

Application Site Address	Land Off Pilgrim Close, Brixham, TQ5 9UE
Proposal	Outline application for the erection up to 20 dwellings, together with associated infrastructure, landscaping and access works (all matters reserved apart from access).
Application Number	P/2024/0562
Applicant	Northern Trust Land Limited
Agent	Tetlow King Planning
Date Application Valid	12/09/2024
Decision Due date	12/12/2024
Extension of Time Date	07/02/2025
Recommendation	Approval subject to: <ol style="list-style-type: none"> 1. Completion of a Section 106 agreement. 2. The planning conditions outlined below, with the final drafting of planning conditions delegated to the Divisional Director of Planning, Housing and Climate Emergency. 3. The resolution of any new material considerations that may come to light following Planning Committee to be delegated to the Divisional Director of Planning, Housing and Climate Emergency, including the addition of any necessary further planning conditions or obligations.
Reason for Referral to Planning Committee	Major Development
Planning Case Officer	Emily Elliott

Location Plan



Site Details

The application site measures approximately 0.69 hectares of land and is located to the south of Wall Park Road, and the south west of Pilgrim Close. The site is at the northeastern edge of the built-up area of Brixham.

The site comprises of two fields that are laid to grass, the site is divided by a fence line. Both fields are broadly rectangular in shape.

The site is bound on the northern boundary by a close boarded fence, the eastern and southern boundaries by an existing stone wall and the western boundary by a hedgerow. The topography of the site has a gentle gradient towards the west and for the most part is level.

The site sits adjacent to residential development to the north, east and south (Wall Park Road, Pilgrim Close, Regard Close, Leader Close) and to the west is Haycock Lane (unadopted highway) and Brixham AFC.

In terms of context the site sits within the South Devon National Landscape (formerly called the South Devon Area of Outstanding Natural Beauty) and is within the Sustenance Zone and Landscape Connectivity Zone associated with the South Hams Special Area of Conservation (designation related to the Greater Horseshow Bat colony at Berry Head). In terms of the Development Plan, the site is within a Mineral Safeguarding Area, the Brixham Peninsula Strategic Delivery Area and is within the Torbay-wide Critical Drainage Area, however the Adopted Brixham Peninsula Neighbourhood Plan places the application site outside of the settlement boundary. There are no further site-specific designations however the site is identified within the Brixham Peninsula Neighbourhood Plan as part of a wider site (H3 – R1: Wall Park Holiday Park) which was a rejected housing site for information.

Note: For the purposes of this report the term National Landscape and Area of Outstanding Natural Beauty (AONB) are both used and should be considered interchangeable. This reflects policies as written, retained wording towards AONBs within the Development Plan, and comments made prior to the renaming of AONBs as National Landscapes that occurred during the period of this application.

Description of Development

The application seeks outline planning permission for up to 20no. dwellings including affordable housing (25%), with all matters reserved apart from access. Matters of layout, scale, appearance and landscaping are therefore reserved for future consideration with only indicative detail on these matters submitted as part of the current outline application.

The proposed access is for a single vehicular access from Pilgrim Close in the north east corner of the application site. The proposed development will provide associated pedestrian/cycle connections that link to existing routes in the neighbouring developments and beyond. The proposed access width is 5.5 metres wide with 2 metre wide footways to either side. The proposal also includes a gated pedestrian/cycle connection onto Haycock Lane.

In accordance with the description of development 75% of dwellings would be open market housing and 25% of dwellings would be affordable housing. This is consequently a fixed matter that would, for 20no. dwellings, present 15no. open market dwellings and 5no. affordable dwellings.

In terms of the broader outline proposals the submitted indicative layout presents a potential layout that seeks to demonstrate the amount of development could be achieved, and further detail is outlined within a Design and Access Statement. Outline detail presented includes the following key parameters:

- The housing is to be located throughout the site, shown to be offered through a mix of detached, semi-detached and short terraces.
- The illustrative detail offers a variety of residential house types and sizes, providing dwellings from 2-bedroom through to 4-bedrooms.
- The scale of the development is suggested as two storeys, with a maximum height of 9 metres.
- The layout of the development is to be presented off Pilgrim Close.

- The parking is to be largely on-plot with driveways, and with electric charging facilities throughout.
- The architectural detailing is suggested to be complementary to the surrounding area in terms of similar materials, colours and tones.
- The surface water drainage is to be managed on site through a series of private soakaways and permeable paving to manage runoff from the domestic catchment, and a separate highway soakaway to manage runoff from the adopted highway.
- The existing trees and hedgerows will be retained and maintained where possible and ecological mitigation is proposed for the existing badger set with a 10 metre exclusion zone for habitat protection.

Relevant Planning Policy Context

Section 38(6) of the Planning and Compulsory Purchase Act 2004 places a duty on local planning authorities to determine proposals in accordance with the development plan unless material considerations indicate otherwise. The following development plan policies and material considerations are relevant to this application:

Development Plan

- The Adopted Torbay Local Plan 2012-2030 (“The Local Plan”); and
- The Adopted Brixham Peninsula Neighbourhood Plan (“The Neighbourhood Plan”)

Material Considerations

- National Planning Policy Framework (NPPF);
- Planning Practice Guidance (PPG);
- Planning Contributions and Affordable Housing Supplementary Planning Document (SPD);
- Published Standing Advice;
- South Devon Area of Outstanding Natural Beauty Management Plan 2019 – 2024
- Countryside and Wildlife Act (Section 85): A relevant authority must seek to further the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty; and
- Planning matters relevant to the case under consideration, including the following advice and representations, planning history, and other matters referred to in this report.

Relevant Planning History

P/2024/0461: Outline application for a detached self-build dwelling with associated parking (Access only). Pending consideration.

P/2023/1025: Construction of dwelling and garage within property grounds. Permission with legal agreement 14/08/2024.

P/2019/0594: Construction of three dwellings with associated access and highway improvements. Permission with legal agreement 05/08/2021.

P/2011/0934: Incorporation of 1 acre of land behind house into boundary of house extending garden. Refused 17/11/2011.

Pre-Application History

The proposal has been subject to a pre-application enquiry (ref: DE/2023/0155).

Summary of Representations

9 letters of objection have been received.

Note: Full responses are available to view on the public access system (<https://publicaccess.torbay.gov.uk/view/>).

Key issues as follows:

- Traffic and access
- Noise
- Loss of light
- Privacy/overlooking
- Drainage including sewage
- Impact on local area
- Not in keeping with the local area
- Overdevelopment
- Trees and wildlife
- Impact on health care services
- Impact on education services
- Impact on Greater Horseshoe Bats

Summary of Consultation Responses

Note: Full responses are available to view on the Council's public access system (<https://publicaccess.torbay.gov.uk/view/>).

Brixham Town Council: No objection.

Devon County Council's Archaeologist & Historic Environment Manager (response dated 16/10/2024): No objection subject to planning conditions.

The proposal is sited in an area of archaeological potential. The Devon and Torbay HER records finds of prehistoric and Romano-British date in the wider area, indicating reasonable potential for widespread settlement activity. The local name 'Wall' is believed to indicate the past observation of archaeological evidence.

As such, groundworks for the construction of the proposed development have the potential to expose and destroy archaeological and artefactual deposits associated with early settlement activity. The impact of development upon the archaeological resource here should be mitigated by a programme of archaeological work that

should investigate, record and analyse the archaeological evidence that will otherwise be destroyed by the proposed development.

Recommends planning conditions to secure a Written Scheme of Investigation and a Post Investigation Assessment.

Devon County Council's Principal Ecologist (updated response dated 17/10/2024): No objections subject to planning conditions.

Other Protected Species

Badgers

The consultant ecologist has provided the following clarification:

“To summarise, we have no evidence of a sett within the offsite area, which to emphasise is offsite and not owned by the client – badger foraging and paths are not protected in law unless there is no alternative foraging within a reasonable distance which is not the case in this instance, as significant foraging exits to the east and northeast. The 10m buffer is purely precautionary as we have absolutely no evidence that a sett is located in the scrub – one foraging visit over a period of 14 days is by no means indicative of a sett. It is more indicative of a lone badger very occasionally visiting the site.”

On balance, the above is accepted. An update badger survey will be conditioned.

Condition: No more than one month prior to the commencement of any site works, a repeat survey for the presence of badgers on the site and surrounding suitable habitat, with associated mitigation/compensation measures, shall be submitted to and approved in writing by the local planning authority

Devon County Council's Principal Ecologist (response dated 17/10/2024): Further clarification required.

Phase 1 Walkover Survey

The LPA notes that this survey was undertaken over 12 months from the date of submission of this application, however this is not considered to be a significant limitation given the scale of the proposed development and the ecological value of the habitats on Site.

South Hams SAC – Greater Horseshoe Bats

The application area is located within the sustenance zone for Greater Horseshoe bats associated with the South Hams SAC.

Given the lack of suitable habitat present onsite, and the high levels of artificial illumination the site currently experiences, it is not deemed that the proposals will lead to the loss, damage or disturbance to potential commuting routes or foraging habitat for Greater Horseshoe bats. Nor will the proposals lead to loss, damage or disturbance to a Pinch Point or Mitigation Feature.

Whilst the western onsite hedgerow does provide suitable bat commuting/foraging habitat, it is not considered that this hedgerow is used by GHBs associated with the South Hams SAC.

The hedgerow is not considered an important landscape feature for bats from the South Hams SAC due to the urban nature of the surrounding land use and poor connectivity to both the Berry Head SSSI roost site, and the wider landscape to the south of the scheme. The Bloor Homes development to the direct south of the scheme has meant this hedgerow has become isolated from linkages into the wider countryside likely to be of highest value to GHBs.

Therefore, in line with the South Hams SAC HRA guidance document (DCC et al 2019), there is unlikely to be a likely significant effect on the SAC and detailed HRA is not required.

Condition: At no times shall any external lighting be installed or used in association with the development hereby approved, unless otherwise agreed in writing by the Local Planning Authority.

South Hams SAC – Recreational Impacts

The development falls within the SAC Recreation Zone for Berry Head Country Park, where the potential for recreational pressure due to new developments may affect the wildlife interests of the Berry Head component of the South Hams SAC. Qualifying features include calcareous grassland and sea cliffs (with their associated species).

In the absence of mitigation, it is deemed that this development could, in combination with other plans and projects, have a Likely Significant Effect on the South Hams SAC due to recreational impacts on the calcareous grassland and so Appropriate Assessment is needed.

The HRA developed and agreed with Natural England for the Torbay Local Plan concluded that as long as new developments provide the contributions as described above to deliver the mitigation measures outlined in the Footprint Ecology report, development in the 8km primary zone of influence will have no adverse effect upon the integrity of the European site and the conservation objectives would be sustained

Financial contribution per dwelling, as per the Torbay Local Plan and supplementary planning document, to mitigate recreational impacts on the South Hams SAC – these contributions will be secured via a S.106 agreement.

Non-statutory designated sites – County Wildlife Sites, Ancient Woodlands

No impact.

European Protected Species

Bat flight lines / foraging

The consultant ecologist deems that the site offers some features suitable for commuting and foraging bats, but these features will be retained and therefore no bat activity surveys have been carried out – this conclusion is deemed valid given the

lack of vegetation onsite and the high level of disturbance this site currently experiences.

Potential impacts of the development would be associated with lighting during both the construction and operational phases on habitats to the west of the development area.

Condition: No external lighting shall be installed at any time at the application site without the written permission of the Local Planning Authority. Reason: In the interests of nocturnal biodiversity.

Bat roosts – buildings / trees

No trees or buildings within the redline boundary provide features for roosting bats.

Alternative roosting provision will be installed into new dwelling to provide enhancements for wildlife.

Condition: Details of bat/bird boxes to be incorporated into the new dwellings will be submitted to and agreed with the LPA.

Other Protected Species

Nesting Birds

Alternative nesting provision should be installed into new dwelling to provide enhancements for wildlife.

Condition: Details of bat/bird boxes to be incorporated into the new dwellings will be submitted to and agreed with the LPA.

Badgers

It is noted that this application is outline and the masterplan provide is illustrative, but the Illustrative Masterplan drawing appears to show the 10m buffer from the middle of the dense offsite scrub, rather than the edge as required by the ecology report. Compliance with ecological constraints will need to be evidenced fully in a future RM application.

Clarification is required how badgers are to navigate across the site – no buffers for commuting have been established within this outline application. If there is a badger sett within the dense scrub offsite, the current constraints on this outline consent do not appear to allow for continued usage of that sett by badgers, as close bordered fencing across the site will mean commuting to and from the sett is prevented – therefore it may be that a sett closure and NE licence is required.

Clarification is also required from the consultant ecologist on the justification behind a 10m buffer zone - A license is usually required for any work that involves digging or breaking ground within 30m of a badger sett, and given the location of the sett has not been confirmed, clarification and justification is required on why a precautionary approach (i.e. a 30m buffer) has not been proposed in this instance.

Further conditions may be required on receipt of requested further information.

Condition: The details for reserved matters will include the submission of a Construction and Environmental Management Plan which will include details of environmental protection throughout the construction phase. *This will need to be agreed with the LPA.*

Invasive Non-native Species

These species will be removed and disposed of responsibly. Details will be provided within a conditioned CEMP

Overall enhancement / net gain (as per NPPF)

Statutory Biodiversity Net Gain will be required for this application.

The baseline of the site is deemed to be correct. This is an outline application with landscaping a reserved matter, so a fully complete metric cannot be submitted at this stage.

The proposal (albeit outline) shows a 93.56% gain in hedgerow units and an overall loss of habitat units (62%), therefore the purchase of offsite habitat units is required. There is no requirement to agree terms with any BNG providers at this stage, but full details will need to be provided to the LPA prior to commencement of any groundworks.

