



Friday, 3 June 2016

## **DEVELOPMENT MANAGEMENT COMMITTEE**

A meeting of **Development Management Committee** will be held on

**Monday, 13 June 2016**

commencing at **2.00 pm**

The meeting will be held in the Grace Murrell Suite, Riviera International Conference Centre, Chestnut Drive, Torquay

### **Members of the Committee**

Councillor

Councillor Barnby  
Councillor Cunningham  
Councillor Kingscote  
Councillor Morey  
Councillor Robson

Councillor Stringer  
Councillor Winfield  
Councillor Pentney  
Councillor Tolchard

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**A prosperous and healthy Torbay**

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For information relating to this meeting or to request a copy in another format or language please contact:

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01803 207087**

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# DEVELOPMENT MANAGEMENT COMMITTEE AGENDA

1. **Election of Chairman**  
To elect a Chairman/woman for the 2016/17 Municipal Year.
2. **Apologies for absence**  
To receive apologies for absence, including notifications of any changes to the membership of the Committee.
3. **Appointment of Vice-Chairman**  
To appoint a Vice-Chairman/woman for the 2016/17 Municipal Year.
4. **Minutes** (Pages 4 - 6)  
To confirm as a correct record the Minutes of the meeting of this Committee held on 9 May 2016.
5. **Declarations 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.)
6. **Urgent Items**  
To consider any other items that the Chairman decides are urgent.

7. **Land South Of Yalberton Road, (Yannon's Farm), Paignton - P/2014/0983/MOA** (Pages 7 - 46)  
 Outline mixed use proposal for phased residential development (Use Class C3) of up to 192 dwellings and employment development (Use Classes B1 and B8) of between 7,400 sq m and 9,200 sq m floor area, together with the provision of ecological mitigation measures, public open space and other associated infrastructure. (Means of access to be determined only) (Revised Scheme) (This s a departure from The Adopted Torbay Local Plan 1995-2011).
8. **Land Between 101 And 105 Penwill Way, Penwill Way, Paignton - P/2015/0793/PA** (Pages 47 - 53)  
 Erection of two detached houses with integral garages and parking (as revised by plans received 11.11.2015.)
9. **Abbey Crescent, Torbay Road, Torquay - P/2015/0963/MVC** (Pages 54 - 66)  
 Variation of conditions P1, 01, 07 and 09 of P/2013/0470/MPA to allow residential occupation of 13 holiday flats on level 1 and 2 - Cond. P1- amend approved plans to reflect changed occupation for wholly residential use; cond. 01 - delete restriction on use of 13 flats for holiday purposes; cond. 07 - amend Green Travel Plan to reflect wholly residential use; cond. 09 - delete to remove restriction on use of parking on level 2 for holiday flats only.
10. **Beacon Cove, Park Hill Road, Torquay - P/2016/0159/PA** (Pages 67 - 75)  
 Provision of five residential beach huts and kiosk; access steps; alterations to retaining wall.
11. **Tor Manor, 11 Tor Church Road, Torquay - P/2016/0348/MPA** (Pages 76 - 85)  
 Formation of 9 dwellings comprising one four bed, five three bed and three two bed units in a two to three storey terrace building with 9 car parking spaces (variation of P/2012/1093).
12. **Spatial Planning Performance Report April 2014 to March 2016** (Pages 86 - 106)  
 To note Spatial Planning performance report for the period April 2014 to March 2016.
13. **Public speaking**  
 If you wish to speak on any applications shown on this agenda, please contact Governance Support on 207087 or email [governance.support@torbay.gov.uk](mailto:governance.support@torbay.gov.uk) before 11 am on the day of the meeting.
14. **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, 8 June 2016. Site visits will then take place prior to the meeting of the Committee at a time to be notified.

**Note**

An audio recording of this meeting will normally be available at [www.torbay.gov.uk](http://www.torbay.gov.uk) within 48 hours.

# Agenda Item 4



## Minutes of the Development Management Committee

9 May 2016

-: Present :-

Councillor Kingscote (Chairman)

Councillors Barnby, Cunningham, Darling (S), Manning, Morey, Robson, Stringer and Winfield

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### 105. Minutes

Subject to the following amendments the Minutes of the meeting of the Development Management Committee held on 11 April 2016 were confirmed as a correct record and signed by the Chairman.

- (i) Minute 103 - Land off Newton Road and Riviera Way, Torquay (P/2016/0078/MPA) - that drafting of conditions be delegated to the Chief Executive; and
- (ii) Minute 104 - 101 Braddons Hill Road East, Torquay (P/2016/0139/VC) – approval subject to a deed of variation to link this proposal to the original 106 Section Agreement for this development.

### 106. Urgent Items

The Committee considered the items in Minute 107, and not included on the agenda, the Chairman being of the opinion that it was urgent by reason of special circumstances i.e. the matter having arisen since the agenda was prepared and it was unreasonable to delay a decision until the next meeting.

### 107. Land off Newton Road and Riviera Way, Torquay (P/2016/0078/MPA)

The Team Leader Development Management advised that further to the previous meeting of the Development Management Committee an extension of time was required for the submission of plans to remove the car parking provision.

Resolved

That an extension of two months be granted to allow for the submission of satisfactory revised plans.

**108. Oldway Mansion, Torquay Road, Paignton CN/2015/0081/CON & CN/2015/0100/CON (1 combined report)**

The Committee considered an application for

- a) discharge of conditions 3, 4, 8, 10, 11, 12, 13 and 14 for P/2011/1020 (Change of use of Oldway Mansion and Rotunda from Council Offices to hotel with ancillary conference and spa facilities. External alterations, entrance foyer and refurbishment/reinstatement of glass conservatory. Demolition of squash courts. Improvements to existing car parking area and new car parking to rear service area) and
- b) discharge of condition re (P/2011/1021) Change of use of Oldway Mansion and Rotunda from Council offices to hotel with ancillary conference and spa facilities Condition 4 - Phasing Programme Condition 5 - CMP, Detailed Programme Conditions Survey and Structural Survey Condition 7 (Mechanical and Electrical and Civil Structural Strategy Condition 8 - Lighting Strategy Condition 9 - Flues and Extracts.

Resolved:

A further two months be allowed for completion of the Independent Viability Assessment and for review of the outcome of this with Historic England's Enabling Team.

**109. 177 Roselands Drive, Paignton, TQ4 7RN (P/2016/0140/HA)**

The Committee considered an application for an extension to garage with a tiled pitched roof and conservatory.

Prior to the meeting, Members of the Development Management Committee undertook a site visit including visiting neighbouring properties and written representations were circulated to members. At the meeting Steve Harper addressed the Committee in support of the application.

Resolved:

Approved with a condition requiring submission of satisfactory details in respect of surface water discharge.

**110. 6 Quantocks Road, Torquay, TQ2 6UH (P/2016/0125/HA)**

The Committee considered an application for a single storey extension, entrance porch and integral garage.

Prior to the meeting, Members of the Development Management Committee undertook a site visit and written representations were circulated to members. At the meeting Phil Read addressed the Committee against the application.

Resolved:

Approved with the conditions set out in the submitted report.

**111. 63 Babbacombe Downs Road, St Marychurch, Torquay, TQ1 3LP  
(P/2016/0277/MOA)**

The Committee considered an application for demolition of existing building and formation of 14 Apartments with parking and two restaurants/cafe (A1, A3, A4 and A5 use categories).

Prior to the meeting, Members of the Development Management Committee undertook a site visit and written representations were circulated to members. At the meeting Rodney Howes addressed the Committee in support of the application.

Resolved:

Refused for the reasons set out in the submitted report.

**112. Land At Princess Gardens, Off Torbay Road, Torquay, TQ2 5EY  
(P/2016/0384/PA)**

The Committee considered an application for change of use of land for the temporary erection and operation of a 50m observation wheel and associated ancillary development until 31 October 2016.

Prior to the meeting, Members of the Development Management Committee undertook a site visit and written representations were circulated to members.

Resolved:

Temporary consent be granted until 31 October 2016 with the conditions set out in the submitted report and an informative advising the applicant that the Committee requested an alternative location be found for siting of the wheel in future years.

**113. 28 Shiphay Avenue, Torquay, TQ2 7EA (P/2016/0385/HA)**

The Committee considered an application for a side extension (Re Submission of P/2016/0093).

Resolved:

Approved with the conditions set out in the submitted report.

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Chairman

# Agenda Item 7

## Application Number

P/2014/0983

## Site Address

Land South Of Yalberton Road  
(Yannon's Farm)  
Paignton  
Torbay

## Case Officer

Mrs Helen Addison

## Ward

## Description

Outline mixed use proposal for phased residential development (Use Class C3) of up to 192 dwellings and employment development (Use Classes B1 and B8) of between 7,400 sq m and 9,200 sq m floor area, together with the provision of ecological mitigation measures, public open space and other associated infrastructure. (Means of access to be determined only) (Revised Scheme) (THIS IS A DEPARTURE FROM THE ADOPTED TORBAY LOCAL PLAN 1995-2011)

## Update Report

This application was approved at the Development Management committee meeting on 14.12.15 subject to successful resolution of technical issues, ecology, completion of a S106 agreement and conditions within six months of the date of the meeting. During this time work has continued on resolving the outstanding matters, but it has not been possible to resolve all issues within the six month deadline, as a number are complex. Therefore a further extension of time is requested until 31st August 2016. The applicant is agreeable to this.

It has been necessary to make minor revisions to the content of the S106 agreement and Members agreement that these are acceptable is requested. These revisions are:

- The applicant has agreed to provide a policy compliant level of affordable housing at 30%. It was originally proposed that this should include up to 5% self build plots. The provision of affordable self build plots has not proved possible to deliver due to a lack of certainty from housing associations and therefore it is proposed to delete this requirement. The affordable housing requirement to remain at 30%.
- Development of the site must allow for pedestrian, cycle and public transport links to the Western Power Distribution site as well as the neighbouring site at the former Yannons Farm
- Provision of an off-site bat barn in accordance with the Ecological Design Strategy submitted in support of the application
- Inclusion of provisions to ensure that no less than 2.09ha of the site is available

for employment purposes and to ensure that the employment land is actively marketed

- £5,000 to make and implement a Traffic Order to extend the 30mph speed limit on Yalberton Road.

## **Original Report to DMC 14.12.15**

### **Executive Summary/Key Outcomes**

*The application has been submitted in outline with all matters reserved except access. It proposes the development of the remainder of the employment allocation (Policy E1.16(c)) in the Adopted Torbay Local Plan 1995-2011 ('the current Local Plan'), including land allocated for strategic landscaping and part of the Countryside Zone/Area of Great Landscape Value (AGLV) to the west. This land is allocated as a Future Growth Area in the emerging Torbay Local Plan - A landscape for success 2012-2030 ('the new Local Plan'), except for a field to the south of the site which is allocated as Countryside Zone.*

*The application site comprises two parcels of land. The main site to the west adjoining Yalberton Road is 10.16ha in area, while the smaller site to the east between Torbay Pharmaceuticals and Yannons Farm local centre is 1.31ha. The total site area is 11.47ha. The proposals are to develop up to 192 dwellings and employment development (Use Classes B1 and B8) of between 7,400 sq m and 9,200 sq m floor area, together with ecological mitigation, public open space and other associated infrastructure. The site excludes part of the field within the Countryside Zone, which is proposed as a 'high meadow' for ecological mitigation - this will be used to partly compensate the loss of cirl bunting habitat on the site. The Council issued an EIA screening opinion in December 2014 concluding the proposal is not EIA development.*

*The revised illustrative masterplan submitted with the application indicates that the smaller site shall be used wholly for employment development, while the main site to the west shall comprise employment development to the north adjoining Yalberton Road with residential development to the south. Access to the main site will be provided via a new roundabout on Yalberton Road at the junction with Alders Way, while access to the east site will be provided via a new access road on Wilkins Drive. Yalberton Road will be widened to provide a 6.5 metre carriageway along the frontage of the Western Power station site and a shared footpath/cycleway to the proposed Brixham Road Western Corridor highway improvement works at the Brixham Road/Yalberton Road junction, which are scheduled for autumn 2016. In addition, a secondary emergency access shall be provided to the main site further along Yalberton Road to the west. A link to the adjoining Yannons Farm development site shall be secured in the s106 agreement, which will need to provide access for public transport, pedestrians and cyclists.*

*The principle of the proposed development for a mix of housing and employment is considered to be acceptable by officers and in accordance with the provisions of the current and new Local Plans, taking material considerations into account. It will deliver*

*up to 192 dwellings, helping to maintain a 5 year housing land supply and a significant amount of employment development generating a large number of jobs; it will also contribute to upgrading the Brixham Road/Yalberton Road junction. However, a condition is necessary to ensure that the layout of housing at reserved matters stage will not prejudice the future reuse of the allocated waste site at Yalberton Tor Quarry as a waste management facility, which Strategic Planning officers have confirmed must be retained in accordance with Policy W3 (current and new Local Plans).*

*At the time of writing this report the final comments of the Local Highway Authority are awaited to confirm that the proposed access arrangements are safe and deliverable, and will not have a severe impact on the local highway network, including the capacity of the Brixham Road/Yalberton Road junction. Initial indications are that the principle of the access arrangements along Yalberton Road is acceptable, subject to the proposed highway improvement works being carried out, but the proposed fallback option proposed is unacceptable, due to safety concerns with the proposed pedestrian crossing on Yalberton Road adjacent to the Sainsburys petrol filling station. An update will be provided by officers at committee. A shortfall in funding to deliver the highway improvement works, to the junction of Brixham and Yalberton Roads, will need to be paid for by the developers and secured in the s106, together with other s278 funding for highway works along Yalberton Road outside the site boundary.*

*Insufficient information has been submitted to enable the Council to carry out a Habitats Regulations Screening Assessment of the proposed development, however further information is being prepared and is expected to be submitted by the applicants shortly. The Council's external ecological adviser on the South Hams SAC has been working with the applicants' ecologists to ensure that this information is satisfactory. If a Habitats Regulations Assessment has not been carried out by the time of the committee, or if an Appropriate Assessment is required, officers will recommend the application be deferred to provide more time to resolve these matters. A detailed civil bunting mitigation/compensation strategy is also required before planning permission is granted. The RSPB currently object to the application, due to inadequate information in this regard. It is understood that a strategy is being prepared by the applicants' ecologists to provide compensation on the field to the south of the site and other offsite land at Cockington and off Long Road. An update will be provided by officers at committee.*

*Despite concerns raised by local residents, the drainage proposals (foul and surface water) are considered to be acceptable for approval at this stage, subject to conditions. This has been agreed by South West Water and the Engineering department - on behalf of the Council as Lead Local Flood Authority. However, Engineering officers have requested details of an offsite surface water drainage connection in case it is not possible to infiltrate all of the surface water run-off from the site, prior to determination. This information will be sought from the applicants prior to committee.*

*The applicants propose to deliver the policy compliant level of affordable housing (30%), but have requested flexibility on tenure mix. This will need to be agreed by the Head of Asset Management and Housing, while the s106 is drafted. Together with the site acceptability matters discussed above, the s106 will need to secure sustainable*

development contributions towards local infrastructure, including schools and Paignton Library. Precise figures cannot be calculated at this stage, as the application is in outline, but the total contribution is estimated to be approximately £800k.

Officers recommend approval of the revised application, subject to the successful resolution of the technical issues above. The principle of developing the site for housing and employment use accords with the Future Growth Area in the new Local Plan and will go a long way in helping to meet local housing needs and economic growth. Whilst officers will provide Members with a full update at committee, should any technical matters remain outstanding, officers will seek Members' approval to delegate these to officers to resolve with the applicants within three months of the committee, or the application will be brought back to committee for full reconsideration. The only exception to this is if a Habitats Regulations Assessment has not been carried out, or an Appropriate Assessment is required, in which case officers will recommend deferral. In effect, Members will be asked to approve the application in principle; however, Members could also decide to defer the application or refuse it if they consider it does not fulfill the policy objectives of the new Local Plan.

### **Recommendation**

Conditional approval; subject to the successful resolution of technical issues relating to access arrangements, ecology mitigation/compensation and s106 legal agreement relating to timing of provision of employment development, timing of highway improvement works and occupation, secure 30% affordable housing, including up to 5% self build plots, and necessary contributions within 3 months of the date of this committee or the application be reconsidered in full by the committee; conditions listed at the end of this report, however final drafting and determination of appropriate planning conditions to be delegated to the Executive Director of Operations and Finance.

NB. If a Habitats Regulations Screening Assessment has not been carried out by the time of the committee, or if an Appropriate Assessment is required, officers' recommendation will change to deferral to provide more time for these matters to be resolved.

### **Statutory Determination Period**

The application was validated on 03.12.2014. The statutory determination date was 05.03.2015 (13 weeks), but an extension of time is currently agreed to 15.12.2015.

### **Site Details**

The site comprises two parcels of land adjacent to the Yannons Farm development site to the west of Brixham Road on the outskirts of Paignton. The larger parcel of land to the west is 10.16ha in area, while the smaller parcel of land to the east is 1.31ha. The total site area is therefore 11.47ha. The majority of the site is located within the Future Growth Area of the new Local Plan, except for the south part of the main site to the west.

Both parcels of land comprise agricultural fields bounded by hedgerows. The west site includes an important group of remnant elm trees and a derelict stone barn. In addition,

overhead power lines cross the west site to the north. Both sites have sloping topographies. The west site has a north facing slope that rises by about 50 metres to a high point near the top of the hill to the southeast. However, the west site excludes a large part of the field near the top of the hill, which is proposed as a 'high meadow for ecological mitigation and biodiversity'. A footpath is proposed around the meadow and the high point is within this strip of land. The bulk of the west site rises by about 35 metres to a point further down the slope. The topography is steeper to the west, with a gradient of about 1:7. In comparison, the east site has a consistent slope of 1:12, rising 13.5 metres north to south.

The main site to the west is bounded by Yalberton Road to the north, the Western Power electricity station and Yannons Farm development site to the east, agricultural fields to the south (beyond which is South Devon College), and open countryside to the west. To the north of Yalberton Road is Yalberton Tor Quarry, which is allocated as a waste site in the new Local Plan, and the Rodgers/Yalberton industrial estates.

The smaller site to the east is bounded by Sainsburys car park to the north, Yannons Local Centre and residential properties to the east, Wilkins Drive (with newly constructed housing beyond) to the south, and Torbay Pharmaceuticals to the west. This site has an existing access to the north via a right of way to the rear of Sainsburys, which leads to Yalberton Road.

The east site and a large area of the west site are allocated for employment development in the current Adopted Local Plan. The land to the south and west of the main site is designated as Countryside Zone and Area of Great Landscape Value (AGLV). The edge of the employment allocation and a strip running through the east site is also allocated for strategic landscaping.

The east site and majority of the west site are located within the Future Growth Area for housing and related development in the new Local Plan. The exception is the field to the south of the west site near the top of the hill, which is designated as Countryside Zone (NB. AGLV designations have been removed from the new Local Plan). As stated above, a large part of this field is excluded from the site to the south, except for a strip around the edge which is proposed as a footpath.

The whole site is located within the greater horseshoe bat sustenance zone associated with the South Hams Special Area of Conservation (SAC) at Berry Head; the northwest corner of the main site is also within a strategic flyway. The whole site is located with the Critical Drainage Area (CDA).

### **Detailed Proposals**

The application has been submitted in outline with all matters reserved except access. The current description is for a mixed use, phased residential development of up to 192 dwellings and employment development (Use Classes B1 and B8) of between 7,400 sq m and 9,200 sq m floor area, together with ecological mitigation, public open space and other associated infrastructure. The Council issued an EIA screening opinion in December 2014 concluding the proposal is not EIA development.

*The application has been amended during the course of the application. This has mainly been to the level of employment provision. The original proposals included approximately 8,500 sq m employment floor area (Use Class B1), but this was revised down to 6,605 sq m (B1 and B8) in the first amendment (June 2015); the proposed community use of the derelict barn was also removed from the proposals. The amount of housing has remained the same.*

*During the course of the application, officers have secured, through negotiation, a number of improvements to the proposal, including:*

- increased employment floorspace;*
- revised site layout (illustrative) to ensure noise issues are overcome and reuse of the allocated waste site at Yalberton Tor Quarry is not prejudiced;*
- improved connections between the site and Yannons Farm development;*
- biodiversity enhancements and ecological off-setting; and*
- delivery of junction improvements on Brixham Road.*

*The detailed access proposals include a new roundabout on Yalberton Road at the junction with Alders Way and widening of Yalberton Road to the south in order to provide a shared footpath/cycleway. The existing hedgerow to the south of Yalberton Road will be removed and a new 2 metre wide Devon hedgebank laid adjoining the shared footpath/cycleway. The new carriageway will be 6.5 metres wide and the footpath/cycleway will be 2.5 metres wide. The site boundary extends eastwards along Yalberton Road and includes the front of the Western Power site to accommodate the road widening. Beyond the site boundary, it is proposed to continue the shared footpath/cycleway along the south side of the road, to the front of Sainsburys, to link up with the proposed Brixham Road Western Corridor highway improvement works scheduled for autumn 2016. These works include a footpath to the front of McDonalds and a pedestrian crossing on Brixham Road to the south of the junction. The applicants will pay for these works, including the upgrading of the pedestrian crossing so that it is signalised, via s278 funding. It is expected the scheme will be delivered by July 2017. If the scheme is not delivered, the applicants have proposed a fallback option incorporating a toucan crossing on Yalberton Road adjacent to the Sainsburys petrol station and the continuation of the shared footpath/ cycleway along the north side of Yalberton Road, to a pedestrian crossing on Brixham Road, north of the junction.*

*Therefore, access to the main site will be provided via a spur road on the new roundabout, with the continuation of the shared footpath/cycleway into the site. A 3 metre wide emergency access will also be provided further along Yalberton Road to the west. A link is also proposed to the Yannons Farm development site to the south, although this will be secured in the s106 agreement and details will be provided at reserved matters stage, as this part of the Yannons Farm development site is currently subject to an outline planning application and the detailed layout of this land has not been finalised. The smaller parcel of land to the east shall be accessed via a 5.5 metre wide access road off Wilkins Drive to the south, with the continuation of footpaths either side of the road into the site.*

*Details of layout, scale, appearance and landscaping are reserved matters. However, the applicants have provided an illustrative masterplan indicating the broad layout of the proposed development. The smaller east site is indicated as employment development in its entirety. The main site to the west is split into a number of development parcels. The land adjoining Yalberton Road is indicated as employment development, while the land to the south further up the slope is indicated as residential development. A linear open space, including a play area is indicated to the north of the site and a community orchard is indicated to the south adjacent to the existing derelict barn. The barn is indicated as being retained for ecological habitat. An existing overgrown agricultural track leading up to the barn will be retained and enhanced as a dark bat corridor. A circular access route is indicated, which cuts through the bat corridor in two places. This is also shown traversing the steep part of the site to the west. A pond is indicated in the northwest corner to provide sustainable drainage. As previously explained, a large part of the field to the south of the site is not included in the application site boundary. It is proposed as a high meadow for ecological mitigation and biodiversity, with an area set aside for mixed native woodland. A recreational footpath is proposed around this area, with a footpath link to the adjoining Hilltop Park in the Yannons Farm development.*

### **Summary Of Consultation Responses**

*Consultees were reconsulted on 11 November 2015 following amendments to the application description of development and submission of further information, including a revised illustrative masterplan. Consultees have 21 days to respond. At the time of writing this report, 3 days remain of this consultation period and some responses are still outstanding. These shall be provided as late representations.*

*Strategy and Project Delivery Team/Highways ('Local Highway Authority'): Comments awaited on latest consultation. Previously objected, as unable to conclude that the applicants can demonstrate the development will have a safe and suitable access for all. Nor can the development currently demonstrate connectivity to the adjacent residential development in a way which would enable sustainable transport modes to be maximised. There is also a lack of information to demonstrate that the junction (Yalberton Road and Brixham Road) has capacity to serve the proposed development, without causing severe impacts.*

*Environment Agency: No objection to latest drainage proposals, although acknowledge since April 2015 they are no longer the statutory consultee in relation to drainage matters. Advise that the application should not be determined until such time that clarity regarding a critical aspect of one of the surface water drainage options proposed is given by the developer to the satisfaction of the LPA, i.e. confirmation that a defined point of discharge is deliverable if infiltration is unviable.*

*Previously advised that Yalberton Tor Quarry could conceivably become an operational waste disposal and/or treatment site again. The introduction of new residential receptors immediately adjacent to the site would not be a desirable outcome, and would likely introduce significant challenges for achieving acceptable emission control, particularly for noise and other amenity issues, depending on the precise waste management*

*activity taking place.*

*Historic England: Comments awaited on latest consultation. Recommended previously the application should be determined in accordance with national and local policy guidance and on the basis of the Council's specialist conservation advice.*

*Natural England: Comments awaited on latest consultation pending submission of a revised Ecological Impact Assessment (EclA) and completion of a Habitats Regulations Assessment by the LPA. Previously advised that the application has the scope to adversely affect the favourable conservation status of the Berry Head greater horseshoe bat maternity colony, which is a designated SAC. Therefore, the local authority must carry out a Habitat Regulations Assessment in accordance with the Habitats Regulations. However, advise that there is currently not enough information to determine whether the likelihood of significant effects can be ruled out. Therefore, further information is required from the applicants.*

