



Attention of case officer

3<sup>rd</sup> May 2018

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Whiterock 2 / Inglewood Planning P/2107/1133

**Additional Objection from CPRE Devon in response to updated information received in March 2018**

It is noted that the AONB Manager maintains objections to the proposal on the grounds of the unacceptable impact upon this important designated landscape – which CPRE Devon endorses.

Sport England's objection highlights the scheme's inability to deliver health and well-being benefits, failing to support the tipped balance towards providing housing.

The Brixham Neighbourhood Plan, can be afforded clear and considerable weight, with it's progression having attained formal Examination.

The prematurity argument, must be afforded full weight, and reference made to the NPPG and Draft Revised NPPF (paragraphs 48 to 51) recently issued by the Government which set out the weight expected to be given to policies in plans that have attained such advanced stage (previously in Annex 1), and puts into policy the approach to 'prematurity' previously contained in national planning guidance.

Draft Revised NPPF states:

“ in the context of the Framework – and in particular the presumption in favour of sustainable development – arguments that an application is premature are unlikely to justify a refusal of planning permission other than in the limited circumstances where both:

- a) the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging plan; and
- b) the emerging plan is at an advanced stage but is not yet formally part of the development plan for the area.

Refusal of planning permission on grounds of prematurity will seldom be justified where a draft plan has yet to be submitted for examination; or – in the case of a neighbourhood plan – before the end of the local planning authority publicity period on the draft plan. Where planning permission is refused on grounds of prematurity, the local planning authority will need to indicate clearly how the grant of permission for the development concerned would prejudice the outcome of the plan-making process.”

The status of the Brixham Neighbourhood Plan fulfils both of these defined requirements and the development proposed by its location and scale is both premature and prejudicial to the Neighbourhood Plan in addition to being an unacceptable Departure from the Adopted Local Plan.

**CPRE Devon wish to maintain their original objection – see below for ease of reference.**

CPRE Devon wish to object to the above proposal for the following reasons:

**Un-Sustainable Development**

The development fails to demonstrate a consideration of NPPF para 8, which states:

*“to achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously through the planning system.”*

The applicant/agent has failed to demonstrate that the proposal is delivering economic, social and environmental gains, and the proposal fails to contribute towards delivering the right development at the right time and in the right place.

**Social and Economic considerations:**

The TLP was adopted just under 2 years ago – 10<sup>th</sup> December 2015 and has a 5 year supply of housing land to meet Torbay’s housing target. The applicant/agent fails to demonstrated present or future need for the proposed housing as required by NPPF16 having regard to the decision by the Secretary of State that development in this location will adversely affect the AONB..

The Brixham Peninsula Neighbourhood Plan(BPNP) has allocated a sufficient number of brownfield sites to address the identified housing targets for the Brixham area, without the need to allocate greenfield sites (see details below).

In addition, CPRE Devon consider that the Whiterock 2 housing proposal does not meet proven local need, according to supporting evidence and statistics supplied by Brixham Peninsula and Paignton Neighbourhood Plans. The population has increased at a very minimal level (Paignton NP 2.4.1, 2.4.3 page 8, Supporting Evidence doc and figure 2.4.1, 2.4.5 page 8 actual growth against projected growth). Furthermore, latest figures for empty housing are in the region of 2000 dwellings, this continues to be monitored by Paignton NP.

The proposed development does not demonstrate how it contributes towards building a strong and responsive economy. The TLP identified a need for 2,700 sqm of land for employment purposes in Brixham, and the emerging BPNP (has responded by identifying 5,779 sqm of land potentially available for commercial and business development). The BPNP contends that:

*“Brixham Peninsula has sufficient space for new employment areas without building on the land which separates our settlements, ensuring the retention of the rural character and agricultural activity which makes the southern end of the Bay unique”.*

Furthermore CPRE Devon highlight: that there is a decline in Employment in Torbay. Having waited nearly 60 years for the Kingskerswell by pass with promises of jobs growth, statistics are showing the complete opposite. Jobs have actually fallen from 59,000 to 57,000 (Paignton NP page 7 Fig. 2.3 page 7) In the recent Local Plan Examination Inspector Keith Holland acknowledged housing must be proven to be consistent with achieving the net job growth trajectory. A balance is required between jobs and home growth, which will not be achieved through approving this proposal.

CPRE Devon believe that the proposed development represents an unsustainable dormitory settlement - without appropriate on-site economic and community facilities, increased car travel will be encouraged contrary to NPPF 37:

*“Planning policies should aim for a balance of land uses within their area so*

*that people can be encouraged to minimise journey lengths for employment,*

*shopping, leisure, education and other activities.”*

The proposal fails to demonstrate how the scheme delivers balanced community benefits e.g. sports facilities, shops, meeting venues, nor that it supports existing wider local facilities. The provision of a school, nursery and a pub does not alone make for a balanced:

*“ high quality built environment, with accessible local services that reflect the community’s needs and support its health, social and cultural well-being”. (para7 NPPF)*

The scheme fails to justify the proposal on the grounds that it will provide for a mixed use development which will benefit local community, from the use of this rural, greenfield site.

