

Application Number

P/2017/0123

Site AddressLand Off Brixham Road -Long Road
Former Nortel Site
Paignton**Case Officer**

Mr Scott Jones

Ward**Description**

Variation of condition on planning application P/2014/0947 (Outline Application with all matters reserved except access, for demolition of the remaining buildings on the site and redevelopment for mixed use purposes comprising up to 255 Class C3 dwellings, up to 5,574sqm of B1 and/or B8 business and/or warehousing uses, up to 8,501sqm Class A1 (bulky goods) retail with up to 515sqm garden centre, and up to 139sqm of A3 cafe /restaurant uses, along with related site access, access roads and paths, parking, servicing, open space and landscaping) - Variation of Condition P1 (approved plans) to amend the access off Long Road.

Executive Summary/Key Outcomes

This application is to change the condition relating to detailed access arrangements attached to approved outline consent granted under reference P/2014/0947 for mixed use (Business/Bulky Goods Retail and Residential) development on the old Nortel/Bookhams site adjacent to Long Road and Brixham Road, Paignton. The application was also originally submitted to vary Condition 32 (Sale of goods within specified categories) to permit the sale of convenience (food) goods within one unit of up to 1,486sqm, but this element of the application has been withdrawn by the applicant.

Permission P/2014/0947 granted outline consent for the demolition of buildings and mixed use development comprising up to 255 dwellings, up to 5,574sqm of business and/or warehouse uses, up to 8,501sqm of (bulky goods) retail with up to 515sqm garden centre and up to 139sqm of café/restaurant use, along with related infrastructure with detailed consent for the access, and all other matters reserved.

The application seeks to vary Condition P1 (Plans) to amend the detailed access arrangements off Long Road. The amendment seeks to relocate the central of the three Long Road access points, which in the indicative masterplan at outline stage was shown to provide access to the rear of the retail area and one side of the employment area. It is proposed to move the access westwards in the direction of South Devon College and thus closer to the westward-most access that was shown to serve the employment area and rear service area. In terms of highway safety the revised access point is acceptable if one of the access points is

restricted to use solely for commercial vehicles only, in order to reduce highway conflict caused by close proximity. In terms of design the illustrative masterplan submitted as part of the outline permission identified the provision of up to 5574sqm of business floor space in this area of the site. The reduced distance between the two access points reduces the land available to deliver the business uses and certainty that the amount of floor space can still be delivered is needed. Further information on this point has been requested, which includes certainty on the floor space to achieve the 515sqm of garden centre.

There are three representations raising objections. Two representations raise concern in terms of traffic impact and the robustness of the assessment, along with certain points that appear to relate to the wider outline consent. A further representation was received from the Paignton Neighbourhood Forum in respect of the retail impact of the proposal. As the application has now been amended this point is no longer relevant.

Recommendation

Approval subject to:

- i. Submission of further detail which demonstrates to the satisfaction of the Executive Head - Business Services that the quantum of development approved at outline stage (to include the 5574sqm of business uses and 515sqm of garden centre) can be appropriately delivered within the revised access arrangement. In the absence of information that demonstrates that the quantum of business uses can be appropriately delivered the application to be refused as it fails to ensure that the distribution of uses granted at outline stage can be achieved.
- ii. Submission of revised access details that reduces the conflict between the two access points that sit in close proximity. One of the access points to be built to a commercial vehicle standard and limited to use by servicing vehicles only to the satisfaction of the Executive Head - Business Services.
- iii. Completion of a deed of variation to the original S106 legal agreement linking the amendment to the original agreement, to be completed within three months of the date of this meeting unless an extension of time has been agreed with the applicant. In the absence of the signed deed within an agreed time period the application is to be refused.
- iv. Conditions attached to the parent permission P/2014/0947.

Decision Level/Statutory Determination Period

The application is before Members as the proposal is an amendment to a major application. The Council's scheme of delegation requires all major planning applications to be determined by the Development Management Committee.

