

## neighbourhood plans

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**From:** James Durant <James.Durant@tetlow-king.co.uk>  
**Sent:** 15 December 2017 15:01  
**To:** neighbourhood plans  
**Cc:** James Stacey  
**Subject:** Brixham Peninsula Neighbourhood Plan Consultation - Land to the rear of 39 Wall Park Road  
**Attachments:** 1005-05.M16 - Representation to the Brixham NP.pdf; Land to the Rear of 39 Wall Park Road - Location Plan.pdf; SW020-SL-002 Adjoining land Rev C.pdf; 2017.02.21 - Pre-app Response.pdf

Good afternoon,

Please see attached representation in relation to the Brixham Peninsula Neighbourhood Plan.

Should you have any queries, please let me know.

Kind regards,

James

James Durant BA (Hons) MA MRTPI  
Principal Planner

Tel: [REDACTED] Mob: [REDACTED] Fax: [REDACTED]  
Website: [www.tetlow-king.co.uk](http://www.tetlow-king.co.uk)

TETLOW KING PLANNING  
Unit 2, Eclipse Office Park  
Staple Hill  
Bristol  
BS16 5EL



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Planning  
Second Floor  
Electric House  
Castle Circus  
Torquay  
TQ1 3DR

Date: 15 December 2017

Our Ref: JST/JD M16/1005-05

By email only:

[neighbourhood.plans@torbay.gov.uk](mailto:neighbourhood.plans@torbay.gov.uk)

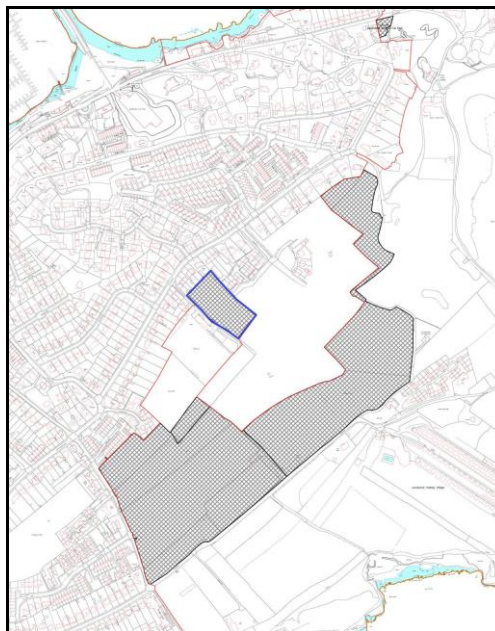
Dear Sirs,

**RE: CONSULTATION ON THE BRIXHAM PENINSULA NEIGHBOURHOOD PLAN - LAND TO THE REAR OF 39 WALL PARK ROAD, BRIXHAM**

We write with reference to the current consultation on the Brixham Peninsula Neighbourhood Plan on behalf of our client who has an interest in a site which is situated to the rear of 39 Wall Park Road in Brixham and is adjacent to the site of the housing development on the Former Wall Park Holiday Park site; a location plan is enclosed.

In late 2016 / early 2017 pre-application advice was applied for by a developer to Torbay Council on a proposal for 26 dwellings on this site including policy compliant 7 affordable dwellings. A copy of the draft layout which was presented at the pre-application is enclosed together with the pre-application response.

**Rejected Sites: H3 – R1 and H3 – R2: Wall Park Extensions and Berry Head Road**



The site with which this representation makes reference to, is included within the Neighbourhood Plan's assessment of a wider 15 hectare site which has been rejected as a suitable site for development; this 15 hectare site is shown on the above extract from the Neighbourhood Plan site

assessment with the site at the rear of 39 Wall Park Road which this representation relates to highlighted with a blue border.

The Neighbourhood Plan's assessment of this 15 hectare site sets out that *"the sites are greenfield and are highly sensitive landscapes due to their location with the AONB, their prominent coastal position, overlaying designations and visual prominence"*. It goes on to state that *"the landscape of the sites is highly sensitive to change and they also lie on an area of Brixham Limestone that forms part of the New Local Plan Mineral Safeguarding Area. In conclusion it therefore states that "given the number of constraints above, the sites would represent development beyond the environmental capacity of the highly sensitive area and have been excluded from the Neighbourhood and Local Plans"*.

Whilst such an assessment may be correct regarding some of this 15 hectare site, it is not appropriate to suggest that this assessment is true of all areas of the highlighted site identified on the Neighbourhood Plan site assessment map extract on the previous page and is certainly not applicable to the site with which this representation relates to at the rear of 39 Wall Park Road edged blue on the map on the previous page because the landscape character significantly differs in each part.

Whilst the site is located within the AONB, it is surrounded by development in the form of housing to the North, the Wall Park Holiday Park development to the East and South and the playing fields to the West. Views in and out of the site from the West are obscured substantially by a soil heap or bund which sits adjacent to the boundary of the site on the land which accommodates the playing fields. The site is therefore visually well contained.

In Torbay Council's pre-application response on 30<sup>th</sup> January 2017, in relation to the impact of the proposed development on the AONB in this location, the Council stated the following:

*"The position of the application site between the approved Wall Park development site and the existing buildings on Wall Park Road suggests that some form of development of an appropriate quality, style, building height and density in this location could be acceptable. A form of development of this type is considered unlikely to harm the integrity of the South Devon AONB, its natural beauty, special qualities, landscape or scenic beauty given the scale of Wall Park development on the adjacent site."*

With regards to the impact of the proposed development of the site on the South Hams Special Area of Conservation (SAC), Torbay Council noted that *"in consultation with the Council's Ecological Consultant it is considered unlikely that a further 26 dwellings in this location will constitute a likely significant effect above and beyond what has already been considered as part of the Habitat Regulations Assessment for the original Wall Park scheme"*.

In relation to the Mineral Safeguarding Area designation, the pre-application response states that *"any proposal on or in the vicinity of an important mineral resources should demonstrate that it will not cause unnecessary sterilisation or prejudice the future extraction of important minerals or building stone on these sites. The location of this site for mineral extraction is considered unlikely given the sites environmentally sensitive location in both ecology and landscape terms"*.

