

Application Number

P/2016/0094

Site AddressLand West Of Brixham Road
Paignton**Case Officer**

Carly Perkins

Ward

Blatchcombe

Description

Erection of 42 dwellings and associated infrastructure (revised documents received 6 June 2016)

Executive Summary/Key Outcomes

Outline consent was granted in April 2013 for approximately 37,000 square metres of employment space, 350 new homes and a local centre under reference P/2011/0197 and subsequent reserved matters applications were approved under references P/2013/1229 and P/2014/0071. The application site relates to the eastern bowl of the wider White Rock site and is largely grassed scrubland. Part of the wider site is under construction under the approved reserved matters scheme P/2013/1229 with a number of homes complete. There are two reserved matters applications still pending consideration for the retail store and the sports pavilion.

The application site is located south of Moor View Industrial Estate and west of Waddeton Road. To the south and east of the site is the site subject to application reference P/2015/1126 for 215 dwellings. The site to the east of Waddeton Road is currently under construction under reference P/2013/1229.

The application that is subject to this report is for 42 dwellings and the associated internal highway network and landscaping. The access arrangements remain the same as previously approved with access via Brixham Road which connects to a central roundabout on to Waddeton Road and Long Road.

The application is for full planning permission and is not submitted pursuant to the outline consent. Whilst the proposal is a new full application, the application represents a revised proposal to allow for an additional 42 dwellings on top of the 350 approved at outline stage resulting in 392 residential units across the wider site but within the same area as that approved under reserved matters applications P/2013/1229 and P/2014/0071. Whilst the intention was to increase housing numbers across wider residential site, application reference P/2015/1126 which aimed to provide 215 dwellings within a smaller site area was refused on the grounds of overdevelopment. It was considered that the development proposed under reference P/2015/1126 would fail to deliver a high quality living environment or a good standard of amenity for future occupants and that the proposal would constitute overdevelopment of the site and as a consequence, a lack of suitable parking provision for future occupants which would result in excessive demand for

on street parking to the detriment of the overall quality and function of the area and the amenities of future occupants of the development.

In a similar manner, this proposal aims to increase the density of the site to enable an increased level of housing provision across the wider residential site. The increase in density that would result from this revision of the residential layout would result in a form of development that fails to meet the objectives of the NPPF and Policies SS11, H1, DE1, DE2, DE3, C4 and TA3 of the Torbay Local Plan, which seek to provide a high quality of development that provides a good standard of amenity for future occupiers. The proposal would result in an overdevelopment of the site. There are a number of clear indicators of overdevelopment, leading to a poor quality development, including:

- o Lack of suitable parking provision in terms of numbers and distances between parking spaces and the dwellings they serve
- o The poor quality of proposed landscaping in terms of numbers and species type
- o The poor quality residential environment as a result of small garden sizes
- o The poor quality residential environment as a result of small dwelling sizes.

Recommendation

Refusal (reasons at end of report).

Statutory Determination Period

13 weeks, the determination date was extended to the 29th July 2016. This has since been exceeded due to negotiations between the applicants and case officer in an attempt to achieve an acceptable scheme. Revised plans that resolve the issues set out below have not been forthcoming and as such the reasons for refusal have not been resolved. The applicant's have not agreed to extend the deadline further to allow for the application to be determined by the Committee.

Site Details

Outline consent was granted in April 2013 for approximately 37,000 square metres of employment space, 350 new homes and a local centre under reference P/2011/0197 and subsequent reserved matters applications were approved under references P/2013/1229 and P/2014/0071. The application site relates to the eastern bowl of the wider White Rock site and is largely grassed scrubland. Part of the wider site is under construction under the approved reserved matters scheme P/2013/1229 with a number of homes complete and occupied.

The application site is located south of Moor View Industrial Estate and west of Waddeton Road. To the south and east of the site is the site subject to application references P/2013/1229 (approved) and P/2015/1126 (refused). The site to the east of Waddeton Road is currently under construction under reference P/2013/1229.

To the south of the wider residential development site is open countryside which forms part of the Off Site Landscape and Ecology Management Plan, including tree planting and a woodland walk secured as part of the outline consent P/2011/0197.

Detailed Proposals

The application that is subject to this report is for full planning permission for 42 dwellings and the associated internal highway network and landscaping. The access arrangements remain the same as previously approved with access via Brixham Road which connects to a central roundabout on to Waddeton Road and Long Road.

The proposal is to construct 42 dwellings, a mixture of detached, semi detached and terrace dwellings. The submitted plans suggest that 20% are proposed to be affordable however the agent has confirmed that they will agree the level of affordable housing provision through a section 106 agreement.

Whilst the proposal is a new full application, the application represents a revised proposal to allow for an additional 42 dwellings on top of the 350 approved at outline stage resulting in 392 residential units across the wider site but within the same area. The access arrangements to both parts of the site remains the same as previously approved with access via Brixham Road which connects to a central roundabout on to Waddeton Road and Long Road.

As with the approved reserved matters applications for this site, the proposal has been broken down in to character areas (only 2 of the 3 character areas identified for the previous reserved matters applications apply to this application):

The 'Residential Core' forms the majority of the site. This area is largely made up of a combination of two storey terraces and semi-detached properties (there are three examples of detached dwellings).

The 'Countryside Edge' is located around the perimeter of the site and overlooks public open space and landscape. The dwellings within this section are largely semi- detached and terrace dwellings (there is one example of a detached dwelling).

The density of the application site is approximately 49.4 dwellings per hectare with 42 dwellings being provided across the 0.85ha site. The approved reserved matters applications varied in density across the three character areas. The Design and Access Statement for these applications noted that the countryside edge, which featured low density detached forms of development had a density of 25dph and within the neighbourhood core this increased to 60dph with continuous three storey terraces and flat blocks (this reflected the principles detailed at outline stage). The Design and Access Statement's submitted with these applications noted an average density across the site identified in P/2013/1229 and

P/2014/0071 as 36 dwellings per hectare excluding open space.

