

PAIGNTON NEIGHBOURHOOD FORUM

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



c/o 34 Totnes Road
Paignton
TQ4 5JZ

31 December 2014

By email to: planning@torbay.gov.uk
Planning
Torbay Council
Town Hall
Torquay
TQ1 3DR

Dear Mr Diamond

Planning Application P/2014/0983 – Land South of Yalberton Road, (Yannon’s Farm) - Outline mixed use proposal for phased residential (Use Class C3) development of approximately 190 units and employment (Use Classes B1) development of approximately 8,500 sq. m, alongside the re-use and extension of an existing building for commercial community use (use class D1), provision of public open space and other associated infrastructure. [Means of access to be determined only]

I refer to the Public Notice in the Herald Express on 11 December 2014, advertising the above application as a Departure from the Local Plan and inviting comments to be submitted within 21 days.

As the Council will be aware, the Forum is at an advanced stage of producing the Neighbourhood Plan for Paignton alongside the Local Plan currently being considered at the adjourned Examination in Public.

The Departure application was considered by the Forum on 18 December 2014. Representatives of the applicants were present at the meeting to explain the proposal and helpfully answered a number of relevant questions.

The Forum concluded that the application in its present form must either be refused, or alternatively can only be approved with critically important conditions for the following reasons:

Departure from the Local Plan

The representatives confirmed at the meeting that the application is speculative and agreed it is a departure from the existing Torbay Local Plan and proposed Local Plan.

The existing Local Plan shows both sites in the application allocated for employment use, and with part of the western site lying within the Countryside Zone and area of Great Landscape Value.

In contrast, the proposed Local Plan is based on the Employment Land Review published in September 2013 which concluded that part of the site was appropriate for

residential development but at least 50% of the western site in the application should be retained for employment development (pages 43-44).

At the Examination in Public that opened on 18 November 2014, and attended by Forum representatives, the Inspector conducting the hearing noted that there has still not been a net increase in jobs within Torbay as proposed by the new Local Plan, and very clearly saw this to be an important consideration. At the present time his formal views are awaited, but he has already indicated orally at the EiP that the hearing may need to be re-opened in due course.

Meanwhile, the Forum is fully aware that planning legislation requires a decision on a planning application must be made in accordance with the approved Development Plan, unless material considerations indicate otherwise. The approved Development Plan is the existing Local Plan. At best, the proposed Local Plan can only be a material consideration.

As indicated above, it is important to note it has been recognised the application is speculative. The Forum has concluded that no material considerations have been presented in the application that justify departing from the existing Local Plan or the proposed Local Plan.

Refusal of the application in its present form would be justified for at least the following reasons:

- Loss of employment land on a scale that would be contrary to the existing Local Plan and proposed Local Plan;
- Loss of land designated as a Countryside Zone and of Great Landscape Value and failure to demonstrate that sufficient land will be available to provide for an adequate strategic landscaping of the resultant urban edge on the western side to safeguard and enhance Yalberton Valley;
- Insufficient information that demonstrates the development as proposed can provide for foul water drainage of the site having regard to the constraint raised by South West Water in their response of 10 December 2014;
- Lack of a Habitats Regulation Assessment that demonstrates measures will sufficiently mitigate the impact from development of the site, and in combination with other sites, to safeguard protected species. It is noted the same information need has been indicated in the response from the Council's Green Infrastructure Coordinator dated 23 December 2014;
- Insufficient regard has been given to the impact of traffic using the narrow lane of Yalberton Road west of the site. The route is used by local residents from Stoke Gabriel and other areas who visit the Supermarket nearby. It is also a route misused by heavy goods vehicles that become stuck on occasions. The current weight and width restriction has proven not to be adequate. The route also has traffic flow during the tourist season from nearby camp sites that it would appear has not been assessed. Insufficient information has been provided that shows how the impact of further development on this route will be resolved. The applicants explained that they had been passed, and used, a traffic flow assessment that is now outdated and used a few years ago during the White Rock Application. This Traffic Assessment was considered inaccurate then as it measured and compared traffic flow in September 2004 and November 2009 and argued that the volume of traffic had decreased during these 5 years. However, this is

not a like for like measurement as September is still a tourist month whilst November is very much out of season;

- The proposed access options to and from the site, together with the mix of residential and non-residential traffic within the site, will result in a mix of vehicular movements to the detriment of living conditions and potential conflict with business uses in the area.

A Conditional Approach

The Forum is mindful of the need to plan positively for the future and has supported the Employment Land Review conclusion that part of the western site can be given over to residential development if at least 50% is retained to meet employment needs. The current application retains far less than this.

If the applicant is prepared to amend the application and address other needs so far identified, an approval would be considered appropriate with conditions summarised for brevity as follows:

- Not less than 50% of the western site allocated for employment development;
- Provision of a strategic landscaping belt on the western side to safeguard and enhance views of the site from Yalberton Valley;
- Foul and surface water details provided before the outline decision is made that satisfy the condition required by South West Water and the Supreme Court Judgement of 2009 (Barratt Homes Ltd v Welsh Water [UKSC 13]);
- A Habitats Regulation Assessment and other information as indicated by the Council's Green Infrastructure Coordinator;
- Proposals that will address the traffic needs of roads (really ancient lanes) within Yalberton Valley: Yalberton Road, Lower Yalberton Road and rural part of Long Road and network junction with Brixham Road;
- Access to the employment land in the western site being gained only from the north, and to residential development only from the south;
- The existing overhead power line being placed underground to ensure a satisfactory environment for the residential half of the western site;
- Ensuring the provision of allotments, protection of heritage assets and green infrastructure proposed, and linking these opportunities with South Devon College and historic orchards in the locality;
- Provision of a Green Lane link incorporated that follows the Devon Lane route to the Quarry.

It is recognised by the Forum that there will be other conditions the Council may consider would need to be added to those summarised above, which should not therefore be seen as an exhaustive list.

Environmental Impact Assessment & Further Information

At the Forum meeting, the applicant's representatives indicated that a performance agreement has been entered into with the Council that will enable the application to be

considered beyond the normal 56 days. They expected a copy of the Agreement to be available on the Council's website, but at the time of submitting this letter no such document has so far been placed on the web.

It is therefore not known if further information has been requested by the Council and when it must be supplied by.

It is also not known if a Screening Opinion has been issued by the Council regarding the need, or not, for an Environmental Impact Assessment.

If a Screening Opinion has been applied for or issued by the Council, please treat this letter as a formal request for a copy to be made available to the Forum. An electronic copy emailed to me by return would meet this request which it is hoped is helpful.

As it is likely that further negotiations will be taking place between the applicant and the Council that could change the application radically, it is requested that the Forum be given the opportunity to make further comment on any changes made to the application, and any additional reports received, prior to the application being determined.

In return, should you require any further clarification or information from the Forum, please do not hesitate to let me know.

Yours sincerely

David Watts

Chairman, Paignton Neighbourhood Plan Forum

c.c. Mike Parkes, Forum Secretary
Blatchcombe Ward Councillors, Cllr David Thomas, Cllr John Thomas