

Application Number

P/2016/0188

Site Address

Land West Of Brixham Road, Paignton

Case Officer

Carly Perkins

Ward

Blatchcombe

Description

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 (proposal/description amended 5 April 2016)

Update Report:

On the 8th August 2016, the Development Management Committee considered a reserved matters application for the approval of the appearance, landscaping, layout and scale of a full size senior FA 3G football pitch with 4.5m high perimeter fencing, one open tarmac MUGA court, for community use, one secure polymeric surface with controlled use and a new sports pavilion with parking to serve the development. The Committee resolved to delegate the approval of the application to the Executive Head of Business Services in consultation with the Chairman and Vice Chairman of the Development Management Committee in the event that further information was submitted to the Council within two months of the date of the committee which overcame the reasons of refusal presented to the Committee. These reasons for refusal were as follows:

- 1) Insufficient information has been submitted to demonstrate that there will be no likely significant effect on the South Hams Special Area of Conservation and contrary to paragraph 118 of the National Planning Policy Framework and policies SS8 and NC1 of the Torbay Local Plan 2012-2030.
- 2) Insufficient information has been submitted to demonstrate that there will be no detrimental impact on the South Devon Area of Outstanding Natural Beauty or wider countryside and contrary paragraph 109 and 115 of the National Planning Policy Framework and policies SS8 and C4 of the Torbay Local Plan 2012-2030.
- 3) By reason of its form and materials, the proposal is not considered to represent good quality design nor would it enhance the built environment contrary to paragraph 17 and 64 of the National Planning Policy Framework and policy DE1 of the Torbay Local Plan 2012-2030.
- 4) Insufficient information has been submitted to demonstrate that there will be no detrimental impact on neighbouring residential amenity by reason of

light nuisance contrary to paragraph 17 of the National Planning Policy Framework and policy DE3 of the Torbay Local Plan 2012-2030.

Since the Committee in August, further extensions of time to allow for additional negotiation have been agreed with the Members of the Development Management Committee. The current date to determine the application is the 14th February 2017. Since August, additional information has been submitted to address the reasons for refusal. Below each of the reasons has been considered:

Impact on the South Hams Special Area of Conservation:

Paragraph 118 of the National Planning Policy Framework states that in terms of biodiversity, if significant harm resulting from a development cannot be avoided, adequately mitigated, or as a last resort, compensated for, then planning permission should be refused. It is also clear within the National Planning Policy Framework that the presumption in favour of sustainable development does not apply where development requiring appropriate assessment under the Habitats Directive is being considered, planned or determined which is the case with this application. Similar objectives are detailed within Policies SS8 and NC1 of the Torbay Local Plan 2012-2030.

The application site falls within a greater horseshoe bat sustenance zone associated with the Special Area of Conservation (SAC) roost at Berry Head. Sustenance zones are key feeding and foraging areas for greater horseshoe bats associated with the South Hams SAC. Contrary to the information submitted at outline stage, flood lighting is proposed to serve the sports pitches. Whilst there was no condition on the outline consent preventing the inclusion of external lighting, the application was determined on the basis of the information submitted which noted that no floodlighting would be provided to the sports pitches due to harmful visual impacts and impacts upon protected species. Natural England have confirmed that 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 and that further information was required to demonstrate that the proposed floodlighting would not have a detrimental light spillage upon greater horseshoe bat habitats (adjoining hedgerows) and that a Habitat Regulations Assessment will be required in advance of any decision being made by the Council.

Further information has been submitted to the Council and this has enabled the Council's Ecological Consultant to carry out a Habitat Regulations Assessment (HRA) in accordance with Natural England's advice. This additional information included a lighting plan showing the areas that will remain dark (less than 0.5 lux), a lighting strategy demonstrating that the use of floodlighting would not have a significant negative impact and an ecology technical note to inform the HRA which included information to confirm that there would be 'no likely significant

effect on the South Hams Special Area of Conservation' and details of additional landscape features that would provide a biodiversity gain. The amended proposals now include the realignment of the sports pitches to increase the distance between the pitches and the retained hedgerow boundaries. A revision to the lighting design to ensure compliance with the required sport standards whilst also ensuring that dark corridors are maintained around the application site and will remain suitable for continued use by foraging and commuting bats. The proposed lighting design includes the following:

- a. Eight 12m columns around the proposed football pitch, each with two Thorn Champion 2kW luminaires.
- b. Eight 6m columns around the southern MUGA, each with a single Thorn Champion 1kW luminaire.
- c. Two 8m columns within the car park, each with a single Thorn Area 1 luminaire, and five iGuzzini Full wall-mounted luminaires on the buildings.

The lighting will operate primarily between late October and late March which the Council's Ecological Consultant has confirmed as being outside of the main activity period for greater horseshoe bats. It is noted that whilst occasional use outside of this period may be required, flood lighting will be avoided for the majority of the activity period for this species. The submitted lighting modelling demonstrates that a minimum 10m width dark corridor of less than 0.5 lux is maintained around all boundaries of the application site with the exception of a small pinch point where the proposed car park adjoins the eastern hedgerow boundary. Irrespective of this, the face of the hedgerow in this location would be maintained at below 0.5 lux and light spill would be further reduced by the proposed landscaping as it matures. In summary, the proposed lighting design is considered to ensure that there would be no risk or probability of a likely significant effect on commuting or foraging greater horseshoe bats for the following reasons:

- a. The flooding lighting will be largely operational outside of the main activity period for greater horseshoe bats,
- b. The floodlighting will be switched off by 10pm
- c. A dark corridor of minimum 10m width will be maintained around retained hedgerows with the exception of a small area to the north,
- d. A 15-20m dark corridor will be maintained around the southern and western boundary hedgerows,
- e. Increased screening and habitat enhancement will be provided by new landscape planting as it matures and
- f. Lighting during construction can be controlled and specified in a Construction Ecological Management Plan.

In line with the above, the proposal, particularly the floodlighting, is considered compliant with paragraph 118 of the National Planning Policy Framework and policies SS8 and NC1 of the Torbay Local Plan 2012-2030. This consideration is

subject to the inclusion of conditions relating to the implementation of landscaping, installation and maintenance of floodlighting in accordance with submitted lighting strategy, the submission of a dark areas plan, construction environmental management plan, landscape and ecological management plan and an ecological monitoring and early warning strategy. A Habitat Regulation Assessment has been completed and further consultation is being carried out with Natural England, comments from Natural England will be presented at the Development Management Committee meeting.

Impact on the South Devon Area of Outstanding Natural Beauty:

Paragraph 109 of the National Planning Policy Framework which states that 'the planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes' is noted together with paragraph 115 which states that great weight should be given to conserving landscape and scenic beauty in Areas of Outstanding Natural Beauty which have the highest status of protection. In addition paragraph 125 continues that planning decisions 'should limit the impact of light pollution from artificial light on... intrinsically dark landscapes and nature conservation'. Similarly policies of the South Devon AONB Management Plan refer to the conservation and enhancement of the special qualities, distinctive character and key features of the South Devon AONB landscape, the maintenance and where practicable enhancement of levels of tranquillity in order to ensure this special quality is not further devalued and the protection of the character of skylines and open views into, within and out of the South Devon AONB. In addition the need find suitable alternatives to infrastructure responsible for visual intrusion together with improvements to reduce the visual impact of unsightly past development is noted. Priorities are noted as including protection against external lighting that creates night time scenic intrusion. The Authority is also aware of its duty of regard for the purpose of conserving and enhancing the natural beauty of the AONB under section 85 of the Countryside and Rights of Way Act 2000. Policy SS8 of the Torbay Local Plan also recognises the importance of ensuring that development outside of the AONB does not have an unacceptable impact on the special qualities of the nearby AONB.