*Standing advice applies to other protected species. Advise that the authority should consider securing measures to enhance the biodiversity of the site if it is minded to grant permission. These should be set out in a comprehensive EclA. Note the RSPB have concerns regarding impacts on cirl buntings and advise that these are resolved before determining the application. The authority should assess the impacts on local designated sites, species and landscape character, which are also material considerations.*

*Engineering (on behalf of Torbay Council as Lead Local Flood Authority): The preliminary design of the proposed infiltration basin (pond) is satisfactory for the site. The developer should confirm where the Greenfield run off rate from the site will be connected if - following the detailed infiltration testing - it is not possible to infiltrate all of the surface water run-off from the site. No objection, subject to this being confirmed and pre-commencement conditions regarding detailed drainage design.*

*RSPB: Comments awaited on latest consultation pending submission of a revised Ecological Impact Assessment (EclA) and cirl bunting mitigation strategy. Previously objected because onsite mitigation and offsite compensation proposals with respect to cirl bunting impacts are not yet adequate. This should be based on 1 pair onsite and 7 pairs offsite. It is unlikely skylarks would use proposals for skylark plots on the site and cirl bunting management is the priority for habitat creation. It is possible that there will be human disturbance to the barn that may deter owls from using it. Cirl bunting mitigation/compensation will need to be provided and managed to provide adequately for both greater horseshoe bats and cirl buntings.*

*Barn Owl Trust: Makes recommendations for mitigation/enhancement based on the Barn Owl evidence in the derelict barn on the site. This includes providing a temporary roosting/nesting box during construction works until permanent provision is made. A pre-development survey must be carried out to ensure no birds are nesting within three days of works commencing. A permanent nesting place for Barn Owls must be provided within one or more of the developed buildings and maintained thereafter. Welcomes*

*recommendations for the creation of rough grassland habitat.*

*South West Water: Not satisfied that the public foul drainage network has capacity to support the development without causing downstream property flooding. Therefore, if the application is approved, the following condition needs to be imposed:*

*No development shall commence until:*

*a) a detailed survey and evaluation of the public foul sewerage network has taken place (at the Owner's expense) to identify improvements necessary to be funded in advance and executed to accommodate the discharge of foul sewage from the Development; and*

*b) the Owner has submitted an application to the relevant Sewerage Undertaker for a public foul sewer requisition under s98 of the Water Industry Act 1991 (which shall include the provision of public sewerage improvement works identified as necessary).*

*No dwelling hereby approved shall be occupied or brought into use and there shall be no discharge to the public foul sewerage network, unless approved in writing by the Local Planning Authority (as in accordance with the scheme of improvement works identified by the Sewerage Undertaker as necessary to accommodate the discharge of foul sewage from the Development).*

*Police Architectural Liaison Officer: Consideration should be given that the development is constructed to meet full Secured by Design (SBD) compliance. Happy to advise further at reserved matters stage.*

*Torbay Development Agency: No response.*

*Arboricultural Officer: The access proposals are suitable for approval on arboricultural merit. Mitigation tree planting should be sought in the realigned Devon hedgebank. The indicative access road south of the proposed roundabout abuts an important group of remnant elm trees, which should be retained and regarded as significant constraints in the future layout. The road, including footways and associated service runs, should be aligned to avoid disturbance to the root protection areas of these trees. A Landscape and Ecological Management Plan (LEMP) must be secured following agreed landscape design of street trees, groups, shrub masses, etc. The detailed landscaping scheme should address the requirements of the rural location against the need to provide sustainable trees of seasonal interest. Trees should be positioned at arrival points and planted in hedgerows. The proposed orchard requires detailing out at an early stage. The detailed landscaping plan should integrate use of storm water runoff to water tree pits.*

*The siting of the emergency access is acceptable, subject to a method statement to prevent damage to rooting zones of the lime tree. Additionally any widening should be achieved by works to the pillar away from the stem.*

*Building Control: Comments awaited on latest consultation, but previously advised that the Building Regulations do not apply.*

*Community Protection: Objected previously, due to residential uses indicated adjacent to Yalberton Road, close to Yalberton Tor Quarry, and the potential for adverse noise impacts from the waste site and associated HGV movements. However, in response to the latest consultation, following the submission of a revised illustrative masterplan, stated that their previous concerns regarding noise from the allocated waste site are now greatly reduced, due to the proposed introduction of employment uses adjacent to Yalberton Road to provide a buffer to the proposed residential uses. Recommend conditions to limit the hours of use of the employment uses and deliveries.*

*Head of Asset Management & Housing: It is to be commended that the scheme will be providing the policy requirement of 30% Affordable Housing, which on a scheme of 192 dwellings will generate 58 affordable homes. These will be a variety of affordable housing tenures including 1/3 social rent, 1/3 affordable rent, 1/3 shared/home ownership including up to 5% self/custom build which will assist in meeting the variety of housing need. The mix of house types and sizes will be proportionate to the development as a whole and subject to the completion of a satisfactory S106 agreement which will set out the details around specification, location etc. then Housing Services are in support of the application.*

*Natural Environment Services: Comments awaited on latest consultation pending submission of a revised Ecological Impact Assessment (EclA) and bird bunting mitigation strategy. Previously advised that the proposed amounts of green infrastructure, open space and play should be secured via s106 agreement. Further details of these areas, including on-going management in perpetuity, will need to be secured by condition. Given the results of the ecological surveys, the detailed design and on-going management of these areas must be developed in consultation with Natural England and the RSPB. In addition, a contribution towards off-site sports facilities should be secured in accordance with the Planning Contributions and Affordable Housing SPD. This should be calculated on the basis of £394 per person, as 'equipped facilities for young people' and 'greenspace' are indicated to be provided onsite. A Landscape and Ecological Management Plan (LEMP) must be secured.*

*Senior Historic Environment Officer: Previous proposals for this area have included Archaeology and Cultural Heritage Assessments that have indicated the presence of Romano-British finds and the potential for previously unrecorded archaeological deposits. The red line for this area additionally includes an area to the north where the HER records the potential for an ancient earthwork (MTO21379) at SX 286930 59080. Therefore, the archaeological condition recently approved by Historic England should be attached to any outline planning permission.*

*Urban Design Officer (Landscape): The submitted Landscape and Visual Impact Assessment (LVIA) is in accordance with best practice. Only criticism is that by restricting the zone of theoretical visibility to a 2.5 km radius some long views from Barton Pines, Beacon Hill and Windmill Hill, have not been considered. However in*

*these distant views the site is a very small component of a much wider landscape and will be seen against the backdrop of Paignton's existing urban edge. The proposed development site extends beyond the boundary of the Future Growth Area to the southwest, but does not consider that this small extension will increase the visual impact of the wider development. The LVIA is considered accurate and its summary and conclusion are agreed - on that basis, recommends approval from a landscape impact perspective.*

*Strategy and Project Delivery Team: The proposed amount of employment is acceptable and within the requirements of Policies SS5 and SDP3 (as modified) of the new Local Plan. The Development Areas Plan (3445/203/L) shows around 2.34 ha identified for employment use, which is within the range sought. The employment noise buffer adjoining Yalberton Road is welcomed. Whether the buffer indicated is sufficient to safeguard the Quarry's future use as a waste site is a matter for Community Protection officers to advise on. However the application is in outline and the detailed boundary between employment and residential development can be resolved as a reserved matter. It is appropriate to impose a condition requiring the detailed layout to show housing at a sufficient distance from the quarry to avoid its use as a waste site being prejudiced (in accordance with Policy W3 of the new Local Plan). Subject to this condition, there is no objection to the application as revised from a strategic planning position.*

*Waste Client Manager: Previously stated, 'No issues regarding waste'. No comments submitted for the amended proposals.*

*South Hams District Council: Comments awaited on latest consultation. Previously raised concerns over the potential for the development to have an impact within the South Hams, particularly on the A385 corridor, the local road network on Totnes and on the village of Stoke Gabriel (from traffic generation).*

*Local Access Forum: Comments awaited on latest consultation. However, provided no comments to previous consultations.*

### **Summary Of Representations**

*The application has been publicised three times relating to the original and amended proposals. The latest publicity period is still running and ends on 9 December 2015. Any further representations received will be provided as late representations or reported verbally by officers at committee.*

*Seven objections were received in relation to the original proposals; these included objections from Paignton Neighbourhood Forum, Stoke Gabriel Parish Plan Group, the owners of Rodgers Industrial Estate and Cavanna Homes, who are the developers of the neighbouring site. A neutral comment was also received querying the boundary line over the ownership of the hedge to Little Preston. A further eight objections were received in relation to the proposals as first amended; four of these were from previous objectors, including Paignton Neighbourhood Forum, Stoke Gabriel Parish Plan Group and Cavanna Homes. Objections were also received from Stoke Gabriel Parish Council*

*and the Stoke Gabriel low-e community group. At the time of writing this report, no representations have been received in relation to the latest publicity period, which is still running.*

*The following issues were raised in the first publicity period (Dec 2014 - Jan 2015) in response to the original proposals:*

- *Concerns re potential impact on adjoining horse grazing field*
- *Is more development needed and why do greenfield sites need to be used?*
- *Impact on wildlife*
- *Access arrangements do not comply with best planning of the area - the access built on Brixham Road to serve Yannons Farm was designed to accommodate the whole employment allocation*
- *Transport Assessment is inadequate and does not test all scenarios - it has not demonstrated there will not be a severe traffic impact in accordance with the NPPF*
- *S106 agreement required*
- *Toucan crossing on Yalberton Road adjacent to petrol filling station would cause serious safety issues*
- *No details of forward visibility provided*
- *HGV swept path analysis required for Alders Way*
- *Road Safety Audit should be provided of access proposals*
- *Loss of employment land - at least 50% of west site should be employment to accord with new Local Plan (NB. This figure has since been revised down to 25%)*
- *Loss of Countryside Zone and AGLV land*
- *Insufficient information on foul drainage*
- *Lack of Habitats Regulations Assessment*
- *Insufficient regard to traffic impacts on Yalberton Road to the west of the site*
- *Access and mix proposals will result in adverse impacts to residential and conflicts with business uses*
- *Strategic landscaping belt required to west*
- *Foul and surface water drainage proposals required before decision made*
- *Access to employment on west site should be from north and access to residential should be from south*
- *Overhead power lines should be undergrounded*
- *Allotments should be provided and proposed green infrastructure secured*
- *Green lane link should be provided*
- *Impacts on Stoke Gabriel, including drainage and traffic on Yalberton Road*
- *Proposed 5.5 metre road width along Yalberton Road to Alders Way is not wide enough for existing and proposed traffic, including HGVs - should be 7.2 metres wide*
- *Access proposals along Yalberton Road lack detail and clarity - current proposals will create dangerous bottleneck*
- *Impacts on drainage and road infrastructure - cycling will be more hazardous.*

*The following issues were raised in the second publicity period (June 2015 - July 2015)*

*in response to the proposals as first amended:*

- *Already traffic problems in Parish of Stoke Gabriel - further traffic will impact the local economy, including holiday business*
- *Revised proposals have not addressed previous concerns regarding access along Yalberton Road and the Transport Assessment*
- *No draft s106 agreement available to ensure necessary infrastructure contributions shall be secured*
- *Replacement of toucan crossing on Yalberton Road with uncontrolled pedestrian crossing adjacent to petrol filling station that is referred to in TA Addendum is still shown on the drawings resulting in lack of clarity - the downgraded pedestrian crossing is unsafe*
- *Scenarios still untested in the TA, including one where there is a through route between Brixham Road and Yalberton Road via the Yannons Farm development*
- *Number of detailed concerns with the veracity of the TA Addendum*
- *30 mph speed limit will need to be extended west to the proposed mini-roundabout in order for the mini-roundabout to comply with mandatory standards*
- *Mini-roundabout is wholly inappropriate and does not comply with mandatory standards - it is also considered unsafe and susceptible to accidents*
- *No information has been provided on the capacity of the proposed roundabout*
- *Lack of information on visibility at the roundabout*
- *No provision of pedestrian facilities to cross Yalberton Road to access Alders Way*
- *No Road Safety Audit for the mini-roundabout*
- *No details of forward visibility provided*
- *Access proposals should be based on full topographical survey of Yalberton Road*
- *HGV swept path analysis required for Alders Way*
- *Concerns with safety of access proposals on a number of counts, therefore application should be refused in accordance with NPPF*
- *Disappointed amended proposals have not taken into account suggestions of PNF - previous concerns remain, particularly loss of employment land to residential, lack of information on foul drainage, inappropriate access, and how habitat impacts will be mitigated*
- *Piecemeal approach to access, separate from other issues, is not satisfactory*
- *Previous concerns regarding impacts on Stoke Gabriel, including drainage and traffic on Yalberton Road remain - the proposed access is unacceptable*
- *Increase in traffic/HGV movements along Yalberton Road will result in noise and fume pollution out of keeping with proposed residential*
- *Proximity of proposed roundabout to existing Aggregate Recycling Plant - no information on HGV movements to/from this plant*
- *Impact of increased HGVs on residential quality of life along Totnes Road and King's Ash Hill*
- *Visual impact of overhead power cables on proposed development*
- *Previous concerns regarding impacts on drainage and road infrastructure remain - proposal is unsustainable in NPPF terms; reduction in employment does not accord with new Local Plan; noise impacts of adjacent industrial estates/landfill*

- site; impacts on protected species; impacts on historic assets; traffic and access issues raised by Cavanna Homes are salient
- Greenfields and open aspects of the site should remain - proposed development not in keeping with area
  - Further development should provide 100% affordable housing
  - Lack of local facilities for future residents
  - Insufficient measures to reduce air and light pollution
  - Adequate network of cycle paths should be provided
  - Geological survey required
  - Sustainable drainage and rainwater harvesting must be promoted
  - Majority of Long Road not part of National Cycle Network (NCN), contrary to information in Revised Design and Access Statement - creating a cycle route along Litson Lane/Whitehill Lane would bypass some dangerous stretches along western end of Long Road.

### **Relevant Planning History**

There are no records of any previous planning applications having been submitted for the site.

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

The key issues are:

1. The Principle of the Development
  2. Noise and Amenity Issues
  3. Landscape Impact
  4. Access and Impact on Highways
  5. Ecology Impacts
  6. Impact on Trees
  7. Drainage and Flood Risk
  8. Affordable Housing
  9. Archaeology
- 
1. The Principle of the Development

At the time of writing this report the development plan comprises the Adopted Torbay Local Plan 1995-2011. The emerging Torbay Local Plan - A landscape for success 2012-2030 is a material consideration with significant weight, as the Inspector has found it sound subject to main modifications. The Council will receive a report in December 2015 recommending adoption of the new Local Plan, subject to the main and additional minor modifications. The Council will make a decision whether to adopt the new Local Plan at the Council meeting on 10 December. If it is adopted, it will become the development plan for Torbay and the current Local Plan will no longer apply.

The principle of the development is considered by officers to be acceptable. Whilst the majority of the site is allocated for employment development in the current Local Plan, the principle of allowing mixed residential and employment development within the employment allocation has already been established on the adjoining sites known as

*Yannons Farm and Parkbay. Furthermore, with the exception of the field to the south of the main site, the land is allocated as a Future Growth Area for housing and related development in the new Local Plan (Policy SS2). Whilst the illustrative masterplan indicates some housing development to the southwest of the main site extending into the Countryside Zone where development will be resisted (Policy C1), layout is a reserved matter so this aspect of the proposals is currently not under consideration. In addition, Policy C1 allows some forms of development in the Countryside Zone where there will be no harm to the environment or landscape character, including self build affordable housing.*

*Therefore, the principle of developing the site for residential and employment uses, together with ecological mitigation, public open space and other associated infrastructure is considered to be acceptable. Officers previously objected to the amount of employment in the application, however this has been amended in the latest proposals and now accords with new Local Plan Policies SS5 and SDP3 (as modified), where 25% of the site is required for employment (net development area). A clause will be required in the s106 agreement requiring the employment development to be delivered by a trigger point to be agreed relating to the delivery of the new housing.*

## *2. Noise and Amenity Issues*

*Strategic Planning and Community Protection officers objected previously, due to the close proximity of the proposed residential uses on the main site to the allocated waste site (Policy W3) at Yalberton Tor Quarry. Not only would the waste site and associated HGV traffic movements along Yalberton Road have potential to have an adverse impact on the amenities of the new residential properties from noise and fumes, this would also prejudice the use of the waste site as it could not operate under its current consents. Allocated waste sites are protected by Policy W3 of the current Local Plan and Policy W3 of the new Local Plan. Strategic officers have confirmed with Devon County Council that the site is needed and there is no alternative provision in Torbay or nearby. Therefore, its protection is necessary.*

*Following the submission of a revised illustrative masterplan showing employment uses sited adjacent to Yalberton Road to provide a buffer between the proposed housing and the waste site, officers have withdrawn their previous objections. However, a condition will be required to ensure the layout of the housing will not prejudice the use of the allocated waste site as a waste management facility and there will be no adverse impacts from its reuse. This will require a noise assessment.*

*The overhead power lines crossing the main site will affect the visual amenity of the uses beneath them and nearby. This should be taken into account in the layout of the development at reserved matters stage (current Local Plan Policy IN2 and new Local Plan Policy DE3). If they are to be undergrounded, an easement will be required for maintenance purposes.*

*Subject to a condition to ensure the layout of the development will not prejudice the use of the allocated waste site at Yalberton Tor Quarry, the proposals are considered to be*

*acceptable with regards to noise and amenity issues. These issues will need to be taken into account at reserved matters stage.*

### *3. Landscape Impact*

*A Landscape and Visual Impact Assessment (LVIA) has been submitted with the application, which accords with best practice. Officers' only criticism is that by restricting the zone of theoretical visibility to a 2.5km radius, some long distance views from Barton Pines, Beacon Hill and Windmill Hill have not been considered. However, the site is a very small component of a much wider landscape in these views and will be seen against the backdrop of Paignton's existing urban edge. Therefore, officers agree with the findings of the LVIA and do not consider that the proposed development will have a landscape impact. This includes the part of the site extending into the Countryside Zone. The green infrastructure indicated on the illustrative masterplan should be secured in order to soften and integrate the development into the rural landscape setting. These matters will need to be taken into account at reserved matters stage.*

### *4. Access and Impact on Highways*

*At the time of writing this report, comments are awaited from Strategic Planning colleagues on behalf of the Local Highway Authority on the latest access proposals. However, their initial views are that the proposed access option of widening Yalberton Road and providing a shared footpath/cycleway along the south side of the road, linking up with the proposed Brixham Road Western Corridor highway improvement works is acceptable in principle. There is a shortfall in funding to deliver the works, due to a gas main, and the applicants will need to pay this shortfall in order to ensure there is access to the site. The works are estimated to be delivered in July 2017 and a condition will be necessary preventing occupation of the development until the works have been completed to the satisfaction of the Local Highway Authority.*

*The fallback option of providing a pedestrian crossing on Yalberton Road adjacent to the Sainsburys petrol filling station and continuing the shared footpath/cycleway on the north side of the road to a new toucan crossing on Brixham Road to the north of the junction is considered unacceptable by officers, due to safety concerns with the proposed pedestrian crossing on Yalberton Road. Furthermore, the deliverability of the toucan crossing to the north of the Brixham Road/Yalberton Road junction is questioned by officers, due to topography and other constraints; officers also consider that it would be a waste of resources to construct a toucan crossing to the north of the junction, only to have to relocate it south of the junction as part of the highway improvement works a short time later. Therefore, the access proposals that link up with the proposed highway improvement works are considered to be the only viable option.*

*External transport consultants have been appointed to review the access options and the impact of the proposals on the local highway network, including the capacity of the Brixham Road/Yalberton Road junction to accommodate the proposed development. They have identified errors in the latest Transport Assessment Addendum, which have been provided to the applicants' transport advisers. Therefore, further information is*

currently awaited from the applicants and at the current time, officers cannot conclude with certainty that the proposals will not have a severe traffic impact. However, the Council's transport consultants consider that there is likely to be a workable solution. An update will be provided by officers at committee.

The application should not be permitted until details of safe access arrangements that will not have a severe impact on the local highway network have been provided. If this information has not been provided to the satisfaction of the Local Highway Authority by the time of the committee, officers will seek Members' approval for this matter to be delegated to officers to resolve with the applicants within three months of the committee, or the application will be brought back to committee to be reconsidered in full.

Comments are also awaited from the Local Highway Authority to confirm that the proposed access points to the development comply with highway standards in terms of their geometry and visibility. A link to the Yannons Farm development is proposed, but details have not been provided because the layout of this part of the Yannons Farm site has not been approved. This will need to provide access for pedestrians and cyclists - if it includes a vehicular link the modelling in the Transport Assessment Addendum will need to be re-assessed. A public transport connection for buses is also required between the sites. The preferred route in the long term is to the east of the main site via the Western Power site to connect with the principal distributor road that currently stops adjacent to Torbay Pharmaceuticals. The layout will need to be 'future proofed' to allow for this at reserved matters stage. A condition/obligation in the s106 should be secured accordingly. The access route to the west of the main site traversing the steep part of the site is unlikely to meet highways adoption standards in terms of its gradient, however officers accept this can be resolved as part of the layout at reserved matters stage.

Therefore, at the time of writing this report, the access proposals are not suitable for approval. Further information is being prepared and an update will be provided by officers at committee.

## 5. Ecology Impacts

The site is located within the greater horseshoe bat sustenance zone associated with the South Hams Special Area of Conservation (SAC) at Berry Head and the northwest corner of the main site is just within a strategic flyway. The Council's external ecological adviser with respect to the South Hams SAC has advised that insufficient information has been submitted to enable the authority to carry out a Habitats Regulations Screening Assessment. The applicants are currently in the process of revising their Ecological Impact Assessment (EclA) accordingly, however at the time of writing this report it has not been submitted. When an adequate EclA has been submitted, if the screening assessment concludes that an Appropriate Assessment is required this will need to be prepared by the LPA and Natural England consulted.

An update on the above matters will be provided by officers at committee. If a Habitats Regulations Screening Assessment has still not been carried out by the time of the committee, or if an Appropriate Assessment is required, officers' recommendation will change to deferral to provide more time for these matters to be resolved.

*The site has been identified as a habitat for a nationally important population of ciril buntings, which is a protected species. This habitat will be lost when the site is developed. Therefore, mitigation and/or compensation is required in accordance with local policies (current Local Plan Policy NC5 and new Local Plan Policy NC1) and national guidance. It has been agreed that the application will need to mitigate/compensate for 8 pairs. The RSPB recommend 2.5ha of land is needed to provide suitable new habitat to mitigate/compensate one breeding pair. The applicants have not provided an adequate mitigation/ compensation strategy to address this impact at the time of writing this report, and the RSPB object to the application on this basis. However, it is understood that they intend to use the high meadow to the south of the site to compensate one pair, TCCT land at Cockington to compensate 5 pairs (a management strategy for this land has already been prepared by TCCT and agreed with RSPB), and other offsite land near the site to compensate 2 pairs. Officers have requested this information as part of the revised EclA and informed the applicants that planning permission cannot be granted until it is received. It will need to include details of land ownership, how the land will be managed, who it will be managed by and how long for. Once agreed, it will need to be secured in the s106 agreement. The offsite management must not degrade habitat for greater horseshoe bats within the sustenance zone.*

*If a satisfactory ciril bunting mitigation/compensation strategy has not been submitted by the time of the committee, officers will seek Members' approval for this matter to be delegated to officers to resolve with the applicants within three months of the committee, or the application will be brought back to committee to be reconsidered in full.*

*The derelict barn on the site has been identified as a barn owl habitat. It is to be retained accordingly. The Barn Owl Trust has recommended conditions to ensure the retention of this habitat during and post construction. These should be added to the planning permission if the application is approved.*

*The revised EclA should also include general measures to enhance biodiversity on the site in accordance with the NPPF. These should be secured by condition.*

## **6. Impacts on Trees**

*The Council's Arboricultural Officer has no objections to the proposals, despite the removal of the existing hedgebank along Yalberton Road east of the proposed roundabout. The existing hedgebank contains a number of poor quality trees and replacement tree planting should be provided in the new hedgebank.*

*The main site includes an important group of remnant elm trees, which should be retained and incorporated into the detailed proposals at reserved matters stage. They will also need to be protected during the construction phase.*

*Therefore, the proposals are considered to accord with Policy L9 of the current Local Plan and Policy C4 of the new Local Plan, subject to conditions to secure: a Tree*

*Protection Plan and Arboricultural Method Statement to protect existing trees during construction, detailed landscaping proposals and a Landscape and Ecological Management Plan (LEMP). An informative should be added to the permission if the application is approved, recommending early engagement with the Council's Arboricultural Officer when landscaping proposals are drawn up for reserved matters.*

#### **7. Drainage and Flood Risk**

*Despite being a concern of local residents, including those in Stoke Gabriel, the proposed drainage of the site is considered to be acceptable, subject to conditions. With respect to foul drainage, South West Water is not satisfied that the public foul drainage network has capacity to support the development without causing downstream property flooding. However, they have recommended a condition to deal with this issue, which will need to be added to the planning permission if the application is approved. In terms of surface water drainage, sufficient information has been submitted to demonstrate that surface water can be drained sustainably on the site via an infiltration pond in the northwest corner of the main site adjacent to Yalberton Road; however, details of an offsite connection are required in case it is not possible to infiltrate all of the surface water run-off from the site. Pending submission of these details, the application accords with current Local Plan Policy EPS and new Local Plan Policy ER1, subject to conditions to secure details of the detailed drainage design prior to commencement and how the sustainable drainage features will be maintained.*

#### **8. Affordable Housing**

*The applicants have not submitted a viability assessment and have agreed to provide the policy compliant level of affordable housing for the development. If the maximum number of dwellings is provided, this will mean that 58 affordable units will be delivered (30%), including up to 10 self-build plots (5%) in accordance with Policies H2 and H3 of the new Local Plan. The Head of Asset Management and Housing has commended this and stated that the policy compliant mix of a third social rent, a third affordable rent and a third shared ownership, including up to 5% self build, will assist in meeting the variety of housing need. In addition, the mix of house types and sizes must be proportionate to the development as a whole.*

*The applicants have requested some flexibility over the tenure mix of the affordable housing, following recent announcements by the Government affecting registered social landlords. This will be discussed further with the applicants and Head of Asset Management and Housing while the s106 agreement is drafted.*

#### **9. Archaeology**

*The Senior Historic Environment Officer has identified the potential for previously unrecorded archaeological deposits on the site from earlier studies. In addition, the site includes an area to the north where there is potential for an ancient earthwork. Therefore, the standard archaeological condition should be attached to the planning permission if it is approved.*

## **S106/CIL -**

The affordable housing and contributions for the application are set out below, in accordance with Adopted Local Plan Policies H6 and CF6, new Local Plan Policies SS7, H2 and H3, and the adopted Planning Contributions and Affordable Housing SPD and its Update 3. The sustainable development contributions have been estimated, as the application is in outline meaning the precise floor areas of the dwellings are unknown at this stage - a dwelling size average of 95-119 sq m has been used below for the upper limit of 192 dwellings; the s106 agreement shall include a schedule to calculate the precise contributions when the floor areas are known following submission of reserved matters. Site acceptability access infrastructure is included.