In conclusion, the pre-application response states that *"in summary, the residential development of this site has the potential to be acceptable"*.

With the above in mind, it is considered that contrary to the Neighbourhood Plan's site assessment, in relation to the parcel of land edged blue on the map on the previous page, the site is suitable, available and achievable.

Fundamentally, in its current form the Neighbourhood Plan is based on flawed evidence as the site to the rear of 39 Wall Park Road has not been correctly considered as a reasonable alternative for an allocation for residential development. The site assessment disregards the potential for the site to deliver housing on the assumption that it shares the same constraints as the wider 15 hectare site;

this is clearly incorrect and supported by the pre-app response attached. Neighbourhood plans elsewhere in the country have been quashed on judicial review on the basis of a material error of fact in the assessment of sites such as is the case here, with the courts finding they were not based on sound evidence; this includes such decisions as those in relation to the Henfield Neighbourhood Plan and the Haddenham Neighbourhood Plan.

The site should therefore be removed from the hatched site assessment of Rejected Sites H3-R1 and H3-R2 of the Brixham Peninsula Neighbourhood Plan. Considering the constrained nature of the Brixham Peninsula and the need for housing, this site which is well contained, well connected for public transport and not visually sensitive should be considered as an allocation for housing in the Neighbourhood Plan and allocated now. The enclosed pre-application response from Torbay Council in relation to the site supports this assertion.

Should the incorrect assessment of this site in the supporting evidence of the Neighbourhood Plan not be addressed, our client will have no choice but to consider their options for challenging the making of the Plan as others have done on other Neighbourhood Plans as set out above.

## **Policy Document**

### **Policy BH7: Sustainable Construction**

The Housing Standards Review, which concluded in March 2015, has created a new approach for the setting of technical standards for new housing. The new streamlined system which took effect from 1 October 2015 comprises of national optional Building Regulations (technical standards) and an optional Nationally Described Space Standard. The application of the new optional technical standards in decision-taking and plan making was set out by the Government in the Written Ministerial Statement (WMS) of 25 March 2015.

As set out in the WMS, *“local planning authorities should not set in their emerging Local Plans, neighbourhood plans or supplementary planning documents, any additional technical standards or requirements relating to the construction, internal layout or performance of new dwellings”*.

Paragraph 002 (Reference ID: 56-002-20150327) under *Housing – Optional Technical Standards* of the Planning Practice Guidance (PPG), states that if a Council wishes to introduce the optional technical standards *“local planning authorities will need to gather evidence to determine whether there is a need for additional standards in their area, and justify setting appropriate policies in their Local Plans”*.

Policy BH7 of the Brixham Peninsula Neighbourhood Plan is contrary to the government guidance set out within the WMS and fails condition ‘A’ of the basic conditions that a draft neighbourhood plan must meet if it is to proceed to referendum as it does not have regard to *“national policies and advice contained in guidance issued by the Secretary of State”*. Policy BH7 should therefore be removed.

### **Policy BH8: Access to New Dwellings**

The policy sets out that *“no more than five dwellings shall be accessed off an existing unadopted highway”*. The supporting text of the policy notes that this relates to any **“existing unadopted highway without that highway being improved throughout its full length to bring it up to the standard required for adoption by the Local Highways Authority”** and *“will not prevent the development of more than five homes being created off a **new unadopted highway**”*.

The supporting text of a policy sets out the reasoned justification as to why it has been drafted however does not form part of the policy itself. As such whilst this supporting text gives exceptions to the policy this needs to be set out within the main policy text of policy BH8 for it to carry weight in the consideration of applications.

