

**South Devon AONB Unit
On behalf of Torbay Council**

**APP/X1165/W/20/3245011: Land to the South of White Rock
LPA Reference P-2017-1133**

**Roger English
Area of Outstanding Natural Beauty matters
Proof of Evidence**

14 December 2020

1. Introduction

1. My name is Roger English. I am the Manager for the South Devon Area of Outstanding Natural Beauty (AONB) Partnership and its Staff Unit.
2. I hold a Bachelor of Science with honours degree in Rural Resource Development from Writtle College and Anglia Polytechnic University, with a specialism in landscape and wildlife conservation. I have been an active member of the Devon Landscape Policy Group since 2005.
3. I have over 25 years' professional experience of rural, urban fringe and coastal landscape management. My professional experience encompasses a wide range of designated landscape management disciplines including landscape research.
4. I have held the post of South Devon AONB Manager since January 2015. Between November 2003 and December 2014 I held the post of AONB Projects Officer for the South Devon AONB.
5. I have been involved in the development of all four iterations of the statutory AONB Management Plan for the South Devon AONB including developing the South Devon AONB special qualities. Other work has included commissioning and reviewing landscape character assessments, developing and reporting on landscape monitoring programmes, academic research in landscape, natural beauty and special qualities, contributing to the development of national programmes for monitoring and reporting on landscape change.
6. I provide specialist advice to the South Devon AONB's four local planning authorities on natural beauty conservation and enhancement matters, in relation to development management and strategic planning matters, and the s85 Countryside and Rights of Way Act 2000 duty of regard. I do not normally provide expert witness input to appeal cases but in this instance the assessed impacts of this proposal upon the AONB are judged to be of substantive concern to the South Devon AONB Partnership and warrant AONB Unit representation in support of Torbay Council.
7. The evidence which I have prepared and provide for this appeal is true and I confirm that the opinions expressed are my true and professional opinions.

2. Background and Context

8. The South Devon AONB Unit on behalf of the South Devon AONB Partnership and in accordance with an established AONB Planning Protocol provide advice to its constituent local planning authorities, including Torbay Council, on designated landscape matters. This includes advice on applications for development likely to have an effect upon the statutory purpose for AONBs, the conservation and enhancement of natural beauty of the AONB, irrespective of whether the Appeal Site lies inside or outside of the designated landscape.
9. In my position as South Devon AONB Manager I have been involved from an early stage with the provision of advice to Torbay Council on the Land South of White Rock proposal through to present day. At a very early stage significant concerns were raised regarding the sensitivity of the Appeal Site in the setting of the South Devon AONB and likely impacts upon the natural beauty of the South Devon AONB itself.

10. I have been involved with the Land South of White Rock application P-2017-1133 from pre-application stage through to the present date and Appeal. I have visited the Appeal Site, its surroundings and I am familiar with the plans and documents relating to this inquiry.
11. I was involved at pre-application stage with the land to the South of White Rock proposal adjacent to Brixham Road, Inglewood, Paignton (APP/X1165/W/20/3245011) (the Appeal Site). I provided comments on the application on behalf of the South Devon AONB Partnership. I have been intermittently advising Torbay Council post submission of the planning application, since 2017.
12. During the consultation phase for this application I provided two submissions to Torbay Council, both of which form appendices 2a and 5 to the Torbay Council Statement of Case **[CD7.10]** for this appeal.
13. In my first submission dated 15th December 2017 **[CD4.17]** based on the available evidence I took a different view to the applicant's landscape advisers and considered the proposal to have an unacceptable impact on the special landscape qualities of the nearby South Devon Area of Outstanding Natural Beauty ('the AONB'). I also considered it was, as a consequence, contrary to the principal material protected landscape policies. It failed to conserve and enhance the rural setting to the South Devon AONB. I noted that the proposal on an unallocated site relies heavily upon a range of mitigation measures but taking these into account there would still be an unacceptable residual level of harm to the South Devon AONB.
14. Following revisions by the applicants and formal reconsultation I provided a second submission dated 10th May 2018 **[CD4.18]**. I recognised the positive steps taken by the applicant in reducing localised impacts to the area in the vicinity of viewpoint 16 and restricting building heights in some locations. However, in overall terms this had limited effect on reducing the total level of harm to the South Devon AONB and its setting. As a consequence, my analysis found that the assessment's conclusions substantially underplayed the landscape scale effects and harm to the South Devon AONB.
15. Despite the revised proposals achieving a small reduction in the level of AONB harm I still considered the residual impacts and consequential harm to the natural beauty of the South Devon AONB to be substantive and of an unacceptable level.
16. I considered the revised proposal to represent a large scale housing development, school, public house and open space on an unallocated site, in an environmentally sensitive location that makes an important and substantial contribution to the natural beauty of the South Devon AONB. I considered the material submitted by the applicant clearly demonstrated the Appeal Site to be inappropriate for a development of the intended scale and nature and that the proposal is neither appropriate nor proportionate to the South Devon AONB setting.
17. I have continued to support Torbay Council on this case contributing to the Statement of Case **[CD7.10]**, Landscape Position Statement **[CD7.24]** and to prepare an AONB matters proof of evidence and act as AONB expert witness for this appeal.

Scope of Evidence

18. My proof of evidence covers Area of Outstanding Natural Beauty matters in relation to the planning appeal for proposed development on land to the South of White Rock adjacent to

Brixham Road, Inglewood, Paignton (APP/X1165/W/20/3245011) (subsequently referred to in this proof of evidence as the 'Appeal Site').

19. I will address the following matters in my proof of evidence:
20. In my evidence I will focus on the requirement that development within and in the setting of the AONB should conserve and enhance the natural beauty of the AONB, including its landscape and scenic beauty.
21. I will then consider the impacts derived from development in the setting of the South Devon AONB upon the natural beauty, special qualities and distinctive characteristics of the nationally important landscape known as the South Devon AONB. The evidence supports Torbay Council's principal putative AONB reason for refusal.
22. The complementary proof of evidence provided Mr Stephen Knott of Jacobs will give evidence covering Landscape and Visual Impact Assessment (LVIA) matters. Mr Stephen Knott concluded that despite mitigation, significant residual adverse effects on the setting of the AONB would remain. It concluded that the landscape impact would be greater than suggested by the appellant's LVIA.

