

neighbourhood plans

From: michal george [REDACTED]
Sent: 16 December 2017 04:16
To: neighbourhood plans
Subject: Objections to Brixham Peninsula Neighborhood Plan in relation to Waterside Quarry Paignton

Michael and Jill Dixon [REDACTED]

I and other residents have reviewed the Brixham Peninsula Neighbourhood's Plan Site Appraisal Update July 2017, as carried out on their behalf by AECOM, specifically in relation to Waterside Quarry also known as Goodrington Quarry.

It has been forwarded to Torbay Council for the Second Stage.

It is an updated version of the 2016 Plan, but certain documents are still unchanged.

AECOM states under its limitations:

'Where the conclusions and recommendations contained in this Report are based upon information provided by others it is upon the assumption that all relevant information has been provided by those parties from whom it has been requested and that such information is accurate.

In other words it appears that they will make recommendations and conclusions on the assumption that information given to them is accurate.

We will examine that shortly.

The BPNP Forum Contact who is shown as Co-ordinating group inputs and comments is still the Vice Chair of the BPNP and also part owner of the land in Waterside Quarry.

This Update Site Appraisal is published and displayed, for public consultation, and then comments at a future date.

Many comments and objections were given by residents on the information published on the previous Site Appraisal.

By far the largest number in the whole plan were objections about the Quarry.

Despite this the plan was put forward.

Our contention is, having re-examined the AECOM document, and with the addition of new information that has come to light since, there are still numerous sections that appear factually inaccurate and or misleading in the Site Appraisal, both present and past.

If recommendations and conclusions are made on factually inaccurate and or misleading and this seems unfair and unsound.

When we were invited to comment at the beginning of 2017, few residents were even aware of the plan, due for many reasons, not least the confusing title of Brixham Peninsula Neighbourhood.

This was further exacerbated by the BPNP not publishing all accurate up to date minutes of their meetings.

A peculiar way for a group purporting to represent the neighbourhood to behave.

Some inaccuracies in the site Appraisal are, if we are correct, extreme. Such as the map of the proposed site which is a fundamental issue, as exemplified later.

We have therefore systematically examined the document, to attempt to ensure its accuracy.

The documentation is long and complex. The average family member of the community with a busy life to lead would find it impracticable to check all of the information and therefore rely on its accuracy, looking at salient points and assuming that they are correct.

Unfortunately this does not appear always to be the case.

Confusingly it has limited page numbers that do not correspond to the number of documents.

We have sited the page number where applicable and the document number for ease of reference in examples.

We have then quoted details in context, from the appraisal, and commented as to why they appear to be factually inaccurate and or misleading.

This is then highlighted in red for ease of reference.

We believe that if we can demonstrate that the consultation document in relation to Waterside Quarry is factually incorrect and therefore misleading, then the consultation is not fair and reasonably balanced and should be declared void in relation to Waterside Quarry.

We would be grateful if you could view our findings to make sure that we have not made a mistake and also if there is anything further that anyone else has identified.

Thank you for your time and patience.

We believe that this issue is worth the effort.

AECOM Brixham Peninsula Neighbourhood Plan Site Appraisal Document 8

States:

'Waterside Quarry 0.9 ha'

'Comment on Document 8

Factually incorrect and or misleading information ?

This refers to the area of land in the Quarry.

This is replicated several times in the document and we will come back to the relevance of this later.

Table 3.3: States:

'Waterside Quarry 0.9 ha'

'Comment on Page 9/21

Repeated factually incorrect and or misleading information ?

AECOM Brixham Peninsula Neighbourhood Plan Site Appraisal Page 30/Document 42

5.6 Waterside Quarry

States:

'This former quarry site off Waterside Road comprises areas of grassland, scrub and trees. The eastern part of the site is elevated (comprising the former lip of the quarry), with views to the east and north east and is sloping. The western part of the site, within the former quarry, adjoins Dartmouth Road and is less sloping. **A small area of hardstanding is also present in the northern part of the site.** Site Development Potential This site is approximately **0.9 hectares**, which would typically yield approximately 21 homes. However, given the gradients and visual prominence of parts of the site it is considered that a realistic proposal would be for fewer dwellings. Residential development at this location would fit well with existing land uses in the area. The site has good public transport access, and **has good access from Waterside Road.**'

Comment Page 30/42:

There is no inclusion after 'This former quarry site off Waterside Road' that informs the public of the full facts that part of the land, the part described in the site appraisal, had recently been sold by Torbay Council as Amenity Land and why that was so.