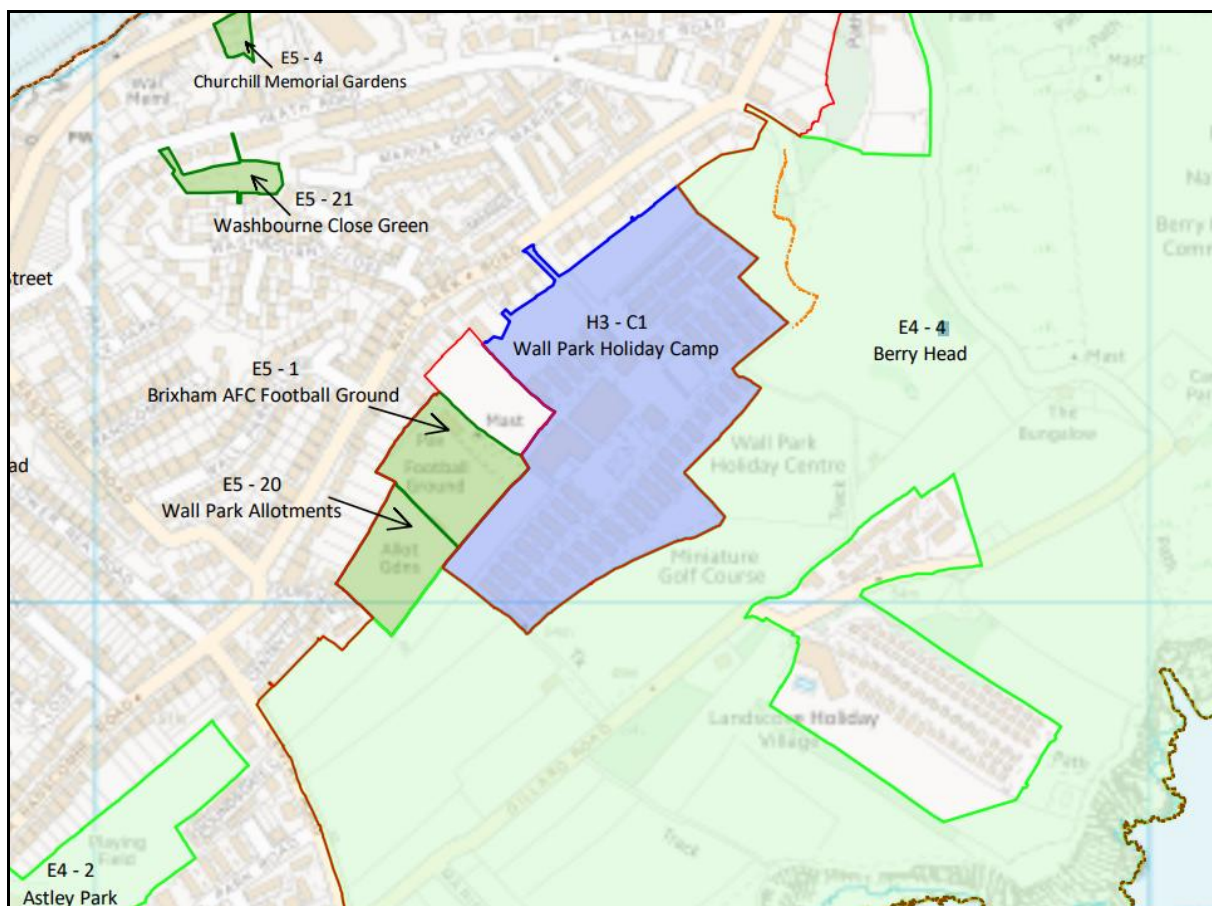


Whilst there isn't a national standard, it is common place across the country for Highway Authorities to require that no more than 5 dwellings are accessed off of a private drive on residential schemes. This is different from requiring that no more than 5 dwellings are accessed off of an unadopted highway. It is becoming increasingly common for developers of housing schemes to not pursue adoption of the highways on their schemes and to instead have the highways managed by a management company. This is true of schemes which have already been built in the Torbay and Brixham area as well as ones which are likely to come forward in the future. As such, this policy restricts the development of more than 5 dwellings off of existing and future private estates which have highways which are managed by a management company and which have been constructed to a high and adoptable standard.

This policy is overly restrictive and has the potential to prevent development coming forward in sustainable locations where access would be taken via unadopted highways which have been constructed to a high and adoptable standard; this will put further pressure on development of less sustainable sites. With this in mind, the policy is not in accordance with the principles of the NPPF or strategic policies of the Torbay Local Plan and should be removed as it does not meet basic conditions 'A', 'D' and 'E'.

### Policy E2: Settlement Boundaries and the Policies Maps

Policy E2 sets out the approach which will be taken to applications within and outside of the defined settlement boundaries. This policy should be read in conjunction with the Policies Maps which also form part of the Neighbourhood Plan. The below image is an extract from the Policies Map in relation to our client's site to the rear of 39 Wall Park Road.



As can be seen from the above extract, despite our client's site being surrounded by the built development of the housing along Wall Park Road, the residential development which is currently being built out on the former Wall Park Holiday Camp and the football club facility buildings, the site is

proposed to be set outside of the settlement boundary which is shown as a red line on the above extract.

Whilst the site is well contained within the built up area of Brixham (as shown above) and a positive response has been received at pre-application stage to the principle of residential development of the site from Torbay Council, the restrictive wording of Policy E2 in conjunction with the above extract from the Policies Map showing the site outside of the settlement boundary would severely restrict the potential for this logical and sustainable site from being brought forward for development.

The Policies Map should therefore be amended to include our clients site within the settlement limit.

Our client is keen to engage positively in the process of the making of the Neighbourhood Plan and the above comments are intended to be constructive. We believe that a hearing should take place as part of the examination of the Neighbourhood Plan in order that the implications of the proposed policies can be fully considered.

We politely request that we are kept up to date with any progress on the Neighbourhood Plan examination and any hearings which take place in the future.

Yours faithfully

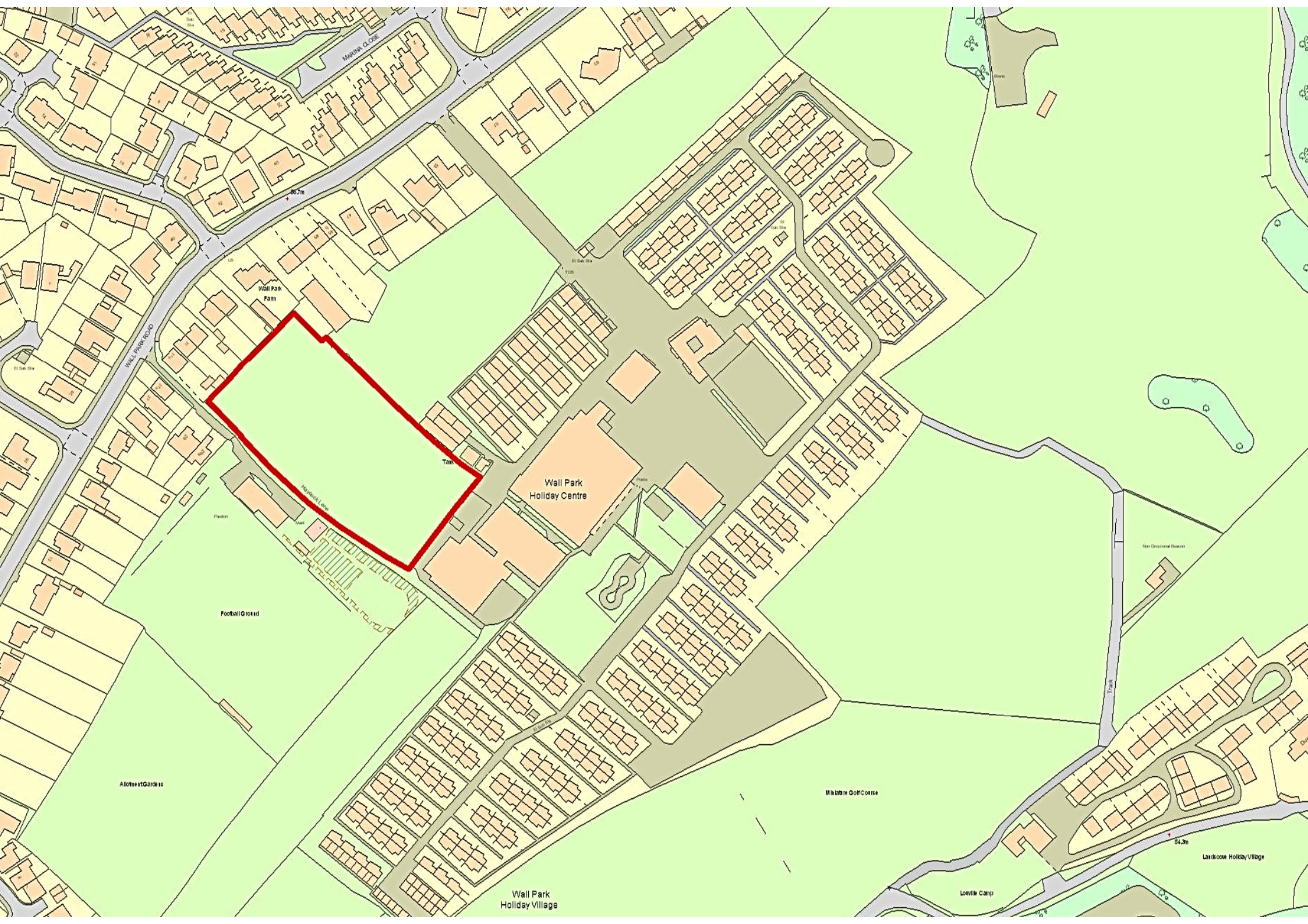
A solid black rectangular box used to redact the signature of James Durant.

