

APP/X1165/W/20/3245011: Land to the South of White Rock Adjacent To Brixham Road Aka Inglewood Paignton, TQ4 7BQ (LPA Reference P/2017/1133).

Brixham Town Council Transport and Highway Position Statement

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1.0 Introduction

1.1 This position statement sets out the areas of disagreement between Brixham Town Council (the Rule 6 Party) and Torbay Council [the LPA] and Abacus/Deeley Freed on transport and highway matters

1.2 It is prepared in accordance with directions from the Appeal Inspector given at para 22 of his *Case Management Conference Summary – 17 March 2020*, which reads – “ Finally, while I note the Town Council’s continued concerns regarding transport and highway matters, there is a SoCG between the Council and the appellant on these matters. I would require a position statement from the Town Council to identify areas of disagreement with this SoCG to allow the appellants to continue discussions on these matters to seek resolution, and, if required, produce evidence to support their position.”

1.3 The Statement of Common Ground referred to by the Inspector is that prepared by Roger Keys of Key Consultants and agreed with Adam Luscombe of Torbay Council on 3 March 2020 and described as Version 7.0 of that document.

2.The Application Transport D3112ocuments

SoCG ref/text/issue	BTC position	Appellant position	LPA position
<p>2.4. The application proposes to extend bus services that currently terminate at the nearby South Devon College to terminate instead at the site. The operator, Stagecoach, has written to confirm its willingness to make this change and to express its support for the application (see TA Appendix I).</p> <p>Two bus stops are included on the highway layout immediately to the west of the proposed site access roundabout for use by the extended bus service (see drawing 0734-057). Two stops are included to allow space for two buses to be present at one time, allowing terminating services to lay over. A Bus Service Agreement has been drafted to enable the applicant to secure the delivery of the extension of the bus service within a binding legal agreement.</p>	<p>The parties to the SoCG have failed to consider the potential infrastructure requirements which may be required for AV [Automated Vehicular] public transport, and measures that could be taken to introduce on-demand app driven bus services.</p>	<p>To aid understanding in this response, where appropriate, numbers have been allocated to BTC's points and the same numbers are used in the responses below.</p> <p>Appropriate provision of public transport infrastructure, comprising two bus lay-bys, has been included within the development layout located adjacent to the main entrance roundabout (see drawing 0734-057). There are no policies requiring provision to be made within developments for these emerging technologies. The applicant is not aware of any proposals to introduce such services in Torbay. However, should they be introduced, the bus stops could be used by such new services.</p>	<p>There is no policy basis to include specific provision for automated vehicles and, as yet, no common technological solution to base such decision on.</p> <p>Existing on demand bus services could be accommodated within any typical highway layout and indeed as they are often smaller vehicles these could be accommodated throughout the development. Given the proposal presented by the applicant there is no expectation of need for an on demand service given the commitment towards funding the extension of a commercial service.</p> <p>The Council has ensured that sustainable modes of travel are facilitated and promoted wherever possible.</p>

