted to and approved in writing by the Local Planning Authority in order to 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 GHBs using the bat mitigation measures on the site (including the dark bat corridors and foraging areas); and to put in place remedial measures to avoid harm to these species. The Monitoring Strategy shall include the following:

- (i) Aims and objectives of monitoring to match the stated purpose.
- (ii) Identification of adequate baseline conditions prior to the start of development.
- (iii) Success criteria, thresholds, triggers and targets against which the continued effectiveness of the bat mitigation measures can be judged.
- (iv) Methods for data gathering and analysis.
- (v) Location of monitoring/sampling points.
- (vi) Timing and duration of monitoring.
- (vii) Responsible persons and lines of communication.
- (viii) Review, reporting, intervals of reporting and where appropriate, publication of results and outcomes.

The Monitoring Strategy shall be implemented as approved. A report describing the results of monitoring shall be submitted to the Local Planning Authority at intervals as identified in the Monitoring Strategy. The report shall set out where the results from monitoring show that site conditions are changing and what remedial action is required to ensure the mitigation measures remain effective. The remedial action shall be agreed with the Local Planning Authority and implemented in full.

Reason: In the interests of protecting and maintaining the habitat of legally protected species in accordance with Policy NC1 of the Adopted Torbay Local Plan 2012-2030 and the guidance contained in the NPPF.

10. Lighting Scheme as part of RM's

Prior to above-ground development a Lighting Scheme to maintain "dark areas" on the southern and eastern boundaries of the site and on surrounding sites shall have been submitted to and approved in writing by the Local Planning Authority demonstrating compliance with the principles established in the submitted Lighting Statement (Hydrock, Ref No 25884-XX-XX-RP-P03, dated 14.03.2023).

The Scheme shall include the location and specification of all external lighting. The Lighting Scheme shall be implemented as approved prior to the occupation of the dwellings and thereafter maintained as approved. Should any of the external lighting become damaged or defective and need replacement it shall be replaced with external lighting of no brighter specification.

The Lighting Scheme shall include:

- (i) An evidence-based assessment of light levels of the proposed development, including buildings, vehicle headlamps and street lighting, comprising a written report and accompanying drawings of the site with the levels of predicted illuminance and light spill in and adjacent to the "dark areas" shown by appropriate isolines.
- (ii) Evidence to demonstrate that a light-spill no higher than 0.5 lux will be achieved within the "dark areas".
- (iii) Where ii) is achieved either fully or in part through landscaping, details of the landscaping and its management to ensure it will maintain the "dark areas" for the lifetime of the development. These details shall be incorporated into the Detailed Landscaping Schemes and Landscape and Ecological Management Plans where applicable.

No additional outdoor lighting shall be installed on the site without the prior written approval of the Local Planning Authority.

Reason: In the interests of biodiversity and residential amenity, in accordance with Policies SS8, NC1 and DE3 of the Torbay local Plan 2012-2030, the Paignton Neighbourhood Plan and the NPPF.

11. External lighting on resident plots.

No external lighting shall be installed at any time at the application site without the written permission of the Local Planning Authority.

Reason: In the interests of biodiversity and residential amenity, in accordance with Policies SS8, NC1 and DE3 of the Torbay local Plan 2012-2030, the Paignton Neighbourhood Plan and the NPPF.

12. Biodiversity Net Gain measures

No development or vegetation clearance shall take place on the site until a scheme of measures to achieve a Biodiversity Net Gain over the Base Metric hereby approved has been submitted to and approved in writing by the Local Planning Authority. The metric calculation shall include the assessment principals that have informed the proposals and shall use the most up-to-date DEFRA metric and associated guidance documents to secure a minimum 10% net gain over 30 years.

The approved measures shall be implemented in full prior to the commencement 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 details.

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. This needs to be a pre-commencement condition to ensure that the impacts of the development on biodiversity and habitats are mitigated from the outset of development.

13. Highway Works - adoptable network plan

A plan showing the proposed adoptable highway network within the development shall be submitted with all reserved matters applications for layout. The plan shall demonstrate where connections will be made to other areas within and beyond the site. Development shall take place in accordance with the approved details. No dwellings hereby approved shall be occupied until the roads serving them have been constructed to adoptable standards as defined in the Council's Highways Design Guide for New Developments or are the subject of an agreement with the Council made pursuant to s38 of the Highways Act 1980.

Reason: To ensure adequate access is provided to the development in a timely manner in the interests of highway safety further to Policies TA1 and TA2 of the Torbay Local Plan 2012-2030.

14. Traffic management scheme and visibility

A traffic management scheme, junction design and Road Safety Audit for the site access shall be submitted with all reserved matters applications for layout. The scheme shall include traffic calming measures to ensure safe vehicle speed at the access point from Limekiln Close and visibility splays in accordance with Manual for Streets. The approved scheme shall be implemented prior to the first occupation of the development and maintained at all times.

Reason: In the interests of highway safety further to Policies TA1 and TA2 of the Torbay Local Plan 2012-2030.

15. NAR route – no construction until provided

The development shall not commence on the site until the proposed shared pedestrian and cycle route, the subject of Planning application Reference Number P/2023/0143 and any variations under s73 or s96 the Town and Country Planning Act 1990 (as amended) of that application, has been implemented in full and made available for the free use of the public as a permissible route.

All reserved matters applications for Layout and Landscaping shall include proposals for a safe, 3m wide, pedestrian and cycle path connection from the south west area of the site to the aforementioned shared pedestrian and cycle route.

The approved measures shall be implemented in full prior to the first occupation of the development and shall be permanently managed and maintained at all times thereafter in accordance with the approved details.

Reason: To ensure adequate access is provided to the development and for developments in the area in a timely manner in the interests of highway safety further to Policies TA1 and TA2 of the Torbay Local Plan 2012-2030. This needs to be a pre-

commencement condition to ensure that the site accesses to the local road and path network are constructed in a timely manner from the outset of development.

16. Flood Risk Drainage – in accordance with the submitted and approved FRA.

As part of any reserved matters application a detailed surface water drainage scheme shall be submitted to and approved in writing by the Local Planning Authority.

The scheme shall demonstrate that the risk of flooding would not be increased and shall be in line with the design parameters outlined within the submitted and approved Flood Risk Assessment, (Clarkbond, Ref No E05706-P03 dated 03.03.2023, E05706 0001 P04 Drainage Strategy 1, E05706 0002 P04 Drainage Strategy 2 and E05706 0003 P01 Impermeable Areas).

No development (including ground works) shall take place on the site until a detailed surface water drainage scheme has been approved in writing by the Local Planning Authority. The approved scheme shall be implemented in full prior to the first occupation of the development and shall be subsequently maintained in working order 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. This needs to be a pre-commencement condition to ensure that the impacts of construction on flood risk and drainage are mitigated from the outset of development.

17. Affordable Housing

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

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

18. Energy

A detailed energy and sustainability statement shall be submitted with each reserved matters application pertaining to layout, scale and appearance. The statement shall identify the specific details that will be incorporated into the site including how the proposed development:

1. Conserves energy by reducing energy demand through siting and design. This includes the use of building orientation, layout and landscaping to optimise solar gain, ventilation and cooling
2. Uses energy efficiently within the fabric of the building
3. Uses on-site renewable technologies to achieve 20% reduction in carbon emissions
4. Minimises water consumption and run-off
5. Uses construction methods and materials to reduce carbon release
6. Minimises waste

The Statement shall be accompanied by detailed plans and elevations that demonstrate the incorporation of these details into the design of the development.

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

19. Acoustic Report – fencing, wall construction, windows

As part of any reserved matters application a detailed acoustic assessment and mitigation scheme shall be submitted to and approved in writing by the Local Planning Authority.

The assessment shall be undertaken in accordance with BS 8233:2014 and WHO 1999. The mitigation scheme shall be in line with the parameters outlined within the submitted Environmental Noise Assessment (Acoustic Consultants Ltd, Reference 9864/SL Rev C, dated 21.10.2022) and shall include consideration of building fabrics, fenestration and ventilation. The mitigation scheme shall demonstrate compliance with the guidance in BS8233:2014 with regards to noise levels to internal spaces and external amenity areas.

The approved scheme shall be implemented in full and tested and provided in full working order prior to the first occupation of the development and shall be maintained in that condition thereafter.

Reason: In the interests of residential amenity for future occupiers of the development in accordance with Policy DE3 of the Torbay Local Plan and advice contained within the NPPF.

20. Contamination

Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the Local Planning Authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the Local Planning Authority. Where unacceptable risks are found, remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed or continued.

Reason: To ensure there is no risk of land contamination in accordance with Policy ER3 of the Torbay Local Plan and advice contained within the NPPF.

21. Parking

No dwelling shall be occupied until its allocated car parking space(s) and access thereto, as shown in the associated approved details of reserved matters, have been provided and made available for use. All other car parking spaces and access thereto, including any visitors parking, as shown in the associated approved details of reserved matters, shall be provided and made freely available for use prior to the occupation of the development that they serve. The parking space(s) and access thereto shall be kept permanently available for parking and access purposes thereafter.

Reason: In accordance with highway safety and residential amenity, and in accordance with Policies DE3, TA2 and TA3 of the Adopted Torbay Local Plan 2012-2030.

22. ECVP

No dwelling shall be occupied until an electric vehicle charging point to serve that dwelling has been installed and made fully available in working condition and in accordance with details which shall firstly have been submitted to the Local Planning

Authority with, and approved under, the reserved matters application for layout and/or appearance for the associated phase of development.

Reason: In the interests of carbon reduction and in accordance with Policies DE3, TA2 and TA3 of the Adopted Torbay Local Plan 2012-2030.

23.RMs to include details of cycle and bin stores

The details of reserved matters shall include details of cycle parking and bin storage/waste recycling facilities for the dwellings hereby permitted. The cycle parking shall be in accordance with Policy TA3 and Appendix F of the Torbay Local Plan 2012-30 and shall be secure, covered and located where it is well overlooked, wherever practicable, to reduce opportunities for crime. The relevant cycle parking and bin storage/waste recycling facilities shall be provided as approved prior to the first occupation or first use of the dwelling to which it relates and thereafter retained as such.