### *Site Acceptability*

- o Re-route gas main as part of Brixham Road Highway Improvement Works = £360k (tbc)
- o S278 works to Yalberton Road = £130k-£155k (tbc)
- o Cirl bunting mitigation/compensation strategy for 8 pairs (1 onsite, 7 offsite), with 5 pairs to be compensated by habitat enhancement at Cockington via a contribution of £436,565 to TCCT
- o Waste Management = £9,600 @ £50 / unit

### *Affordable Housing*

- o Up to 58 affordable dwellings (30%) to include a third social rent, a third affordable rent and a third intermediate, with up to 5% self build plots

*Sustainable Development (based on 134 open market dwellings, 16 social rent, 16 affordable rent, 16 intermediate and 10 self build plots - all units 95-119 sq m)*

- o Sustainable Transport = £393,690
- o Education = £176,950
- o Lifelong Learning = £58,840
- o Greenspace and Recreation = £173,754

TOTAL = £803,234

### *Administration/Monitoring of S106*

*Administration charge tbc (calculated on a time basis at £60 standard hourly rate).*

### *Mitigation:*

*Mitigation has been applied to the contributions calculated above as follows:*

- o Social rent & affordable rent dwellings - 100% discount to SD contributions, not waste and other site acceptability matters.

- o *Intermediate & self build dwellings - 50% discount to SD contributions, not waste and other site acceptability matters.*
- o *Sustainable Transport contribution for employment uses - 100% discount due to 'Mitigation for Economic Prosperity (jobs created)'*
- o *Greenspace & Recreation includes 'Playing Pitches' (£144 per person) and 'Multi use games area' (£250 per person) only; it does not include 'Equipped facilities for young people' and 'Greenspace', as these are indicated to be provided onsite. Provided the onsite provision is secured as an obligation in the s106, the cost per dwelling is reduced as follows:*
  - o *2 bed = 1.9 persons x £394 = £749 per dwelling*
  - o *3 bed = 2.6 persons x £394 = £1,024 per dwelling*
  - o *4 / 4+ bed = 3 persons x £394 = £1,182 per dwelling*

*NB. The SD contributions will increase if the amount of affordable housing provision is decreased.*

*In addition to the above, a clause will be required in the s106 requiring phasing details. This will need to include the delivery of the employment development at a trigger point to be agreed with the applicants, linked to the delivery of the new housing.*

*Justifications:*

*The Brixham Road highway works contribution is justified in paragraphs 2.1-2.4 of the Planning Contributions and Affordable Housing: Priorities and Delivery SPD (LDD6). There is a shortfall in funding to reroute a gas main as part of the planned improvement works at the Brixham Road/Yalberton Road junction. The improvement works are necessary to increase the capacity of the junction to accommodate the proposed development. The applicants have agreed to pay the shortfall in order to provide adequate access arrangements for the proposed development.*

*The Yalberton Road highway works contribution is justified in paragraphs 2.1-2.4 of the Planning Contributions and Affordable Housing: Priorities and Delivery SPD (LDD6). It will pay for the continuation of the shared footpath/cycleway along Yalberton Road and upgraded toucan crossing on Brixham Road in order to provide safe pedestrian/cycle access to the proposed development.*

*A cirl bunting mitigation/compensation strategy must be prepared before granting planning permission and secured in the s106 to ensure the impacts on this protected species are adequately mitigated/compensated to make the development acceptable in planning terms. It is a site acceptability matter justified in paragraphs 2.1-2.4 of the Planning Contributions and Affordable Housing: Priorities and Delivery SPD (LDD6). The contribution to compensate 5 pairs at Cockington has been calculated by TCCT, who have agreed a cirl bunting management strategy for this land with RSPB. The site setup and management costs have been divided by the total number of pairs the enhancement works will support to arrive at the cost per pair.*

*The waste management contribution is justified in paragraph 2.18 of the Planning Contributions and Affordable Housing: Priorities and Delivery SPD (LDD6), and accords with new Local Plan Policy W1. It will pay the costs of providing waste and recycling bins to the dwellings.*

*The affordable housing provision is justified in Section 3.0 of the Planning Contributions and Affordable Housing: Priorities and Delivery SPD (LDD6), and accords with new Local Plan Policies H2 and H3.*

*The sustainable transport contribution is justified in paragraphs 4.12-4.24 of the Planning Contributions and Affordable Housing: Priorities and Delivery SPD (LDD6), and accords with new Local Plan Policies SS7 and TA2. It will be used to pay for sustainable transport network enhancements in the local area for use by future occupiers/visitors of the proposed development.*

*The education contribution is justified in paragraphs 4.40-4.46 of the Planning Contributions and Affordable Housing: Priorities and Delivery SPD (LDD6), and accords with new Local Plan Policies SS7 and SS10. It will be used towards funding projects at schools in Paignton as part of Children's Services Capital Programme. The dwellings will place additional demand on local schools and the contribution will ensure local schools are provided with funding to mitigate the proposed development.*

*The lifelong learning contribution is justified in paragraphs 4.47-4.51 of the Planning Contributions and Affordable Housing: Priorities and Delivery SPD (LDD6), and accords with new Local Plan Policies SS7 and SS10. It will be used towards the cost of improving provision at Paignton Library, including IT equipment. The dwellings will place additional demand on the services provided by Paignton Library and the contribution will ensure these services are provided with funding to mitigate the proposed development.*

*The greenspace and recreation contribution is justified in paragraphs 4.52-4.58 of the Planning Contributions and Affordable Housing: Priorities and Delivery SPD (LDD6), and accords with new Local Plan Policies SS7 and SS9. It will be used towards improving maintenance, management and equipment at existing facilities within easy walking distance of the site. The dwellings will place additional demand on these facilities and the contribution will ensure these facilities are provided with funding to mitigate the proposed development.*

*The administration/monitoring contribution is justified in paragraphs 5.6-5.8 of the Planning Contributions and Affordable Housing: Priorities and Delivery SPD (LDD6), and will be used to administer/monitor the s106 agreement.*

*Status:*

*The applicants have agreed to provide 30% affordable housing, but have not agreed to the site acceptability matters or sustainable development contributions at the time of writing this report. They are waiting for further details of what the sustainable development contributions will be spent on. A verbal update will be provided by officers*

at committee. The affordable housing and other obligations will need to be secured in a s106 agreement; however, final Heads of Terms have not been agreed and therefore Legal Services has not been instructed to prepare an agreement at the current time. An update will be provided at committee.

### **Conclusions**

The principle of developing the site for a mix of housing and employment uses is considered to be acceptable and in accordance with the provision of the current Adopted Local Plan, taking material considerations of recent developments into account, and the new Local Plan. The majority of the land in the site is within the Future Growth Area for housing and related development. A condition is required to ensure the layout of the development will not prejudice the future use of the allocated waste site at Yalberton Tor Quarry in terms of noise impacts.

Details are currently awaited to confirm that the proposed access arrangements to the site are safe and deliverable, and will not cause a severe impact to the local highway network. If this information is not received before the committee, officers will seek delegated authority to resolve these matters with the applicants within three months of committee, or the application will be brought back to committee for full reconsideration.

Insufficient information has been submitted to enable the authority to carry out a Habitats Regulations Screening Assessment in accordance with the Habitats Regulations. A revised Ecological Impact assessment is anticipated to be submitted shortly. If a Habitats Regulations Screening Assessment has not been carried out by the time of the committee, or if an Appropriate Assessment is required, officers' recommendation will change to deferral to provide more time for these matters to be resolved.

A detailed cirl bunting mitigation/compensation strategy is required before the application is permitted. The RSPB currently objects to the application, due to inadequate information in this regard. The applicants are in the process of producing this strategy. If a satisfactory cirl bunting mitigation/compensation strategy has not been submitted by the time of the committee, officers will seek delegated authority to resolve this matter with the applicants within three months of committee, or the application will be brought back to committee for full reconsideration.

The drainage proposals (foul and surface water) are considered to be acceptable for approval at this stage, subject to conditions and details, prior to determination, of an offsite surface water drainage connection in case it is not possible to infiltrate all of the surface water run-off from the site.

The applicants propose to deliver the policy compliant level of affordable housing (30%), although have requested flexibility on tenure mix. This provision will need to be secured in a s106 agreement, together with site acceptability matters relating to access and ecology issues, and sustainable development contributions to mitigate the impacts of the development on local infrastructure. A clause will also be required to ensure the delivery of the employment development by a trigger point relating to the delivery of the new

housing to be agreed. At the time of writing this report, the final Heads of Terms have not been agreed with the applicants and an update will be provided at committee.

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

01. Details of the reserved matters set out below ("the reserved matters") shall be submitted to the Local Planning Authority for approval in accordance with the standard time limits condition above:

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

Approval of all reserved matters shall be obtained from the Local Planning Authority in writing before any development is commenced. The reserved matters shall be carried out as approved. The details of the reserved matters shall be consistent with drawing reference 3445/203/M.

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).

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

Reason: To ensure that necessary elements of the scheme are implemented within acceptable parameters and at an appropriate stage, to comply with policies SS2, SS9, SS10 and DE1 of the Adopted Torbay Local Plan A landscape for success 2012-2030

03. The details of reserved matters shall ensure that the allocated waste site at Yalberton Tor Quarry to the north of Yalberton Road will not be prejudiced and will be capable of operating as a waste management facility without causing an adverse impact on the residential amenities of the dwellings hereby approved. For this reason no dwelling house shall be sited within 100 metres of the boundary of Yalberton Tor Quarry.

Reason: To protect the allocated waste management site at Yalberton Tor Quarry and the amenities of the dwellings in accordance with Policies W3 and DE3 of the Adopted Torbay Local Plan - A landscape for success 2012-2030, and in the interests of visual amenity in accordance with Policy DE1 of the Adopted Torbay

*Local Plan - A landscape for success 2012-2030.*

04. *The details of reserved matters shall ensure that a vehicular access is provided up to the western boundary of the Western Power electricity sub-station site. The details shall also provide for pedestrian and cyclists. The details relating to this condition shall be implemented as approved by the Local Planning Authority.*

*Reason: To 'future proof' the layout of the development to facilitate a vehicular, cycle and pedestrian connection between the site and the principal distributor road directly to the west of the Torbay Pharmaceuticals site, in accordance with Policies SS2, SS7, SS11, TA1, TA2 and DE1 of the Adopted Torbay Local Plan - A landscape for success 2012-2030*

05. *The details of reserved matters shall include a permanent nesting place for Barn Owls inside one or more of the buildings on the site (western parcel) in accordance with the comments received from the Barn Owl Trust on 23.12.2014. The permanent Barn Owl nesting place shall be provided as approved prior to the first occupation of any of the dwellings hereby permitted.*

*Reason: In the interests of biodiversity and to minimise impacts on protected species in accordance with Policy NC1 of the Adopted Torbay Local Plan - A landscape for success 2012-2030, and paragraphs 109 and 118 of the NPPF.*

06. *The details of reserved matters shall include bird nesting/bat roosting boxes in the design of the buildings. Prior to the commencement of the development of the buildings, the design specification(s) of the bird nesting/bat roosting boxes that will be used in the buildings shall be submitted to and approved in writing by the Local Planning Authority. The bird nesting/bat roosting boxes will be provided in the buildings as approved.*

*Reason: In the interests of biodiversity in accordance with Policy NC1 of the Adopted Torbay Local Plan - A landscape for success 2012-2030, and paragraphs 109 and 118 of the NPPF. These details are required pre-commencement as specified to ensure that appropriate bird nesting/bat roosting boxes are provided in the buildings.*

07. *The details of reserved matters shall include details of cycle parking and bin storage/waste recycling facilities for the dwellings and any business/storage or distribution unit formed from the employment floorspace hereby permitted. The cycle parking 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 or unit to which it relates.*

*Reason: To promote cycling as an alternative mode of transport to the private car in accordance with Policy TA1 of the Adopted Torbay Local Plan - A landscape for success 2012-2030, and to ensure appropriate space is provided for the*

*storage and removal of waste, including waste recycling facilities, in accordance with Policy W1 of the Torbay Local Plan - A landscape for success 2012-2030.*

08. *The details of reserved matters shall be accompanied by a Design Code for the development setting out the design parameters for the streets (primary, secondary and tertiary), development blocks and green infrastructure in the development hereby approved. The Design Code shall specify street dimensions (including footpaths and cycleways), design principles for the development blocks (position of fronts and backs/ location of parking), materials palettes (surfacing, boundary treatments and buildings) and soft landscaping palettes for public spaces (tree/plant species and tree pit designs). The Design Code shall be implemented as approved.*

*Reason: To ensure consistency in design across the development site as a whole in accordance with Policies SS2, SS9, SS10 and DE1 of the Adopted Torbay Local Plan - A landscape for success 2012-2030, and paragraph 59 of the NPPF.*

09. *No development (including demolition and ground works) or vegetation clearance works shall take place until a written scheme of investigation (WSI) has been submitted to and approved in writing by the Local Planning Authority. For land that is included within the WSI, no development shall take place other than in accordance with the agreed WSI, which shall include the statement of significance and research objectives, and*
- o The programme and methodology of site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works.*
  - o The programme for post-investigation assessment and subsequent analysis, publication & dissemination and deposition of resulting material. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the WSI.*

*Reason: Where an important archaeological site will be destroyed or materially damaged as a result of development following the granting of planning permission, the developer will be required to make provision for its archaeological recording, preservation, storage and publication as a condition of the permission in accordance with Policy SS10 of the Adopted Torbay Local Plan - A landscape for success 2012-2030, and paragraph 141 of the NPPF. These details are required pre-commencement as specified to ensure that potential archaeology is not damaged or destroyed by building operations or vegetation removal.*

10. *No development (including demolition and ground works) or vegetation clearance works shall take place until a detailed surface water drainage scheme for the site has been submitted to and approved in writing by the Local Planning Authority. Priority shall be given to sustainable urban drainage systems, where soakaways must be designed in accordance with Building Research Establishment Digest 365 and include details of how they have been designed to cater for the 1 in 100*

*year critical rainfall event plus an allowance for climate change. Evidence that trial holes and infiltration tests have been carried out in accordance with Building Research Establishment Digest 365 in the same location as any soakaways or sustainable drainage features must be provided. The scheme shall demonstrate that there will be no increased risk of flooding to surrounding buildings, roads and land. The development shall not be occupied or brought into use until the approved surface water drainage scheme has been completed as approved and it shall be continually maintained thereafter.*

*Reason: To manage water and flood risk in accordance with Policies ER1 and ER2 of the Adopted Torbay Local Plan - A landscape for success 2012-2030, and paragraph 103 of the NPPF. These details are required pre-commencement as specified to ensure that an appropriate drainage system is provided for the development and there will be no increased risk of flooding to surrounding buildings, roads and land.*

11. *No development (including demolition and ground works) or vegetation clearance works shall commence until:*
  - a) *a detailed survey and evaluation of the public foul sewerage network has taken place (at the Owner's expense) to identify improvements necessary to be funded in advance and executed to accommodate the discharge of foul sewage from the development; and*
  - b) *the Owner has submitted an application to the relevant Sewerage Undertaker for a public foul sewer requisition under s98 of the Water Industry Act 1991 (which shall include the provision of public sewerage improvement works identified as necessary).*

*The development hereby approved shall not be occupied or brought into use and there shall be no discharge to the public foul sewerage network, unless approved in writing by the Local Planning Authority (as in accordance with the scheme of improvement works identified by the Sewerage Undertaker as necessary to accommodate the discharge of foul sewage from the development).*

*Reason: To ensure the public foul sewerage network has capacity to accommodate the development and any necessary improvement works are carried out in accordance with Policies ER2 and W5 of the Adopted Torbay Local Plan - A landscape for success 2012-2030. These details are required pre-commencement as specified to ensure that the public foul sewerage network has capacity to accommodate the development*

12. *No development (including demolition and ground works) or vegetation clearance works shall take place until a Barn Owl Survey has taken place of the site (western parcel) immediately prior to development commencing, in accordance with the comments received from the Barn Owl Trust on 23.12.2014, and this has been submitted to and approved in writing by the Local Planning Authority.*

*Reason: To ensure no building or construction works take place within 30 metres of any part of the site containing material evidence of Barn Owl occupation within 3 days of works commencing, in the interests of biodiversity in accordance with Policy NC1 of the Adopted Torbay Local Plan - A landscape for success 2012-2030. These details are required pre-commencement as specified to ensure that Barn Owls are not harmed during the construction of the development.*

13. *No development (including demolition and ground works) or vegetation clearance works shall take place until a temporary Barn Owl roosting/nesting box has been provided within 200 metres of the site (western parcel) at least 30 days prior to development works commencing, in accordance with the comments received from the Barn Owl Trust on 23.12.2014. Evidence of this shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of the development. The temporary Barn Owl roosting/nesting box shall be kept free from disturbance and remain in place until at least 30 days after permanent provision has been made in accordance with condition 4.*

*Reason: In the interests of biodiversity and to minimise impacts on protected species in accordance with Policy NC1 of the Adopted Torbay Local Plan - A landscape for success 2012-2030, and paragraphs 109 and 118 of the NPPF. These details are required pre-commencement as specified to ensure that the temporary Barn Owl roosting/nesting box is provided.*

14. *No development (including demolition and ground works) or vegetation clearance works shall take place of any phase of the development until a Construction and Environmental Management Plan (CEMP) for that phase has been submitted to and approved in writing by the Local Planning Authority. The CEMPs 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:*

- a) Risk assessment of potentially damaging construction activities.*
- b) Identification of "biodiversity protection zones".*
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction.*
- d) The location and timing of sensitive works to avoid harm to biodiversity features. This includes the use of protective fences, exclusion barriers and warning signs.*
- e) The times during construction when specialist ecologists need to be present on site to monitor works to ensure compliance with the CEMP, and the actions that will be undertaken.*
- f) Responsible persons and lines of communication.*
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.*

*The approved CEMPs shall be adhered to and implemented throughout the construction period of the phase of the development that they relate to strictly in accordance with the approved details.*

*Reason: In the interests of biodiversity and to minimise impacts on protected species in accordance with Policy NC1 of the Adopted Torbay Local Plan - A landscape for success 2012-2030, and paragraphs 109 and 118 of the NPPF. These details are required pre-commencement as specified to ensure that biodiversity is not harmed by building operations or vegetation removal.*

15. *No development (including demolition and ground works) or vegetation clearance works shall take place until a Lighting Design Strategy to maintain "dark areas" on the site has been submitted to and approved in writing by the Local Planning Authority. The Strategy shall include:*
- a) A map showing the "dark areas" that will be maintained on site.*
  - b) 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.*
  - c) Evidence to demonstrate that a light spill no higher than 0.5 lux will be achieved within the "dark areas".*
  - d) Where c) is achieved either fully or in part through landscaping, details of the landscaping and its management to ensure it will maintain the "dark areas" in perpetuity. These details shall be incorporated into the Detailed Landscaping Schemes and Landscape and Ecological Management Plans (LEMPs) where applicable.*

*The Lighting Design Strategy shall be implemented and maintained as approved.*

16. *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 the reasons why have 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, the works will not be permitted until the ecologist is satisfied that breeding is complete.*

*Reason: To ensure no harm to breeding birds in accordance with Policy NC1 of the Adopted Torbay Local Plan - A landscape for success 2012-2030, and paragraphs 109 and 118 of the NPPF. The reasons why the works must be carried out during the bird breeding season are required pre-commencement as specified to ensure that breeding birds are not harmed by building operations or vegetation removal.*

17. *No development (including demolition and ground works) or vegetation clearance works shall take place of any phase of the development until a Construction Method Statement for that phase has been submitted to and approved in writing*

*by the Local Planning Authority. The Statements shall provide for:*

- a) The parking of vehicles of site operatives and visitors.*
- b) Loading and unloading of plant and materials.*
- c) Storage of plant and materials used in constructing the development.*
- d) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate.*
- e) Wheel washing facilities.*
- f) Measures to control the emission of dust and dirt during construction.*
- g) A scheme for recycling/disposing of waste resulting from demolition and construction works, with priority given to reuse of building materials on site wherever practicable.*
- h) Measures to minimise noise nuisance to neighbours from plant and machinery.*
- i) Construction working hours from 8:00 to 18:00 Monday to Friday, 8:00 to 13:00 on Saturdays and at no time on Sundays or Bank Holidays.*

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

*Reason: To safeguard the Local Planning Authority's rights of control over these details to ensure that the construction works are carried out in an appropriate manner to minimise the impact on the amenity of neighbouring uses and in the interests of the convenience of highway users. These details are required pre-commencement as specified to ensure that building operations and vegetation removal are carried out in an appropriate manner to avoid nuisance to neighbouring uses and inconvenience to highway users.*

- 18. No development (including demolition and ground works) or vegetation clearance works shall take place of any phase of the development until a Waste Audit and 5 year Waste Management Plan for that phase has been submitted to and approved in writing by the Local Planning Authority. The Waste Audits and 5 year Waste Management Plans shall include measures to:*

- a) Prevent and minimise, re-use and recycle waste (including composting where appropriate).*
- b) Minimise the use of raw materials.*
- c) Minimise the pollution potential of unavoidable waste.*
- d) Seek alternative modes of transport (to the use of roads) to move waste (wherever possible).*
- e) Make provision for the storage and collection of waste.*
- f) Dispose of unavoidable waste in an environmentally acceptable manner.*

*The Waste Audits and 5 year Waste Management Plans shall be implemented as approved.*

*Reason: To minimise waste from the development in accordance with Policy W2 of the Adopted Torbay Local Plan - A landscape for success 2012-2030. These*

*details are required pre-commencement as specified to ensure that waste generation is minimised from the start of the development and is dealt with in a sustainable way.*

19. *No development (including demolition and ground works) or vegetation clearance works shall take place of any phase of the development until an Arboricultural Method Statement and Tree Protection Plan for that phase have 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 Arboricultural Method Statements and Tree Protection Plans shall be adhered to throughout the construction of the development.*

*Reason: To protect the trees to be retained in the interests of the amenities of the area and biodiversity, in accordance with Policies C4 and NC1 of the Adopted Torbay Local Plan - A landscape for success 2012-2030. These details are required pre-commencement as specified to ensure that trees to be retained are not damaged by building operations or vegetation removal, including their biodiversity interests.*

20. *The development hereby approved on the site (western parcel) shall not be occupied or brought into use until the planned widening of Brixham Road at the junction with Yalberton Road and associated highway improvement works have been implemented in full.*

*Reason: To ensure safe and suitable access is provided to the site (western parcel) in accordance with Policies TA1 and TA2 of the Adopted Torbay Local Plan - A landscape for success 2012-2030, and paragraph 32 of the NPPF.*

21. *The development shall not be occupied or brought into use until a Section 278 Highways Agreement has been entered into in order to secure the necessary works to the public highway. The s278 works shall include the continuation of the shared footpath/cycleway from the edge of the application site boundary along the south side of Yalberton Road to the toucan crossing on Brixham Road to be secured in the s106 agreement relating to this planning permission. The development shall not be occupied or brought into use until the s278 works have been implemented in full to the satisfaction of the Local Highway Authority.*