<p>2.5. The application proposes a network of new footway/cycleway links connecting to neighbouring areas.</p>	<p>This statement refers to measures contained in the appellant's TA and appendices. The LPA response has been informed by the Review of Transport Impact by Jacobs dated 15.12.2017, which provided an expert review of the Appellant's TA and Travel Plan [TP].</p> <p>Key conclusions and recommendations contained in the Jacobs Report, and with which BTC concur, have not been addressed, namely</p> <p><i>Cycle access to and from the south of the site would be desirable to provide better access and options should be explored.</i></p> <p><i>It is unclear whether land has been secured in order to deliver the pedestrian/cycle route to the north. It is recommended that an increase in walking and cycling to/from the site is included within the Travel Plan mode share targets.</i></p> <p>To these comments BTC would add The TA fails to make it clear that the "shared footpath/cycleway" to the east of Brixham Road and headed south from the proposed Toucan crossing is, for the majority of its length, wholly unfit for purpose, and is not signed for cycle use at all. BTC is surprised this was</p>	<p>(1) BTC's claim that key conclusions and recommendations raised in the Jacob's Report have not been addressed is not correct. All issues raised in Jacobs' document were addressed in Transport Assessment Addendum 1 (TAA1), dated January 2018. TAA1 was specifically prepared to respond to the Jacobs review. Section two of TAA1 individually summarises comments received from Jacobs regarding issues that do not relate to the assessment of the traffic impact of the development and provides responses to each of the points raised. Section three considers the issues raised regarding the traffic impact of the development. (To aid understanding Section three of TAA1 was written to be read as a complete substitution for section six of the original TA, which it superseded.)</p> <p>(2 & 5) Due to the limited width of verge available on the west side of Brixham Road immediately to the south of the development site, leading to a</p>	<p>Cycle access to the south would be desirable but couldn't be achieved in the width of the highway and without loss or impact on the hedgerow. Pedestrian footpath and crossing facilities are provided here. Cycle provision is accommodated at the main site entrance or via the toucan crossing.</p> <p>The path to the north and the travel plan are required by condition.</p> <p>The Toucan crossing connects to a shared use path in both directions on the east side of Brixham Road. Heading south, this will take cyclists into Steed Close and through the 'Hookhills' development. Some of the footpaths in the area would be too narrow to be used as a shared path and the streets within 'Hookhills' are generally quiet and or wide.</p> <p>It is agreed that there is no segregated cycle access through Windy Corner, but there is some provision from the crossing to Bascombe Road. The Council will</p>
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	<p>not pointed out by the LPA. This impacts on sustainable access to the shops at Churston, Churston Grammar School, Brixham and the Dartmouth Road.</p> <p>The cycle route problems continue beyond this path and road link to Churston shops because there is no cycle lane or route through the Windy corner Junction which further blocks safe sustainable access to any destination on the Brixham Peninsula</p> <p>The TA states that the proposed development is a 14- minute cycle ride from Paignton mainline railway station. It fails to state that the route involved has no cycleway or even marked lane for most of its length and is along a perilously narrow and busy commuter and public transport route on the A379. A safe cycleway is feasible along / alongside this route with appropriate funding.</p> <p>The Local Plan requirements for new developments to contribute to a connected network of cycle routes appears to have been materially under applied, resulting in a total absence of sustainable routes in key directions.</p>	<p>point where a suitable crossing can be provided, it has not been possible to include a footway/cycleway in this area. Instead, a footway connection is proposed to serve pedestrians (see drawing 0734-029 Rev A). Cyclists heading to destinations to the south who do not wish to use Brixham Road on the section between the development and Hunters Tor Drive, can cross at the main access roundabout, or at the Toucan crossing, in order to proceed to the south along the existing off-carriageway footway/cycleway. This route is entirely segregated from the vehicle carriageway of Brixham Road. Contrary to BTC's suggestion, it is shown on the Torbay Cycle Map (see Travel Plan Appendix B) as a cycle lane* along the entire length of the A3022 corridor from north of the Long Cross junction, past the site, through to the A3022 junction with Hunters Tor Drive. From there a combination of advisory cycle route and traffic free cycle lane lead to the Churston shops. (* The first section north of Hunters Tor</p>	<p>continue to improve provision wherever possible. The S106 also includes a Sustainable Transport Contribution towards improvements of the cycle route between Paignton and Brixham (as identified in the Local Plan) though the precise route for that is still being established.</p> <p>There are existing improvements planned (some with identified funding) along the A379, A385 and through the Clennon Valley. Each of these will provide improved cycle opportunities and again, the planning contribution for cycle improvements to the Paignton – Brixham cycle route can support these if necessary at the time.</p> <p>It is important that there is no requirement for the cycle routes to be solely segregated, it is accepted that in some cases this will include on road provision, particularly through quieter residential areas. Connections are made directly from the site to the north both through to White Rock Way and also on the Eastern side of Brixham Road where it</p>
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		<p>Drive is shown on the Torbay Cycle Map as “On Road Cycle Lane”, although it is actually a segregated route not on the road.)</p> <p>(3) The footway/cycleway connection to the north is proposed on land controlled by the applicant.</p> <p>(4) Travel Plan documents are “live” documents that are subject to ongoing monitoring, review and update. If considered appropriate, Travel Plan targets will be amended. A planning condition is proposed to enable the Council to approve subsequent versions of the Travel Plan.</p> <p>(6) The improvements proposed at Windy Corner will improve pedestrian routes through the junction, providing a safe priority route to cross the A379 Dartmouth Road, linking to Churston Ferrers Grammar School, Galmpton and Brixham. Although not ideal, cyclists will be able to dismount to use these new facilities, which will not be provided if the development does not proceed.</p>	<p>continues through to Great Parks and then through to Marldon Road Torquay at Gallows Gate – a significant amount of this route is off road.</p>