Reason: In the interests of reduction of carbon fuel usage and residential amenity, and in accordance with Policies DE3, TA2 and TA3 of the Adopted Torbay Local Plan 2012-2030

Informative(s)

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

Development Plan Relevant Policies

Torbay Local Plan

SS1 - Growth Strategy for a prosperous Torbay

SS2, Future Growth Areas

SS3 - Presumption in favour of sustainable development

SS8 - Natural Environment

SS9 - Green Infrastructure

SS11 – Sustainable Communities

SS12 – Housing

SS13 – Five-year housing land supply

SS14 - Low carbon development and climate change

SDP3 - Paignton North and Western Area

H1 – Applications for new homes

H2 – Affordable Housing

TA1 - Transport and accessibility

TA2 - Development access

TA3 – Parking requirements

C4 - Trees, hedgerows and natural landscape

DE1 - Design

DE3 - Development Amenity

DE4 - Building heights

NC1 - Biodiversity and geodiversity

ER1 - Flood Risk

ER2 - Water Management

ES1 - Energy

W1 - Waste management facilities

W2 – Waste audit for major development and significant waste-generating developments

Paignton Neighbourhood Plan

PNP1 – Area wide

PNP1(c) – Design Principles

PNP1(d) – Residential Development

PNP1 (f) – Towards a Sustainable Low-Carbon, Energy-Efficient Economy

PNP1(g) – Designing out Crime

PNP1(h) – Sustainable Transport

PNP1(i) - Surface Water

PNP21 – White Rock and nearby areas

PNP22 – Western Corridor

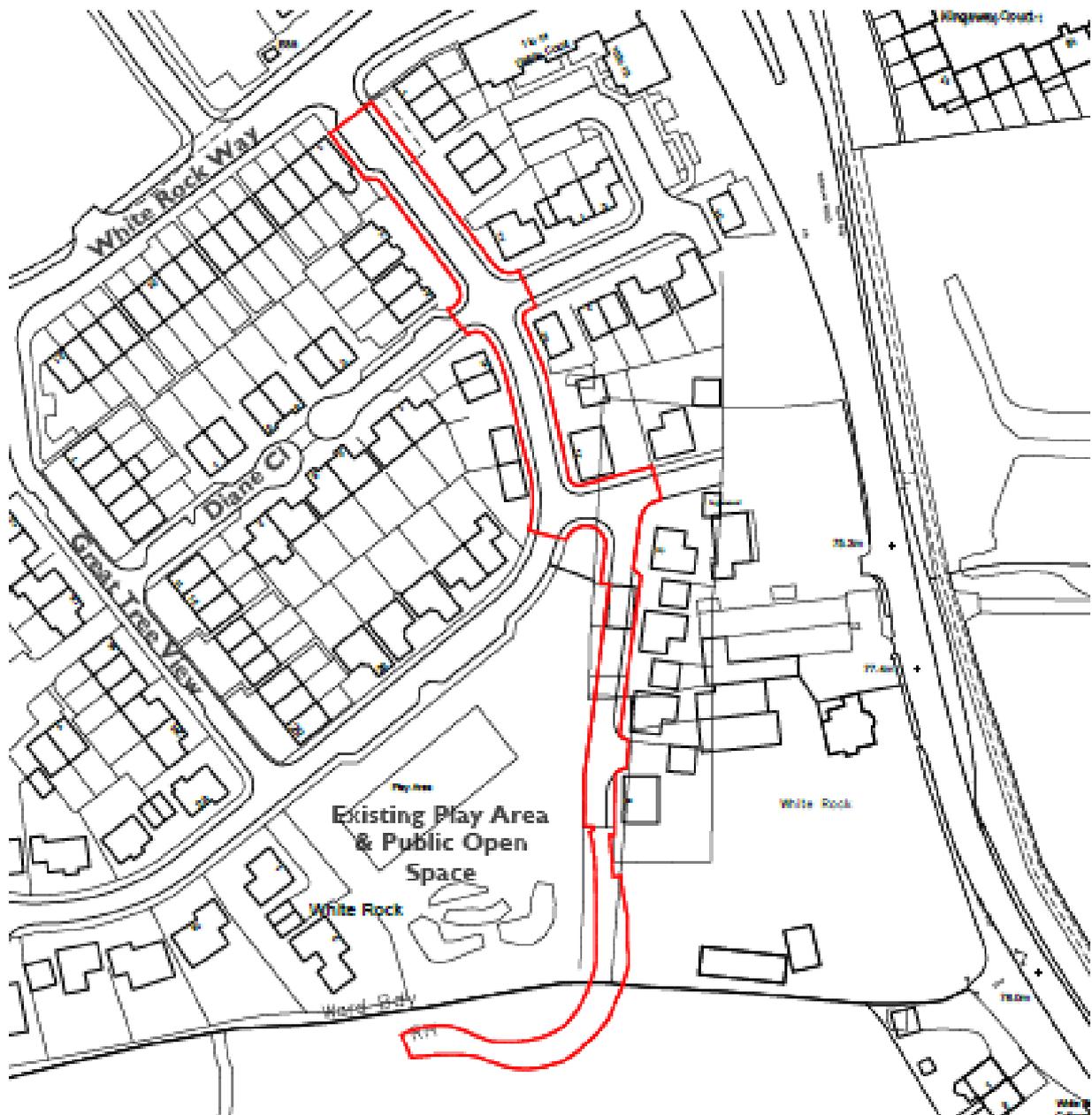
Supplementary Planning Documents

Planning Contributions and Affordable Housing SPD, December 2022.

TORBAY COUNCIL

Application Site Address	Access Track South of Limekiln Close Paignton. Torbay
Proposal	Change of use of land for the establishment of a public footway/cycleway link to include improvement works to existing track.
Application Number	P/2023/0143
Applicant	Abacus Projects Limited and Deeley Freed Estates Limited
Agent	Cushman & Wakefield
Date Application Valid	15.03.2023
Decision Due date	10.05.2023
Extension of Time Date	30.09.2023
Recommendation	<p>Approval subject to:</p> <ol style="list-style-type: none"> 1. The completion of a S106 Legal Agreement within 6 months to secure the heads of terms as outlined, in accordance with the adopted Planning Contributions and Affordable Housing Supplementary Planning Document, on terms acceptable to Officers. 2. The planning conditions outlined below, with the final drafting of planning conditions delegated to the Divisional Director of Planning, Housing and Climate Emergency. 3. The resolution of any new material considerations that may come to light following Planning Committee to be delegated to the Divisional Director of Planning, Housing and Climate Emergency, including the addition of any necessary further planning conditions or obligations.
Reason for Referral to Planning Committee	The application is associated with application P/2022/1173.
Planning Case Officer	June Pagdin

Location Plan



Site Details

The application site comprises a thin parcel of land south of Limekiln Close, most of Limekiln Close and a section of White Rock Way at White Rock, Paignton.

The southern part of the site is located at the south end of Limekiln Close from which it is currently gated off and stretches south into the woodland area south of White Rock. This part is just beyond the south east corner of the public open space at White Rock.

The remainder of the site provides a means of access from this area to the adopted public highway on white Rock Road to the north. This part includes the roadway and

footways of Limekiln Close and White Rock Way which connect to the public highway in White Rock Road. The road outside numbers 4 to 8 Limekiln Close is private. The roadway from outside No 2 Limekiln Close to White Rock Way is to be adopted as public highway under a Section 38 agreement for the White Rock development (P/2011/0197MOA and P/2014/0071 MRM). The application does not propose any physical works to these existing roads.

To the south of the surfaced roadway of Limekiln Close, the ground is unsurfaced and rises slightly before sloping down to the south towards the Inglewood development area. The land is fenced off from the White Rock open space and gated from Limekiln Close. However, it is used informally as a pedestrian access to the recently planted woodland area to the south of the White Rock development.

The woodland contains some unmarked paths and a “woodland walk” which has a compacted loose-gravel surface. This latter is a leisure route (secured through Section 106 agreement to the White Rock development) that leads westwards to further footpaths in the surrounding countryside.

Background

A Northern Access Route (NAR) was approved as part of the Inglewood development (P/2017/113 as varied by P/2022/0112). The approved NAR enters the woodland from the south, crosses the Woodland Walk, then runs through the triangle of land to the north east (Land East of Limekiln Close) to connect with a spur off the northern end of Limekiln Close. The NAR is subject to condition 25 of the outline permission and planning obligations in the s106 of the related agreement. The condition and Section 106 agreement, in summary, require:

- A shared footway and cycleway (drawing 0734-055)
- To be constructed and made available and connected to a safe route (c25)
- Provide prior to first dwelling being occupied (c25)
- Maintained as such at all times (Section 106 Sch1,art4)
- The route shall be transferred to a Management Entity (ME) for the Inglewood site (Section 106 Sch1,art 4)
- The ME shall manage and maintain the route (Section 106 Sch1,art 4)
- Owner/ME to keep route open as a permissive path freely available for use by public in perpetuity (Section 106 Sch1, art I7)

The northern part of the current application site is within the White Rock Future Growth Area of Paignton and is part of a designated development site (CDSP.18) in the Torbay Local Plan (TLP) (Appendix C), the White Rock Site as designated in Policy SDP3.5 of the TLP and in the Paignton Neighbourhood Plan (Policy PNP21).

The southern part of the application site extends into the Brixham Peninsula Neighbourhood Plan area and is within an area designated as a Country Park in the Torbay Local Plan 2012-2030. This part of the site is a known bat commuting and foraging route and has been planted with trees (related to the White Rock development LEMP (P/2011/0197). It connects into the Northern Access Route (NAR) for the Inglewood development.

Description of Development

The application seeks full planning permission for construction of a cycle and footway. The proposed route is intended to provide an alternative northern section to the approved Northern Access Route (NAR) that was approved in the outline permission for Inglewood.

The current application proposes to:

- Provide an alternative route for the northern part of the NAR between the woodland (that lies between White Rock and Inglewood) and the public highway on Limekiln Close,
- Construct a 3m wide, approximately 80m long stretch of surfaced pathway,
- Create a shared foot and cycle surface connecting to the south end of Limekiln Close,
- Install a removable vehicle barrier at the south end of Limekiln Close (details to be determined with Highway Authority),
- Connect into route of the NAR in the woodland between Inglewood and White Rock,
- Provide a permissive route in perpetuity (see submitted Cover Letter),
- Accompanying access easement over Limekiln Close to connect with public highway,
- Surface materials to be determined (resin-bound surface removed from proposal),
- lighting to be determined and controlled by condition.

The NAR is required by condition 25 on the outline Inglewood permission, to be provided before the first occupation of the Inglewood development and retained in perpetuity. The Inglewood Section 106 sets out certain design criteria for the route (as set out in the Highways and Access section of this report) and secures maintenance of the route. It is considered that, in order to provide a suitable alternative, any other route would also need to comply with these stipulations.

Through the course of the application amended plans were submitted to provide a route that would achieve adoptable standards with regards to gradients, radii and permeability for the shared foot and cycle way.

Pre-Application Enquiry

Informal advice sought prior to submission of application.

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 ("The Neighbourhood Plan")
- The Brixham Peninsula Neighbourhood Plan ("The Neighbourhood Plan")

Material Considerations

- National Planning Policy Framework (NPPF 2021)
- 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

P/2011/0197 (White Rock): Mixed Use Development of 39 Hectares of land at White Rock, Paignton to construct up to 350 dwellings, approximately 36,800m² gross employment floorspace, a local centre including food retail (up to 1652m² gross) with additional 392m²A1/A3 use and student accommodation, approximately 15 hectares of open space, a sports pavilion and associated infrastructure and engineering works to provide access, drainage and landscaping (Outline Application). Approved 29.04.2013.

P/2014/0071 (Limekiln Close): Approval of appearance, landscaping, layout and scale in relation to 38 dwellings and associated development. Reserved Matters for P/2011/0197. Approved 16.05.2014.

P/2017/1133 (Inglewood as varied by P/2022/0112): Outline application for residential led development of up to 373 dwellings (C3) together with the means of vehicular and pedestrian/cycle access together with the principle of a public house (A3/A4 use), primary school with nursery (D1), internal access roads and the provision of public open space (formal and informal) and strategic mitigation. The proposal includes amendments to Brixham Road, Long Road junction and Windy Corner junction. Details of access to be determined with all other matters reserved. Allowed on Appeal 26.04.2021.

P/2022/1119 (Inglewood Reserved Matters): Major Reserved Matters application relating to outline consent P/2022/0112 for approval of (i) layout, (ii) scale, (iii) appearance, (iv) landscaping for the construction of 373 dwellings (Use Class C3), provision of serviced land for primary school and nursery school, internal access roads including vehicular and pedestrian/cycle access, the provision of public open space (formal and informal) and strategic mitigation. Approved 04.04.2023.

P/2023/1173 (Land East of Limekiln Close): Outline application for residential development of up to 25 dwellings and associated works. Details of access to be determined with all other matters reserved. Under consideration.

Summary of Representations

Neighbour letters were sent out on 20th March 2023. A site notice was displayed on 22nd March 2023.

Following receipt of the revised site boundary plan re-consultation letters were sent and a site notice displayed for 21 days from 31.07.2023 and 02.08.2023 respectively.

One response was received. The comments can be summarised as:

- Increase in traffic and noise along Limekiln Close where traffic and access are issues,
- Route should link into existing path further west adjacent to White Rock Court,
- Existing path links with the play area,
- The proposal would destroy trees,
- Better to combine with the route of the Woodland Walk,
- Prefer original plan to use land to east of Limekiln Close - traffic free and safer.