The proposal represents a loss of best and most versatile agricultural land (see below). There is no demonstrated overriding need to develop this greenfield site, nor evidence to show that lesser value land has been considered and or discounted by the developer. This is contrary to NPPF para 7, which states the planning system should perform specific roles including:

*“contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently”.*

## **Environment:**

The proposed development fails to demonstrate that it’s economic and social benefits outweigh the impact upon the rural landscape, which although not designated as an AONB, will have a detrimental impact upon the character and quality of this nearby designated landscape.

The site is seen in context with this protected area, and the applicant/agent fails to acknowledge the importance of the in-compatibility of this development with the designated landscape.

Para 109 NPPF:

*“ The planning system should contribute to and enhance the natural and local environment by:*

- *protecting and enhancing valued landscapes”*

CPRE Devon believe that the proposal will visually lead to coalescence and merging of settlements and the built form e.g. Galmpton Village to Whiterock 1, Paignton.

Furthermore, CPRE Devon highlight that nothing has materially changed to ignore the Secretary of State Decision in 1997 to discount development on this site, because of its detrimental environmental impact. The Secretary of State said:

*“... the Secretary of State attaches substantial weight to the need to preserve the high quality of the Dart Valley AONB, as one of the finest riverine landscapes in the country. He accepts the inspector’s appraisal that the development itself ... would have a significantly adverse and wholly unacceptable visual impact on the AONB, the AGLV and the surrounding countryside.”*

In addition, CPRE Devon highlight concerns regarding the loss of the natural environment in the national context, referring to a recent survey mapping land use in Britain using satellite technology showing the amount of land developed around the country. It identifies the average built on figures, urban greenspace, farmland and natural land. The figures highlight the issues facing Torbay:

Torbay Built on 44%     Average UK 6%

## Loss of ‘Best and Most Versatile’ (BMV) Agricultural Land

The application site is considered to be of Grade 2 -3a Agricultural quality; “the best and most versatile agricultural land”. (BMV)

*“Based upon all the available the calculated grades, Fields C and E have been classified as Grade 3a and Fields D and F as Grade 2.*

*Investigations in fields A and B have not been completed. Classification of Field A is not appropriate as it has been replanted with shrubs and trees. Field B, given that it has in the past been cultivated with arable crops, is likely to be classified as a minimum of Grade 2.”* (Agricultural Land Classification Report.)

Paragraph 112 of the NPPF indicates that authorities should take into account the economic and other benefits of BMV agricultural land and where significant development of agricultural land is demonstrated to be necessary, they should seek to use areas of poorer quality land in preference to that of a higher quality.

*Policy SC4 of the Torbay Local Plan states:*

*Development which would result in the detriment to or loss of the best and most versatile agricultural land (Grades 1, 2, or 3a) will only be permitted where there is an overriding need for the development and it is demonstrated by the applicant that it cannot be accommodated on lower grade land. Where development is proposed and there is a choice between sites of different grades, development should take place on land of the lowest grade feasible, subject to other Policies in the Plan.*

The Design and Access Statement submitted by the applicant/agent, has failed to address this consideration satisfactorily. Focusing on mitigation rather than the principle of developing BMV agricultural land and discounting lesser value agricultural land. See extract below:

□ dwellings. Policy SC4 Sustainable food production accords with this overarching principle, recognising that larger residential schemes can provide onsite opportunities for local scale food production. The Policy also considers development on land which is classified as best and most versatile in respect of agriculture.

The applicant has failed to demonstrate that development cannot be accommodated on lower grade agricultural land – contrary to national and regional policy.

#### Departure from the Local Plan

It is considered that the benefits arising from the the proposed scheme on this site, would not outweigh the disadvantages of the scheme, and do not justify a departure from the development plan.

Material considerations do not indicate why planning permission should be granted contrary to the provisions of the development plan.

#### Material Considerations

#### **Neighbourhood Development Plan (NDP)**

NPPG Paragraph: 007 Reference ID: 41-007-20170728 states:

*“Planning applications are decided in accordance with the development plan, unless material considerations indicate otherwise. It is for the decision maker in each case to determine what is a material consideration and what weight to give to it.”*

In accordance with NPPF para12:

*“From the day of publication, decision-takers may also give weight to relevant policies in emerging plans*

according to:

*the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);*

*the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and*

*the degree of consistency of the relevant policies in the emerging plan to the policies in this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).”*

A Written Ministerial Statement of the 10th of July 2014,

<https://www.gov.uk/government/speeches/neighbourhood-planning> is considered to have reinforced the NPPG to make it clear that, once a neighbourhood plan has been submitted formally to the local authority for examination, it (and its policies) represent a material consideration to which weight can be given in considering the planning balance when determining any particular planning application or appeal.