The determination date for this application is the 10th May 2017. The applicant has been requested to agree to an extension of time for the determination of this application.

Site Details

The site comprises the former Nortel/Bookham site, now known as Devonshire Park, to the west of Brixham Road on the outskirts of Paignton. The site area is 9.76ha. The site is a former industrial site that primarily manufactured electronics and closed in 2006. Following demolition of most of the buildings in recent years, the site is largely derelict.

The site is bounded by housing, sports pitches and Western Business Park to the north, Brixham Road to the east, Long Road to the south and South Devon College to the west.

The site is located within the greater horseshoe bat sustenance zone associated with the South Hams SAC at Berry Head. The topography of the site rises by about 20 metres from south to north. It is within Flood Zone 1 and a Critical Drainage Area. Parts of the site particularly to the north have become overgrown. There are scattered lines of trees on and around the boundaries of the site. Parts of the site are likely to be contaminated from the historic uses. The parts with most risk are to the south and particularly to the west, with lower risk to the north.

Detailed Proposals

The application seeks to vary Condition P1 (Plans) to amend the detailed access arrangements off Long Road. The outline consent approved four access points, one off Brixham Road to serve the residential use, and three off Long Road to serve the retail and employment uses. The amendment seeks to move the central of the three Long Road access points, which within the outline masterplan provided access to the rear of the retail area and also serve one side of the employment area. The proposal is to move this access westwards in the direction of the South Devon College and closer to the westward-most access that also served the employment area. The previous distance between these two access points was 72.5m, the amendment reduces this to 33m.

Summary Of Consultation Responses

Strategy and Project Officer (regarding highway and transport matters):

Revised access:

Relocating the industrial access closer to the access servicing the back of the retail units reduces the inter-visibility between the two accesses. The Highway Authority request that the access to the retail units is built as a commercial vehicle standard junction and limited to servicing vehicles. This should avoid confusion and conflict between the two junctions. The applicant will need to ensure that the HGV turning head is wide enough (in accordance with P33 of the Highways Design Guide) and that the bend at the rear of the business land allows sufficient manoeuvring space for service vehicles.

Further to the above relocating the road appears to reduce the land available for

employment. Plan 14290-007Rev F shows 0.9433ha. Achieving the Outline quantum of 5,574sq m would entail 55.74% site coverage, which is above the 35-40% generally assumed for employment layouts. It is necessary for the applicant to show that the site with the changed access is capable of delivering 5,574sqm of employment floorspace.

Summary Of Representations:

There are three representations raising objections. Two representations raise concern in terms of traffic impact and the robustness of the assessment, along with certain points that appear to relate to the wider outline consent. A further representation was received from the Paignton Neighbourhood Forum in respect of the retail impact of the proposal. As the application has now been amended this point is no longer relevant.

Relevant Planning History:

P/2016/1372:

Variation of condition P1, 34 and 35 of P/2014/0947 (Outline Application with all matters reserved except access) - to vary Condition (P1) - Approved Plans to omit reference to the Masterplan, Condition (34) to vary the minimum unit size restriction for 1 unit and Condition (35) to clarify the restriction of concessions. Resolved Approval by DMC - Pending formal decision.

P/2014/0947:

Outline Application with all matters reserved except access, for demolition of the remaining buildings on the site and redevelopment for mixed use purposes comprising up to 255 Class C3 dwellings, up to 5,574sqm of B1 and /or B8 business and/or warehousing uses, up to 8,501sqm Class A1 (bulky goods) retail with up to 515sqm garden centre, and up to 139sqm of A3 cafe /restaurant uses, along with related site access, access roads and paths, parking, servicing, open space and landscaping. Approved 22.03.2016 (Subject to a legal agreement and conditions).

Key issues/Material considerations:

The key issues are:

1. The access amendment and impact upon: (a) the outline consent and (b) the highway network.

1. Revised Access

1(a) Impact upon the outline consent

The outline consent was granted with four detailed access points and all other matters were reserved. The proposal was accompanied by a Design and Access Statement and an indicative masterplan that demonstrated that the quantum of development proposed could be delivered within the site.