Whilst the site lies outside of the South Devon Area of Outstanding Natural Beauty (AONB) it is visible from the AONB. The application site is noted in the Torbay Landscape Character Area Assessment as being of Type 1, Rolling Farmland as specified on Figure 1. The Assessment states that much of this land is open to views from the AONB to the west and the south and that there is limited potential to accommodate change without substantial wider impact. It is also noted that mitigation of any proposed development should be achieved through a combination of careful siting with strong screen planting and the reinforcement of existing field hedgerow boundaries. This type of mitigation was proposed at outline stage with a Landscape and Ecological Management Plan being secured to provide offsite landscaped buffers.

Contrary to the information submitted at outline stage, floodlighting is now proposed to serve the sports pitches. The Environmental Statement and associated Lighting Assessment submitted at outline stage stated that floodlighting for the playing pitch on elevated ground would result in a significant negative visual impact and has been discounted on this ground. The South Devon AONB Manager noted that if the scheme was to include floodlighting then the fundamental question is whether or not floodlighting can be accommodated on the site without negative landscape and visual impacts, including in particular, impacts upon the nationally protected landscape of the South Devon AONB, its natural beauty and special qualities. In addition the South Devon AONB Manager confirmed that without an updated lighting strategy and assessment, LVIA or Environmental Statement insufficient information was available to enable the Council to consider the application. The South Devon AONB Manager noted specifically that one of the South Devon AONB's ten special qualities includes 'areas of high tranquillity, natural nightscapes, distinctive natural soundscapes and visible movement' and that the dark sky and natural nightscape resource of the AONB is particularly highly valued.

Further information has been submitted to the Council which includes an addendum to the Landscape and Visual Impact Assessment which specifically considers the impact of the floodlighting. In addition a landscape mitigation strategy which includes accelerated planting options and management and sections through the site to show planting at 0 and 10 years growth and the implications of cut and fill requirements have been provided together with further information relating the use of the pitches, hours of operation and colour of floodlighting. The applicant has also noted that the impact of the floodlighting is temporary in nature, occurring only when the floodlighting is in operation. This understanding that the impact was neutral when the floodlighting was turned off was agreed by officers and the South Devon AONB Manager.

The South Devon AONB Manager has been consulted on the additional information provided and has maintained his objection to the proposal. The South Devon AONB Manager has stated there is no scope to mitigate the predicted residual harm resulting from increased glare, conspicuousness and sky glow effects. Whilst they have acknowledged that there is some limited scope to filter lighting impacts through establishment and maturity of trees and woodland to the south and west of the sports pitch, they consider that the proposals would add to the existing urbanising effect of artificial lighting on the edge of Paignton as perceived from within parts of the AONB. The AONB Manager has also queried the accuracy of some of the information submitted, and this will be raised with the applicant. The response from the applicant will be presented at the Development Management Committee meeting.

The impact on the setting of the South Devon AONB is noted and is a material consideration which should be given great weight with regard to paragraph 115 of the National Planning Policy Framework. However in the case of this

application, the need for sports facilities in Torbay is also a material consideration and the two considerations are considered finely balanced. It is noted that it is for the decision maker to decide what weight is to be given to material considerations in each case. In this case it needs to be considered whether the public benefits of providing the sports facilities outweigh the harm to the setting of the AONB as noted by the South Devon AONB Manager having regard to both local and national policy.

Paragraph 70 of the National Planning Policy Framework states that planning decisions should plan positively for the provision and use of community facilities such as sports venues to enhance the sustainability of communities and residential environments. Paragraph 73 also recognises that access to high quality open space and opportunities for sport and recreation can make an important contribution to the health and well-being of communities. It continues that planning policies should be based on robust and up to date assessments of the needs for open space, sports and recreation facilities and opportunities for new provisions. Information gained from these assessments should be used to determine what open space, sports and recreational provision is required. Policy SC1 of the Torbay Local Plan refers to the health and well-being of communities with supporting paragraph 6.4.3.5 noting that new development should contribute towards creating healthy and sustainable communities and neighbourhoods through (amongst others) more opportunities for physical activity and healthier lifestyle choices including improvements to sports and recreation facilities. Following on from this, policy SC2 of the Torbay Local Plan supports the provision of sports facilities to serve additional demand generated by the wider development. It does however note that where a need is identified for new facilities, they should be provided in appropriate locations, preferably co-located with existing and other planned sports facilities, where they are accessible by a range and choice of transport and comply with other policies in the Local Plan. It is recognised that the Local Plan has an important role in supporting the development of new facilities and helping to bring forward the ambitions of people, clubs and representative organisations. Whilst projects are identified within the Local Plan for sport, it is noted that suitable alternative provision which is more viable and sustainable to satisfy demand may come forward. Paragraph 6.4.3.12 recognises that the provision of sports facilities often involves significant investment and proposed new sites must be capable of sustaining and serving any development. However in accordance with other policies of the Local Plan, relating specifically to countryside and design, provision of sport, recreation and leisure facilities in more rural areas will need to be sensitively designed to ensure the facility and its use complements and does not harm the character and appearance of the area.

In addition to planning policy, the Torbay Sports Facilities Strategy 2014-2021 sets out the vision for sport in Torbay including being the most active local authority amongst its nearest neighbours in terms of adult participation in sport and active recreation, reducing health inequalities through contribution of more

people leading more active lifestyles and to be an area where the attitudes of inactive people towards sports and active lifestyles have changed with previously inactive people taking part in some form of basic fitness activity. It is also noted that similar aims are outlined in policy SC1 of the Torbay Local Plan. The Torbay Sports Facilities Strategy also supports the need for a 3G artificial grass pitch at South Devon College (on or off site) and that the sports hub at South Devon College is currently over-capacity. In addition the strategy looks to promote the community use of the sports facilities on educational sites making specific reference to South Devon College. The Torbay Playing Pitch Strategy exhibits similar objectives recognising the importance of addressing the need for artificial grass pitches to meet the increasing demand for artificial surfaces or both training and competition in football, hockey and rugby and other pitch sports.

A consultation response from the Council's Sports Development Officer has confirmed support for the proposal. The Sports Development Officer has noted that there is currently sufficient provision of sports pitches in Torbay however has highlighted the poor quality of the existing playing pitches in Torbay that results in games being cancelled, suggesting that Torbay need to improve the quality of the pitches. The Officer has recognised that the Playing Pitch Strategy demonstrates a need for 3G pitches in Torbay and that Clennon Valley would be the priority site due to its central location, existing leisure operator and other sporting facilities. Whilst the Council is hopeful that a 3G pitch will be delivered at Clennon Valley in the near future together with improving the maintenance and drainage of existing pitches, funding and planning permission are yet to be secured and therefore a date for delivery is unknown. Letters of support from Paignton Villa and Brixham Football Club are also noted.