It is appreciated that this application is outline and final landscaping of the site is not yet known, however please can confirmation be provided from the applicant that all retained and created habitats (apart from vegetated gardens) will be outside of homeownership and managed by a management company. For example, the Illustrative Masterplan appears to show the retained hedgerow to the west of the site as the boundary of private gardens – it needs to be confirmed that all retained and new habitats will be futureproofed and able to be appropriately managed.

Condition: Details of reserved matters will include a fully complete Biodiversity Net Gain Metric reflective of the site landscape plans

Condition: The details for reserved matters will include the submission of a Landscape and Ecological Management Plan which will include details relating to habitat creation, species specification and management. This will need to be agreed with the LPA.

Natural England: No response received.

Torbay Council's Principal Policy and Project Planner (response dated 14/10/2024): No objection.

The land at Pilgrim Close is within the South Devon National Landscape (AONB) but is surrounded by the Wall Park development (i.e. Pilgrim Close) and makes a natural infilling of that development. Although encompassed by the National Landscape, it does not urbanise existing open countryside areas within the National Landscape .

On that basis I would not regard it as Major Development under paragraphs 182-183 of the NPPF. Brixham has a very pressing need to identify additional housing land within the Town Council boundary, and other sites (including within the National Landscape) have significant environmental constraints, and/or spill into the more rural parts of the National Landscape. The site was identified in the 2021 HELAA as being potentially suitable for development, having relatively minor constraints. As such it would make a much needed addition to the area's housing supply.

On that basis, I support the application from a policy perspective, subject to ecological, access, design etc. matters being satisfactorily addressed. A key issue will be impact on the South Hams SAC. A recreation impact on the Berry Head Grassland should be sought as a site-deliverability matter.

The proposal appears to be CIL liable at £70 per sq. m, as it is within Charging Zone 2. The application would be liable for 25% affordable housing (5 dwellings) under Local Plan Policy H2, which would be subject to a local occupancy condition.

Since I am supporting the proposal, it is not necessary to consider in detail whether the Presumption in Favour of Sustainable Development in any detail; although it is applicable.

The Highway Authority (SWISCo/WSP) (updated response dated 15/01/2025):
No objection.

Pedestrian and Cycle Access

The previous Highways response found the 'potential' pedestrian and cycle access onto Haycock Lane as unsuitable for an Outline with Access application. An emergency access was also recommended.

The applicant has since submitted Drawing No. 230108 L 02 02 Rev E which shows a *'3.7m wide opening in site boundary to allow pedestrian, cycle, and emergency vehicle access only. Collapsible bollard or similar physical measure to prohibit unauthorized use'*.

The Highway Authority are now satisfied with these details.

Public Transport Access

The previous Highways response (dated December 2024) stated the technical reasons for requesting bus stop contributions. The Policy reasons have been set out below.

The request contributions for:

- £15,000 for bus stop enhancements kessle kerbs (raised kerbs for mobility impaired users), narrow waiting shelters, and possibly real time information boards.

The direct need is for:

- To cater for potential increased bus travel opportunities for all types of trips by all possible ages, abilities and genders of future residents and their visitors.
- The applicant's submission risks the delivery of a car dominant development.

- The proposed development site is geographically located higher/above the town centre of Brixham, and therefore mobility impaired users that are unable to walk or cycle may see the current poor quality bus stop infrastructure as a barrier to travel sustainably (i.e. no raised kerbs, live info boards, shelters).
- Improvements to the nearest bus stop is essential and would not only cater for existing levels of bus trips, but also will stimulate and encourage new passengers in line with local and national policy and the declared Climate Emergency.

Supporting Policy includes:

- Draft Devon & Torbay Local Transport Plan (expected publication Spring 2025) :
Section – Transport strategy for Torbay , Unlocking Development:
‘Ensure suitable access to and/or improvements to local bus stop facilities’.
- Torbay Local Plan - Policy TA2 Development Access:
‘3. Contain high quality provision for sustainable modes of transport, proportional to the scale and type of development’;
‘4. Enhance public and/or community transport, cycling and pedestrian infrastructure, proportional to the scale and type of development’;
- NPPF 2024, Considering development proposals:
115. In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that: a) sustainable transport modes are prioritised taking account of the vision for the site, the type of development and its location; b) safe and suitable access to the site can be achieved for all users;

117. Within this context, applications for development should: a) give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible – to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use; b) address the needs of people with disabilities and reduced mobility in relation to all modes of transport;

Vehicle Access

It is noted that the vehicle access is via Pilgrim Close which is not currently adopted. Under the Torbay Highways Design Guide for New Developments, a development of the proposed size must be served by an adoptable highway. Therefore, a planning condition has been requested at the rear of this response.

Onsite Highway Layout

The previous Highways responses (dated December 2024) raised a number of concerns with the proposed on-site layout. As this is an Outline with Access application, these matters are to be dealt with at the RM stage.

Conclusion

The Highway Authority does not wish to raise an objection subject to the inclusion of the recommended planning conditions, informatives and obligations.

Recommended Conditions:

Prior to any works above slab level, a detailed plan showing the 3.7m width pedestrian, cycle and emergency access in accordance with the indicative details shown on Drawing No 230108 L 02 02 Rev E must be submitted to the Planning Authority.

Reason: To ensure suitable access arrangement as per NPPF paragraph 117a,b,c,d.

Prior to any works above slab level, the highway layout must be designed in accordance with the standards contained in the Torbay Highways Design Guide for New Developments.

Reason: To ensure the construction of a satisfactory and safe development as per NPPF 115 & 117.

No part of the hereby approved development shall be occupied until the site is accessed by Highway Maintained at Public Expense

Reason: To ensure safe and suitable access for future occupiers as per NPPF 115 & 117.

Prior to any works above slab level, the cycle parking provision for the hereby approved development shall be located in locations that as convenient to access as car parking.

Reason: To support the delivery of a sustainable development as per NPPF para 117a.

The Highway Authority (SWISCo/WSP) (response dated 13/12/2024): Holding objection.

Highway Safety

The Highway Authority noted the Transport Statement omitted a serious collision involving two vehicles on Wall Park Road at Haycock Lane in June 2023. It was requested that the applicant investigate the causation factors within this collision.

The Applicant has submitted a collision report, investigating the collision which identifies that the serious severity collision involved a car and an e-scooter, the cause of which was attributed to driver error.

Pedestrian and Cycle Access

The Highway Authority previously requested that an active travel connection from the site to Haycock Lane, and onto the surrounding pedestrian network on Wall Park Road is provided. Haycock Lane would provide a direct link for pedestrian/cyclists routing into Brixham, falls on a clear desire line, and thus encourage sustainable trips and reduces the car dominance of the site. It was also previously noted that the site red line boundary appeared to include part of an access track to the rear of properties, north west to the proposed site which should be clarified.

The submitted Drawing No. 230108 L 02 02 Rev D states at icon (13) that the access is 'potential'. Potential is not suitable for a planning application of 'Outline with

Access'. The Highway Authority must know whether the access can be provided or not at this stage of planning.

The 'potential' access design appears to show a gated pedestrian / cycle connection south of Plot 13 into Haycock Lane. The details of which is not provided, but the Cover Letter explains this will be gated. Firstly, the lack of details in terms of the 'gate' design means the Highway Authority are unable to determine whether the gate design is in-line with the DfT's Inclusive Mobility Design Guide and LTN1/20, as the design must be suitable for pedestrians and cycles of all ages and abilities.

For reference, ideally a removable bollard should be provided instead of the gate and the access constructed to 3.7m width for emergency access.

In regard to the red line boundary overlapping an access track situated to the rear of properties on the northwest of the proposed site, the Applicant's Cover Letter states that a neighbouring fence was incorrectly located over the Applicant's land. More information on the rectification is required, particularly as it appears the access track on the neighbouring land is very well established and any change to that should be highlighted including its new alignment. The updated masterplan drawing (230108 L 02 02 D) still shows the overlap. This should be clarified.

Public Transport Access

It was previously commented that use of 2011 Census Journey to Work data only represents bus journeys for work purposes, therefore relying on this data to demonstrate a low use of bus would not be sufficient.

The applicant has since submitted an updated assessment utilising TEMPro data to suggest in the AM and PM peak hours (2 hours only), there will be an increase of 2 bus users, and therefore they are unwilling to provide a contribution towards improving the local bus stops on Wall Park Road. It is noted that using this method, the number of bus users across the full day has not been provided.

This approach continues to follow a predict and provide approach, which inevitably leads to car dominant developments. It remains the view of the Highway Authority that improvements to the nearest bus stop is essential and would not only cater for existing levels of bus trips, but also will stimulate and encourage new passengers in line with local and national policy and the declared Climate Emergency. At a minimum, the applicant should set a vision towards delivering a sustainable development.

The proposed development site is geographically located higher/above the town centre of Brixham, and therefore mobility impaired users that are unable to walk or cycle may see the current poor quality bus stop infrastructure as a barrier to travel sustainably (i.e. no raised kessle kerbs, live info boards, shelters).

Therefore, the Applicant must provide bus stop enhancements to cater for potential increased bus travel opportunities for all types of trips by all possible ages, abilities and genders of future residents and their visitors (i.e. kessle kerbs, real time information boards, shelters). The Highway Authority will not accept a car dominant

development, and the applicant must be aware of NPPF (2024) paras 109, 110, 115 a/b/c, 117a,b.

Car Parking

Within the previous response, the applicant was reminded that Torbay Council is unable to adopt the highway on the east of the site with the current parking arrangement, as the footway was required to be located in front of the parking bays rather than at the rear for adoption by Torbay Council.

The updated masterplan (230108 L 02 02 D) now includes a footway across the front of the parking bays on the east of the site, which would now be suitable for adoption (carriageway and footways, subject to layout checks at the RM 'Layout' stage. The detailed layout is to be determined at the Reserved Matters stage.

Refuse / Servicing / Emergency Access / Adoption

A new vehicle tracking drawing (1524 01-ATR-1001 A) shows a Phoenix 2-23W refuse vehicle manoeuvring within the site and having to reverse. The Highway Authority note the Torbay Council Waste Management Team has comment on the application (dated 05.12.2024) and raised an objection.

The Highway Authority note the layout does not include a turning head and the southern point, and therefore is not in-line with a 'Minor Access Road Design' or 'Home Zone Design' street types as per the Torbay Highways Design Guide for New Developments.

The Torbay Highways Design Guide for New Developments states that for 5+ dwellings, the access road will need to be designed in-line with adoptable standards. The above issue means this current layout cannot be adopted. Due to these reasons, the Highway Authority would object to the currently proposed layout.

Additionally, the layout shown for the carriageway for the cul-de-sac serving properties 5 & 6 is not shown to adoptable standard. With the 'Potential' active travel access to Haycock Lane, it would be prudent to ensure this is adoptable or a Deed Of Dedication may be required.

Cycle Parking

The Transport Statement states that two cycle parking spaces will be provided for each dwelling, in line with Torbay parking requirements. This will be detailed at the Reserved Matters stage.

Should the application be approved, the applicant must be aware that cycle parking will need to be provided in easily accessible locations, at the dwelling frontage. This is in order to encourage sustainable travel and reduce the car dominance as per Manual for Streets standards.

Conclusion

The additional information provided by the Applicant following Highway Authority comments have addressed some concerns but there remains a number of areas where there has been the submission of insufficient information.

On this basis, the Highway Authority wishes to raise an objection as the proposals are currently contrary to NPPF paras (2024) paras 109, 110, 115 a/b/c, 117a/b/d, DfT Inclusive Mobility Design Guide, DfT Decarbonisation Plan and Gear Change, Torbay Local Plan Policy TA1 & TA2.

To be clear, the Highway Authority would be in a position to raise no objection once the 'potential' access to Haycock Lane is confirmed, and suitable sustainable transport contributions for bus stop improvements are agreed. It should also be noted that the internal layout currently shown is contrary to the Torbay Highways Design Guide for New Developments and therefore should also be revised, however it is noted the application is Outline With Access.

The Highway Authority (SWISCo/WSP) (response dated 04/10/2024): Holding objection.

The proposals include extending the existing cul-de-sac section of Pilgrim Close to provide a vehicle, pedestrian and cycle access. No other access points are provided.

The proposals include the provision of 46 car parking spaces, and 40 cycle parking spaces (2 per dwelling). No offsite improvements are proposed.

Traffic Impact

Trip Generation

Within the Transport Statement, the Highway Authority are satisfied that the level of vehicle trip generation will not have a severe impact on the operation of junctions on local highway network.

Highway Safety

As noted within the pre-app response, the applicant should ensure the most recent collision data has been analysed at the time of full planning submission. The Highway Authority note that a serious collision involving two vehicles occurred on Wall Park Road at Haycock Lane in June 2023 which is not identified within the Transport Statement. The applicant should investigate the causation factors within this collision.

Design Considerations

Pedestrian and Cycle Access

During pre-app, it was recommended that the applicant ensures continuity for pedestrians into the site and that connectivity should be improved to the west of the site by providing a link for cyclists and pedestrians to the Haycock Lane access road which serves the football club and allotment.

The updated illustrative site masterplan drawing 230108 L 02 02 Rev C now shows a footway on both sides of the site access, thus improving continuation of the Pilgrim Close southern footway.

No connection from the site has been proposed onto Haycock Lane. As previously requested, it is essential to connect the site to the surrounding pedestrian network.

Haycock Lane would provide a direct link onto Wall Park Road for pedestrian/cyclists routing into Brixham, and thus encourage sustainable trips. It is noted that the site red line boundary appears to include part of an access track to the rear of properties north west to the proposed site. This arrangement should be clarified.

Cycle Parking

The Transport Statement states that two cycle parking spaces will be provided for each dwelling, in line with Torbay parking requirements. This will be detailed at the Reserved Matters stage.

Should the application be approved, the applicant must be aware that cycle parking will need to be provided in easily accessible locations, preferably at the dwelling frontage. This is in order to encourage sustainable travel and reduce the car dominance.