The outline permission granted three detailed access points off Long Road that collectively served the retail and employment elements of the outline permission. The proposal seeks to relocate the central access which, as indicated within the previously submitted indicative masterplan, was shown to serve the rear of the retail area (units) and also served the eastern flank of the employment area (units). As a point of note the employment area (units) were also shown to be served by the western-most access which served the western flank of the area (units) and also its rear. These two access points were 72.5m apart and the indicative masterplan showed a large employment block provided between the two with linear parking to either side. The indicative building was circa 44m wide by 86m deep, with a building line very close to Long Road.

Relocating the access point to a distance of 33m from the western-most access appears to reduce the land available for employment. Plan 14290-007Rev F shows 0.9433ha. To achieve the 5,574sqm of employment space specified in the outline permission would entail 55.74% site coverage, which is above the 35-40% generally assumed for employment layouts. Considering the constraints of the site area at present it is uncertain that the revision would demonstrably harm the potential to deliver the amount of employment floor space approved at outline (5574sqm). In addition at present it is uncertain that the revision would not demonstrably harm the potential to deliver the quantum of garden centre floor space approved at outline (515sqm) as the outline layout supporting the submission shows an area below this level.

It is recommended, for the reasons above that prior to the grant of permission, the applicant should submit revised indicative plans that demonstrate that 5574sqm of business floorspace and 515sqm of garden centre could be provided within the constraints of the revised access points.

The applicant has been requested to provide this information and members will be updated.

1(b) Impact upon the Highway Network

Relocating the access point closer to the adjacent access servicing the back of the retail units reduces the inter-visibility between the two accesses and will provide two access points in relatively close proximity.

Long Road offers principally unobstructed sightlines as it is a relatively straight and flat section of highway. Notwithstanding this due to the close proximity of the two junctions there could be an impact upon highway safety should both junctions be in regular use.

The Highway Authority has requested that the access to the rear of the retail units is built as a commercial vehicle standard junction and limited to servicing vehicles only. This would avoid confusion between the two junctions and limit the regularity of use of one of the junctions and limit any conflict in terms of vehicle movement.

It is recommended that the submitted plans are amended to show (annotated) that the westernmost access is to be built to a commercial vehicle standard and limited to servicing vehicles and serves the rear of the commercial uses.

Subject to the above the proposal is considered acceptable on highway safety grounds and compliant with the aims and objectives of policies TA2, and DE1 of the Torbay Local Plan 2012-2030.

S106/CIL

The existing Section 106 agreement will need to be tied to the new application through a deed of variation

This should be completed prior to the decision being issued.

The proposal is not CIL liable as it is an amendment to an extant planning permission and does not increase floorspace..

Statement of Pro-active Working

The Council has sought to work positively and proactively with the applicant through pre-application discussions and through open dialogue throughout the application process including requests for further information.

Local Finance Considerations

Delivery of this development will bring a number of economic benefits to Torbay through the mixed provision of housing, retail and employment space.

Human Rights and Equality Issues

Human Rights Act - The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests/the Development Plan and Central Government Guidance.

Conclusions

The revised access is considered acceptable subject to (i) the receipt of indicative plans that demonstrate that the quantum of development approved within the original outline consent can be adequately achieved, and (ii) the receipt of amended plans that confirm that one of the two access points in close proximity of each other is to be built to a commercial vehicle standard and limited to use by servicing vehicles only, in order to reduce vehicular conflict.

Condition(s)/Reason(s)

01. Prior to the submission of any application for approval of the reserved matters, a Tree Survey of the site shall be submitted to and approved in writing by the Local Planning Authority. The Tree Survey shall be carried out in accordance with BS 5837:2012 (or any superseding British Standard). The approved Tree Survey shall be used to inform the details of the reserved matters.