Torbay Council's Reasons for refusal

23. Although the appeal has been lodged on the grounds of non-determination, Torbay Council have made it known in their Statement of Case **[CD 7.18]** that had the Council determined the application for the proposal at Inglewood, Paignton, the recommendation would have been refusal. The LPA's third reason for refusal is as follows:

"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)".

The Appeal Site: context

24. I have made multiple visits to the Appeal Site and surrounding area from pre-application stage through to appeal stage covering the period late 2016 to current date. This includes an accompanied visit in January 2017 to the Appeal Site and representative viewpoints with Jane Thomas of Nicholas Pearson Associates, Mr Paul Bryan and Mr Mark Pearson; multiple unaccompanied visits to various viewpoints including during hours of darkness; and with Mr Stephen Knott in March 2020.
25. Appendix 4 of the Torbay Council Statement of Case **[CD7.19]** 'Proposed Residential Development at Inglewood, Outline Planning Application P-2017-1133: Landscape and Visual Comments' (Jacobs, June 2018) **[CD1.41]**, provides a brief description of the Appeal Site and the surrounding landscape context.
26. Mr Stephen Knott's proof of evidence **[CD7.28]** sets out the Appeal Site's landscape character, key views, proposed masterplan, LVIA methodology, landscape and visual effects,

Galmpton settlement gap, and introduces the South Devon AONB Management Plan together with key polices and AONB special qualities.

3. The role and function of the land affected by the proposal.

Location and relationship with the South Devon AONB

27. All parties agree in Section 2.0 of the joint Landscape Position Statement **[CD7.24]** that the Appeal Site lies within the setting of the South Devon AONB.
28. Taken as a whole, the complex shape of the AONB itself and location of the boundary create an extensive inland edge. Some components of the AONB are relatively narrow and consequently vulnerable to external pressures and adverse change. This is particularly true for the Dart Valley, Avon Valley and Stoke Fleming, Blackpool and Stokenham coastal components. Above Maypool and in the vicinity of the Appeal Site the Dart valley component of the AONB is on average just 2.5kms across. Within this the expanse of estuary waters varies significantly along its length. Near Waddeton this can be as little as 300m such as between Higher Gurrew Point and East Wood and as much as 1km between Lower Gurrew Point and the entrance to Galmpton Creek. Conversely the terrestrial component at Waddeton is just 600metres in depth. Consequently, the extent, character and condition of the AONB setting are of great importance to successfully maintaining the integrity of these narrow terrestrial components of the South Devon AONB, such as in the vicinity of Waddeton.
29. The rural countryside setting to the AONB is of particular significance. The field system of which the Appeal Site's five fields forms part, is topographically, hydrologically, visually and by virtue of its complementary character, closely associated with landscape found within the AONB near Waddeton. The lack of a hard or notable boundary to the AONB in the vicinity of the Appeal Site together with the well defined boundary of Brixham Road to the north-east reinforces the link and relationship with the continuation of the Dart Valley slope. While the AONB special qualities are primarily focused upon describing the AONB itself, the character that supports those special qualities does not abruptly stop at the AONB boundary. In this way the Appeal Site complements the high quality landscape of the AONB, avoids a hard or incongruous artificial boundary part way up the valley slope and aids the transition to urban area around a natural ridgeline.
30. Mr Stephen Knott describes in his proof of evidence **[CD7.28]** the predominantly wooded ridgeline defined by the A3022 Brixham Road and the separation of middle ground and distant views of the South Devon AONB that occur from high ground above Dittisham, for example from viewpoint 7a. The Appeal Site and surrounding field system clearly read as upper rolling farmland slopes complementary in character and strongly connected to the Dart Estuary and South Devon AONB. On anything other than clear days, haze or low cloud reduces clarity of long views over the A3022 and intermediate ridgeline to the built environment of Torquay. Under these conditions the Appeal Site's relationship with the Dart Estuary and the AONB is further emphasised.
31. The public rights of way network and more formally, key strategic recreational routes of the Dart Valley Trail and John Musgrave Heritage Trail span the landscape both within and outside of the AONB offering lengthy sequences of views during walks, opportunities to pause and take in the view from higher ground and glimpse framed views through occasional gate

gaps. The topographical relationship of the Appeal Site when enjoyed from elevated land within the AONB to the south and south west of the River Dart results in oblique views of the Appeal Site field system. The Appeal Site's rural character and agricultural use is more typical of nearby South Hams and appears associated with the Dart Estuary rather than the built environment of Hookhills, and Torbay in general. Mitigation planting to the north for the earlier White Rock scheme, that currently intrudes in some views, will in time also assist in separating the edge of that development from the agricultural landscape of the Appeal Site.

32. For road users heading in the Brixham direction on the A3022 from Tweenaway Cross, approximately 2.5kms are travelled on dual carriageway with built development to both sides and topography preventing countryside or middle to long views. On passing the junction with Kingsway Avenue near the Lidl store, the A3022 narrows to single carriageway and crests White Rock knoll. At this point a vista opens up to the south and southwest across the agricultural character of the Appeal Site. A visual connection is made with the rural landscape and middle to long distance views of the South Devon AONB. This intervisibility is one of few opportunities available, with an inherent value and provides a marked contrast to the previously travelled urban, contained landscape.
33. The settlement pattern of the AONB in the vicinity of the Appeal Site is one of estuary side villages and towns including Stoke Gabriel, Dittisham, Kingswear and Dartmouth with historic cores closely associated with the water's edge. Post war expansion has spread settlement boundaries away from the water's edge up slope but has typically stayed away from ridgelines instead following combe valleys such as for Galmpton. By contrast, hamlets and scattered farmsteads can be found both adjacent to the water's edge and further inland often located astride the lane system or at notable junctions. Away from the AONB the urban edge follows clear boundaries such as roads and ridgelines, though incremental and creeping development means the edge is increasingly visible on the skyline, a factor that risks eroding the natural beauty of the South Devon AONB. The form of the appeal proposal does not fit into any of these established settlement pattern types and instead would be notable as urban sprawl extending down from the ridgeline displacing open countryside.