There are clearly two conflicting considerations which need to be weighed up when reaching a view on the acceptability of the proposal. Health indicators for Torbay relating to poor health and premature mortality show a relationship strongly related to demographics and levels of deprivations, including examples of significant levels of health inequality. Torbay's population exhibits lower levels of physical activity and a higher proportion of persons who are overweight or obese compared to regional and national averages. It is recognised that development can contribute to creating healthier communities partly through providing open space and recreation areas and that there are clear links between sports and recreation and health, well being and productivity. It is also noted that community halls like the sports pavilion proposed can help to strengthen dynamism and integration of communities. It is understood that there are clear social benefits to health as a result of providing this facility. It is possible to argue that similar benefits could be achieved from a scheme that did not adopt floodlighting or an artificial 3G pitch. However evidence submitted by the applicant suggests that a 3G pitch will have added benefits in terms of the ability for more intensive usage meeting the sports curriculum needs of the College and a facility for community use at evenings and weekends. It is understood that a grassed pitch cannot be used as intensively as it can become waterlogged and

requires a period of non-use (an issue already experienced on Torbay's existing grass pitches). Due to viability the facility would not be deliverable without the provision of floodlighting as it will not be able to be occupied at 100% capacity which would place a financial burden on the college. As a guide, a 3G artificial grass pitch can be made available for use for 85 hours per week in comparison to a well drained natural turf pitch which can tolerate a maximum of 6 hours per week demonstrating the key benefits of an artificial pitch when compared to a natural grass pitch.

Whilst the benefits are understood in terms of health and active living, the harm of the development on the special qualities of the South Devon AONB is also illustrated in the submitted information and identified in comments from the South Devon AONB Manager. The level of weight given to such considerations is evident in local and national policy. Whilst there remains a need for further clarification on the matter of accuracy of the submitted landscape and visual impact assessment information, it is clear that significant effort has been made to mitigate the impact of the lighting which is the matter of contention. These include the inclusion of fast growing trees in conjunction with native species to reduce the impact of the floodlighting by growing to a comparable size. These fast growing trees would then be removed as part of a management strategy once native species have reached a suitable height and density. Further clarification has been provided on the lux levels required during both match times and training times. During match times lighting at 200 lux will be required which is approximately 27.5% of the time that the 3G pitch is in use. During training times this will be reduced to 120 lux. The colour of the lighting has been amended to 4200K which is a neutral white. It is noted that this is an improvement in terms of reducing the impact on sky glow; however a colour temperature of no more than 3000K would be preferred. In addition and as noted above it is understood that the harm to the setting of the AONB is limited to the impact of the floodlighting and once turned off the impact is neutral.

Having considered social benefits of the scheme to the residents of Torbay in terms of health and well-being and the harm to the setting of the special qualities of the South Devon AONB, a balanced view must be taken. On balance and whilst acknowledging that the view of the South Devon AONB Manager cannot be fully resolved, it is considered that the benefits of the scheme when viewed together with the level of mitigation proposed would outweigh the time limited impacts on the special qualities of the South Devon AONB specifically the natural nightscapes. Whilst alternative sites are available for the provision of similar facilities it is recognised that these do not benefit from funding or planning permission bringing their deliverability into question such that it is not considered that suitable alternative sites are available. This view however is subject to further clarification from the applicant regarding the accuracy of the submitted information and revisions to the proposed landscaping mitigation in line with comments from the Council's Arboricultural Officer.

The Design of the Proposal:

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, whether they protect local and longer distance views and the impact on the skyline especially from public vantage points, having regard to the location and prominence of the site and whether they positively enhance the built environment.

Within the Design and Access Statement submitted at outline stage it stated that 'given the elevated nature of the part of the site upon which the pavilion building is proposed, the building will be single storey with careful attention given to elevation treatment and roofing materials. It is possible that this building could have a green roof, and with landscaping around it, this would further support the potential for it to be embedded into its setting.' In addition the outline application was supported by an LVIA, which noted that as a result of the assessment of the predicted landscape and visual effects significant adverse effects were identified. In response to this assessment, mitigation measures were identified. One of the mitigation measures identified stated that 'the pavilion building would be designed to look like an agricultural building with timber cladding'.

The design of the sports pavilion has been revised, and the revised proposal was presented at the Development Management Committee meeting in August 2016. On balance the design of the proposal is considered acceptable and in accordance with policy DE1 of the Torbay Local Plan. It is recommended that materials be submitted for approval by condition.

In addition to the external design, the floor plan for the building has been revised to take into account comments from Members at the Committee meeting in August 2016. The building now includes a larger kitchen area to cater for community events and a larger gym and inclusion of community rooms rather than classrooms as previously identified. The agent has also confirmed that the sports pavilion will offer community users a state of the art gym and fitness site with professional trainers, a full programme of fitness and health and well being classes. The building will have community use spaces which can be booked for a variety of uses and events such as children's parties, club and charity committee meetings, private and public events. Room hire will also be supported by the use of kitchen facilities and separate toilet, shower, changing areas and facilities for wheelchair users are also provided for non-playing visitors, community users and gym users. Separate areas are provided for team changing, showers and match officials. As recommended in comments from

Sport England, a community use agreement will be secured by condition to secure the provision of the facilities.

Impact on Residential Amenity:

The proposals are to be sited to the west of the approved residential development (P/2011/0197 and P/2013/1229). The position of the proposals in relation to the residential development reflects that shown within the indicative layout shown at outline stage. 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 and a good standard of amenity for all existing and future occupants of land and buildings. Policy DE3 of the Torbay Local Plan 2012-2030 states that developments should be designed to not unduly impact upon the amenity of neighbouring and surrounding uses, with one of the criteria for assessment being the impact of noise, nuisance, visual intrusion, overlooking and privacy, light and air pollution.

The proposed building is single storey and positioned some distance from the dwellings to the east such that the proposals are not considered to result in any serious detriment to residential amenity by reason of loss of light, loss of privacy or by reason of being unduly dominant or overbearing. Contrary to the information submitted at outline stage, floodlighting is proposed to serve the sports pitches. The proposed floodlighting has the potential to detrimentally impact neighbouring residential amenity however it is noted that increased landscaping has been proposed to act as a screen separating the residential properties from the development. Further consultation is being carried out with the Council's Environmental Health Officer to ensure that there is no unacceptable impact to residential amenity as a result of the proposal. There is potential for the proposal to have a noise impact and as such a condition restricting the hours of use would be imposed. This would also help to limit the impact of any floodlighting in terms of light nuisance.

Conclusion:

On balance and whilst acknowledging that the view of the South Devon AONB Manager cannot be fully resolved, it is considered that the benefits of the scheme when viewed together with the level of mitigation proposed would outweigh the time limited impacts on the special qualities of the South Devon AONB specifically the natural nightscapes. The proposal is considered acceptable having considered paragraphs 70, 73, 109, 115 and 125 of the National Planning Policy Framework and policies SC1, SC2 and SS8 of the Torbay Local Plan 2012-2030. This view however is subject to further clarification from the applicant regarding the accuracy of the submitted information and revisions to the proposed landscaping mitigation in line with comments from the Council's Arboricultural Officer.

Subject to further consultation with Natural England and the inclusion of

conditions the proposal is considered compliant with paragraph 118 of the National Planning Policy Framework and policies SS8 and NC1 of the Torbay Local Plan 2012-2030.

The design of the proposal is considered acceptable and compliant with policy DE1 of the Torbay Local Plan 2012-2030. The layout of the site is considered to adequately provide for a dual use for both education and the community and the use of the site can be secured by the submission of a community use agreement in accordance with policy SC1 and SC2 of the Torbay Local Plan 2012-2030.

Further consultation will be carried out with Environmental Health to determine the need for conditions relating to the use of the site to ensure no detrimental impact to the residential amenities of nearby occupants. Subject to these comments, the proposal is considered acceptable and compliant with policy DE3 of the Torbay Local Plan 2012-2030.

