

PAIGNTON NEIGHBOURHOOD FORUM

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



c/o 34 Totnes Road
Paignton
TQ4 5JZ

17 December 2018

By email to: planning@torbay.gov.uk
Torbay Council
Planning Service (FOA Mr Ben Gilpin),
Tor Hill House
Union Street
Torquay
TQ2 5QW

Dear Mr Gilpin

**Planning Application P/2018/1183
Prior Notification - Demolition of 9 redundant buildings to enable redevelopment at
Little Blagdon Farm, Totnes Road, Paignton TQ4 7PW**

I refer to the above application requesting any representations to be submitted by no later than 26 December 2018.

The Forum objects to the proposal for the following reasons:

1 – The demolition does not fall within permitted development rights provided by Part 11 of Schedule 2 of the General Permitted Development Order 2015 as claimed:

The application states the demolition proposed is “permitted development” and asks only for determination as to whether “prior approval” is required for the method of demolition and site restoration.

However, page 90 of the General Permitted Development Order 2015 Schedule 2, Part 11, at B1(a) states that demolition is not permitted development where:

“ the building has been rendered unsafe or otherwise uninhabitable by the action or inaction of any person having an interest in the land on which the building stands and it is practicable to secure safety or health by works of repair or works for affording temporary support “

This accurately describes the buildings in the application which have been abandoned for a considerable time. It means the proposal cannot be treated as permitted development and the application is not capable of being considered an application for prior approval. Recent tidying of the site by the Council has not changed this fundamental fact.

2 – The proposal is a Departure from the adopted Torbay Local Plan and Paignton Neighbourhood Plan:

Strategic Policies SS2 and NC1 of the adopted Torbay Local Plan require that within the Totnes Road / Collaton St Mary Area a bespoke Greater Horseshoe Bat mitigation plan for all development must be submitted and approved before planning permission will be granted.

The Habitat Regulation Assessment (HRA) adopted by the Council on 10 December 2015 which accompanies the Local Plan further states that permission should only ever be granted where it is "categorically proven" there will be no adverse impacts on European sites – which in this case means the South Hams Special Area of Conservation (SAC) for the protection of Greater Horseshoe Bats (Torbay Local Plan HRA December 2015 para. 9.1.6).

The Paignton Neighbourhood Plan has completed the Examination stage and has significant weight as a material consideration. Policy PNP1 – Area Wide at f) (page 18) approved by the Council on 15 November 2018 states that development will not be supported where:

“ the development proposal would result in an adverse impact on a European protected site..”

No mitigation plan has been provided and no proposal presented that enables the Council to fully assess the effect of the application on protected species as required.

3 – The impact on protected species has not been sufficiently considered nor safeguarded and harm that will arise outweighs any benefit that might result;

Impact on protected species in this instance requires a Stage 2 “Appropriate Assessment” for the application site alone and the “in-combination” effect likely to arise when required account is taken of likely effect from other plans and projects in the area.

The Final Bat Report submitted with the application notes the site is within the Greater Horseshoe Bat sustenance zone and within 100 meters of the strategic flyway buffer zone (Report page 3).

However, bat survey of the site has only been conducted from July to September 2018 (Report page 3). This falls significantly short of the April to October period of assessment expected and which the Council required for sites recently considered in the Brixham Neighbourhood Plan.

There is no assessment presented of the “in-combination” effect with other plans and projects in the area. Even though the report states all bat roosts on site will be lost, mitigation measures are not defined meaningfully as it is being assumed these will be dealt with in the required licence from Natural England after a decision has been made on the present planning application (Report page 3).

The view is also taken in the application that no HRA is required having considered the guidelines contained in the

*“South Hams Special Area of Conservation Greater Horseshoe Bats
Supplementary Planning Document (Consultation Draft, February 2018)*

However, it is relevant to note this proposed SPD was not taken further as a result of the consultation response which challenged numerous fundamental assumptions made in the draft.

Regulation 75 to 77 of the Conservation of Habitats and Species Regulations 2017 relate specifically to General Development Orders. Regulation 77 (7) states that the local planning authority may approve a development only after it has ascertained that it will not adversely affect the integrity of the designated site.

Insufficient information has been provided that enables the Council to fulfil this statutory requirement.

4 – The Council itself is the applicant and it is against the principles of natural justice and legitimate expectation for such a controversial application to be decided by officer delegation.

In this instance the Council is the applicant, the local planning authority making the decision, the ‘competent authority’ for HRA assessment, and the enforcement body.

In short the Council is being placed in the position of being both applicant and decision maker. Of additional relevance the application is currently being treated as a delegated application for decision to be taken at officer level.

Having regard to the concerns that exist, in the interest of natural justice, transparency and legitimate expectation, it is requested by the Forum that the application is referred to elected Councillors of the Development Management Committee for decision and for a site visit to be undertaken beforehand.

In conclusion it is considered that refusal of the application is fully justified for the reasons given in 1 to 3 above.

Yours sincerely

David Watts

Chairman, Paignton Neighbourhood Plan Forum

c.c. Elected Mayor Oliver and all Torbay Councillors
Natural England
Torbay Coast and Countryside Trust
Devon Wildlife Trust
RSPB
Mike Parkes, Forum Secretary