Torbay Local Plan Policy C1 Countryside and Rural Economy

34. Mr Stephen Knott's complementary proof of evidence **[CD7.28]** shows that the proposal would lead to a loss of open countryside, create urban sprawl and would erode rural character.
35. The character and nature of the Appeal Site informing the setting to the AONB in addition to the open views it affords into the AONB and its function to provide adequate separation between the AONB and Hookhills, White Rock and Galmpton, warrants recognition as a landscape of value to residents and visitors. The value of the landscape in which the appeal site sits is recognised for these reasons in the Brixham Peninsula Neighbourhood Plan 2012-2030 **[CD6.17]**.

AONB Management Plan and AONB Planning Guidance

36. The AONB Management Plan is composed of a strategy, a delivery plan and annexes **[CD6.10]**. They respond to the opportunities and current pressures in the South Devon AONB and its setting, providing detail on strategy, policy, special qualities and the actions of others who influence or make decisions affecting the area. The plan formulates local authority policy

and action in relation to the management of the South Devon AONB as required under Part IV, Section 89 of the Countryside and Rights of Way Act 2000 ('the CROW Act 2000'). This means the policies and actions set out in the Management Plan give effect to the statutory purpose of designation for the AONB, the conservation and enhancement of its natural beauty. It provides guidance and support to statutory undertakers and any public body or person holding public office to fulfil the Section 85, '*duty to have regard to the purpose of conserving and enhancing the natural beauty of the AONB*'.¹

37. The first statutory AONB Management Plan under the CROW Act 2000 was developed and published in 2004. The same legislation requires that the plan must be reviewed at intervals not exceeding five years. The latest plan is the fourth iteration of the statutory plan developed through a robust process including initial review and scoping, stakeholder consultation, sustainability appraisal and strategic environmental assessment, habitat regulations assessment, a six-week public consultation, analysis of representations, final drafting and then adoption by the AONB Partnership Committee and its constituent local authorities, including Torbay Council. As an annex to the AONB Management Plan, the South Devon AONB Planning Guidance was developed following a similarly rigorous process.
38. The AONB Management Plan and its planning guidance annex provide detailed guidance on how planning and development can conserve and enhance the natural beauty of the South Devon AONB.
39. Development of the AONB Management Plan is undertaken by the South Devon AONB Partnership through the AONB Staff Unit on behalf of the four local authorities acting jointly.

4. Impacts, Natural Beauty and Special Qualities

40. The sole criterion for which AONBs are designated is their 'natural beauty'.² The statutory purpose of designation is the conservation and enhancement of their natural beauty. The special qualities seek to summarise the unique natural beauty of the South Devon AONB. The approach to special qualities necessarily cannot, nor do they set out to, describe the AONB's natural beauty in its entirety. They "*identify what is distinctive about that area and help to identify what is most important to be conserved and enhanced.*"³
41. The South Devon AONB has a complex and varied landscape. Its landscape character has been analysed and described at a range of levels in different assessments. The high level, overarching term natural beauty includes landscape and scenic quality, relative wildness, relative tranquillity, natural heritage features and cultural heritage, that come together to make an area distinctive.
42. Ten special qualities summarise the unique natural beauty for which the South Devon AONB is designated as a nationally important protected landscape. The special qualities were developed from a wide range of assessments identifying the key attributes that make the area special and worthy of designation as an AONB.

¹ South Devon AONB Management Plan 2019-24, p10

² Countryside and Rights of Way Act 2000

³ Annex 4 of the South Devon AONB Management Plan 2019-2024: 'Understanding the special qualities of the South Devon AONB' p2

43. Distinctive characteristics are those components that define what it is that gives South Devon its sense of place and generally apply to areas smaller than the AONB as a whole. Key features are specific and include detailed locations, places, landmarks, occurrences, events etc. that are of particular significance to South Devon and help illustrate how or where the special qualities, distinctive characteristics and natural beauty can be seen.
44. I note that the applicant's LVIA [CD1.22] and Statement of Case [CD7.18] seek to narrow the interpretation of the relevant special qualities and the AONB's natural beauty. This is not in the spirit of the purpose of AONB designation. In consequence, judgements on the impacts on its special qualities and natural beauty are skewed towards being evaluated as minor or negligible, or ruled out altogether.
45. Each component of natural beauty identifies what is special about the landscape and should be afforded 'great weight' in planning decisions.

AONB Special Quality: A variety in the setting to the AONB

46. The Appeal Site makes an important contribution to the special qualities of the South Devon AONB. Its current use as agricultural land and its rural character complement the landscape within the AONB and eases the transition from exceptionally high quality AONB landscape to the A3022 Brixham Road and the defined urban edge to Paignton.
47. The countryside here contributes to the rural setting of the South Devon AONB and provides both a buffer and transition zone between the urban areas of Torbay to the north and the Dart Estuary within the AONB to the south. This rural buffer helps maintain the tranquillity of the AONB and forms a countryside backdrop to many iconic views across the Dart Estuary. In such views, the quality of the rural landscape does not abruptly change at the AONB boundary. It is noted that at its closest point, the Appeal Site lies approximately 500m to the north of the AONB boundary, and that the Appeal Site is visible in more distant elevated views from parts of the AONB including regional recreation routes.
48. Proposed development of the application Appeal Site would change its intrinsic character from rural agricultural to urban and would also result in visual changes apparent in views from multiple viewpoints, but principally from the southwest and south-southeast.
49. Visits to viewpoints are strongly encouraged despite the applicant's LVIA [CD1.22, CD2.0, CD2.22] photomontages and viewpoint photography. In real term views the middle distance ridge of land and ribbon of properties to the north-east of the A3022 is clearly discernible as the edge of settlement. This is quite distinct in views from the land and development of Torquay in the far distance. The proposal effectively extends the developed edge of Paignton toward the AONB boundary, reducing the rural setting to the AONB in this area. I consider that the proposal introduces a marked change that harms the AONB's special qualities.