Recommendation:

Conditional approval, subject to further consultation with Natural England confirming the acceptability of the Habitat Regulation Assessment, further consultation with Environmental Health with regard to the impact on future occupants of nearby dwellings, clarification from the applicant with regard to the accuracy of the submitted landscape and visual impact assessment and amendments to the landscape mitigation and the submission of surface water drainage information. Final drafting and determination of appropriate planning conditions to be delegated to the Executive Head of Business Services.

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 for the dwelling houses. 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 dwelling houses complete.

The application site is to the south of industrial units on Long Road and west of the proposed residential development associated with application references P/2011/0197 and P/2013/1229. To the south and west of the site is open countryside. To the south of the site, offsite planting works are proposed as part of the original outline application P/2011/0197 adjacent to the southern boundary.

The proposals are a provision of the section 106 agreement secured at outline stage. The sports pavilion and public open space must be completed prior to the occupation of the 250th dwelling. The proposal is for a full size senior FA 3G

football pitch 120m x 80m with 4.5m high perimeter fencing, one open tarmac MUGA court 37m x18.5m, for community use, one secure polymeric surface 37m x 18.5m with controlled use and a new sports pavilion. The site area is approximately 4.2 hectares. The proposal includes parking provision and some landscaping. It is understood that the proposals will be managed by South Devon College.

Contrary to the information submitted at outline stage, floodlighting is proposed to serve the sports pitches. It is considered that insufficient information has been submitted to demonstrate that the development (particularly the floodlighting) can be implemented without harm to neighbouring residential amenity, the character of the open countryside, area of outstanding natural beauty and the South Hams Special Area of Conservation. In addition the proposal, by reason of its form and materials, is not considered to represent good quality design nor would it enhance the built environment. In line with the above the proposal would be contrary to paragraph 17, 64, 115 and 118 of the National Planning Policy Framework and policies DE1, SS8, NC1 and C4 of the Torbay Local Plan 2012-2030.

Recommendation:

Refusal, reasons for refusal are set out at the end of the report

Statutory Determination Period:

13 weeks, an extension of time to determine the application has been agreed up to the 19th August 2016.

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 for the dwelling houses. 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 dwelling houses complete and occupied.

The application site is to the south of industrial units on Long Road and west of the proposed residential development associated with application references P/2011/0197 and P/2013/1229. To the south and west is open countryside. To the south of the site, offsite planting works are proposed as part of the original outline application P/2011/0197 adjacent to the southern boundary.

Detailed Proposals:

The proposal is for a full size senior FA 3G football pitch 120m x 80m with 4.5m high perimeter fencing, one open tarmac MUGA court 37m x18.5m, for community use, one secure polymeric surface 37m x 18.5m with controlled use and a new sports pavilion. The site area is approximately 4.2 hectares. The sports pavilion is single storey and features a shallow pitched roof. The sports pavilion has a floor area of approximately 550sqm. The proposal includes parking provision and some landscaping.

Summary Of Consultation Responses

Arboricultural Officer: The proposed trees lack the potential mature height and spread required to screen the proposal. The tree species selected are of only limited internal benefit and in the example of the Japanese maple, will struggle to establish and achieve any stature greater than that of a large shrub. This is amplified by the open topography of the site amongst the wider field systems. Tree numbers are low given the size of the site and increased density is necessary with attention given to important boundaries where screening will be required from residential areas.

The scheme is suitable for approval on arboricultural merit subject to the proposed tree species being substituted for species capable of attaining a height and spread significant enough to effectively screen the proposal and are suitable given the character of the surrounding area, increased numbers of trees across the site and hedge/ tree protective fencing plan to be submitted prior to any commencement on site that is based upon an arboricultural survey in accordance with BS5837.

No additional information has been submitted in relation to the comments above however a letter of justification was provided to which the Arboricultural Officer responded as follows:

"The letter makes comments addressing the arboricultural concerns with the hedge management being covered by the management proposed in the outline proposal for the White rock development; however it does not address specific tree protective fencing for the existing hedgerow. Screening is addressed by reference to the single storey height of the building and MUGA and thus it is suggested that the proposed landscaping is sufficient to screen. However the species suggested do not reliably exceed the height of the proposed building and are incapable of attaining a sufficient scale to be the dominant landscape feature of the proposal site. Therefore the landscaping is insufficient to prevent the proposal from having a negative impact on the South Hams AONB."

Senior Strategy and Project Officer: The application shows parking for around 36 cars, plus 4 minibus bays. The Local Plan sets a parking standard of 1 space per 25 sq m, which would come to a greater number of spaces if the external space

was taken into account. There is concern about parking spilling out onto surrounding residential streets. A Transport Statement has not been submitted to justify the proposed parking level. Given that there could be a significant impact on the area, it is considered reasonable to request a Transport Statement, and a Travel Plan to maximise the use of sustainable transport.

Irrespective of the above, a minimum of 4 spaces or 10% of spaces should be provided as spaces for disable persons (to dimensions of 4.8m x3.6m, or where side by side 4.8x2.4 with a minimum of 1.2m between them). . Appendix F of the Torbay Local Plan also states that all new development should include provision for electric charging points and their necessary infrastructure.

The application is within the LEMP (Policy SS9.3) and close to the boundary with South Hams. Therefore the impact of the development, lighting etc on the landscape and biodiversity will need careful consideration. It is acknowledged that this may impact upon parking provision, but this does not obviate the need for the parking provision to be justified.

Paragraph 8.1.3 (p58) of the Transport Assessment indicates that the trip rate has not been calculated for the pavilion building, which will primarily serve the new community within the masterplan area, and that community events will take place at weekends and evenings outside peak travelling times. Whilst this is good from a junction capacity point of view, it could mean that parking may spill over onto the streets at a time when there are lot of cars parked already, albeit only at match times.

The Adopted Local Plan seeks 1 parking space per 25 sq m of floor space. Whilst this would not be applied to the MUGAs and the 3G pitch, provision should be made, particularly for the 3G pitch. The detailed plan shows covered seating for 50 spectators and 160 standing spaces. In addition, the teams on the pitch could amount to up to around 75 people at team cross-over times.

On this basis, there would appear to be a shortfall in parking. The applicant should justify the parking level proposed and see whether alternative solutions can be found such as provision of overspill car parking (e.g. at South Devon College). In any event it would be preferable to encourage greater use of walking, cycling and public transport as an alternative to requiring the provision of hundreds of car parking spaces. A Travel Plan would be a way of encouraging this, and is directly related to the reserved matters.

It is noted that there may be some sensitivity with the LEMP and landscape impact (especially given that the pitch will be floodlit), which is another reason why demand management is more likely to be an acceptable solution than providing car parking up to the required standard.

Provision should also be made for cycle parking. This would be part of the travel

plan measures noted above.

In response to the revised plans submitted the Senior Strategy and Project Officer noted the following:

"I am happy that the revised plans make provision for electrical charging points, cycle provision and increased disabled parking. The disabled spaces should be a minimum of 4.8m x3.6m as per Appendix F of the Local Plan. It would also be appropriate to get details of the 6 secure cycle spaces, either now or through a condition. However I am pleased that these changes have been made, which improve the proposal.

Turning to parking provision. It is accepted that the parking slightly exceeds the requirement for the building floorspace. The Local Plan sets no standard for pitch area, but it is reasonable in the context of Policy TA3 to ensure that there are not severe problems with parking overspilling into residential areas during high demand times. Conversely it is accepted that it is not in the interests of sustainability to demand large areas of parking that will only be occasionally used. It would therefore make sense to seek to ensure that alternative provision can be made for overspill parking at the College. Peak demand for the sports pitches will be evenings and weekends when the college's car park is likely to be less used."