Each of the dwelling houses benefit from 2 parking spaces each however where these are provided by garages these would not constitute parking spaces as noted within Appendix F of the Torbay Local Plan 2012-2030.

The proposals include some on-site landscaping.

The current proposal has been screened in terms of the need for an Environmental Impact Assessment and determined that an EIA is not required. A HRA screening and where necessary an appropriate assessment will be required prior to the determination of the application.

Summary Of Consultation Responses

Arboricultural Officer:

Comments on Original Scheme: For the residential element of the application there are 7 trees proposed within the layout of the 44 units. Given the positive negotiations in relation to P/2015/1126 and the quality of the tree planting that is emerging the same process needs to be applied to this application. Numbers are significantly lower and will have severely limited benefits to occupiers and external view receptors. Only limited breakup of the built form will arise and the immediate street scene will be highly dominated by engineered structures and house elevations. This may necessitate engineered tree pits in cellular systems if the density of the application is approved. This density presently restricts the achievement of the high quality outcomes of the adjacent scheme in tree planting terms.

Comments on Revised Scheme: The numbers of trees proposed for planting both publically and within the domestic curtilages has increased to [16] which is welcomed. Study of the plan notes a number of points where additional planting could be undertaken without adverse effect upon the amenities of the residents. It is noted that one tree species is proposed for this application, in terms of aesthetics, wildlife attributes, disease resilience and so on species diversity should be required. Variance between plans for the offsite orchard area is noted with a number of plans showing it to be fully retained where others show it as allotments. Green Infrastructure Officer comments dated 20/06/2016 in relation to the orchard are as follows, and are supported. In relation to the allotments and orchard, it is noted that the arrangement has been revised (as shown on Drawing 151102 L02 03: Composite Site Layout Rev H and Drawing 151102L 08 01: Soft Works 1 Rev I). The inclusion of orchard planting on the plans is welcomed, however it is suggested that the nine allotment plots currently located to the north of the proposed sports pavilion be relocated so that they are parallel to the northern hedgerow, with the remainder of the area set aside as an orchard. The tree report continues to effectively protect the noted trees and should be conditioned for adherence throughout any ensuing consent.

Senior Planning and Public Health Officer:

The information provided provides enough evidence to show that the proposal meets the requirements of Policy SC1 (Healthy Bay) in the Torbay Local Plan.

Senior Strategy and Project Officer:

Comments on Original Scheme: The additional 44 dwellings will create an additional impact upon the Western Corridor, which is a key piece of transport infrastructure in the area. I consider that this is capable of mitigation via S106 obligations to promote sustainable transport in the area. Based on the Planning Contributions and Affordable Housing SPD, Update 3 the contribution would be calculated as follows:

- o 20 x 2 bed properties at £1,720 per dwelling = £34,400
- o 22 x 3 bed properties at £2,350 per dwelling = £51,700
- o 2 x 4 bed properties at £2,710 per dwelling = £5,420
- o Total = £91,520

It is noted that 20% of dwellings are to be affordable (which would amount to 9 dwellings). Under the SPD 100% mitigation is given for social rented dwellings and 50% for intermediate housing. This amounts to around £12,480 (assuming the affordable housing tenure is as per the SPD) i.e. the sustainable transport contribution comes to £79,040.

In terms of the onsite layout, it is concerning that less than 2 spaces per dwelling have been provided which is below the requirement of appendix G of the Local Plan. From the plan there does not appear to be much provision for cycle parking or the provision of bin storage or electrical charging points.

Comments on Revised Scheme: As the dwellings are additional to those approved at outline, they will generate an additional traffic impact on the Western Corridor and Long Road. Therefore it is appropriate to seek highways contributions to provide improvements to the Western Corridor as identified in Policy SS6 of the Adopted Local Plan and Policy T22 of the previous Plan.

On this basis, it is considered that it is justified to seek a planning contribution towards improvements to the Western Corridor and/or improving bus accessibility in the area or reducing rat running through Long Road (probably in that order of priority). These should be sought through a S278 Agreement if possible. The Planning Contributions and affordable Housing SPD and Update 3, were based on delivering the Western Corridor and the principle of development at white Rock (albeit for employment use). Therefore, pending an update to the SPD, the figures in Update 3 remain relevant.

The calculation for these is as follows. The open market housing is:

- o 16 x 2 bed properties @ £1,720 per dwelling = £27,520
- o 15 X 3 bedroom houses @ 2,350 per dwelling= £35,250
- o 2 x4 bedroom houses @ £2710 per dwelling= £ 5,420

Total = £68,190

There are 2 x3 bed and 6 x 2 bed affordable units (19%). The transport contribution for this to be £5,007, based on a 50% discount for intermediate and 100% discount for social housing. On this basis I calculate the total transport contribution to be £73,197

In terms of the site layout, the revised plans show 2 parking spaces per dwelling [it has since been noted that this is not the case and garages do not constitute as parking space due to their small scale]. However the layout would benefit from revisions, as the current proposals have several problems. The central road serving units 9 and 13-19 appears to have no turning head which could result in reversing difficulties for deliveries, refuse vehicles etc. Some of the parking spaces are quite a long way from the dwellings they are allocated to. For example units 1-3, 7, 14, 15, 17-19, 20-22, 25, 29, 34 and 37 have parking at some distance from the dwellings. Some units' parking spaces are closer to other dwellings (e.g. unit 7, 20 and 37).