Policy and guidance on setting

50. National Planning Practice Guidance ID8 addresses the Natural Environment with paragraphs 8-036 to 8-043 covering landscape matters. Of note is ID: 8-042-20190721 [CD6.11] "How should development within the setting of National Parks, the Broads and Areas of Outstanding Natural Beauty be dealt with?" This states:

"Land within the setting of these areas often makes an important contribution to maintaining their natural beauty, and where poorly located or designed

development can do significant harm. This is especially the case where long views from or to the designated landscape are identified as important, or where the landscape character of land within and adjoining the designated area is complementary. Development within the settings of these areas will therefore need sensitive handling that takes these potential impacts into account”.

51. AONB Management Plan policies most relevant to development in the setting of the AONB are:

- **Lan/P7 Setting to the AONB** *The deeply rural character of much of the land adjoining the AONB boundary forms an essential setting for the AONB and care will be taken to maintain its quality and character.*
- **Lan/P5 Skylines and visual intrusion** *The character of skylines and views into, within and out of the South Devon AONB will be protected...*
- **Plan/P2** *Development management decisions will give great weight to the purpose of conserving and enhancing the natural beauty of the south Devon AONB; and support development that is appropriate and proportionate to its setting within or adjacent to the South Devon AONB*

52. The proposal is contrary to these policies because it does not maintain the quality and character of the setting, it is not proportionate to its setting adjacent to the AONB (i.e. in the AONB’s setting) and it does not protect skylines and views out of the AONB. It cannot be said to conserve and enhance the AONB.

Planning for the South Devon AONB: Planning Guidance (2017)

53. Planning for the South Devon AONB: Planning Guidance (2017) is an annex of the AONB Management Plan [CD6.10]. It helps to give effect to the Management Plan policies in the exercise of planning functions. It provides detailed guidance on how planning and development can conserve and enhance the natural beauty of the South Devon AONB.

54. Section 4.6 of the guidance explains the “setting” of the AONB. It acknowledges that land in the setting does not have the same protection as AONB per se; but that the AONB should be protected from unacceptable effects arising from development within the setting.

55. Section 8 (p112) provides guidance for development. Section 8.10 relates to development in the setting of the AONB. It states criteria for developments that have potential harm to the natural beauty of the AONB including:

- Development that, by virtue of their nature, size, scale, siting, materials, or design have a negative impact on the special qualities of the AONB, for example tall, large or otherwise conspicuous developments that are discernible at considerable distances in all or particular weather conditions;
- Developments that block or interfere with views out of the AONB or affect land within those views out of the AONB, particularly from public viewpoints; and
- Developments that result in the deterioration or loss of tranquillity through the introduction of lighting, noise, or additional traffic movement which is visible or audible from land or water in the AONB, or affects flora or fauna in the AONB.

56. It also lists characteristics of development in the setting of the South Devon AONB which conserve and enhance the AONB (p113). These provide that development should:
- Avoid prominent locations for development that would have significant impacts on important views out from or into the AONB
 - Thoroughly assess the positive and negative landscape and visual impacts of development on the special qualities of the AONB
 - Assess cumulative impacts on the experience of the AONB as a whole and not just in terms of impacts on individual and sequential views along linear routes
 - Take care over the design, orientation, site layout, height, bulk and scale of structures and buildings
 - Consider not just the site but also the landscape and land uses around and beyond it
57. Other criteria are set out relating to design, massing and siting of structures
58. I consider the proposal to be contrary to the principal national planning practice guidance and local AONB Planning Guidance relating to development in the setting of the AONB.

AONB Special Quality: Iconic, wide, unspoilt and panoramic views

59. The setting of an AONB may reflect the character of the AONB or be distinct from it. Torbay and the rural area between it and the AONB, both make important contributions to the panoramic views from the AONB. They have very different characters and it is the balance between them that is important. Changing rural agricultural land to urban development and the way they relate to each other and to the AONB will have a considerable effect on the balance.
60. Given the built environment and urban sprawl of Torbay beyond the middle ridge line of the A3022 Brixham Road, the value of the unspoilt agricultural fields and rural character of the Appeal Site is markedly increased in views from elevated ground within the AONB. Substantial elements of the near to middle distance view for example from Fire Beacon Hill toward the Appeal Site, and from the John Musgrave Heritage Trail south of Galmpton are natural in their character and appearance.
61. The applicant's interpretation in paras 4.3 and 4.4 of their SoC [CD7.18] of the rationale and this special quality does not provide a sound basis on which to judge the likely effects of the proposed development on iconic, wide, unspoilt and panoramic views. "*Vantage points with views that only contain natural features that are consistent with landscape character represent a diminishing, highly valued resource that is very highly regarded*" is a rationale for the special quality, it is not a criterion, but describes the value of this type of view to this special quality. That views which only contain natural features are a "*highly valued resource*" does not prevent views which contain non-natural features from being of natural beauty or contributing to this special quality or to the designated purpose. Nor does it prevent them from requiring the highest level of protection to be applied to their conservation and enhancement.
62. Management Plan policies most relevant to the conservation and enhancement of this special quality are:

- **Lan/P1 Character** *The special qualities, distinctive character and key features of the South Devon AONB landscape will be conserved and enhanced;*
 - **Lan/P5 Skylines and visual intrusion** *The character of skylines and open views...out of the AONB will be protected. Priorities include...external lighting that creates night time scenic intrusion, and visually dominating buildings that are inconsistent with landscape character.*
63. The character of open views out of the AONB will be markedly adversely affected in the manner that Mr Stephen Knott describes.
64. Mr Stephen Knott concludes the proposed development would cause a clearly noticeable deterioration in the existing views from Fire Beacon Hill with the magnitude of residual visual effects for viewpoints RV6a and RV7a assessed as medium adverse. Sequential views from the strategic recreational route of the Dart Valley Trail above Dittisham, viewpoints RVb, RVc and RVd would experience significant adverse visual effects from the proposed development.