**JAMES DURANT BA (HONS) MA MRTPI**  
**PRINCIPAL PLANNER**  
For and On Behalf Of  
TETLOW KING PLANNING

[james.durant@tetlow-king.co.uk](mailto:james.durant@tetlow-king.co.uk)

Enc.    Location Plan  
          Site Layout Plan  
          Pre-application Response





Wall Park Farm

Wall Park Holiday Centre

Football Ground

Millers Golf Course

Landscape Holiday Village

Wall Park Holiday Village

Lorville Camp

Althorpe Gardens

WALL PARK ROAD

MAYNICK CLOSE

86.2m

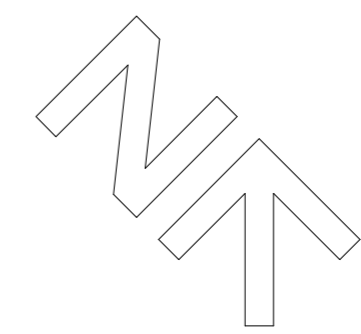
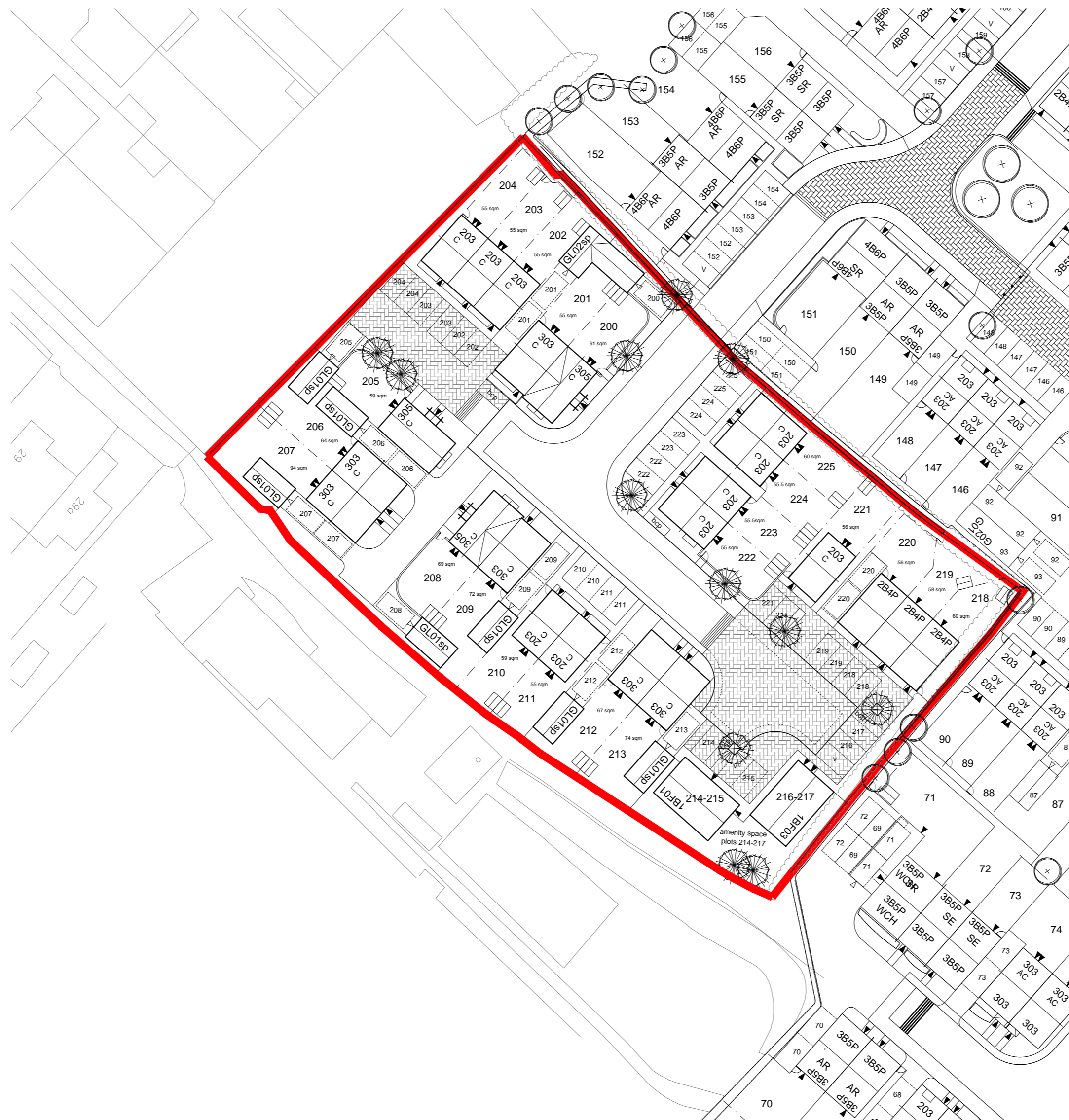
57.5m

54.3m

Non Directional Sewer

1.2m





THIS DRAWING IS TO BE READ IN CONJUNCTION WITH SEPARATE GROUP / SITE SPECIFIC CONSTRUCTION NOTES AND MATERIALS SPECIFICATION.