On a positive note, the garages are of a good size to provide parking and cycle storage [it has since been noted that this is not the case and the garages fall short of size standards]. However, there does not seem to be any provision for cycle storage or bin storage for units with no garage parking. The coach house units will need proper regulation to ensure that there are no nuisance or insurance liability issues; but this is largely a matter for the leasehold arrangements.

A layout that achieved parking close to the units they serve and avoids scope for nuisance and neighbour conflicts would result in a better development that would be more saleable and a better living environment.

Senior Environmental Health Officer:

Comments on Original Scheme: Measurements have been carried out of the noise from the factory British Falcon Plastics. It was concerning to note that the noise from the Factory was audible at Waddeton Road. This concerns me as this is 166m from the point at which I measured.

Whilst the applicant proposes a barrier which should provide a decent amount of attenuation, and solve the issue further away, there are concerns that the noise, by reason of its impulsive nature would be intrusive at the nearest of the proposed residential properties and may well be audible significantly further away than first thought.

Calculations indicate that with the barrier in place open windows will provide sufficient attenuation to meet BS 8233 good standard for accommodation, but there are concerns that during quiet periods, the impulsive nature of the noise will be audible inside properties. Because of the irritating impulsive nature, this could result in complaints. BS4142 Methods for rating and assessing industrial and

commercial sound assessment indicates that whilst complaints are not likely, there is potential should someone get fed up with the impulsive thumping noise during a hot evening.

In conclusion, it is recommended that the closest properties be fitted with a whole house mechanical ventilation system and acoustic trickle vents, this should provide ample protection for the closest houses.

Comments on the revised scheme are awaited.

Police Architectural Liaison Officer:

Recommendations made in relation to Building Regulations - Approved Document Q - Security and Secured By Design.

Green Infrastructure Co-ordinator:

Comments on Original Scheme: The Preliminary Ecological Appraisal (PEA) recognises the mitigation and enhancement measures secured in the on-site LEMP (discharged through condition 10 of the outline planning permission P/2011/0197) and states that the measures proposed in the Conservation Action Statement in Appendix 4 of the PEA should be in addition to those in the LEMP (rather than a replacement).

The PEA is considered to be a fair assessment of the ecological impacts of the development. It is recommended that the following is secured by condition:

- o Submission of a Construction Environmental Management Plan (CEMP) for approval by Torbay Council prior to commencement. The CEMP could be part of a wider CEMP covering the whole development site. The CEMP should be produced in accordance with clause 10.2 of BS 42020:2013 and should include full details of all ecological mitigation proposed during construction including (but not limited to):
- o Details of protection for trees and hedgerows to be retained including buffers between new and structures and retained hedgerows
- o Details of lighting during construction to avoid impacts on bats
- o Results of further reptile surveys and details of proposed mitigation including reptile fencing, translocation and proposed receptor site (including habitat enhancements and on-going management)
- o Timing of works, sensitive working methods and ecological supervision required in relation to protected species such as breeding birds (including gull buntings), reptiles and badgers
- o Submission of a lighting plan for approval by Torbay Council prior to commencement. Lighting should be designed to be sensitive to bats. External lighting should be the minimum required for safe use of the site and positioned to avoid illuminating retained hedgerows, new roosting provision and the mature oak tree in the hedgerow to the north which was identified as having potential to support roosting bats

- o Installation of 5 Schwegler type 1FR bat tubes and 5 Schwegler Type 1A swift boxes within newly constructed properties in accordance with the specification and in the locations shown on Figure 2: Biodiversity Mitigation and Enhancement Plan within the Preliminary Ecological Appraisal.

In addition it is suggested that an informative is added to any planning approval noting that the development must be carried out in strict accordance with both the on and off-site LEMPs. It should be noted that Torbay council is currently in discussion with Linden Homes regarding progress with the LEMP works.

It is considered that the overall scheme includes sufficient on site provision (open space, play, sport pitch, allotments, woodland walk etc) and therefore no further greenspace and recreation financial contributions are required.

Comments on Revised Scheme: Previous comments dated 8th March 2016 (attached) remain valid. The comments note that the Council is currently in discussion with Linden Homes regarding progress with the LEMP works. In respect of application P/2016/0188 for the sports pavilion, the Council's Ecologist, Mike Oxford, states (e-mail dated 24th April 2016 to Carly Perkins):

- o "I am also aware that there is a commitment to provide a new bespoke bat roost in Peter's Copse. Outline proposals were submitted as part of the original application based on designs for lesser horseshoe bats (see attached Ecosulis Figure 7 White Rock Ecological Enhancements). In light of the delay with provision of landscape mitigation I think it is an appropriate time to seek the submission of detailed proposals (both in terms of design and location) for this roost".
- o In light of failures to implement works in accordance with approved timescales etc, I also think that it would be valuable to request an 'update report' on ecological mitigation works carried out to date and those still remaining to be implemented. Following this, I would recommend a site visit to inspect both finished works and the locations for remaining further works."

It is also recommended that the detailed bat roost proposals and ecological update report referred to above are obtained prior to the approval of any planning application at this site.

Variance between plans for the offsite orchard area is noted with a number of plans showing it to be fully retained where others show it as allotments. Comments dated 9th March 2016 in relation to the orchard are as follows: "In relation to the allotments and orchard, it is noted that the arrangement has been revised (as shown on Drawing 151102 L02 03: Composite Site Layout Rev H and Drawing 151102L 08 01: Soft Works 1 Rev I). The inclusion of orchard planting on the plans is welcomed, however it is suggested that the nine allotment plots currently located to the north of the proposed sports pavilion be relocated so that they are

parallel to the northern hedgerow, with the remainder of the area set aside as an orchard."