Summary of Consultation Responses

Broadsands, Churston and Galampton Neighbourhood Forum: No response received.

Community Safety: no objections

Devon and Cornwall Police: Comments that the proposed route would be more direct. Also comments on maintenance and lighting from security and personal safety perspectives.

Arboricultural Team: 12.04.23 and 14.08.23: no significant arboricultural concerns to the proposal owing to the historic land use and existing compaction of the area adjacent to the large tree group to the east of the proposed route. However, to prevent any potential impact within the RPA of the trees we would like to see the submission of a tree protection plan that will detail the level of protection that needs to be afforded to the trees during construction.

DCC Ecology: No concerns over impacts on foraging habitat within sustenance zone of Greater Horseshoe Bats. However, artificial lighting could have potential negative impacts. No objection subject to a condition over no external lighting being installed without LPA permission.

Highways:

08.06.2023: The applicant will be required to ensure that the development proposals complement the strategic pedestrian/cycle route outlined in Planning Applications P/2017/1133 and P/2022/1119 (aka Inglewood Outline and Reserved) to the South of site. The proposed route should link into adopted public highway. The Nar route should be adopted and have appropriate surface (usually metalled with fixed edge). Resin-bound surfaces would not be acceptable.

Clarification is required of site boundary outside 8 Limekiln Close.

The NAR should have sufficient lighting in the interests of safety, subject to ecological sensitivities. Planting should be low-level to allow visibility of route.

Design guidance in LTN1/20 Cycle Infrastructure Design (DoT, July 2020) is advised – a minimum width of 3m is required for shared surfaces.

Requires applicant to enter into a s38 agreement for adoption of land to connect the route to the public highway. A connection path to the play area is also advised.

12.07.2023: No objection upon receipt of documentary evidence of legal consent from the land owner for the new route to the top of Limekiln Close. Following discussions, it is understood that the NAR is a committed component of the Inglewood permission to be delivered under legal obligation and conditions as a permissive (non-adopted) route. The applicant has stated that they have the legal consent from the land owner for the new route to the top of Limekiln Close. On receipt of documentary evidence this is considered acceptable. The requirement to enter into a s38 agreement is therefore no longer necessary. Materials and lighting do not need to be to full adoptable standard. However, it is understood that the applicant is willing to work with TC to ensure it is built to an adoptable standard. The route is to be 3m wide in line with LTN 1/20.

Drainage: 19.05.23 and 15.08.23

Providing the footway/cycleway is constructed using permeable surface I have no objections on drainage grounds to planning permission being granted.

Legal: consulted 16.05.2023 and 08.06.2023

Requirements for public use and maintenance would normally be placed on the landowner and would be directly enforceable. There will always be difficulties with a positive obligation to maintain– it would always be at risk of ownership changes. However, a covenant that the route is kept open would be readily enforceable against the landowner. Recommend a s106 obligation to secure this.

In conclusion, an agreement with Inglewood developer, and the landowners is required , which should at the very least secure the long-term public rights. The responsibility to maintain would need to remain with Persimmon. However, you would hope that once done, not much maintenance would be needed.

Key Issues/Material Considerations

1. Principle of development
2. Impact on Visual Amenity
3. Impact on Residential Amenity
4. Impact on Highway Safety
5. Ecology & Biodiversity
6. Flood Risk and Drainage
7. Low Carbon and Sustainability

Planning Officer Assessment

1. Principle of development

The proposal seeks permission for construction of an alternative route for the cycle and footway approved under planning permission P/2017/1133 (as varied by P/2022/0112).

The principle of the Northern Access Route (NAR) linking the residential development at Inglewood to the service and transport facilities at White Rock has been agreed.

The current application seeks to provide an alternative route and falls to be considered against other Policies of the Plan notably those relating to transport access, active travel, residential amenity, ecology, green infrastructure and drainage. These matters are considered below and other relevant material considerations, which will be discussed in further detail below.

In principle, and subject to the recommended condition, the proposal is, therefore, considered to be consistent with previously approved scheme (Appeal permission P/2017/1133 as varied by P/2022/0112) for a pedestrian and cycle connection between the Inglewood development and facilities at White Rock and vice versa.

The timing for construction of this section of the NAR is recommended to be before commencement of construction of the development for 25 houses on Land East of Limekiln Close. This is recommended to be secured through a condition on planning permission P/2022/1173. The provision of the proposed alternative route is a prerequisite of that development proceeding. If that development does not proceed the original NAR route could be implemented. The Inglewood planning permission requires provision of the full NAR prior to the first occupation of that development.

These measures are considered sufficient to ensure that the route is provided if needed as an alternative to the approved NAR.

The proposed alternative route would require to be compliant with the relevant conditions and Section 106 obligations of the outline planning permission. These are discussed further in the Highways section.

2. Impact on Visual Amenity

Paragraph 126 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 134 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 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 PNP1(c) of the Paignton Neighbourhood Plan states that development proposals should where possible and appropriate to the scale and size of the property, to be in keeping with the surroundings respecting scale, design, height, density, landscaping, use and colour of local materials.

The proposal is to install a shared foot/cycle way surface on the ground. The visual impact would be minimal subject to the selection of a surface material to reflect the

country-park/semi-rural setting and the landscape colours in the vicinity. Details of colour and texture can be secured by condition.

A removable bollard is proposed at the northern end of the new surface at the juncture with the existing metalled surface of Limekiln Close will also need to be in a style and materials suited to the setting and of a design to prevent entry by motorised vehicles. Details can be secured by condition.

Subject to the recommended conditions and given the siting, scale, and design of the proposal it is considered that the proposal would not result in unacceptable harm to the character or visual amenities of the locality.

The proposal is considered to be in accordance with Policy DE1 of the Local Plan, Policy PNP1(c) of the Paignton Neighbourhood Plan, BH of the Brixton Peninsula Neighbourhood Plan and the guidance contained in the NPPF.

3. Impact on Residential Amenity

Policy DE3 of the Local Plan states that development should provide a good level of amenity for future residents and should not unduly impact upon the amenity of neighbouring properties and surrounding uses.

The NAR is intended to provide an active travel link connecting into the surrounding areas for the benefit of existing residents and future residents of Inglewood. However, its provision is tied into the Inglewood development commencing.

Residents of White Rock currently use the application stie as an informal route between Limekiln Close and the woodland. This link is unsurfaced (bare earth) and the surface quality deteriorates in wet weather. It provides a route for able bodied active people but is not a surface that can be used easily by wheelchair or pram users. The provision of a surfaced path would improve the accessibility for those groups. The approved path would provide such a surface for pedestrians and cyclists.

The proposed alternative route to the approved indicative one is direct and would run along the route of the existing roadway in Limekiln Close to connect to the adopted highway.

Objections have been received on grounds of increased traffic on Limekiln Close causing noise and disturbance to residents of Limekiln Close. Existing residents have expressed that the existing gravel path linking the western side of the open space to the Woodland Walk is a preferred route.

The proposed design links directly into the southern end of Limekiln Close, which is a private road at this point. The proposed route would run for approximately 60m along the private section to link with adopted public highway further north. This footway is already used by people walking from White Rock up to the woodland area (e.g. dog walkers).

Any increase in traffic use of Limekiln Close resulting from the proposed shared surface route would be in pedestrian and cycle traffic.

The shared surface would connect to the pedestrian footway in Limekiln Close via a dog-leg configuration, which would act as a restraint on the speed at which people (pedestrians) would enter the southern end of Limekiln Close. The dog-leg would also deter cyclists from using the footway. Cyclists would use the carriageway of Limekiln Close, separated from the houses by the kerbed footway.

The existing metalled footway passes in front of the four houses on Limekiln Close. The houses face onto the public open space and play area and the frontages are open to public view. Each house is set back behind front gardens varying in depth from 2m to 6m. The existing ground floor front windows of these houses are fitted with blinds. Therefore, a level of privacy is established between the houses and the roadway outside.

An increase in the flow of pedestrians along the footway is likely to arise as a result of the proposed foot/cycleway. In practice some pedestrians would be likely to use the existing gravel link on the western side of the open space, which leads directly to the play area gate and connects into White Rock Road

However, this is not considered likely to be of such a level to cause a significant loss of privacy to the houses on Limekiln Close over and above the current situation.

With regards to noise and disturbance, as the proposed pathway would be within and adjacent to the dark skies area of the woodland. Any lighting would be required to be low-level. As such, it would not encourage use at unsocial hours. Compared to the approved route, which would run behind the houses in Limekiln Close, the current proposal would create fewer unsurveilled spaces and would be more naturally surveilled.

Given the design of the proposal, it is considered that the proposal would not result in any significant unacceptable harm to the amenities of neighbours.

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

4. Impact on Highway Safety, Access and Parking

Policy TA1 of the Local Plan requires developments to ensuring that the most sustainable and environmentally acceptable modes of transport are promoted as an integral part of developments and sets (i) walking and (ii) cycling as the highest priorities. Policy TA2 of the Local Plan states that all development proposals 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. Policy PNP22 of the Paignton Neighbourhood Plan endorses low-carbon and active travel facilities in the Western Corridor area, within which this site falls.

The approved route is subject to condition 25 on Planning permission P2017/1133 (as varied by P2022/01120) and the related Section 106. These require the following to be complied with:

- Shared footway and cycleway (drawing 0734-055),
- Constructed and made available and connected to a safe route ,
- Provide prior to first dwelling being occupied,
- Maintained as such at all times,
- The route shall be transferred to a Management Entity for the Inglewood site,
- The Management Entity shall manage and maintain the route,
- The route shall be kept open as a permissive path freely available for use by public in perpetuity.

The proposed alternative route will need to meet the same condition and obligations.

Design of route

The approved NAR would provide a utility link between the White Rock and Inglewood areas and the services that each provides e.g. the school and pub/restaurant community facility in Inglewood and the retail, employment and college facilities at White Rock. The NAR provides a link in Torbay Council's LCWIP Western Corridor Active Travel Improvements (LTP figure 6).

The current application would provide an alternative route at the northern end of the NAR. The proposed alternative would provide a shorter (by 80m), more visually direct link from the woodland area to the northern end of Limekiln Close.

The path links into the NAR in the woodland area from where it leads into the Inglewood site.

Design and Gradients

The submitted plan shows a 3m wide path with a shared cycle and footway. Proposed groundworks would adjust the gradients of the path to comply with access the requirements of Sustrans' publication "Path Design for Cycles, Walkers and Wheelers" and LTN1/20 guidance for traffic-free routes (e.g. with regards to gradients and suitable radii of corners/bends).

Surface Material

A hard-wearing surface is required, especially where the gradients are steeper. The quality and durability of the surface needs to be balanced with requirements for permeability/drainage and low maintenance.

The surface would need to accommodate people with mobility needs in providing a firm surface for year-round use, suitable for people using mobility aids with small wheels e.g. wheelchair front wheels, prams and children's scooters/bicycles. Therefore, a surface with similar durability to a metalled surface is sought. The

Highways Department has informally advised that a compacted subbase with a surface dressing can achieve a suitably durable surface and is more easily maintained than the submitted suggestion of resin-bound permeable surface. The applicants have responded that they are prepared to accept a condition requiring details of the surface to be submitted for approval.

Discussions are taking place with the Developer for Inglewood over the potential for the Council to adopt the NAR (full route) under a Section 38 agreement. This is currently under negotiation. There are certain requirements to be met for adoption, hence, the recommendation that the final surface treatment for this northern section be agreed through condition.

Connection point into Limekiln Close

The connection point into Limekiln Close for the cycle path will be required to link into the carriageway at level with suitable kerbing and physical means to prevent unauthorised motorised vehicles from entering the path.

Similarly, the connection point between the footpath surface and the footway on Limekiln Close will need to be level and adequately treated.

It is recommended that these details are submitted for approval and that this be secured through a condition.