The applicant/agent has failed to demonstrate an appropriate consideration of the emerging neighbourhood plans, in particular Brixham Peninsula Neighbourhood Plan (BPNP), which benefits not only from a robust evidence base discounting the application site from housing allocation, but the plan and its' policies/allocations have also been subject to a rigorous assessment – a Strategic Environmental Assessment (SEA).

The Applicant/Agent has failed to attribute the appropriate weight to the BPNP, anticipating “problems” with the plans – see extract below taken from the Design and Access Statement.

*Having been submitted, it could be considered that the Plans have some weight in the consideration of planning applications. However, in light of the potential changes that may arise due to problems with the plans, particularly PNP, it would not be reasonable to place any significant weight on the Plans in the determination of this application.*

The Design and Access Statement fails to address that the BPNP has identified and allocated no fewer than 11 housing sites and provides sufficient land to enable the delivery of the expected Torbay Local Plan housing allocation for Brixham. The SEA states:

*“Policy SDB1 of the Torbay Local Plan highlights that the Brixham Peninsula is expected to provide sufficient land to enable delivery of 660 new homes over the 18-year period from 2012 to 2030. The Local Plan further determined that 234 windfall sites could be relied on to come forward during this period. As of late December 2016 there were 316 commitments (planning permission in place which are considered “deliverable”).*

*As such, the Neighbourhood Plan is required to allocate sites for at least 123 new homes.*

*To provide input into this element, two options have been considered to consider what size and form new*

housing sites should take. As such, the SEA process has considered two broad options linked to the size of housing allocations to be taken forward through the Neighbourhood Plan to deliver the housing numbers set out for Neighbourhood Plan area by the Local Plan. The two options are as follows:

- *Option 1: Delivery of the remaining Torbay Local Plan housing allocation for the Brixham Peninsula through a limited number of larger sites (of over c.50 dwellings); and*
- *Option 2: Delivery of the Torbay Local Plan housing allocation for the Brixham Peninsula through a larger number of smaller sites (of under c.50 dwellings), which are likely to be dispersed across the Neighbourhood Plan area.*

*In light of consultation undertaken to date on the Neighbourhood Plan, and consideration of the assessment findings above, the BPNP Steering Group took the decision to focus development on brownfield sites in Brixham town and the villages rather than allocating land for housing and employment on greenfield sites. In relation to housing allocations, the decision was also taken to allocate housing for the remaining Torbay Local Plan requirement on smaller sites spread amongst the settlements of the Brixham Peninsula.*

*This was with the aim of:*

- *Supporting the regeneration of key parts of the Neighbourhood Plan area;*
- *Facilitating enhancements to the existing public realm, townscape and villagescape of the Neighbourhood Plan area;*
- *Protecting sensitive landscape character in the vicinity of Brixham town, Churston, Galmpton and Broadsands; and*
- *Rejuvenating existing areas of derelict and underutilised land in the Neighbourhood Plan area.”*

The proposed development fails to appropriately consider and address the direction of travel of the neighbourhood plan i.e. focus on brownfield sites to deliver housing. This objective of the BPNP should be afforded greater weight in the consideration of the current application, especially given that the BPNP has been through Regulation 16 consultation and is at examination stage, furthermore the BPNP is supported by robust up to date evidence including community engagement.

This failure to consider the BPNP and its evidence base is further highlighted, by lack of reference to the independent assessment carried out by AECOM, which discusses the application site's potential for development...but at a much reduced scale to that which is proposed:

*“Site Development Potential*

*The site is of considerable size (approximately 45 hectares) and would allow it to deliver approximately 250 homes if fully developed. The land does not contain any steep gradients, and is accessed by the adjacent A3022, from which frequent public transport is available. The site is also within relatively short distances of*

community facilities. The site is considered viable.

### *Key Constraints*

*The land is currently arable land and comprises areas of the best and most versatile agricultural land (Grades 2 and 3a). Development of the site would significantly increase the footprint of the existing built up area. It would significantly affect the existing settlement pattern of the area and potentially comprise an amalgamation of development with Galmpton.*

*Whilst there are no statutory nature conservation sites that would likely be significantly affected by allocations at this location, the site itself is likely to be of some ecological value, particularly the hedgerows and tree lines within it. There are TPOs on several trees on the northern boundary of the site, but it is unclear whether these fall within the boundaries of the proposed site.*

*The site is subject to views in from the A3022 and from properties along the A3022. The development would also have significant impact on wider views and the character of the area's rural landscape. Whilst the site is outside of the South Devon AONB, views from the AONB are likely to be affected. In this context development of the whole site would likely result in impacts on views from key parts of the AONB, including from the River Dart valley.*

It should be noted that this site represents greenfield development and that the neighbourhood plan took a conscious decision to promote brownfield development in allocating sites - seeking to protect the environment. Development of this site would not be in accordance with the emerging BPNP.