Police Architectural Liaison Officer: Opportunities to design out crime, antisocial behaviour (ASB) and conflict have been considered and incorporated into the layout and design of the proposal. Having carried out a basic crime pattern analysis, specifically for Sports Pavilions, it is advised that theft and criminal damage are the most reported offences, as such it is recommended that the Sports Pavilion is constructed to comply with the standards and specifications of Secured by Design to ensure a consistent level of security throughout and opportunities for criminal activity and misuse or abuse of the facilities are minimised.

The proposed 4.5m fencing will assist well in securely enclosing the site preventing unauthorised access and the type of fencing will enable good surveillance opportunities in to the spaces.

It is recommended the pedestrian access to the right side of the Pavilion is made inaccessible to prevent providing those with criminal intent a legitimate excuse for access the building and changing rooms. The gated accesses into the MUGAs must be capable of being locked when not in use.

There should be no access to the left of the Pavilion or the space is left as open to view as possible to prevent creating a concealed area as this can provide cover for doors and windows to be tampered with. Any trees here should not be positioned so they can be used as climbing aids up onto the roof and the proposed choice of trees should have trunks that are clear of foliage (approx 2m)

to enhance surveillance into the space.

The outside storage container for equipment is noted. Initial generous storage provision should help to avoid future need for additional outbuildings which can be more vulnerable to attack.

Care should be taken with regard to landscaping/planting so as to not restrict natural surveillance, create hiding places for those with criminal intent, impede CCTV (if applicable).

Please be mindful that if there is to be CCTV it must be accompanied by compatible lighting as come the hours of darkness the CCTV system will not be fit for purpose.

The parking area will need to have good natural surveillance from both the road and buildings beyond and ideally be lit to assist residents and deter vehicle crime.

Preventative measures should be put in place to prevent anti social driving/behaviour in the open space of the car park when premises are closed. Consideration should be given for a gate/barrier to be fitted to the car park entrance for use when the premises are closed or the open space is broken down by introducing obstacles, for example one or two speed bumps, planters, low level hedging or kerbing as this will effectively reduce the amount of open space vehicles need to gain speed and drive anti socially.

Vehicle access onto grassed areas should be prevented by use of bollards are some form of solid structure

External illumination of the facilities may draw local attention at night. The lighting will need to be coordinated with actual occupation and use to avoid unwanted attention at times when there are no users or 'capable guardians' present.

Bollards to the front of the Pavilion must be capable of stopping a vehicle making contact with the building.

Secure motorcycle and bicycle parking should be provided and located within view of active areas e.g. reception. This area should be roofed and lit.

Care should be taken to not inadvertently design in climbing aids, such as trees, bollards, sills, bins, benches etc as these can provide access on to the roof to vents/roof lights or over into the grounds.

To control access and deter unwanted trespassers there should be only one main access and egress into the building and through to the MUGAS.

All doors, windows and locks should meet the standards of specifications of Secured by Design.

Storage and security of valuables and personal belongings will require special consideration. Lockers must be open to view and not hidden away to deter anyone wishing to tamper with the lockers

Cubicles and changing rooms should be designed to prevent voyeurism or the use of a mirror or similar to look over or under cubicle walls.

It is recommended that spectators are provided their own WC facilities to prevent providing a legitimate excuse for those with criminal intent easy and open access into the changing rooms where personal belongings and clothes can be left.

It may be worth considering an additional corridor door that can be used to prevent open access to the team and official changing rooms on match days.

Green Infrastructure Co-ordinator: There are serious concerns in relation to the proposed floodlighting and impacts on bats, including Greater Horseshoe Bats which are known to be very light sensitive. Further information on levels of predicted illuminance and light spill, shown by appropriate isolines, is required prior to determination to ensure that bat flight corridors can be maintained through/around the development site in accordance with the Habitats Regulations Assessment undertaken for the outline application.

It should be noted that the Lighting Assessment submitted as part of the outline application (attached) stated that no floodlighting would be provided: "The lighting requirements for the Public Park and open spaces should be minimal as they will be used primarily during daylight hours. Although some of these spaces will contain play areas (and within the central elevated area, a sports pitch and youth play area is proposed, it is unlikely that they will be used during the hours of darkness so lighting will not be required. Floodlighting for the playing pitch on elevated ground would result in a significant negative visual and has been discounted on this ground."

The Ecology Addendum to the Environmental Statement submitted as part of the outline application also makes reference to sensitive use of lighting in paragraphs 6.6-6.12. The landscape and visual impacts of floodlighting need to be considered, particularly with regard to impacts on the nearby Area of Outstanding Natural Beauty. The Council's Arboricultural Officer and Urban Design Officer (Landscape) should be consulted with regard to the suitability of the landscape proposals. There is no plan showing the context of the proposals in relation to the wider development proposals and the relationship with the adjacent development including allotments, orchards and housing needs to be shown on a plan. Notwithstanding the further detail requested above, the following would need to be secured by planning condition or provided prior to determination of the

reserved matters application:

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.

An informative would be required 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. Further conditions may be required following the review of the additional information requested above.

Summary

The application is not suitable for approval until further details regarding lighting have been provided and acceptability discussed and agreed with the Council's Ecological Adviser and Natural England. Relevant Council officers should be consulted with regard to landscape proposals and landscape and visual impact. A plan showing the context of the development in relation to wider development proposals is required. Notwithstanding the further details required, preliminary recommendations are made for conditions and informatives.

Natural England: Greater horseshoe bats are among the rarest and most threatened bats in Europe. During the last 100 years, numbers have declined significantly throughout northern Europe. South Devon represents an international stronghold for the species supporting the largest recorded roost in northern Europe. The proposed development site falls within a greater horseshoe bat sustenance zone² 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 zone² 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 proposals to include floodlighting are a departure from the approved outline application. Our previous supporting advice, and the conclusions of the Habitats Regulations Assessment carried out by the authority, were based upon the details provided with the outline application. The outline application included greater horseshoe bat mitigation measures surrounding the proposed sports pitch/play areas, included the retention and enhancement of hedges, and planting of new hedgerows. The Environmental Statement (February 2011, Final Issue) states that "No floodlighting of sports pitches will be used; play areas will not be lit..." The latest proposals include the provision of floodlighting. Where there is a material change to the approved outline application, it will be necessary for your authority to carry out a Habitats Regulations Assessment in advance of

reaching a decision regarding this application.

The consultation documents provided by your authority do not include information to demonstrate that the requirements of Regulations 61 and 62 of the Habitats Regulations have been considered by your authority, i.e. the consultation does not include a Habitats Regulations Assessment. In advising your authority on the requirements relating to Habitats Regulations Assessment, it is Natural England's advice that the proposal is not necessary for the management of the European site. Your authority should therefore determine whether the proposal is likely to have a significant effect on any European site, proceeding to the Appropriate Assessment stage where significant effects cannot be ruled out. Natural England advises that there is currently not enough information to determine whether the likelihood of significant effects can be ruled out. We recommend you obtain the following information to help undertake a Habitats Regulations Assessment:

An updated lighting strategy to ensure that light spillage parameters are set in advance of reaching a decision. Typically, detrimental light spillage upon greater horseshoe bat habitats (adjoining hedgerows) is thought to be associated with Lux levels of 0.5 and above.

The assessment of light impact is best informed by identifying all potential sources of light (in this instance floodlights) and combining this information as part of a Lux analysis. All potential sources of light will require appropriate mitigation to prevent impact upon the greater horseshoe bat.