Reason: To ensure that appropriate trees are retained on the site and integrated into the detailed design of the scheme in accordance with Policy C4 of the Adopted Torbay Local Plan - A landscape for success 2012-2030. These details are required pre-commencement as specified to ensure that appropriate existing trees and/or hedgerows are retained in the development and taken into account in the detailed design proposals.

02. Details of the reserved matters set out below ("the reserved matters") shall be submitted to the Local Planning Authority for approval within three years from the date of this permission:
- (i) layout;
 - (ii) scale;
 - (iii) appearance; and
 - (iv) landscaping.

Approval of all reserved matters shall be obtained from the Local Planning Authority in writing before any development is commenced. The reserved matters shall be carried out as approved.

Reason: To enable the Local Planning Authority to control the development in detail and to comply with Section 92 of the Town and Country Planning Act 1990 (as amended).

03. The details of reserved matters shall include the mitigation and enhancement measures set out in Section 6 of the submitted Ecology and Landscape Report (Engain, September 2014). The artificial bat roost shall be constructed as approved prior to the first occupation of any of the dwellings hereby permitted. The artificial feature for reptiles shall be constructed as approved prior to the commencement of development and used in connection with the provisions of condition 10.

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

04. The details of reserved matters shall include bird nesting/bat roosting boxes

in the design of the buildings in accordance with the RSPB comments received on 24.11.2014. Prior to the commencement of the development of the buildings, the design specification(s) of the bird nesting/bat roosting boxes that will be used in the buildings shall be submitted to and approved in writing by the Local Planning Authority. The bird nesting/bat roosting boxes will be provided in the buildings as approved.

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

05. The details of reserved matters shall include noise mitigation measures in accordance with the Noise Impact Assessment (24 Acoustics, September 2014) submitted with the application. No dwelling shall be occupied until the noise mitigation measures have been provided as approved. This includes any measures to be provided on land outside the application site boundary in accordance with Para 5.2 of the Noise Impact Assessment. The noise mitigation measures to be provided on site shall form an integral part of the landscaping details and shall be designed to not have an adverse impact on views of the site or on visual amenity. The details shall be accompanied by technical information to demonstrate to the satisfaction of the Local Planning Authority that the measures will be adequate to prevent any noise nuisance to the dwellings from the business and retail uses, including any plant and associated traffic and deliveries, as well as the surrounding uses and roads. The technical information shall demonstrate that the level of noise at the nearest noise sensitive receptor will be 10db below background noise levels when measured and rated using BS 4142:2014 'Methods for rating and assessing industrial and commercial sound' (or any superseding British Standard).

Reason: In the interests of residential and visual amenity in accordance with Policies DE1 and DE2 of the Adopted Torbay Local Plan - A landscape for success 2012-2030, and paragraphs 58 and 123 of the NPPF.

06. The details of reserved matters shall include details of cycle parking and bin storage/waste recycling facilities for the dwellings and any retail or business unit formed from the retail, business and/or warehousing floorspace hereby permitted. The cycle parking shall be secure, covered and located where it is well overlooked, wherever practicable, to reduce opportunities for crime. The relevant cycle parking and bin storage/waste recycling facilities shall be provided as approved prior to the first occupation or first use of the dwelling or unit to which it relates.

Reason: To promote cycling as an alternative mode of transport to the

private car in accordance with Policy TA1 of the Adopted Torbay Local Plan - A landscape for success 2012-2030, and to ensure appropriate space is provided for the storage and removal of waste, including waste recycling facilities, in accordance with Policy W1 of the Torbay Local Plan - A landscape for success 2012-2030.

07. No development (including demolition and ground works) or vegetation clearance works shall take place until a Scheme that includes the following components to deal with the risks associated with contamination of the site shall each be submitted to and approved in writing by the Local Planning Authority:
- 1) A preliminary risk assessment which has identified:
 - o all previous uses;
 - o potential contaminants associated with those uses;
 - o a conceptual model of the site indicating sources, pathways and receptors; and
 - o potentially unacceptable risks arising from contamination on the site
 - 2) A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
 - 3) The results of the site investigation and detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
 - 4) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express written consent of the Local Planning Authority. The Scheme shall be implemented as approved.