Right of access and maintenance

The Inglewood Section 106 agreement requires the route of the NAR and right of access over it to be retained in perpetuity. It also requires that the route be maintained and kept open for public use (except for repairs and then for the minimum time necessary).

The applicants have agreed to prepare an agreement to secure positive obligations between the relevant parties (landowner of the private road, the applicants and the Inglewood developer) to provide access and maintenance.

The Council's Solicitor has commented that requirements for public use and maintenance would normally be placed on the landowner and would be directly enforceable. They highlight that the positive obligations to maintain would be at risk of ownership changes. However, a covenant that the route is kept open would be readily enforceable against the landowner.

In conclusion, an agreement with the Inglewood developer and the two landowners is required, which should secure the long-term public rights. The responsibility to maintain the path would need to remain with Persimmon/the Inglewood Management Entity. However, once implemented, it is considered that maintenance would be low.

As a result, it is recommended that the right of access for the public to pass freely over the route is secured through a Section 106 agreement with the applicant and land owners.

Maintenance of this route would also need to be secured. The obligation to maintain is with Inglewood's owner or Management Entity (in the Inglewood Section 106 agreement) and it would be consistent and reasonable for this to be the case for the alternative route. This will also need to be secured through a Section 106 obligation.

Parking

Policy TA3 and Appendix F of the Local Plan states the minimum dimensions for parking spaces, including garages.

The proposal retains the vehicular access and off-street parking for properties in Limekiln Close.

Subject to the recommended conditions and Section 106 obligations, the proposal is considered acceptable with regards to Policies TA2, TA3 and Appendix F of the Local Plan and Policy TH9 of the Torquay Neighbourhood Plan.

5. Landscape and Trees

Policy C4 of the Local Plan states that development will not be permitted where it would seriously harm (amongst other things) protected trees or other natural features of significant landscape, historic or nature conservation value, and that, where the loss of trees or landscape features is considered acceptable as part of development, that replacement trees or other mitigation measures will be required through a planning condition or legal agreement.

A stand of large mature trees sits along the southern boundary of the public open space at White Rock. The proposed path would run on the east and south of this stand of trees.

The Arboricultural Team have commented that the roots of these trees should be protected and requested a condition securing a Tree Protection Scheme during the construction of the proposed pathway. This is recommended.

Subject to this condition, the proposal is considered acceptable with regards to Policy C4 of the Local Plan.

6. Ecology & Biodiversity

Policy NC1 of the Local Plan states that all development should positively incorporate and promote biodiversity features, proportionate to their scale. Policy PNP1c).2 of the Paignton Neighbourhood Plan seeks protection and enhancement of the biodiversity value on development sites and connections with related sites.

The site passes through the dark skies areas identified in the Ecological Addendum to the Environment Statement (April 2011) for White Rock development (P/2011/0197). The DCC Ecologist has commented that the proposed foot/cycle route should not be lit in order to preserve the dark skies foraging area for protected bat species, particularly the Greater Horseshoe Bats. Any lighting in this area is required to be below a certain lux level and to have restricted spill.

This is considered against the comments of the Devon and Cornwall Constabulary and Highways Department. The concerns over personal and transport safety for people using the path are recognised. However, the protection of the Greater Horseshoe Bat foraging area is a due a significant weight in legislation and policy terms. The defined Dark Skies Area is not extensive but is targeted to where it is most needed.

Given the specifics of this location, it is considered that greater weight should be given to the ecological interests in this application.

Subject to the recommended condition restricting the lighting the proposal is considered to comply with Policy NC1 of the Local Plan and Policy PNP1c).2 of the Paignton Neighbourhood Plan.

7. Flood Risk and Drainage

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.

The site is located within the Critical Drainage Area in an area designated as Flood Zone 1 by the Environment Agency.

The Drainage Team has commented that provided a permeable surface is used the scheme is acceptable.

It is recommended that the surface materials are submitted for approval further to a condition on planning permission pending discussions over the adoption of the NAR and the consequent design requirements. It should be noted that in certain circumstances high quality surface-dressed finishes (non-bituminous) can be acceptable in rural settings and these can be permeable. The adoption process would require adequate drainage to be provided in discussion with the Highway Department.

Given the nature of the proposal, it is recommended that a condition be imposed requiring full details of drainage to be submitted and agreed prior to installation of the initial and any subsequent surface. Subject to an appropriate drainage condition, the proposal is considered to be in accordance with Policy ER1 of the Local Plan.

8. Sustainability and Low Carbon

Policy SS3 of the Local Plan establishes the presumption in favour of sustainable development. Policy ES1 seeks to ensure that carbon emissions associated with energy use from new developments are limited. Paignton Neighbourhood Plan Policy PNP1(f) states that new development should aim to achieve, where appropriate and subject to viability, connecting cycleways and footpaths (where development involves new road infrastructure).

The provision of an active travel route for strategic connection in this location supports low-carbon means of transport. As such, it supports the principles of Policies SS3 and ES1 of the Torbay 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

CIL

Not liable for CIL

S106

The following are draft heads of terms for a legal agreement, which should be completed prior to a planning consent being listed. 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.

- Right of access for the public to pass freely over the entire route.
- Maintenance of this route by Inglewood's owner or Management Entity.

Planning Balance

The proposal would provide an alternative route for the northern section of the Northern Access Route between Inglewood and White Rock. In principle the proposal is consistent with previously approved scheme (Appeal permission P/2017/1133) for a pedestrian and cycle connection.

The proposal has been assessed with regards to visual impact, residential amenity, highways and access, landscape, ecology, flood risk and sustainability.

The timing for construction of this section of the NAR is required to be before commencement of construction of the development for 25 houses on Land East of Limekiln Close (P/2023/0143). If that development does not proceed the original NAR route could be implemented. The Inglewood planning permission requires provision

of a route prior to the first occupation of that development. Consequently, further conditions over timing of provision of the route are not considered necessary.

Subject to the recommended Section 106 obligations and conditions, the proposal would not result in a significant impact on highway safety and amenity. Any potential negative impacts of the proposal would not be significant and would be outweighed by the social benefits of the proposal.

Conclusions and Reasons for Decision

The proposed development is considered acceptable, having regard to the Torbay Local Plan, the Torquay Neighbourhood Plan, and all other material considerations.

Officer Recommendation

Approval subject to:

1. The completion of a Section 106 Legal Agreement within 6 months of the Committee date to secure the heads of terms as outlined, in accordance with the adopted Planning Contributions and Affordable Housing Supplementary Planning Document, on terms acceptable to Officers.
2. The planning conditions outlined below, with the final drafting of planning conditions delegated to the Divisional Director of Planning, Housing and Climate Emergency.
3. The resolution of any new material considerations that may come to light following Planning Committee to be delegated to the Divisional Director of Planning, Housing and Climate Emergency, including the addition of any necessary further planning conditions or obligations.

Conditions

1. Flood Risk Assessment

In the event that the proposed surface materials for the path hereby permitted are not water permeable, prior to the commencement of development details of the means of surface water drainage shall be submitted to and approved in writing by the Local Planning Authority. The details of the means of surface water drainage shall include evidence of how surface water will be dealt with in order not to increase the risk of flooding to surrounding buildings, roads and land. As Torbay is a Critical Drainage Area the submitted means of surface water drainage shall ensure that all off-site surface water discharges from the development must be limited to the "Greenfield" run off rate for the 1 in 10-year rainfall event with attenuation designed so as there is no risk of flooding to properties or increased risk of flooding to adjacent land for the critical 1 in 100-year storm event plus a 50% allowance for climate change. The approved surface water drainage system has been completed as approved prior to the first use of the path and shall be continually retained and maintained thereafter.

Reason: In the interests of adapting to climate change and managing flood risk, and in order to accord with Policies ER1 and ER2 of the Adopted Torbay Local Plan 2012-2030, Policy PNP1(i) of the Paignton Neighbourhood Plan and the guidance contained in the NPPF. This needs to be a pre-commencement condition to ensure

that the impacts of construction on flood risk and drainage are mitigated from the outset of development.

2. Materials, construction method and timing

Prior to the commencement of the development hereby permitted, details of the means of construction and colour, type and texture of all surface and wall materials to be used in the construction of the proposed development shall be submitted to and approved by the Local Planning Authority. The path shall be designed to be permeable and to adoptable standards as defined in the Council's Highways Design Guide for New Developments, save with respect to lighting. The details shall include a schedule for implementation. The development shall be implemented in accordance with the approved details and maintained in that condition thereafter.

The path shall not be used until it has been constructed to adoptable standards or is the subject of an agreement with the Council made pursuant to s38 of the Highways Act 1980.

Reason: To ensure a satisfactory form of development in accordance with Policies DE1, TA1 and TA2 of the Torbay Local Plan 2012, Policy PNP22 of the Paignton Neighbourhood Plan and the National Planning Policy Framework. This needs to be a pre-commencement condition to ensure that the path is constructed in an acceptable manner with regards to amenity, highway safety and convenience of users from the outset of development.

3. Removable bollards and kerbs at connection point to Limekiln Close

Prior to the commencement of the development hereby permitted, details of the proposed removable bollards to prevent vehicle access and kerbs to be used in the construction of the path at the point of connection to Limekiln Close shall be submitted to and approved by the Local Planning Authority. The materials shall be designed to adoptable standards as defined in the Council's Highways Design Guide for New Developments. The details shall include a schedule for implementation. The development shall be implemented in accordance with the approved details prior to its first use and shall be maintained in that condition thereafter.

Reason: To ensure a satisfactory form of development in accordance with Policies TA1 and TA2 of the Torbay Local Plan 2012-2030, Policy PNP22 of the Paignton Neighbourhood Plan 2019 and the National Planning Policy Framework. This needs to be a pre-commencement condition to ensure that the path is constructed in an acceptable manner with regards to highway safety and convenience of users from the outset of development.

4. Root Protection – Trees on adjacent land

(i) Works to trees and hedges to be retained. Any work carried out to trees and hedges to be retained on site or close to the boundary of the site shall be with the written approval of the Local Planning Authority. Such work will be to British BS 3998: 1989 as a minimum standard.

(ii) The development hereby approved shall not commence, and no materials shall be brought onto site, until the trees and hedges on adjoining sites are protected by fencing as per BS 5837: 2005. This will either be chestnut pale fencing or a scaffold structure 2.4 metres high supported durable man-made sheeting (either plywood or OSB of an exterior grade). Chestnut pale fencing will be to BS 1722: Part 4: 1989, as a minimum standard. This will consist of 1.200 mm pales, wired together as per standard, supported on three-line wires, secured to fencing posts to a minimum standard of: 1800 mm long, 7 mm (3") top, driven 500 mm into the ground. In addition, straining posts, 1800 mm long by 100 mm (4") top, strutted where a change of direction occurs, will be installed at all ends and corners, at changes of direction, or acute changes of level, and at intervals no exceeding 50 m in straight lengths of fence. The fence will be installed upright, with all posts firmly bedded in the ground and line wires tensioned, and shall be maintained in such a condition throughout the duration of the development.

(iii) The fence shall be installed no closer to the trunk of the retained tree/hedge than the edge of the canopy or a distance equivalent to half the height of the tree/hedge, whichever is the greater.

(iv) The area beneath the tree/hedge and between the trunk of the tree/hedge and the fence will be kept clear and undisturbed at all times. No materials shall be stored within the fenced area; the levels of the land within the fenced area shall not be altered, and no seepage of oils, fuels or chemicals (including cement and cement washings) which may be harmful to trees and hedges shall be allowed onto the fenced area.

(v) No trenches for service runs, or any other excavations shall take place within the fenced area.

(vi) No soil or other surface material shall be removed from the fenced area except by written permission of the Local Authority. Where such a permission is granted, materials shall be removed manually, without powered equipment, taking adequate precautions to prevent damage to tree or hedge roots.