Assessment of potential light impacts at both construction and operational phases is often best informed by a suitably qualified lighting designer and ecologist.

To assess light impacts upon greater horseshoe bat habitat from the proposed development, it will assist to provide contour mapping (0.1lux intervals or less) that represents the lux modelling results (including vertical plane, and sample intervals of 200mm) on an OS map backdrop, and that can be used in conjunction with greater horseshoe bat habitat maps.

From the information available Natural England is unable to advise on the potential significance of impacts on South Devon Area of Outstanding Natural Beauty (AONB). It is therefore advise that advice is sought from the AONB Partnership / AONB Conservation Board. Their knowledge of the location and wider landscape setting of the development should help to confirm whether or not it would impact significantly on the purposes of the AONB designation. They will also be able advise on whether the development accords with the aims and policies set out in the AONB management plan. The addition of floodlighting in a prominent location has the potential to adversely affect the AONB, and was a reason for their exclusion at outline application stage.

Ecological Consultant: The application cannot be determined until a full lighting assessment for the proposed flood lighting of the sports pitches is received. A HRA Screening Assessment cannot be conducted until such an assessment is provided.

The HRAs prepared for the outline application (dated February 2012 and September 2012) contain copies of application drawings showing proposed new hedgerow planting (Ecosulis Nov 2011) and the offsite landscape buffer planting (Stride Treglown). Together, these drawings show new planting intended immediately adjacent to the proposed sport pitches.

It is understood that the proposed offsite landscape planting only commenced during the winter 2015/2016. This appears to be significantly late, since it should have occurred in the first planting season after the commencement of Phase I development.

It is not clear whether the proposed hedgerow that would run down the western boundary of the flood lit sports pitches has been planted - and it is not shown on the landscaping proposals for the Sports Pavilion. In light of the above tardiness over landscape buffer planting and the uncertainty over the provision of other landscape mitigation (e.g. hedgerow planting) there is concern about the applicant's commitment to necessary mitigation. Since the provision of flood lighting is a departure from the outline application, it appears that there is at least a break in consistency and continuity from the original outline application and these recent proposals for the Sport Pavilion.

It is also understood 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 it is considered an appropriate time to seek the submission of detailed proposals (both in terms of design and location) for this roost.

In light of failures to implement works in accordance with approved timescales etc, an 'update report' on ecological mitigation works carried out to date and those still remaining to be implemented should be requested. Following this, it is recommended that a site visit take place to inspect both finished works and the locations for remaining further works.

In response to these comments the applicants stated that to reduce any light spillage from the flood lighting they would implement the use of baffles. The Ecological Consultant then provided the following additional comments:

"I have sought advice from one of my lighting engineer contacts that has

considerable experience of schemes where lighting may have an adverse effect on greater horseshoe bats.

While it is true that many baffles and shields cannot be easily modelled in lighting software, this is often more common for sports lighting and often manufacturers are able to provide this info. e.g. Abacus Lighting can provide modelling data (photometrics) for their backshields on sports lights. Also, depending on the style of the shield it is sometimes possible to crudely model it as an object within the lighting software to give an indication of its effect.

It will certainly not be acceptable to rely on the approach outlined in [the agent's] email to you dated 13th June. If lighting is to be first installed before the baffles are then retrofitted, this would mean we would have no prior knowledge of the likely outcome until light levels were measured post installation. This is not acceptable.

If no information is available from the manufacturers and the lighting consultant feel unable to model the effects (questionable) then the lighting will need to be modelled without the baffles fitted, so we have an idea of worst case scenario. We will then know the reduction in light spill in metres needed for the scheme to be acceptable. We would then need evidence to indicate the extent to which the baffles are likely to reduce light spill. For instance, as a guide an Abacus light shield on a sports light mounted at 15m high, results in a 10-15% reduction in the light spill. At the moment, we have no idea whether light spill with the baffles will be less or more than this. Baffles are unlikely to provide a sharp cut-off of light spill, especially when considering levels down to 0.5 lux, due to the high levels of illuminance required on the sports pitch. So how achievable the reduction in light spill is depends on how close the proposed dark areas are to the pitch.

Furthermore, baffles are unlikely to provide a sharp cut-off of light spill, especially when considering levels down to 0.5 lux, due to the high levels of illuminance required on the sports pitch. So how achievable the reduction in light spill is depends on how close the proposed dark areas are to the pitch. So we also need this information.

I would also ask again for a response from the applicant to the concerns raised in my email dated 28th April, which stated:

I do not know whether the proposed hedgerow that would run down the western boundary of the flood lit sports pitches has been planted - and it is not shown on the landscaping proposals for the Sports Pavilion. We need this information.

In light of the above tardiness over landscape buffer planting and the uncertainty over the provision of other landscape mitigation (e.g. hedgerow planting) I am concerned about the applicant's commitment to necessary mitigation. Also, since the provision of flood lighting is a departure from the outline application, it

appears that there is at least a break in consistency and continuity from the original outline application and these recent proposals for the Sport Pavilion.

In view of the applicants failure to implement necessary greater horseshoe mitigation to agreed timetables, I have no faith in non binding statements from Mr Chick stating that his lighting consultant "once the baffles are in place on the floodlights he is confident this would as good as remove the necessary amount of light illuminance to mitigate impacts on the surrounding bat runs".

Drainage: No drainage details have been submitted to allow a comment to be made.

Sport England: Sport England seeks to ensure the new sports facilities are fit for purpose. Given the nature of the proposal, Sport England has sought the views of the FA, who advise:

- a. Four player changing rooms are indicated and it is assumed two will be for the 3G FTP and should have a clear changing area excluding showers and wc's of 18m² and not 16m² as drawn. The layouts of the two rooms to the left with direct access to the pitch are fine apart from the area. 16m² is fine for community use but 18m² would be required for the league use.*
- b. Two officials changing rooms are provided and are fine. There may need to be a corridor door provided, which can be locked on match times separating the player official changing area from the other changing and public access. The internal arrangement of the gymnasium changing room may need adjusting to move the access door to the other side of a corridor door position.*
- c. Spectator wc's are not provided separate from the player changing area. Unless the spectators can use the wc's of one of the other changing rooms they would need to be provided.*

The primary purpose of this development is to deliver community sport and as such Sport England would wish to see this intention consolidated by way of a Community Use Agreement.

Subject to the satisfactory establishment of a Community Use Agreement through a condition of approval, Sport England is satisfied that the changing facility will deliver benefits to community sport.

This being the case, Sport England offers its support for this provision of the Sports Pavilion, as it is considered to meet the Objective regarding new provision.

In respect of the proposed artificial grass pitch (AGP) Sport England's comments are as follows:

It is Sport England's understanding that the proposed playing pitch (artificial grass pitch 3G) is proposed as part of the housing s106. It is to be provided to meet the policy needs of providing open space, sport and recreation in new housing developments. This proposal appears to have a new angle with the College now seeking to develop this playing pitch proposal for the College students with community access. The natural turf playing pitch/open space area in the s106 is to be superseded by the provision of an artificial grass pitch (3G) with sports lighting and fencing.

The current proposal for a significant intensive use sports facility may affect the Council's (to be adopted shortly) Playing Pitch Strategy which identifies a strategic need for an artificial grass pitch (3G) at Clennon Valley depending upon design, access and management. This proposed 'pitch' design appears to be 'work in progress'. It is shown as to be large enough for competitive rugby but no firm commitment to deliver that specification needed - World Cup 22. It is misleading within the paperwork to say that this pitch can be used for cricket. In the main, it will be an artificial grass pitch to deliver football - training and competition play providing it is designed and maintained to meet FIFA/FA requirements. If no rugby use is planned to meet World Cup 22 standards, the pitch size may be reduced to a football size. See planning condition below. Given the original requirement of a playing pitch to meet needs of the new residents, we would strongly encourage the development and to be secured by planning condition, a community use agreement that develops sport for the end user including the College and community. This community use condition should be extended to include the proposed AGP and MUGAs.