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		<p>(7) The applicant proposes to make a S106 Sustainable Transport Contribution, which will enable Torbay Council to deliver improvements to the cycling network, including the route to Paignton Railway Station.</p> <p>(8) The appellant and Torbay Council agree that the development would make an appropriate financial contribution to improve the network of cycle routes serving the development and consequently, disagree with BTC.</p>	
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<p>Traffic analysis and Post-Application submissions</p> <p>2.15. The capacity analysis showed that the impact of development traffic would require mitigation at WindyCorner, so a further improvement was designed (see drawing 0734-061 Revision A3 at Annex A).</p> <p>The proposed improvement is located wholly on public highway land and land owned by Torbay Council and avoids the telecommunications equipment. Capacity analysis presented in the TA demonstrated that the further improvement would provide sufficient additional capacity to mitigate the impact of Inglewood development traffic.</p> <p>2.18. Instigated by a request from TCHD in May 2018, TN5 reassessed the capacity of the Windy Corner junction after adding in traffic generated by development sites proposed within the Brixham Peninsular Neighbourhood Plan (BPNP). The revised analysis included traffic from just one site within the BPNP, the Wall Park site. The further analysis of Windy Corner</p>	<p>BTC considers that the LPA’s request, described in TN5, for further capacity analysis of the Windy Corner Junction dated 15 May 2018 was inappropriately drafted, resulting in potentially inaccurate and misleading conclusions by Key Consultants. That request should have included a request to include the impact of developments in the portion of the greater Brixham Peninsula sitting within the Plymouth and West Devon LP area immediately adjacent to the BPNP area – the area now covered by the Kingswear Parish Neighbourhood Plan. That area shares the same unique A-road vehicular access point – Windy Corner.</p> <p>Had the request been correctly drafted, or had Key Consultants properly considered Peninsula traffic governing constraints, version 3.1 of TN5 dated Dec 2019 would have picked up the impact of the approved strategic zone development at Noss Dart Marina – SHDC application ref 2161/17/OAP dated 10 August 2018. That development consists of 129 dwellings, a 50 bedroom hotel, marine college premises, 232 wet</p>	<p>(1) In May 2018 Torbay Council requested that the applicant consider the traffic impact at Windy Corner of selected proposed developments in the Brixham Peninsula Neighbourhood Plan. This was addressed in Technical Note TN5. At that time no request was made to take account of any development proposals in the emerging Kingswear Parish Neighbourhood Plan (KPNP). This was reasonable because, according to the Timeline on the KPNP website, in May 2018 the KPNP was only at the drafting stage and had not been released for consultation. In practice, the KPNP was only submitted for formal consultation in April 2020. (For information, the formal consultation version of KPNP notes that “The JLP does not include a housing allocation at the village of Kingswear due to its sensitive location on a heritage coast and the entire Parish lying within the AONB. The Parish will be, however, providing over 100* new homes on the Noss On Dart site”. However, KPNP states that policy</p>	<p>This has come up before and to a point was a consequence of timing.</p> <p>It is typical that each development that comes forward considers what has been approved, and adds a growth level to traffic numbers. It is not expected that all sites in the development plan shall be considered.</p> <p>TEMPRO growth is applied so there is no reason to additionally add tourism data. If doing so gave rise to a clear figure for inclusion, a methodology to discount that from the included growth levels would be necessary.</p>
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<p>in TN5 considered the same scenarios in 2024 as those tested previously: the layout existing in 2018; the layout with the Torbay Council improvement implemented; and the layout with the proposed Inglewood further improvement. This demonstrated again that the further Inglewood improvement (then shown on drawing 0734-053) would fully mitigate the impact of Inglewood development traffic.</p>	<p>berths, 100 dry berths and extensive associated facilities. As a result of this omission, BTC considers TN5 to be invalid. BTC questions in any event a methodology based only on committed developments, and not the BPNP plan period housing delivery requirement of 675 dwellings. BTC questions also a methodology which discounts trends in the highly relevant Torbay and South Devon Tourism industry, with access not only to Brixham uniquely through Windy Corner but also the key tourist assets of the Kingswear section of the peninsula, together with Dartmouth and the South Hams. As a minimum some sort of trip analysis should have taken place using visitor board data, available number plate recognition technology and ferry company statistics, accompanied by appropriate sensitivity analysis.</p>	<p>compliant infill development within the settlement boundary will be supported. KPNP also states that exception sites will be considered adjacent to the settlement boundary and normally of no more than 10 dwellings where there is evidence of exceptional local need for affordable homes. * 130 dwellings were consented at Noss Dart Marina on 10th August 2018) (2) In line with the requirements of the National Planning Policy Framework, the Noss Dart Marina application would be expected to mitigate the impacts of the traffic it generates, including at the Windy Corner junction within the neighbouring Torbay Council area, should the local planning authorities consider it necessary. It is not for the Inglewood application to mitigate the impacts of the Noss Dart Marina development. Nonetheless, the improvements proposed at the Windy Corner junction will not only mitigate the impact of the Inglewood development traffic but will also provide some small further</p>	
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		<p>improvements to the capacity of the junction. Hence, future traffic conditions at Windy Corner can be expected to be better if the Inglewood development proceeds than if it does not, irrespective of whether the Noss Dart Marina and other developments in Kingswear proceed.</p> <p>(3) At each stage of the evolution of the Inglewood traffic analysis, the methodology has been agreed with the responsible local highway authority, Torbay Council.</p> <p>(4) The analysis has followed established practice by making appropriate allowances for existing traffic flows, traffic likely to be generated by committed developments and traffic generated by the proposed development.</p>	
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3.Recent update work

