

# TORBAY COUNCIL

## TOWN AND COUNTRY PLANNING ACT 1990

**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).**

### SUMMARY PROOF OF EVIDENCE

**David Pickhaver BA (Hons), MA, MRTPI**

#### **1.0 Preamble**

1.1 I am David Pickhaver, a Senior Planner at Torbay Council. I have been a Member of the Royal Town Planning Institute since 1995. I have a longstanding knowledge of the appeal site.

1.2 My view is that a proposal of this scale and impact should be brought forward through the plan making and not the decision taking stage. This would have allowed a full consideration of alternative options and sites. However, I respect that the appellants are entitled to seek a resolution of their application through appeal.

1.3 Whilst acknowledging the benefits of the proposal, I have concluded that the harmful impacts significantly and demonstrably outweigh these benefits. The harm arises from conflict with the development plan, particularly the Brixham Peninsula Neighbourhood Plan (BPNP), and the landscape impacts on the South Devon AONB.

1.4 The appeal proposal is highly controversial and has attracted objections from over 500 individuals as well as many organisations including South Hams District Council, Brixham Town Council/Neighbourhood Plan Group and the adjoining Parish Councils located within the Dart Valley.

1.5 Torbay Council's Planning Committee considered the application on 10<sup>th</sup> February 2020 and unanimously resolved that if the application were to be determined by the LPA it would have been refused as per the officer recommendation.

#### **2. The Site's History.**

- 2.1 The appeal site has a significant planning history. A business park proposal on the current site and land to the north was refused by the Secretary of State following a call in public inquiry in 1997 (CD7.3 (a-b)). Impact on the AONB was "*the most compelling*" reason for refusal, given the "*need to preserve the high quality of the Dart Valley AONB as one of the finest riverine landscapes in the country*". It was stated that "*the development itself and the very extensive areas of woodland planting envisaged would have a significantly adverse and wholly unacceptable visual impact on the AONB, the AGLV and the surrounding countryside...*"
- 2.2 The northern part of the site has subsequently been developed. The location of this land to the north of the ridgeline was a critical factor in the site being accepted for development in the Torbay Local Plan 1995-2011.
- 2.3 The appeal site was not included in the Submission Local Plan 2012-30. However, it was included as a Main Modification in 2014 following the Inspector's request that Torbay Council identify additional housing land. The site had to be removed primarily because of insufficient HRA survey evidence. Whilst the Inspector's Report (CD7.3(c)) did not offer a final view on the site, a reasonable interpretation of his report is that he considered the site capable of inclusion through an early review of the Plan. However, if the site had been persisted with it would have required greater scrutiny of landscape impacts.
- 2.4 The Council did not discourage the appellants from working up a detailed scheme, which resulted in the application (P/2017/1133) being submitted in late 2017.

### **3 Neighbourhood Planning in Torbay and conflict with the BPNP**

- 3.1 The Council's first putative reason for refusal relates to the conflict with BPNP.
- 3.2 Torbay Council embraced the Coalition Government's Localism agenda, and created three large neighbourhood plan areas in 2011. The Neighbourhood Forums were asked to allocate non-strategic sites to complement the Local Plan's strategic allocations. Brixham Neighbourhood Forum is a working group of Brixham Town Council. It is the smallest of the three Forums, covering the most environmentally constrained area of Torbay.
- 3.3 The Inglewood proposal conflicts with both the overall strategy of the Neighbourhood Plan, as well as its specific landscape and settlement boundary and gap policies. The

BPNP Group assessed the appeal site (CD6.6, p.p.82-3) but rejected it because *“(it would be a) major urban encroachment into an area of sweeping farmland which flows into the Dart Valley AONB...”*

- 3.4 Inglewood significantly exceeds the level of growth anticipated for the Brixham Peninsula, accounting for nearly 60% of its entire requirement between 2012-2030. It would represent a major deviation from the BPNP’s strategy of focussing growth on urban brownfield sites, rather than the highly sensitive rural hinterland.
- 3.5 Policy E3 of the BPNP designates a Settlement Gap across a substantial part of the Inglewood site, where *“No development that visually or actually closes the gap between...urban areas will be supported”*. Policy E6 safeguards views and vistas, including those to the River Dart.
- 3.6 The fields to the south of the Inglewood site have similar landscape characteristics to Inglewood. Once the principle of development south of White Rock Knoll is breached, the case to resist further development in this part of the rural landscape would be much reduced.