Sport England has contacted both The FA and RFU for their comments.

The FA advise that the pitch size at present is big enough to accommodate a Rugby size compliant 3G. All relevant information is being sent to RLF from the College, RLF will then assess the reports and surveys carried out to date and make recommendations on what further surveys and drawings are required. The College are in the position to progress with a rugby size and IRB 22/world rugby compliant pitch that can also meet the requirements for Step 6 football. But it is likely that they will seek to submit an addendum to the LPA and work up a detailed design for a step 6 football compliant 3G stadia pitch.

The FA has suggested two sets of conditions.

In principle the FA support the application, there is the knowledge that further information is to be submitted to ensure the pitch is compliant for Step 6 football.

The RFU advise that they are supportive of this proposal at White Rock and are exploring the strategic benefits this development could bring to Rugby Union in the Torbay area. Currently there are no artificial surfaces in the locality that are designed and built to achieve World Rugby Regulation 22, which provides an

opportunity for the operator. The RFU is aware that this site has strong strategic importance for the Football Association and this could provide a challenge for the RFU to invest into the site due to the high football demand. There are three community rugby clubs within the area that could potentially access and use the facility if capacity levels allowed, all having strong junior sections. These sites within the Torbay PPS are classified as being over capacity, and two are shared sites with cricket. If appropriate community usage can be agreed and profiled, the RFU will continue to explore the feasibility of supporting this site.

The MUGA's design should reflect the end usage/operation and management. For example, if predominantly for tennis, it should be designed with LTA guidance. If more a general space for numerous activities the design will move away from those needed for specific sports. It is noted that both will have sports lighting with one having a tarmac surface, the other a polymeric. This may help with providing opportunities for netball and football training.

In summary, Sport England generally supports the application as new sports facilities are proposed which should have positive sports benefits for the College and wider community (to be secured by planning condition). But raise comments around the pavilion design, the strategic need for a 3G AGP in this location and the proposed design specification of the AGP 3G.

Summary Of Representations:

3 representations have been received. Issues raised:

- o One representation of support*
- o Detrimental impact on Greater Horseshoe Bat habitat*
- o Detrimental impact on the AONB*
- o Concern that it is appropriate to make a decision on an application that does not reflect the outline permission in terms of the inclusion of a lighting scheme*

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 development - 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/2015/1126 Approval of appearance, landscaping, layout and scale in relation to 216 dwellings and associated development REFUSED 13.04.2016

P/2016/0094 Erection of 42 dwellings and associated infrastructure PENDING CONSIDERATION

P/2016/411 Reserved matters for a food retail store including parking and other associated works (relates to P/2011/0197) PENDING CONSIDERATION

(Variation of condition P1 of P/2014/0071)

Key Issues/Material Considerations:

The key issues to consider are the principle of development, appearance, impact on the AONB, landscaping, biodiversity, drainage parking and residential amenity.

Principle:

Outline consent has 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. The principle of development in this location was established by this application and the position and scale of the proposal is in accordance with the indicative layout agreed at outline stage.

Policy SC2 of the Torbay Local Plan supports the provision of sports facilities to serve additional demand generated by the wider development. Sport England

support the development subject to the inclusion of conditions as noted in their response.

Appearance, Scale and Layout:

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, whether they protect local and longer distance views and the impact on the skyline especially from public vantage points, having regard to the location and prominence of the site and whether they positively enhance the built environment.

Within the Design and Access Statement submitted at outline stage it stated that 'given the elevated nature of the part of the site upon which the pavilion building is proposed, the building will be single storey with careful attention given to elevation treatment and roofing materials. It is possible that this building could have a green roof, and with landscaping around it, this would further support the potential for it to be embedded into its setting.' In addition the outline application was supported by an LVIA, which noted that as a result of the assessment of the predicted landscape and visual effects significant adverse effects were identified. In response to this assessment, mitigation measures were identified. One of the mitigation measures identified stated that 'the pavilion building would be designed to look like an agricultural building with timber cladding'.

The design of the sports pavilion has been revised during the course of the application. The amended design omitted a parapet wall design in lieu of a fascia and soffit, changed the wall material from timber cladding and render to facing brick and metal cladding, changed the window materials from powder coated aluminium to white upvc and raised the roof pitch from flat to 5 degrees. The previous design adopted high quality materials and whilst there was an element of render this was positioned fronting on to the car park rather than the wider countryside. The amended design does not reflect the principles of the Design and Access Statement submitted at outline stage nor is it considered to represent high quality design as required by paragraph 17 and 64 of the National Planning Policy Framework and policy DE1 of the Torbay Local Plan. In addition no evidence has been submitted to justify a change in materials away from that noted at outline stage. The change in materials away from those detailed at outline stage particularly in terms of the wall materials has the potential to impact upon the character and appearance of the wider countryside and views from the nearby AONB.

In line with the above, the proposal, by reason of its form and materials, is not considered to represent good quality design nor would it enhance the built environment and therefore is considered contrary to paragraph 17 and 64 of the National Planning Policy Framework and policy DE1 of the Torbay Local Plan 2012-2030. Revised plans are however expected in order to resolve the issues outlined above, the Committee will be updated on this information and officer considerations at the Committee Meeting.

Landscaping and Impact on the AONB and Surrounding Countryside:

Paragraph 115 of the National Planning Policy Framework states that great weight should be given to conserving landscape and scenic beauty in Areas of Outstanding Natural Beauty which have the highest status of protection. Whilst the site lies outside of the South Devon Area of Outstanding Natural Beauty (AONB) it is located such that it is visible from the AONB. The application site is noted in the Torbay Landscape Character Area Assessment as being of Type 1, Rolling Farmland as specified on Figure 1. The Assessment states that much of this land is open to views from the AONB to the west and the south and that there is limited potential to accommodate change without substantial wider impact. It also noted that mitigation of any proposed development changes should be achieved through a combination of careful siting with strong screen planting and the reinforcement of existing field hedgerow boundaries. This type of mitigation was proposed at outline stage with a Landscape and Ecological Management Plan being secured to provide offsite landscaped buffers however it is noted that this does not appear to have been provided in line with agreed phasing plans nor is some of this landscaping shown on the submitted plans.

Contrary to the information submitted at outline stage, floodlighting is proposed to serve the sports pitches. The Environmental Statement and associated Lighting Assessment submitted at outline stage stated that floodlighting for the playing pitch on elevated ground would result in a significant negative visual impact and has been discounted on this ground. The South Devon AONB Office have been consulted on the application but have not provided a response. However the information submitted at outline stage confirmed that the use of lighting would have a negative visual impact which justified its exclusion at outline stage. No further information has been submitted with the application to demonstrate that the proposed floodlighting would not result in adverse light spill and sky glow that can be seen from surrounding areas to the detriment of the landscape character of the area particularly the appearance and character of the AONB.