Public Transport Access

The nearest bus stop to the site is Wall Park Holiday Centre on Wall Park Road, which is 250 meters away from the site and easily accessible within a 3-minute walk. Currently no improvements are proposed as the Transport Statement states the current infrastructure will remain appropriate for the estimated increase in patronage (1 additional trip in both the AM and PM peak). However, the multimodal trip generation approach used to derive this figure has been taken from 2011 Census Journey to Work data. The applicant should be aware that Torbay aims to see an increase in sustainable modes for all trip purposes, therefore Journey to Work data gives only one perspective with bus trips for leisure and recreational purposes not considered. Furthermore, improvements to the current bus infrastructure are not intended to only cater for existing levels of bus trips, but also to encourage new passengers who wouldn't normally choose the mode by making the option more desirable.

Therefore, as noted in the pre-app response, the applicant must consider bus stop enhancements in order to encourage more public transport trips for all possible future residents (i.e. kessle kerbs, real time information boards, shelters).

Vehicular Access

As noted within the pre-app response, the Highway Authority has reviewed the proposed development with the understanding that the existing access road (Pilgrim Close) has been adopted under a Section 38 Agreement at the time the proposed site will be built. The vehicular access is proposed from Pilgrim Close which will be extended into the site and will provide 5.5m width of carriageway consistent with the existing Pilgrim Way.

The Highway Authority are in principle satisfied with this arrangement, and request the design is delivered in line with the Torbay 'Highways Design Guide for New Developments' at the Reserved Matters stage.

Car Parking

The Transport Statement states that parking will be provided in line with Policy TA3 of the Torbay Local Plan and that one space per dwelling will be provided with an electric vehicle charge point. The illustrative masterplan drawing 230108 L 02 02 C

shows 46 parking bays throughout the site, however EV dedicated bays are not demonstrated. The type of EV charger and location must be provided at the Reserved Matters stage.

The applicant is reminded that Torbay Council is unable to adopt the highway to the east of the site with the current parking arrangement. The footway is required to be located in front of the parking bays rather than at the rear for adoption by Torbay Council.

Refuse / Servicing / Emergency Access

The Transport Statement and supporting documents do not include vehicle tracking drawings or refuse strategy as this is to be considered at the Reserved Matters application. This is not suitable as a turning head is required at the southern side of the site which may impact the number of dwellings provided. The applicant is reminded to demonstrate how a Torbay / SWISCO refuse vehicle would enter the site and exit in a forward gear without needing to reverse an excessive distance.

Planning Obligation

The Local Highway Authority will seek the necessary 278 works or S106 planning contributions that are essential to make the scheme acceptable in planning terms. Please also refer to the adopted Planning Contributions and Affordable Housing Supplementary Planning Document, Section 4.3 for the framework of seeking additional Sustainable Transport contributions for major schemes (PCAH SPD (<https://www.torbay.gov.uk/council/policies/planning-policies/local-plan/spd/>) and Table 4.3. For major proposals that are likely to result in increased trips, Sustainable Transport contributions will be sought in accordance with the Planning Contributions SPD.

Construction Traffic Management Plan (CTMP)

Should the anticipated planning application be permitted, the Highway Authority will request a Construction Traffic Management Plan is provided by way of planning condition.

Conclusion

The Highway Authority have set out a number of comments in relation to the designs which must be resolved. Based on the current insufficient information provided, the Highway Authority wishes to raise an objection as per NPPF para 116 a/b/c/d.

Torbay Council's Drainage Engineer (updated response dated 11/12/2024):

I can confirm that the points raised within my consultation response dated 30th September 2024 have now been answered within the latest information.

As a result, I have no objections on drainage grounds to outline planning permission being granted based on the latest submitted flood risk assessment (reference 1524 Revision C dated 10th October 2024).

As this is an outline planning application with the final layout yet to be fixed, a final detailed drainage design that responds to any subsequent revised layout must be submitted as part of any reserved matters.

Torbay Council's Drainage Engineer (original response dated 30/09/2024): More information required.

1. The developer has submitted a site specific flood risk assessment which includes a drainage strategy for the development.
2. A site investigation has been undertaken which included a number of trial holes and infiltration tests that have demonstrated that the use of infiltration drainage will be suitable for the development.
3. The results of the infiltration testing have been included within the submitted document. The lowest infiltration rate quoted for trial pit SA203 is 1.33×10^{-4} however when checking the infiltration calculation sheets the lowest value is actually 1.06×10^{-4} . This value should be used within the design of soakaway PSA03, permeable paving PP5-7 and PP11-12.
4. Within the design submitted for soakaway PSA03, permeable paving PP5-7 and PP11-12 the developer has used a value of 1.60×10^{-4} . This value is incorrect as identified in item 3 above.

Before planning permission can be granted the applicant must address the issues identified above.

South West Water (updated response dated 10/12/2024): No further comment to make.

South West Water (original response dated 04/10/2024): No objection.

Surface Water Services

The applicant should demonstrate to your LPA that its prospective surface run-off will discharge as high up the hierarchy of drainage options as is reasonably practicable (with evidence that the Run-off Destination Hierarchy has been addressed, and reasoning as to why any preferred disposal route is not reasonably practicable):

1. Water re-use (smart water butts, rainwater harvesting, grey flushing toilets)
2. Discharge into the ground (infiltration); or where not reasonably practicable,
3. Discharge to a surface waterbody; or where not reasonably practicable,
4. Discharge to a surface water sewer, highway drain, or another drainage system; or where not reasonably practicable,
5. Discharge to a combined sewer. (Subject to Sewerage Undertaker carrying out capacity evaluation)

Discharge to ground (infiltration)

Having reviewed the applicant's current information as to proposed surface water disposal for its development, please note the method proposed to discharge into the ground (infiltration) is acceptable and meets with the Run-off Destination Hierarchy. It is noted the applicant proposes to provide soakaways in the western part of the site where infiltration is effective.

Discharge to highway drain, or another private drainage system – permission granted

Having reviewed the applicant’s current information as to proposed surface water disposal for its development, please note that method proposed to discharge into a private drainage system is acceptable and meets with the Run-off Destination Hierarchy.

It is noted the applicant proposes to drain to an attenuation tank in the eastern part of the site where infiltration is less effective.

For Highway run off please contact the Highway Authority to agree disposal method South West Water response relates to surface water discharge to our network, where the discharge is from buildings and yards belonging to buildings. Where the applicant has highlighted that the surface water does not connect to South West Water network, we are not commenting on this as it is not our responsibility.

South West Water has no duty to accept land drainage runoff, flows from natural watercourses or groundwater to the public sewer system, and this is not permitted to discharge to the South West Water network. The applicant should make alternative arrangements to deal with this separately during the development and once the construction work is complete.

Environment Agency: No response received.

Strategy and Project Management Officer (response dated 20/09/2024): No objection.

The Strategic Housing Service conditionally supports the proposal, subject to:

- On-site provision of 5 affordable homes (25%) in accordance with Policy H2 of the Torbay Local Plan, with a tenure mix of 2 x social rent, 1 x affordable rent, and 2 x shared ownership.
- An affordable housing mix that accords with the recommended mix set out below, with all affordable homes complying with Nationally Described Space Standards and Building Regulations Part M(4)(2) in respect of accessible housing.

For a policy compliant scheme, the following affordable housing mix is recommended:

	Social rent		Affordable rent		Shared ownership		TOTAL	
	Number	(% of total AH)	Number	(% of total AH)	Number	(% of total AH)	Number	(% of total AH)
2-bed (4-person) houses	0	0%	1	20%	1	20%	2	40%
3-bed (5-person) houses	1	20%	0	0%	1	20%	2	40%
4-bed (7-person) houses	1	20%	0	0%	0	0%	1	20%
TOTAL	2	40%	1	20%	2	40%	5	100%

S.106 Provision and Requirements

In respect of the detailed obligations required to make the scheme compliant, these must be captured within a Section 106 agreement securing the following:

- An affordable housing mix as set out above, with obligations to be agreed in writing with the Council prior to start on site;
- All affordable homes to meet Nationally Described Space Standards and Building Regulations Part M(4)(2), in respect of accessible housing;
- The developer to have agreed in writing with the Head of Strategic Housing prior to start on site, the approved purchaser of the Registered Provider (RP) that will be transferred the completed affordable homes, and to use all reasonable endeavours to get into contract for delivery with that RP within 3 months of start on site;
- If the original approved RP withdraws from the purchase, to sell to a second (and subsequent, as necessary) RP, approved in writing by the Council;
- The on-site affordable homes to be transferred to the approved Registered Provider on a nil-grant basis, and prior to the transfer, sale or occupation of any open market dwellings, with nomination rights granted to the Council in perpetuity;
- The affordable and open market homes to be delivered tenure blind, such that there is no visual or quality difference between the tenures of homes on-site.

As a whole the scheme would provide 8 x 2-beds (40%), 9 x 3-beds (45%), and 2 x 3-beds (15%). The Strategic Housing Service considers this an acceptable overall housing mix in this location.

SWISCO's Senior Tree Officer (response dated 08/10/2024): No objection subject to planning conditions.

The application area is bordered by young trees on the north-western side which do not present any constraints to the site. Managed hedges are present on the south-eastern boundary which do not present any constraints.

Trees on the south-west boundary present constraints to the development area and form natural screening to the sporting facilities. The trees have been identified as part of the BS5837 tree survey and include a range of locally native species of variable quality.

The proposed site layout is broadly acceptable. However, Plot 6 is located within immediate proximity to the tree protection fencing without any scope for working area. An incursion into the root protection area will be required and should be reflected in the Tree Protection Plan with a revised fencing arrangement and temporary ground protection.

The proposed development should include a soft landscape design which introduces a range of tree and hedges which reflect the context and layout of the site. Opportunities to reinforce the boundary with the sports facilities and provide natural screening could be explored.

No objection, subject to planning conditions to secure a revised Tree Protection Plan (including ground protection for G2) and soft landscaping scheme.

SWISCO's Green Infrastructure Manager (response dated 14/10/2024): No objection.

Reference to Section 4.6 Open Space, Sports and Recreation of the Planning Contributions SPD 2022 (https://www.torbay.gov.uk/media/19102/planning-contributions-spd_2022.pdf) table 4.9 and 4.10 identify the framework for s106 requests. In particular, the cost of open space per dwelling as per table 4.

The proposed development is to provide 20 dwellings. It is understood that 25% are affordable housing but have been included within the calculation as there is likely to be increased pressure on existing resources irrespective of housing allocation.

Sq. footage/metreage/no beds	No of Dwellings	Costs as per table 4.9 (£)
2 (37-59m2)*	8	£8,744.00
3 (60-59m2)*	9	£18,729.00
4 (80-108m2)*	3	£11,178.00
	Total	£38,651.00

*estimated

Please note the amount shown incorporates all elements of shown in the SPD and further detailed discussion may be required to disaggregate the contributions between the relevant sub – categories of open space and recreation etc.

This should be proportionately reduced to take account of any on-site provision in negotiation with and the Green Infrastructure Team.

SWISCO’s Recycling Support Coordinator (updated response dated 05/12/2024): Objection.

In response to this consultation request, I OBJECT to this development, and I would like to request further information.

The plan that was provided states the distances required for householders and recycling and waste collectors may move recycling and waste containers for collection. However, the developer seems to have misunderstood the requirements of Building Regulations H6, which specifies that there must be no more than 30meters for the householder to carry waste from their dwelling to the storage point for containers and that householders must not carry the containers any more than 25 meters from the storage location to the collection point as specified by the Waste Collection Authority.

In Torbay, the collection point for all properties is the closest point on the adopted highway network and householders are responsible for bringing the recycling and waste to the collection point and taking them back to the storage point after collection. Although there are some circumstances where we will consider entering into an indemnity arrangement and collect on unadopted highway, the developer has not

presented enough information to understand the storage location and collection point for each individual property. Indemnity arrangements are only entered into by SWISCo if the unadopted highway that we need to drive on to has been built to adoptable standards (e.g. surfacing; drainage etc).

I would like to request contributions for this development.

SWISCO's Recycling Support Coordinator (response dated 14/10/2024): Objection.

The developer has not provided an adequate turning head for collection vehicles and no vehicle tracking has been provided to demonstrate that are vehicles are able to collect and exit in a forward gear. I would like to request waste management contributions.

Police Designing Out Crime Officer (response dated 24/09/2024): No objection subject to a planning condition.

It is appreciated the majority of this will be submitted as a reserved matters application in a later date if planning permission is granted however, to assist from a designing out crime, fear of crime and anti-social behaviour perspective please find my advice and recommendations below.

As the security element of the building regulations, namely Approved Document Q (ADQ), sits outside the decision making process for the planning authority the following is to inform the applicant:-

ADQ creates security requirements in relation to all new dwellings. All doors that provide entry into a building, including garage doors where there is a connecting door to the dwelling, and all ground floor, basement and other easily accessible windows, including roof lights, must be shown to have been manufactured to a design that has been tested to an acceptable security standard i.e. PAS 24.

As such it is recommended that all external doors and easily accessible windows are sourced from a Secured by Design (SBD) member-company List of Member Companies (Alphabetical). The requirements of SBD are that doors Accredited Product Search for Doors and windows Accredited Product Search for Windows are not only tested to meet PAS 24 (2022) standard by the product manufacturer, but independent third-party certification from a UKAS accredited independent third-party certification authority is also in place, thus exceeding the requirements of ADQ and reducing much time and effort in establishing provenance of non SBD approved products.

It is noted that hedging maybe used as a rear boundary treatment where this is the case it is important to ensure these attain a minimum height of 1.8m, they also must be robust enough to prevent and deter unauthorised access to the rear of the properties. It is also important that the plants being used for the hedging do not go through any drastic seasonal change which could undermine the security of the boundary. Given it can take some time for the hedging to grow and thicken to be an

appropriate boundary treatment, it should be supported by a temporary solution, such as wooden fencing for example.