**Why the Neighbourhood Plan should be given very significant weight despite a Bay-Wide Housing Shortfall.**

- 3.7 The BPNP has allocated sites to meet its housing requirement in full and has exceeded this by 17% (2012-20). The Bay wide housing shortfall emphatically cannot be blamed upon the BPNP area. Accordingly it is unfair to deprive the BPNP of the additional protection afforded by paragraph 14 of the NPPF for reasons outside of its control.
- 3.8 Localism has been enshrined in law through the Localism Act 2011. The BPNP was supported by an 88.2% “yes” vote at referendum in May 2019 and was unanimously endorsed by Full Council in June 2019. As well as meeting all the legal tests, it has a moral force: many volunteers worked tirelessly to prepare the plans, often making very significant personal sacrifices. If the government wishes to resile from localism, it should do so through primary legislation; not rely on non-statutory policy documents. As statements of government policy the NPPF and PPG are material considerations, but do not change the statutory status of the development plan as the starting point for decision taking.

- 3.9 The policy of localism was promoted by the government as being more than tokenism. It was described by the former Secretary of State (Eric Pickles) as being “*Red in Tooth and Claw, about passing real power to local communities*”. Speaking at Collaton St Mary in December 2019, Robert Jenrick, Secretary of State MHCLG, reaffirmed the government’s commitment to localism, and stressed that neighbourhood plans and referendum results should be respected (CD7.4).
- 3.10 The BPNP’s policies remain rational, lucidly set out, and serve a clear planning purpose.

#### **4 Conflict with the Adopted Torbay Local Plan (Reason 2)**

- 4.1 Conflict with the Local Plan is cited as a second putative reason for refusal. Policy SS2 directs growth to the built up area or allocated “Future Growth Areas” and resists major development outside them. Policy C1 designates the area as countryside. It refers to the Landscape Character Assessment (Enderby Associates 2010) which designates the site as 1O Rolling Farmland that should be protected (CD6.3). Policy SS8.3 protects the setting of the AONB.
- 4.2 There are countervailing policies in the Local Plan intended to boost housing supply. Taken as a whole the conflict with the Local Plan is not absolute and there would be a case for approval if all other matters were resolved. But they are not. The conflict with the Neighbourhood Plan and landscape harm cannot be overcome.

#### **5 Impact on the AONB and Settlement Gap.**

- 5.1 This proof relies on the evidence given in Mr Knott’s and Mr English’s evidence.
- 5.2 The development of rolling farmland within the setting of the AONB would harm the character of the AONB seen from several important public vantage points. These are principally above Dittisham across the River Dart, and to the south of Galmpton. Policy relating to AONBs is a matter covered under footnote 6 of the NPPF and so consideration of it falls under paragraphs 11(d)j and 172 of the NPPF; i.e. the “tilted balance” may not be engaged in determining this aspect of the appeal.
- 5.3 Whilst the BPNP’s settlement gap (Policy E3) and vista towards the AONB (Policy E6) are more local considerations, the harm to these would be significant and demonstrable. The sense of openness that opens up when travelling south past White Rock represents a significant change in the landscape character, from urban to open rolling farmland with clear vistas towards the Dart Valley. This is experienced by many

thousands of people every day, and has an economic value for tourism as well as visual importance

## **6 Summary and Conclusion**

- 6.1 I have attempted to assess the proposal fairly. There are two main factors why I could not recommend approval. Firstly the significant conflict with the BPNP and harm that approving the scheme would cause to localism.
- 6.2 Secondly, landscape impacts cannot be overcome. This is both in terms of the harm to the open vista of rolling farmland, and also the impact on the AONB when viewed from important public vantage points.