Notes.

Accommodation Schedule						
<b>Private</b>					73.1%	
Type	Beds	Storeys	No	Size	Total sqft	
203 ET	2	2	9	700	6300	
203 MT	2	2	1	700	700	
303	3	2	6	850	5100	
305 DET	3	2	1	897	897	
305 SD	3	2	2	897	1794	
XL garages	0		19		14791	
HOGs	0					
<b>Rent</b>					26.9%	
Type	Beds	Storeys	No	Size	Total sqft	
1BF01 GF	1	2	1	504	504	
1BF01 FF	1	2	1	604	604	
1BF03 GF	1	2	1	504	504	
1BF03 FF	1	2	1	604	604	
2B4P	2	2	3	733	2199	
			7		4415	
<b>Shared</b>					0.0%	
Type	Beds	Storeys	No	Size	Total sqft	
			0		0	
<b>Total</b>					26	19206

□ indicative cycle store

Revision.

A	Revised in accordance with comments received from planning authority.	alw	08-02-17
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Job. Land Adjoining site at Wall Park Road Brixham

Title. **SITE PLAN**

Scale. 1:500 @ A2 Drawn. alw

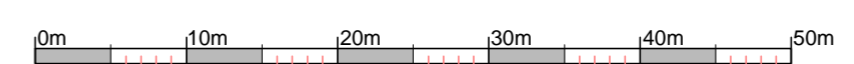
Date. Nov 2016 Checked.

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J S BLOOR (SERVICES) LIMITED  
 ASHBY ROAD, MEASHAM, SWADLINCOTE,  
 DERBYSHIRE DE12 7JP  
 TELEPHONE 01530 270100 FACSIMILE 01530 272006

Drawing No. **SW020-SL-002A**





Dear Mr Durant,

**Development Enquiry**

**PROPOSAL:** Construction of 26 dwellings  
**SITE:** Land rear of 39 Wall Park Road, Brixham  
**REFERENCE:** DE/2016/0444

Thank you for your enquiry received 17<sup>th</sup> November 2016 and apologies for the delayed response. The key considerations will be the principle of the use in this location, affordable housing and financial contributions, design, the impact on ecology and the AONB, drainage, waste, parking and access.

**Principle of the use:**

The application site falls within the Area of Outstanding Natural Beauty and the Greater Horseshoe Bat Sustenance Zone with some of the site also falling within the Greater Horseshoe Bat Strategic Flyaway. The site also falls within the Minerals Safeguarding Area. Whilst outside of the established built up area of Brixham it remains outside of the countryside area and will be bound by development to the east and south as a result of application references P/2013/0785 and P/2016/0057.

The site is not allocated for development within the Local Plan 2012-2030. Policy H1 of the Torbay Local Plan 2012-2030 states that proposals for new homes on unallocated sites will be assessed against certain criteria. These include the need to provide a range of homes, the maintenance of a rolling 5 year supply of deliverable sites, the opportunity to create mixed, balanced and prosperous communities, the creation of high quality living environments, the capacity of physical, social and environmental infrastructure, the landscape and biodiversity impacts of the proposal and the objective to achieve a net gain in biodiversity, the objective to reduce the need to travel by car and consistency with other policies within the Local Plan and Neighbourhood Plans. Subject to achieving these points the principle of development in this location is likely to be considered acceptable. Each of the points noted above are considered in further detail below.

For information, Brixham Peninsula Neighbourhood Forum are currently consulting on the Brixham Peninsula Neighbourhood Plan from Saturday 28th January. The Plan and Summary are available on the Forum's Website at [www.brixhampeninsula.com](http://www.brixhampeninsula.com). The deadline for responses to the consultation is Saturday 11th March 2017. Representations should be sent to the Brixham Peninsula Neighbourhood Forum directly ([feedback@brixhampeninsula.com](mailto:feedback@brixhampeninsula.com)). The full Plan is comprised of 10 documents supported by an SEA, HRA and Housing Site Assessment. I note that this particular site has been 'rejected' as a housing allocation by the Forum (shown on the [Summary Map](#)). This plan should be considered as part of any application submission.

**Affordable Housing and Planning Contributions:**

The Council is intending to charge CIL on residential developments within four charging zones. Areas in the built up area within 20% most deprived area, elsewhere within the built up area, outside the built up area and future growth areas. The built up area is defined by the area outside of the countryside area defined by policy C1 of the Torbay Local Plan. The application site would fall within charging zone 2, areas outside of the 20% most deprived and within the built up area but not a future growth area. For sites of 15+ dwellings houses these will be charged at £70 per square metre of chargeable floor space. Section 106 contributions will not be sought except for direct site acceptability matters including access, direct highway works, flooding and biodiversity, matters to make a development acceptable in terms of the Habitats Regulations and other legal matters. Affordable housing will however continue to be sought on sites of 15+ dwellings. The charging schedule for CIL will be reported to full Council early in 2017 with a view to adopting CIL. Further information is available at [www.torbay.gov.uk/cil](http://www.torbay.gov.uk/cil).

Policy H2 states that for proposals of between 15-29 dwellings on greenfield sites, 25% of dwellings on site will be affordable housing. As a result 7 of the 26 residential units should be affordable housing. The mix of bedroom numbers should be proportionate to the mix of the whole proposal, this should include two and three bedroom units. In line with policy H2 of the Torbay Local Plan, where developers wish to reduce significantly the level of affordable housing provision, an independent assessment of viability will be required, with the developer underwriting the cost of the viability assessment.