Where hedging is not being used as a rear boundary treatment, either fencing or walls must be robust and attain a minimum height of 1.8 m. If greater surveillance is required, the solid boundary treatment could be reduced to 1.5m with a trellis topping of 0.3m or 0.6m. Where gates are installed for access into private rear gardens these should be the same height of the adjoining boundary treatment, robustly constructed and be lockable from both sides by means of a key for example.

Where shared rear access footpaths are being proposed such as those between plots 2 to 3 and 17 to 18, these should also be gated with access controlled for the associated residents only. The gates must be placed at the entrance to the footpath as near to the front of the building line as possible to prevent unnecessary recesses. Where vegetation and trees are proposed to be placed next to parking bays, they can provide cover for suspects to interfere with vehicles. Encroaching or uncontrolled undergrowth can hinder natural surveillance, restrict access for the car user, and can impact on the fall of light from nearby columns (if relevant). Shrubs should be selected to have a mature growth height no higher than 1 metre, trees should have no foliage, shoots or lower branches below 2m allowing a 1metre clear field of vision.

It is welcomed that there will be a good level of natural surveillance on to the areas identified as public open space and the communal vehicle parking bays from active frontages.

Should planning permission be granted I would respectfully request the following condition is in place:

All rear boundary treatments are robust and attain a height of 1.8m. Where access gates are provided for entry into the rear gardens these must also attain a height of 1.8m and be lockable from both sides by means of a key or similar.

The reason for this request is in the interest of designing out crime in line with the Torbay Local Plan DE1 point 4.

Torbay Council's Senior Environmental Health Officer (response dated 19/09/2024): No objection subject to a planning condition.

No objections, recommend a condition requiring a construction management plan.

Active Travel England (response dated 17/09/2024): No comment to make as it does not meet the statutory thresholds for its consideration.

Planning Officer Assessment

Key Issues/Material Considerations

1. Principle of Development
2. Visual Impact (including the impact upon the National Landscape), Layout and Design

3. Residential Amenity
4. Highways, Movement and Parking
5. Ecology, Biodiversity and Trees
6. Flood Risk and Drainage
7. Low Carbon Development and Climate Change
8. Other Material Considerations

1. Principle of Development

The land is a greenfield site, adjacent to the built-up area of Brixham, which is presently laid to grass. The site is not designated as open countryside under Policy C1 of the Local Plan. The application site is within the designated South Devon National Landscape. It is not allocated for housing or employment within the Local Plan and is identified as a rejected housing site within the Neighbourhood Plan.

It should be noted that, along with other parcels of land in the area ('Wall Park Extension' and 'Berry Head Road', collectively comprising 15ha of greenfield land), the site was considered for allocation for housing as part of the making of the Neighbourhood Plan. These parcels of land were assessed collectively and, as set out in the Brixham Peninsula Neighbourhood Plan 'Housing Site Assessment' document, were rejected for the following reasons:

“Development is likely to give rise to significant harm to the landscape character and visual amenity of this part of the AONB, within an area identified as being highly sensitive to change and subject to particular pressure, as well as likely to cause significant impacts to protected species. The sites are not deliverable because of the severe environmental constraints and are therefore not considered to be appropriate for allocation in the Neighbourhood Plan.”

It is considered that the application site differs in terms of its context and situation compared to some of the other parcels of land that were collectively rejected for allocation, and that the suitability of the application site for residential development should be considered on its individual merits. With due regard to the reasons set out in Neighbourhood Plan 'Housing Site Assessment' document, specifically the concerns raised regarding the landscape character and visual amenity of the AONB, protected species and environmental constraints, it is considered that these concerns have been adequately addressed and/or mitigated as part of the application and that the site is deliverable for residential development subject to a number of planning conditions.

Policy E2 of the Neighbourhood Plan defines the settlement boundaries in the Neighbourhood Plan area. The supporting Policy Map confirms that the application site is located outside the settlement boundary. Policy E2 goes on further to state that development outside settlement boundaries will need to meet the criteria of Policy C1 of the Local Plan. However, the Local Plan does not designate the land as open countryside as per Policy C1. Similarly, Policy BH4 of the Neighbourhood Plan states that development that extends settlements onto adjoining greenfield sites will be considered in the context of Policy C1 of the Local Plan.

Policy C1 of the Local Plan sets out the forms of development that may be permitted subject to no adverse impacts of rural landscape character, wildlife habitats, green corridors, historic features and mitigation to minimise harm to the environment. These are:

1. New homes for which there is a proven agricultural need, or self-build affordable housing where acceptable under Policy H3;
2. Development for forestry, horticulture or agriculture;
3. Touring caravans and tents;
4. Tourist facilities appropriate to the rural area;
5. Development associated with outdoor sport and recreation appropriate in a rural area;
6. Sensitive conversion, alteration and extension of existing buildings;
7. Essential improvements to the highway network; and
8. Appropriate renewable energy development.

It is important to note that the site is somewhat anomalous in that, while it is outside of (but adjacent to) the settlement boundary in terms of the Neighbourhood Plan, it is not designated as being within the Countryside Area in terms of the Local Plan. This reflects the site's unusual situation of being greenfield land that, following the construction of residential development (Bloor Homes) on the allocated site to the east, is now surrounded on three flanks (north, east, and south) by residential development, with Brixham Football Club adjacent to its fourth flank (west). While the site previously had some level of attachment to the surrounding countryside prior to the adjacent Bloor Homes development, the site now comprises an enclave within adjacent development with a clear sense of separation and visual distinction from the surrounding countryside. It is therefore considered that the proposal does not amount to development in the open countryside, would not be away from existing settlements, would not result in the loss of open countryside, would not lead to the creation of urban sprawl, and would not encourage the merging of urban areas with surrounding settlements. In this regard it is relevant that the site is not designated as being within a Settlement Gap as described in Policy E3 of the Neighbourhood Plan. The proposal might more reasonably be considered as a form of infill development on land that, although being an open field, is privately owned and not a local green space, and is largely surrounded by residential development that forms the eastern edge of this part of Brixham. It is therefore considered that the proposal does not present any conflict with the considerations set out in Policy C1 of the Local Plan or Policies E2 and BH4 of the Neighbourhood Plan.

Policy H1 of the Local Plan states that proposals for new homes within the Strategic Delivery Areas will be supported subject to consistency with other policies of the Plan and subject to nine criteria, notably including the need to provide a range of homes to meet the objectively assessed needs and maintain a rolling 5-year supply of deliverable sites.

Policy SS11 of the Local Plan states that development will be assessed against its contribution to improving the sustainability of existing and new communities within Torbay. Development proposals will be assessed according to whether they create a well-connected, accessible and safe community, protect and enhance the local natural and built environment, and deliver development of an appropriate type, scale, quality, mix and density in relation to its location.

In terms of wider policy guidance on the principle of development, Policies SS2 and SS8 of the Local Plan are relevant. Policy SS2 of the Local Plan frames the growth agenda for Torbay in terms of stating that all major development outside of the established built-up area should be within the identified Future Growth Areas and furthers that major development outside of these areas will only be permitted where the site has been identified by the relevant Neighbourhood Plan or a subsequent development plan document. It is important to note that part of the application site was granted outline planning permission in 2021 for 3no. dwellings, however this permission expired in August 2024.

Policy SS8 of the Local Plan states within the Area of Outstanding Natural Beauty the conservation of the landscape and scenic beauty, biodiversity and geodiversity will be given great weight and afforded the highest status of protection. Development will only be permitted in exceptional circumstances where it can be demonstrated to be in the public interest. The policy goes on to advise that planning applications should include an assessment of need for the development, economic impacts, alternative means and locations of provision, the impacts of the proposal on the environment, landscape and recreation, and the extent to which impacts could be moderated.

Policy SDB1 of the Local Plan advises that Brixham is expected to provide 660 new homes over the plan period but that this should be done without prejudicing the integrity of the Area of Outstanding Natural Beauty and Special Areas of Conservation, and provided that the interests of priority species, such as the Greater Horseshoe Bat and Cirl Buntings, can be safeguarded.

Policy SDB3 of the Local Plan confirms that the Area of Outstanding Natural Beauty around Brixham, including Berry Head National Nature Reserve, St. Mary's Bay and the wider Brixham urban coastal fringe, will be conserved and enhanced to protect its intrinsic landscape and biodiversity value, and for recreational and tourism purposes.

Policy E1 of the Neighbourhood Plan states that the natural beauty, landscape character, tranquillity and biodiversity of the Brixham Peninsula will be preserved and enhanced, and new development will need to respect these qualities and wherever possible enhance them.

Turning to national guidance contained within the NPPF there is clear guidance regarding valued landscapes (which includes National Landscapes). Paragraph 187 of the NPPF includes guidance that planning policies and decisions should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes. Paragraph 189 of the NPPF guides that great weight should be given to conserving and enhancing landscape and scenic beauty in such areas and furthers that the scale and extent of development within all these designated areas should be limited. Paragraph 190 of the NPPF confirms that when considering applications for development in protected areas, including National Landscapes, permission should be refused for major development [see Footnote 67] other than in exceptional circumstances, and where it can be demonstrated that the development

is in the public interest. Consideration of such applications should include an assessment of:

- a) the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy;
- b) the cost of, and scope for, developing outside the designated area, or meeting the need for it in some other way; and
- c) any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.

Footnote 67: For the purposes of paragraphs 190 and 191, whether a proposal is 'major development' is a matter for the decision maker, taking into account its nature, scale and setting, and whether it could have a significant adverse impact on the purposes for which the area has been designated or defined.

The application sits within the South Devon National Landscape. Whilst technically, the application is a major planning application as defined in the Town and Country Planning (Development Management Procedure) (England) Order 2015, consideration must be given as to whether the proposed development would be considered major development within the National Landscape. The proposal is for up to 20no. residential units, the parcel is within the built up area and the site is bounded by residential development. It is considered that the proposal does not constitute "major development" in the Area of Outstanding Natural Beauty as defined in Footnote 67 of the NPPF due to the reasons stated above.

Presumption in Favour of Sustainable Development.

Torbay's wider housing shortfall means that the NPPF's presumption in favour of sustainable development must be applied to housing applications.

Applying the Presumption in Favour of Sustainable Development, as outlined within Paragraph 11(d) of the NPPF, means granting permission unless:

(i) the application of policies in the NPPF that protect areas or assets of particular importance (this includes the policies relating to National Landscapes) provides a strong reason for refusing the development proposed; or

(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, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.

In accordance with Footnote 8 and Paragraph 11(d) of the NPPF the policies within the Development Plan which are most important for determining the proposal are out-of-date. The presumption in favour of sustainable development indicates that planning permission should be granted unless one of two circumstances apply. It is considered that neither limb within Paragraph 11(d) applies and therefore the presumption in favour of sustainable development applies and the tilted balance is engaged.

Policies SS3 and SS13 of the Local Plan also set out a presumption in favour of sustainable development separately to the NPPF.

Conclusion on the principle of development:

In terms of the principle of development, the development is considered acceptable in principle.

This position is however subject to wider policy considerations that are relevant to the development proposal and consideration of relevant material considerations, the forthcoming sections of the report will discuss these matters.

2. Visual Impact (Including Impact on the National Landscape), Layout and Design

Whilst the proposal only seeks detailed consent for the proposed access, being in outline with all other matters reserved for future consideration, the submitted information does include an indicative proposed site layout and indicative detail on the likely character and appearance of the development proposed in outline. In terms of the consideration of this application it is necessary to determine on the likely visual impact and impact upon the South Devon National Landscape, and to determine whether the submitted detail provides sufficient comfort that the amount of development (up to 20 dwellings) could be appropriately achieved in terms of its layout, design, and character.

The NPPF states (Paragraph 131) that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve and furthers that good design is a key aspect of sustainable development. Paragraph 139 of the NPPF confirms that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes.

Policy DE1 of the Local Plan states that proposals will be assessed against their ability to meet design considerations such as whether they adopt high quality architectural detail with a distinctive and sensitive palette of materials and whether they positively enhance the built environment. Policy BH5 of the Neighbourhood Plan states that all new development should demonstrate good quality design and respect the character and appearance of the surrounding area. Policy BH6 of the Neighbourhood Plan provides design guidance in relation to roofscape and dormer management.

Visual Impact (Including Impact on the National Landscape).

Policy SS8 of the Local Plan states that within the AONB, the conservation of the landscape and scenic beauty, biodiversity and geodiversity will be given great weight and afforded the highest status of protection. Policy SDB3 of the Local Plan furthers that the AONB around Brixham, including Berry Head National Nature Reserve, St. Mary's Bay and the wider Brixham urban coastal fringe, will be conserved and

enhanced to protect its intrinsic landscape and biodiversity value, and for recreational and tourism purposes.

Policy C1 of the Local Plan states that in the open countryside, away from existing settlements, and in rural areas surrounding the three towns of Torbay, development will be resisted where this would lead to the loss of open countryside or creation of urban sprawl, or where it would encourage the merging of urban areas and surrounding settlements to the detriment of their special rural character and setting. Policy E1 of the Brixham Peninsula Neighbourhood Plan offers a similar policy landscape, as does national guidance contained within the NPPF.

Although the site is two fields laid to grass within the National Landscape, adjacent urban development has rendered the site an enclave surrounded by residential development on its northwest, northeast and southeast boundaries, with Brixham AFC on its southwest boundary. Previously, the application site may have had more of a sense of connectedness with the surrounding rural landscape, however now there is a physical separation and visual distinction between the site and the rural landscape further to the east and south. While the site does naturally have a sense of openness and spaciousness in its current undeveloped form, there are no public vantage points from which the site appears as an intrinsic part of the wider National Landscape, noting that the site is also partially screened from public views by the established hedgerow that would be retained along the southwestern boundary. It is therefore considered that the proposal would not result in a loss of open countryside or create urban sprawl.