Natural England:

The proposed development site falls within a greater horseshoe bat sustenance zone associated with the SAC roost at Berry Head. Sustenance zones are key feeding and foraging areas for greater horseshoe bats associated with the South Hams SAC. The permanent loss of existing or potential habitat within the sustenance zone and in proximity to the Berry Head roost has the scope to adversely affect the favourable conservation status of the Berry Head maternity colony. The consultation documents provided by the authority do not include information to demonstrate that the requirements of Regulations 61 and 62 of the Habitats Regulations have been considered by the authority, i.e. the consultation does not include a Habitats Regulations Assessment (HRA).

In advising the authority on the requirements relating to Habitats Regulations Assessment, and to assist in screening for the likelihood of significant effects, based on the information provided, Natural England offers the following advice:

- o the proposal is not necessary for the management of the European site
- o that the proposal is unlikely to have a significant effect on any European site, and can therefore be screened out from any requirement for further assessment.

When recording the HRA it is recommended that the Authority refer to the following information to justify the Authority's conclusions regarding the likelihood of significant effects. The wider site is subject to a Landscape and Ecological Management Plan (LEMP, January 2014, REV D), and this plan outlined the delivery of mitigation and enhancement measures to address impacts across the site. The LEMP helped to underpin the HRA conclusions. Further, it is advised that the HRA includes details of the sensitive lighting plan that will prevent detrimental light spillage upon wildlife habitats that are part of the mitigation and enhancement measures. It is important that the implementation of the mitigation and enhancement measures are phased in advance of impacts associated with the development. Prior to the granting of any permission, the authority should be satisfied that the agreed LEMP works are being carried out in accordance with the phasing.

Environment Agency:

The site is Flood Zone 1 and sites in the Critical Drainage Area are dealt with by standing advice.

Affordable Housing Delivery Officer:

Comments awaited.

Design Consultant:

Comments on Revised Scheme only: Concern have been raised regarding the general layout of the scheme in terms of access for refuse vehicles, the level changes across the scheme and its impact upon the level of private amenity space and the design of house elevations in terms of surveillance and urban design.

There are some unsatisfactory relationships between dwellings and their allocated parking in terms of their visibility from the dwelling house they serve and the distance between the spaces and the dwelling they serve. Such poor relationships would encourage irresponsible parking, causing nuisance and generating a car-dominated character to the development.

Rear gardens appear to be too small to provide an adequate level of outdoor amenity space.

Separation distances seem reasonable to avoid excessive inter-visibility between dwellings

A Building for Life Assessment has been carried out and achieved 2 green scores, 8 amber scores and 1 red score. Point 11 of the Assessment (Public and Private Space) did not receive a score however reference was made to concerns relating to garden sizes. Further information was requested regarding garden sizes across the development and such information has not been forthcoming.

Drainage Engineer:

Comments on the Original Scheme: The developer has submitted a site specific flood risk assessment in support of the application and has identified that a surface water drainage strategy has previously been agreed for this site. However the site specific flood risk assessment fails to identify that the site lies within the Torbay Critical Drainage Area. Previous site investigations have identified that the use of soakaways at this site is not feasible and as a result the surface water drainage from the development will be discharged at a controlled rate to the surface water sewer system. The controlled discharge rate has not been identified for this site however in accordance with the requirements of the Torbay Critical Drainage Area the discharge rate must be limited to Greenfield run off rate for the 1 in 10 year storm event with attenuation designed so as there is no risk of flooding to properties or increased risk of flooding to adjacent land for the critical 1 in 100 year storm event plus 30% for climate change. It should be noted that where the Greenfield run-off rate for the site is below 1.5l/sec we would accept a discharge rate of 1.5l/sec as quoted within the flood risk assessment. No hydraulic calculations have been submitted showing that the proposed surface water attenuation tanks have been designed for the critical 1 in 100 year storm event plus 30% for climate change. No hydraulic design has been submitted to confirm that the surface water drainage system has been designed in order that there is no risk of flooding to buildings on the site and there is no increased risk of flooding to land or buildings off the site for the critical 1 in 100 year storm event plus 30% for

climate change. Before planning permission can be granted the applicant must supply the details requested above.

Comments on Revised Scheme: The hydraulic design and proposed drainage design for this development is acceptable.

Summary Of Representations

1 representation received. Issues raised:

- o Impact on residential amenity as a result of proximity of dwellings to industrial buildings.

Relevant Planning History

P/2011/0197 Mixed Use Development of 39 Hectares of land at White Rock, Paignton to construct up to 350 dwellings, approximately 36,800m² gross employment floorspace, a local centre including food retail (up to 1652m² gross) with additional 392m² A1/A3 use and student accommodation, approximately 15 hectares of open space, sports pavilion and associated infrastructure and engineering works to provide access, drainage and landscaping (Outline Application) APPROVED 29.04.2013

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

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

P/2015/0918 Appearance, landscaping, layout and scale in relation to 310 dwellings and associated development (Variation of condition P1 of P/2013/1229 - MMA to units 37, 94 and 237 to allow wheelchair access) APPROVED

P/2015/1061 Approval of appearance, landscaping, layout and scale in relation to 38 dwellings and associated development. Reserved Matters for P/2011/0197 PENDING CONSIDERATION subject to the outcome of this application

P/2015/1229 Approval of appearance, landscaping, layout and scale in relation to 217 dwellings and associated dwelling - THE TOWN AND COUNTRY PLANNING (ENVIRONMENTAL IMPACT ASSESSMENT) REGULATIONS 2011 DO NOT MAKE PROVISION FOR PUBLIC COMMENT ON REQUESTS FOR SCREENING/SCOPING OPINIONS EIA NOT REQUIRED

P/2016/0094 Erection of 44 dwellings and associated infrastructure PENDING CONSIDERATION

P/2016/0188 Approval of appearance, landscaping, layout and scale in relation to

a sports pavilion and associated development including a sports playing pitch, multi-use games area and car park PENDING CONSIDERATION

P/2015/1126 215 dwellings and associated infrastructure PENDING CONSIDERATION

Key Issues/Material Considerations

The key issues to consider are the principle of development, appearance, scale, layout and highways matters, parking, waste and recycling facilities, biodiversity, landscape, drainage, affordable housing and residential amenity.