AONB Special Quality: Areas of high tranquillity, natural nightscapes, distinctive soundscapes and visible movement

Relative tranquillity

65. The applicant suggests that the characteristics that contribute to the quality of tranquillity are absent in views of the Appeal Site from the AONB. However, the Appeal Site which has a rural character and appearance would be “perceived as being natural” in the view by receptors in the AONB. The applicant’s interpretation in paragraphs 4.5 to 4.8 of their Statement on Landscape, Visual and AONB Matters [CD7.9] of the rationale and this special quality does not provide a sound basis on which to judge the likely effects of the proposed development on the tranquillity and natural nightscapes of the South Devon AONB.
66. The relevant natural beauty factor is “relative tranquillity”and therefore, it is a matter of degree. Natural England’s AONB designation guidance [CD7.2] makes it clear that there will be variations in the relative tranquillity across a designated area. Those areas of highest tranquillity in the AONB are the most valuable, as illustrated in the special qualities tables. Nonetheless, the current level tranquillity of all areas of the AONB are to be conserved and enhanced.
67. The *relative* tranquillity where the AONB is influenced by its setting remains important for its natural beauty even though this does not have high tranquillity. It is a fact that an area of lower relative tranquillity in the AONB is offered, by law, an equal status of protection as its areas of highest tranquillity. Whatever the level of relative tranquillity of a part of the AONB, regard must be had to its conservation and enhancement.
68. The current predominantly rural, agricultural character of the Appeal Site and its surrounds towards the AONB serves to reinforce the perception of the AONB’s rural character in contrast to the urban development over the ridge. To bring more of the urban fringe area over the ridge and further down the slope would be to alter the balance of countryside to urban character in views from the AONB. This change in balance is what would detract from the sense of relative tranquillity of the AONB.
69. The Appeal Site’s valued role in the setting of the AONB is already well covered in my earlier sections on the role and function of the Appeal Site, setting to the AONB and views. It makes

a notable contribution to the relative tranquillity experienced within the AONB. The proposed development will decrease the relative tranquillity of the setting to the AONB and consequently adversely alter the balance of relative tranquillity experienced within the AONB.

70. If an impact fails to conserve and enhance natural beauty and the factors that contribute to that natural beauty, then the impact should be deemed adverse. The AONB purpose is to conserve and enhance natural beauty. As such, any erosion of relative tranquillity cannot be considered to conserve, and certainly not enhance. The appropriate test or threshold is not 'significant' harm, but whether natural beauty is both conserved and enhanced.
71. It is logical that the levels of tranquillity at the edge of an AONB are unlikely to be as high as those in more deeply rural interior areas. This does not mean that the 'relative tranquillity' levels in these areas which suffer from the 'edge effect' caused by the urban settlements of Torbay, Paignton and Plymouth do not still require the highest level of protection to be applied to their conservation and enhancement. If we erode tranquillity in these edge areas, this expands the 'edge effects' from the setting further into the AONB. For an AONB with relatively narrow linear elements such as the Dart Valley component this needs to be given greater consideration and weight.

Natural nightscapes

72. 'Nightscapes' and 'dark night skies' are discrete terms used in the AONB Management Plan **[CD6.10]** and contribute toward relative tranquillity and relative wildness natural beauty factors. The term 'nightscape' does not solely refer to the upwards view of the dark night sky. It refers to the darkness of the surrounding landscape when viewed at night. At night there is clearly a different cognitive and perceptual experience to be gained in views of dark undeveloped agricultural fields containing no artificial lighting, than in views of urban development with lighting from within houses, from street lighting and vehicle movements. The development would introduce artificial lighting altering the night time character and appearance of the Appeal Site from which flows harm to the natural nightscape of the setting to the AONB.
73. It is this change in the balance of relative naturalness of the nightscape in views from the AONB that harms the natural beauty of the AONB and detracts from the relative tranquillity.
74. The advancement of the developed area down the slope would also diminish relative wildness by decreasing the distance (and perceived distance) from significant habitation. Again, the narrow terrestrial land to the AONB in the vicinity of the Appeal Site in oblique views from Dittisham is particularly susceptible to this effect from glare and conspicuity of luminaires.
75. Given that the proposal would introduce lighting across what are currently five agricultural fields there will be an increase in sources of conspicuous light sources, glare and skyglow arising from the proposal with localised impacts being greatest. Cumulative impacts on the AONB of lighting when considered in combination with other adjacent development and the spill of lit areas will contribute to further erosion of the dark night sky resource of the South Devon AONB.
76. That the setting of the AONB has lower relative tranquillity owing to past decisions on development since its designation is not a rationale for justifying further adverse cumulative effects. Instead, cumulative impacts heighten the need for a stricter approach to prevent

further erosion of natural nightscapes and ensure the conservation and enhancement of the AONB's natural beauty.

77. The most pertinent AONB Management Plan policy to these matters is Lan/P4 Tranquillity which requires tranquillity, natural nightscapes and dark skies to be enhanced and maintained. The development proposal is contrary to this policy bearing in mind that relative tranquillity is the natural beauty factor when considering this element of the policy and special quality.

Other AONB special qualities

78. I consider that four other AONB special qualities are adversely affected to varying degrees by the development owing to the proximity to intact, high quality landscape constrained within a narrow terrestrial band heavily reliant on the complementary character in its setting. These special qualities are:
- Ria estuaries (drowned river valleys), steep combes and a network of associated watercourses,
 - Deeply rural rolling patchwork agricultural landscape,
 - A landscape with a rich time depth and a wealth of historic features and cultural associations, and
 - An ancient and intricate network of winding lanes, paths and recreational routes.