Reason: To ensure that all existing trees and hedges on the adjoining sites are adequately protected while development is in progress, in accordance with Policy NC1 of the Torbay Local Plan 2012 and the National Planning Policy Framework. This needs to be a pre-commencement condition to ensure that the vegetation in this locality is adequately protected during the construction phase.

5. Lighting Restrictions

No external lighting shall be installed at any time at the application site without the written permission of the Local Planning Authority. All approved lighting shall be implemented in accordance with the approved details and retained in that condition thereafter.

Reason: In the interests of biodiversity and residential amenity, in accordance with Policies SS8, NC1 and DE3 of the Torbay local Plan 2012-2030, the Paignton Neighbourhood Plan and the NPPF.

6. CMP

No development (including ground works) or vegetation clearance works shall take place until a Construction Method Statement for the development has been submitted to and approved in writing by the Local Planning Authority. The Statement shall provide for:

- (i) The parking of vehicles of site operatives and visitors.
- (ii) Loading and unloading of plant and materials.
- (iii) Storage of plant and materials used in constructing the development.
- (iv) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate.
- (v) Wheel washing facilities.
- (vi) Measures to control the emission of dust and dirt during construction.
- (viii) Measures to minimise noise nuisance to neighbours from plant and machinery.
- ix) Construction working hours and delivery and removal of materials, plant and waste shall be from 08:00 to 18:00 Monday to Friday, 08:00 to 13:00 on Saturdays and at no time on Sundays or Public Holidays, unless otherwise agreed in writing by the Local Planning Authority
- x) Details of how lighting will be controlled during the construction phase of development.

The approved Statements shall be adhered to throughout the construction period of the development.

Reason: In the interests of highway safety and the amenities of surrounding occupiers during the construction of the development further to Policies TA2 and DE3 of the Torbay Local Plan 2012-2030. This needs to be a pre-commencement condition to ensure that the impacts of construction on neighbour amenity and highway safety and convenience are mitigated from the outset of development.

Informatives

1. 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

The proposed development has been tested against the following policies of the Development Plan and other relevant material considerations and in the opinion of the Local Planning Authority the proposed development is not in conflict with these policies:

Torbay Local Plan

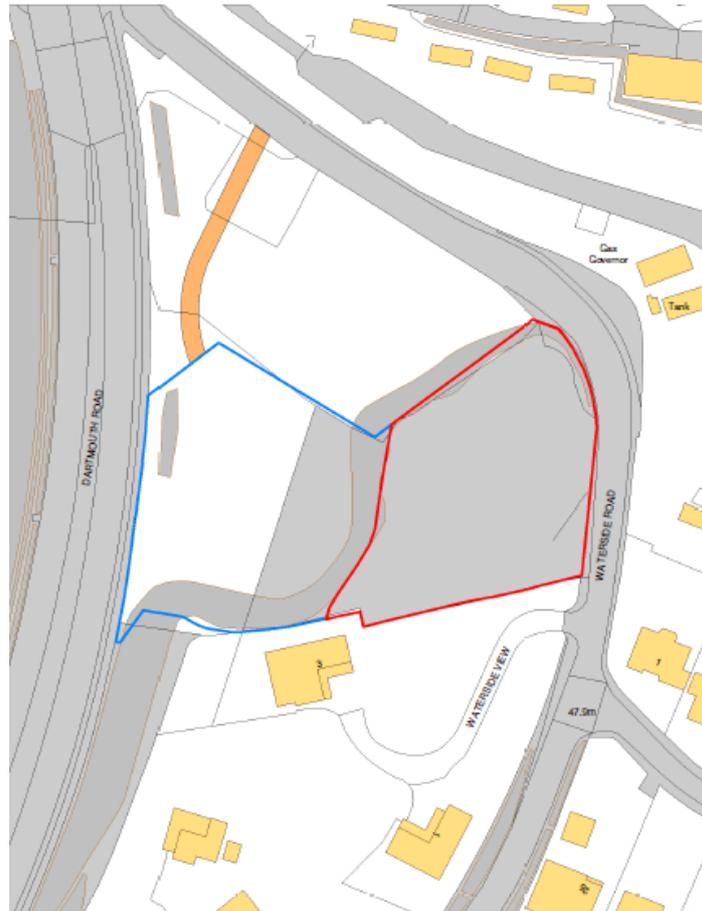
- SS2 - Future Growth Areas
- SS3 - Presumption in favour of sustainable development
- SS8 - Natural Environment
- SS9 - Green Infrastructure
- SS14 - Low carbon development and climate change
- SDP3 - Paignton North and Western Area
- TA1 - Transport and accessibility
- TA2 - Development access
- TA3 – Parking requirements
- C4 - Trees, hedgerows and natural landscape
- DE1 - Design
- DE3 - Development Amenity
- NC1 - Biodiversity and geodiversity
- ER1 - Flood Risk
- ES1 - Energy

Paignton Neighbourhood Plan

- PNP1 – Area wide
- PNP1(c) – Design Principles
- PNP1 (f) – Towards a Sustainable Low-Carbon, Energy-Efficient Economy
- PNP1(g) – Designing out Crime
- PNP1(h) – Sustainable Transport
- PNP1(i) - Surface Water
- PNP21 – White Rock and nearby areas
- PNP22 – Western Corridor

Application Site Address	Site at Waterside Quarry Paignton TQ4 6LJ
Proposal	Reserved Matters Application relating to Outline Application P/2019/0520 (Three new dwellings with vehicular access). Matters for approval: (i) Layout, (ii) Scale, (iii) Access, (iv) Appearance, (v) Landscaping.
Application Number	P/2023/0520
Applicant/ Agent	Mr. Adam Billings
Date Application Valid	29/06/2023
Decision Due date	24/08/2023
Extension of Time Date	TBC
Recommendation	<p>Approval: Subject to;</p> <p>The conditions as outlined below with the final drafting of conditions delegated to the Divisional Director of Planning, Housing and Climate Emergency;</p> <p>The completion of a s106 agreement to ensure the retention of the calcareous coastal grassland in accordance with the LEMP and to ensure that the HRA avoidance and mitigation measures set out in the Stage 2 Appropriate Assessment are secured and complied with.</p> <p>The resolution of any new material considerations that may come to light following Planning Committee to be delegated to the Divisional Director of Planning, Housing and Climate Emergency, including the addition of any necessary further planning conditions or obligations.</p>
Reason for Referral to Planning Committee	The Divisional Director of Planning, Housing and Climate Emergency has referred the application to the Planning Committee in the interest of transparency as the applicant is a Councillor.
Planning Case Officer	Verity Clark

Location Plan:



Site Details

The site is an expanse of land within the upper section of Waterside Quarry that is adjacent to Waterside Road. The site was formerly a limestone quarry (until the 1960s) and there remains an exposed quarry wall face to the northern and western boundaries. The site is located within the Waterside, Goodrington Urban Landscape Protection Area (ULPA) and is within 250 metres of Saltern Cove SSSI. The exposed quarry face which forms the northern and western boundaries is designated as a Regionally Important Geology Site (RIGS) and County Geological Site (CGS) for its Middle Devonian (Givetian) limestone.

The site is on the west side of Waterside Road within an urban location on the southern edges of Paignton close to the main Paignton/Brixham Road (A379 - Dartmouth Road). Waterside Road is a cul-de-sac off Dartmouth Road which links housing and terminates in Waterside Holiday Park. The site was sold as one of five plots by Torbay Council in 2014 (3 sold as development land, 2 including this site as amenity land).

Description of Development

This planning application is for a Reserved Matters Application relating to Outline Application P/2019/0520 (Three new dwellings with vehicular access). Matters for approval: (i) Layout, (ii) Scale, (iii) Access, (iv) Appearance, (v) Landscaping.

The proposal details three two-storey dwellings accessed from Waterside Road. The dwellings feature two storeys to the east and one storey to the west, as they are built into sloping ground. The proposed dwellings incorporate flat roofs, expansive areas of glazing, grey UPVC window frames and roof eaves, feature areas of timber effect cladding and rendered walls and feature front projecting two storey elements with front balconies.

The dwellings will be served by hardstanding parking and turning areas and unit 3 will feature a detached flat roof garage. Each dwelling is served by a front and rear garden and terrace areas and a shared bin store is located adjacent to the highway.

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.

Development Plan

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

Material Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Impact on European Sites
- 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:

Summary of Consultation Responses

Devon RIGS Group:

Looking at the site map, the access to the development appears to cut through the present relief to gain access to the site. This 'face' is part of the designated site and

would have to be removed prior to any construction. There might be the opportunity to retain (or even create) access to the face in the Devonian (fossiliferous) limestone. The site needs a visit to confirm what can be done.

Natural England:

Natural England has previously commented on this proposal and made comments to the authority. The advice provided in our previous response applies equally to this proposal. The proposed amendments to the original application are unlikely to have significantly different impacts on the natural environment than the original proposal.

Previous advice received via application P/2023/0084:

Natural England has no comments to make on this reserved matters application.

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, ancient and veteran trees which you can use to assess any impacts on ancient woodland or trees.

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 environmental value of this site and the impacts of the proposal to assist the decision making process. We advise local planning authorities to obtain specialist ecological or other environmental advice when determining the environmental impacts of development.

Devon County Council's Ecologist:

Having looked at the amended scheme, there doesn't appear to be anything which changes my comments from application P/2023/0084 – I believe those comments remain valid for this application.

The proposed alteration to the design to the building will likely lead to lower light levels than previously modelled due to the proposed reduction in size of the dwellings.

No further ecology comments from me compared with what was originally sent through for application P/2023/0084.

Comments made via P/2023/0084:

Acceptable in terms of LEMP, lighting assessment and CEMP. As long as the condition from the approved HRA concerning the removal of permitted development for micro wind turbines on the development site is included within any decision notice, then conclusions of the previously approved HRA remain valid for this submitted reserved matters application. As a further requirement the Ecologist states:

“The applicant is to use a positive obligation on future occupiers to retain the calcareous coastal grassland to serve a dual purpose; both to prevent an alternative use of the land which could lead to loss of neighbour amenity, and to conserve ecological benefits over the lifetime of the development. Accordingly, the applicant has proposed that the retained calcareous coastal grassland be incorporated within private property boundaries, but future owners become legally liable for observing the management activities in the LEMP – i.e., retaining the calcareous grassland as an ecological habitat in an undeveloped form –via a chain of positive indemnity covenants. This will create a legally binding obligation on the owners which can be enforced by each of the adjacent properties.”

WSP on behalf of the Local Highway Authority:

1.0 Background

1.1 This Reserved Matters Application is to approve matters of access relating to three new dwellings at Upper Eastern Site at Waterside Quarry which were previously approved in July 2020 under planning application P/2019/020 in July 2020. The proposed development uses the access proposed in the outline scheme.

2.0 Site Access

2.1 This reserved matters application addresses matters of layout, scale, access, appearance and landscaping. Matters relating to the proposed access we addressed by the Applicant in a letter dated 22 June 2020 which was in reference to the previously consented planning application (P/2019/020). This letter details an ATC survey which was undertaken on Waterside Road in the vicinity of the proposed access for a seven-day period between 12-18th June 2020. It is noted that these surveys were undertaken whilst England was under movement restrictions relating to the COVID-19 pandemic, and as such the observed traffic flows cannot be taken as representative of typical conditions. Vehicle speeds observed at this time however should not have been considerably impacted by movement restrictions and thus can be considered representative.

2.2 The observed 85th percentile speed was 22.9mph for southbound vehicles and 25.8 mph for northbound vehicles. Based on this observed vehicle speeds, the

required visibility as is set out in Table 7.1 of Manual for Streets is 2.4 X 30m to the to the left and 2.4m x 35m to the right.

2.3 The applicant has submitted a drawing (ref. PL4 Rev B) which illustrates visibility splays of 2.4m by 34m to the left and 35m to the right. This is considered acceptable.

3.0 Site Layout

3.1 The applicant will require a License (vehicle crossover) to work on the Highway as part of the proposed works are on an existing Highway Maintainable at Public Expense (HMPE).