Principle:

The site is identified within the Torbay Local Plan (SDP3.5) as a committed strategic mixed use employment/housing development that will provide 8.5ha of employment land, around 1,200 jobs and around 350 dwellings largely over the first half of the Plan period. Outline consent has also been granted for the mixed use development of the site. This application was approved subject to extensive consultation and was subject to Habitat Regulation Assessment and was accompanied by a detailed Environmental Statement. Whilst this proposal is for dwellings in addition to the 350 dwellings approved at outline stage, the principle of residential development in this location was established by this application and subsequently two reserved matters applications were approved for the residential elements of the site.

This application remains in accordance with the indicative layout submitted as part of the outline application albeit at a higher density and increased number of dwellings. The scheme does not specify a level of affordable housing however the agent has confirmed that they would agree this through a section 106 agreement. Policy H2 states that for proposals of 30 or more dwellings on greenfield sites, 30% of dwellings on site will be affordable housing of which 5% will be self build plots in accordance with policy H2 and H3. Information confirming the level of affordable housing to be provided has been requested but has not been forthcoming. However it is noted in line with policy H2 of the Torbay Local Plan, where developers wish to reduce significantly the level of affordable housing provision, an independent assessment of viability will be required, with the developer underwriting the cost of the viability assessment. In this instance no viability assessment has been submitted that would justify a provision of affordable housing which is less than policy compliant and were the application to be approved the level of affordable housing would need to be agreed prior to determination.

Policy DE2 of the Torbay Local Plan states that major development proposals with a residential component will be assessed against 'Building for Life' criteria. This policy states that development proposals will be supported by the Council when it secures as many 'green lights' as possible. When a development proposal does not reduce the number of 'amber' and 'red lights' scored in the assessment, where

a reduction is considered possible and such reduction would improve the quality of the development, the Council will not grant planning permission. The latest assessment (see appendix 1 of this report) has resulted in a score of 1 red, 8 amber and 2 greens.

It is considered that the number of red and amber scores can be reduced and that this reduction would improve the quality of the development in terms of residential and local amenity enjoyed by occupiers of and visitors to the site. It is also noted that the outline application which established the principle of development in this location required the residential development to achieve a minimum of 8 greens and that this proposal would fall significantly short of this figure.

Appearance:

There are various different house types across the site, the majority of which are simple and contemporary in design with slate grey tiled pitched roofs, rendered walls and upvc windows, doors and fascias. If the application were to be approved a condition requiring the submission of details of external materials to ensure a high quality residential environment would be imposed.

The appearance of the dwelling houses is considered largely acceptable and in keeping with the remainder of the approved residential scheme that is not subject to this application. However, as identified by the Council's Urban Design Consultant, the new layout includes a number of blank 'gable end' elevations to the public realm and to spaces where some natural surveillance ought to be provided in order to improve the sense of safety and security of the development. The inclusion of ground floor windows to a number of units and the inclusion of projecting bay windows would help to improve the design and articulate the form of the buildings. Revised plans taking these comments in to account have not been forthcoming.

Whilst in isolation this may not warrant the refusal of the application, there are other issues which cumulatively result in a lesser quality living environment such as a lack of landscaping, small scale dwellings and gardens and streets dominated by car parking. Paragraph 17 of the National Planning Policy Framework states that one of the core land-use planning principles that should underpin decision taking is to always seek to secure high quality design. In addition paragraph 64 states that "permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions". Consistent with these paragraphs, policy DE1 states that proposals will be assessed against their ability to meet design considerations such as whether they adopt high quality architectural detail with a distinctive and sensitive palette of materials and whether they positively enhance the built environment.

It is considered that the development would not constitute high quality design nor would it improve the quality of the area contrary to both local and national policy.

Scale:

The visual impact of the development was a key factor of the outline application. This resulted in the location of the residential element of the scheme being contained within a 'bowl' in the landscape, with open amenity space to the east on the ridge. An off-site LEMP was produced which included extensive tree planting along the south of the site to further screen the development particularly from the Stoke Gabriel and Galmpton Areas (South and West). An on site LEMP has also been secured as part of the approved schemes which provides further landscaping enhancements.

As was the case with the previously approved reserved matters applications, the character areas 'Residential Core' and 'Countryside Edge' are limited to two storeys. The scale of the development has increased over the wider residential area with the increased density of the dwellings in order to provide additional two bedroom dwellings. As a result the features of the individual character areas approved as part of the original reserved matters applications, particularly those within the lower density areas of the site, have been weakened somewhat. As identified at outline stage where the principle of residential development here was established, the mix of densities across of the wider residential development site helped to contribute to the creation of clearly identifiable character areas throughout the development. As the density of the development has increased this has weakened the character of each of the areas largely due to the change in house types resulting in longer terraces, increased instances of terraces across both character areas and a reduced number of detached dwellings in areas which are characterised by such lower density development.

The Design and Access Statement submitted with the application describes each of the character areas within the application site. The statement notes that the proposed scheme falls within two of the character areas established in the approved reserved matters schemes and that each character area is defined by differences in layout, building height, form, position, plot sizes, boundary treatment, architecture and public realm. Whilst the name of the character areas reflect those identified within the approved reserved matters schemes, the proposal now submitted differs in form, layout, position and plot sizes such that the character areas are not clearly identifiable with a similar density and building form being provided across the entire application site. Dwellings in both character areas tend to be positioned in close proximity to the access road/path serving the dwellings and where this is not the case, car parking is positioned to the front of dwellings reducing the sense of spaciousness particularly in areas defined as the 'countryside edge'.