If, during development, contamination not previously identified is found to be present at the site then no further development shall be carried out until a remediation strategy has been submitted to and approved in writing by the Local Planning Authority detailing how this unsuspected contamination shall be dealt with. The remediation strategy shall be implemented as approved.

Reason: To minimise contamination risks to future users of the site and surrounding land, including controlled waters, and to ensure the development can be carried out safely in accordance with Policy ER3 of the Adopted Torbay Local Plan - A landscape for success 2012-2030, and

paragraphs 120 and 121 of the NPPF. These details are required pre-commencement as specified to ensure that contaminated material is not released into the environment from building operations and there are no risks to workers, neighbours or other receptors.

08. No development (including demolition and ground works) or vegetation clearance works shall take place until a detailed surface water drainage scheme for the site has been submitted to and approved in writing by the Local Planning Authority. Priority shall be given to sustainable urban drainage systems, where soakaways must be designed in accordance with Building Research Establishment Digest 365 and include details of how they have been designed to cater for the 1 in 100 year critical rainfall event plus an allowance for climate change. Evidence that trial holes and infiltration tests have been carried out in accordance with Building Research Establishment Digest 365 in the same location as any soakaways or sustainable drainage features must be provided. The scheme shall demonstrate that there will be no increased risk of flooding to surrounding buildings, roads and land. The development shall not be occupied or brought into use until the approved surface water drainage scheme has been completed as approved and it shall be continually maintained thereafter.

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

09. No development (including demolition and ground works) or vegetation clearance works shall commence until:
- a) a detailed survey and evaluation of the public foul sewerage network has taken place (at the Owner's expense) to identify improvements necessary to be funded in advance and executed to accommodate the discharge of foul sewage from the development; and
 - b) the Owner has submitted an application to the relevant Sewerage Undertaker for a public foul sewer requisition under s98 of the Water Industry Act 1991 (which shall include the provision of public sewerage improvement works identified as necessary). The development hereby approved shall not be occupied or brought into use and there shall be no discharge to the public foul sewerage network, unless approved in writing by the Local Planning Authority (as in accordance with the scheme of improvement works identified by the Sewerage Undertaker as necessary to accommodate the discharge of foul sewage from the development).

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

10. No development (including demolition and ground works) or vegetation clearance works shall take place of any phase of the development until a Construction and Environmental Management Plan (CEMP) for that phase has been submitted to and approved in writing by the Local Planning Authority. The CEMPs shall be prepared in accordance with specifications in clause 10.2 of BS 42020:2013 (or any superseding British Standard) and shall include the following:
- a) Risk assessment of potentially damaging construction activities.
 - b) Identification of 'biodiversity protection zones'.
 - c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction.
 - d) The location and timing of sensitive works to avoid harm to biodiversity features. This includes the use of protective fences, exclusion barriers and warning signs.
 - e) The times during construction when specialist ecologists need to be present on site to monitor works to ensure compliance with the CEMP, and the actions that will be undertaken.
 - f) Responsible persons and lines of communication.
 - g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.

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

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

11. No development (including demolition and ground works) or vegetation clearance works shall take place until a Lighting Design Strategy to maintain "dark areas" on the site has been submitted to and approved in writing by the Local Planning Authority. The Strategy shall include:
- a) A map showing the "dark areas" that will be maintained on site.
 - b) An evidence based assessment of light levels of the proposed development, including buildings, vehicle headlamps and street

lighting, comprising a written report and accompanying drawings of the site with the levels of predicted illuminance and light spill in and adjacent to the "dark areas" shown by appropriate isolines.