This is very relevant to the public's decision making in being made aware of the full facts and circumstances.

They should for example be made aware of the recorded Comments by Liam Montgomery Head of Asset Management and Housing in answer to residents request for information about Waterside Quarry and why it was sold as Amenity Land (sic):

'As I am sure will appreciate when the Council make a decision to dispose of any asset they are committed to obtaining best value for that asset. This would involve a series of assessments to establish what potential the asset has and whether any upfront investment would ultimately deliver a greater return once sold. In the case of land they would look to consider what, if any, development options there are for the land, the types of uses that would be acceptable and then which will attribute the greatest value.

As part of this process, investigations, detailed communication and advice was sought with the planning department. The land had an urban landscape protection area status and because of this designation and tree coverage the clear advice received was that only part of the land was suitable for residential development. Outline planning permission was then obtained for the developable area to ensure that we maximised the value of the land.

A decision was then made to sell the land in 5 separate Lots, again to maximise the return for the Council. When then marketing land and assets it is important that as a seller you do not mislead any potential purchaser into thinking that the land or asset is suitable for something for which it might not be. This is even more important when the person is both the landowner (seller) and Local Planning Authority. As a consequence the land with planning permission was marketed as suitable for residential and the remainder was then marketed for the use that planners confirmed would be

acceptable, amenity land. I can assure you that if there was any possibility of obtaining a residential planning permission on the remaining plots then the Council would have.

In terms of title restrictions to protect land use then this is looked at on a case by case basis and whether or not applying a restriction to the title helps generate the best returns for the Council.

As you know one of those amenity Lots ended up selling for a figure broadly equal to the residential plot values which vastly exceeded the value estimated and the remaining one was then sold for a value more in line with what we would have expected.

Hopefully this provides some context to the process and addresses the questions you raised.'

Kind regards

Liam Montgomery

Head of Asset Management and Housing

TDA

Further Comment Page 30/42.

Factually incorrect and or misleading information ?

Area is not 0.9 as described, please see below e-mail from Chair of BPNP which verifies this as highlighted in red for clarity and note date of e-mail i.e. before the second draft was published.

E-mail from Chair of BPNP to residents.

On 2017-05-26 18:31 states:

'A second and further external expert assessment of the allocation was obtained from AECOM before the publication of the BPNF 2016 Draft which has been the subject of public consultation in 2017

<http://www.aecom.com/press/aecom-is-set-to-deliver-a-wide-range-of-planning-and-environmental-services-to-help-communities-across-england-develop-their-neighbourhood-plans-and-shape-development-and-growth-in-their-local-area/>

This can be found in the draft NP

<https://brixhampeninsula.files.wordpress.com/2017/01/housing-site-assessment.pdf>

You will see that they advise 21 houses, and counsel fewer. **Their site size is wrong at 0.9h. It should read 0.79h'.**

Further Comment Page 30/42.

It does not have a small area of hard standing as stated under 5.6.

In fact this section of the land seems to already belong to Coyde's Builders and is fenced off.

Please refer to Torbay Planning, Planning Document P/2016/0822, 7 April 2017 O.S. Map Plot 3, Coydes Construction.

A recent site visit seems to confirm this.

Consequently the lower part of the quarry does not have good access from Waterside Road.

In fact the access is currently in dispute with threats of potential legal action. (Documents P/2016/0824 Objection 15/5/2017).

All documents are on Planning Application P/2014/0045 and P/2016/0824 Waterside /Goodrington Quarry.

This is not however easily searched and time consuming with documents easily missed. We have taken copies for ease of reference.

AECOM Brixham Peninsula Neighbourhood Plan Site Appraisal Page 34/document 46

Table 6.2 States:

'Suitability of sites for taking forward for the purposes of the Brixham Brixham Plan'

'WatersideQuarry **Yes** ---with a reduced density and development that is sympathetic to the existing treelines and views'.