The number of dwellings has increased and therefore so has the density. It is accepted that there is scope to increase the density of development on the site. However the resulting development needs to meet the objective of providing high quality living environment for all residents. A core planning principle in the NPPF

is to "secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings". This point is reiterated at paragraph 58 of the NPPF which states that decisions should aim to ensure that developments "create attractive and comfortable places to live, work and visit".

In this case the revision to the scale of development has implications for the quality of residential environment that will be created. As identified below, the proposal results in a greater number of dwellings where parking is remote from the dwelling it serves and an instance where parking is positioned in front of another dwelling. This together with the size of dwellings and gardens is an indicator that the scale of development may be excessive resulting in the proposed layout failing to meet the objectives of Policy H1 and DE3 which seek to provide a good level of amenity for occupiers. This issue has been brought to the agent's attention and revised plans have been requested in order to overcome the issues detailed however these have not been forthcoming.

Layout and Highways Matters:

The principle access points to the development are from Long Road and Brixham Road. A new section of road is already in situ, enhancing Waddeton Road and including a roundabout with access in to the development site. An issue has been raised in comments from the Council's Design Consultant and Senior Strategy and Project Officer with regard to the central street serving units 9, 13-16 and whether this is suitable in terms of tracking of a refuse vehicle as a suitable turning head does not appear to be provided. This issue has been brought to the agent's attention and revised plans have been requested in order to overcome the issues detailed however these have not been forthcoming.

Policy SS7 of the Torbay Local plan states that major developments will be expected to contribute to the provision of an appropriate range of physical, social and environmental infrastructure, commensurate to the type and scale of development, and the needs of the area. In addition policy SDP3 notes that development within Paignton North and Western areas should be accompanied by upgraded infrastructure, including along the Western Corridor. In line with the comments from the Council's Senior Strategy and Project Officer, the additional 42 dwellings will create an additional impact upon the Western Corridor, which is a key piece of transport infrastructure in the area. If the application were to be approved, mitigation would be required via S106 obligations to promote sustainable transport in the area.

Parking:

The previously approved reserved matters schemes had a number of dwellings which only benefitted from one parking space. The percentage of dwellings with only one parking space approved as part of the original reserved matters schemes was 8%. On balance this was considered acceptable and in accordance with policy at the time of decision with policy T25 of the Torbay Local Plan 1995-2011 (now superseded) noting parking requirements as maximum guidelines.

The proposed plans indicate a parking provision of two spaces per dwelling unit however this provision includes garages, examples of remote parking and unsatisfactory relationships between dwellings and their associated parking areas. Such examples are likely to result in unacceptable parking on pavements and generate a car dominated character to the development. There are ten examples of garages throughout the development and these fall short of size standards noted within Appendix F of the Torbay Local Plan 2012-2030. As noted within Appendix F, garages will only be counted as a parking space where they are large enough to accommodate a car and provision for general storage which is detailed as 6m by 3.3m as a minimum where separate cycle storage is provided. Where cycle storage is not provided this minimum size standard increases. As such ten of the dwellings on site only benefit from 1 parking space (it is noted that two of these are coach houses) as the garages would not constitute as car parking spaces due to their size being limited to only 5.5m by 2.7m in eight instances and 3m by 6m in two instances.

Policy TA3 and the associated appendix F states that the Council will require appropriate provision of car, commercial vehicles and cycle parking spaces in all new development and that development proposals will be expected to meet the guideline requirements as set out in Appendix F. Appendix F states that dwelling houses will be expected to provide two parking spaces per dwelling unit and explains that in locations such as town centres where there is a greater choice of transport, this standard may be reduced. The application site is not within a town centre location and whilst there may be some services within walking distance of the development this is not extensive and due to the scale of the development one parking space per dwelling house for 19% of the plots is likely to result in on-street parking issues. Such issues are already apparent within parts of the development already in occupation with cars parking on pavements and on street. The percentage of dwellings with only one parking space approved as part of the previous reserved matters application is a material consideration and has been considered as part of this recommendation. The current scheme exceeds this percentage by 11% and would not meet the policy requirement set out within policy TA3 and appendix F of the Torbay Local Plan 2012-2030. On balance having considered both the previously approved schemes that are capable of implementation and the current policy requirements, the reduced number of parking spaces is not considered acceptable. This issue has been brought to the agent's attention and revised plans have been requested in order to overcome the issues detailed however these have not been forthcoming.

Where garages are provided they are not of a size suitable to provide waste and cycle storage and there is no provision shown for dwellings that do not have a garage. The submitted plans do not identify the provision of waste, recycling or cycle storage facilities or electrical charging facilities and therefore were this application to be considered suitable for approval a condition requiring details of this provision would be required.

Landscaping and Biodiversity:

As part of the outline application, off-site landscape mitigation and enhancement works (Landscape and Ecological Management Plan secured by S106) include significant belts of woodland planting on land to the south, including a belt immediately south of the southern boundary. This planting will provide a strong landscape buffer between the development and undeveloped countryside to the south.

The increased number of dwellings is not considered to have a significant effect on the visual permeability of the development in light of the structural planting proposed to the south which will act to contain the wider site once established. In addition, and in light of this structural planting, the proposal is not considered to result in significantly greater impact in views from the AONB to the south or views from the South Hams.

In terms of on-site landscaping there are 16 trees proposed within the residential layout.

Policy C4 of the Torbay Local Plan states that proposals for new trees will be a specific requirement of proposals in Strategic Delivery Areas and policy DE1 states that proposals will be assessed against their ability to meet certain design considerations, with one identified as being the provision of high quality soft landscaping. In line with the comments from the Council's Arboricultural Officer tree numbers are low and will have very limited benefits to occupiers and external view receptors. The site is still considered to be highly dominated by built form and due to the limited number of trees they will do little to soften the development. The tree numbers and species proposed are not considered suitable for this proposal in terms of visual impact, biodiversity enhancements and disease resilience. This issue has been brought to the agent's attention and revised plans have been requested in order to overcome the issues detailed however these have not been forthcoming.