*Reason: To ensure safe and suitable access is provided to the site (western parcel) in accordance with Policies TA1 and TA2 of the Adopted Torbay Local Plan - A landscape for success 2012-2030, and paragraph 32 of the NPPF.*

22. *Prior to the first occupation of any of the dwellings hereby permitted, a Detailed Landscaping Scheme for the residential part of the site shall be submitted to and*

*approved in writing by the Local Planning Authority. The Scheme shall include details of hard and soft landscaping, including all boundary treatments. This will include tree and plant species and methods of planting. The hard landscaping forming part of the curtilage and boundary of any dwelling, and access thereto, shall be constructed as approved prior to the occupation of the dwelling. The soft landscaping within the "dark areas" approved under condition 14 shall be planted in the first planting season following commencement of the development, unless this interferes with construction operations and evidence of this is submitted to and approved in writing by the Local Planning Authority. All other soft landscaping shall be planted in the first planting season following the occupation of the dwellings or completion of the residential development, whichever is the sooner, or in earlier planting seasons wherever practicable, and any trees or plants which within a period of 5 years from the completion of the residential development as a whole die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.*

*Reason: In the interests of amenity, design and biodiversity in accordance with Policies DE1 and NC1 of the Adopted Torbay Local Plan - A landscape for success 2012-2030, and paragraph 58 of the NPPF.*

23. *Prior to the first use of any business/storage or distribution unit formed from the employment floorspace hereby permitted, a Detailed Landscaping Scheme for the employment part of the site (western parcel), including associated parking areas, shall be submitted to and approved in writing by the Local Planning Authority. The Scheme shall include details of hard and soft landscaping, including all boundary treatments. This will include tree and plant species and methods of planting. The hard landscaping shall be constructed as approved prior to the first use of the business/storage or distribution units. The soft landscaping within the "dark areas" approved under condition 14 shall be planted in the first planting season following commencement of the development, unless this interferes with construction operations and evidence of this is submitted to and approved in writing by the Local Planning Authority. All other soft landscaping shall be planted in the first planting season following the occupation of the business/storage or distribution units or completion of the business/storage or distribution units, whichever is the sooner, or in earlier planting seasons wherever practicable, and any trees or plants which within a period of 5 years from the completion of the business/storage or distribution unit(s) die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.*

*Reason: In the interests of amenity, design and biodiversity in accordance with Policies DE1 and NC1 of the Adopted Torbay Local Plan - A landscape for success 2012-2030, and paragraph 58 of the NPPF.*

24. *Prior to the first use of any business/storage or distribution unit formed from the employment floorspace hereby permitted, a Detailed Landscaping Scheme for the employment part of the site (eastern parcel), including associated parking*

areas, shall be submitted to and approved in writing by the Local Planning Authority. The Scheme shall include details of hard and soft landscaping, including all boundary treatments. This will include tree and plant species and methods of planting. The hard landscaping shall be constructed as approved prior to the first use of the business/storage or distribution units. The soft landscaping within the "dark areas" approved under condition 14 shall be planted in the first planting season following commencement of the development, unless this interferes with construction operations and evidence of this is submitted to and approved in writing by the Local Planning Authority. All other soft landscaping shall be planted in the first planting season following the occupation of the business/storage or distribution units or completion of the business/storage or distribution units, whichever is the sooner, or in earlier planting seasons wherever practicable, and any trees or plants which within a period of 5 years from the completion of the business/storage or distribution unit(s) die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

*Reason: In the interests of amenity, design and biodiversity in accordance with Policies DE1 and NC1 of the Adopted Torbay Local Plan - A landscape for success 2012-2030, and paragraph 58 of the NPPF.*

25. *Prior to the first occupation of any of the dwellings hereby permitted, a Landscape and Ecological Management Plan (LEMP) for the residential part of the site shall be submitted to and approved in writing by the Local Planning Authority. The content of the LEMP shall be prepared in accordance with the specifications in clause 11.1 of BS 42020:2013 (or any superseding British Standard) and shall include the following:*

- a) *Description and evaluation of features to be managed.*
- b) *Ecological trends and constraints on site that might influence management.*
- c) *Aims and objectives of management.*
- d) *Appropriate management options for achieving aims and objectives.*
- e) *Prescriptions for management actions.*
- f) *Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five year period).*
- g) *Details of the body or organisation responsible for implementation of the plan.*
- h) *On-going monitoring and remedial measures for biodiversity features included in the LEMP.*

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

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

*Reason: In the interests of amenity and biodiversity in accordance with Policies DE1 and NC1 of the Adopted Torbay Local Plan - A landscape for success 2012-2030, and paragraphs 58, 109 and 118 of the NPPF.*

26. *Prior to the first use of any business/storage or distribution unit formed from the employment floorspace hereby permitted, a Landscape and Ecological Management Plan (LEMP) for the employment part of the site (western parcel) shall be submitted to and approved in writing by the Local Planning Authority. The content of the LEMP shall be prepared in accordance with the specifications in clause 11.1 of BS 42020:2013 (or any superseding British Standard) and shall include the following:*
- a) Description and evaluation of features to be managed.*
  - b) Ecological trends and constraints on site that might influence management.*
  - c) Aims and objectives of management.*
  - d) Appropriate management options for achieving aims and objectives.*
  - e) Prescriptions for management actions.*
  - f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five year period).*
  - g) Details of the body or organisation responsible for implementation of the plan.*
  - h) On-going monitoring and remedial measures for biodiversity features included in the LEMP.*

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

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

*Reason: In the interests of amenity and biodiversity in accordance with Policies DE1 and NC1 of the Adopted Torbay Local Plan - A landscape for success 2012-2030, and paragraphs 58, 109 and 118 of the NPPF.*

27. *Prior to the first use of any business/storage or distribution unit formed from the employment floorspace hereby permitted, a Landscape and Ecological Management Plan (LEMP) for the employment part of the site (eastern parcel) shall be submitted to and approved in writing by the Local Planning Authority. The content of the LEMP shall be prepared in accordance with the specifications in clause 11.1 of BS 42020:2013 (or any superseding British Standard) and shall include the following:*
- i) Description and evaluation of features to be managed.*
  - j) Ecological trends and constraints on site that might influence*

- management.
- k) *Aims and objectives of management.*
  - l) *Appropriate management options for achieving aims and objectives.*
  - m) *Prescriptions for management actions.*
  - n) *Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five year period).*
  - o) *Details of the body or organisation responsible for implementation of the plan.*
  - p) *On-going monitoring and remedial measures for biodiversity features included in the LEMP.*

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

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

*Reason: In the interests of amenity and biodiversity in accordance with Policies DE1 and NC1 of the Adopted Torbay Local Plan - A landscape for success 2012-2030, and paragraphs 58, 109 and 118 of the NPPF.*

28. *Prior to the first occupation or use of the development hereby permitted, a Greater Horseshoe Bat Monitoring Strategy shall be submitted to and approved in writing by the Local Planning Authority. The purpose of the Monitoring Strategy shall be 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 greater horseshoe bats using the bat mitigation measures on the site. These include the dark bat corridors and foraging area in the public open space. The content of the Monitoring Strategy shall include the following:*

- a) *Aims and objectives of monitoring to match the stated purpose.*
- b) *Identification of adequate baseline conditions prior to the start of development.*
- c) *Appropriate success criteria, thresholds, triggers and targets against which the continued effectiveness of the bat mitigation measures can be judged.*
- d) *Methods for data gathering and analysis.*
- e) *Location of monitoring/sampling points.*
- f) *Timing and duration of monitoring.*
- g) *Responsible persons and lines of communication.*
- h) *Review, and where appropriate, publication of results and outcomes.*

*A report describing the results of monitoring shall be submitted to the Local Planning Authority at intervals as identified in the Monitoring Strategy. The report shall set out where the results from monitoring show that site conditions are changing and consequently what contingencies and/or remedial action are*

*required to ensure the bat mitigation measures remain fully functioning. The contingencies and/or remedial action shall be agreed with the Local Planning Authority and implemented in full.*

*The Monitoring Strategy shall be implemented as approved.*

*Reason: To secure a means by which the effectiveness of the bat mitigation measures can be monitored and any necessary contingencies put in place to avoid adverse impacts on greater horseshoe bats in accordance with Policy NC1 of the Adopted Torbay Local Plan - A landscape for success 2012-2030, and paragraphs 109 and 118 of the NPPF*

29. *Prior to the first occupation of any of the dwellings hereby permitted, an External Lighting Scheme for the residential part of the site shall be submitted to and approved in writing by the Local Planning Authority. The Scheme shall include the location and specification of all external lighting, and be designed to minimise harm to nearby properties and biodiversity. The External Lighting Scheme shall be implemented as approved prior to the occupation of the dwellings. Should any of the external lighting become damaged and need replacement it shall be replaced with external lighting of the same specification. No additional external lighting shall be installed on this part of the site.*

*Reason: In the interests of amenity, design, crime prevention and biodiversity in accordance with Policies NC1, DE1 and DE3 of the Adopted Torbay Local Plan - A landscape for success 2012-2030, and paragraph 125 of the NPPF.*

30. *Prior to the first use of any business/storage or distribution unit formed from the employment floorspace hereby permitted, an External Lighting Scheme for the employment part of the site (western parcel) shall be submitted to and approved in writing by the Local Planning Authority. The Scheme shall include the location and specification of all external lighting, and be designed to minimise harm to nearby properties and biodiversity. The External Lighting Scheme shall be implemented as approved prior to the first use of the business/storage or distribution units on this part of the site. Should any of the external lighting become damaged and need replacement it shall be replaced with external lighting of the same specification. No additional external lighting shall be installed on this part of the site.*

*Reason: In the interests of amenity, design, crime prevention and biodiversity in accordance with Policies NC1, DE1 and DE3 of the Adopted Torbay Local Plan - A landscape for success 2012-2030, and paragraph 125 of the NPPF.*

31. *Prior to the first use of any business/storage or distribution unit formed from the employment floorspace hereby permitted, an External Lighting Scheme for the employment part of the site (eastern parcel) shall be submitted to and approved in writing by the Local Planning Authority. The Scheme shall include the location and specification of all external lighting, and be designed to minimise harm to*

*nearby properties and biodiversity. The External Lighting Scheme shall be implemented as approved prior to the first use of the business/storage or distribution units on this part of the site. Should any of the external lighting become damaged and need replacement it shall be replaced with external lighting of the same specification. No additional external lighting shall be installed on this part of the site.*

*Reason: In the interests of amenity, design, crime prevention and biodiversity in accordance with Policies NC1, DE1 and DE3 of the Adopted Torbay Local Plan - A landscape for success 2012-2030, and paragraph 125 of the NPPF.*

32. *Prior to the first occupation of any of the dwellings hereby permitted, evidence shall be submitted to and approved in writing by the Local Planning Authority to demonstrate that the residential development meets Secured by Design standards as far as practicable.*

*Reason: In the interests of crime prevention in accordance with Policy DE1 of the Adopted Torbay Local Plan - A landscape for success 2012-2030, and paragraph 58 of the NPPF.*

33. *Prior to the first use of any business/storage or distribution unit formed from the employment floorspace hereby permitted, evidence shall be submitted to and approved in writing by the Local Planning Authority to demonstrate that the design of the employment part of the site (western parcel) meets Secured by Design standards as far as practicable.*

*Reason: In the interests of crime prevention in accordance with Policy DE1 of the Adopted Torbay Local Plan - A landscape for success 2012-2030, and paragraph 58 of the NPPF.*

34. *Prior to the first use of any business/storage or distribution unit formed from the employment floorspace hereby permitted, evidence shall be submitted to and approved in writing by the Local Planning Authority to demonstrate that the design of the employment part of the site (eastern parcel) meets Secured by Design standards as far as practicable.*

*Reason: In the interests of crime prevention in accordance with Policy DE1 of the Adopted Torbay Local Plan - A landscape for success 2012-2030, and paragraph 58 of the NPPF.*

35. *Prior to the first occupation of any of the dwellings hereby permitted, a Residential Travel Plan shall be submitted to and approved in writing by the Local Planning Authority incorporating measures to promote the use of sustainable modes of travel instead of private car by future residents of the dwellings. The Residential Travel Plan shall be implemented as approved and shall be continually monitored by a Travel Plan Coordinator (TPC) appointed by the developer of the dwellings to ensure that it meets its objectives and targets. The*

*contact details of the TPC shall be provided in the Residential Travel Plan. In the event that the objectives and targets of the Residential Travel Plan are not met, the Residential Travel Plan shall be updated by the TPC setting out further measures in order to rectify this. A copy of the Residential Travel Plan or updated Residential Travel Plan, as the case may be, shall be made available to the Local Planning Authority upon request during normal business hours. A summary of the Residential Travel Plan shall be provided to the first occupier of each dwelling hereby permitted setting out the options for sustainable modes of travel in the area.*

*Reason: To promote sustainable modes of travel in the interests of reducing greenhouse gas emissions and pollution, in accordance with Policies SS13, TA1, TA2 and DE3 of the Adopted Torbay Local Plan - A landscape for success 2012-2030, and paragraph 36 of the NPPF.*

36. *Prior to the first use of any business/storage or distribution unit formed from the employment floorspace hereby permitted, a Travel Plan shall be submitted to and approved in writing by the Local Planning Authority incorporating measures to promote the use of sustainable modes of travel instead of private car by staff of the business/storage or distribution units. The Travel Plans required by this condition shall be implemented as approved and shall be continually monitored by a Travel Plan Coordinator (TPC) appointed by the relevant occupier of the business/storage or distribution unit or the developer of the employment floorspace to ensure that they meet their objectives and targets. The contact details of the TPC shall be provided in each Travel Plan required by this condition. In the event that the objectives and targets of any Travel Plan required by this condition are not met, the Travel Plan shall be updated by the TPC setting out further measures in order to rectify this. Copies of the Travel Plans or updated Travel Plans, as the case may be, shall be made available to the Local Planning Authority upon request during normal business hours.*

*Reason: To promote sustainable modes of travel in the interests of reducing greenhouse gas emissions and pollution, in accordance with Policies SS13, TA1, TA2 and DE3 of the Adopted Torbay Local Plan - A landscape for success 2012-2030, and paragraph 36 of the NPPF.*

37. *Prior to the first occupation of the development hereby permitted, details of a pedestrian link from the recreational footpath to the south of the site (western parcel) to the "Hilltop Park" approved under planning permission P/2015/0124 to the east of the site (western parcel) shall be submitted to and approved in writing by the Local Planning Authority. The details shall include plan and section drawings at scale 1:20 or larger, and include details of any gate or stile to be provided. The approved details shall be implemented prior to the occupation of the dwellings.*

*Reason: To provide a pedestrian connection to the land to the east of the site to encourage green infrastructure links and active lifestyles in accordance with*

*Policies SS9 and DE1 of the Adopted Torbay Local Plan - A landscape for success 2012-2030.*

38. *No delivery vehicular movements to any business/storage or distribution unit formed from the employment floorspace hereby permitted nor any loading or unloading of vehicles in connection with the aforementioned units shall take place except between the hours of 08:00 and 18:00 Monday to Friday and 08:00 and 13:00 on Saturdays. There shall be no deliveries to the units nor any loading or unloading in connection with the same on Sundays or Bank and Public Holidays.*

*Reason: To protect residential amenity in accordance with Policy DE3 of the Adopted Torbay Local Plan - A landscape for success 2012-2030, and paragraph 123 of the NPPF.*

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

*Reason: To ensure that adequate off-street parking and access thereto is provided for the dwellings and kept permanently available for use in the interests of highway safety and residential amenity, in accordance with Policies TA2 and TA3 of the Adopted Torbay Local Plan - A landscape for success 2012-2030.*

40. *No business/storage or distribution unit formed from the employment floorspace hereby permitted shall be brought into use until its allocated parking spaces and access thereto, as shown in the approved details of reserved matters, have been provided and made available for use. The parking spaces and access thereto shall be kept permanently available for parking and access purposes thereafter.*

*Reason: To ensure that adequate off-street parking and access thereto is provided for the business units and kept permanently available for use in the interests of highway safety and amenity, in accordance with Policies TA2 and TA3 of the Adopted Torbay Local Plan - A landscape for success 2012-2030.*

### **Approved Plans**

*Additional Information - P2015-0983-19 (Received 29/10/15)*

*Proposed Various - 3010-005 (Received 09/12/15) - (Version A Internal link road)*

*Proposed Layout - 3445-203 (Received 09/12/15) - (Version M)*

*Proposed Layout - 3010-004 (Received 07/12/15) - (Version C emergency access)*

*Proposed Layout - 3010-003 (Received 07/12/15) - (Version D)*

*OS Map/Site Location - 3445/100/B (Received 03/12/14) - (Version B (Amended Boundary))*

*Proposed Layout - 3010-100 (Received 03/11/14) - (Version A (Proposed Access))*

## **Relevant Policies**

SS2 - Future Growth Areas  
SS3 - Presumption in favour of sustainable dev  
SS4 - The economy and employment  
SS5 - Employment space  
SS6 - Strategic transport improvements  
SS7 - Infrastructure, phasing and employment  
SS8 - Natural Environment  
SS9 - Green Infrastructure  
SS10 - Conservation and Historic Environment  
SS11 - Sustainable Communities Strategy  
SS12 - Housing  
SS13 - Five Year Housing Land Supply  
SS14 - Low Carbon and Climate Change  
SDP1 - Paignton  
SDP3 - Paignton North and Western area  
TA1 - Transport and accessibility  
TA2 - Development access  
C1 - Countryside and the rural economy  
C4 - Trees, hedgerows and natural landscape  
NC1LFS - Biodiversity and Geodiversity\_  
H1LFS - Applications for new homes\_  
H2LFS - Affordable Housing\_  
H3LFS - Self build affordable housing\_  
DE3 - Development Amenity  
SC1 - Healthy Bay  
SC2 - Sport, leisure and recreation  
SC3 - Education, skills and local labour  
SC4 - Sustainable food production  
SC5 - Child poverty  
ES1 - Energy  
ER1 - Flood Risk  
ER2 - Water Management  
W1LFS - Waste hierarchy\_  
W2LFS - Waste audit\_  
W3LFS - Existing waste management facilities\_  
M3LFS - Preserving local building stone\_

**Application Number**

P/2015/0793

**Site Address**

Land Between 101 And 105 Penwill Way  
Penwill Way  
Paignton  
Devon  
TQ4 5JN

**Case Officer**

Gary Crawford

**Ward**

Goodrington With Roselands

**Description**

2 no. detached houses and garaging with parking (as revised by plans received 27.05.2016)

**Executive Summary/Key Outcomes**

The proposal is for the erection of two detached houses with integral garages and parking.

The proposal is considered to be acceptable in this location and without any overriding detriment to the character or appearance of the locality or residential amenity of neighbouring occupiers. Consequently the proposal meets Local Plan Policies DE1 (Design), DE3 (Development Amenity), TA2 (Development Access), TA3 (Parking Requirements), ER1 (Flood Risk), C4 (Trees, Hedgerows and Natural Landscape Features) and NC1 (Biodiversity and Geodiversity).

**Recommendation**

Approval

**Statutory Determination Period**

8 weeks, the determination date was 18th November 2015. However, this has been extended until 17th June 2016 to allow time for amended plans to be received and for the proposal to be determined by the Development Management Committee.

**Site Details**

The application site is an undeveloped steeply sloping plot of land situated on the northern side of Penwill Way between two existing dwellings in an established residential area. The site is clearly visible in the streetscene.

**Detailed Proposals**

The proposal is for the erection of two detached houses. The proposed dwellings would appear as three storey dwellings from the front and two storey dwellings from the rear. Both of the proposed dwellings would have integral double garages and front driveways. Amended plans have been received during the course of the application to alter the roof design of the proposed dwellings and to

increase the depth of the proposed driveways.

### **Summary Of Consultation Responses**

*Drainage Engineer:* Providing the surface water drainage system is constructed in accordance with the latest design submission, the Council's Drainage Engineer has no objections to the proposed development.

*Highways Officer:* The 1:8 gradient of the proposed driveways is the maximum gradient that Highways would accept.

*Arboricultural Officer:* At present the land features no trees and therefore there are no constraints with regards to existing trees.

*Green Infrastructure Coordinator:* The submitted Preliminary Ecological Appraisal (PEA) concludes that there is potential for nesting birds to be present in scrub were it to re-grow. A condition should be secured restricting removal of any vegetation to periods outside of the bird nesting season.

The PEA acknowledges that badgers were once active at the site - under the extant permission for one dwelling (P/2014/0588) a badger sett at the site was destroyed under license from Natural England and the site was made badger-proof against re-entry. The PEA confirms that the sett entrances previously closed remain inactive beneath thick gauge steel mesh netting.

The landscaping condition secured for the extant permission, which included the retention of the steel mesh to prevent badger re-entry, should be secured for this new application.

### **Summary Of Representations**

10 letters of objection have been received. Issues raised:

- The proposed roofline and style of the proposed houses would not be sympathetic or compatible with the surrounding houses
- Would like reassurances that a retaining wall will be built
- Would like reassurances that 'badger proofing' mesh would be retained.
- The proposed properties are not in keeping with the surrounding properties and would look out of place.
- Overdevelopment of the site.
- The addition of two further properties would create a danger to all road users
- Potential overlooking impacts
- Loss of outlook

These representations have been sent electronically for Members consideration.

### **Relevant Planning History**

P/1983/3111:	One dwelling house. Approved 1/5/1984 but never implemented.
ZP/2010/0103:	Erection of two dwellings. Advised on 26/2/2010 that the principle of two dwellings would be acceptable.
P/2013/0566:	Erection of one detached dwelling house. Appeal dismissed (Appeal against non determination) 24/3/2014.
P/2014/0588: P/2013/0566).	Erection of one detached dwelling house (Re-Submission of P/2013/0566). Approved 27/2/2015 but not implemented.

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

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

1. Impact on the character and appearance of the streetscene
2. Impact on the amenity of neighbouring properties
3. Impact on the amenity of future occupiers
4. Parking provision
5. Drainage
6. Impact on biodiversity

#### **1. Impact on the character and appearance of the streetscene**

Planning permission has previously been granted twice before for the erection of a single dwelling on the application site (P/1983/3111 and P/2014/0588) but neither of these permissions were ever implemented. As such, the principle of residential development in this location is considered acceptable.

Penwill Way features a variety of house types and the properties in the immediate vicinity of the application site are largely characterised by split level detached and semi-detached dwellings. The neighbouring dwellings on the northern side of Penwill Way are situated within spacious plots and are particularly large in terms of their width with an approximate width of 14m. The immediate neighbouring properties on the northern side of Penwill Way also feature a distinctive asymmetrical dual pitched roof design with south facing gable ends. Whilst the proposed new dwellings would have a much narrower width of approximately 7.5m in comparison to the neighbouring properties on the northern side of Penwill Way, given the generous 20m width of the application site, it is considered that the proposed development would not constitute an overdevelopment of the application site. Furthermore, the pair of semi-detached dwellings opposite the application site (Nos. 118 and 120 Penwill Way) each have a width of only 6m. The roofs of the proposed dwellings would be half-hipped and feature asymmetrical front gables to replicate the roof design of the neighbouring dwellings. Furthermore, the ridge heights of the proposed dwellings are stepped down to follow the topography of Penwill Way and to accord with the pattern of roof line heights within the streetscene. The proposed material choices are similar to those used on the neighbouring dwellings and are considered appropriate to the locality.

As such, whilst the proposed development would alter the character and appearance of the streetscene, given the generous width of the application site, the setting down of the ridge heights of the proposed dwellings and the proposed roof design of the new dwellings, on balance, it is considered that the proposal would result in an acceptable development in relation to the character and appearance of the streetscene. Consequently, the proposal would accord with Policy DE1 (Design) of the Torbay Local Plan.

A landscaping plan requiring details of hard and soft landscaping has been included as a condition as details within the application are limited. Comments regarding retaining walls are noted and this will be considered further through this landscaping condition. The types of boundary treatment will be considered on the basis of their impact on the character and appearance of the locality and any queries/concerns regarding structural issues will be dealt with via building control.

## **2. Impact on the amenity of neighbouring properties**

The levels of the application site slope steeply from north to south and the houses would be sited at a significantly lower level than the houses to the rear of the site on the southern side of Wheatlands Road. There would be a minimum 16m back to back distance between the rear elevations of the proposed new dwellings and the rear elevations of the properties in Wheatlands Road, and in addition, the properties in Wheatlands Road are orientated at an angle to the proposed new dwellings in Penwill Way so there would be no direct intervisibility. All of the windows in the flank elevations of the new dwellings are proposed to be obscure glazing and this will be conditioned. In light of this, the proposal is not considered to result in any serious detriment by reason of loss of privacy to neighbouring occupiers.

Proposed house A would result in an impact on the outlook from the windows in the eastern flank elevation of No.101 Penwill Way. However, there would be an approximate 2.5m distance between the side facing windows of the conservatory at No.101 and house A, and the roof of house A would pitch away from the boundary with No.101. Furthermore, there are secondary windows in the front elevation of No.101 which serve the conservatory and lounge. As such, it is deemed that the proposal would not result in an unacceptable overbearing impact upon No.101. Whilst house A would be set 3m further back within its plot than house B, given that house A would be set 1m off the side boundary with house B, it is considered that house A would not be unduly overbearing upon the living environment of the potential occupiers of house B. Given the 1.5m distance between house B and the side boundary with No.105 Penwill Way, it is deemed that house B would not be unacceptably overbearing upon No.105.

