

PAIGNTON NEIGHBOURHOOD FORUM

- Blatchcombe
- Clifton with Maidenway
- Goodrington, Roselands & Hookhills
- Paignton Town
- Preston



c/o 34 Totnes Road
Paignton
TQ4 5JZ

9th July 2013

By Email
To Alistair.Wagstaff@torbay.gov.uk
Senior Planning Officer
Spatial Planning,
Torbay Council,
2nd Floor, Electric House
Castle Circus,
Torquay
TQ1 3DR

Dear Mr Wagstaff

Proposed Development off Tones Road, Collaton St. Mary, Paignton Outline Application P/2013/0572/MOA

I refer to the Notice in the Herald Express on 20th June 2013 calling for any comments on the above planning application to be submitted by 11th July 2013.

At the instigation of the Council and Community Partnerships, the Neighbourhood Forum of local volunteers is preparing a Neighbourhood Plan for Paignton alongside the draft Local Plan being produced by the Council. Stages 1 and 2 have been completed. The first stage involved engaging with our community to identify key issues in the Neighbourhood Plan Area. The second stage involved validating the main issues in two key areas, one of which includes the development site proposed above. Stage 3 currently underway entails drafting the Neighbourhood Plan for Paignton overall. Steady progress has been made over the last 18 months, despite limited resources. The Forum is therefore concerned that its community work should not be compromised at this stage of the process without clear justification.

Consultation

In August 2012, the applicant and agent met with the Forum before the previous proposal was submitted (P/2012/1037). In particular, concern was raised that bringing the land forward for development was seen to be premature in the absence of the new Local Plan, and potentially piecemeal and prejudicial. Significant concerns were raised about traffic impact, area character, drainage and where occupants would find work. This was not an exhaustive list and the concerns are still relevant.

In May 2013, volunteers of the Forum were invited to meet with the Applicant and Council representatives to discuss a briefing note provided on the applicant's behalf prior to the current application being submitted. The meeting took place but was informed that the applicant had declined to attend the discussion. The Statement of Community Involvement attached to the new application clarifies that further community consultation will depend on how the scheme progresses through the development management process (para 4.3).

The applicant has not completed purchase of the land (Certificate B) and the proposal this time is in outline with indicative drawings. Only the access proposals have been submitted for detailed approval, and involve a greater number of access points than previously. It is therefore understood that the main purpose of the new application is to establish if and when the land should be developed. The planning statement submitted indicates that the applicant would be prepared to be part of discussions regarding wider planned growth of Collaton St

Mary, but considers this would take too long (para 4.26) and that development of the site is justified because of overriding material considerations referred to later below.

Screening Opinion

Although no application was made for a Screening Opinion a decision was issued by the Council on 20th June 2012. This concludes that the proposal meets the threshold of being Environmental Impact Development, but that no EI Assessment is required in this instance because

the proposed development would not be likely to have significant effects on the environment by virtue of its size, location and character.

This is of concern to the Forum because it is clear the proposal is in a countryside location of great landscape value where significant change would occur to the existing environment. The applicant however has recognised the need for relevant Assessments which have been submitted with the application.

The Checklist appended to the Opinion letter under the heading "Other Consents: Short, Medium or Long Term impacts" says that

"An appropriate assessment may be required in line with the Habitats Regulations".

NPPF 119 states that "The presumption in favour of sustainable development (paragraph 14) does not apply where development requiring appropriate assessment under the Birds or Habitats Directives is being considered, planned or determined."

The Council is therefore requested to clarify when considering the application if the NPPF14 presumption in favour of sustainable development does not apply in this instance as NPPF119 has set it aside having regard to the conclusion reached in the Screening Opinion.

Departure

The applicant has recognised the requirement is that a decision on the application must be made in accordance with the approved Development Plan, unless material considerations indicate otherwise (4.2).