<p>Traffic Count Updates in 2019 3.1. As noted above, at the time of the application submission, TCHD were planning to implement their own improvement scheme at the Windy Corner junction, so the traffic impact in the TA was based upon the planned improvement layout contemplated at the time. The TCHD works were undertaken and substantially completed before the summer holidays in 2019. This meant that the capacity of the junction, the traffic flows through it, and perhaps elsewhere along the A3022, may have changed. 3.4. Technical Note 6 (TN6) is a report that compares the results of the May 2017 baseline surveys used in all previous traffic analysis with the results of the new surveys undertaken in July and September 2019</p>	<p>BTC considers that the 2019 traffic count updates are deficient in their failure to make any reference to the traffic and journey impacts of the Western Corridor road improvement works phase known as the Claylands Cross to Yannons Farm improvement scheme. This short section commenced in January 2018, with a scheduled completion date some 9 months later. In the event, the certificate of completion was issued on 23 August 2019 with some elements of work still outstanding – a time overrun of 11 months, or 122% slippage. Such was the traffic disruption caused for such an extended period that local travel patterns changed radically with many residents switching their journeys to the A379, resulting in concomitant traffic chaos on that road. On this basis, and with clear local knowledge of the scheme’s impact, BTC regards the traffic update work as invalid.</p>	<p>(1 & 2) In the spring of 2019 the applicant noted that Torbay Council’s improvement works to the south of Windy Corner were due to be completed by the summer of that year and recognised that completion of those works might lead to changes in the local traffic conditions. Meanwhile, third party representations had criticised the use of May 2017 traffic counts as a base for the traffic analysis in the original TA (even though those flows had been shown to be representative of high season conditions). For this reason, at the applicant’s instigation and by agreement with Torbay Council, further counts were undertaken in the summer holiday period of 2019. On review in TN6, it was found that the July 2019 summer holiday flows were actually lower than the May 2017 flows, so further counts were undertaken during term time in September 2019. In the event, as noted in TN6, the September 2019 counts were also mostly lower than</p>	<p>There will always be circumstances where the “what if” question is raised around survey data, be that the time of year, events on the network, whether conditions etc. What we do know is that the route was operating fully at the time of the surveys and the numbers do not appear too different from previous surveys. In respect of Windy Corner, one aspect to consider would be the total number of vehicles through the Windy Corner junction which will not have changed notably despite the routing along either the A379 or A3022.</p>
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		<p>those recorded in May 2017. Hence, it was agreed with Torbay Council that all traffic forecasts based upon the May 2017 counts plus allowances for other development traffic were and remain valid.</p> <p>(3) BTC suggest that in 2019 traffic may have diverted from the A3022 Brixham Road onto the A379 Dartmouth Road corridor because of roadworks elsewhere on the Western Corridor between Claylands Cross and Yannons Farm. The Council's website advises that final surfacing work for this project was to be completed overnight on Tuesday 16th July 2019, this being a few days prior to the start of the July 2019 traffic counts on Saturday 27th July.</p> <p>(4) It is acknowledged that traffic may have continued to divert to the A379 for a period after the works were completed. However, as explained above, the traffic analysis has been based upon May 2017 base flows, which would not have been affected by the works at Claylands Cross to Yannons Farm,</p>	
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		as they were not started until January 2018.	
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4. Drawings