With regards to loss of light, given the distance of 2.5m between proposed house A and No.101, and the windows in the front elevation of No.101, it is considered unlikely that the proposal would result in any harmful loss of light or

overshadowing impacts to No.101. Whilst house A would be set 3m beyond the rear elevation of house B and house B would be set approximately 4m beyond the rear elevation of No.105, given the north west orientation of house A in relation to house B and house B in relation to No.105, it is considered that the proposed new dwellings would not result in any significantly harmful loss of light or overshadowing impacts upon neighbouring properties

The proposal is therefore deemed to have an acceptable impact upon the amenity of neighbouring properties, and to be consistent with Policy DE3 (Development Amenity) of the Torbay Local Plan.

### **3. Impact on the amenity of future occupiers**

Proposed house A has a floor area of 134 sq m approximately and proposed house B has a floor area of 151 sq m approximately. Both of these floor areas are deemed to be of a sufficient size for three storey, four bedroom dwellings, as detailed in Policy DE3 (Development Amenity) of the Torbay Local Plan 2012-2030. The proposed dwellings would have sufficient space within their integral garages to accommodate cycle and bin storage. The level of private amenity space available to the future occupiers of the proposed dwellings is also considered acceptable.

### **4. Parking provision**

The Appendix to Policy TA3 (Parking Requirements) of the Torbay Local Plan sets out that the parking requirement for new dwellings is 2 car parking spaces per dwelling unit. It has been demonstrated that there is sufficient space on the front driveways of both dwellings for two car parking spaces and the proposal therefore complies with Policy TA3. The 1:8 gradient of the proposed driveways is considered acceptable. Consequently, the proposal would accord with Policies TA2 (Development Access) and TA3 (Parking Requirements) of the Torbay Local Plan.

### **5. Drainage**

Detailed information has been submitted with regards to surface water drainage from the proposed development which is deemed to be acceptable by the Council's Drainage Engineer. As such, a condition will be included with any permission which states that the drainage should be constructed in accordance with the submitted drainage details.

### **6. Impact on biodiversity**

The submitted Preliminary Ecological Appraisal (PEA) acknowledges that badgers were once active at the site and under the extant planning permission P/2014/0588, a badger sett at the site was destroyed under license from Natural England and the site was made badger-proof against re-entry. The PEA confirms that the sett entrances previously closed remain inactive beneath thick gauge steel mesh netting. The landscaping condition secured for the extant permission P/2014/0588, which included the retention of the steel mesh to prevent badger

re-entry, will be included if permission is granted for the current application.

The submitted PEA concludes that there is potential for nesting birds to be present in scrub were it to re-grow. A condition will also be included with any permission which restricts the removal of any vegetation to periods outside of the bird nesting season.

### **Conclusions**

In conclusion, the proposed development would result in an acceptable development in relation to the character and appearance of the streetscene and it would not result in an adverse effect on the amenity of nearby occupiers. Therefore the proposed development is considered to be appropriate for planning approval, having regard to all national and local planning policies and all other relevant material considerations.

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

01. Parking facilities shall be provided and thereafter permanently retained for the parking of vehicles in accordance with the approved plans prior to occupation of the dwellings. Reason: To ensure adequate parking facilities are provided to serve the development in accordance with Policy TA3 of the Torbay Local Plan 2012-2030.

02. The development shall not commence until full details of hard and soft landscape works, including an implementation and management plan, have been submitted to and approved in writing by the Local Planning Authority. Details of soft landscape works shall include retention of any existing trees and hedges, finished levels/contours; planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate. The hard landscape works shall include means of enclosure and boundary and surface treatments. The details shall also include details of the retained chain link mesh to prevent badger re-entry within the application site. All works shall be carried out in accordance with the approved details and the implementation plan and thereafter maintained in accordance with the approved management plan. Reason: In the interests of biodiversity and to secure a landscape scheme that will complement the development in the interests of visual amenity in accordance with Policy NC1 of the Torbay Local Plan 2012-2030.

03. 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 the reasons why have 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, the works will not be permitted until the

ecologist is satisfied that breeding is complete.

Reason: To ensure no harm to breeding birds in accordance with Policy NC1 of the Torbay Local Plan 2012-2030, and paragraphs 109 and 118 of the NPPF. The reasons why works must be carried out during the bird breeding season are required pre-commencement as specified to ensure that breeding birds are not harmed by building operations or vegetation removal.

04. Surface water drainage shall be in accordance with all of the approved drainage details unless an alternative means of surface water drainage is submitted to and agreed in writing by the Local Planning Authority prior to the commencement of development.

Reason: In the interests of adapting to climate change and managing flood risk, and in order to accord with Policy ER1 of the Torbay Local Plan 2012-30 and paragraph 103 of the NPPF.

05. Prior to the occupation of the two dwellings hereby approved, all of the windows in the flank elevations of the two dwellings shall be fitted with obscure glazing to Pilkington level 4, or an equivalent standard. Such windows shall be fixed shut unless opening parts are located higher than 1.7m above finished floor level or they are fitted with a 100mm opening restrictor. The windows shall thereafter be permanently retained in that condition.

Reason: In the interests of privacy of the neighbouring properties, in accordance with Policy DE3 of the Torbay Local Plan 2012-2030.

**Relevant Policies**

DE1 - Design

DE3 - Development Amenity

TA2 - Development access

TA3 - Parking requirements

ER1 - Flood Risk

C4 - Trees, hedgerows and natural landscape

NC1LFS - Biodiversity and Geodiversity

# Agenda Item 9

**Application Number**

P/2015/0963

**Site Address**

Abbey Crescent  
Torbay Road  
Torquay  
Devon  
TQ2 5FB

**Case Officer**

Mrs Ruth Robinson

**Ward**

Tormohun

**Description**

Variation of conditions P1, 01, 07 and 09 of P/2013/0470/MPA to allow residential occupation of 13 holiday flats on level 1 and 2 - Cond. P1- amend approved plans to reflect changed occupation for wholly residential use; cond. 01 - delete restriction on use of 13 flats for holiday purposes; cond. 07 - amend Green Travel Plan to reflect wholly residential use; cond. 09 - delete to remove restriction on use of parking on level 2 for holiday flats only.

**Executive Summary/Key Outcomes**

This application seeks to vary an occupancy condition to allow private residential occupation of 13 self-catering holiday flats in Abbey Sands, a key building in a Core Tourism Investment Area.

This would be contrary to policy TO2 in the recently adopted Local Plan which seeks to maintain and enhance the tourism role of the premises and only allows changes of use in circumstances where there is little prospect of tourism uses becoming established. The flats in question are prime quality and ready for occupation. This is an up to date and more robust policy position than included in the previous Adopted Local Plan.

This should not be set aside without compelling reasons as it will undermine the ability to protect holiday sites elsewhere in the Bay.

The applicants contend that there are viability arguments to support their case and that, if approved; the scheme would deliver new homes and a substantial contribution of £800,000 towards meeting affordable housing needs and £62,550 towards community infrastructure.

The economic justification put forward to support the application, which does not present a rounded view of the viability of the wider site, presents little that is unique to this site and critically, assertions about the value of holiday flats and the state of the buy to let/second homes/ holiday sales market are not backed up by either a specified marketing strategy or any current data relating to sales of comparable sites.

It is therefore recommended that the application to vary the occupancy condition (7) in relation to P/2013/0470 should be refused planning permission as it is contrary to policy TO2 and the loss of this holiday accommodation would not maintain or enhance the tourism role of the defined Core Tourism Investment Area.

### **Recommendation**

It is recommended that the application to vary the occupancy condition (7) in relation to P/2013/0470 should be refused planning permission as it is contrary to policy TO2 of the Adopted Local Plan 2012-2030 and the loss of this holiday accommodation would not maintain or enhance the tourism role of the defined Core Tourism Investment Area.

### **Statutory Determination Period**

This application should have been determined by the 31st December 2015. The delay is due to the submission further information to support the application. This has taken the form of an economic statement to justify the proposed change of use from holiday accommodation to residential occupation.

### **Site Details**

Abbey Sands is a prestigious new residential and commercial development occupying the site of the former Palm Court Hotel.

It includes A3 uses on the ground floor and in part of the first floor, 13 self-catering holiday flats on level 1 and 2 which have been vacant since completion of the building in 2012 and 14 private residential apartments on levels 3 4 and 5. It is a key site in the Belgravia Core Tourism Investment Area which is designed to protect and enhance tourism related uses.

It is prominently located on the seafront, in the Belgravia Conservation Area and in close proximity to the Rock Walk Grade II entry in the Register of Parks and Gardens.

### **Detailed Proposals**

This is a major application to vary conditions P1, 01, 07 and 09 of P/2013/0470 to allow wholly residential use of the 13 holiday flats on levels 1 and 2.

Condition 01 relates to the condition restricting occupation to the flats on levels 1 and 2 to holiday use only.

P1 relates to the approved plans, 07 relates to the Green Travel and 09 to parking restrictions which would have to be amended if the application was approved.

The applicant has included an undertaking to pay Affordable Housing and community infrastructure contributions in line with the calculations included in the

S106 agreement secured pursuant to the approved scheme. This amounts to £800,000 and £62,550 respectively.

### **Summary Of Consultation Responses**

None received.

### **Summary Of Representations**

2 letters objecting to the loss of the holiday flats and the effect this will have on tourism, 1 letter supporting the scheme as it would provide accommodation all year round with benefits to the local economy and 1 letter inquiring whether the S106 contributions could be spent on Abbey Park.

### **Relevant Planning History**

P/2011/1080 was granted on the 9th May 2012 for the redevelopment of the former Palm Court Hotel to provide A3 restaurant uses, 14 self-catering holiday flats and 14 private flats.

P/2013/0470: Amendments to previously approved scheme (P/2011/1080/MPA) included the loss of 1 holiday flat to provide a larger A3 unit over 2 floors. This was approved on the 12.12.13.

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

The key issue is whether it is acceptable to vary this condition which restricts occupation of 13 flats on levels 1 and 2 to holiday use only.

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

The relevant policy is TO2 of the recently adopted Torbay Local Plan. The site is within the Core Tourism Investment Area where there is a presumption that the tourism role will be retained and enhanced.

This specifically states that changes of use to non-holiday uses will only be permitted where the premises lack an appropriate range of facilities and there is no scope for improvement and/or where it is demonstrated that there is no reasonable prospect of the site being used or redeveloped for tourism or tourism related purposes.

This policy (TO2) was thoroughly tested during formal examination of the new Local Plan, not least because the owners of Corbyn Apartments sought to amend the boundary of the Core Tourism Investment Area so as to exclude Corbyn Apartments. The Local Plan Inspector did not consider that appropriate and, as such, supported the policy and the definition of the Core Tourism Investment Area in this part of Torquay. The proposal by the owners of Corbyn Apartments highlights the fact that a grant of permission for the current application for Abbey Sands is likely to result in more applications to allow the residential use of high-quality holiday flats in CTIAs.

The holiday accommodation in question is of prime quality and has remained vacant since completion. There has been no attempt to market the units either individually or as a holiday letting business.

The application was submitted in September 2015 when the relevant policy was TU6 of the then Adopted Local Plan. This policy position was slightly more flexible allowing other considerations to be taken into account in determining whether a change of use was acceptable. It also dated from 1997 when the previous Local Plan was adopted which, which does undermine to some degree its materiality.

A more robust stance in terms of protecting key holiday sites has emerged in the newly adopted plan and this reflects advice in recent appraisals of the state and nature of holiday accommodation in the Bay such as 'Turning the Tide' which has supports the need to retain good quality holiday accommodation in order to maintain the areas status as a premier resort.

The accommodation in question is amongst the best self-catering accommodation in the Bay and its loss needs careful scrutiny.

In terms of a background to this application, it needs to be borne in mind that a significant concession has already been made on this site in terms of planning policy. In negotiating the scheme for the redevelopment of the former Palm Court Hotel, 14 private residential flats were included in order to achieve a viable scheme which was in itself an exception to the prevailing policy TU6.

The scheme has been a successful regeneration project and has secured a revitalisation of this former rundown stretch of the sea front. The site has recently gone into liquidation despite the apparent success of the project and the responsibility for the application has passed from the owner of the site to the appointed administrator.

The applicant contends that the application to vary the relevant condition should be approved as the scheme can be shown to have been unviable and it would, if approved deliver new homes and satisfy the requirements of the agreed s106 in terms of the delivery of affordable housing and community infrastructure contributions.

There are three key issues to consider in respect of this application. The viability of the project, whether the scheme delivers its dues in terms of affordable housing and community infrastructure contributions and whether this sufficient to set aside compliance with Policy TO2.

1. Does the viability argument support the change of use?

The key points put forward by the applicant in an economic statement to support

the viability argument are:

1. The scheme was expensive to construct due to a drive for excellence in terms of finish and detail and there were high abnormal site costs.
2. This affected the developer return.
3. The value of the holiday flats in the IVA at just 7% less than open market value was flawed
4. Recent legislative/financial changes have made holiday flats less attractive and reduced profitability.
5. The fact of bankruptcy and administration fully demonstrates that the scheme, with retention of the holiday flats, is not viable.

Firstly, it must be noted that the economic justification submitted to support the application takes costs across the wider scheme but does not reflect on the very high values (in excess of that identified in the IVA) achieved in respect of the private flats and commercial floor space.

The inclusion of private flats was agreed as a means to subsidise the holiday flats so the economic justification is less than rounded if the higher than anticipated return on other elements of the scheme is not reflected in the assessment.

The IVA in relation to the original approval on the site identified that this would be a joint venture scheme between the developer and contractor and that the developer would purchase the holiday flats on completion of the development. The submitted report states that due to the 'current circumstances' this will not be going ahead so there is no immediate buyer for the holiday flats.

The economic statement explains that the acceptable level of developer profit included in the original IVA was eroded by a determination to deliver a scheme of quality and by site 'abnormals' identified at around £1.25m.

These financial problems were exacerbated by the 3% increases in stamp duty, changes in offsetting mortgage interest and by increasing difficulties in obtaining buy to let mortgages. That VAT is payable on holiday flat purchases further affects viability.

The applicants contend that the value of the holiday flats is reduced by about 30% from the estimated open market value whereas the original IVA estimated the difference in value at around 7%.

It is this assumption about the value of the holiday flats that underpins the drive towards having the occupancy condition varied. This assertion is not verified by marketing, an independent assessment or by any data from recent sales of similar types of holiday accommodation in the area.

Policy TO2 does allow viability issues to be taken into account in determining whether a change of use may be acceptable. It is open to applicants to show that continued use or redevelopment is no longer viable but it does emphasise that the extent of marketing is a matter to be taken into account.

The issue from a policy perspective is that this situation has not been market tested. These self-catering flats are of prime quality and all the flats could be sold as a holiday letting business opportunity or to individuals as second homes. Both these options should be tested through an agreed marketing strategy to identify whether there is interest in this site and the value likely to be derived.

The factors described in the economic report are not unique to this site. The drive to secure good quality development on prominent and sensitive sites such as this is not unusual or unique. A scheme of this size is likely to carry quite significant abnormalities and the changes to stamp duty and offsetting of interest on mortgages will apply to all similar sites across the Bay. Against these 'negatives' should be balanced the higher values achieved elsewhere in the scheme in order to present a more realistic picture of profitability.

2. Does the scheme deliver its dues in terms of affordable housing and community infrastructure contributions?

The applicant further supports their case by arguing that the delivery of new homes is a benefit to the Bay and that the scheme would help meet the affordable housing needs by delivering an affordable housing contribution of £800,000 (which it is claimed is equivalent to 30% of the 13 dwellings) and a community infrastructure contribution of £62,550 which would largely be devoted towards greenspace and sustainable transport.

These sums are based on calculations included in the s106 agreed pursuant to the approvals on the site and were designed to ensure that any further changes of use from holiday use to private residential occupation, whether from exercise of the 4 year rule or from specific grant of permission would deliver in terms of meeting affordable housing requirements. The affordable housing contribution is however related to sales value in the agreement so it must be stressed that this is an estimate and may be higher given the values achieved on the apartments on the upper floors.

The argument about the need for affordable housing in the Bay is not disputed and the provision of housing and contributions towards affordable housing and community infrastructure are clearly attractive.

3. Are these factors sufficient to set aside compliance with Policy TO2?

The key test is whether there are any substantive reasons why the clear requirements of Policy TO2 should be set aside. It is a robust and up to date

policy and it has been made more stringent in resisting the loss of tourism related uses than its predecessor policy TU6 specifically to ensure that key tourism areas and uses are protected in a drive to maintain the Bays status as a premier resort.

This is based on evidential data in recent surveys and investigations such as 'Turning the Tide'. To set this aside without clear, unique and specific reasons would open up considerable difficulties in terms of defending similar change of use elsewhere in the Bay.

The economic justification submitted to support the case is a little one sided and does not confirm any unique circumstances in relation to this site sufficient to justify departure from an up to date policy position. The applicants were advised on several occasions that their assertions about value should be market tested rather than assumed as required in the justification to policy TO2.

It is fully recognised that the Abbey Sands is an exemplary development of exceptional quality that has delivered substantial regeneration to this part of the seafront notwithstanding the continued vacancy of the holiday accommodation. It could be argued that the occupation of these flats on a permanent basis can only enhance rather than detract from the overall vitality of the area.

It is also the case that if sold as private homes, the flats could easily be let out for holiday purposes as there is no restriction on such a form of occupancy. However, these factors do not overcome the in principle objection to the loss of good quality holiday accommodation in a key site in a Core Tourism Investment Area.

The delivery of new homes and a substantial contribution to affordable housing and community infrastructure whilst welcome is a secondary consideration. This delivery would be an inevitable consequence of setting the key policy constraint on the site aside. If the argument becomes one of whether the economic benefits exceed the weight that should be given to tourism policies in the Local Plan then this does present problems to the LPA in terms of precedent and consistency in dealing with similar applications across the Bay.

### **Conclusions**

This application seeks to vary an occupancy condition to allow private residential occupation of 13 self-catering holiday flats in a key building in a Core Tourism Investment Area. This would be contrary to policy TO2 in the recently adopted Local Plan which seeks to maintain and enhance the tourism role of the premises and only allows changes of use in circumstances where there is little prospect of tourism uses becoming established. The flats in question are prime quality and ready for occupation.

The applicants contend that there are viability arguments to support their case

and that, if approved, the scheme would deliver new homes and a substantial contribution of £800,000 towards meeting affordable housing needs and £62,550 towards community infrastructure.

The economic justification put forward to support the viability argument presents little that is unique to this site and critically assertions about the value of holiday flats and the state of the buy to let/second homes/ holiday sales market are not backed up by either a specified marketing strategy or any current data relating to sales of comparable sites.

It is therefore recommended that the application to vary the occupancy condition (7) in relation to P/2013/0470 should be refused planning permission as it is contrary to policy TO2 and the loss of this holiday accommodation would not maintain or enhance the tourism role of the defined Core Tourism Investment Area.

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

01. The self catering holiday flats located on the first and second floors and as shown on Plan No's 3281-6101 rev 01 and 3281 6102 rev 02 shall be occupied for holiday purposes only and in accordance with the following criteria:
  1. They shall not be occupied as a person's sole or main residence in the United Kingdom.
  2. The owner or operator of the complex shall maintain an up to date register of the names of all owners/occupiers of individual holiday flats and of their main home addresses and shall make this information available at all reasonable time to the LPA.
  3. The same person or group of persons shall not occupy any holiday flat for more than 12 weeks in any calendar year. Reason: To ensure that the flats remain in holiday use in the interests of maintaining the holiday character of the area and to accord with policy TU6 of the saved Torbay Local Plan 1995-2011.
  
02. The improvements to the public realm, as detailed in Plan No's RF-P-008-001-07 and RF-P-008-200 rev 05 (as approved in relation to P/2011/1080/MPA) shall be amended prior to implementation by:
  - a) the inclusion of granite paving to the area between the granite paving on the seaward side of the carriageway and the sea wall up to and including the access area to the Puffin crossing. And
  - b) Details of reinstatement of the public realm adjacent to the new entrance to Unit 1 including reinstatement of the public footpath steps. Details of this shall be submitted to and agreed in writing by the LPA prior to any works taking place in connection with the creation and layout of the public realm. Thereafter, the works to the public realm shall be carried out wholly in accordance with the

approved details as so amended and any plans illustrating detail in relation to this matter. It shall be completed in full and in accordance with the approved details prior to occupation of the building for the approved uses.

Reason: To ensure that the building has an appropriate setting and to integrate the site into the wider locality in the interests of visual amenity and an improved pedestrian environment to in accordance with policies BES, BE1 and T2 of the saved Torbay Local Plan 1995-2011.

03. The approved landscape scheme as illustrated in Plan No's RF- P- 008-001-07 and RF-P-008-200-05, (as approved in relation to P/2011/1080/MPA) with the exception of that landscaping identified as plots D to the seaward side of the carriageway, shall be carried out in the first planting and seeding season following the occupation of the building or the completion of the development, whichever is the sooner. This shall be supplemented by a detailed specification for the planting of the troughed areas which are located between the car park areas to the rear of the building and the rear of the boundary wall facing Shedden Hill. Details of the planting regime to be used and a 10 year Management Strategy shall be submitted to and agreed in writing with the LPA prior to planting being carried out. Any shrubs, trees or plants which within a period of ten years from the completion of the development, die are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: In the interests of the visual amenity of the area and to comply with Policy BE2 of the saved Torbay Local Plan 1995-2011.

04. Full details of the colour, type and texture of all external materials to be used in the construction of the building and in the creation of the all the public realm areas shall have been submitted to and approved in writing by the Local Planning Authority prior to their incorporation into the approved scheme. The palette of materials shall be based on those detailed in the approved plans and submitted schedules.

Reason: To ensure a satisfactory form of development and to comply with Policy BES, BE1 and BE5 of the saved Torbay Local Plan 1995-2011.

05. Details at a scale of 1:20 shall be submitted to and approved in writing by the LPA prior to the implementation of these elements of the scheme. These shall include:
1. The relationship of the new building with the retained terrace to the east.
  2. The banding and fenestration relating to the north elevation and how this wraps round to the west elevation particularly the

- relationship to Old Maids Perch
3. Details of proposed windows/doors showing glazing bars, style of opening and position within the reveal
  4. Eaves detail and overhang.
  5. Balconies.
  6. Shop fronts and associated signage.

The building shall not be occupied until it has been completed wholly in accordance with these details and the approved plans relating to the site.

Reason: To ensure that the appearance and architectural detailing of the development is completed to a satisfactory standard and to comply with Policy BES, BE1 and BE5 of the saved Torbay Local Plan 1995-2011.

06. Full details of the hard landscape works to the public realm fronting the building shall be submitted to and agreed in writing by the LPA. This shall include lighting details, street furniture, walls, planters, steps, handrails and works required to create the café seating area including any screens and barriers. These works are to be completed in full prior to occupation of the building unless otherwise agreed in writing with the LPA.

Reason: To ensure that the works to the public face of the building are appropriately detailed and provide an appropriate setting in accordance with policies BES, BE1 BE2 and BE5 of the saved Torbay Local Plan 1995-2011.

07. Prior to the occupation of any part of the proposed building, a staff, resident and visitor Green Travel Plan in relation to the self catering and residential elements of the scheme shall be submitted to and agreed in writing by the Local Planning Authority. This shall be in place for a period of 5 years and shall be accompanied by a timetable for implementation and tied to biennial review periods. The Travel Plan shall be implemented in accordance with these details.

Reason: To ensure that the development is served by more sustainable modes of transport and to comply with Policy TS of the Torbay Local Plan 1995-2011.

08. The development shall not be used/ occupied until the cycle and vehicle parking areas shown on approved /detailed plans have been provided and made available for use. These areas shall be kept permanently available for parking purposes to serve the development.

Reason: To ensure that adequate off-street parking is provided and to comply with Policy T25 of the saved Torbay Local Plan 1995-2011.

09. The car parking spaces allocated to serve the holiday flats as shown in Plan No. 3821-6102 rev 02 shall be for the sole use of visitors to the holiday accommodation and shall not be used to serve the residential flats.

Reason: To ensure that sufficient spaces are available to serve the needs of the holiday use and to meet the objectives of Policy TU6 and T25 of the saved Torbay Local Plan 1995 - 2011.

10. The recommendations of the Interim Ground Investigation Report October 2011 shall be implemented as described in section 4.4 of that report in terms of potential land contamination and the possible need for works to ensure that the retaining wall/cliff face remains stable.

In terms of land contamination, a Phase 2 intrusive site investigation with environmental testing shall be undertaken to identify potential contamination. Should any contamination be found a Phase 2 Report should include a detailed risk assessment to identify potential risks to human health and watercourses. Where risks are identified a detailed remediation strategy should be prepared and agreed with the LPA. A validation statement should be prepared upon completion of any remedial works detailing works undertaken and the results of any validation testing as specified within the remediation strategy.