The proposed development is a departure from the approved Development Plan and is being processed by the Council as a departure. The site lies entirely within the designated Countryside Zone and designated area of Great Landscape Value. The proposal conflicts with numerous policies in the Development Plan, including:

- HS – protecting environmental quality and balance between homes and jobs;
- H1 – not a site allocated for housing
- H2 – not a site that avoids environmental constraints
- H6 – would prejudice realisation of other planning objectives
- H9 – scale, layout and access arrangement detracting from the open environment
- ES – adding to an imbalance between jobs and housing
- TUS – loss of countryside undermines Torbay's tourism asset
- CF4 – no alternative has been defined for present cemetery allocation
- IN1 – adding to sewerage infrastructure problems to Brokenbury (see later below)
- LS – landscape harm
- L2 – loss of and impact on designated Area of Great Landscape Value
- L4 – loss of open countryside and creation of urban sprawl
- L7 – loss of Grade 2 agricultural land
- L8 – loss of natural landscape features
- L10 – damage to landscape
- NCS – impact on nature conservation
- EP3 – sewerage pollution (see later below)
- BE1 – impact on landscape

- TS – traffic impact on communities and economic competitiveness
- T18 – traffic conflict with the function of the route
- T26 – traffic conflict with function of route

To overcome the presumption against the development, the application has raised the following as material considerations in the accompanying Planning Statement:

- a) the presumption in favour of sustainable development contained in the National Planning Policy Framework (NPPF 14);
- b) a lack of an available 5 year supply of housing land, and deliverability of the scheme in the short term ;
- c) the emerging Local Plan

Each is considered below:

a) National Planning Policy Framework

As referred to above, if a development requires appropriate assessment under the Birds or Habitats Directives the NPPF clearly states that the presumption in favour of sustainable development does not apply as a material consideration (NPPF 119).

Even if the presumption does apply, the presumption is not absolute. The supply of housing must be consistent with other policies of the Framework (NPPF 47). These include

- Safe and suitable access to the site for all people (NPPF 32)
The site provided a hay crop very recently, but is otherwise not in use. Two vehicular access points are now proposed. It will deliver increased traffic and interruption to the A385 which functions as the primary transport route for all movement along this key communication corridor between Paignton and Totnes. Business traffic will be hindered contrary to the NPPF objective of stimulating economic growth (NPPF 19).
- Minimising journey length for employment (NPPF 37)
No employment provision is included with the application that would meet the needs of the resulting population increase. There is a chronic shortage of jobs in Torbay at the present time. Relying on occupants finding work outside of Torbay would be contrary to the NPPF objective of minimising the need to travel (NPPF 34)
- High standards of design through design review arrangements (NPPF 62)
The indicative estate layout has fewer dwellings than previously proposed but still implies a mundane dwelling distribution that does not meet the NPPF objective to promote or reinforce local distinctiveness (NPPF 60). The Design Review Panel may have further adverse concerns (NPPF 62).
- Protecting and enhancing valued landscapes (NPPF 109).
The site lies entirely within an area designated as of Great Landscape Value and designated Countryside Zone. The development will materially change the rural character of the existing landscape and create substantial visual intrusion into distant views that contribute to the local distinctiveness and identity of the area. This would not be consistent with the NPPF objective of protecting and enhancing valued landscapes (NPPF 109)
- Preventing development from contributing to water pollution (NPPF 109);
Volume 1 of the Infrastructure Delivery Study published by the Council in January 2012 draws attention to a foul water capacity constraint that currently exists. The report explains how the constraint is due to the volume of surface water taking up space in the combined foul and surface water system that serves the majority of Torbay (5.4.7). The volume is not easily removed and limits the ability to add further foul water flow from new development. The report draws specific attention to the problem in the western side of Paignton and the potential need for a new trunk sewer with associated pumping

stations to transfer flows directly to Brokenbury treatment works. It names the area as including “*land adjacent to Totnes Road*” (5.4.11). The report adds that such development proposals have also prompted concern about the risk of surface water flooding downstream leading to the potential inundation of Yalberton Stream (5.4.12).