The proposed landscaping within the site is considered insufficient and would not effectively screen the proposal from wider views. In line with the comments from the Council's Arboricultural Officer, the proposed landscaping would not reliably exceed the height of the proposed building and would be incapable of attaining a sufficient scale to be the dominant landscape feature of the site. As noted above 'strong screen planting' is required to help mitigate the impact of any

development in this location, and whilst strategic planting around the application site will help somewhat, additional landscaping within the site would be required to help assimilate the development with its surroundings, particularly in views from the AONB. This was supported by the Design and Access Statement submitted at outline stage which stated that 'given the elevated nature of the part of the site upon which the pavilion building is proposed, the building will be single storey with careful attention given to elevation treatment and roofing materials. It is possible that this building could have a green roof, and with landscaping around it, this would further support the potential for it to be embedded into its setting.'

In line with the above insufficient information has been submitted to demonstrate that there will be no adverse effect on the AONB and surrounding landscapes and therefore the proposal is considered to be contrary to paragraph 115 of the National Planning Policy Framework and policy SS8 of the Torbay Local Plan 2012-2030. Additional information is expected in order to resolve the issues outlined above, the Committee will be updated on this information and officer considerations at the Committee Meeting.

Biodiversity:

Paragraph 118 of the National Planning Policy Framework states that in terms of biodiversity, if significant harm resulting from a development cannot be avoided, adequately mitigated, or as a last resort, compensated for, then planning permission should be refused. It is also clear within the National Planning Policy Framework that the presumption in favour of sustainable development does not apply where development requiring appropriate assessment under the Habitats Directive is being considered, planned or determined which is the case with this application. Similar objectives are detailed within policy SS8, Natural Environment and NC1, Nature Conservation.

The application site falls within a greater horseshoe bat sustenance zone associated with the Special Area of Conservation (SAC) roost at Berry Head. Sustenance zones are key feeding and foraging areas for greater horseshoe bats associated with the South Hams SAC. Contrary to the information submitted at outline stage, flood lighting is proposed to serve the sports pitches. Whilst there was no condition on the outline consent preventing the inclusion of external lighting, the application was determined on the basis of the information submitted which noted that no floodlighting would be provided to the sports pitches due to harmful visual impacts and impacts upon protected species. Natural England note that 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 and no information has been submitted with the application to demonstrate that the proposed floodlighting would not have a detrimental light spillage upon greater horseshoe bat habitats (adjoining hedgerows).

In line with consultee advice, insufficient information has been submitted in relation to light spillage (a lux analysis, mitigation measures, contour mapping etc). Natural England has confirmed that a Habitat Regulations Assessment will be required in advance of any decision being made by the Council. Based on the level of information submitted, it is considered likely that the results of this assessment will detail that the development is likely to result in a significant adverse effect and therefore should be refused. Paragraph 62 of the Habitats Regulations sets out the steps required should the appropriate assessment conclude the proposed development will adversely affect the integrity of the European site. This sets out that there must be consideration of alternatives to the proposal and if there are no alternatives, permission can only be granted if there are exceptional circumstances and the development is in the public interest. This is similarly set out within paragraph 118 of the NPPF. No details of alternative sites have been put forward within the application submission and whilst undoubtedly there will be some social benefits resulting from the use of the site by the community and the nearby College, proposed visitor numbers have not been submitted to support such a justification.

In line with the above insufficient information has been submitted to date to demonstrate that there will be no likely significant effect on the Berry Head South Hams Special Area of Conservation and therefore the proposal is considered to be contrary to paragraph 118 of the National Planning Policy Framework and policies SS8 and NC1 of the Torbay Local Plan 2012-2030. Additional information is expected in order to resolve the issues outlined above, the Committee will be updated on this information and officer considerations at the Committee Meeting. Were the proposals to be considered acceptable, a Construction and Ecological Management Plan would be required by a condition of approval. At the time of writing this report the HRA screening has not been carried out, further information is awaited from the agent to inform the screening of the development. The application cannot be determined positively until a HRA screening and where necessary and appropriate assessment is carried out.

Residential Amenity:

The proposals are to be sited to the west of the approved residential development (P/2011/0197 and P/2013/1229). The position of the proposals in relation to the residential development reflects that shown within the indicative layout shown at outline stage. 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 and a good standard of amenity for all existing and future occupants of land and buildings. Policy DE3 of the Torbay Local Plan 2012-2030 states that developments should be designed to not unduly impact upon the amenity of neighbouring and surrounding uses, with one of the criteria for assessment being the impact of noise, nuisance, visual intrusion, overlooking and privacy, light and air pollution. The proposed building is single storey and positioned

approximately 22m from the dwellings to the east such that the proposals are not considered to result in any serious detriment to residential amenity by reason of loss of light, loss of privacy or by reason of being unduly dominant or overbearing. Contrary to the information submitted at outline stage, floodlighting is proposed to serve the sports pitches. The proposed floodlighting has the potential to detrimentally impact neighbouring residential amenity however no details have been provided regarding proposed light levels to determine this with any certainty. There is also the potential for the proposal to have a noise impact and as such were the proposal to be considered acceptable a condition restricting the hours of use would be imposed.

In line with the above insufficient information has been submitted to demonstrate that there will be no detrimental impact in terms of neighbouring residential amenity and therefore the proposal is considered to be contrary to paragraph 17 of the National Planning Policy Framework and policy DE3 of the Torbay Local Plan 2012-2030. Additional information is expected in order resolve the issues outlined above; the Committee will be updated on this information and officer considerations at the Committee Meeting. Were the proposals to be considered acceptable, it is likely that limitations on the number of evenings a week that the outdoor pitches could be used and the hours of use would be required by condition.

Drainage

Surface water drainage methods were agreed at outline application stage. However the Council's Drainage Engineer has requested confirmation that the proposals reflect the agreed drainage design and this information is expected shortly. The Members will be updated on this at the Committee Meeting.

Parking:

The application shows parking for around 36 cars, plus 4 minibus bays. The Local Plan sets a parking standard of 1 space per 25 sq m, which would require a greater number of spaces if the external space were to be taken into account. The Local Plan sets no parking standard for pitch area, but it is considered reasonable within the context of policy TA3 of the Torbay Local Plan to ensure that there are not severe problems with parking over spilling into residential areas during high demand times. However on balance it is also accepted that it is not in the interests of sustainability to demand large areas of parking that will only be occasionally used. In light of this were the application considered suitable for approval, a condition requiring the submission of travel plan would be imposed in order to maximise the use of sustainable transport and detail measures for over spill car parking.

The plans submitted include annotations to show provision for electrical charging points, cycle provision and disabled parking. The submitted plans, however, do

not show parking spaces of a sufficient scale to accommodate a disabled parking space. Revised plans would be required to show that such spaces could be provided in line with policy TA3 and associated appendix F. Were the application to be approved, a condition requiring details of the 6 secure cycle spaces would be required.

Conclusions

It is considered that insufficient information has been submitted to demonstrate that the development can be implemented without harm to neighbouring residential amenity, the character of the open countryside, area of outstanding natural beauty and the South Hams Special Area of Conservation. In addition the proposal, by reason of its form and materials, is not considered to represent good quality design nor would it enhance the built environment. In line with the above the proposal would be contrary to paragraph 17, 64, 115 and 118 of the National Planning Policy Framework and policies DE1, SS8, NC1 and C4 of the Torbay Local Plan 2012-2030.

Relevant Policies

SS8 - Natural Environment
SC2 - Sport, leisure and recreation
NC1LFS - Biodiversity and Geodiversity
C4 - Trees, hedgerows and natural landscape
DE1 - Design
DE3 - Development Amenity
ER1 - Flood Risk
ER2 - Water Management
SS11 - Sustainable Communities Strategy
TA3 - Parking requirements
TA1 - Transport and accessibility
SC1 - Healthy Bay