The proposal would be laid out in a relatively spacious arrangement that would accord with the character and urban grain of the surrounding residential areas.

The application is accompanied by a Landscape Visual Impact Assessment (LVIA). In terms of the applicant's submission, the LVIA concludes:

“... an undeveloped gap in the developed area which surrounds it and physically and contextually breaks its connection with the open coastal plateau landscape to the east and south which relates more closely to defined landscape characteristics and the special qualities of the South Devon National Landscape. The presence of a significant amount of development within the designated area around the site means that the proposals do not affect any of the area's special qualities or distinctive characteristics, and cannot be considered to extend built form into it. They relate to the scale, character, and grain of adjacent development and providing they are accompanied by a strong landscape structure that enhances and creates links to the green infrastructure of the Berry Head area as well as providing recreational links for residents, they cannot therefore be considered to cause loss, damage or detriment to the AONB's natural beauty, its special qualities or its distinctive characteristics or to the perception of its natural beauty.”

The conclusion of the LVIA is considered acceptable. On balance, the impact of the proposal on the landscape character and scenic beauty of the National Landscape is considered acceptable, noting that the proposal would offer some public benefit in the form of the delivery of up to 20no. dwellings, including 25% (5no.) being affordable dwellings.

Based on the indicative information provided, the proposed development is, for the reasons above, considered to demonstrate the potential to provide a satisfactory form of development in terms of layout, in accordance with Policies SS2, SS3, H1 and DE1 of the Local Plan, Policies BH5 of the Neighbourhood Plan and the guidance contained within the NPPF.

Layout and Design

It is important to note that achieving good design is a central thread within national guidance and Part 12 of the NPPF “Achieving well-designed places” offers key guidance on this. Guidance within Part 12 of the NPPF broadly offers that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve, that good design is a key aspect of sustainable development, and it being integral that developments function well and add to the overall quality of an area, are visually attractive, are sympathetic to local character, establish or maintain a strong sense of place, and create safe, inclusive and accessible environments. The NPPF also guides that development that is not well-designed should be refused, especially where it fails to reflect local design policies and government guidance on design (Paragraph 139).

Similar design expectations are engrained within the Development Plan through Policies SS11 and DE1 of the Local Plan, and Policies BH5 and BH6 of the Neighbourhood Plan.

The submitted information on the layout and general design characteristics are indicative only and seek to demonstrate that the amount of development can be provided satisfactorily. This is the key consideration at this stage.

The indicative layout presents a density of development which appears to be acceptable. Commentary supporting the application details a hierarchy of roads with a primary route feeding off to a secondary route, with properties generally fronting the roads. The concept of a street hierarchy is supported, with principal active elevations fronting the public realm. A mix of building types is suggested, and this is supported in terms of delivering detached, semi-detached, and terraced properties. In terms of scale, the proposal suggests two storey dwellings, which appears a suitable response to the context. In terms of appearance, the indicative concept seeks to reflect the variety in the townscape and to have simple and contemporary aesthetic that references the local vernacular. The appearance and materials should seek to respond positively to the existing and surrounding context and duly reflect the National Landscape context within which it sits. The extent of public open space is supported, as is the retention of features, such as trees and hedges, where possible. National guidance support street trees and the indicative layout does to a degree offer trees within the public realm and plot frontages.

The proposals, as an outline package, are considered to provide sufficient comfort that the amount of development could be achieved on the site, in terms of delivering a good residential standard in terms of buildings, parking, external amenity space etc.

However, notwithstanding the above it is noted that the proposals have not been subject to or engaged with the design review process, which is supported within national guidance, and it would appear beneficial that any future reserved matters are evolved and informed by such a key design planning tool, certainly when considering the sites context within a National Landscape, in order to aid delivery of an adequately positive development, should outline consent be granted.

To conclude in terms of layout and design it is considered that the proposed detailed access arrangement and indicative layout, sufficiently demonstrates that the proposed development is likely to be achievable within an acceptable layout and design through an appropriate design process. The proposal is therefore on balance considered to be in accordance with Policies SS11, H1 and DE1 of the Local Plan, Policy BH5 of the Neighbourhood Plan, and the guidance contained within the NPPF.

3. Residential Amenity

The NPPF guides that decisions should ensure that developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience (Paragraph 135). The Local Plan contains policy guidance aligned with the aspirations of the NPPF, principally through policies SS11, H1 and DE3, towards ensuring that residential development produces high-quality living environments that present a good level of amenity for future users and neighbouring occupiers. Policy DE3 also identifies size standards for self-contained units, which reflect national space standards.

The construction phase will naturally have some temporary impacts however such impacts are not unusual and can be limited through restricting hours of construction and agreeing processes to limit delivery and construction movement and parking impacts which are recommended as planning conditions. Such management would similarly protect the amenity of future occupiers that may move into the development during the construction phase.

In terms of the development itself the residential use aligns with the residential uses nearby and the additional dwellings would not result in undue noise or general disturbance for existing occupiers in the area.

In terms of location, although the site sits outside of the settlement boundary for Brixham, the fringe location, which is adjacent to established residential areas, will present a largely sustainable location for future occupiers. The development will abut and link to the existing suburban network of adopted roads and public footpaths, offering permeable routes to the wider urban area, and to the associated facilities and services found within Brixham. There is a bus stop in close proximity to the site offering access to a local service. There are local shops (Great Rea Road), allotments (Wall Park Road) and facilities (Higher Ranscombe Road – swimming pool) within walking distance. In terms of location of future occupier amenity alone the site would present a suitable, sustainable, location.

In terms of wider matters as the layout, scale, appearance and landscaping of the proposed development are reserved for future consideration at reserved matters stage considerations of amenity fixed solely on whether the indicative detail presents sufficient comfort that the amount of development could be delivered within an acceptable form without undue impact upon adjacent amenity or the amenity of future occupiers within the development. Impacts will be scrutinised at reserved matters stage when there is a detailed form of development presented.

In terms of the level of amenity afforded future occupiers of the development itself the indicative proposals are limited to an indicative layout plan, with no indicative housing types or internal layouts submitted. Information to scrutinise is therefore limited. In terms of general outlooks and natural levels of light the layout presents a relatively open and well-spaced development that is likely to offer good levels of both. Privacy levels are also likely to be adequate considering the likely relationships and distances between proposed and existing properties. Internal size standards cannot be scrutinised in any great detail, but the footprints appear to present dwellings that would achieve or exceed national space standards. It cannot be scrutinised whether bedroom standards would be met but the reserved matters stage would provide the opportunity to scrutinise the internal living environments. External amenity spaces are largely generous within the indicative layout and comply with the Local Plan policy expectation of no less than 55 square metres. In terms of other expected ancillary features cycle parking facilities should be delivered in terms of 2no. spaces for dwellings, this level of detail is not indicated on the indicative plans.

In terms of ancillary elements that influence residential quality parking, cycle parking and waste storage are key domestic elements to consider. The indicative plans show 2no. parking spaces per dwelling, which is the policy expectation within the Development Plan. These are indicatively shown as being largely delivered on each plot, however there are some courtyard areas to provide low key shared parking. Electric parking facilities should be delivered for every dwelling, and this is suggested to be clarified by a planning condition for future reserved matters to include. Cycle parking facilities are not shown and would need to be evolved within a future reserved matters application, to deliver 2no. cycle spaces per dwelling. This is suggested to be secured by planning condition, similar to the final parking provision. Considering the likely form of dwellings cycle parking could readily be delivered within ancillary structures on-plot and hence the lack of indicative planning is not considered unacceptable in terms of consideration of this outline application. In terms of waste storage, like cycle parking, there appears to be the opportunity to deliver storage facilities within gardens. Where plots do not have natural collection areas to the frontage it would be expected that future reserved matters detail did include collection day point detail within the layout where needed. Within the indicative layout this may apply to a number of plots. Such detail would seek to ensure suitable 'drag' distances and collection areas that would minimise potential obstruction to footpaths or unsuitable use of landscaped areas.

In terms of existing adjacent occupiers, considering the indicative detail presented it is expected that the amenity of occupiers on Wall Park Road, Pilgrim Close, Regard Close and Leader Close would not be unduly impacted due to the likely separation distances. In terms of the future occupiers, the indicative layout demonstrates acceptable separation distances in terms of front-to-front and front-to-side. On the

information available the indicative layout presents dwellings that are unlikely to cause undue loss of light, outlook, or privacy for adjacent occupiers. As the proposals are currently indicative, any grant of consent would not fix the final form of development and the future reserved matters would present the point in time to scrutinise the relationship and likely impacts in detail, when the final layout and form, and hence distances to neighbours, levels etc will be proposed.

Again, it is noted that the proposals have not been subject to or engaged with the design review process, which is supported within national guidance, and it would appear beneficial that any future reserved matters took advantage of such a key design planning tool, certainly when considering the sites context within a National Landscape, in order to aid delivery of an adequately positive development at reserved matters stage.

In summary, the proposal demonstrates the potential to provide a satisfactory form of development in terms of protecting the amenities of adjacent occupiers, but greater scrutiny on this will be undertaken at reserved matters stage. On the information available the development is also considered to evidence scope to deliver the amount of development proposed in a form that could accord with Policies SS11, DE1 and DE3 of the Local Plan, and the guidance contained within the NPPF.

4. Highways, Movement and Parking

In terms of national guidance, Paragraph 115 of the NPPF guides that in assessing specific applications for development it should be ensured that a) sustainable transport modes are prioritised taking account of the vision for the site, the type of development and its location; b) safe and suitable access to the site can be achieved for all users; c) the design of streets, parking areas, other transport elements and the content of associated standards reflects current national guidance, including the National Design Guide and the National Model Design Code; and d) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree through a vision-led approach. Paragraph 116 of the NPPF confirms that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network, following mitigation, would be severe, taking into account all reasonable future scenarios.

Policy DE3 of the Local Plan specifies that new development proposals should have satisfactory provision for off-road motor vehicle parking, bicycles and storage of containers for waste and recycling. Policy TA1 of the Local Plan sets out promoting improvements to road safety. Policy TA2 of the Local Plan states all development proposals should make appropriate provision for works and/or contributions to ensure an adequate level of accessibility and safety, and to satisfy the transport needs of the development. Policy TA3 of the Local Plan details that the Council will require appropriate provision of car, commercial vehicle and cycle parking spaces in all new development. Policy BH8 of the Neighbourhood Plan states that all new development should comply with the relevant adopted standards. Policy T1 of the Neighbourhood Plan advises that all developments should include safe walking and cycling access and that all development should seek to minimise commuting distances and seek to

include improvements to the safety of pedestrians and cyclists.

In terms of access, the application seeks detailed approval for a new vehicular access off Pilgrim Close. The access presents a 5.5 metre carriageway into the site with 2 metre wide footways to both sides of the carriageway.

The proposed access is considered acceptable and are considered to provide a suitable and safe access for the amount of development proposed, having the support of the local highway authority.

In terms of trip generation, the Highway Authority are satisfied that the trip generation of the proposed development will not have a severe impact on the operation of the local highway network. The Highway Authority have confirmed that Pilgrim Close has been adopted under a Section 38 agreement and that the proposed access road will be consistent with Pilgrim Close and therefore the Highway Authority are in principle satisfied with this arrangement, subject to it being in line with the Council's Highways Design Guide for New Developments, such will be secured by planning condition.

In terms of broad movement patterns and opportunities, the site sits at the edge of the existing Brixham settlement boundary and any development would directly connect to the adopted highway network serving the existing suburbs and wider town. The development would hence benefit from safe walking and cycling routes utilising the public network to local services, and the wider town centre, which is roughly a 5 minute cycle or 15 minute walk. In terms of other non-car modes options, the site would be close to local bus routes, the nearest bus stop to the site is Wall Park Holiday Centre on Wall Park Road, which is 250 meters away from the site and easily accessible within a 3-minute walk. The site is hence relatively sustainable in terms of travel and movement options. The applicant has revised the proposed layout which shows a *'3.7m wide opening in site boundary to allow pedestrian, cycle, and emergency vehicle access only. Collapsible bollard or similar physical measure to prohibit unauthorized use'*. The Highway Authority are now satisfied with these details.

In terms of the development itself, as the application seeks to reserve all matters other than access the internal network of roads and walking and cycling permeability will ultimately be determined through a future reserved matters application should planning permission be granted. This would include, via a planning condition, for all roads and footpaths to be built to an adoptable standard and for maintenance and management regimes to be agreed should the road not be put up for adoption by any future developer. These matters are required to ensure that road safety and occupier amenity through the life of the development are not compromised.

Considering the points above and having regard to guidance contained within the NPPF, which states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe (Paragraph 116), the proposal is considered acceptable on highway and movements grounds, and in accordance with the Policies TA1 and TA2 of the Local Plan, Policy T1 of the Neighbourhood Plan and the guidance contained within the NPPF.

5. Ecology, Biodiversity and Trees

Policy SS8 of the Local Plan states that all development should have regard to its environmental setting and should positively contribute to the conservation and enhancement of the natural assets and setting of the Bay. Policy NC1 of the Local Plan seeks for development to duly consider biodiversity and take opportunities for enhancement, proportionate to the context and development. Policy E8 of the Neighbourhood Plan states that internationally important sites and species will be protected. Development affecting internationally protected site and species will only be approved where it can be demonstrated there is no likely significant effect, either alone or in combination with other plans or projects and regard has been given to the NPPF and conforms to Policy NC1 of the Local Plan. Guidance within the NPPF provides similar guidance to the above and notably Paragraph 187 guides that when determining planning applications, local planning authorities should apply principles that include opportunities to improve biodiversity in and around developments should be integrated as part of the design, especially where this can secure measurable net gains for biodiversity.