Cumulative effects upon natural beauty

79. Above all, it is the actual words of the relevant statutory provisions which need to be applied in assessments of harm during decision-taking where the natural beauty of AONBs is affected.
80. Therefore, assessments of harm to the AONB should pertain to the natural beauty factors set out by Natural England in their guidance on the designation of protected landscapes **[CD7.2]**. These are:
- Landscape quality
 - Scenic quality
 - Relative wildness
 - Relative tranquillity
 - Natural heritage features
 - Cultural heritage
81. Since natural beauty arises from the complex interaction of these factors it is insufficient to assess the effects on these factors or special qualities individually. The harm to natural beauty as a whole may very well be greater than the sum of the harm to each of these factors individually. Any assessment of harm must consider the interrelationships between these factors and consequential synergistic, antagonistic and cumulative effects for natural beauty as a whole.⁴
82. Mr Stephen Knott in his Landscape Advice **[CD1.41, CD1.42]** concluded that despite mitigation, significant residual adverse effects on the setting of the AONB would remain. He

⁴ AONB Planning Guidance, para 144

concluded that the landscape impact would be greater than suggested by the applicant's LVIA [CD1.22].

83. Despite the mitigation strategy, the proposed development alone and in combination with a range of other recently consented development in the vicinity (including Industrial units at Woodview Road, White Rock housing, sports pitch and MUGA floodlighting), the proposal would result in a diminution of natural beauty and an unacceptable level of harm to the AONB's special qualities. There is a clear risk to the rural character of the AONB's setting inherent in development reaching over the skyline and creeping downslope facing the AONB boundary.
84. I consider that any noticeable erosion to the rural character of the South Devon AONB's setting, quality of scenic views, tranquillity, dark skies and natural nightscapes enjoyed from within the AONB should be considered contrary to policy and consistent with paragraph 172 of the Framework [CD6.34], given great weight in the planning balance as matters of landscape and scenic beauty.
85. The proposal is contrary to the South Devon AONB Planning Guidance [CD6.10], particularly section 8.10 'Development in the setting of the AONB' as a proposal that has the potential to harm the AONB:

"Development that, by virtue of their nature, size, scale, siting, materials, or design have a negative impact on the special qualities of the AONB, for example tall, large or otherwise conspicuous developments that are discernible at considerable distances in all or particular weather conditions"

"Developments that block or interfere with views out of the AONB or affect land within those views out of the AONB, particularly from public viewpoints"

"Developments that result in the deterioration or loss of tranquillity through the introduction of lighting, noise, or additional traffic movement which is visible or audible from land or water in the AONB, or affects flora or fauna in the AONB."

86. Nor does it:

"Avoid prominent locations for development that would have significant impacts on important views out from or into the AONB."

Torbay Local Plan Policy SS8 Natural Environment

87. I address whether the principal tests (underlined below) relating to protected landscape matters to be assessed and applied in relation to Local Plan policy SS8 [CD6.16] are met.

Does the proposal conserve or enhance the distinctive landscape character and biodiversity of Torbay?

88. The LVIA material is sufficient to comprehensively demonstrate as per Mr Stephen Knott's conclusions that the proposal will not conserve or enhance the distinctive landscape character of Torbay. The proposal is contrary to the Landscape Character Assessment management strategy of 'enhance' [CD6.1, CD6.2].

Does the development have an unacceptable impact on the special landscape qualities of the nearby South Devon AONB?

89. It is particularly important to ensure that development outside the AONB does not have an unacceptable impact on the special qualities of an adjoining or nearby AONB, however the scale and nature of the proposal even with the extensive and varied mitigation proposed results in an unacceptable impact on the South Devon AONB.

Are the objectives for the conservation [and enhancement] of the South Devon AONB, as contained in the South Devon AONB Management Plan, met by the proposal?

90. The Torbay Landscape Character Assessment (LCA) management strategy **[CD6.1, CD6.2]** and South Devon AONB Management Plan **[CD6.10]** are to be used to help ensure the respective objectives for the conservation and enhancement of these valued landscapes are met. However, the proposal is contrary to the landscape LCA management strategy, is contrary to AONB Management Plan policies as detailed elsewhere in my proof and does not conserve and enhance the South Devon AONB, nor its setting.

5. Impacts and harm to AONB designation

91. Taken together the in-combination and cumulative effects as identified upon the natural beauty of the AONB are significant and in my view would have a substantial effect on the statutory purpose of designation. These must be given great weight in the planning balance.
92. The edge effect created by the intricate nature of the South Devon AONB boundary makes the natural beauty of the designated landscape particularly susceptible to harm from change within its setting which is inconsistent with landscape character. South Devon AONB is particularly impacted at its western and eastern extremities by Plymouth and Torbay. Expansion of development since designation in 1960 has seen ridgelines adversely affected and crossed. Well defined boundaries need to be maintained to avoid harmful development spread and the AONB boundary becoming defined by the edge of development. Development of “White Rock” in the 2010s has brought development to the very edge of the ridgeline across the north of the site, and breaching this ridgeline would create an intrusion even closer to the AONB boundary.
93. The application has been made in outline, with an appropriate level of detail provided, including revisions to respond to some degree to concerns raised during the consultation process. Taken together the application documentation presents a best-case scenario that is unlikely to be bettered by further refinement. The inclusion of additional planting blocks and large-scale topographical alterations are likely in and of themselves to be harmful to character and have limited effect in reducing the overall level of AONB harm to an acceptable level.
94. The Appeal Site is unable to accommodate the proposed development even with the level of mitigation integrated into the scheme without resulting in an unacceptable level of harm to the natural beauty of the South Devon AONB.
95. Consequently, I conclude that the Appeal Site cannot be developed in a way that does not result in significant material harm to the setting of the South Devon AONB between Waddeton and the urban estate of Hookhills, Paignton and in turn that indirect and

cumulative adverse effects would compromise the natural beauty of the nationally important landscape designated as the South Devon AONB.

6. The planning balance

96. In considering the planning balance I restrict my views to how AONB matters should be dealt with under the application of paragraph 11 of the Framework **[CD6.34]**.
97. Torbay Council in its Officer's Report **[CD10.1]** accepts at paragraph 1.4 that the application would fall to be decided under paragraph 11 of the Framework.
98. The Framework is clear that the policy in paragraph 172 (on AONBs) is the starting point for determining whether the presumption is displaced for planning applications affecting AONBs in circumstances where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, (including policies for the supply of housing). But I note that development policy on AONBs is not out-of-date.