- c) Evidence to demonstrate that a light spill no higher than 0.5 lux will be achieved within the "dark areas".
- d) Where c) is achieved either fully or in part through landscaping, details of the landscaping and its management to ensure it will maintain the "dark areas" in perpetuity. These details shall be incorporated into the Detailed Landscaping Scheme and Landscape and Ecological Management Plan (LEMP) where applicable. The Lighting Design Strategy shall be implemented and maintained as approved.

Reason: To prevent disturbance to bats, including greater horseshoe bats, in accordance with Policy NC1 of the Adopted Torbay Local Plan - A landscape for success 2012-2030, and paragraphs 109 and 118 of the NPPF. These details are required pre-commencement as specified to ensure that bats are not harmed by the construction and operation of the development.

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

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

- 13. No development (including demolition and ground works) or vegetation clearance works shall take place of any phase of the development until a Construction Method Statement for that phase has been submitted to and approved in writing by the Local Planning Authority. The Statements shall provide for:
 - a) The parking of vehicles of site operatives and visitors.
 - b) Loading and unloading of plant and materials.
 - c) Storage of plant and materials used in constructing the development.
 - d) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where

- appropriate.
- e) Wheel washing facilities.
- f) Measures to control the emission of dust and dirt during construction.
- g) Measures to minimise noise nuisance to neighbours from plant and machinery.
- h) Construction working hours from 8:00 to 18:00 Monday to Friday, 8:00 to 13:00 on Saturdays and at no time on Sundays or Bank Holidays.

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

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

14. No development (including demolition and ground works) or vegetation clearance works shall take place of any phase of the development until a Waste Audit and 5 year Waste Management Plan for that phase has been submitted to and approved in writing by the Local Planning Authority. The Waste Audits and 5 year Waste Management Plans shall include measures to:
- a) Prevent and minimise, re-use and recycle waste (including composting where appropriate).
 - b) Minimise the use of raw materials.
 - c) Minimise the pollution potential of unavoidable waste.
 - d) Seek alternative modes of transport (to the use of roads) to move waste (wherever possible).
 - e) Make provision for the storage and collection of waste.
 - f) Dispose of unavoidable waste in an environmentally acceptable manner.

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

Reason: To minimise waste from the development in accordance with Policy W2 of the Adopted Torbay Local Plan - A landscape for success 2012-2030. These details are required pre-commencement as specified to ensure that waste generation is minimised from the start of the development and is dealt with in a sustainable way.

15. No development (including demolition and ground works) or vegetation clearance works shall take place of any phase of the development until fences have been erected and any other protection measures put in place for the protection of trees and/or hedgerows to be retained in accordance with a Scheme for that phase which has been submitted to and approved in writing by the Local Planning Authority. The Schemes shall be prepared in accordance with British Standard BS 5837:2012 (or any superseding British Standard). The fences and any other protection measures required in the approved Schemes shall be retained until the completion of the development in the phase of the development that they relate to and no vehicles, plant or materials shall be driven or placed within the areas enclosed by the fences.

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

16. The development shall not be occupied or brought into use until a Section 278 Highways Agreement has been entered into in order to secure the necessary works to the public highway. The s278 works shall include a waiting lane in the centre of the carriageway of Brixham Road for vehicles exiting the site and turning right onto Brixham Road from the vehicular access on the eastern site boundary, and provision of a shared footpath/cycleway linking this access to the pedestrian crossing at the Brixham Road/Long Road junction. The development shall not be occupied or brought into use until the s278 works have been implemented in full to the satisfaction of the Local Highway Authority.

Reason: To provide safe and sustainable access to the site for drivers, cyclists and pedestrians in accordance with Policies TA1, TA2 and DE1 of the Adopted Torbay Local Plan - A landscape for success 2012-2030, and paragraph 32 of the NPPF.