In terms of the ecology, the site comprises of two fields that are laid to grass. The fields are bound by a close boarded fence to the north, an existing stone wall to the east and south, and a hedgerow to the west. In terms of ecological context, the site sits within the Sustenance Zone associated with the Greater Horseshoe Bat Roost at Berry Head that forms part of the South Hams Special Area of Conservation (SAC) and is within the Zone of Influence for recreational pressures upon the associated Calcareous Grasslands at Berry Head.

The application is supported by a Preliminary Ecology Appraisal, the Devon Biodiversity Net Gain Statement, the Statutory Biodiversity Metric, a Biodiversity Impact Assessment, and associated Biodiversity Net Gain maps. The application has been reviewed by Devon County Council ecologist acting on behalf of the Local Authority.

With regard to the potential impact upon Greater Horseshoe Bats associated with the South Hams SAC, Devon County Council's Ecologist has confirmed that given the lack of suitable habitat present onsite, and the high levels of artificial illumination the site currently experiences, it is not deemed that the proposals will lead to the loss, damage or disturbance to potential commuting routes or foraging habitat for Greater Horseshoe bats, nor will the proposals lead to loss, damage or disturbance to a Pinch Point or Mitigation Feature. The Ecologist concludes that the proposed development is unlikely to have a likely significant effect on the SAC and therefore a HRA is not required.

Policy NC1 of the Local Plan states all development which creates recreational pressure upon the Annex I habitats (European dry heath, semi-natural grasslands and scrubland facies on calcareous substrates) at the Berry Head to Sharkham Point Component of the South Hams SAC must pay a contribution towards mitigating the impact of increased visitor pressure. This mitigation has been costed at £135 per new dwelling. Providing that the proposed development provides a monetary contribution via s.106 legal agreement/unilateral undertaking equivalent to £135 per new unit, the resultant increases in recreational pressure can be mitigated and the development

will not have an adverse effect upon the integrity of the European site. The HRA developed and agreed with Natural England for the Local Plan concluded that as long as new developments provide the contributions as described above to deliver the required mitigation measures, there will be no adverse effect upon the integrity of the European site as a result of increased recreational pressures impacting the Annex I habitats, and the conservation objectives would be sustained.

The local financial contributions section of this report states the anticipated contribution.

In terms of foraging and commuting bats and other protected species, Devon County Council's Principal Ecologist is content that adequate management and mitigation can be secured by planning conditions to frame the construction and operational phases of the development.

As a further matter in England Biodiversity Net Gain (BNG) has been mandatory from 12 February 2024 under the Town and Country Planning Act 1990 (as inserted by the Environment Act 2021). This means that, subject to certain exemptions, development must deliver a 10% gain in biodiversity. In terms of this application the site is BNG liable and therefore not exempt.

Devon County Council's Ecologist has confirmed that the proposal (albeit outline) shows a 93.56% gain in hedgerow units and an overall loss of habitat units (62%), therefore the purchase of offsite habitat units is required. There is no requirement to agree terms with any BNG providers at this stage, but full details will need to be provided to the Local Planning Authority prior to commencement of any groundworks. The statutory requirement for BNG is secured via the statutory pre-commencement BNG condition. An informative must be included on the decision notice.

In-line with advice from Natural England and Devon County Council's Ecologist, the proposal is considered acceptable on ecological and biodiversity grounds for the reasons stated above, in-line with the aspirations of Policies NC1 and SS8 of the Local Plan, Policy E8 of the Neighbourhood Plan, and the advice contained within the NPPF.

Policy C4 of the Local Plan states that development will not be permitted when it would seriously harm, either directly or indirectly, protected trees or veteran trees, hedgerows, ancient woodlands or other natural features of significant landscape, historic or nature conservation value. Policy C4 goes on to state that development proposals should seek to retain and protect existing hedgerows, trees and natural landscape features wherever possible, particularly where they serve an important biodiversity role.

The application site is not subject to any statutory tree designations and the application has been supported by a Tree Survey (Doug Pratt Tree Consultancy, April 2023). The application site is bordered by young trees on the north-western boundary and managed hedges are present on the south-eastern boundary, which do not present any constraints. There are existing trees on the south-west boundary, which present constraints to the development area and form natural screening to the sporting facilities.

SWISCo's Senior Tree Officer has been consulted on the application and has confirmed that the proposed indicative site layout is broadly acceptable. Landscaping is a reserved matter that will be subject to future consideration, however the Officer considers that the application site can provide a suitable soft landscaped design. The proposal is considered to comply with Policy C4 of the Local Plan.

6. Flood Risk and Drainage

National guidance contained within the NPPF cites that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere (Paragraph 181).

Policy ER1 of the Local Plan states that proposals should maintain or enhance the prevailing water flow regime on-site, including an allowance for climate change, and ensure the risk of flooding is not increased elsewhere. Policy ER2 of the Local Plan includes reference that development proposals should seek to minimise the generation of increased run-off, having regard to the drainage hierarchy, whereby surface water will discharge following the hierarchy of i) an adequate infiltration system (for example swales, soakaways, infiltration basins, filter drains, rain gardens), or where that is not reasonably practicable; ii) a main river or water course, or where that is not reasonably practicable; iii) a surface water sewer or highway drain, or in the last resort where none of the above are reasonably practicable; iv) to a combined (foul and surface water) sewer, where discharge is controlled to be at greenfield discharge rates.

The site is within Flood Zone 1, which is the lowest level of flood risk, however it does sit within the Torbay-wide Critical Drainage Area, as designated by the Environment Agency. Guidance relating to the Critical Drainage Area states that all new development should play its part in reducing current rainfall runoff rates, and that surface water runoff from future development must be managed to ensure that an overall reduction in flood risk is achieved.

The application is supported by drainage information that seeks to demonstrate that the amount of development proposed could be managed without increasing the risk of flooding within the site, or to land or buildings adjacent. Ultimately as the application is made in outline the layout and exact extent of buildings and hardstand is not known or fixed at this stage, it is acceptable to seek a demonstration that the likely form of development can be adequately managed. Should planning permission be granted, a planning condition should be employed to secure that any future reserved matters includes a detailed drainage solution.

The application is supported by a site specific flood risk assessment which includes a drainage strategy for the proposed development. A site investigation has been undertaken which included a number of trial holes and infiltration tests to demonstrate that the use of infiltration drainage will be suitable. The Council's Drainage Engineer has been consulted. The submitted detail, following the receipt of further information, has successfully shown that the proposed drainage strategy for the submitted indicative layout would adequately manage surface water and present no risk of

flooding from the critical 1 in 100-year storm event plus 50% for climate change and 10% for urban creep.

Based on the above there is no objection to outline planning permission being granted for the development on drainage and flood risk grounds. A planning condition is recommended to require the developer to submit a final drainage design for approval once the reserved matters sets the detailed design parameters. The proposal is, for the reasons above, considered to be in accordance with Policies ER1, ER2, SS2 and SS7 of the Local Plan, and guidance contained within the NPPF.

7. Low Carbon Development and Climate Change

Policy SS14 of the Local Plan relates to 'Low carbon development and adaptation to climate change' and seeks major development to minimise carbon emissions and the use of natural resources. Policy ES1 of the Local Plan seeks to ensure that carbon emissions associated with existing buildings (heating, cooling, lighting and energy consumption) are limited.

National guidance in the NPPF contains similar goals and is clear that the planning system should support a transition to net zero by 2050, taking full account of all climate impacts including overheating, water scarcity, storm and flood risks, and coastal change (Paragraph 161). The NPPF guides that the need to mitigate and adapt to climate change should be considered when assessing planning applications, taking account of the full range of potential climate change impacts (Paragraph 162). Paragraph 166 of the NPPF states that new developments should be planned to reduce greenhouse gas emissions, and take account of landform, layout, building orientation, massing and landscaping to minimise energy consumption.

The application is supported by the Council's Sustainability Checklist and a Sustainability and Energy Statement. The Statement illustrates how the proposed development could be designed using the Energy Hierarchy principles including the use of air source heat pumps, low energy lighting and on-site renewables. However, the report does not make specific calculations of carbon reduction or specific commitments to any identified design solutions.

The Statement does not acknowledge the Council's commitment to become carbon-neutral by 2030, which is a material planning consideration, or the current Building Regulations. It does not acknowledge the Future Homes standards to be introduced in 2025.

The Council's Climate Strategy and Project Officer has commented upon the scheme and has recommended that a planning condition is employed to secure such commitments at reserved matters stage. Therefore, a planning condition is recommended to secure, in any reserved matters application relating to the proposal's layout, scale and appearance, the above details of energy efficiency measures and sustainable construction.

Subject to the recommended planning condition, the proposal is considered to have the potential to deliver on the low-carbon aspirations of the Development Plan, and the Council's Carbon-zero commitment.

8. Other Material Considerations

Housing Supply (including affordable housing)

The Council cannot currently demonstrate a 3- or 5-year housing land supply, as sought by Government. The five-year supply position represents a significant shortfall and must be treated as an important material consideration weighing in favour of the proposal.

Considering the housing supply position, it is advised that in determining the application, the presumption in favour of sustainable development at Paragraph 11 of the NPPF must be applied. Paragraph 11 of the NPPF outlines that decisions should apply a presumption in favour of sustainable development, which means approving development proposals that accord with an up-to-date development plan without delay.

It is concluded within this report that the development accords with the Development Plan when considered as a whole and hence there is support for the grant of permission, in-line with the guidance within the NPPF (Paragraph 11). Were Members of a different judgment and were to consider the proposal to conflict with the Development Plan it should be noted that the absence of a 3- or 5-year housing supply principally sets a higher benchmark to resist development. In such a circumstance development should only be refused where any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits.

Minerals Safeguarding Area

The application site is within a wider Minerals Safeguarding Area (MSA) for interbedded limestone and mudstone, designated as a known location of this specific mineral resources and to ensure these resources are not needlessly sterilised by non-mineral development.

It is presented within the application that there are several constraints that would make mineral extraction within the application site unfeasible. Such constraints include the size and location of the application site, accessibility for machinery and the noise implications upon existing adjacent neighbouring occupiers.

When considering the designation and the sites context within the National Landscape the benefits of housing are likely to outweigh the harm in terms of mineral safeguarding, and is not considered a matter in itself that would outweigh the benefits of housing supply.

Health and Wellbeing

Policy SC1 of the Local Plan requires development to contribute to the health and well-being of the community helping to deliver healthy lifestyles and sustainable neighbourhoods proportionate to the scale of the proposal. In particular, Policy SC1.3 seeks improvement to access to medical treatment services including healthcare clusters.

The NHS Trust was consulted on this application and has responded that health care services in the vicinity are under pressure. The proposed development would potentially impact on the Trust's ability to provide safe, accessible and sustainable service delivery to current and new residents. The proposal does not include the provisions of facilities to address this impact, given the increase the physical capacity of GP surgeries to mitigate additional demand, contributions are, therefore, sought to mitigate this direct impact and the amount sought is £12,419.00. This can be secured through a Section 106 agreement to accord with Policy SC1.3 of the Local Plan.

Sustainability

Policy SS3 of the Local Plan establishes the presumption in favour of sustainable development. The NPPF definition of sustainability has three aspects which are economic, social and environmental. Each of which shall be discussed in turn:

The Economic Role

Housing development is recognised as an important driver of economic growth and there would be economic benefits to the construction industry from the proposed development.

The construction phase would likely deliver direct and indirect jobs. In addition, once the dwellings are occupied there would be an increase in the level of disposable income from the occupants some which would likely to be spent in the local area and an increase in the demand for local goods and services. Council tax revenue is also a cited benefit as are the S106 obligations, although it should be noted that such obligations are to mitigate the impact of development upon certain services or infrastructure.

On balance, in terms of the economic impacts of the development weigh in favour of the development.

The Social Role

The principle social benefit of the proposed development would be the provision of additional housing including affordable housing. Given the NPPF priority to significantly boost the supply of housing the additional dwellings to be provided must carry significant weight in this balance, with the benefit heightened by the inclusion of 25% of the units being Affordable units.

The edge of settlement location presents access the services and facilities within the built-up area of Brixham, which is a positive element for future occupiers.

Public greenspace is to be provided, which is considered a social benefit of the scheme to the future occupiers and wider public.

On balance, the social impacts of the development weigh in favour of the development.

The Environmental role

With respect to the environmental role of sustainable development the development is supported by drainage, landscaping, and ecological measures to mitigate impact, as detailed in this report. The scheme is also BNG liable. It is concluded that the environmental impacts of the development weigh neutrally within the planning balance.

Sustainability Conclusion

Having regard to the above assessment, the proposed development is considered to represent sustainable development.

Statement on Human Rights and Equalities Issues

Human Rights Act - The development has been assessed against the provisions of the Act, and in particular Article 1 of the First Protocol and Article 8 of the Act. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance.

Equalities Act - In arriving at this recommendation, due regard has been given to the provisions of the Equalities Act 2010, particularly the Public Sector Equality Duty and Section 149. The Equality Act 2010 requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. Protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race/ethnicity, religion or belief (or lack of), sex and sexual orientation.

Local Finance Considerations

S106 Legal Agreement

The following are to be included in Heads of Terms for a legal agreement, which should be completed prior to any planning consent being issued. Triggers and instalments in relation to the proposed financial contributions would be agreed as part of the detailed negotiation of the legal agreement. If Members consider that the application is acceptable, it is recommended that authority to progress and complete the legal agreement is delegated to officers.

Ecology

Recreational impacts financial obligation to mitigate additional pressures upon the South Hams SAC in accordance with Policy SDB1 of the Local Plan and as identified as a necessary mitigation within the completed HRA/AA.

£135 per new dwelling in the Brixham Peninsula towards management/reduction of impacts on the Berry Head grassland, in accordance with the Planning Contributions

and Affordable Housing Supplementary Planning Document (December 2022). For 77 dwellings this would equate to an obligation of £2,700.00.