The following concerns arise:

In relation to foul water, the Utilities Statement submitted with the application make no reference to foul drainage location availability or capacity to serve 175 units. The consultation reply from South West Water (20 June 2013) has raised no objection to the proposed development,

“subject to the specific point of connection to the public sewer for foul flows being agreed”

This implies a condition would be appropriate. However, there is the need to be very confident that a physical and viable solution is capable of meeting the foul drainage constraint clearly referred to in the Council’s Infrastructure Delivery Study. It is not felt that applying a condition would be appropriate in this instance when the prospect of needing a trunk sewer and pumping stations has been raised and not resolved in principle.

In relation to surface water, the indicative layout has shown ponds to deal with this at times of greatest need. However, there is concern for the safety of children in the layout that would be very difficult to overcome satisfactorily though a revised design. Of further concern is the consultation reply from the Environment Agency (21 June 2013). It draws specific attention to the need for various aspects of the proposal to be adopted and maintained for the life of the development, which implies in perpetuity. It draws attention to the need for confidence that sufficient funds and written assurances are given, otherwise the risk will be the scheme failing to carry out its intended purpose. The reply also says that the Agency is in the process of informing Torbay Council that the majority of Torbay is a Critical Drainage Area as mentioned in the NPPF. The Agency reply draws attention to the need for additional measures to be considered to achieve betterment that reduces off site flood risk downstream.

Taken together, there is significant concern that the application as submitted conflicts with the NPPF objective of preventing development from contributing to flood risk and water pollution (NPPF 109)

- Using areas of poorer quality agricultural land in preference (NPPF 112);
The site is not in agricultural use (Certificate B). It is the highest quality of agricultural land in the vicinity (Grade 2). Loss of the site would reduce food production potential and it does not meet the NPPF objective of using areas of poorer quality agricultural land in preference (NPPF 112).

b) Supply of housing land

The draft Local Plan published by the Council in September 2012 for 6 weeks of public consultation confirms the required 5 year land supply has now been met in Torbay, and sites beyond this will be identified via Neighbourhood Planning (page 159).

c) Emerging Local Plan

Significant change has occurred in the objective assessment of housing requirement over the last few months which the Forum has been considering alongside the Council. The 2011 Census results confirmed that previous assessments have not materialised – and by a significant margin. The draft new Local Plan acknowledged this would in due course necessitate a revision downwards of the DCLG household projections (page 24). This occurred in April 2013 when the 2011 based projection for the 10 years to 2021 reduced the Household growth projection to 4,400. The projection continues to rely heavily on in-migration levels that have proved locally to be significantly inaccurate, and further reductions are anticipated in the next ONS projections due in 2014.

The priority is to achieve additional and lasting jobs for the local community and the contribution it will make to wider economic growth. The existing Local Plan and draft new Local Plan both require balance to be achieved in the provision of jobs and homes. The development proposed would not meet this requirement, and provides a very low contribution towards affordable housing.

For housing land supply beyond 5 years, the Neighbourhood Forum is currently working with the Council to develop a mechanism and supply of sites that can adjust to the significant changes in requirement that will continue to be experienced. For Collaton St Mary, if and when any further land is required, the assessment so far made by the Forum would be to develop the village on the south side of the A385 by gradual stages, not the north side as proposed in the application. The Forum also supports the priority to make use of brownfield land within Collaton St Mary and Paignton before greenfield.

Conclusion

- a) The application conflicts with the approved Development Plan
- b) There are no material considerations that set aside the approved Development Plan
- c) There are drainage questions and flood risk issues which consultees have raised that call sharply into question the deliverability of the scheme in a short term and suitability of the site for development in principle at this point in time.

Yours sincerely

D.Watts
Chairman, Paignton Neighbourhood Plan Forum

cc Cllr David Thomas