#### Impact on the South Devon Area of Outstanding Natural Beauty:

Due to the location of the site within the South Devon Area of Outstanding Natural Beauty the presumption in favour of sustainable development as described in paragraph 14 of the National Planning Policy Framework does not apply. Paragraph 115 states that great weight should be given to conserving landscape and scenic beauty in Area of Outstanding Natural Beauty which have the highest status of protection. Paragraph 116 then goes on to state that planning permission should be refused for major developments in such areas except in exceptional circumstances and where it can be demonstrated that they are in the public interest. The identification of development that is 'major' in terms of its impact on the AONB is a matter of judgement for the decision taker taking into account the proposal in question and the local context. Similar aims and considerations are reflected in the Torbay Local Plan 2012-2030 policies SS8, Natural Environment and SDB3 Brixham Urban Fringe and AONB. However policy SS8 does not differentiate between 'major' and 'non-major' developments stating that development will only be permitted within the AONB in exceptional circumstances where it can be demonstrated to be in the public interest. Such applications should be submitted together with an assessment of need, economic impact, alternative locations and means, environmental, landscape and recreational impacts and the extent to which these impacts can be moderated. These policies also refer to the importance of considering applications in view of the Torbay Landscape Character Area Assessment, other relevant management plans including the Brixham Urban Fringe Study.

In line with comments from the AONB Manager, the proposal does not appear to constitute major development in the context of this particular part of the South Devon AONB which is limited in terms of its landscape and scenic contribution. The position of the application site



between the approved Wall Park development site and the existing buildings on Wall Park Road suggests that some form of development of an appropriate quality, style, building height and density in this location could be acceptable. A form of development of this type is considered unlikely to harm the integrity of the South Devon AONB, its natural beauty, special qualities, landscape or scenic beauty given the scale of Wall Park development on the adjacent site. Any development of this site should relate well to the adjacent development. The adjacent football ground and allotment gardens would continue to assist in the transition from the built environment to the countryside.

In line with the comments from the AONB manager the weakest area of the scheme is considered to be the treatment of the south western boundary hedge line. This hedgerow would form part of private gardens meaning control over its future management and function would be lost. Careful consideration should be given to the ownership, retention, restoration, enhancement and future management of this boundary hedge when developing detailed plans and proposals for this site.

Subject to the submission of an assessment in relation to policy SS8 which demonstrates that the development complies with both national and local policy in relation to the conservation and enhancement of the AONB and an acceptable form of design taking into account the comments from the AONB Manager, the principle of development within the AONB is likely to be considered acceptable.

#### Impact on the South Hams Special Area of Conservation:

Due to the location of the development approximately 1km from the South Hams Special Area of Conservation and the Berry Head Site of Special Scientific Interest, within the Greater Horseshoe Bat Sustenance Zone and partly within the Strategic Flyaway, the proposal will need to be subject to a Habitat Regulations Assessment which will consider the in combination effects. Paragraph 118 of the National Planning Policy Framework states that when determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the certain principles. Where significant harm resulting from a development cannot be avoided, adequately mitigated or as a last resort compensated for then, planning permission should be refused. Similarly policy NC1 of the Torbay Local Plan 2012-2030 states that development likely to have a significant effect on the integrity of the South Hams SAC will be required to provide biodiversity conservation measures that contribute to the overall enhancement of Greater Horseshoe Bats habitats. In addition it notes that development around the edge of the built up area that is within the Berry Head SAC Sustenance Zone will as appropriate be required to protect existing hedgerows (including remnant hedges and veteran trees) that surveys show are being used as bat flyways. Such development will also enhance the existing flyways by providing features to maintain and improve the ecological coherence of the landscape, necessary to maintain the Torbay population of Greater Horseshoe Bats in 'favourable conservation status'. This will include maintaining lighting levels at 0.5 lux.

Natural England have been consulted as part of the pre-application enquiry, they have noted the location of the site and stated that there is potential for the development to impact upon the South Hams SAC roost at Berry Head. In addition, they note that the South Hams SAC is

associated with rare calcareous grassland that are at risk from recreational pressure. Natural England have not commented on what level of survey effort should be carried out and submitted as part of the application. Natural England should be consulted directly through their Discretionary Advisory Service, so that they can advise on the level of survey effort required.

Policy SS8 of the Local Plan also notes that developer contributions will be sought from development within the Brixham Peninsula towards measures needed to manage increased recreational pressure on the South Hams SAC resulting from increased housing numbers or visitor pressure. Comments from the Council's Green Infrastructure Co-ordinator note that given the increase in residents and therefore the increase in recreational pressure on the limestone grassland within the adjacent SAC, a financial contribution towards mitigation of impacts on the SAC would be required. This contribution will be sought via the Community Infrastructure Levy as the application site is CIL chargeable.

Whilst further consultation will be required with Natural England to determine the level of survey effort required, in consultation with the Council's Ecological Consultant it is considered unlikely that a further 26 dwellings in this location will constitute a likely significant effect above and beyond what has already been considered as part of the Habitat Regulations Assessment for the original Wall Park scheme.

#### Ecology:

Policy NC1 of the Torbay Local Plan notes that all developments should positively incorporate and promote biodiversity features, proportionate to their scale. Where there is an identified residual impact on biodiversity, proposals will be expected to deliver a net gain in biodiversity through the creation or provision and management of new or existing habitats. Any application submission should detail how this will be achieved, for example through new landscaping, provision of bird and bat roosting opportunities etc.

Any planning application should be accompanied by a Preliminary Ecological Appraisal, and any subsequently recommended Phase 2 surveys. If there are identified impacts and mitigation then this should be detailed in an Ecological Impact Assessment (in accordance with CIEEM Guidelines for Ecological Report Writing) to include identification of impacts and any proposed avoidance, mitigation, compensation and enhancement measures. The Ecological Impact Assessment should take account of the results of historic and on-going surveys on the adjacent Wall Park development site.