Affordable Housing

For the proposal, which is a greenfield site and between 15-29 dwellings, Policy H2 of the Local Plan identifies that 25% affordable housing should be provided on site. For a scheme of 20 dwellings this equates to an affordable housing provision of 5 units to provide a policy compliant development. Policy BH1 of the Brixham Peninsula Neighbourhood Plan re-states this ratio.

The proposal is to deliver 25% affordable housing on site, which equates to 5 units. The proposal details that the design information regarding affordable housing provision, mix of unit types and sizes, is to be submitted for consideration at the Reserved Matters Stage to address local need.

Should the development be approved, the proposed level of affordable housing (25%) should be secured within an accompanying legal agreement to include;

- 1) An affordable housing tenure split set out in accordance with Policy H2.
- 2) Provision for Adapted Housing (Policy H6) at 5% of the total dwellings.
- 3) An Affordable Housing Scheme to be submitted for the agreement of the Council as part of the reserved matters application.
- 4) Occupancy to accord with Policy BH2 of the Brixham Peninsula Neighbourhood Plan.

Sustainable Transport

In accordance with Policy SS7 of the Local Plan and the Planning Contributions and Affordable Housing Supplementary Planning Document (December 2022) (to open market housing only) Sustainable Transport obligations should be secured.

As the 5no. affordable housing units would be discounted due to site deliverability matters. However, as for the 15no. open market units, such cannot be sought due to the units being CIL liable.

Public Open Space, Sport and Recreation

In accordance with the Council's Planning Contributions and Affordable Housing Supplementary Planning Document (December 2022), residential developments are expected to provide public open space as part of their layouts to match the types of open space likely to be needed by residents, and enable a good level of access to sport, leisure and recreation facilities.

The breadth of facilities to support development are identified as:

- Playing Pitches
- Other Sport and Recreation Facilities
- Equipped play facilities for young people
- Greenspace/Open spaces
- Allotments/sustainable food production

However, such contributions cannot be sought due to 15no. open market units being CIL liable and the 5no. affordable units would be ineligible due to site deliverability matters.

Education

Obligations in-line with the adopted Planning Contributions and Affordable Housing Supplementary Planning Document (December 2022) should be sought to secure increased school capacity within Brixham, based on the provision of open market housing, however such cannot be sought due to 15no. open market units being CIL liable and the 5no. affordable units would be ineligible due to site deliverability matters.

Lifelong Learning Obligations

Obligations in-line with the Planning Contributions and Affordable Housing Supplementary Planning Document (December 2022) should be sought to secure library improvements within the area. This contribution is not sought as 15no. open market units being CIL liable and the 5no. affordable units would be ineligible due to site deliverability matters.

Waste and Recycling

Obligations in-line with the Planning Contributions and Affordable Housing Supplementary Planning Document (December 2022) should be sought to secure waste and recycling facilities for properties that will be served by the Local Authority waste collection provider. This contribution is not sought as 15no. open market units being CIL liable and the 5no. affordable units would be ineligible due to site deliverability matters.

NHS Devon

The site is not allocated in the Development Plan and as such development in this area would be additional to what the NHS is expecting.

Increase the physical capacity of GP surgeries to mitigate additional demand: £12,419.00.

CIL

The land is situated in Charging Zone 2 in the Council's CIL Charging Schedule; this means that all new floorspace will be charged at a rate of £70/sqm.

An informative can be imposed, should consent be granted, to explain the applicant's/developer's/ landowner's obligations under the CIL Regulations.

CIL is a "Local Finance Consideration" relevant to determining applications. However, in the officer's assessment, it is not a determining factor (either way) in the planning balance assessment below.

EIA/HRA

EIA: Due to the scale, nature and location this development will not have significant effects on the environment and therefore is not considered to be EIA development.

HRA: Due to the scale, nature and location this development will not have significant effects on the South Hams SAC or Lyme Bay and Torbay SAC and does not require a formal HRA.

Planning Balance

The planning assessment considers the policy and material considerations in detail. It is considered that the scheme in terms of addressing the Development Plan aspiration to provide housing would produce a significantly positive impact overall and help with the supply of much needed housing.

The impacts of the scheme are not unacceptable, subject to the planning conditions and obligations detailed below, and bearing in mind that a number of elements, including the layout, scale, appearance and landscaping for the development will need to be the subject of reserved matters applications.

Conclusions and Reason for Decision

The relevant legislation requires that the application be determined in accordance with the statutory development plan unless material considerations indicate otherwise.

In terms of material considerations, the provision of 20 dwellings, including the provision of 5 affordable units is a significant public benefit in favour of the development where national guidance seeks to significantly boost the supply of homes. The weight afforded housing supply is not insignificant where the most recent Housing Delivery Test (December 2023) for Torbay was published as 55% (i.e. between 2019-22 there were only 55% as many completions as the number of homes required), and Torbay's most recent housing land supply (April 2023) is that there is 2.17 years, which is a significant shortfall.

In terms of other matters that weigh in the developments favour there will be economic benefits through construction phase in terms of created jobs, and post construction in terms of local household spend within the local economy. The stated biodiversity net gain also weighs positively within the planning balance, as would be the provision of public greenspace within the scheme.

When considering the planning balance, it must also be noted that the NPPF guides that great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and National Landscapes which have the highest status of protection in relation to these issues (Paragraph 189).

It is also relevant that The Levelling Up and Regeneration Act has amended Section 85 of the Countryside and Wildlife Act and replaces a "duty of regard" with a stipulation that authorities "*must seek to further the purpose of conserving and enhancing the natural beauty*" of the AONB. This offers a clearer duty towards conserving and enhancing.

In-line with the above conclusions and the assessment within this report, the proposals are considered to be in principle accordance with the provisions of the

Development Plan and to demonstrate that an acceptable scheme could be accommodated on the site. The NPPF states that development proposals that accord with an up-to-date development plan should be approved without delay.

Due to the level of accord with the Development Plan and in the absence of material considerations that weigh sufficiently against the proposal, the Officer recommendation is one of approval, subject to suitable planning conditions, and securing a Section 106 Agreement to secure the identified heads of terms in line with adopted policy.

The proposed development is considered to represent sustainable development and is acceptable, having regard to the Torbay Local Plan, the Paignton Neighbourhood Plan, the NPPF, and all other material considerations.

The NPPF guides that decisions should apply a presumption in favour of sustainable development and for decision making that means approving development proposals that accord with an up-to-date development plan without delay. For housing proposals within situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites, the NPPF guides to granting permission unless the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed or where any adverse impacts of doing so would significantly and demonstrably outweigh the benefits (20 dwellings and 25% affordable), when assessed against the policies in the NPPF when taken as a whole. Subject to the recommended planning conditions and planning obligations, there are no impacts on protected areas or assets of particular importance to provide a clear reason for refusal.

Officer Recommendation

Approval: subject to;

1. Completion of a Section 106 agreement.
2. The conditions outlined below, with the final drafting of conditions delegated to the Divisional Director of Planning, Housing and Climate Emergency.
3. The resolution of any new material considerations that may come to light following Planning Committee to be delegated to the Divisional Director of Planning, Housing and Climate Emergency, including the addition of any necessary further planning conditions or obligations.

Proposed Conditions

1. Standard Time Condition

That in the case of any reserved matter, application for approval must be made not later than the expiration of three years beginning with the date of the grant of outline planning permission; and

That the development to which this permission relates must be begun not later than two years from the date of the final approval of the reserved matters, or in the case

of approval on different dates, the final approval of the last such matter to be approved.

Reason: To comply with Section 91 of the Town and Country Planning Act, 1990.

2. Reserved Matters

An application for the following reserved matters shall be submitted to the Local Planning Authority for its approval in writing:

- (i) Appearance;
- (ii) Landscaping;
- (iii) Layout; and
- (iv) Scale.

The details of the reserved matters shall be consistent with the details submitted and approved pursuant to the outline consent.

Approval of all reserved matters shall be obtained from the Local Planning Authority in writing before any development is commenced, and the development shall be undertaken in accordance with the approved reserved matters.

Reason: To enable the Local Planning Authority to control the development in detail and to comply with Section 92 of the Town and Country Planning Act 1990 (as amended).

3. Construction Method Statement

No development, including demolition, shall take place until a Construction/Demolition Management Plan has been submitted to and approved in writing by the Local Planning Authority. The plan should include, but not be limited to:

- a) The parking of vehicles of site operatives and visitors.
- b) Loading and unloading of plant and materials.
- c) Storage of plant and materials used in constructing the development.
- d) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate.
- e) Wheel washing facilities.
- f) Measures to control the emission of dust and dirt during construction.
- g) A scheme for recycling/disposing of waste resulting from demolition and construction works, with priority given to reuse of building materials on site wherever practicable.
- h) Measures to minimise noise nuisance to neighbours from plant and machinery.
- i) Construction working hours from 8:00 to 18:00 Monday to Friday, 8:00 to 13:00 on Saturdays and at no time on Sundays or Bank Holidays.

The approved Construction/Demolition Management Plan shall be adhered to throughout the construction period.

Reason: To safeguard the Local Planning Authority's rights of control over these details to ensure that the construction and demolition works are carried out in an appropriate manner to minimise the impact on the amenity of neighbouring uses and in the interests of highway safety in accordance with Policies TA1, TA2 and DE3 of the Torbay Local Plan 2012-2030.

These details are required prior to commencement of development to secure suitable parameters for the construction and demolition phase.

4. Parking Provision

The reserved matters for 'layout' shall include details for the parking of vehicles for all dwellings. The approved parking facilities shall be provided in full for each dwelling prior to its first occupation and shall be maintained for the purposes of parking at all times thereafter.

Reason: To ensure adequate parking is provided to support an adequate residential environment, protect the amenities of the area and maintain highway safety, in accordance with Policy TA3 of the Adopted Torbay Local Plan 2012-2030 and Policy BH5 of the Adopted Brixham Peninsula Neighbourhood Plan 2012-2030.

5. Electric Charging Points

The Reserved Matters application/s for 'layout' shall be accompanied by a scheme for the insertion of one electrical vehicle charging point per dwelling to be located within the site. Details to be submitted shall include design, location, specification and a timescale for insertion prior to occupation of the dwellings hereby approved. The development shall then proceed in accordance with these approved details and the approved electrical vehicle charging points shall be thereafter be available for use, maintained and retained for the lifetime of the development.

Reason: In the interests of carbon reduction and in accordance with Policies DE3, TA2 and TA3 of the Adopted Torbay Local Plan 2012-2030.

6. Bicycle Storage

The Reserved Matters application/s for 'layout' shall be accompanied by a scheme for the storage of bicycles. The bicycle storage shall be provided prior to the first occupation of the dwellings hereby approved and once provided, the agreed storage arrangements shall be retained for the life of the development.

Reason: To ensure adequate bicycle storage facilities are provided to serve the development in accordance with Policy TA3 of the Torbay Local Plan 2012-2030.

7. Waste Storage

The Reserved Matters application/s for 'layout' shall be accompanied by a scheme for the storage of refuse and recycling awaiting collection. The waste storage shall be provided prior to the first occupation of the dwellings hereby approved and once

provided, the agreed storage arrangements shall be retained for the life of the development.

Reason: In interests of visual amenity and in accordance with Policies W1 and DE1 of the Torbay Local Plan 2012-2030.

8. Lighting

The Reserved Matters application/s for 'landscaping' and/or 'layout' shall be accompanied by a Lighting Strategy. The lighting strategy shall detail measures to minimise impacts from lighting associated with pre-construction, construction and operational activities, and demonstrate how the current best practice (BCT/ILP, 2018) guidance has been implemented. This shall include details such as the following: artificial lighting associated with public realm lighting, car headlights associated with traffic movements through the development and internal and external lighting associated with the residential development. The purpose of this lighting strategy is to ensure the retained boundaries of the site function as dark corridors and bat flight lines (0.5 lux and warm light).

Lighting within the site shall thereafter be installed in full accordance with the approved details and retained as such thereafter.

Reason: In the interests of biodiversity and to ensure the site's identified bat flight lines continue to function as dark corridors and bat flight lines (0.5 lux and warm light) and roosting features are unaffected by light spill in accordance with Policy NC1 of the Adopted Torbay Local Plan 2012-2030.

9. Tree Protection Plan

The Reserved Matters application/s for 'landscaping' and/or 'layout' shall be accompanied by an annotated tree protection plan following the recommendations contained within BS 5837:2012 identifying measures (fencing and/or ground protection measures) to protect the trees to be retained. The plan shall include proposed tree protection measures during site preparation (including clearance and level changes), during construction and landscaping operations. The plan should include the design of fencing proposed and take into account the control of potentially harmful operations such as the position of service runs, storage, handling and mixing of materials on site, burning, and movement of people and machinery. Works shall then proceed in accordance with the approved documents.

Reason: To ensure that the trees are protected from potentially damaging activities in accordance with Policies NC1 and C4 of the Torbay Local Plan 2012-2030.

10. Landscaping

The Reserved Matters application/s for 'landscaping' shall be accompanied by full details of the hard and soft landscape works, including an implementation and management plan.

Details of soft landscape works shall include retention of any existing trees and hedges; finished levels/contours; planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate. The hard landscape works shall include means of enclosure; boundary and surface treatments and vehicle and pedestrian/cyclist circulation.

All planting, seeding, turfing or hard surfacing comprised in the approved landscaping scheme shall be carried out by the end of the first planting and seeding seasons following the first occupation of the dwellings hereby approved or completion of the development, whichever is the sooner. Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless the Local Planning Authority gives written consent to any variation.

The approved landscaping scheme shall be carried out in its entirety and shall accord with the approved details and timetable. Any boundary treatments or means of enclosure shall be carried out and installed prior to the first occupation of the new dwellings and shall be retained for the life of the development.