Comment on Page 34/46

Arguably a decision made on factually incorrect and or misleading information ?

AECOM Brixham Peninsula Neighbourhood Plan Site Appraisal Document 249

Comment Document 249:

Factually incorrect and or misleading information ?

This is a fundamental issue.

The map as published in the Site Appraisal appears to indicate the site boundary by a red line.

The Yellow line appears to indicate the land purchased by Coyde's Builders which is not part of the Site Appraisal.

Land shown on the top left hand boundary which is adjacent to Dartmouth Road, including a small area of hard standing and which is included in the site appraisal by the red line, seems to actually belong to Coyde's Builders and has done so since June 2014.

Please refer to Planning Document P/2016/0822 7 April 2017 O.S. Map Plot 3 Coyde's Construction.

It is currently fenced off and already has planning permission for a house.

If this is so then the site appraisal will have counted additional land for houses and also made it appear that there is access to the lower quarry from Waterside Road.

This presumably if so is why the area size was later stated as incorrect, as cited in the BPNP Chairs e mail 26/5/2017, but nothing seems to have been done to alter the published documents.

Further Comment Document 249

States:

Site location General description Split level areas of grass, scrub and trees with a **small area of hardstanding** situated between Waterside Road and Dartmouth Road. Parish Name Goodrington Gross area (Ha) Total area of the site in hectares **Approx. 0.9 ha.'**

Again appears to be duplication of factually incorrect and or misleading information ?

The danger is if you repeat inaccurate information often enough it will be taken as factual.

AECOM Brixham Peninsula Neighbourhood Plan Site Appraisal Document 250

States:

'Is the site:

Greenfield: Land (or a defined site) usually farmland, that has not previously been developed.

Brownfield: Brownfield Previously developed land **which is or was occupied by a permanent structure,** including the curtilage of the developed land and any associated fixed surface infrastructure.

Mixture

Unknown

If a mixture, please provide details i.e. northern part of site Brownfield, southern part Greenfield.'

It is shown as a Brownfield site in the Site Appraisal.

There is however no evidence to show that it is or was occupied by a permanent structure in relation to the correct area shown on the plan, and therefore does not meet the definition.

There have been no known structures there for the last 10 years at least.

The plan then seems to contradict this by stating under the section marked Mixture:

'The site is a former quarry. Existing/ previous use The site was previously a quarry.'

The plan is answered as if the land were a Mixture.

This indicates that the correct designate should not be Brownfield.

The relevance of this is recording as a Brownfield this gives the unfair impression to those who have not visited it that the site is semi industrial and unpleasant.

Brownfield sites within the defined Settlement Boundaries (Policy E2) are the preferred locations for development.

It was a former quarry but was subsequently landscaped as an Amenity Area and had been used as a green area by the community for many years.

It currently has Tree Preservation Orders, and the intention was for Torbay Council to enforce even more TPO's.

Unfortunately through documented error, these Orders were not enforced, and trees were expeditiously cut down, as evidenced by an answer to Query raised by resident of Waterside Road Ref 269564 Torbay Council 12/5/2016

'I can confirm that upon transfer of the land from public to private ownership that a Tree Preservation Order was served upon it. An objection was received upon the serving of the order from the successful purchaser and to ensure full openness of decision and fairness for all parties a review of the order was undertaken. This review found the requirement for the serving of the order to be sound and that the trees detailed should be protected. It was recommended as part of the review the order be amended and re-served to ensure it was fully fit for purpose and would be readily defensible if breached.

Prior to the re-serving of the order a number of trees within the site were felled over the course of the intervening weekend. Some were part of the order; whilst others were not suitable for protection and not protected. The Local Authority has now protected the trees remaining following the felling works.

The site was also subject to a previous 106 agreement for the planting of further trees.

This took place at the time of and in relation to planning permission being granted to Waterside View, adjacent to the quarry.

All of this information seems to have been ignored in the Site Assessment.

AECOM Brixham Peninsula Neighbourhood Plan Site Appraisal Document 251

States:

'How the site is currently accessed? Is it accessible from the highway network? Provide details of site's connectivity by car, public transport, cycle and by foot i.e. distance to nearest motorway, A road or B road, national cycle network, bus stop or rail station.

