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My ref.: DRP/P/2017/1133
Your ref.: APP/X1165/W/20/3245011
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Date: 13 February 2020

Alison Dyson
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Dear Mesdames

Application P/2017/1133 APP/X1165/W/20/3245011

Outline application for residential led development of up to 373 dwellings (C3) together with the means of vehicular and pedestrian/cycle access together with the principle of a public house (A3/A4 use), primary school with nursery (D1), internal access roads and the provision of public open space (formal and informal) and strategic mitigation. The proposal includes amendments to Brixham Road, Long Road junction and Windy Corner junction. Details of access to be determined with all other matters reserved.

Land To The South Of White Rock Adjacent To Brixham Road Aka Inglewood Paignton, TQ4 7BQ

I write to inform you that Torbay Council's Planning Committee met on Monday 10th February 2020 to consider the above application, and what its decision would have been if it had formally determined the application prior an appeal being lodged. Planning Committee resolved unanimously that it would have **refused** the application in accordance with the Officer recommendation. They further requested officers to take barrister's advice in relation to a Habitats Regulations related reason for refusal proposed by objectors.

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If you require this in a different format or language, please contact me.

In the event that the Local Planning Authority determined the application, the recommendation would have been:

Refusal

- 1) The proposal is significantly and demonstrably contrary to Policies BH3, BH4, BH9, E1, E2, E3 and E6 of the Brixham Peninsula Neighbourhood Plan and the strategic framework for the Neighbourhood Plan set by Policy SDB1 of the Torbay Local Plan 2012-30. The extent of this conflict, including development of an area identified as a settlement gap identified in Policy E3 of the Neighbourhood Plan, would seriously undermine the Development Plan as a whole.
- 2) The proposal constitutes major development outside of the established built up area or Future Growth Area and not identified in a neighbourhood plan, contrary to policies SS2, SS8.3, SDB1, SDB3 and C1 of Torbay Local Plan 2012-30.
- 3) The development would represent a substantial and harmful intrusion into open countryside which forms part of the backdrop and setting of the South Devon AONB, which would be clearly visible from public vantage points and recreational networks (within the AONB) and from outside the AONB (looking towards AONB), contrary to Paragraphs 170 and 172 of the NPPF, Policies SS2, SS8.3 and C1 of the Torbay Local Plan 2012-30, and Policies E1 and E6 of the Brixham Peninsula Neighbourhood Plan, and the South Devon AONB Management Plan (2019-2024).
- 4) In the absence of a completed S106 Agreement, there is no effective delivery mechanism required to ensure measures to mitigate the impact on the South Hams SAC, and the Landscape Ecological Mitigation Plan (LEMP) for both White Rock and the current proposal, highway network, critical drainage area. Nor could the provision of social infrastructure such as a school site, employment, affordable housing, or public open space be ensured. This would be contrary to Policies SS1, SS5, SS8, NC1, SDB1, SS6, TA1, TA2, ER1, SC1, SC2, SC3, SC4 and H2 of the Torbay Local Plan 2012-2030 and Policies J4, E8, T1, and BH2 Brixham Peninsula Neighbourhood Plan.

Informatives.

- i) The LPA has had regard to the benefits of the scheme including provision of housing, school site, employment and other benefits. The LPA has considered the application in the context of the Presumption in Favour of Sustainable Development in paragraph 11 of the NPPF. However, the proposal's benefits are not considered to override the impact on the setting of the AONB, the degree of conflict with the recently made neighbourhood plan, or the principle of localism.
- ii) In the Local Planning Authority's view, a proposal of this scale and nature should be considered against all potential alternatives, through an update of the Local Plan. This would allow proper consideration of potential alternative sites and options for meeting development needs.

The Committee also requested that the Council's appointed barrister investigate objectors' arguments that the proposal does not comply with legal requirements under the Habitats regulations, and accordingly whether a fifth reason for refusal is required:

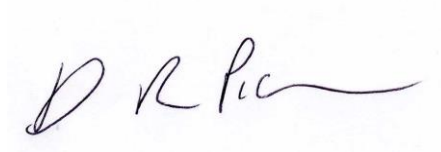
"It has not been demonstrated beyond reasonable scientific doubt that the proposed development will not have an adverse effect on the integrity of a European Protected Site contrary to article 6(3) of the habitats Directive and that it has not been demonstrated that the necessary conditions in article 6(4) have been met"

Should the council's barrister's advice be that this reason for refusal is legally correct, then the following development plan policies would be engaged: Torbay Local Plan Policies SS8, SDB1, SDB3, C4 and NC. Brixham Peninsula Neighbourhood Plan BH3, E1, E7 and E8.

You will understand that Committee's instruction necessarily has implications for the timing of a statement of common ground on Habitats Regulations matters.

Please see the attached Committee Minute, Officer Report and copy of the presentation made to Committee. The Council will be submitting a short additional statement by 3rd March 2020, but the bulk of the Local Planning Authority's case is set out in the officer report.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'D R Pickhaver', written over a light blue circular stamp.

David Pickhaver
Senior Policy Planner

c.c. Simon Fitton@alderking.com