17. Prior to the first occupation of any of the dwellings hereby permitted, a Detailed Landscaping Scheme for the residential part of the site shall be submitted to and approved in writing by the Local Planning Authority. The Scheme shall include details of hard and soft landscaping, including all boundary treatments. This will include tree and plant species and methods of planting. The hard landscaping forming part of the curtilage and boundary of any dwelling, and access thereto, shall be constructed as approved prior to the occupation of the dwelling. The soft landscaping shall be planted in the first planting season following the occupation of the dwellings or completion of the residential development, whichever is the sooner, or in

earlier planting seasons wherever practicable, and any trees or plants which within a period of 5 years from the completion of the residential development as a whole die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

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

18. Prior to the first use of any business unit formed from the business and/or warehousing floorspace hereby permitted, a Detailed Landscaping Scheme for the business and/or warehousing part of the site, including associated parking areas, shall be submitted to and approved in writing by the Local Planning Authority. The Scheme shall include details of hard and soft landscaping, including all boundary treatments. This will include tree and plant species and methods of planting. The hard landscaping shall be constructed as approved prior to the first use of the business unit(s). The soft landscaping shall be planted in the first planting season following the occupation of the business unit(s) or completion of the business unit(s), whichever is the sooner, or in earlier planting seasons wherever practicable, and any trees or plants which within a period of 5 years from the completion of the business unit(s) die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

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

19. Prior to the first use of any retail unit formed from the retail floorspace hereby permitted, a Detailed Landscaping Scheme for the retail part of the site, including associated parking areas, shall be submitted to and approved in writing by the Local Planning Authority. The Scheme shall include details of hard and soft landscaping, including all boundary treatments. This will include tree and plant species and methods of planting. The hard landscaping shall be constructed as approved prior to the first use of the retail unit(s). The soft landscaping shall be planted in the first planting season following the occupation of the retail unit(s) or completion of the retail unit(s), whichever is the sooner, or in earlier planting seasons wherever practicable, and any trees or plants which within a period of 5 years from the completion of the retail unit(s) die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: In the interests of amenity and design in accordance with Policy

DE1 of the Adopted Torbay Local Plan - A landscape for success 2012-2030, and paragraph 58 of the NPPF.

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

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

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

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

21. Prior to the first use of any business unit formed from the business and/or warehousing floorspace hereby permitted, a Landscape and Ecological Management Plan (LEMP) for the business and/or warehousing part of the site shall be submitted to and approved in writing by the Local Planning Authority. The content of the LEMP shall be prepared in accordance with the specifications in clause 11.1 of BS 42020:2013 (or any superseding British Standard) and shall include the following:
- a) Description and evaluation of features to be managed.
 - b) Ecological trends and constraints on site that might influence management.
 - c) Aims and objectives of management.
 - d) Appropriate management options for achieving aims and objectives.
 - e) Prescriptions for management actions.

- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five year period).
- g) Details of the body or organisation responsible for implementation of the plan.
- h) On-going monitoring and remedial measures for biodiversity features included in the LEMP.

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

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

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

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

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

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

Reason: In the interests of amenity and biodiversity in accordance with Policies DE1 and NC1 of the Adopted Torbay Local Plan - A landscape for

success 2012-2030, and paragraphs 58, 109 and 118 of the NPPF.

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

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

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

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

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

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

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

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

27. Prior to the first use of any business unit formed from the business and/or warehousing floorspace hereby permitted, evidence shall be submitted to and approved in writing by the Local Planning Authority to demonstrate that the design of the business and/or warehousing part of the site meets Secured by Design standards as far as practicable.

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

28. Prior to the first use of any retail unit formed from the retail floorspace hereby permitted, evidence shall be submitted to and approved in writing by the Local Planning Authority to demonstrate that the design of the retail part of the site meets Secured by Design standards as far as practicable.