The site is accessed by Waterside Road, and has good links to the Torbay bypass via Dartmouth Road. The site is served by bus stops in both directions with frequent buses to Brixham, Paignton and Newton Abbot. Both stops are less than 100m from the site. Paignton Railway Station is 3.8km to the north by road.'

Comment Document 251

Factually incorrect and or misleading information ?

Only part of the area is accessed by Waterside Road.

The access to the lower part of the quarry appears to be currently in dispute with pending potential legal action.(Documents P/2016/0824 Objection 15/5/2017).

AECOM Brixham Peninsula Neighbourhood Plan Site Appraisal Document Document 256

States:

'Is the site affected by any of of the following? Ecological value? **Could the site to be home to protected species such as bats, great crested newts, badgers etc.? Yes. Comments. There are several mature trees on the site, with some potential for ecological value.**

Comments Document 256

This is one of the most contentious and fundamental issues as conveniently there is no mention whatsoever of Greater Horseshoe Bats under comments, a highly protected species that have been shown to be roosting in the quarry and foraging there.

Please see the:

Brixham Neighbourhood Plan

Review of GreenaEcological Consultancy's Ecological Survey Report and

HRA Site Appraisal for Two Residential and Two Employment Sites

Comments provided for Torbay Council

By Michael Oxford, Greenbridge Ltd

Advising South Devon Councils on HRA and SAC Bat Issues

17th May 2017

This is report that goes into some 21 pages and should be read in relation to Waterside Quarry and Greater Horseshoe Bats.

Also see:

Ecological Assessments Documents Torbay Planning P/2016/0824

In particular

Greenecology

Goodrington Quarry, Waterside Road, Paignton

Bat Addendum Report February 2017 A report on behalf of Coyde Construction Ref: 0053-BAR-A

This report has 27 pages in relation to Waterside Quarry and Greater Horseshoe Bats.

Page 22 and 23 has thermal imaging of the bats in Goodrington Quarry Waterside Road.

AECOM Brixham Peninsula Neighbourhood Plan Site Appraisal Document 257

States:

'Are there any known legal or ownership problems such as unresolved multiple ownerships, ransom strips, tenancies, easements, covenants or operational requirements of landowners?'

The answer to this is in the plan is **No**'.

Comments Document 257

Factually incorrect and or misleading information ?

Again there currently appears to be a legal dispute with possible pending Court action. See Planning Application P/2014/0045 Waterside /Goodrington Quarry for evidence.

AECOM Brixham Peninsula Neighbourhood Plan Site Appraisal Document 258

States:

'Conclusions Site name/number: Waterside Quarry Please tick a box

The site is appropriate for development This site has **minor constraints** The site has significant constraints The site is unsuitable for development Potential housing development capacity (estimated as a development of 30 homes per Ha): **c.21 homes- however fewer would be more appropriate**. Explanation / justification for decision to accept or discount site. **Residential development at this location would fit well with existing land uses in the area. The site is somewhat constrained by**

Tree Preservation Orders, and distances to some community facilities. However, with a reduced density and development that is sympathetic to the existing treelines and views, it is considered that the site is appropriate for taking forward as an allocation for the purposes of the Neighbourhood Plan.'

Comments Document 258

Under conclusions box crossed as 'minor constraints.'

This is on the information recorded in the site Appraisal, some of which we hopefully have now questioned its accuracy and validity.

Given all of the issues highlighted and documented it is our contention that this should be now be more accurately recorded as:

'The Site is unsuitable for housing development'.

It is also interesting to note the observation that 'The site is somewhat constraint by Tree Preservation Orders' in light of the comments on document 250 above.

We then reviewed the **Habitat Regulations Assessment Screening:**

Brixham Peninsula Neighbourhood Plan (2012- 2030) Brixham Parish Council August 2017

This was carried out on their behalf by AECOM.

We specifically looked in relation to Waterside Quarry.

Again the documents and pages do not always correspond. Where appropriate we have cited both in context.

Greena Ecological Consultancy. November 2016 Final Report, as still included in the

Habitat Regulations Assessment Screening Brixham Peninsula Neighbourhood Plan (2012-2030) August 2017, Document 67 Page 25.