The proposed development site falls within a greater horseshoe bat sustenance zone associated with the SAC roost at Berry Head. Sustenance zones are key feeding and foraging areas for greater horseshoe bats associated with the South Hams SAC. The permanent loss of existing or potential habitat within the sustenance zone and in proximity to the Berry Head roost has the scope to adversely affect the favourable conservation status of the Berry Head maternity colony. It is recognised that the development needs to be screened in terms of the Habitat Regulations Assessment, which has to be carried out prior to the decision being issued. The comments from Natural England are however noted; these comments confirm that the site is not necessary for the management of the European Site and that the proposal is unlikely to have a significant effect on any European Site and can therefore be screened out from any requirement for further assessment. This will however be formally assessed through a screening exercise.

Comments from the Council's Green Infrastructure Co-ordinator are noted. The Green Infrastructure Co-ordinator has recommended several conditions relating to the submission of a Construction Environmental Management Plan, a lighting plan and the installation of bat tubes and swift boxes. The off-site LEMP should be unaffected by this proposal and the trigger points previously agreed as part of the original outline application for the wider site will remain in place. If this application is approved amendments may be required to the on-site LEMP and this will be considered further in consultation with the Green Infrastructure Co-ordinator in the event that the application is to be recommended for approval.

Residential Amenity:

There are 42 new dwellings being provided within the scheme, this comprises:

23 two bed houses
17 three bed houses
2 four bed houses

There are a range of house sizes proposed with each benefitting from a private rear garden. Policy DE3 states that all development should be designed to provide a good level of amenity for future residents and will be assessed in terms of the provision of useable amenity space and an adequate level of floorspace to achieve a pleasant and healthy living environment along with other criteria. The supporting paragraph to policy DE3 states that all new homes should provide a good standard of accommodation having regard to safety, space, amenity, parking and design. In addition it states that regard will be had to the Government's Nationally Described Space Standard. 23 (55%) of the proposed 42 dwellings fall below the size standards noted within the space standards (including the sizes of internal rooms specifically the master double room). Whilst it is noted that such standards will be applied flexibly to developments with regard to viability and other considerations, this continues to reinforce concerns relating to the overdevelopment of the site.

In addition to internal floorspace, policy DE3 also makes reference to the scale and quality of outdoor private amenity space stating that developments will be assessed against the 'provision of useable amenity space, including gardens and outdoor amenity areas'. Paragraph 6.4.2.14 follows on from this stating that 'New dwellings should make provision for external amenity/garden space where possible... As a guideline, a minimum space of 55 square metres for houses... will be sought'. Policy DE2 which refers to Building for Life also include specific reference to amenity space. Whilst it is recognised that there is public open space provided as part of the wider residential development several of the proposed units fall well below this standard with some units providing garden space of approx. 22sqm in area and coach houses having no private amenity space. This shortfall is another indicator that the density of the development is excessive for this site. It is noted that another point of DE3 is to make good use of land whilst avoiding town cramming, the guidance suggests a minimum density of 30 dwellings per hectare,

although no maximum is provided this development is in excess of 30 dwellings per hectare suggesting that there may be opportunities to provide larger dwelling and garden sizes to ensure a quality development for future occupiers. As explained in earlier paragraphs there is a shortfall in parking provision and several examples of remote parking which could lead to on street parking and irresponsible parking resulting a car dominated development. This would also have an impact on the residential amenities enjoyed by the occupants of the development. A reduced density of dwellings would improve this situation.

The site is located south of the industrial estate and concerns have been raised by one of the occupiers of these units in terms of the impact on the occupiers of the proposed residential development as a result of noise from the existing industrial units. In order to overcome the issues with noise, a 3m acoustic fence is proposed along the northern boundary of the site as noted within the submitted noise assessment and the orchard planting adjacent to the site will work to provide a buffer between the residential units and specifically the British Falcon Plastics building. The submitted noise assessment also states that acoustically rated trickle ventilators are proposed to bedrooms at plot 25 and acoustically rated trickle ventilators are proposed to bedrooms and living rooms at plot 26. The plots numbers have since been amended with revisions to the layout and housing numbers, it is therefore assumed that unit 24 would instead require such mitigation measures. All plots are then to have standard thermal double glazed units and doors.

The previous reserved matters approval included conditions requiring the implementation of the acoustic fence prior to the occupancy of phase 2 and 3 and the submission of an updated noise assessment following the construction of the acoustic fence and properties 3-6 and 61-65 to prove that the fence is delivering the acoustic attenuation levels set out in the noise assessment. In the event that such levels of acoustic attenuation could not be provided further acoustic attenuation measures to deliver the attenuation levels set out would be required and installed prior to the first occupation of the properties 3-6 and 61-65. Further conditions also ensured that prior to the occupation of properties 3-6, the properties be fitted with standard thermal double glazing operable acoustic trickle vents to all first floor windows on the rear and sides of the building. In addition it was also conditioned that prior to the first occupation of properties 3-6 and 61-65 a noise assessment be undertaken to demonstrate that at night time the internal noise levels in the upper floor habitable rooms of these properties with an open window do not exceed the 'good' standard of BS 8233:1999 and the 'reasonable' standard for individual noise events. In instances where this could not be demonstrated, details of further acoustic attenuation measures to deliver the attenuation levels set out shall be submitted, approved and installed prior to the first occupation of properties 3-6 and 61-65.