3.2 From reviewing the submitted site layout plans the Highway Authority requests that the applicant, northbound from the site access, amends the area adjacent to the site to provide grassland / low vegetation. This is to discourage pedestrians from walking along the kerb line and trying to cross the carriageway at a dangerous point on the bend of the road. The grass / vegetation will be required to be maintained to not block the visibility splay from the site access.

4.0 Conclusion

4.1 The Highway Authority offers no objection to the proposed development, subject to the following Conditions:

- The applicant will be required to illustrate the area adjacent to the site (north of the access) to be amended to identify provision of grassland/ low vegetation. This must be maintained so that it does not block the visibility splay to the north of the site access; and
- The Applicant will require a Licence (Vehicle crossover) to work on the Highway as part of the works are on existing Highway.

Broadsand Churston and Galmpton Neighbourhood Forum:

No response received.

Drainage Engineer:

I can confirm that providing the surface water drainage and soakaway are constructed in accordance with the submitted design, I have no objections on drainage grounds to planning permission being granted for this development.

Senior Tree Officer:

The proposed soft landscaping requires minor alteration to provide scope for structural tree planting to frame views from the site.

The use of invasive non-native species such as Chery Laurel and Bay should be revised in the species mix to alternative species which are salt and wind hardy. The remainder of the soft landscape and maintenance specification is broadly acceptable.

Officer Report

Statutory Designations (Trees): – Tree Preservation Order – Not Applicable.
Conservation area – Not applicable.

Recommendations

Incorporate two Black Pine (*Pinus nigra*) in the north-east roadside frontage to replace the proposed Cherry Laurel.

Pinus mugo is a suitable replacement for Cherry Laurel and Bay and is in keeping with the coastal theme and design objective. Tamarisk may also be a suitable alternative.

Summary of Representations

6 objections received. Issues raised:

- Site history
- Site removed from Neighbourhood Plan by independent examiner
- Impact on ULPA
- Impact on wildlife
- Highway safety
- Ecology and wildlife impacts

Relevant Planning History

P/2023/0084: Reserved Matters Application relating to Outline Application P/2019/0520. Matters for approval: (i) Layout, (ii) Scale, (iii) Access, (iv) Appearance, (v) Landscaping. Refused 22/03/2023. Appeal pending.

P/2021/1256: Reserved Matters Application relating to Outline Application P/2019/0520. Matters for approval: (i) Layout, (ii) Scale, (iii) Access, (iv) Appearance, (v) Landscaping. Appeal for non-determination pending.

P/2019/0617/OA: Three new dwellings with vehicular access. Refused 09/06/2020.

P/2019/0520/OA: Three new dwellings with vehicular access. Approved 15/07/2020.

P/2016/0824/PA: Formation of a 2 storey dwelling with parking (revised documents inc revised layout received April 2017). Permission with legal agreement 06/04/2018.

P/2016/0822/RM: Reserved Matters Application for approval of the details for appearance, layout and scale of two no. two storey residential dwellings with associated parking and garages in relation to Outline approval P/2014/0045. (revised documents inc revised layout received April 2017). Permission with legal agreement 16/03/2018.

P/2014/0045/OA: 3 No. Detached dwellings and associated access/parking provision. Approved 23/01/2015.

Planning Officer Assessment

Key Issues/Material Considerations

The key issues to consider in relation to this application are:

1. Principle of Development
2. Impact on the Character of the Area
3. Impact on Residential Amenity
4. Impact on Highway Safety
5. Impact on Ecology, Geology and Trees
6. Flood Risk and Drainage
7. Low Carbon Development and Climate Change

1. Principle of Development

The proposal is for reserved matters with regards to all matters (layout, scale, access, appearance, and landscaping) for three dwellings. The principle of development was established and considered acceptable at the outline consent stage.

2. Impact on the Character of the Area

Paragraph 126 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 134 states that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design'. 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 BH5 of the Brixham Peninsula Neighbourhood Plan states that all new

development should demonstrate good quality design and respect the character and appearance of the surrounding area.

The surrounding area outside of the ULPA designation is somewhat urban in character but development is at a lower density than in some other parts of Torbay. Waterside Road consists of large, detached, two-storey, 1930s dwellinghouses within spacious plots. Such dwellinghouses have an appearance typical of their time with painted rendered walls and pitched roofs. The outline consent sought all matters reserved. However, the outline consent provided some indicative detail that sought to show the potential positioning of the plots, with the submitted Design and Access Statement indicating the potential for two-storey development, with the lower floors being cut into the sloping ground to present two storeys to the east but only one storey to the west. Flat roofs were also indicatively shown, similar to those dwellinghouses at Waterside View. As all plans were indicative at the outline application stage and the indicative plans put forward were silent on the extent of the two storey form of development, it was considered at the outline consent stage that the indicative positioning of the footprints would provide an active and positive street frontage from Waterside Road and as a result the reserved matters would need to consider the detailed design to ensure the detailed acceptability of the proposal.

The site is located within an area designated as an ULPA as defined by Policy C5 of the Local Plan. Policy C5 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.

In terms of landscape impact, it is relevant to consider the cumulative effects of the dwellinghouses previously approved - three dwellinghouses have been granted planning permission under planning references P/2016/0822 and P/2016/0824 – two of which have been constructed. These are located north-west in relation to the current application site. Three other dwellinghouses have been approved to the south west of the site at Waterside View under various applications including P/2008/1350, P/2010/024 and P/2020/0139 all located within the ULPA.

Whilst the site benefits from outline consent, it should be noted that an informative was included within the decision notice that related to a plan indicatively showing the height of the future development. This linked to the following condition which was agreed by the planning committee but was incorrectly not added to the decision notice:

The development hereby approved shall not exceed the height indicated on plan reference '1927 PL3 B (site sections)' received 4th June 2020.

Reason: In the interests of visual amenity in accordance with Policies DE1 and C5 of the Torbay Local Plan 2012-2030 and Policy PNP1(c) of the Paignton Neighbourhood Plan.

Plan '1927 PL3 B (site sections)' of the outline application details the following roof datum heights:

Dwelling 1: 55000

Dwelling 2: 56000

Dwelling 3: 57000

Plan 'PL215' of the current reserved matters application details the following datum heights to the highest ridge level of the roofs:

Dwelling 1: 55300

Dwelling 2: 56299

Dwelling 3: 57299

This demonstrates that the maximum ridge height is higher by 0.29m to 0.3m on all proposed dwellings than the indicative plan submitted at the outline stage.

It is considered that the application site is mainly screened when viewed from Dartmouth Road, given the topography of the land. The site would however be visible from Waterside Road.

There are other notable development in the area, including the adjacent site; Waterside View which appears less densely developed given the siting and massing of the three dwellings. Two of the three of these dwellings are significantly set back from Waterside Road and whilst these are visible within the streetscene, particularly when stood further to the east along Waterside Road, given their set back nature on the site and the landscaping in front of the two units, their impact is reduced and the setting of the ULPA is considered to be preserved.

The two constructed dwellings to the north-west of the application site are prominent within the streetscene. Even with their level in relation to the adjacent road and the subsequent lack of need for underbuild, these dwellings appear dominant within the streetscene with a resultant loss in the landscape characteristic of the ULPA. It is considered that this development has undermined the ULPA designation and highlights the need for a greater landscape led approach, lower density of development and greater variety in the design, particularly above ground floor level, to create more space within the development site. Whilst it is acknowledged that these dwelling have been approved, the resultant harmful impact on the ULPA designation is not one which should be exacerbated by further harmful development.

The proposal portrays the three dwellings as being two storeys to the east and one storey to the west, as they are built into sloping ground. The proposed dwellings incorporate flat roofs, expansive areas of glazing, grey UPVC window frames and roof eaves, feature areas of timber effect cladding and rendered walls with feature front projecting two storey elements with front balconies. This modern design approach takes reference from the nearby development.

The applicant has provided a proposed section/streetscene plan (plan reference PL203 Rev A) and site plan (plan reference PL202 Rev B). The separation distances between the proposed dwellings are approximately 5.45m between house 1 and 2, and approximately 5.8m between house 2 and 3. There is an approximate separation distance from house 3 to the site boundary with Waterside View of 3.75m and a separation distance of approximately 0.95m between the garage of house 3 and the site boundary with Waterside View.

The indicative footprints of the proposed dwellings were detailed at the outline stage as the following:

Dwelling 1 – 121.4m²
Dwelling 2 – 120.65m²
Dwelling 3 – 121.45m²

The footprint of the current dwellings detailed at the reserved matters stage are as follows:

Dwelling 1 – 139m²
Dwelling 2 – 140.6m²
Dwelling 3 – 162m²

The footprints of the proposed dwellings are therefore larger than envisaged when relating back to the outline proposal.

The current application follows on from refused reserved matters application P/2023/0084. This proposal featured similar footprints to that put forward in the current proposal but included significantly greater development at first floor level and smaller separation distances between dwellings. It was considered that the overall siting, scale and massing of the proposed dwellings of this refused application would be highly prominent and visually obtrusive when viewed from Waterside Road and potentially other public vistas and this was exacerbated by the levels and retaining structures required in this location. The three proposed dwellings were considered to result in a starkly dominating visual appearance exacerbated by their proximity to the road frontage when compared to the adjacent Waterside View.

The current application has attempted to address the reasons for refusal by employing techniques to create a more spacious characteristic and appearance, namely by the significant reduction in the first-floor floor area but also by increasing the separation distances between the proposed dwellings. This has significantly reduced the bulk and massing of the three dwellings, resulting in a less dominant visual appearance which allows for a more landscape led visual appearance and one that mimics the positive design put forward at the adjacent site; Waterside View. The form of the development and the massing allows for articulation and breaks up the visual appearance, thereby not appearing as blocky dominating buildings. Whilst the height of house 1 is 0.3m higher and house 2 and 3 are 0.29m higher than the indicative plan at outline, these higher ridge levels relate to a section of the first floor roof and not the entirety of the first floor roof level. Given the height is only exceeded by a maximum of 0.3m and this does not span the entirety of the dwellings, the overall height is considered to be visually acceptable, and the size, scale, massing and appearance of the development as a whole is considered to fit comfortably within the streetscene. The single storey flat roof garage is considered to appear as a subservient structure at the front of the site which is considered to be visually acceptable.

For the reasons noted above, it is considered that the two storey scale, design and footprint of the development would have an acceptable impact on the ULPA and would not undermine the value of the ULPA as an open or landscaped feature within the urban area.

It is considered that the proposed development in terms of visual amenity and impact on the ULPA is acceptable and accords with Policies DE1 and C5 of the Local Plan, Policy BH5 of the Brixham Peninsula Neighbourhood Plan and guidance contained within the NPPF.

3. Impact on Residential Amenity

Policy DE3 of the Local Plan states that all development should be designed to provide a good level of amenity for future residents or occupiers and should not unduly impact upon the amenity of neighbouring and surrounding occupiers. The Brixham Peninsula Neighbourhood Plan is largely silent on the matter of amenity. Paragraph 130 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.

Policy DE3 of the Local Plan states that development proposals should be designed to provide a good level of amenity for future residents and will be assessed in terms of the impact of noise, nuisance, visual intrusion, overlooking and privacy, light and air pollution, provision of useable amenity space, and an adequate internal living space.

Policy DE3 of the Local Plan which relates to development amenity requires that new residential units provide adequate floor space in order to achieve a pleasant and healthy environment. Policy DE3 of the Local Plan states that all new dwellinghouses should provide a minimum of 55 square metres of outdoor amenity space, which are useable and relatively private. Each dwelling has their own individual outdoor amenity space, which comprises of a section of lawn to the frontages, a first-floor balcony to the eastern elevation, a patio area to the rear and a garden beyond. This provision is considered to be acceptable.