Reason: In the interests of visual amenity and in accordance with Policies DE1 and C4 of the Adopted Torbay Local Plan 2012-2030, and the guidance contained in the National Planning Policy Framework.

11. Surface Water Drainage

As part of any reserved matters application a scheme for the treatment of surface water that demonstrates that the risk of flooding would not be increased, which is in line with the design parameters outlined within the submitted and approved Flood Risk Assessment (ref: '1524 C', received 21st November 2024), shall be submitted to and approved in writing by the Local Planning Authority.

The approved scheme shall be implemented in full prior to the first occupation of the development and shall then be subsequently maintained at all times thereafter.

Reason: In the interests of adapting to climate change and managing flood risk, and in order to accord with Policies ER1 and ER2 of the Torbay Local Plan 2012-2030 and the guidance contained within the National Planning Policy Framework.

12. Construction Environmental Management Plan

The Reserved Matters application/s for 'landscaping' shall be accompanied by a Construction Environmental Management Plan (CEMP: Biodiversity). The CEMP (Biodiversity) shall be prepared in accordance with specifications in BS42020; clause 10.2 and shall include the following:

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of 'biodiversity protection zones'.

- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- d) The location and timing of sensitive works to avoid harm to biodiversity features. This includes the use of protective fences, exclusion barriers and warning signs.
- e) The times during construction when specialist ecologists need to be present on site to monitor works to ensure compliance with the CEMP: Biodiversity, and the actions that will be undertaken.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

Reason: In the interests of protected species and residential amenity and in accordance with Policies NC1 and DE3 of the Torbay Local Plan 2012-2030.

13. Landscape and Ecological Management Plan

The Reserved Matters application/s for 'landscaping' shall be accompanied by a Landscape and Ecological Management Plan (LEMP). The content of the LEMP shall be prepared in accordance with the specifications in BS42020; clause 11.1 and shall include the following

- a. Description and evaluation of features to be managed.
- b. Ecological trends and constraints on site that might influence management.
- c. Aims and objectives of management.
- d. Appropriate management options for achieving aims and objectives.
- e. Prescriptions for management actions.
- f. Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five year period).
- g. Details of the body or organisation responsible for implementation of the plan.
- h. On-going monitoring and remedial measures for biodiversity features included in the LEMP.
- i. Details of the legal and funding mechanisms by which the long-term implementation of the plan will be secured by the developer with the management bodies responsible for its delivery.

The plan shall also set out how contingencies and remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The development shall be carried out in accordance with the approved LEMP.

Reason: In the interests of protected species and in accordance with Policy NC1 of the Torbay Local Plan 2012-2030.

14. Ecological Enhancements

The Reserved Matters application/s for 'landscaping' and/or 'layout' and/or 'Appearance' shall be accompanied by details of ecological enhancement measures that are contained in the Preliminary Ecological Appraisal (ref: PEA_LandOffPilgrimClose_NorthernTrust_November2023, received 15.08.2024).

The agreed ecological enhancement measures shall then be installed prior to first occupation of the dwellings hereby approved and shall be retained thereafter.

Reason: To ensure ecological enhancement measures in accordance with Policy NC1 of the Adopted Torbay Local Plan 2012-2030.

15. Bird Nesting and Vegetation Clearance

No tree works or felling, cutting or removal of hedgerows or other vegetation clearance works shall be carried out on the site during the bird breeding season from March to September, inclusive. If this period cannot be avoided, these works shall not be undertaken until a statement of the reasons for non-avoidance has been submitted to and approved in writing by the Local Planning Authority. The works shall not be undertaken except in the presence of a suitably qualified ecologist. If breeding birds are found or suspected to be present on the part of the site the subject of such works, the works will not be permitted until the ecologist is satisfied that such breeding is complete.

Reason: To prevent harm to nesting birds in accordance with Policy NC1 of the Adopted Torbay Local Plan 2012-2030 and the guidance contained in the National Planning Policy Framework.

16. Energy – Low Carbon

A detailed energy and sustainability statement shall be submitted with each reserved matters application pertaining to layout, scale and appearance. The statement shall identify the specific details that will be incorporated into the site including how the proposed development:

1. Conserves energy by reducing energy demand through siting and design. This includes the use of building orientation, layout and landscaping to optimise solar gain, ventilation and cooling,
2. Uses energy efficiently within the fabric of the building ,
3. Uses on-site renewable technologies to achieve 20% reduction in carbon emissions,
4. Minimises water consumption and run-off,
5. Uses construction methods and materials to reduce carbon release,
6. Minimises waste.

The Statement shall be accompanied by detailed plans and elevations that demonstrate the incorporation of these details into the design of the development. The approved details shall be implemented in full prior to the occupation of the respective part of the development and retained for the lifetime of the development unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of sustainable development and in accordance with Policy SS14 of the Torbay Local Plan 2012-2030.

17. Affordable Housing

As part of any application for reserved matters relating to site layout and scale of development, a scheme of affordable housing shall be submitted for the written approval of the Local Planning Authority. The submitted details shall include information about the siting, size, and tenure type of the affordable units and of the adaptable units. The development shall be undertaken in accordance with the approved details.

Reason: In accordance with Policy H2 of the Adopted Torbay Local Plan 2012-2030.

18. Highways Standards

Construction of the internal roads and footpaths within the development approved pursuant to any reserved matters for layout and appearance shall be in accordance with the Torbay Highways Design Guide for new developments in operation at the time of construction. Roads serving each phase of development shall be completed to adoptable standards prior to the first use of each phase and made available for public use and always maintained as such thereafter.

Reason: To secure an acceptable residential environment and to ensure highway safety is not impaired, in accordance with Policies SS11, TA1, TA2 and DE1 of the Adopted Torbay Local Plan 2012-2030.

19. Adoptable Streets

No development relating to the creation of the roads shall be commenced until either the roads are subject to a completed agreement under Section 38 Highways Act 1980 or full engineering, drainage, street lighting and constructional details of the streets proposed for adoption have been submitted to and approved in writing by the Local Planning Authority. Unless the roads are subject to a completed agreement under Section 38 Highways Act 1980 the development shall, thereafter, be constructed in accordance with the approved details, unless otherwise agreed in writing with the Local Planning Authority.

Reason: In the interest of highway safety; to ensure a satisfactory appearance to the highways infrastructure serving the approved development; and to safeguard the visual amenities of the locality and users of the highway in accordance with Policies DE1, SS11, TA1 and TA2 of the Adopted Torbay Local Plan 2012-2030.

Informative: The applicant is advised to obtain a technical approval for all estate street details from the local highway authority prior to the submission of such approved details to the local planning authority.

20. Management and Maintenance of Roads

Unless the roads are subject to a completed agreement under Section 38 Highways Act 1980 no works shall be carried out for the formation or construction of any road

unless the Local Planning Authority has approved a Road Maintenance Plan for that road including the arrangements for either adoption by the highway authority or the implementation of a Private Road Management Scheme to secure the effective management and maintenance of the road and refuse collection throughout the lifetime of the development.

Where it is proposed that the estate roads shall be privately maintained no works shall be carried out above ground level until a Private Road Management Scheme has been submitted to and approved in writing by the local planning authority and which shall provide for;

- a. Setting up a company or other entity to be responsible for the on-going management and maintenance of the road and refuse collection (the "Management Body").
- b. How the company and the future management and maintenance of the road and refuse collection is to be financed including initial capital investment with subsequent funding.
- c. The rights for and obligations on the Management Company to manage and maintain the road and collect refuse
- d. Arrangements for the management and collection of refuse and waste from the dwellings.
- e. A road management and maintenance and refuse collection schedule.
- f. How refuse and waste will be managed on site including the location of individual and communal refuse and waste collection facilities and the locations where refuse and waste is to be transferred off-site.
- g. Confirmation from the relevant waste collection company that they have agreed to collect the refuse and waste from the development in accordance with the approved details.

The development shall be carried out in accordance with the Road Maintenance Plan and the Private Road Access Scheme which shall thereafter be fully complied with and implemented.

No dwelling shall be occupied unless it connects directly to a road (including a footway and carriageway) which is:

- a. Adopted by the highway authority as a highway maintainable at the public expense or
- b. Subject to an agreement with the highway authority under Section 38 of the Highways Act 1980 for the adoption of the road; or
- c. Subject to a Private Road Management Scheme where the Management Body has been established and is responsible for the management and maintenance of the road and the collection of waste and refuse from the date of occupation of the dwelling.

Any roads (including carriageways and footways) which do not form part of the highway maintainable at the public expense shall be permanently maintained to an adoptable standard and retained and made available for public use or the lifetime of the development.

Reason: In the interest of highway safety; to ensure a satisfactory appearance to the highways infrastructure serving the approved development; and to safeguard the visual amenities of the locality and users of the highway in accordance with Policies DE1, SS11, TA1 and TA2 of the Adopted Torbay Local Plan 2012-2030.

21. Written Scheme of Investigation

No development shall take place until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI) which shall have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out at all times in accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the Local Planning Authority.

Reason: To ensure, in accordance with Policy SS10 of the Adopted Torbay Local Plan 2012 - 2030 and the guidance contained within the National Planning Policy Framework, that an appropriate record is made of archaeological evidence that may be affected by the development. This needs to be a pre-commencement condition to ensure that archaeological recording can take place prior to any destructive operations taking place on site.

22. Post Investigation Assessment

The development shall not be occupied until (i) the post investigation assessment has been completed in accordance with the approved Written Scheme of Investigation and (ii) that the provision made for analysis, publication and dissemination of results, and archive deposition, has been confirmed in writing to, and approved by, the Local Planning Authority.

Reason: To comply with Paragraph 218 of the National Planning Policy Framework, which requires the developer to record and advance understanding of the significance of heritage assets, and to ensure that the information gathered becomes publicly accessible.

23. Contamination

Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the Local Planning Authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the Local Planning Authority. Where unacceptable risks are found, remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed or continued.

Reason: To ensure there is no risk of land contamination in accordance with Policy ER3 of the Adopted Torbay Local Plan 2012-2030 and the advice contained within the National Planning Policy Framework.

24. Designing Out Crime

Prior to the first use of the development hereby approved, evidence shall be submitted to and approved in writing by the Local Planning Authority to demonstrate that the design of the development meets Secured by Design standards as far as practicable.

Reason: In the interests of crime prevention in accordance with Policy DE1 of the Adopted Torbay Local Plan 2012-2030 and the guidance contained within the National Planning Policy Framework.

25. Active Travel/Emergency Access Link

The development hereby approved shall not be occupied until the '3.7m wide opening in site boundary to allow pedestrian, cycle, and emergency vehicle access only' as shown on the approved plan (ref: '230108 L 02 02 E (Illustrative)', received 14th January 2025) has been provided in full.

All reserved matters applications for 'Layout' and 'Landscaping' shall include the approved '3.7m wide opening in site boundary to allow pedestrian, cycle, and emergency vehicle access only'. A collapsible bollard or similar physical measure shall be installed within the opening to prohibit unauthorised use, the details of which shall be submitted with the reserved matters application pertaining to 'Layout' and 'Landscaping'.

The approved opening and collapsible bollard or similar physical measure shall be implemented in full prior to the first occupation of the development hereby approved and shall be kept open, and made available for the free use of the public as a permissible route. The approved opening and collapsible bollard or similar physical measure shall be permanently managed and maintained at all times thereafter in accordance with the approved details.

Reason: To ensure adequate access is provided to the development and for developments in the area in a timely manner in the interests of highway safety further to Policies TA1 and TA2 of the Adopted Torbay Local Plan 2012-2030.

Informative(s)

Positive and Proactive

In accordance with the requirements of Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order, 2015, in determining this application, Torbay Council has worked positively with the applicant to ensure that, where possible, relevant planning concerns have been appropriately resolved. In this instance the Council has concluded that this application is not acceptable for planning approval for the reasons stated.

Biodiversity Net Gain

The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for the development of land in England is

deemed to have been granted subject to the condition “(the biodiversity gain condition”) that development may not begin unless:

- a. a Biodiversity Gain Plan has been submitted to the planning authority, and
- b. the planning authority has approved the plan.

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. These are set out in the Biodiversity Gain Requirements (Exemptions) Regulations 2024 and The Environment Act 2021 (Commencement No. 8 and Transitional Provisions) Regulations 2024.

Based on the information available this permission is considered to be one which will require the approval of a biodiversity gain plan before development is begun because none of the statutory exemptions or transitional arrangements are considered to apply.

Relevant Policies

Development Plan Relevant Policies

- C1 - Countryside and the Rural Economy
- C4 - Trees, Hedgerows and Natural Landscape
- DE1 - Design
- DE3 - Development Amenity
- ER1 - Flood Risk
- ER2 - Water Management
- ES1 - Energy
- H1 - Applications for New Homes
- NC1 - Biodiversity and Geodiversity
- SC1 - Healthy Bay
- SDB1 - Brixham Peninsula
- SDB3 - Brixham Urban Fringe and Area of Outstanding Natural Beauty
- SS2 - Future Growth Areas
- SS3 - Presumption in Favour of Sustainable Development
- SS8 - Natural Environment
- SS11 - Sustainable Communities Strategy
- SS13 - Five Year Housing Land Supply
- SS14 - Low Carbon Development and Adaption to Climate Change
- TA1 - Transport and Accessibility
- TA2 - Development Access
- TA3 - Parking Requirements

- BH2 - Occupation of New Affordable Homes
- BH4 – Housing Development – Brownfield (Previously Developed) and Greenfield (Not Previously Developed) Sites
- BH5 - Good Design and the Town and Village Design Statements
- BH6 - Roofscape and Dormer Management
- BH8 - Access to New Dwellings
- E1 - Landscape Beauty and Protected Areas
- E2 - Settlement Boundaries

E8 - Internationally and Nationally Important Ecological Sites and Species
T1 - Linking of New Developments to Travel Improvements