In terms of land stability, any excavation of the cliff slope will require a detailed site investigation to be carried out in order to determine the most appropriate approach to foundation design. This shall be carried out before any development commences on site.

Measures that are deemed necessary to allow this development to proceed safely in terms of contamination and the long term stability of the rock face and the safety of adjacent occupiers shall be included and thereafter incorporated in the design and construction of the scheme on site.

Reason: To ensure that any instability or contamination issues are resolved in the interests of safety to comply with Policy EP8 of the saved Torbay Local Plan 1995 - 2011.

11. All works shown to be carried out in natural lime stone shall be in accordance with a sample panel erected on site showing the colour of the stone, lie, colour of mortar and method of pointing.

Reason: To ensure that the new stone construction matches the existing stone work in the locality as closely as possible in the interests of preserving the character and appearance of the Conservation Area and to

accord with Policy BE5 of the saved Torbay Local Plan 1995 - 2011.

12. The proposed shop fronts, as agreed pursuant to condition No 5 shall be implemented prior to occupation of any parts of the building for the approved purposes unless otherwise agreed in writing with the LPA.

Reason: To ensure that the building is complete prior to use in the interests of the visual amenity of the area and to accord with policies BES, BE1 and BE5 of the saved Torbay Local Plan 1995-2011.

13. The physical flood mitigation measures as proposed in section 4:3 of the FRA shall be included in the construction of the building and thereafter maintained for the lifetime of the building. An Evacuation Plan shall be prepared and agreed by the LPA in writing prior to the occupation of the ground floor of the building for the uses hereby approved.

Reason: The building is located adjacent to Flood Risk Zone 3 and in view of this the means of escape to the higher ground to the rear of the site in the event of a flood needs to be assimilated into the building layout and design in accordance with the provisions of paragraphs 99 and 103 of the National Planning Policy Framework.

14. The agreed schedule of repairs (subject to clarification in relation to frost penetration of the wall ) to the length of stone wall which comprises the northern boundary of the site and is within Rock Walk Gardens, a scheduled entry in the Register of Parks and Gardens works shall be completed prior to occupation of the proposed building.

Reason: To ensure that the entrance to the listed garden, which forms the rear boundary to this site is properly reinstated as a consequence of redevelopment in accordance with policy BE8 of the saved Torbay Local Plan 1995-2011.

15. Details of a lighting strategy in respect of illumination of the building and lighting of the public realm and associated areas shall be submitted to and approved in writing and thereafter implemented prior to occupation of the building.

Reason: To ensure that the architectural quality of the building and its setting is highlighted through an appropriate scheme of lighting.

16. A key feature of the design of the building is the decorative glass panels which act as a divide between the balcony areas of the proposed flats. Details of these, including lighting proposals based on the submitted indicative sketches included in the Design and Access Statement shall be submitted to and approved in writing by the LPA and thereafter

implemented prior to the occupation of any part of the building.

Reason: To ensure that this detail is appropriate and enhances the architectural character of the building in accordance with policy BES and BE1 of the saved Torbay Local Plan 1995-2011.

17. Details of a communal satellite system shall be submitted to and approved in writing prior to occupation of any part of the building. No further dishes shall be installed on the building unless specifically approved by the LPA.

Reason: To prevent a proliferation of dishes on this prominent building in accordance with policies BES and BE1 of the saved Torbay Local Plan 1995-2011.

18. There shall be no access to the roof areas beyond the identified roof terraces as indicated on Plan No.3281-6105 rev 01 except for maintenance purposes. The privacy screen to the penthouse apartment as shown on Plan No. 3281-d100-0 shall be erected prior to the occupation of this apartment and thereafter permanently retained in place.

Reason: To ensure that the residential property to the rear, Corbyn Lodge is not overlooked and to accord with policies H9 in the saved Torbay Local Plan 1995-2011.

19. Full details of all plant, ventilation and extraction equipment required in association with the proposed uses on the site along with any noise attenuation measures that may be required shall be submitted to and approved in writing prior to the commencement of any such use on site.

Reason: To ensure that the visual appearance of the building is not harmed and the amenity of neighbours protected in carrying out the approved uses.

20. The sustainability measures that were confirmed in relation to the use of the whole building in KTA 'Mechanical and Electrical Services' submitted 12.10.11 shall be implemented in construction of this building unless otherwise agreed in writing by the LPA.

Reason: To ensure that the building is constructed and operated in an energy efficient manner in accordance with policy EP1 of the saved Torbay Local Plan 1995-2011.

### **Relevant Policies**

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**Application Number**

P/2016/0159

**Site Address**

Beacon Cove  
Park Hill Road  
Torquay  
TQ1 2EP

**Case Officer**

Mrs Ruth Robinson

**Ward**

St Marys With Summercombe

**Description**

Provision of five residential beach huts and kiosk; access steps; alterations to retaining wall

**Executive Summary**

This is a detailed application for the erection of 5 'overnight' beach huts at Beacon Cove. A similar scheme has been approved previously but is now time expired. The scheme is to a good design and is beneficial in terms of the creation of good quality tourist accommodation with attendant benefits to the local economy. It will introduce natural surveillance to this attractive beach which suffers from some anti-social behaviour.

The main objections relate to the possibilities of parking within the grounds of Imperial Court, the large block of flats immediately to the east of Beacon Cove, the retention of unauthorised car parking set into the cliff side overlooking Beacon Cove and possible noise and disturbance.

The applicant, who is the freeholder of Imperial Court, has been asked to detail what measures can be put in place to ensure that parking in association with the beach huts is properly managed to avoid nuisance within the curtilage of Imperial Court and the unauthorised parking deck has been deleted from the scheme and is a matter that will be dealt with separately to this application.

The scheme has a limited impact on trees and ecology but these are capable of mitigation.

The scheme is therefore acceptable in terms of design, operation, impact on landscape and biodiversity and will have a positive benefit on the local economy. As such it is compliant with policies SDT2, TO1, SS10, DE1, DE3, TA2, TA3, C4, ER1 and NC1 of the Adopted Local Plan.

**Recommendation**

Approve: subject to conditions as detailed below and to a Deed of Variation to tie payment of a £1000 monitoring contribution, already secured via a Unilateral

Undertaking, to this application.

This is necessary to ensure that the accommodation is used for holiday use only.

### **Statutory Determination Period**

This is a minor form of development and should have been determined by the 6th May to meet the 8 week target. Representations from residents were received towards the end of the consultation period which accounts for its late presentation to Members. An extension of time to the 6th July has been agreed.

### **Site Details**

Beacon Cove is located close to Torquay town centre, south of Beacon Hill and to the east of Living Coasts. The beach huts are proposed to be located towards the base of the sloping cliff face to the east of the cove above an existing stone wall which formed the plinth of a former building on the site.

Imperial Court, a seven storey block of flats borders the cliff face to the east, the access driveway to Imperial Court and the public highway which forms part of the South West Coast Path borders the cliff edge of the Cove to the north.

A public footpath, which runs along the northern boundary of Living Coasts provides access to the cove from the Beacon Quay Car Park. Beyond this is a concrete ramped access to the beach.

The site of the proposed beach huts is sloping and covered in vegetation, including self-set trees. An overgrown and disused footpath, bordered by the remains of a stone wall winds up the eastern cliff face to Imperial Court.

Overlooking the cove and within the grounds of Imperial Court is a roughly made car parking deck which extends out from the cliff edge. This unauthorised structure is included in the 'redline'.

Beacon Cove was a busy beach in the past and included a number of buildings to meet the needs of visitors. These have now gone although remnants remain. It is now less well used and there are incidents of anti-social behaviour as it lacks surveillance.

The site is located within the defined town centre and within the Torquay Town Centre and Harbour Strategic Delivery Area (Policy SDT2 in the Adopted Local Plan). It is within a community investment area and prominent within the Torquay Harbour Conservation Area. It is adjacent to the Torbay Marine Conservation Zone (MCZ) and the designated SAC (Lyme Bay and Torbay). It is within 500m of the Daddyhole SSSI and 900m of the Meadfoot Sea Road SSSI.

The site borders the Coastal Change Management (Policy C3) along its southern boundary. To the north, on the other side of Beacon Road and Parkhill Road is St

Johns Wood Urban Landscape Protection Area (Policy C5). Beacon Hill is part of the South West Coast Path National Trail (Policy SS9).

### **Detailed Proposals**

The proposal is for the construction of five two storey beach huts with overnight accommodation and a small retail kiosk. These would be built in a crescent shaped terrace at the base of the cliff facing towards the sea on a natural stone plinth which includes the remnants of the former building on the site.

The huts would include a living area on the ground floor, with kitchenette and WC/wet room, and sleeping accommodation on a mezzanine level.

They are to be constructed in thermally insulated block work with timber cladding to the front elevation and zinc standing seam cladding to the side elevations and roof. It is to a contemporary design, including folding timber shutters to the ground floor with double glazed windows with timber 'brise soleil' louvres to the first floor sleeping accommodation.

To the front of the huts would be a shared timber deck terrace and balcony.

Access would be from the existing footpath to Beacon Quay car park to the west and reinstated footpath steps to the rear. The footpath to the rear would connect with a new access path immediately behind the beach huts with a retaining wall against the cliff. A bin store would be provided at the southern end of the access path.

A waste water treatment unit would be located in the void beneath the deck. Treated foul water and surface water would discharge into the sea.

The proposals also include retention of an unauthorised car parking deck within the grounds of Imperial Court and the inclusion of an additional access to the foreshore which takes the form of concrete steps. These last two elements are of some concern as will be explained in the body of the report.

The scheme involves the felling of 3 individual trees and 3 small groups of trees.

A similar proposal was approved in 2012 but is no longer extant.

The applicant is the freeholder of Imperial Court.

### **Summary Of Consultation Responses**

Arboricultural Officer: Does not raise any objection to the loss of the trees considering them to be of limited landscape value and self-set.

Green Infrastructure Coordinator: recommends that the mitigation measures identified in the ecological appraisal are secured by condition. These are to limit

light spill during construction and operation of the site to reduce any impact on bats and to restrict removal of vegetation during bird nesting season. The need for a Construction Management Plan is identified along with ecological mitigation measures during the construction phase to ensure that impacts on biodiversity are minimised.

It is also recommended that comments are secured from the TCCT regarding impacts on geodiversity. These are awaited at the time of writing.

South West Water: No objection

Environment Agency: No objections, they raise the need for the structures to be resistant to wave action and debris that could be mobilised during a storm and that the council will need to consider if the proposal will be safe for its lifetime bearing in mind the effect of climate change on sea levels and wave action.

Drainage & Structures: No objection providing the scheme is constructed in accordance with the submitted FRA.

Marine Management Organisation: Raises no objection to the proposal.

Natural England: Has been consulted and a response is awaited. This will clarify whether a HRA is needed to assess the impact of the development on the Marine SAC.

### **Summary Of Representations**

There have been 15 letters of objection from nearby residents. These primarily relate to:

1. The reinstatement of the footpath along the cliff face linking Beacon Cove and Imperial Court and concerns that this will encourage the use of land around Imperial Court for pedestrian activity, parking, dropping off of luggage etc.
2. The retention of the unauthorised car parking deck being included in these proposals and concerns that this would generate significant vehicular and pedestrian activity within the grounds of Imperial Court.
3. Possible noise and disturbance arising from proposed use.

### **Relevant Planning History**

The relevant history in relation to the beach huts:

P/2008/1226: Construction of 8 beach huts, kiosk, shower room and terrace: Approved 21.11.2008

P/2011/0298: Extend time limit - construction of 8 beach huts, kiosk, shower room and terrace - application P/2008/1226/PA: Approved 13.06.2011

P/2012/1265: Construction of five 'overnight' beach huts and kiosk: Approved

3.05.13 .

The relevant history in relation to the car park deck:

P/2010/0701: Creation of 3 car parking spaces. Refused 4.10.10

P/2010/1334: Creation of 3 car parking spaces. Refused, subsequent appeal dismissed on the grounds of serious harm to the view of the Bay from the SWCP.

P/2015/0394: Retention of platform containing 3 car parking spaces: Refused 9.07.15.

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

The key issues are as follows.

1. The principle of development.
2. Design.
3. Parking/Access.
4. Flooding and resilience of structure to storms.
5. Impact on Biodiversity.

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

The most relevant policies are SDT2 and TO1 which encourage regeneration and tourism related activity in the locality, SS10 relating to the impact on the character of the Conservation Area, DE1, DE2 and DE3 relating to the quality of the design and impact on amenity, TA2 and TA3 relating to access and parking, C2, C3, C4, relating to coastal landscape, coastal management, trees and natural landscape features, NC1 relating to biodiversity and ER1 relating to flood risk and resilience.

1. Principle of Development.

A similar proposal for 'overnight' beach hut accommodation was previously approved in 2012, (P/2012/1265). This followed on from earlier approvals for more traditional day huts in 2008 and 2011. This application is no longer extant.

There has been no material change in planning policy to indicate that the provision of overnight huts in a beachside location such as this is unacceptable as a matter of principle.

Indeed, the current condition of the beach and the incidence of anti-social behaviour may be ameliorated by the natural surveillance introduced through occupation of these huts. However, it does need to be shown that there are no adverse impacts on local amenity, biodiversity and that occupation is demonstrably safe from flooding or wave action during storms.

Clearly, the use of the beach huts must be restricted by condition to holiday occupation only. They would be wholly unsuitable for permanent residential

occupation due to their location and restricted size.

The provision of beach huts for overnight occupation on this beach would enhance the beach environment through increased activity and surveillance and the economic benefits of improved tourism facilities would comply with policies SDT2 and TO1 of the adopted Local Plan.

## 2. Design

The design has been modified slightly from that approved in 2012. It proposes a more simple and elegant design solution mainly achieved through the deletion of the pitched glazed gable feature which formed a key element of the previous approval on the site. This rather fussy roofline has been replaced by a lower, consistent flat roof line with zinc standing seam roof and a simple timber frame which includes at ground floor level, timber vertically opening shutters and at first floor level a full width double glazed window with timber brise soleil.

It is considered that the revised proposal succeeds in balancing contemporary design with the traditional design of English seaside beach huts. It is a high quality design that would fit in with the landscape setting and enhance the character of the Conservation Area. Therefore, the design accords with Policies SS10 and DE1 DE2 and DE3 of the Local Plan.

One aspect of the proposal which is less successful in terms of design is the introduction of a further set of steps to provide access to the beach from the huts. The beach is currently dominated by concrete ramps/terracing and the introduction of more inappropriate structures should be resisted unless there are good reasons for their provision. The applicant contends that this new access is needed in case the Council prevents access from the huts to the beach over the public footpath which extends close to the proposed beach huts. This seems an unlikely proposition and it would be preferable to wait until the concern was real rather than imagined. The applicant has been asked to withdraw this element of the scheme.

## 3. Parking/Access

There is a considerable level of objection from residents of Imperial Court relating to the potential impact of parking and vehicular activity being generated within the curtilage of their homes arising from the use of the reinstated footpath and from utilising the unauthorised car park deck for parking and dropping off luggage which is shown to be retained as part of this proposal.

In terms of the footpath, the applicant has been requested to be more specific about where the footpath joins Imperial Court, how the footpath will be used and management measures that can be put in place to reduce nuisance to existing residents and to prevent users of the beach huts parking within the grounds of

Imperial Court.

The applicant is the freeholder of the wider site and so can exercise direct control over these matters.

The public car park at Beacon Quay is in close proximity and more than suitable to provide for the parking needs of this development.

The car park deck, which features strongly in resident's objections, is roughly made, overlooks the Cove and was originally refused planning permission in 2010. The proposal was subsequently dismissed at appeal on the grounds of adverse impact on views from the South West Coast Path. It was constructed subsequent to this ostensibly as permitted development during construction works on the new dwelling on the adjacent site. A more recent planning application to retain this structure was also refused planning permission. The applicant has been advised to withdraw this element of the proposal from the submitted plans.

Action must be considered to secure either removal of this structure or amelioration of its visual impact on the character of the conservation area.

#### 4. Flooding and Resilience

The site is within the defined Coastal Change Management Area and this requires assessment of the proposal against the Shoreline Management Plan. It is necessary to consider whether the location of the proposal close to the sea exposes occupiers to risks from flooding and wave action. This issue has been assessed by the Council's Drainage & Structures department and by the Environment Agency and no objection has been raised.

The response from the Environment Agency confirms that the proposed floor level and access/egress route are both elevated well above still tide water levels.

In terms of their resilience to wave action during storms this has previously been shown to be achievable and requires only a condition to ensure a robust design is secured.

Therefore, the proposal is acceptable with regard to flood risk and accords with Policy C3 of the Adopted Local Plan.

#### 5. Impact on Biodiversity.

A Preliminary Ecological Appraisal was submitted with the application. This stated that there is a low-medium risk that bats could be using the site for day roosting and commuting. This states, in line with Natural England Standing Advice, that the need for a bat survey could be avoided by assuming that there is

some use of the site by bats and managing the site in a bat friendly way will mitigate any harm. The appraisal includes appropriate bat mitigation measures that will be conditioned .

The Preliminary Ecological Appraisal also recommended that the timing of the works is crucial in order to avoid disturbance to breeding birds and biodiversity could be enhanced by replacing the non-native and self-sown trees, which are of low ecological and aesthetic value, with native flowering trees and shrubs appropriate to the location. Conditions will be applied accordingly to ensure compliance with policies C2 and NC1 of the adopted Local Plan.

### **S106/CIL -**

Due to the size of the proposed beach huts, no site acceptability or sustainable development contributions are required. However, a monitoring charge of £1,000.00 is required to monitor that the development is used for holiday purposes only. This is in accordance with paragraphs 5.6-5.8 of the Planning Contributions and Affordable Housing SPD.

The applicant has already paid this charge via a Unilateral Undertaking. A deed of variation is required to tie this payment to the new application.

### **Conclusions**

The proposal is for well-designed contemporary style beach huts that would enhance the character of the Conservation Area and also boost tourist facilities with benefits to the local economy.

The beach is a little overgrown and neglected, this will help regenerate the local area and the natural surveillance that this proposal will introduce may help in reducing anti-social behaviour.

Much of the concern from neighbours to the site relates to the impact of car parking and vehicular activity within the curtilage of Imperial Court. This has been remedied by requesting that the unauthorised car park deck be deleted from this proposal and by securing greater clarity about management measures that could be put in place to prevent car parking within the confines of this site. The public car park at Beacon Quay is in close proximity and more than suitable to provide for the parking needs of this development.

Flooding resilience, impacts on biodiversity, bats and the marine environment can be dealt with through appropriate conditions as already detailed.

### **Recommendation**

Approve: subject to conditions as detailed below and to a Deed of Variation to tie payment of a £1000 monitoring contribution, already secured via a Unilateral Undertaking, to this application.

This is necessary to ensure that the accommodation is used for holiday use only.

### **Conditions**

1. Holiday use only.
2. Samples of materials.
3. Large scale details.
4. Implementation of ecological mitigation measures pre and post construction including revised landscape scheme.
5. Construction Method Statement (to include hours of operation and means of lighting)
6. External lighting detail.
7. Details of waste water treatment.
8. Details of waste disposal
9. Details of construction to ensure resilience to wave action.
10. Parking strategy.
11. Details of footpath reinstatement and measures to mitigate nuisance.

### **Relevant Policies**

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# Agenda Item 11

**Application Number**

P/2016/0348

**Site Address**

Tor Manor  
11 Tor Church Road  
Torquay  
TQ2 5UR

**Case Officer**

Mrs Ruth Robinson

**Ward**

Tormohun

**Description**

Formation of 9 dwellings comprising one four bed, five three bed and three two bed units in a two to three storey terrace building with 9 car parking spaces (variation of P/2012/1093)

**Executive Summary/Key Outcomes**

The scheme is for 9 dwellings on a site at the junction of Tor Church Road and St Elfrides Road which is prominent within the Tormohun Conservation Area.

Currently cleared of buildings and in use on an unauthorised basis for car parking, the site is sensitively located in relation to listed buildings. The Grade II\* Greek Orthodox Church is on the opposite side of St Elfrides Road and the neighbouring buildings along Tor Church Road are Grade II listed. The site is also key in strategic views along Lucius Street and from Croft Road.

The design, comprising a more domestic terraced form addressing St Elfrides Road with a grander more pronounced villa form facing Tor Church Road is similar to that agreed pursuant to P/2012/1093 which is now time expired.

This design approach was achieved after a considerable history of negotiation and input from the Design Review Panel and Historic England.

The main changes to the original approval are:

1. The deletion of flats from the scheme which reduces the number of units from 11 to 9.
2. Modifications to the design of the villa form fronting Tor Church Road.
3. Modifications to the design and appearance of the corner feature which is key in views from Lucius Street.

The main issues are design, highways, landscape/biodiversity, flood risk and compliance with local plan parking and garden standards. Advice from the Councils Drainage Engineer is awaited.

Subject to a satisfactory response on outstanding matters the scheme is considered acceptable and in line with national and local guidance.

There is a long planning history to this site and there is a need to achieve a good quality and viable scheme that will help to re knit the street scene and deliver much needed family homes.

The applicant states an intention to proceed quickly with this scheme and has included detailed information to satisfy anticipated conditions and intends to meet developer contributions via a Unilateral Undertaking.

It is proposed to impose a condition limiting the permission to two years to encourage this implementation.

This is justified by the need to secure new homes, the need to repair the street scene in such a prominent and sensitive location in the conservation area, the significant delay in development taking place following an initial approval in 2008 and the continued use of the land on an unauthorised basis for car parking which is damaging to the character of the Conservation Area and the setting of adjacent listed buildings.

### **Recommendation**

Approval: Subject to revised plans/information to satisfy any outstanding design, landscape, flood risk and access issues, to conditions as detailed below (including a two year period for implementation) and to the conclusion of either a Unilateral Undertaking or S278 Notice to secure the specified highway works which comprise improvements to the zebra crossing and measures to prevent coach parking opposite the access to the site.

### **Statutory Determination Period**

This application should be determined within a 13 week period expiring on the 29th June 2016. The applicant has indicated that he wishes to commence work quickly will provide the community infrastructure contributions via a Unilateral Undertaking so it should be possible to issue the decision within time.

### **Site Details**

This cleared site, currently in use on an unauthorised basis as a car park is located at the junction of St Elfrides Road and Tor Church Road. It is prominent within the Tormohun Conservation Area and in local views. The most important of these are from St Lucius Street and Tor Church Road and on the approach from Croft Road.

The Greek Orthodox Church, which is Grade II\* listed sits on the opposite side of St Elfrides Road with its grounds providing significant softening in the street scene. The adjacent Villas on Tor Church Road, which rise with the lie of the land are Grade II Listed.

To the south of the site are a series of former grand villas now in use as hotels.

To the north of the site are the more domestically scaled terraced properties of St Elfrides Road.

The site is slightly elevated and retained by a natural limestone wall which contains a redundant drinking fountain. The site is backed by a rocky outcrop with tree planting.

Vehicular access currently operates on a gyratory system with access from Tor Church Road and egress from St Elfrides Road.

The site was formerly occupied by the Tor Social Club which was demolished some years ago.

A lawful start on site was carried out and confirmed via a Certificate of Lawful Development [P/2012/0632] for 10 flats as approved under P/2008/0705.

### **Detailed Proposals**

This is a detailed application for the construction of 9 dwellings comprising one 4 bed dwelling, five 3 bed dwellings and three 2 bed dwellings with 8 car parking spaces in a communal car park sited to the rear of the building and with access to and from Tor Church Road. Two further spaces serving units 1 and 2 are accommodated in a car port with access to St Elfrides Road.

### **Summary Of Consultation Responses**

Historic England have been consulted as the scheme is over 1000m<sup>2</sup> but do not wish to comment.

Highways: Consider that the visibility from the Tor Church Road access is not shown correctly and should be rectified. There is concern about the lack of visibility from the car ports proposed for Units 1 and 2 which utilise the St Elfrides Road entrance.

Measures to improve pedestrian movement/accessibility are recommended from any sustainable transport contributions.

Arboriculturalist: Considers that whilst the proposed landscaping is adequate it offers little in the way of a wider visual contribution to the landscape character of the Conservation Area.

Suggests that the opportunities that exist for more substantial tree planting should be exploited. More details of maintenance/tree pits and watering required.

Green Infrastructure Coordinator: Considers the ecological appraisal to be a fair assessment of the ecological impacts of the development and the proposed mitigation, bird and bat boxes should be secured by condition. A Greenspace contribution is required towards replacement fitness equipment in Upton Park.

Archaeologist: requires a condition regarding a watching brief and site investigation.

RSPB: Have requested nesting boxes incorporated into building design.

Drainage Engineer: In response to the previous application on the site the Drainage Engineer made it clear that there should be no increase in surface water discharge due to the risk of flooding in the Town Centre and requested a sustainable drainage system to deal with any surplus. Since that time, Torbay has been designated a critical drainage area which includes more rigorous approach. A FRA has been submitted and comments are awaited.

### **Summary Of Representations**

None received at the time of writing.