If the application were to be recommended for approval, such conditions would be applied to those closest to the industrial units, plots 24, and 1-6. The Senior

Environmental Health Officer's comments request a condition relating to the inclusion of mechanical ventilation to those dwellings closest. Further consultation is being carried out with this Officer to confirm specific plots numbers that such a condition should apply to and whether the previously agreed mitigation is suitable in light of the revised layout. It is noted that plot 24 is much closer to the existing industrial units being only a minimum of 7m from the nearest industrial unit whereas units approved under reserved matters application P/2013/1229 was separated by approximately 20m. Subject to the inclusion of the conditions outlined above in the event of an approval, the noise mitigation measures identified would reflect and improve upon those proposed within the approved reserved matters schemes.

Drainage:

The site is within a Critical Drainage Area and as such in accordance with policy ER1 of the Torbay Local Plan, the discharge rate must be limited to Greenfield run off rate for the 1 in 10 year storm event with attenuation designed so as there is no risk of flooding to properties or increased risk of flooding to adjacent land for the critical 1 in 100 year storm event plus 30% for climate change. A revised drainage scheme has been submitted and the Drainage Engineer has confirmed the acceptability.

S106

The development will result in a greater impact on local infrastructure than the originally approved scheme for land West of Brixham Road had. The s.106 agreement for the original development secured sustainable development contributions and the Adopted SPD 'Planning Contributions and Affordable Housing' indicates that a financial contribution would be required to meet the impact of the development on local infrastructure.

In the event that the application be approved appropriate financial contributions (towards sustainable transport, education, and waste management) will be sought in accordance with the Adopted SPD Planning Contributions and Affordable Housing' and in agreement with the applicant. Where appropriate, amendments to the on-site LEMP will be secured via the section 106 agreement.

The contributions would be requested as follows:

Waste Management: £2,100
Sustainable Transport: £71,700
Education: £22,740
Lifelong Learning: £9,220
Total: £105,760

The amount above has been calculated on the basis of the affordable housing provision indicated on the plans. As noted below this is below the policy compliant level, the amount and tenure of affordable housing would alter the figure noted

above. This figure is based on 8 of the 42 dwellings proposed being affordable and/or social rent rather than intermediate housing.

For proposals of 30 or more dwellings on greenfield sites, 30% of dwellings on site will be affordable housing of which 5% will be self build plots in accordance with policy H2 and H3. In line with policy H2 of the Torbay Local Plan, where developers wish to reduce significantly the level of affordable housing provision, an independent assessment of viability will be required, with the developer underwriting the cost of the viability assessment. In this instance no viability assessment has been submitted that would justify a provision of affordable housing which is less than policy compliant.

Conclusions

In conclusion, the principle of revising the approved residential layout to increase the density of development is considered acceptable. However the submitted scheme fails to meet the objectives of Policies SS11, H1, DE1, DE3, C4 and TA3 in the Torbay Local Plan to provide a high quality form of development with a good level of amenity for all residents and would constitute an overdevelopment of the site as a result of poor quality landscaping, small scale dwellings, lack of useable private amenity space and a lack of suitable parking provision in terms of numbers and distances from dwellings to which they serve. The proposed form of development would detract from the residential amenities of occupants and visual amenity of the site and is therefore considered contrary to Policies in the Torbay Local Plan and the NPPF and would be unacceptable.

Whilst the agent has indicated that affordable housing provision will be agreed through a section 106 agreement, information submitted to date indicates that this will not be to a policy compliant level and no information has been submitted by way of a viability assessment to justify this. Irrespective of this a section 106 agreement has not been pursued as the application is recommended for refusal and therefore this, together with the lack of section 106 contributions has been added as a reason for refusal for matters of protocol.

Condition(s)/Reason(s)

01. The proposal would constitute an overdevelopment of the site and fail to deliver a high quality living environment or a good standard of amenity for future occupants as a result of poor quality landscaping, small scale dwellings, lack of useable private amenity space and a poor parking arrangement in terms of numbers and distances from dwellings they serve contrary to paragraph 17, 56 and 58 of the National Planning Policy Framework and policies SS11, H1, DE1, DE2, DE3, C4 and TA3 and associated Appendix F of the Torbay Local Plan 2012-2030.
02. In the absence of any signed legal agreement or upfront payment under Section 106 of the Town and Country Act 1990 (as amended), the scheme

fails to satisfy the objectives of Local Plan Policy SS6 and SS7 and the Council's SPD "Planning Contributions and Affordable Housing: Priorities and Delivery" and the associated "Update 3 Paper", which seek to secure the delivery of physical, social and community infrastructure directly related to the development and necessary to make it acceptable in spatial planning terms. In the absence of secured contributions in line with the adopted policy the proposal is therefore contrary to Policy SS6 and SS7 of the Torbay Local Plan 2012-2030 and guidance outlined within paragraphs 203 and 204 of the National Planning Policy Framework.

03. The proposal fails to make appropriate provision for affordable housing in line with Policy H2 and H3 of the Torbay Local Plan 2012-2030 and in the absence of the a viability assessment to justify a lower level of affordable housing provision the proposal is contrary to Policy H2 and H3 of the Torbay Local Plan 2012-2030.

Relevant Policies

SS11 - Sustainable Communities Strategy

SDP3 - Paignton North and Western area

H1LFS - Applications for new homes

H2LFS - Affordable Housing

H3LFS - Self build affordable housing

DE1 - Design

DE2 - Building for life

DE3 - Development Amenity

C4 - Trees, hedgerows and natural landscape

TA3 - Parking requirements

SS6 - Strategic transport improvements

SS7 - Infrastructure, phasing and employment

ER1 - Flood Risk

ER2 - Water Management

W1LFS - Waste hierarchy

TA1 - Transport and accessibility

SS8 - Natural Environment

NC1LFS - Biodiversity and Geodiversity