### **Prematurity**

*"Refusal of planning permission on grounds of prematurity will seldom be justified where a draft Local Plan has yet to be submitted for examination, or in the case of a Neighbourhood Plan, before the end of the local planning authority publicity period. Where planning permission is refused on grounds of prematurity, the local planning authority will need to indicate clearly how the grant of permission for the development concerned would prejudice the outcome of the plan-making process." (Paragraph: 014 Reference ID: 21b-014-20140306)*

The Neighbourhood Plan will have reached the end of the local planning authority publicity period before the application is determined. Approval of this housing proposal, would prejudice the emerging neighbourhood development plan and would prejudice the out-come of the plan making process.

### Area specific concerns

- Cumulative Traffic Impact

The Windy Corner junction will also have to cope with the large Noss on Dart Development, Kingswear planning proposal to include 130 dwellings, 50 bed Hotel and 374 parking spaces, Marine industry units and South Devon Marine College. This site was approved for planning

previously. Adding an additional 400 dwellings, school and pub restaurant on an already congested road network would increase the congestion and result in a much poorer quality of life for existing local residents.

For anyone who has to travel regularly through this junction to leave the Brixham / Kingswear Peninsula they will be aware the junction runs at over capacity. We believe the improvements will be minimal particularly due to the fact that it passes through land protected by Common Land Rights. Torbay Council has applied to the Secretary of State for a small slither of land. The intention is to create a double lane out and an alteration to the Bascombe Road junction on the way in. We believe it will still run at over capacity even before further development particularly in the holiday season. Additional traffic will contribute to further deterioration of air quality on an already highly congested road.

- The Greater Horseshoe bat / European Protected Species

South Hams Green Infrastructure maps cover this important area of bio-diversity and highlights the importance of Cirl Bunting and GH Bat. (Appendices page 6 and 9) We understand that mitigation land agreed to enable Whiterock 1 is proposed to be built on for Whiterock 2! The agricultural land used for cattle grazing is part of the South Hams Sac linking to the roost at Berry Head. It is within the Greater Horseshoe Bat Sustenance Zone and flight paths. We note a bat roost has been identified on the hill above the site which would be surrounded by development and light pollution.

NPPF 119 states:

*“The presumption in favour of sustainable development (paragraph 14) does not apply where development requiring appropriate assessment under the Birds or Habitats Directives is being considered, planned or determined.”*

- Light Pollution

The agricultural land provides a buffer between the residential area of Whiterock 1 and Hookhills along the main Brixham Road and the River Dart. The site is completely dark at night with views to Dittisham and Dartmouth hillside. CPRE Devon believes ‘Darkness at night is one of the key characteristics to rural areas and represents a major difference between what is rural and what is urban’. Light pollution and spillage will urbanise the Dart Valley Area of Special Conservation in the AONB. <https://nightblight.cpre.org.uk/maps/>

Kemmings Hill Appeal ( APP/ X1165/W/16/316110)

In a recent appeal dismissed 15 Aug 2017 by Inspector Harwood for a single dwelling on a site approximately a mile from Whiterock 2 within the SAC. Inspector Harwood wrote the development ‘Impacts on bio-diversity and would not contribute to halting the overall decline in bio-diversity as required by the Framework’

- Impact on tourism a crucial economy for Torbay



A major focus for the Brixham Neighbourhood Plan was to promote and maintain quality tourism on the Brixham Peninsula and wider area. It is our greatest asset being able to offer green landscapes and far reaching vistas. Tourists come to this area of UK to enjoy the spectacular scenery, green surroundings, take in the fresh air and taste the local produce. They do not visit to sit in polluted traffic jams looking at urban sprawl while on holiday. It is worth noting that within the planning application : Community Protection are being consulted with regard to noise, air quality and contamination.

- Foul and waste drainage

There are numerous questions that need to be asked about foul waste and drainage. Torbay is a Critical Drainage Area'

South West Water Sewer Works at Brokenbury already runs at capacity. Brokenbury roof has to be removed every other month as machinery cannot cope. Lorries remove foul waste to another area. Recent events have included sewage pumped out into Brixham Harbour due to over capacity, when children from the sailing club were in the vicinity.

Marine Conservation Zone This is a source of great pride in Torbay. However, mussel beds have shut down a couple of times due to bacteria/ e-coli which we understand could be linked to the recent sewer overflows in Brixham Harbour.

We trust that this application will be REFUSED.

Yours sincerely

**CPRE Devon**

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