States:

Monitoring at Waterside Quarry was limited to the end of bat active season and further surveys were originally recommended. However, an extensive clearance took place on the site making the land no longer suitable as a Greater Horseshoe foraging habitat and due to the lack of connectivity with the surrounding landscape. Further surveys were therefore no longer recommended and no further surveys took place.'

Comments Document 67 Page 25.

This was originally read by residents as stated that an extensive clearance took place by the landowner and there were no Greater Horseshoe Bats in the quarry. End of.

Residents were not happy with this, kicked up a fuss, and asked why the land had been cleared before a full survey took place, not a monitoring, and why other surveys on public record were not taken into account that showed there were Greater Horseshoe bats in the quarry.

Some examples on public record would again be:

Greenecology Goodrington Quarry, Waterside Road, Paignton

Bat Addendum Report February 2017 A report on behalf of Coyde Construction Ref: 0053-BAR-A

This report has 27 pages in relation to Waterside Quarry and Greater Horseshoe Bats and includes Page 22/23 thermal imaging of the bats in Goodrington Quarry Waterside Road.

Brixham Neighbourhood Plan Review of Greena Greena Ecological Consultancy's Ecological Survey Report and HRASite Appraisal for Two Residential and Two Employment Sites Comments provided for Torbay Council By Michael Oxford, Greenbridge Ltd Advising South Devon Councils on HRA and SAC Bat Issues 17th May 2017

This is report that goes into some 21 pages and should be read in relation to Waterside Quarry and Greater Horse Bats.

Perhaps as a result of this we now have:

Habitat Regulations Assessment Screening:

Brixham Neighbourhood Peninsula Plan (2012- 2030) August 2017

Identified Site Potential effect on greater horseshoe bats Reference Document 29

States:

'Waterside Quarry No buildings. Habitat subject to week-long monitoring in 2015 where no greater horseshoe bats were recorded. It is recognised that this does not meet the survey standards set out for South Hams SAC for a project application, but is included purely for information. The site has since been cleared (according to the Greena Ecological Consultancy report from November 2016) and is thus no longer suitable for greater horseshoe bats. The site was however resurveyed over a 3 month period from April – June 2017 and no horseshoe bats were recorded on the site'

Habitat Regulations Assessment Screening:

Brixham Neighbourhood Peninsula Plan (2012- 2030) August 2017

Identified Site Potential effect on greater horseshoe bats Reference Document 74

States:

'An extensive clearance of the Waterside Quarry site took place in winter 2015/2016 and the site became unsuitable for Annex II species of bats. Accordingly, no further surveys at the Waterside Quarry site took place.'

Habitat Regulations Assessment Screening:

Brixham Peninsula Neighbourhood Plan (2012- 2030) August 2017 Document 97

States:

'Waterside Quarry site was resurveyed in April 2017 and recommended to be studied further in order to determine the usage of the site by bats. Study of previous records from the area revealed confirmed presence of Greater and Lesser horseshoe bats on the adjacent land (not part of this proposal).'

**ADDENDUM ECOLOGICAL SURVEY REPORT BRIXHAM PENINSULA NEIGHBOURHOOD PLAN
31st July 2017 Final report Document 84**

5. Waterside Quarry was only surveyed late in the season and full survey has been recommended. Repeated Batcorder surveys continued in April, May and June 2017 in order to establish how, if at all, is the site used by Greater and Lesser horseshoe bats throughout the season. No Horseshoe bat activity was recorded during the 3 monthly placements of two recording devices.'

Comments on all the above

It is difficult to have any confidence in the **Habitat Regulations Assessment Screening:**
Brixham Peninsula Neighbourhood Plan (2012- 2030) Brixham Parish Council August 2017

This is in relation to the Waterside Quarry.

This is due to the above apparent inconsistencies and changes, perhaps only taking place after protest by residents.

It would appear that two separate Ecological studies show there are Greater Horseshoe bats in the Quarry with very conclusive and compelling infra thermal imaging evidence.

For whatever reason the Brixham Neighbourhood Plan seems to want to show the opposite.

The full evidence should therefore go before an independent adjudicator.