#### Trees:

The Council's Arboricultural Officer has noted that any application submission will need to include a Tree Survey and Provisional Protection Plan for the existing hedgerows and trees within the site. These surveys should be in accordance with BS5837 2012 Trees in Relation to Design, Demolition and Construction Recommendations.

Any proposed landscaping within the site should be appropriate for its location within the South Devon AONB and of the same quality as the adjacent Wall Park development site as a



minimum. The indicative landscaping proposals appear insufficient to demonstrate adequate integration into the existing landscape.

#### Historic Environment:

Previous archaeological evaluations in May and November 2015 on the two adjacent developments to the east and south revealed low but definitive levels of archaeological material. Of these, the most pertinent was the presence of Romano-British pottery in Trench 4 of the assessment 'Land at Wall Park Road, Brixham, Torbay (AC Archaeology Report ACD1106/3/1)' which was located approximately 25m south of the rear curtilages of numbers 47 and 49 Wall Park Road. In light of these findings, any future application submission should be accompanied by an archaeological evaluation of the same character.

#### Impact on the Mineral Safeguarding Area:

The site is within the Mineral Safeguarding Area. Policy M3 states that the Council will seek to safeguard important mineral resources and sites. Any proposal on or in the vicinity of an important mineral resources should demonstrate that it will not cause unnecessary sterilisation or prejudice the future extraction of important minerals or building stone on these sites. The location of this site for mineral extraction is considered unlikely given the sites environmentally sensitive location in both ecology and landscape terms. However any future application submission will need to demonstrate compatibility with policy M3 of the Torbay Local Plan 2012-2030.

#### Design:

I have received a consultation response from the Council's Urban Design Consultant with regard to the design of the scheme. The comments are quite comprehensive and therefore the full comments have been attached to this email. In summary the layout of the proposal is considered well organised and the shared space towards the southern end of the site is welcomed. Street trees are welcomed and the corners are largely dealt with effectively. There are several comments made regarding the parking layout which will require further consideration. Similarly the scale of gardens needs consideration with reference to guidance within policy DE3 of the Torbay Local Plan 2012-2030 which suggests that dwelling houses have a minimum area of 55sqm of outdoor amenity space.

#### Drainage:

The site is located within the Critical Drainage Area as designated by the Environment Agency and as such any application submission will need to include a site specific floor risk assessment which includes a surface water drainage strategy. The Council's Drainage Engineer has stated the surface water drainage measures should follow the hierarchy for dealing with surface water run-off from the development with infiltration techniques being the preferred method of surface water drainage. Only if the ground conditions are unsuitable should the developer progress to investigating controlled drainage off the site and initially discharging flows to a watercourse or main river should be considered. If this is not possible and if no other system is available a combined sewer system. In order to confirm whether infiltration techniques

such as soakaways and permeable paving are unsuitable, infiltration testing in accordance with BRE365 must be undertaken at the proposed location of the soakaways and permeable paving. Infiltration testing must be undertaken at the proposed invert level of the soakaways and formation level of permeable paving. A desk top study of ground conditions will not be acceptable.

If ground conditions are suitable for infiltration techniques such as soakaways, the soakaways together with surface water drainage system discharging to the soakaways must be designed in order that there is no risk of flooding to buildings on the site and there is no increased risk of flooding to land or buildings off the site for the critical 1 in 100 year storm event plus 30% for climate change. Any permeable paving must be designed to demonstrate that there is no flood risk on or off the site for the critical 1 in 100 year storm event plus 30% for climate change. Only if the results of the infiltration test indicate that the use of soakaways is not feasible would discharge to a watercourse, surface water system or combined sewer system at a controlled rate be acceptable. As Torbay is a Critical Drainage Area any surface water discharge rate from the site to the watercourse, surface water system or combined sewer must be limited to greenfield run off rate for the 1 in 10 year storm event with attenuation designed so there is no risk of flooding to properties or increased risk of flooding to adjacent land for the critical 1 in 100 year storm event plus 30% for climate change. It should be noted that where the greenfield run off rate for the site is below 1.5l/sec a discharge rate of 1.5l/sec would be accepted. The above information must be submitted as part of the application submission.

#### Waste:

Policy W1 of the Torbay Local Plan states that as a minimum, all developments should make provision for appropriate storage, recycling, treatment and removal of waste likely to be generated and with particular reference to residential developments, they should provide adequate space within the curtilage for waste and accessible kerbside recycle bins and boxes. In addition policy W2 notes that development proposals should include provision of appropriate collection of waste. Similarly Policy TA2 states that a good standard of access should be provided in major development schemes which should include measures for waste collection vehicles to access the site in a way that would not disrupt the service they provide.

The site is to be accessed via the access from Wall Park Road. Currently the access road to the site is unadopted and remains a private road. Whilst it appears that Tor2 are currently continuing to collect waste from the existing dwellings within the adjacent Wall Park development they have no obligation to do so and there is no agreement in place with Tor2 to state that they will continue to collect waste from the private road. The waste contractor is required to collect domestic waste and recycling from the curtilage of the adopted highway only (or any public or private road which the owner has entered into a Section 38 agreement or has made an advance payment for such an agreement). As the road through the development is currently unadopted and there is seemingly no intention to adopt this road, Tor2 do not have to enter the development and could cease collection at any time. Before any application is this location could be considered acceptable, the collection of waste from this site will need to be satisfactorily resolved. Details of how waste collection will occur



taking into the account the status of the access road will need to be included as part of any application submission.

In terms of waste storage within the curtilage of each plot, dwellings should demonstrate as a minimum that they have sufficient hardstanding storage space for 1 x 240 litre wheelie bin, 2 x 55 litre recycling boxes and 1 x 25 litre food waste container per dwelling. There should also be an accessible route from the point of bin storage to the point of presentation for waste collection. An accessible route should be of a sufficient width for the size of bin and should not involve manoeuvring bins over steps or uneven ground. If dwellings do not have direct rear garden access to the proposed bin storage area, these dwellings should have a storage point at the side/front of the property and be constructed on a flat all weather surface. This area should be screened and/or sensitively designed. Collection points must be free from obstructions such as bollards and parked cars and should not result in reduced visibility at junctions.