### **Relevant Planning History**

The site has a long planning history:

- P/2004/0243/PA Conversion of Social Club and extension to provide 8 units. Approved 08/10/04.
- P/2005/1490/PA Part demolition of Social Club. Approved 17/10/05.
- P/2005/1491/PA Erection of two flats. Approved 17/10/05.
- P/2007/0676/PA Demolition of façade. Approved 19/06/07.
- P/2007/0677/PA Erection of 8 flats with vehicular/pedestrian access.
- P/2008/0705/PA Construction of 10 residential units and 12 car parking spaces: Approved 30/06/09.
- P/2008/1004/CA Demolition of remaining façade. Approved 11/08/08
- P/2012/0632/CE Implementation of material operation to preserve consent for 10 residential dwellings.
- P/2012/1093 Erection of 8 houses and three flats: Approved.

The site has also most recently been used as a car park on an unauthorised basis.

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

The key issues are design and its impact on the character of the Conservation Area, highways, impact on biodiversity and compliance with local plan parking, landscaping and garden standards. Each will be addressed in turn.

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

The relevant policies are SS10 and HE2 in respect of the relationship to the character of the Conservation Area and to adjacent listed buildings, DE1 DE2 and DE3 in terms of design, quality of the residential environment created and local amenity, TA1 TA2 and TA3 in respect of the accessibility of the site, the acceptability of the proposed access and parking levels. Policies in relation to

flood risk (ER1), biodiversity (NC1), community infrastructure contributions (SS8) and archaeology are also relevant

### **Impact on the Character of the Conservation Area**

The site was originally occupied by a formal, quite grand villa which was significantly extended over time and subsequently became used as a Social Club.

Earlier approvals on the site had sought to retain what remained of the villa and through a substantial rear extension to the retained building achieved a scheme of 10 dwellings on the site in a 'pastiche' style.

The attempts to retain the building were not successful and the remaining façade was finally demolished 7 years ago. Permission was subsequently granted for a replica villa with large rear extension which accommodated 10 flats. A lawful start on site was made in respect of this application and confirmed via a CLEUD.

The most recent approval on the site adopted a more contemporary approach to design and sought to move away from the centrally sited villa response and looked for more contextual rather than historic references. Significant input from the DRP and Historic England resulted in a more linear layout that responded more closely to the established form, character and grain of Tor Church Road and St Elfrides Road.

This scheme was carefully designed to reflect the transition of building form around the site through the use of more substantial villa forms facing Tor Church Road, while having more domestic scale terraced units wrapping around the corner onto St Elfrides Road.

The terrace element was set back from the retaining wall with front gardens to pick up on the southerly aspect, to reflect the garden layout of St Elfrides Road, to achieve a reasonable garden setting to the building, to soften the street scene and to relate to the church yard opposite.

The broad principles of this design are repeated in the current application.

Design modifications have been introduced to achieve a viable scheme and the principle changes are to the form and design of the 'villa' or tower feature which originally sought to create a transition from the grander villas of Tor Church Road and to the design of the building as it turns the corner into St Elfrides Road where it forms a focal point for views from Lucius Street.

This largely arises due to the deletion of the flats from the scheme. The move towards a smaller number of larger units on the site makes the delivery of a 'grand statement' building facing Tor Church Road more difficult to achieve. It has led to a reduction in the scale and a change in the composition of this part of

the building. Whilst this diminishes the 'transitional villa' effect included in the original scheme it is still an acceptable design response and is in keeping with the established character of buildings along Tor Church Road.

The use of natural stone for the façade of the building as it turns the corner to St Elfrides Road is now scaled back and replaced with dark coloured composite boarding. Whilst the samples suggest a good quality appearance can be achieved it does not punctuate the corner as effectively as in the original approval.

However, it is still considered to represent an acceptable standard in terms of design quality.

In terms of detail, it was considered that the balcony treatment was capable of improvement and that the fenestration throughout the revised scheme lacked consistency and further diminished the overall quality of the scheme.

Since submission there have been discussions to try and reintroduce some of the earlier quality to the design and amended plans have been received which, whilst needing some minor tweaking, have addressed these concerns. It has been agreed that this minor detail and the exact palette of materials can be subject to a condition for resolution on site.

The applicant contends that marginal viability has prevented the site coming forward and given it is important to achieve redevelopment of this site it may be that a slight reduction in quality is compensated for the delivery of new homes and reknitting of the street scene.

### **Highways**

Currently the site is accessed on a gyratory system with access in from Tor Church Road and out from St Elfrides Road. This means of accessing the site has prevailed since the site was used as a Social Club.

The most recent approval (P/2012/1093) changed this configuration with access and egress confined to the Tor Church Road entrance and the St Elfrides access adapted to provide two car ports.

Highways have stated that the visibility from the Tor Church Road entrance has not been shown from the centre of the access and is potentially misleading and they continue to be concerned about visibility from the car ports on St Elfrides Road.

However, whilst the accuracy of the visibility distances will be rectified, the access arrangements are in line with previously approved plans and in relation to the car ports, the road is quiet, one way and there are similar parking/garaging arrangements elsewhere on the street.

Whilst maintaining the current access and egress within a housing layout would better overcome highway concerns it would make it difficult to achieve an acceptable design solution and would reduce the amount of development that could be accommodated thus seriously compromising viability.

Highways have requested that the sustainable transport contributions be used to improve pedestrian movement in the immediate area by upgrading footpaths, the pedestrian crossing on Tor Church Road and a RTO to prevent coaches parking opposite the Tor Church Road entrance.

The more accurate information regarding visibility is awaited and any further Highway response will be reported verbally.

**Compliance with local plan parking and garden standards.**

The individual dwellings are in excess of the minimum space standards laid out in the local plan.

Garden space is available to each of the dwellings and comprises a mix of outdoor space and balcony/terrace areas.

There is also an amenity/landscape contribution arising from the rocky outcrop which borders the site and which is to be improved to create a wildlife habitat and to provide an attractive outlook for residents.

Whilst there is not full compliance with the minimum garden size standard of 55m<sup>2</sup> per dwelling as specified in the newly Adopted Local Plan it is not considered that the minor shortfall justifies a request for a green space contribution.

This is because the recent change in the law clarifies that tariff style contributions should not be sought from schemes of 10 units or less and that any contribution should meet the tests laid down in Reg 122 of the CIL Regulations in that they are necessary, directly related to the development and fairly and reasonably related in scale and kind.

Whilst it has been suggested by the Green Infrastructure Coordinator that fitness equipment at Upton Park should be funded through this contribution, it is not considered that such a request would meet the tests of acceptability .

In terms of parking, the provision is 1:1 with 1 visitor space. This is below the current standard of 2 spaces per dwelling plus visitor spaces. Given the location of the site close to the town centre and to public transport links this shortfall is not fatal particularly in view of the design difficulties in accommodating any additional parking on the site.

However, it is legitimate to secure the improvements requested by the Highways Officer to improve the adjacent Zebra Crossing and to serve a Road Traffic Order to prevent coaches parking opposite the access to the site. It is unclear at this stage whether this is best secured via a Unilateral Undertaking or via a S278 Notice. Members will be updated at the meeting.

### **Landscape/Biodiversity**

In terms of landscaping of the site, the Councils Arboriculturalist has suggested some changes to the submitted scheme to secure a benefit to the wider landscape character of the Conservation Area. This has been requested and agreed. More detail is required in relation to tree pits and maintenance which will be secured by condition.

An Ecological Appraisal has been submitted which is assessed as being a fair appraisal of the capacity of the site. Mitigation measures are suggested in relation to lighting, bird and bat boxes which are included in the submitted scheme. Conditions will be needed to secure compliance. More robust native tree planting will also boost the biodiversity of the site which will be beneficial.

Whilst not specifically recommended in the ecological appraisal, the previous consent included a condition requiring a 'Method Statement' detailing how construction can be carried out without unduly impacting on the use of the site by bats. This should be repeated.

Other benefits of the proposal comprise reinstatement of the drinking fountain situated in the stone retaining wall bordering the site and a schedule of works to secure repair and refurbishment of the stone walls bordering the site.

### **Drainage**

Since the previous approval on the site, Torbay has been designated a critical drainage area with a more rigorous surface water disposal strategy required in order to ensure that brownfield sites achieve much reduced rates of run off. Whilst a Flood risk Assessment has been submitted, a response from the Councils Drainage Engineer has not, at the time of writing, been received. This matter will be progressed and Members updated at the meeting.

### **Archaeology**

The site is of significance from an archaeological perspective and a Watching Brief has been agreed with the Councils Archaeologist. A condition is included to secure compliance with this.

### **Land**

Advice is awaited from the EHO regarding any potential contamination and the outcome of this will dictate whether mitigation should be secured by condition.

## **S106/CIL**

Government advice has confirmed that contributions relating to schemes of less than 10 units cannot be pooled and must be related to a specific project which is directly related to the development in question. It is not considered that a Green space contribution would meet the tests bearing in mind in the recent changes to the legislation.

The nature of the site and the concerns relating to visibility however do justify the implementation of the highway improvements requested although it is unclear whether this is best achieved via a Unilateral Undertaking or via a S278 Notice.

Members will be updated on this at the meeting.

## **Conclusions**

There is a long planning history to this site and there is a need to achieve a good quality and viable scheme that will help to re knit the street scene and deliver much needed family homes. This is a brownfield site in a sustainable location close to the town centre, which provides a good opportunity for redevelopment. Para. 111 in the NPPF encourages the effective use of land by re-using land that has previously been developed.

The main issues are design, highways, landscape/biodiversity, flood risk and compliance with local plan parking and garden standards.

Improved design details have been submitted and slight amendments to the landscape scheme requested which should enhance the setting of the site. More accurate information relating to visibility have been requested and advice is awaited from the Councils Drainage Engineer. Progress on these matters will be reported verbally.

Improvements to the highway network are required which will be secured either via a Unilateral Undertaking or S278 Notice.

Subject to this, the scheme is considered to be acceptable and meets the policy guidelines laid out in the NPPF and the Adopted Local Plan.

The applicant states an intention to proceed quickly with this scheme and has included detailed information to satisfy anticipated conditions and intends to meet developer contributions via a Unilateral Undertaking.

It is proposed to impose a condition limiting the permission to two years to encourage this implementation. This is justified by the need to secure new homes, the need to repair the street scene in such a prominent and sensitive location in the conservation area, the significant delay in development taking place following an initial approval in 2008 and the continued use of the land on an unauthorised basis for car parking which is damaging to the character of the

Conservation Area and the setting of adjacent listed buildings.

### **Recommendation**

Approval: Subject to revised plans/information to satisfy any outstanding design, landscape, flood risk and access issues, to conditions as detailed below (including a two year period for implementation) and to the conclusion of either a Unilateral Undertaking or S278 Notice to secure the specified highway works which comprise improvements to the zebra crossing and measures to prevent coach parking opposite the access to the site.

### **Suggested Conditions**

1. Two year limit.
2. Samples of materials and colours of render
3. Specification of natural stone details
4. Implementation of schedule of repairs in relation to boundary walls.
5. Implementation of Landscape scheme
6. Details of tree pits/maintenance regime.
7. Refurbishment of drinking fountain/boundary walls
8. Archaeology: implementation of brief.
9. Method statement re construction and bats
10. Sustainable Drainage
11. No PD
12. Provision of nesting/bat boxes
13. Implementation of car parking, bin storage/bike stands.

### **Relevant Policies**

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# Agenda Item 12

## Spatial Planning

### Performance Report for the period April 2014 to March 2016

#### Summary of success April 2014 – March 2016

- The new Local Plan has been adopted (December 2015) and published (May 2016).
- Four masterplans, relating to Torquay and Paignton Town Centres, Torquay Gateway and Collaton St Mary have been adopted by the Council
- A Local Development Order has been produced for South Devon College, providing a positive framework for development on the campus over the next 15 years,
- Over the last two years, the Council has determined over **87%** of major planning applications on time. In the last 8 quarterly reporting periods there were five quarters in which 100% of major applications were determined on time. For the 2013 – 2015 reporting period our performance was 85%, so our performance has improved over the last 12 months and exceeds Government targets.
- There has been a considerable improvement in performance in making decisions in time for other applications (**88.72%**) and for minor applications (**72.5%**), with significant increases of 17% and 30% respectively over the last 12 months.
- Four appeals, regarding major development proposals, over the last two years have been dismissed – representing a **100%** success rate for the Council in defending its decisions at appeal, against a Government target of 80% success rate. Just under 70% of smaller applications were successfully defended at appeal.
- Development Management Committee has made **123 decisions**, of which **93.5%** (115) accord with officer recommendations.
- Development Management Committee **approved 83.7%** (103) of the applications it considered. It deferred 10% (12) and refused 6.5% (8).
- Delivery of new homes at Wall Park, Scotts Meadow and Yannons Farm has commenced and there are a number of major development proposals coming forward over the next 12 months.
- This excellent performance was achieved in the context of major changes within the Council and to national policy and guidance e.g. Housing & Planning Act
- The Spatial Planning team is not complacent and continues to find ways to improve its operation as a business unit, including a review of Site Review Meetings, changes to the scheme of delegation and constitution, closer working with applicants and agents.

#### 1.0 Executive Summary and headlines of success

- 1.1 This report provides a summary of the performance of the Spatial Planning Team. The team's performance is assessed against Government targets, against other Local Planning Authorities and in relation to outcomes on the ground. It is also assessed over a two year period (1 April 2014 – 31 March 2016), but particularly the last 12 months (from 1 April 2014 to 31 March 2015).

- 1.2 The Council's good performance in relation to producing new strategy and determining planning applications remains vital to securing investment in the Bay and complement other activities, such as business support provided by the TDA. Investors look , for example, at the strategic planning framework (Local Plan, master plans, neighbourhood plans) to provide clarity and certainty; they look at the Council's speed of decision making and the extent to which officer advice on planning applications is agreed by Members. This allows them to judge the level of risk of investment at an early stage in the development process.
- 1.3 It has been a year of significant progress on strategic planning and transport projects. The new Local Plan has been adopted and published. This, alongside the Economic Strategy, provides a very robust and clear framework for growth, change and investment in Torbay. It is supported by four masterplans, all of which have been adopted as Supplementary Planning Documents within the last 12 months. The delivery work of the town centre masterplans is moving forward to agreed timescales and is already securing investor interest. The three neighbourhood plans continue to move forward, with the expectation of formal drafts being submitted to the Council in September 2016 and independent Examination taking place before end March 2017. Strategic transport projects are being delivered, such as improvements to the Western Corridor and Torre / Torquay Town Centre traffic reversal, and further bids for funding have been submitted for Edginswell Station and the area around Paignton Stations.
- 1.4 The Council continues to make robust, quick decisions on major planning applications. Between April 2014 and March 2016 (i.e. eight quarters) there were five quarters in which 100% of major applications were determined within 13 weeks. Over the last two years, the Council has determined almost 87% of major planning applications on time, which compares favourably with the 85% over the previous two year period (April 2013 – March 2015)
- 1.5 Four appeals, regarding major development proposals, over the last two years have been dismissed – representing a 100% success rate for the Council in defending its decisions at appeal, against a Government target of 80% success rate. Just under 70% of smaller applications were successfully defended at appeal, but the Council is not assessed by Government against performance on smaller applications.
- 1.6 There have been significant changes in national legislation and guidance, which themselves have significant implications for affordable housing and for the way in which a planning service is likely to be delivered in the future.
- 1.7 Spatial Planning, with officers and Members working together, continue to enable the provision of new business space, new homes and new infrastructure to meet the needs of the community. This also helps to meet the financial needs of the Council in the face of diminishing financial support from Government.

## **2.0 Performance Targets**

- 2.1 The Council's planning performance is assessed, by Government, against two key criteria:

- The % of **major planning applications** determined within 13 weeks, with Councils expected to determine at least 60% of applications within 13 weeks. This is an assessment of speed.
- The % of major planning decisions overturned at **appeal**, with the Council expected to ensure that no more than 20% of decisions on major developments are overturned on appeal. This is an assessment of quality of decision making.

2.2 However, the Government intend to extend performance measures to non-major development. No specific criteria have been announced or timescales for this measure, although it is likely to apply to performance levels below 60% or 65%. For the purpose of this report we have used the higher of these assumptions, as set out below. If these new performance measures are introduced by Government it is highly likely they will apply immediately to the previous two years' performance. As such it is important to track performance against these measures.

- The % of **minor applications** determined within eight weeks, with Councils expected to ensure that 65% of minor planning applications are determined within this period.
- The % of **other applications** determined within eight weeks, with Councils expected to ensure that 65% of minor planning applications are determined within this period.

2.3 The Spatial Planning team is outcome driven. It wants to ensure the right development happens in the right place, at the right time and secures benefits (social, environmental, economic) for the Bay as a whole. The examples cited in this report (see section ??) show that the Council continues to deliver high quality outcomes.

### 3.0 Major developments

3.1 Major developments are those for 10 houses or more, for 1000 sq metres or more of floorspace or for 1 hectare (0.5 ha's for residential development) or more of land. Major applications requiring an Environmental Impact Assessment (EIA) are excluded from this performance monitoring. Similarly, major applications for which there has been a formally agreed extension of time (e.g. via a Planning Performance Agreement) are also excluded.

3.2 Councils are expected to determine at least 60% of major planning applications within 13 weeks. Councils that fail to achieve this target could be placed in special measures. For the previous two year (2013 – 2015) rolling reporting period the Council's performance was at 85%.

3.3 Table 1 below shows the Council's performance, on a quarter by quarter basis between April 2014 and March 2016, on major development proposals. The Council has received around 39 major planning applications over the last 2 years, with a slight increase in numbers in the last 12 months. This is a lower number than has been the case in previous years, but the number is forecast to increase as the national economy recovers and the confidence provided to investors via the Local Plan and masterplan delivery.

3.4 Table 1 shows that the Council has determined just over 87% of major planning applications within agreed timescales and has only once, over the last 2 years, fallen below 60% of

decisions made within agreed timescales. It is worth noting that the relatively low numbers of major planning applications received by the Council means that a missed deadline on one application can cause a big percentage swing in terms of performance. Nonetheless, and average over the last two years of almost 87% decisions in time is an extremely good performance, especially given the context of staff changes and national policy / guidance changes, and shows continued improvement from 2012, when the Council was at risk of being placed in special measures.

- 3.5 The table below illustrates a strong performance on determining larger planning applications at a rate well above the national target. This data provides a good indication to incoming investors that planning applications are not unduly delayed in their determination and that Torbay Council is efficient and effective. It also ensures that Torbay Council will not be placed in special measures because of its performance on major applications.
- 3.6 As previously reported we continue to actively encourage early engagement with applicants and consultees through the pre application process. Pre application discussions provide an effective opportunity for issues to be addressed at an early stage in the process, for value to be added to the scheme through consultation and understanding, and provides a basis for a swifter determination of subsequent applications.
- 3.7 The Design Review Panel continues to be a valuable part of the process to enhance the quality of proposed schemes. Feedback from applicants and agents is positive that the workshop approach in DRP meetings facilitates a positive outcome. DRP meetings have continued to be held throughout the year.

**Table 1: Majors Performance (April 2014 – March 2016)**

	Target	Percentage In Time	Decisions In time	Total Decisions
2014/15 Q1	60.00%	100.00%	7	7
2014/15 Q2	60.00%	40.00%	2	5
2014/15 Q3	60.00%	100.00%	3	3
2014/15 Q4	60.00%	100.00%	4	4
2015/16 Q1	60.00%	80.00%	4	5
2015/16 Q2	60.00%	75.00%	3	4
2015/16 Q3	60.00%	100.00%	7	7
2015/16 Q4	60.00%	100.00%	4	4
Two year average	60.00%	87.18%	34	39

- 3.8 Between April 2014 and March 2016 the Development Management Committee made 123 decisions, split evenly between the two years. On 115 (93.5%) occasions decisions were made in accordance with officer advice, which underlines the close working relationship between Members and officers, shows Members understanding of planning issues and policies and shows the robustness of officer advice. Commendably, 103 decisions were for approval, which shows the positive approach Members and officers take towards development. A small number of applications were refused (8), mostly in line with officer

recommendation and demonstrating that Members are prepared to refuse applications. Just under 10% (12) of decisions were deferred, often when Members wanted greater clarity and certainty about the proposal before making a decision. Again, this reflects a positive approach and the importance attached to making the right decisions.

- 3.9 The Council's good performance in determining major applications is as a result of a team effort, between applicants, Councillors (particular Development Management Committee Members) and officers – from a range of different services, but particularly the Development Management and Technical Support teams. However, there is no room for complacency, especially as the numbers of major applications Torbay determines is relatively small and if a few more applications are determined 'out of time' this would have a dramatic effect on our performance against Government targets. Consequently, even more effort will be placed on productive pre-application work, including Member briefings; Planning Performance Agreements will be used more frequently; evidently poor planning applications will be refused quickly, rather than time spent on trying to negotiate acceptable outcomes (e.g. the redevelopment proposals for Babbacombe Downs Road); DMC Members will be encouraged not to defer too many decisions; and quicker means to complete S106 Agreements will be explored.
- 3.10 Torbay has also performed well in relation to other Councils. A review of DCLG statistics, based on quarterly returns from every Council, shows that in December 2015 (and based on two years of returns, from January 2014) Torbay determined 82.1% of major applications in time and was ranked 155<sup>th</sup> out of 334 Councils. Using the same statistics, Torbay performed well in relation to other Local Planning Authorities:
- Cornwall, ranked 35<sup>th</sup> with 94.2% of decisions in time
  - Plymouth, ranked 44<sup>th</sup> with 92.4% of decisions in time
  - Dartmoor National Park, ranked 46<sup>th</sup> with 92.4% of decisions in time
  - Bournemouth, ranked 96<sup>th</sup>, with 87.1% of decisions in time
  - Mid Devon, ranked 156<sup>th</sup> with 81.8% of decisions in time
  - Torridge, ranked 172<sup>nd</sup> with 80.3% of decisions in time
  - Exeter, ranked 298<sup>th</sup>, with 63.3% of decisions in time
  - East Devon, ranked 323<sup>rd</sup> with 56.1% of decisions on time.

#### **4.0 Other and minor developments**

- 4.1 Minor developments are defined as relatively small scale commercial development (under 1000 sq mts floorspace or 1 ha of land) and for residential schemes of less than 10 homes (or under 0.5 ha's of land. The category of 'Other' applications includes householder applications, changes of use, listed buildings and certificates of lawfulness. There are no penalties as yet for failure to achieve the Government's target of achieving 65% of decisions within 8 weeks for minor and 'other' applications, although this too is likely to change in the near future.
- 4.2 Performance in relation to smaller developments is important, not least because planning application fees, business expansion and new homes bonus all provide valuable income for the Council. Applications for minor residential development (e.g. extensions to domestic properties) are a subset of 'other' planning applications.

- 4.3 Torbay has, historically, relied on small scale developments such as these to deliver new homes and to make a significant contribution to Torbay's 5 year housing supply. It is also extremely important to support local and regional developers, who generally develop smaller, less viable sites than volume home builders for example.
- 4.4 The 65% target has, historically, been difficult to meet due to competing priorities, reductions in staff and restructuring, and because of the time needed to complete Section 106 Agreements within the 8 week period. In the 2012-2014 rolling review period the Council's performance was often below 60%, although there were signs of improvement in the last quarter of 2013/14.
- 4.5 Tables 2 and 3 below show a considerable improvement, when measured over the last two years, in performance in dealing with other (88.72%) and minor applications (72.5%) in time.

**Table 2: Others Performance (April 2014 – March 2016)**

	Target	Percentage In Time	Decisions In time	Total Decisions
2014/15 Q1	65.00%	92.21%	142	154
2014/15 Q2	65.00%	89.21%	124	139
2014/15 Q3	65.00%	87.97%	117	133
2014/15 Q4	65.00%	78.03%	103	132
2015/16 Q1	65.00%	81.21%	134	165
2015/16 Q2	65.00%	86.23%	144	167
2015/16 Q3	65.00%	95.86%	139	145
2015/16 Q4	65.00%	98.69%	151	153
Two year average	80.00%	88.72%	1054	1188

**Table 3: Minors Performance (April 2014 – March 2016)**

	Target	Percentage In Time	Decisions In time	Total Decisions
2014/15 Q1	65.00%	68.09%	64	94
2014/15 Q2	65.00%	81.25%	52	64
2014/15 Q3	65.00%	75.71%	53	70
2014/15 Q4	65.00%	50.68%	37	73
2015/16 Q1	65.00%	62.30%	38	61
2015/16 Q2	65.00%	65.00%	39	60
2015/16 Q3	65.00%	89.80%	44	49
2015/16 Q4	65.00%	95.31%	61	64
Two year average	65.00%	72.52%	388	535

- 4.6 In the previous reports to Members concern was raised about performance in respect of Minor and Other applications which was below target. This area was previously identified as needing improvement. The Development Management team have focused on increasing their performance and have achieved a significant improvement. For Minor applications a 30% increase in performance has been attained when comparing quarters 1 and 2 in 2015/16 with quarters 3 and 4 in 2015/16. This has been achieved by increased emphasis within the team on target dates and management support to meet these targets. Similarly performance on other applications has increased by 17% between the beginning of 2015/16 and end 2015/16. Performance in both categories is now above target. This is a significant improvement that the entire team has worked hard to achieve.
- 4.7 Consequently, Torbay Council is unlikely to be at risk of being placed in special measures on the introduction by the Government of performance targets for other and minor applications. Nonetheless, Spatial Planning continues to look for ways to improve its performance.
- 4.8 When combined, 83.7% of decisions were made in time by the Council for minor and other applications. This compares very favourably with other Local Planning Authorities. DCLG statistics show that, between January 2014 and Dec 2015 (note, a slightly different reporting period), other Local Planning Authorities performed as follows:
- Plymouth, ranked 19<sup>th</sup> with 94%
  - Cornwall, ranked 121<sup>st</sup> with 84%
  - Dartmoor National Park, ranked 136<sup>th</sup> with 82.7%
  - Torridge, ranked 171 with 80.4%
  - East Devon ranked 310<sup>th</sup> with 63.8%
  - Exeter ranked 315<sup>th</sup> with 54.7%

## 5.0 Planning Appeals

**Table 4: Planning Appeals Performance (April 2014 – March 2016)**

Appeals	Majors	Dismissed	Others / Minors	Dismissed
<b>2014/15</b>	3	3	28	22
<b>2015/16</b>	1	1	38	24
<b>Total</b>	4	4	66	46
<b>% dismissed</b>		<b>100%</b>		69.7%

- 5.1 Table 4 above shows the Council's performance on planning appeals over the last two years. Councils are only measured on their performance against major applications and are expected to be able to defend, successfully, at least 80% of decisions. This is used as a measure of quality of decision making.