Applying NPPF 11d)i

99. For developments in or affecting AONBs it is always test 11d)i, which must be applied first. This is because AONBs are one of the policy matters set out in footnote 6 to paragraph 11 which can displace the 'tilted balance'. 11d)i states: "*i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed*";
100. The key question for the decision-taker is whether, after having given great weight to the conservation and enhancement of landscape and scenic beauty, do the adverse impacts on the AONB that could arise from the specific development proposal, provide a clear reason for refusal? If so, then the presumption is displaced.
101. The correct test in paragraph 172 is not whether a particular threshold of 'significance' of harm has been reached, but rather it is whether the development "*conserves and enhances landscape and scenic beauty in the AONB*".
102. The Council correctly applied paragraph 11d)i first and, having given great weight to the conservation and enhancement of landscape and scenic beauty in the AONB, concluded that the identified adverse impacts (harm) on the South Devon AONB provides a clear reason for refusal. Therefore, the presumption is displaced in this instance. In coming to its decision, the Council has also properly exercised its statutory duty to have regard to the conservation and enhancement of natural beauty in the South Devon AONB.
103. The proposal does not conserve and enhance natural beauty in the AONB. In my opinion the harm to the AONB's landscape and scenic quality, that I have set out earlier in this proof, in my consultation responses **[CD4.17, CD4.18]** and that is set out in the assessment by Mr Stephen Knott **[CD1.41, CD1.42]**, provides a clear reason for refusal.

Applying NPPF 11d)ii

104. In my opinion the assessment of impacts on the AONB by Mr Stephen Knott **[CD1.41, CD1.42]**, and myself, demonstrate that 11d)i is the correct test in this case. However, if the adverse impacts on the AONB did not provide a clear reason for refusal, only then should the

second test, 11d)ii, be applied. When applying this test, paragraph 172 continues to apply, and the conservation and enhancement of landscape and scenic beauty in the AONB must be given great weight in the planning balance. 11d)ii states: *“ii any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.”*

105. The question for the decision-taker is, whether the adverse impacts that would arise from the specific development on the policies in the Framework considered as a whole would significantly and demonstrably outweigh the benefits. If so, the presumption is displaced.
106. In considering the Framework as a whole, paragraph 8 of the Framework sets out that to achieve sustainable development the planning system should pursue the three pillars of sustainability, namely three overarching objectives, i.e. economic, social and environment, in mutually supportive ways. Therefore, the support accorded to housing provision under the social or economic objectives is clearly not to be pursued at the expense of appropriately located development or premised with accepting adverse environmental effects.⁵
107. In demonstrating whether any impacts significantly and demonstrably outweigh the benefits it is not only the adverse effects on the AONB that are to be weighed in the balance, but also the other identified adverse impacts. The weight attributed to the non-AONB matters in the Framework is for the decision-taker, but the conservation and enhancement of landscape and scenic beauty is to be given great weight under the Framework.
108. The assessments by Mr Stephen Knott [CD1.41, CD1.42] and my assessment of the harm to the AONB in this proof identify that significant environmental harm would result from the development and this is to be given great weight.
109. The Council has found that the considerations that weigh against the development, including the harm to the AONB’s landscape and scenic beauty, outweigh those matters that are in favour, including the delivery of housing. On this basis, the proposal does not represent sustainable development because it compromises the environmental objective. I agree with the Council’s conclusion that the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits having considered the Framework as a whole.
110. The statutory purpose of AONBs is also of relevance and it is to conserve and enhance the natural beauty of the AONB. The Council has a duty in performing its decision-taking functions, to have regard to that purpose. I consider that the Council had proper regard to that duty.

Glover Landscapes Review 2019 [CD7.5]

111. In May 2018 the government asked for an independent review into whether the protections for National Parks and AONBs are still fit for purpose. In particular, what might be done better, what changes will help and whether the definitions and systems in place are still valid.
112. The Landscapes Review’s final report [CD7.5] was published on 21 September 2019. It was led by Julian Glover and supported by an experienced advisory group: Lord Cameron of Dillington, Jim Dixon, Sarah Mukherjee, Dame Fiona Reynolds and Jake Fiennes.
113. The Landscapes Review recognised the significant pressure being exerted upon AONB landscapes as demonstrated in Land Use Change studies undertaken by University of Sheffield

⁵ APP/W1145/W3165078 Land adjacent to Linton Roost, Welcombe, Devon 27 March 2017, paragraph 26.

and the Housing in AONBs report commissioned jointly by the National Association for AONBs and CPRE. South Devon AONB was in the top eight most affected of the 34 English AONBs.

114. Proposal 6, on p60 of the Landscapes Review, calls for *“A strengthened place for national landscapes in the planning system with AONBs given statutory consultee status, encouragement to develop local plans and changes to the National Planning Policy Framework.”*
115. Proposal 23 calls for *“Stronger purposes in law for our national landscapes”*.
116. Proposal 24 calls for *“AONBs [to be] strengthened with new purposes, powers and resources, renamed as National Landscapes.*
117. Taking the Review’s findings as a whole and in particular the three proposals above there is a firm indication that stronger more effective protections are required to safeguard our national landscapes for future generations, including through the planning system and in decision-taking. The role of the setting to national landscapes as highlighted in this appeal case must be integrated into this approach.

7. Summary and conclusions

Introduction

118. My name is Roger English; I am the Manager for the South Devon Area of Outstanding Natural Beauty (AONB) Partnership and its Staff Unit. I hold a Bachelor of Science with honours degree in Rural Resource Development from Writtle College and Anglia Polytechnic University, with a specialism in landscape and wildlife conservation.
119. I have over 25 years' professional experience of rural, urban fringe and coastal landscape management. I have been involved in the development of all four iterations of the statutory AONB Management Plan for the South Devon AONB including developing the South Devon AONB special qualities framework. I provide specialist advice to the South Devon AONB's four local planning authorities on natural beauty conservation and enhancement matters, in relation to planning matters.