Internal floor standards are set out from the DCLG technical housing standards document. Table 23 of the Torbay Local Plan 2012-2030 sets the dwelling space standards for Torbay which are taken from the Government's Nationally Described Space Standards. The proposed residential units have the following approximate internal floor areas:

Unit 1 = 198.8 square metres (4 bedroom, 7 bed space, 2 storeys)

Unit 2 = 197.95 square metres (4 bedroom, 7 bed space, 2 storeys)

Unit 3 = 228.6 square metres (4 bedroom, 8 bed spaces, 2 storeys)

All the units comply with the Government's Nationally Described Space Standards. The proposed residential units are considered to provide an adequate and suitable environment for future occupiers in terms of outlook and natural light levels. It should be noted that a number of bedrooms on the ground floor to the rear of the dwellings, are within 3-4 metres of a retaining wall, therefore these rooms will have somewhat limited outlook and natural light levels, but overall given the layout and other bedrooms within the dwellings, the proposals are considered to be acceptable.

Given the proposal's siting, design and orientation in relation to adjacent neighbours it is considered that the proposed development would not have a detrimental impact on the amenity of neighbours, in terms of their outlook, privacy, or access to natural light. All three dwellings include a first-floor balcony on the eastern elevation. Given the staggered siting of the three dwellings, the balconies would not cause any intervisibility between future occupiers. The proposal is considered to be in accordance with Policy DE3 of the Local Plan.

4. Impact on Highway Safety

Paragraph 110 of the NPPF guides that when assessing developments 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; (c) the design of streets, parking areas, other transport elements and the content of associated standards reflects current national guidance, including the National Design Guide and the National Model Design Code; and (d) 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.

Paragraph 111 of the NPPF confirms 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 DE3 of the Local Plan specifies that new development proposals should have satisfactory provision for off-road motor vehicle parking, bicycles and storage of containers for waste and recycling. Policy TA1 of the Local Plan sets out promoting improvements to road safety. Policy TA2 of the Local Plan states all development proposals 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. Policy TA3 of the Local Plan details that the Council will require appropriate provision of car, commercial vehicle and cycle parking spaces in all new development. Policy BH8 of the Brixham Peninsula Neighbourhood Plan states that all new development should comply with the relevant adopted standards.

At outline, the Local Highway Authority stated that given the junction with Waterside Road, the proposed access would be required to have a visibility of 43 metres x 2.4 metres x 43 metres, which is the recommendation for a 30mph road. The Local Highway Authority previously assessed the submitted information at outline and stated that they had no objections. The Engineer noted that the wing walls at the access should be clear of landscaping obstructions and the walls ideally kept to 600mm to 800mm high so there is clear visibility when sat in a vehicle exiting the access.

At this reserved matters stage, the Local Highway Authority have confirmed that the visibility splays are acceptable. They have also noted that the applicant will be required to illustrate and amend the area adjacent to the site to provide grassland / low vegetation. This is to discourage pedestrians from walking along the kerb line and trying to cross the carriageway at a dangerous point on the bend of the road. The grass / vegetation will be required to be maintained to not block the visibility splay from the site access. It is also noted that the applicant will require a Licence (Vehicle crossover) to work on the Highway as part of the works are on existing Highway.

The proposed site plan has been amended in line with the above request to detail low level grassland/vegetation in the area to the north of the access. A condition requiring the maintenance of this area as low grassland/vegetation is recommended to ensure pedestrian safety and to ensure the visibility splay is not blocked.

Policy DE3 and Appendix F of the Torbay Local Plan states that 2 car parking spaces should be provided for a dwelling and the parking spaces should be 4.8 metres by 2.4 metres when not adjacent to a highway. The proposal includes driveway parking for houses 1 and 2 which allows for parking of more than two cars per unit. House 3 has

a detached garage in front of the proposed dwelling and a driveway. The proposed garage is also proposed to house the bicycle storage. The proposed garage for house 3 meets the minimum standard for a double garage with bicycle storage and the parking provision as a whole is considered to be acceptable.

A planning condition is recommended to ensure that the parking provision and manoeuvring areas are provided prior to the occupation of the dwellings and retained for the lifetime of the development. A further planning condition is recommended to secure one electric charging point per dwelling prior to the first occupation of the dwellings in line with the requirements of Appendix F of the Local Plan.

Appendix F of the Torbay Local Plan also states that new residential units should provide two covered and secure bicycle storage space per dwelling. The submitted plans indicate bicycle storage within the garage of house 3 but does not detail provision for house 1 and 2. A planning condition should be employed to ensure that the bicycle storage is provided prior to the occupation of the dwellings and retained for the lifetime of the development.

Policy W1 of the Local Plan states that as a minimum, all developments should make provision for appropriate storage, recycling, treatment and removal of waste likely to be generated and with particular reference to residential developments, they should provide adequate space within the curtilage for waste and accessible kerbside recycle bins and boxes. The submitted proposed plans indicate bin storage within the curtilage of each dwelling, as well as a provision alongside Waterside Road to enable the waste operator to collect the future occupiers waste, as the vehicles cannot drive onto an unadopted highway. A planning condition is recommended to ensure that the bin storage is provided prior to the occupation of the dwellings and retained for the lifetime of the development.

Subject to the aforementioned planning conditions, the proposal would comply with Policies TA2, TA3 and W1 of the Local Plan and Policy BH8 of the Brixham Peninsula Neighbourhood Plan.

5. Impact on Ecology, Geology and Trees

Policy NC1 of the Local Plan states that all development should positively incorporate and promote biodiversity features, proportionate to their scale. Policy SS8, particularly criterion 1, of the Local Plans states sites, species and habitats protected under European, or equivalent legislation will be protected from development. Development around the edge of the built-up area will be required to protect and manage wildlife and habitats, including corridors between them, in accordance with Policy NC1 of the Local Plan and particular attention must be paid to Greater Horseshoe Bat flightpaths. Policy E8 of the Brixham Peninsula Neighbourhood Plan states that internationally important sites and species will be protected. Development affecting internationally

protected site and species will only be approved where it can be demonstrated there is no likely significant effect, either alone or in combination with other plans or projects and regard has been given to the NPPF and conforms with Policy NC1 of the Local Plan.

The application site is approximately 5.5km north-west of the Berry Head to Sharkham Point component of South Hams Special Area of Conservation (SAC). The site is within the Berry Head roost Sustenance Zone.

The outline application was supported by an Extended Phase 1 Habitat Survey & Ecological Appraisal (Sunflower International, August 2019); a Habitats Regulations Assessment Screening Report incorporating Ecological Management and Enhancement Plan (Professor John Altringham, dated March 2018; and a Habitats Regulations Assessment Screening Report, Lower Western Site (Adam Billings, dated May 2019). A Habitat Regulations Assessment (HRA) was commissioned and undertaken by Devon County Council, which led to a number of details required at reserved matters – CEMP, LEMP and lighting assessment.

The habitats within the site boundary comprises of approximately 0.3 hectares of damp limestone grassland and quarry face. The site was cleared of scrub during the winter of 2015/16 and is currently managed by mowing and scrub cutting. The site slopes upwards to the western and northern boundaries of the application site to the exposed quarry wall face. The proposed works would result in the permanent loss of improved and semi-improved grassland and scattered scrub.

At outline Natural England concurred with the conclusion of the Appropriate Assessment that the proposals will not result in adverse effects upon the integrity of the South Hams SAC. Natural England have confirmed via this application that the proposed amendments to the original application are unlikely to have significantly different impacts on the natural environment than the original proposal.

The DCC Ecologist has considered the proposal and commented on the submitted information. They have confirmed that the submitted LEMP, CEMP, landscape and planting specification and lighting assessment are acceptable and adherence to these documents can be secured by condition. Providing the condition from the approved HRA concerning the removal of permitted development for micro wind turbines on the development site is included within any decision notice, which is therefore recommended, the conclusions of the previously approved HRA remain valid for this submitted reserved matters application.

The DCC Ecologist has stated in respect of the LEMP that “the applicant is to use a positive obligation on future occupiers to retain the calcareous coastal grassland to serve a dual purpose; both to prevent an alternative use of the land which could lead to loss of neighbour amenity, and to conserve ecological benefits over the lifetime of

the development. Accordingly, the applicant has proposed that the retained calcareous coastal grassland be incorporated within private property boundaries, but future owners become legally liable for observing the management activities in the LEMP – i.e., retaining the calcareous grassland as an ecological habitat in an undeveloped form –via a chain of positive indemnity covenants. This will create a legally binding obligation on the owners which can be enforced by each of the adjacent properties. This is deemed acceptable by the LPA ecologist.”

The Council considers that a chain of positive covenants as suggested by the applicant would be cumbersome and difficult to enforce. It is not clear why this has been suggested rather than the usual Section 106 planning obligation. The Council’s Solicitor has recommended that the above requirement is secured by a s106 legal agreement. The legal agreement should set out the specific requirements for future owners.

The applicant has agreed to enter into a s106 legal agreement to ensure the retention of the calcareous coastal grassland in line with the LEMP and to ensure that the HRA avoidance and mitigation measures set out in the Stage 2 Appropriate Assessment are secured and complied with. With the agreement of a suitably worded s106 agreement, the proposal is considered to accord with Policy NC1 of the Local Plan and Policy E8 of the Brixham Peninsula Neighbourhood Plan.

The exposed quarry face which forms the eastern boundary is designated as a Regionally Important Geology Site (RIGS) and County Geological Site (CGS) for its Middle Devonian (Givetian) limestone, which contributes to understanding the unique and internationally important marine Devonian geology of the Geopark territory, and the sites value towards retaining the UNESCO status for Torbay. The RIGS Group were consulted on the outline application, noting:

“Our RIGS sites in the area sit alongside those with Statutory Protection (as GCR or SSSI sites), with many contributing to the definition of the Devonian System, which was in 1840 created to include many of the rocks in Torbay - including the limestones in particular. Indeed, it was the content of fossils (corals, brachiopods, bryozoa. etc.) in these limestones that characterized the succession.

We would certainly be prepared to meet, discuss and demonstrate the importance of the RIGS site and we feel that the Applicant should fund a full survey of the site, including any remedial measures that would be needed to retain a geoconservation use for the site. Looking at the plans, this does not seem to restrict the development in any way and could provide a win;win situation for both the site and the geoconservation value.”

The RIGS Group have provided the following comment on this reserved matters application:

Looking at the site map, the access to the development appears to cut through the present relief to gain access to the site. This 'face' is part of the designated site and would have to be removed prior to any construction. There might be the opportunity to retain (or even create) access to the face in the Devonian (fossiliferous) limestone. The site needs a visit to confirm what can be done.

The following planning condition should have been employed to secure a structural geological survey prior to the commencement of development as agreed by the planning committee:

No development shall take place, until a structural geological survey is undertaken by a geologist with specialist/credible knowledge on the Marine Devonian and submitted to and approved in writing by the LPA. The approved structural geological survey shall be adhered to and implemented throughout the development strictly in accordance with the approved details unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of the visual amenity and geology, and in order to accord with Policies DE1 and NC1 of the Torbay Local Plan 2012-2030. These details are required prior to commencement of development to ensure geological features are not harmed.

A structural geological survey has not been provided with this reserved matters submission and therefore a condition should be employed to ensure the proposal retains, protects and provide for the appropriate management of the RIGS and CGS site in accordance with Policy NC1 of the Local Plan.

Policy C4 of the Local Plan states that development will not be permitted where it would seriously harm, either directly or indirectly, protected trees or veteran trees, hedgerows, ancient woodlands or other natural features of significant landscape, historic or nature conservation value. Policy C4 goes on to state that development proposals should seek to retain and protect existing hedgerows, trees and natural landscape features wherever possible, particularly where they serve an important biodiversity role.