<p>Drawing 0734-061 Windy Corner Highway Improvements tying in to Torbay Council 2019 improved layout</p>	<p>BTC disagrees with the 2 carriageway extensions included on this drawing and shaded in pink, as they both diminish footway/cycleway provision, the major of the 2 areas having only been constructed in 2019. The suggested alterations are wholly counter to local and national sustainable transport and decarbonisation policies, and based on unreliable survey data [<i>ibid</i>] In addition, the drawing makes no provision whatever for any cycleway traversing Windy Corner and thus linking the Brixham Peninsula with the rest of Torbay.</p>	<p>(1) BTC appear to have misunderstood the information presented on drawing 0734-061, as it does not propose to diminish the footway/cycleway provision at Windy Corner. Drawing 0734-061 has been superseded by drawing 0734-061 Revision A (presented in Appendix A of Technical Note 9) but the key is the same on both drawings. As indicated in the key, the pink shaded areas would become part of the widened carriageway, while the blue shaded areas would be new footway. To the east of Dartmouth Road and south of the junction, the crescent shaped pink area would become part of the widened carriageway and the lost area of the existing footway would be replaced by the similar crescent shaped blue area of new footway. Hence, after implementation of the improvements, the footway/cycle way width on the east side of Dartmouth Road to the south of the junction will be maintained at the same 3.0m width as was constructed in 2019 by Torbay Council. To the north of the</p>	<p>I don't believe that the footway is diminished in either area. To the north of the junction the grass verge is lost but the footpath is maintained. To the south of the junction, the kerb line is moved to the east but it is proposed that the shared path is moved as a whole so the width is retained. These proposals considerably enhance the pedestrian crossing facilities at the junction, in part to the detriment of some of the capacity for traffic – demonstrating that this improvement puts pedestrians first while still striking the balance so as not to cause a severe impact on the highway. The drawing maintains the shared path provision to the south of the junction (on an adjusted alignment) as implemented through the Torbay Council scheme recently. It is accepted that no further provision is made.</p>
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		<p>junction on the west side of Dartmouth Road, the pink area of proposed new carriageway is currently grass verge, so the adjacent footway would be unaffected. Elsewhere the footways would remain unchanged.</p> <p>(2) Improvements to the junction have been proposed and agreed with Torbay Council that will significantly improve the pedestrian crossing facilities to provide a safe, signal controlled route through the junction, while also increasing the traffic capacity by an amount sufficient to mitigate the impact of the development traffic. Within the tightly constrained space at the junction, it has not been possible to introduce a new cycle facility. However, the applicant proposes to make a S106 Sustainable Transport Contribution to enable Torbay Council to deliver cycle infrastructure improvements, should a suitable route be found.</p>	
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