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

29. Prior to the first occupation of any of the dwellings hereby permitted, a Residential Travel Plan shall be submitted to and approved in writing by the Local Planning Authority incorporating measures to promote the use of sustainable modes of travel instead of private car by future residents of the dwellings. The Residential Travel Plan shall be implemented as approved and shall be continually monitored by a Travel Plan Coordinator (TPC) appointed by the developer of the dwellings to ensure that it meets its objectives and targets. The contact details of the TPC shall be provided in the Residential Travel Plan. In the event that the objectives and targets of the Residential Travel Plan are not met, the Residential Travel Plan shall be updated by the TPC setting out further measures in order to rectify this. A copy of the Residential Travel Plan or updated Residential Travel Plan, as the case may be, shall be made available to the Local Planning Authority

upon request during normal business hours. A summary of the Residential Travel Plan shall be provided to the first occupier of each dwelling hereby permitted setting out the options for sustainable modes of travel in the area.

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

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

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

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

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

32. The retail floorspace (Use Class A1) hereby permitted shall not be used for the sale of any goods other than those within the following categories:
- (i) Do-It-Yourself goods and materials;
 - (ii) new kitchens and bathrooms;
 - (iii) garden centre goods and materials, including plants;
 - (iv) furniture and home furnishings
 - (v) carpets and other floor coverings;
 - (vi) gas and electrical goods;
 - (vii) camping and associated leisure goods, no more than 10% of the net sales floor area of this category to be used for the sale or display of clothing and/or footwear;
 - (viii) motor vehicle and bicycle related goods;
 - (ix) pets and pet products;
 - (x) office furniture; and
 - (xi) ancillary products reasonably related to the categories above and restricted to a maximum floor area within each retail unit of 10% of the net sales floor area.

Reason: To protect the vitality and viability of Paignton and Torquay Town Centres and other nearby centres in accordance with Policies TC1 and TC3 of the Adopted Torbay Local Plan - A landscape for success 2012-2030, and paragraphs 24 and 27 of the NPPF.

33. The total gross floor area of the retail floorspace (Use Class A1) hereby permitted, including ancillary storage and office space, shall be no more than 8,501 sq m. The total gross floor area, together with any external area, of the garden centre hereby permitted shall be no more than 515 sq m. The total gross floor area of the retail floorspace (Use Class A3) hereby permitted, including ancillary storage and office space, shall be no more than 139 sq m.

Reason: For the avoidance of doubt and to protect the vitality and viability of Paignton and Torquay Town Centres and other nearby centres in accordance with Policies TC1 and TC3 of the Adopted Torbay Local Plan - A landscape for success 2012-2030, and paragraphs 24 and 27 of the NPPF.

34. The minimum gross floor area at ground floor level of any retail unit formed from the retail floorspace (Use Class A1) hereby permitted shall be 929 sq m and the retail units shall not be sub-divided into smaller retail units.

Reason: For the avoidance of doubt and to protect the vitality and viability of Paignton and Torquay Town Centres and other nearby centres in accordance with Policies TC1 and TC3 of the Adopted Torbay Local Plan - A landscape for success 2012-2030, and paragraphs 24 and 27 of the NPPF.

35. Any retail unit formed from the retail floorspace (Use Classes A1) hereby permitted and the garden centre shall be used by a single operator and shall not include any independently operated concessions, unless they are reasonably related to the goods sold by the unit as permitted by condition 32.

Reason: For the avoidance of doubt and to protect the vitality and viability of Paignton and Torquay Town Centres and other nearby centres in accordance with Policies TC1 and TC3 of the Adopted Torbay Local Plan - A landscape for success 2012-2030, and paragraphs 24 and 27 of the NPPF.

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

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

37. No dwelling shall be occupied until its allocated parking space(s) and access thereto, as shown in the approved details of reserved matters, has been provided and made available for use. The parking space(s) and access thereto shall be kept permanently available for parking and access purposes thereafter.

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

38. No business unit formed from the business and/or warehousing floorspace hereby permitted shall be brought into use until its allocated parking spaces

and access thereto, as shown in the approved details of reserved matters, have been provided and made available for use. The parking spaces and access thereto shall be kept permanently available for parking and access purposes thereafter.

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

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

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

Relevant Policies

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