- 5.2 The major cases in 2014/15 related to Tesco, Edginswell; Churston Golf Course and Morrison's Babbacombe. The 2015/16 appeal relates to the former Gleneagles Hotel. This appeal was dismissed. Consequently the Council has a 100% success rate in defending its decisions, on appeal, for major planning applications.
- 5.3 Whilst this might suggest that the Council is only refusing the most contentious of major applications (i.e. they are relatively easy to refuse and defend at appeal), recent history shows otherwise. Development Management Committee has refused a number of applications, some just on design grounds, including a revised layout by Linden Homes at White Rock and most recently a substantial redevelopment proposal at Babbacombe Downs Road. The outcome of the Gleneagles Hotel appeal demonstrates that the Council is correct to refuse proposals that would result in developments that are poorly designed.
- 5.4 For smaller development proposals, 66 appeals have been lodged and 46 (69.7%) were dismissed. This is a good outcome, again showing that the Council is prepared to push for higher quality development proposals and is prepared to refuse planning applications that do not meet policy requirements. It is worth noting that a 100% success rate at appeal would indicate that the Council is not refusing enough planning applications and therefore would not be performing at the most effective level.
- 5.5 Members received the details on these appeals in performance reports dated November 2015 and April 2015. Consequently those details are not reproduced in this report, but details of the appeal decisions since October 2015 are included in Appendix A of this report.

## **6.0 Development Pipeline Projects**

- 6.1 A steady stream of major planning applications is important to the Council, for a number of reasons. It shows there is continued interest in and investment in Torbay; it supports the delivery of jobs, homes and infrastructure; planning application fees are vital to Spatial Planning as a business unit. Consequently, Spatial Planning is proactive and positive in working with investors and developers, to help deliver the Local Plan and to ensure Torbay continues to meet Government requirements (e.g. has a rolling 5 year supply of housing land).
- 6.2 Table 5 below provides a list of major developments, together with the date (when known) the proposal is expected to be considered by Development Management Committee:

**Table 5: emerging major development proposals**

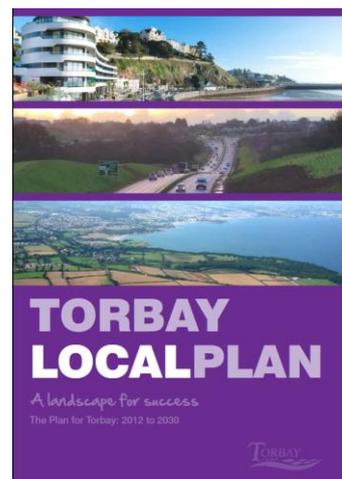
Site Address	Summary proposal	Target DMC / status
Pavillion, Torquay	Hotel, Flats, Car Parking	July/August 16
Yannons Phase D	Residential	August 16
Rossitors Paignton	Residential	August 16
White Rock Local Centre	Retail	August 16
Shedden Hall Hotel	Residential	July 16
Sports Pavillion White Rock	Sports facilities	July 16
White Rock	Residential	July 16
Torbay Motel	Residential	Sept 16
Alfriston Road Paignton	Residential	Appln not valid
Collaton St Mary	Residential	Appln not valid
Claylands	Employment	Appln awaited
Torquay Gateway	Mixed use	Appln awaited

**7.0 Local Plan, Masterplanning and other Strategy work Local Plan**

7.1 The new Local Plan was adopted by the Council in December 2015. This followed a 2.5 day Hearing in November 2014; the production of two interim reports by the Inspector; and further public consultation on the proposed main modifications to the Local Plan.

7.2 The Local Plan includes provision for:

- A strategic framework for growth and change in Torbay to 2030, with regular reviews and assessment against the delivery of new jobs and homes;
- Delivery of 5,500 jobs and 8,900 homes in the Bay to 2030, which reflects Torbay’s environmental quality and capacity;
- A requirement for the Council to produce new site allocation plans, showing the location and type of development over the medium term, if Neighbourhood Forums fail to deliver formal draft Neighbourhood Plans by the end of March 2016.



7.3 Members will recall that the Inspector rejected calls, by the housing industry, for much more development and for higher levels of affordable housing. The Inspector considered that quantum of development to be unrealistic, in such an environmentally sensitive area, and that the level of demand from the market did not justify increased levels of growth. He also firmly rejected Neighbourhood Forums calls for less growth. He said it was right for the Local Plan to be ambitious for new jobs and homes.

7.4 The Inspector confirmed that the Plan includes enough land for housing for the next 5 years.

7.5 The content of the new Local Plan reflects the huge amount of time and effort spent on its preparation by Members, officers, businesses, communities and other representative organisations. It also reflects the nature of Torbay’s high quality environment. Officers were able to demonstrate, with good evidence, that Torbay’s environment could not

accommodate the levels of growth (10,000 plus homes) that the Inspector wanted us to test and the development industry wanted us to provide. However, whilst that is an extremely positive outcome, the need for new homes (at 12,600) remains high. The Council must continue to work hard, with a range of partners (including housing providers and other Local Authorities), particularly after 2021, to ensure there is sufficient land for homes and that housing need is reduced. Consequently, the Council is working with Plymouth, South Hams, West Devon and Dartmoor National Park authorities on the emerging Plan for South West Devon.

7.6 The new Local Plan provides a positive framework for growth and change in Torbay. This is specifically in relation to the three town centres, which need substantial investment and regeneration in order to ensure they are healthy, vibrant, 21<sup>st</sup> century town centres. It is also in relation to the growth areas, at Torquay Gateway and Collaton St Mary, identified in the Local Plan. This positive framework is extremely helpful in attracting investment, in determining planning applications and securing the best, most sustainable outcomes for Torbay in terms of new development.

7.7 The new Local Plan was published on 31 May 2016.

### **Masterplans**

7.8 To support successful completion and delivery of the Local Plan, four masterplans have been produced. These relate to Torquay and Paignton Town Centres, Torquay Gateway and Collaton St Mary. The emerging Neighbourhood Plan for Brixham Peninsula includes plans for the redevelopment of the Town Centre Car Park and the Harbour Area in Brixham.

7.9 All four masterplans produced by the Council have included a substantial amount of community engagement and consultation.

7.10 The Torquay and Paignton masterplans were adopted by Council in June 2015 as Supplementary Planning Documents. A Masterplan Delivery Programme Board has been set up and, using £150,000 of Council funds, the Programme Board is over-seeing the identification of priority development sites in Torquay and Paignton Town Centres, the testing of viable development options for those sites; and soft market testing of a preferred development option for each site. That work will be complete in July 2016, when more formal marketing of the sites will commence. Further community and business engagement is taking place on the delivery of masterplans in June 2016.

7.11 The priority sites in Torquay include the Town Hall Car Park, Temperance Street (as a longer term, land assembly project) and Montpellier Road / Terrace Car Park. The priority sites in Paignton include Crossways, Victoria Centre, Paignton Harbour and Paignton Stations. These schemes equate to around £110M Gross Development Value and will deliver new commercial space, new homes and new infrastructure for the Town Centres.



7.12 The Torquay Gateway masterplan was adopted by the Council, as a Supplementary Planning Document, in December 2015 following adoption of the Local Plan which identified Torquay Gateway as a Growth Area. This coincided with the opening of the South Devon Highway. The masterplan provides a framework for future development of this substantial and very well located area of land. Officers are working with all the land owners and development industry interest, alongside ATLAS, to ensure comprehensive, co-ordinated and high quality development. An outline planning application, for the main part of the site, is anticipated later in 2016.



7.13 The Collaton St Mary masterplan was adopted by the Council, , as a Supplementary Planning Document, in February 2016 following adoption of the Local Plan which identified Torquay Gateway as a Growth Area. The masterplan provides a framework for ongoing discussions with landowners and developers, as well as a statutory document for determining planning applications – such as the proposal for the Torbay Motel site.

### **Community Infrastructure Levy**

7.14 In April 2016 the Council supported revised Community Infrastructure proposals (Draft Charging Schedule), aimed at supporting the delivery of new homes in town centres and disadvantaged areas. These proposals will be submitted for formal Examination later this year and, hopefully, adoption before Xmas 2016.

7.15 The CIL revised Draft Charging Schedule has been the subject of three rounds of consultation. Members at Policy Development Group in March 2016 made some very useful recommendations about adjusting the CIL proposals to ensure that small developers and desirable developments were not harmed by CIL. They also considered that there are some high value areas, such as in the countryside or coastal areas, where development of small sites is likely to be sufficiently profitable to afford CIL. These recommendations have been taken on board and have been the subject of consultation. 6.16 The proposed approach is to apply CIL to smaller developments whilst using S106 agreements to fund infrastructure from larger sites (of 15+ dwellings) in Future Growth Areas. This will simplify processing smaller applications, since “tariff style” S106 contributions will not be sought from sites paying CIL.

7.16 CIL will not provide an incentive to large greenfield sites at the expense of smaller brownfield sites. Developers of larger sites will be expected to contribute to their direct infrastructure requirements, such as highways, drainage and ecology. They will also contribute towards affordable housing, education, green space, sustainable transport etc. So we expect the contributions for larger developments to be at least as much as if CIL was applied to those sites.

7.17 It’s proposed to use CIL to help pay for the South Devon Link Road, and help mitigate the effects of development on the Berry head Special Area of Consultation. Torbay has many pressing infrastructure needs, but it’s recommended that the CIL charging schedule is kept short , since this will allow the Council to seek S106 contributions for non CIL matters. It’s

easy to add matters to the Reg123 List of infrastructure that receives CIL funding, should the need arise.

### **Section 106 Agreements**

- 7.18 Work is underway to review the current Section 106 & Affordable Housing Supplementary Planning Document (SPD), which was last reviewed in 2011 (Update 3). A review is required in the light of new legislation, Torbay's new Corporate Plan (with priorities for a healthy and prosperous Torbay), the new Local Plan and the emerging CIL Charging Schedule.
- 7.19 The Council will consider proposals for a new S106 SPD over the next few months, but it is likely to follow a similar prioritised approach to the existing SPD, namely:
- Site acceptable matters – essential site specific matters (such as drainage and biodiversity) needed to mitigate the impact of development and without which the development would not be acceptable, then
  - Affordable housing, health and employment infrastructure, then
  - Sustainable development infrastructure from larger developments – such as education, open space, town centre management, waste management.

### **Brownfield Land Register**

- 7.20 The Council is a pilot for development of a new Brownfield Land Register. A Brownfield Land Register is a Government initiative, within the Housing & Planning Act. The Council will publish a new, interactive / on line register of brownfield sites in Torbay by end June 2016. This will be a useful monitoring and marketing tool.
- 7.21 The use of brownfield sites helps reduce the pressure for development of sensitive Greenfield sites, supports the regeneration and revitalisation of urban communities and makes best use of limited land supply. There are a number of more Torbay specific reasons for supporting the development of brownfield sites, namely:
- Since 1995, 75% of new homes in Torbay have been on brownfield sites – such as Abbey Sands, Torquay and Foxhole Road, Paignton (see images below). Torbay Council wants to continue that performance.
  - Since 2005, about 90% of new residential development on brownfield sites has been in the form of apartments. The Council wants to explore the potential for more family homes on these sites.
  - The Council expects to deliver at least 130 homes per annum on windfall sites. The Council wants to help secure that delivery by identifying brownfield sites.
  - Brownfield sites tend to be developed by local or regional housebuilders. This supports the local economy. The Council wants to identify brownfield sites to promote directly to local and regional housebuilders.
  - The Local Plan has established that 1500 new homes need to be delivered in Torbay's town centres – Torquay, Paignton and Brixham. The Council wishes to identify brownfield sites to help achieve that.

- The Local Plan identifies a range of sites for Neighbourhood Forums to consider for allocation in Neighbourhood Plans. A large number of these are brownfield sites, providing space for around 1600 homes. The Council is keen to help these sites come forward for development.



### **Local Development Order for South Devon College**

7.22 An application for a LDO for South Devon College has been determined and the decision will shortly be issued. This is a progressive method of providing planning consent for a 15 year period at the college, as any development proposals within this period will be subject to a 'light touch' consultation with the Council. The LDO provides the college with a greater level of certainty on whether development proposals will be acceptable and reduces the timescales for agreeing such proposals with the Council. This provide additional certainty to the College with bidding for funds for new development.

### **Strategic Transport Projects**

7.23 Spatial Planning (Strategy & Project Delivery) leads on strategic transport issues for the Council. This includes the submission of transport projects for funding, through various funding bids, the initial management of delivery of those projects and partnership working with a number of transport operators and the Local Enterprise Partnership / Local Transport Board. It also includes a range of transport schemes, across different modes of transport – walking, cycling, public transport and road schemes. Over the last year, the following projects have secured funding and /or are being delivered:

- Western Corridor improvements (continued delivery)
- Torre / Torquay Town Centre Traffic reversal (funding and delivery)
- Torquay Gateway improvements (funding, for junction and road improvements)
- Edginswell Station (funding, planning permission and further bids for funding)
- Improvements to Torquay Station (funding, but not yet delivered)

### **Strategic Pipeline Projects**

7.24 Over the next 12 months, the following work will need to be undertaken:

- Assessment of Neighbourhood Plans, their Examination and potential referendum;
- Annual review of Local Plan performance
- Sustainable Drainage Supplementary Planning Document / Guidance

- Planning and Health SPD

## 8.0 Outcomes

- 8.1 This section of the report highlights some of the outcomes that have resulted from a positive strategic planning framework, plus a proactive and positive approach to securing development in Torbay (of the right sort, in the right place, at the right time and benefitting communities), in addition to a productive, professional relationship between officers, Members and applicants. On the latter point, of 123 decisions made by DMC during 2015/16, a very 83.7% were in line with officer recommendations. This level of consistency shows a very good understanding between Members and officers, a good knowledge and use of planning policy by Members and shows the benefit of briefings on major development schemes.
- 8.2 Torbay's independent Design Review Panel has been influential in securing high quality outcomes in the Bay, with many of the schemes sited below having been Design Reviewed.
- 8.3 It remains the case that a huge amount of work is needed between approval of a development proposal, by Development Management Committee, and completion of development. It is the role of Development Management to help deliver development, so work on development proposals does not stop on issue of a decision notice. That work includes completion of S106 Agreements, submission and consideration of details of pre-commencement conditions and consideration of amended drawings. The Council continues to work with developers and agents to reduce the number of pre-commencement conditions and the time taken to comply with planning conditions.
- 8.4 Examples of projects that have been approved or delivered within the last 12 months are as follows:



The Council has supported a Local Development Order for **South Devon College**, providing a framework for development of the campus over the next 15 years.

Work on the **former Lansdowne Hotel** site in Torquay is almost complete, with the delivery of 14 apartments. 50% of the apartments have been sold within 1 month of marketing. Additional monies spent on ensuring a high quality development have been recouped in the sales.





Bloor Homes have started work on the delivery of new homes at the former Pontin's Holiday Park in Brixham.

Cavanna Homes continue to deliver new homes at Yannons Farm, West Paignton.



The Council gave permission for, and work has started on, the demolition and redevelopment of the Gleneagles Hotel, Torquay. 32 retirement flats are being build

Development Management Committee has resolved to grant outline planning permission for 192 homes and up to 9,200 sq mts of employment space off Yalberton Road, West Paignton



Cavanna Homes have started building homes on the former Scotts Meadow site, now known as Primrose Hill.

## 8.0 Changes to policy and legislation

- 9.1 There have, over the past 12 months or so, been a substantial number of changes to national policy, guidance and legislation – and there are more to come. Central to this is the Housing & Planning Act, with a range of provisions. The Housing and Planning Act 2016 was passed on 12<sup>th</sup> May. Many of the Act's provisions will not come into force until the making of a commencement order. There are a number of provisions in the order that Members should be aware of, including:
- 9.2 **Provision of Starter Homes** - Starter homes are defined as new dwellings available for purchase by qualifying first time buyers only, which are sold at a discount of at least 20% of the market value. There will be a general duty on local planning authorities to promote the supply of starter homes when carrying out their planning functions. A starter homes requirement will be introduced, meaning that local planning authorities may only grant planning permission for residential development if the starter homes requirement is met.
- 9.3 **Duty to grant planning permission for self build and custom housebuilding** - requires LPAs to grant sufficient suitable development permission of serviced plots of land to meet the demand based on the register of individuals and associations of individuals who are seeking to acquire serviced plots of land in order for those individuals to occupy as homes.
- 9.4 **Permission in principle** - introduces a new route for obtaining planning permission. It is designed to separate decision making on 'in principle' issues such as land use, location and amount of development from matters of technical detail such as what the buildings will look like. Permission in principle will be granted in two ways a) on allocation in a locally supported qualifying document that identifies sites as having permission in principle, and b) on application to the LPA. It is intended to reduce the upfront costs to developers of submitting planning applications with a significant amount of supporting documentation.
- 9.5 **Privatisation of development management services** - at this stage it is proposed that where this occurs it will only be on a temporary basis as a pilot scheme in particular areas to test the practicality and desirability of competition in the processing (but not determining) of applications to do with planning. It is unlikely that Torbay will be selected as a pilot authority by DCLG. It is intended to give applicants choice about who might process their planning application, but there is no intention to change the decision making role of the Local Planning Authority.
- 9.6 In May, the Court of Appeal upheld the Government's appeal and ruled that **small sites** (of 10 homes or less) **should not contribute towards affordable housing** or pay tariff style S106 contributions. The Government has subsequently updated the Planning Policy Guidance to bring it in line with the Court of Appeal decision. The effect of this is that Policy H2 of the new Local Plan will need to be amended and, in the meantime, affordable housing contributions from developments of 10 homes or less, on greenfield sites, will not be required.

## **10.0 Planning Enforcement**

10.1 Members will be aware that there is one FTE Planning Investigation officer who is responsible for addressing breaches of planning control. The data below shows that a low level of formal enforcement action has been undertaken in the past two years. This is largely because it is preferable to resolve complaints through negotiation rather than using direct action. This approach has been an effective method of resolving the majority of complaints.

### **Service of Enforcement Notices**

- 2014/15: 2 notices served
- 2015/16: 0 notices served

### **Service of Planning Contravention Notices**

- 2014/15: 0 notices served
- 2015/16: 5 notices served

10.2 Following a period of extended absence of the Planning Investigation Officer which caused in an operational challenge to ensure that the enforcement service was delivered, a review has been undertaken on how robust the Planning Enforcement Service is. It was concluded that the planning investigation post should be incorporated into Community Safety to work alongside other posts undertaking the same, very similar or related work. The benefits of this are:

- It increases the capacity of the Council's corporate enforcement team;
- It improves integration between similar services;
- It will increase the efficiency and effectiveness of the Council's enforcement service, making best use of a diminishing staff resource;
- It broadens the skill set of the corporate enforcement team;
- It reduces isolation and issues related to 'lone working' on planning enforcement;
- It increases integration and opportunity for skills / experience development

10.3 It is important to note that the Planning Investigation Officer will continue to work closely with and get support from the Spatial Planning Team. Decisions on whether to proceed with planning enforcement action will remain with the Head of Spatial Planning.

Pat Steward

Head of Spatial Planning, June 2016

## Appendix A: Details of appeals (November 2015 to March 2016)

### Appendix A

#### Summary of Appeal Decisions November 2015 to April 2016

##### **Appeals dismissed – 15 cases**

1. Primley Lodge, 190 Totnes Road, Paignton

LPA ref- P/2014/0380

Date of decision -20.11.15

Proposals – outbuilding

2. Greycliffe Manor Care Home, Lower Warberry Road, Torquay

LPA ref- P/2014/0804

Date of decision -27.01.16

Proposals – 2<sup>nd</sup> storey extension

3. Gleneagles Hotel, Torquay

LPA ref- P/2014/1062

Date of decision -12.11.15

Proposals – Demolition and Redevelopment to form 36 retirement apartments for the elderly including communal facilities, access, car parking and landscaping.

4. 27 Empire Road AndR/O 120A Forest Road, Torquay

LPA ref- P/2014/1252

Date of decision -10.11.15

Proposals – 3 x Terraced 3 bed houses, plus a single 3 bed bungalow

5. Meldon, Dartmouth Road, Brixham

LPA ref- P/2014/1259

Date of decision -29.01.16

Proposals – Construction of 1 no. 2 bedroom bungalow, associated driveway, garden and amended access from Dartmouth Road

6. Three Burrows, Preston Down Rd, Paignton

LPA ref- P/2014/1312

Date of decision -12.10.15

Proposals – Demolition of existing detached pool building & hardstanding to form new dwelling with detached garage building

7. Land Adjacent 86 Nut Bush Lane, Torquay

LPA ref- P/2015/0054

Date of decision -19.01.16

Proposals – Proposed dwelling

8. 6 Rowley Road, Torquay

LPA ref- P/2015/0245

Date of decision -26.11.15

Proposals - Demolition of wall between 4 and 6 Rowley Road

9. Pendower, Wheatridge Lane, Torquay

LPA ref- P/2015/0471

Date of decision -11.11.15

Proposals -Two storey (plus basement) pitched roof extension to northern side

10. Ocean Court, Vanehill Road, Torquay

LPA ref- P/2015/0479

Date of decision -26.01.16

Proposals - Construction of additional storey

11. 48 Ocean View Drive, Brixham

LPA ref- P/2015/0498

Date of decision -19.01.16

Proposals - Single storey flat roof detached garage and storeroom

12. 77 Laura Grove, Paignton

LPA ref- P/2015/0650

Date of decision -25.01.16

Proposals - Extension to form additional accommodation at first floor level and installation of dormer to front

13. Valetta, 28 Kents Road, Torquay

LPA ref- P/2015/0727

Date of decision -16.03.16

Proposals - Rebuild side extension with garage under (Re-Submission of P/2014/0698)

14. 16 Broadsands Road, Paignton

LPA ref- P/2015/0774

Date of decision -20.01.16

Proposals - Front dormer extension and two storey side extension.

15. 11 Rock Close, Paignton

LPA ref- P/2015/0820

Date of decision -10.02.16

Proposals - Loft Conversion including dormers and raising roof. (Re-submission of P/2015/0026)

**Appeals Allowed – 8 cases**

1. Plot 14, Watcombe Heights Road, Torquay

LPA ref- P/2014/0896

Date of decision -30.11.15

Proposals - Dwelling and Garage (resubmission of P/2008/0688/PA & P/2011/0652)

2. 62 New Esplanade Court, Esplanade Road, Paignton

LPA ref- P/2014/1202

Date of decision -19.01.16

Proposals - Alteration and extension to increase the living area

3. 2 Duchy Drive, Paignton

LPA ref- P/2015/0021

Date of decision -03.02.16

Proposals - Raised balcony/deck for disabled access to the rear of the property

4. Oleron, Lower Manor Road, Brixham

LPA ref- P/2015/0151

Date of decision -29.01.16

Proposals - Detached dwelling with integral garage. Car space for the use of the existing dwelling.  
Re-submission of P/2014/0887/PA

5. 5 - 7 Ilsham Road, Torquay

LPA ref- P/2015/0428

Date of decision -16.12.15

Proposals - 2 internally illuminated fascia signs, 1 projecting sign and 1 internally applied ATM surround sign

6. Union Square Shopping Centre, Union Street, Torquay

LPA ref- P/2015/0607

Date of decision -18.03.16

Proposals - Illuminated signage

7. 55 North View Road, Brixham

LPA ref- P/2015/0637

Date of decision -27.01.16

Proposals - Dormer extension

8. 31 Berry Head Road, Brixham

LPA ref- P/2015/0726

Date of decision -20.01.16

Proposals - Rear dormer extension

**Split Decision- 1 case**

1. 19 Fore Street, Barton, Torquay

LPA ref- P/2014/1180

Date of decision -10.12.15

Decision- appeal dismissed relating to windows. Appeal allowed for replacement of front door frame and door.

Proposals - Replace single glazed windows with like-for-like wooden framed double glazed windows; Replace front door and frame with like-for-like wooden frame and door with new door furniture.