Background and context

Scope of evidence

120. My proof of evidence covers the natural beauty effects of the proposed development. I address the following matters:
- The role and function of the land affected by the proposal.
 - The effect the proposal would have on the statutory purpose for AONBs as it relates to South Devon – the conservation and enhancement of the natural beauty of the South Devon AONB.
 - That the assessment of impacts from the development on the AONB's natural beauty would cause unacceptable harm and that these must be given great weight in the planning balance.
 - Under NPPF 2019 paragraph 11di, the harm to the natural beauty of the South Devon AONB provides a clear reason for refusal. Therefore, the "tilted balance" is displaced in this instance.
 - Even if the application were to be assessed under paragraph 11dii, as the appellant suggests, our review of the evidence shows that the adverse impacts of approving the proposal significantly and demonstrably outweigh the benefits.

Torbay Council's reason for refusal

121. The principal putative AONB reason for refusal is based on an assessment that the impacts of the proposed development on the natural beauty of the South Devon Area of Outstanding Natural Beauty (AONB) would cause unacceptable harm, which must be given great weight in the planning balance.

The role and function of the land affected by the proposal

122. The Appeal site lies approximately 500m to the northeast of the South Devon AONB boundary and all parties agree that the Appeal Site lies within the setting of the South Devon AONB.

123. There is a strong interrelationship between the Dart Estuary component of the South Devon AONB and the Appeal Site.
124. The rural countryside setting to the AONB, which includes the Appeal Site, is of particular significance by virtue of its complementary character.
125. The extent, character, and condition of the AONB setting are of great importance to successfully maintaining the integrity of narrow terrestrial components of the South Devon AONB such as in the vicinity of Waddeton.
126. The proposal has an unacceptable impact on the special landscape qualities of the nearby South Devon AONB, is contrary to the principal material protected landscape policies and fails to conserve and enhance the rural setting to the South Devon AONB.
127. The proposal relies heavily upon a range of mitigation measures but even with this there would be an unacceptable residual level of harm to the South Devon AONB.
128. It is particularly important to ensure that development outside the AONB does not have an unacceptable impact on the special qualities of an adjoining or nearby AONB, however the scale and nature of the proposal even with the extensive and varied mitigation proposed results in an unacceptable impact on the South Devon AONB.
129. The Appeal Site is fundamentally the wrong site for the proposed development, owing to its open character and prominent location within the setting of the AONB.
130. The AONB Management Plan reinforces and provides further detail on legal and policy requirements, that development within and in the setting of the AONB should conserve and enhance the natural beauty of the AONB, including its landscape and scenic beauty.

Impacts, Natural Beauty and Special Qualities

131. The sole criterion for which AONBs are designated is their ‘natural beauty’. Ten special qualities seek to summarise the unique natural beauty of the South Devon AONB identifying what is most important to be conserved and enhanced.
132. The Appeal Site makes an important contribution to the special qualities of the South Devon AONB. Its current use as agricultural land and rural character complement the landscape within the AONB and eases the transition from exceptionally high quality AONB landscape to the A3022 Brixham Road and the defined urban edge to Paignton. This role and function is particularly relevant in views from the west, southwest, south, southeast and east.
133. National Planning Practice Guidance states that *“Land within the setting of AONBs often makes an important contribution to maintaining their natural beauty, and where poorly located or designed development can do significant harm.”*
134. The proposal would result in the built form of Paignton being perceived as spilling down from the current defined urban edge, substantially narrowing the farmland band that separates exceptionally high quality AONB landscape from urban fringe. From a range of viewpoints within the AONB as assessed within the LVIA work, the proposal is noticeable in the view as dense urban sprawl. Mr Stephen Knott assessed the adverse effects of the proposal to be significant.
135. Of the AONB special qualities that are particularly relevant to this development proposal, adverse impacts upon the AONB setting are significant, and in-combination adverse impacts

upon the remaining special qualities are also significant. I consider erosion to the rural character of the South Devon AONB's setting, quality of scenic views, tranquillity, dark skies and natural nightscapes enjoyed from within the AONB to be of an unacceptable level that will result in harm to the natural beauty of the South Devon AONB.

The planning balance

136. Torbay Council in its Officer's Report **[CD10.1]** accepts at paragraph 1.4 that the application would fall to be decided under paragraph 11 of the Framework.

Decisions under 11d)i

137. For developments in or affecting AONBs it is always test 11d)i, which must be applied first because AONBs are a policy matter set out in footnote 6 to paragraph 11 which can displace the "tilted balance".

138. The Council correctly applied paragraph 11d)i first and, having given great weight to the conservation and enhancement of landscape and scenic beauty in the AONB, concluded that the identified adverse impacts (harm) on the South Devon AONB provides a clear reason for refusal.

139. In my opinion the harm to the AONB's landscape and scenic quality, that I have set out earlier in this proof, in my consultation responses **[CD4.17, CD4.18]** and that is set out in the assessment by Mr Stephen Knott **[CD1.41, CD1.42]**, provides a clear reason for refusal.

Decisions under 11d)ii

140. If the adverse impacts on the AONB did not provide a clear reason for refusal, only then should the second test, 11d)ii, be applied.

141. The proposal does not represent sustainable development because it compromises the environmental objective. I agree with the Council's conclusion that the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits having considered the Framework as a whole.

Overall conclusion

142. The proposal is contrary to the principal AONB related policies in the Framework, Local Plan, Neighbourhood Plan and AONB Management Plan. Furthermore, the proposal is contrary to the principle National Planning Practice Guidance and local AONB planning guidance relating to development in the setting of the AONB. It does not maintain the quality and character of the setting which in turn results in significant adverse effects upon the conservation and enhancement of the AONB's natural beauty, which is the purpose of designation. Consistent with paragraph 172 of the Framework **[CD6.34]**, these are matters of landscape and scenic beauty that must be given great weight in the planning balance.