The proposed development would result in the loss of insignificant vegetation. At outline, the proposal was supported by an assessment of the tree stock supported with a tree protection plan. The application is supported by a Landscape and Planting Specification. This is the same landscaping plan which was provided for application P/2023/0084 and which the Council's Green Infrastructure Manager confirmed was acceptable. The Council's Senior Tree Officer has confirmed general support for the

landscaping scheme but has recommended the substitution of the Cherry Laurel. Given the landscaping scheme was previously found to be acceptable it is not considered reasonable to require an alteration to the planting scheme. A planning condition securing the landscaping scheme as detailed is therefore recommended.

6. Flood Risk

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.

The site is located within the Critical Drainage Area and is accompanied by a Flood Risk Assessment. The Council's Drainage Engineer has been consulted on the application and has confirmed that providing the surface water drainage and soakaway are constructed in accordance with the submitted design, there are no objections on drainage grounds to planning permission being granted for this development. A condition securing the drainage is therefore recommended to ensure that the proposal would 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 in accordance with Policy ER1 of the Local Plan.

7. Low Carbon Development and Climate Change

Policy SS14 of the Local Plan relates to 'Low carbon development and adaptation to climate change' and seeks to minimise carbon emissions and the use of natural resources. Policy ES1 seeks to ensure that carbon emissions associated with existing buildings (heating, cooling, lighting and energy consumption) are limited.

The proposed site plan details solar panels and heat pumps on the roofs of each dwelling. A condition to secure these low carbon measures is therefore recommended to ensure compliance with Policy. With the addition of this condition the development is in accordance with Policy SS14 and ES1 of the Torbay Local Plan and advice contained within the NPPF

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. The development would see the development of 3 additional dwellings. Once the development is 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. Given the NPPF priority to significantly boost the supply of housing the additional dwelling to be provided must carry significant weight in this balance.

The use of the site for housing would provide an appropriate use and offer 3 additional dwellings within a sustainable location. 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 especially relevant to the proposed development are impacts on ecology, biodiversity, geology and drainage. These matters have been considered in detail above and have been found to be acceptable. The proposal will include bicycle storage, and the proposed development is in a sustainable location within the existing urban area.

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

Sustainability Conclusion

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

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

Affordable Housing:

Not applicable.

S106:

Not applicable in relation to Local Finance Considerations but see comments below under HRA.

CIL:

The land is situated in Charging Zone 2 in the Council's CIL Charging Schedule. The CIL liability for this scheme 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:

A Habitat Regulations Assessment (HRA) was commissioned and undertaken by Devon County Council at the outline application stage.

The HRA Screening Opinion concluded that the development is likely to have a Significant Effect on the greater horseshoe bat features of South Hams SAC alone or in combination with other proposals or projects because of the loss of a year round functionally linked roost of 1 to 2 greater horseshoe bats and its associated foraging and commuting habitat, inside a Sustainance Zone with a potential risk of the development undermining the SAC's Conservation Objectives. The potential effects

on the SAC without mitigation are not considered 'de minimis'. A Stage 2 Appropriate Assessment was required.

The Stage 2 Appropriate Assessment concluded that the development, with all the avoidance and mitigation measures secured by condition and/or obligation, being implemented in full, would not adversely affect the integrity of South Hams SAC or the functionally linked supporting habitat associated with this either alone or in combination with any other plans or projects. It concluded that there is no requirement to progress to Stages 3 and 4 of the HRA process.

The avoidance and mitigation measures to be secured by condition and/or obligation are as follows:

- Works to proceed in accordance with the recommendations of the Ecological Management and Enhancement Plan [dated March 2018] and Habitats Regulations Assessment Screening Report [dated May 2019] including ("Restricted Lighting' 'Restricted Lighting during Construction', 'New Planting to increase biodiversity' p.25-27)
- Provision of a Construction Environment Management Plan
- Provision of a Landscape and Ecological Management Plan
- Lighting Assessment and Design Strategy by an accredited Lighting Consultant to be brought forward as part of reserved matters stage. This shall include a 'dark areas' plan and demonstrate how there shall be no light spill within 10 meters of the top of the quarry face and adjacent tree line (at the northern boundary of the application site)
- Condition to be attached removing permitted development of micro wind turbines on the development site.
- At Reserved Matters stage an Integrated Landscape and Lighting Design Strategy for the 'dark areas' shall be submitted to and approved in writing by the local planning authority. The strategy shall support lighting measures incorporated into the development of the adjacent land (Waterside Road, Lighting Impact Assessment, Illume Design dated 31 August 2018)

The DCC Ecologist has confirmed that as long as a condition from the approved HRA concerning the removal of permitted development for micro wind turbines on the development site is included within any decision notice, alongside adherence to the submitted documentation, then conclusions of the previously approved HRA remain valid for this submitted reserved matters application.

The Council accept that the HRA avoidance and mitigation measures were not secured at the outline permission stage. The Council submit that compliance should be secured at the reserved matters stage by means of a S106 Agreement to ensure that, having been omitted from the outline permission, compliance with these measures is secured.

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.

Conclusions and Reasons for Decision

The proposal is acceptable in principle; would not result in unacceptable harm to the character of the area, ULPA or local amenity; would provide an adequate standard of living accommodation and provide acceptable arrangements in relation to access, flood risk, and ecological constraints. On balance, the proposed development is considered acceptable, having regard to the Torbay Local Plan, the Brixham Neighbourhood Plan, and all other material considerations.

Officer Recommendation

Approval: Subject to;

The conditions as outlined below with the final drafting of conditions delegated to the Divisional Director of Planning, Housing and Climate Emergency;

The completion of a s106 agreement to ensure the retention of the calcareous coastal grassland in accordance with the LEMP and to ensure that the HRA avoidance and mitigation measures set out in the Stage 2 Appropriate Assessment are secured and complied with;

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

Conditions

1. Geological Survey

No development shall take place, until a structural geological scheme and survey of the site is undertaken by a geologist with specialist/credible knowledge on the Marine Devonian and submitted to and approved in writing by the LPA. The survey shall include a scheme to ensure the proposal retains, protects and provides for the appropriate management of the Regionally Important Geology Site (RIGS) and County Geological Site (CGS). The approved structural geological survey and scheme shall be adhered to and implemented and retained for the lifetime of the development strictly in accordance with the approved details unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of the visual amenity and geology, and in order to accord with Policies DE1 and NC1 of the Torbay Local Plan 2012-2030. These details are required prior to commencement of development to ensure geological features are not harmed.

2. LEMP

Development shall take place strictly in accordance with the hereby approved 'Landscape & Ecological Management Plan June 2023'.

Reason: In the interests of protected species and in accordance with Policy NC1 of the Torbay Local Plan 2012-2030 and Policy E8 of the Brixham Peninsula Neighbourhood Plan.

3. Lighting Assessment

Development shall take place strictly in accordance with the hereby approved 'Lighting Design Strategy June 2023'.

Reason: In the interests of the amenity in relation to neighbouring properties and biodiversity, and in order to accord with Policies DE3 and NC1 of the Torbay Local Plan 2012-2030.

4. CEMP

Development shall take place strictly in accordance with the hereby approved 'Construction Environment Management Plan June 2023'.

Reason: In the interests of protected species and residential amenity and in accordance with Policies NC1 and DE3 of the Torbay Local Plan 2012-2030 and Policy E8 of the Brixham Peninsula Neighbourhood Plan.

5. Parking provision

The dwellings hereby approved shall not be occupied or brought into use until the hardstanding parking areas and garage detailed on approved plans 'PL202 Rev B' and 'PL209' have been provided in full. The hardstanding and garage shall thereafter be permanently retained for the use of parking for the associated dwelling for the life of the development.

Reason: In accordance with highway safety and amenity, and in accordance with Policy TA3 of the Adopted Torbay Local Plan 2012-2030.

6. Waste

Prior to the first occupation of the dwellings hereby permitted, provision shall be made for the storage of refuse and recycling awaiting collection in accordance with approved plan 'PL202 Rev B'. The storage arrangements shall be retained for the life of the development.

Reason: In interests of visual amenity and in accordance with Policy DE1 of the Torbay Local Plan 2012-2030.

7. Landscape plan

All proposed planting as detailed within plan reference 'Landscape and Planting Specification June 2023' shall be planted in the next planting season following the commencement of the development and completed in full prior to the occupation of the development. The landscaping scheme shall thereafter be maintained for a period of 5 years.

In the event of failure of any trees/plants, planted in accordance with the approved scheme, to become established and to prosper for a period of five years from the date of the completion of implementation of that scheme, such trees/plants shall be replaced in the next planting season. The planting shall be maintained in accordance with plan reference 'Landscape and Planting Specification June 2023'.

Reason: To secure a landscape scheme that will complement the development in the interests of visual amenity, in accordance with Policies SS8 and C4 of the Torbay Local Plan 2012-2030.

8. EV charging points

Prior to the occupation of the dwellings hereby approved, the electric vehicle charging points detailed on approved plan 'PL202 Rev B' shall be installed and made available for use for the associated dwelling. The electric vehicle charging points shall be thereafter maintained and retained for the lifetime of the development.

Reason: To ensure the parking provision of the new residential units in accordance with the requirements of Policy TA3 of the Torbay Local Plan.

9. Permitted Development – Micro Wind Turbines

Notwithstanding the provisions of Class H of Part 14 to Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking or re-enacting that Order with or without modification), no installation of wind turbines shall take place to the approved dwellings, unless permission under the provisions of the Town and Country Planning Act 1990 has first been sought and obtained in writing from the Local Planning Authority.

Reason: In the interests of protected species and in accordance with Policy NC1 of the Torbay Local Plan 2012-2030 and Policy E8 of the Brixham Peninsula Neighbourhood Plan.

10. Sustainability

The solar panels and heat pumps detailed on approved plan 'PL202 Rev B' shall be installed and made available for use for the associated dwelling prior to the first occupation of the associated dwelling.

Reason: In interests of low carbon development and in accordance with Policy SS14 and ES1 of the Adopted Torbay Local Plan 2012-2030.

11. Construction and delivery hours

The delivery of goods and building materials during the construction period for the approved development and construction/building works on the site shall not take place outside the hours of 08.00 to 18.00 Mondays to Fridays, 08.00 to 13.00 on Saturdays and at no time on Sundays or Bank Holidays.

Reason: To safeguard the residential amenities of nearby residential properties in accordance with Policy DE3 of the Torbay Local Plan 2012-2030.

12. Bats and Breeding Birds

No vegetation removal including hedgerows, trees or shrubs shall take place between 1st March and 31st August inclusive in any given year, unless prior to the commencement of works a detailed biodiversity survey by a competent ecologist has been submitted to and approved in writing by the Local Planning Authority. The survey shall include the details of the check of vegetation for active birds' nests immediately before the vegetation is cleared and provided written confirmation that no birds will be

harmed and/or that there are appropriate measures in place to protect nesting birds on the site. The development shall then be carried out in accordance with the details submitted.

Reason: In the interests of protected species and in accordance with Policy NC1 of the Adopted Torbay Local Plan 2012-2030.

13. Surface Water Drainage

Surface water drainage shall be provided in accordance with the approved 'Surface Water Drainage Design January 2023' and 'Storm Percolation Test & Soakaway Design' prior to first occupation of the dwellings hereby approved. Once installed the surface water drainage scheme shall be maintained and retained for the life of the development.

Reason: In the interests to adapting to climate change and managing flood risk, and in order to accord with saved Policies ER1 and ER2 of the Torbay Local Plan 2012-2030 and the guidance contained in the NPPF.

14. Visibility Splay

The development hereby approved shall not be brought into use until the visibility splay shown on approved plan 'PL202 Rev B' has been provided. The area indicated as 'grassland/low vegetation' shall be permanently retained as such and there shall be no obstruction exceeding 600mm above ground level within the visibility splay. The visibility splay shall be retained as such for the lifetime of the development.

Reason: To ensure sufficient visibility is provided in the interests of highways safety in accordance with Policies TA1 and TA2 of the Adopted Torbay Local Plan 2012-2030.