#### Parking Provision:

Policy TA3 of the Torbay Local Plan and the associated appendix F states that parking provision will be required at a rate of 2 spaces per dwelling house (1 space per flat with separate visitor provision). Garages will only constitute as a parking space where they are large enough to accommodate cars and make provision for general storage (including cycle storage) or alternatively provision for general storage can be made elsewhere within the curtilage. Garages should be a minimum of 6m by 3.3m to provide internal circulation space. If no dedicated alternative storage is provided within the curtilage, additional width of 0.75m for cycle storage and 1m depth/width for refuse storage is required.

Provision should be made for dedicated electric charging points and cycle storage provision. This provision should be covered, secure and easy to use and must form an integral element of the design of the development. A minimum of 2 cycle spaces per dwelling should be provided. Please also refer to comments from the Urban Design Consultant in relation to the layout of parking which are attached to this email.

#### Access:

As noted above policy TA2 of the Torbay Local Plan states that a good standard of access for walking, cycling, public and private transport should be provided in major development schemes. This includes measures for emergency service vehicles, waste collection vehicles and public transport vehicles to access the site in a way that would not disrupt the service they provide.

Access to the site is via Wall Park Road through the Wall Park residential development approved under application reference P/2013/0785 and P/2016/0057. Under application reference P/2016/0057, the access from Wall Park Road was revised to allow for an emergency access to the site. Whilst this was not ideal and a second access to the site would have been preferred the amendments to the access allow for access in the event of an emergency. With the inclusion of additional dwellings a separate access point from the adopted highway would be the preferred solution. However on balance, subject to the issues

regarding waste collection being suitably resolved, the use of the existing access from Wall Park Road is considered sufficient. However to ensure emergency access and pedestrian access is maintained throughout the site, it is considered that a pedestrian access through the southern corner which could also serve as a further emergency access should be provided. This would improve connectivity to the rest of the site and provide an additional through-route through the wider development for emergency vehicles.

As noted in earlier paragraphs, it is understood that the access to the pre-application site is via a currently unadopted highway. At our meeting in December, we discussed the potential to re-open discussions regarding the adoption of this road and what would be required to bring this access up to a adoptable standard and so be adopted by the Highway Authority. Following this I discussed the requirements with Guy Redfern, the Council's Highways Contract and Development Engineer and Mike Wood, the Council's Drainage Engineer. Below I have outlined the measures required to bring the road up to an adoptable standard.

There were a number of queries raised during the section 38 discussions which were gradually being resolved with WSP. Further information was submitted to Mike Wood, the Council's Drainage Engineer in July 2016 but as the applicant withdrew from the section 38 process this additional information was not considered. A site visit from Guy Redfern also highlighted that a number of the gullies were not suitable for approval as part of the section 38 agreement which brought into question some of the other works already carried out underground. In terms of gaining technical approval as part of the section 38 agreement, the calculations and drawings submitted in July 2016 would need to be considered by Mike Wood and any further issues would need to be resolved. In terms of the construction that has already been carried out on site, further information would need to be submitted to the Highway Authority to confirm the acceptability of the roads and that they are suitable for adoption. This would include:

- A manhole survey being carried out to include production of STC25 manhole cards with defects highlighted and inspection of gullies.
- A CCTV survey of sewers and gully connections to check for defects.
- Based on 1 & 2 above, the production of a report that highlights any work required to bring the drainage up to an acceptable standard.
- The submission of drawings to detail the proposals as built.
- The calculations will need to be checked to ensure that they match what has been built and that the hydraulic design is acceptable.
- Sample excavations will need to be considered to check that underground structures are in accordance with specification and drawings i.e. pipe bedding, manhole surround, soakaway construction as without supervision during the works there is a risk that defects outside of samples exist.

Further to the above, Guy Redfern, the Council's Highways Contracts and Development Engineer has confirmed that the short lengths of pipe which have been incorrectly installed using 150mm pipe instead of 225mm pipes will be acceptable in terms of the section 38 agreement subject to a line and level survey being submitted to ensure that all manholes have been installed to the correct design depths (which would have always been a requirement of

a section 38 agreement). As above, the road gullies that have been installed are poor, both in terms of their position and construction. It is also noted that the gullies have deviated from the construction details so they will need to be removed and correctly positioned with the correct concrete gully pots. In addition all damaged kerbs will need to be replaced to the standard requirement of the section 38 agreement. Pavement depths will need to be proven by means of cores or slip trenches to ensure it has been built to specification.

It is also important to note that if the applicant does not continue with the section 38 process, the drainage details for the road will need to be included as part of the drainage information submitted to discharge condition 11 of P/2013/0785 and condition 6 of P/2016/0057. Information submitted to date only refers to surface water drainage from dwelling house plots however if surface water drainage from the roads is not agreed through the section 38 agreement process it will need to be assessed via the discharge of condition applications.

In summary, the residential development of this site has the potential to be acceptable subject to the submission of further information including but not limited to landscape and visual impact assessments, ecological surveys, details of how waste will be collected and surface water drainage information. Whilst the proposed layout appears generally well organised revisions are required to ensure its acceptability. Due to the location of the site it is advised that prior to submission of any planning application you apply to the Local Planning Authority for an EIA Screening Opinion. Please be aware the above response is an officer opinion only based on the information you have supplied and not a formal decision of the Council and is made without prejudice to any subsequent decision by the Council. If you require any further clarification, please do not hesitate to contact me.

Kind Regards

Carly Perkins

**Carly Perkins**  
**Senior Planning Officer (Development Management)**  
Spatial Planning  
2nd Floor Electric House, Torquay TQ1 3DR

Telephone Number: (01803) 207831

Fax Number: (01803) 208858

E-mail: [carly.perkins@torbay.gov.uk](mailto:carly.perkins@torbay.gov.uk)

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