
Land Adjacent to the A385,
Collaton St Mary

APP/X1165/A/14/2214154

(CD/I01)

Appellant's Statement of Case

For Taylor Wimpey

April 2013

The logo for ORIGIN3 features a large orange circle on the left, followed by the word "ORIGIN" in a grey sans-serif font and the number "3" in a larger grey font.

Planning . Design . Development

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1 Introduction

1.1 This Statement of Case is submitted pursuant to Rule 6(3)b of the Town and Country Planning (Inquiries Procedure) (England) Rules 2000 on behalf of Taylor Wimpey (Exeter) Limited against the refusal of planning permission for residential development on land adjacent to the A385, Collaton St Mary.

1.2 The description of development is:

'Outline Application for proposed residential development (up to 175 units) and associated development including provision of open space, landscaping ponds and other associated development. All matters reserved for further consideration except access.'

1.3 A more detailed description of the proposals is contained within the accompanying Statement of Common Ground (SoCG) (CD/H01) which has been prepared by the Appellant and Torbay Council. The details of this are not therefore repeated here.

1.4 The SoCG (CD/H01) confirms the matters which are in agreement between the Appellant and the Council. This includes the withdrawal of reasons for refusal by virtue of further consideration by the parties. This is set out in detail in the SoCG.

1.5 The Council confirms in the SoCG that refusal reason 6 has been withdrawn from their case against granting planning permission.

1.6 The Appellant and the Council have also agreed to continue to supplement the SoCG throughout evidence preparation to assist with reducing the need for cross examination during the inquiry. A separate and up to date SoCG will also be agreed in respect of housing land supply to assist matters when further factual information is known.

1.7 In accordance with the Inquiries Procedure Rules 2000, this Statement of Case (SoC) sets out the context of evidence that will be prepared with reference to a short description of the appeal site and its surroundings, its planning history, a statement on planning policy and finally the Appellant's case. The Appellant's case also includes a response to the reasons for refusal and third party

representations that have been made to PINs and which will be responded to in Proofs of Evidence (PoEs).

1.8 At this stage it is anticipated that the following PoEs will be produced:

- Over-arching planning, 5 year land supply and economic growth PoE
- Population and household growth PoE
- Design and heritage PoE
- Landscape PoE
- Transportation PoE
- Ecology PoE
- Flooding and drainage PoE

1.9 It is anticipated that Transportation, Ecology, Flooding and Drainage will be the subject of further common ground and as a result, a short inquiry statement can be submitted instead of PoEs. The Appellant will notify PINs at the earliest opportunity of any such changes that arise from collaborative working with the Council. As a result of this ongoing work with the Council, the Appellant may only produce the following PoEs:

- Over-arching planning, 5 year land supply and economic growth PoE to which will be appended transportation, ecology, household growth and flooding and drainage statements.
- Design and Heritage PoE
- Landscape PoE

2 Site Description and Planning Background

The Surroundings

- 2.1** The appeal site and surroundings are described in the SoCG (CD/H01) and reference will be made to this in evidence.
- 2.2** The Appellant's evidence will set out the appeal site's location within the administrative boundary of Torbay Council, on the western edge of Collaton St Mary, immediately to the west of Collaton St Mary C of E Primary School. It will set the appeal site in context with the urban area of Paignton.
- 2.3** Reference will be made to the local services and facilities which are located in the vicinity of the site, including:
- The Church of St Mary, Collaton St Mary;
 - Collaton St Mary C of E Primary School
 - Collaton St Mary Parish Rooms
 - The Blagdon Inn and Parkers Arms Public Houses
 - Devon Hills Holiday Village (open to the public and incorporates a health and leisure club)
- 2.4** Further common ground is being sought on agreed routes and distances to key local facilities and services; this will be provided as evidence if it is not capable of being agreed. The Appellant's evidence will demonstrate the sustainable nature of this location with reference to the definition in Paragraph 9 of the National Planning Policy Framework (NPPF).
- 2.5** In terms of Collaton St Mary, the Appellant will provide evidence that demonstrates that the settlement forms a contiguous part of the urban area of Paignton, whilst the local church to the east of the site provides a focus. Collaton St Mary itself will be identified as broadly linear in nature, being aligned with Totnes Road. Reference will be made to development behind the main road frontages which consists of pockets of mainly linear, post-war buildings which are undistinguished in character and reflective of ribbon development. It will be reasoned that this,

along with the mobile homes and chalet developments to the west do not make a logical edge to the urban form.

- 2.6** Evidence will identify recent development in the vicinity of the site and its relevance to the consideration of the appeal proposals.
- 2.7** The landscape context of the site will be further defined in evidence with reference to the Landscape Institute's Guidelines for Landscape and Visual Impact Assessments (CD/A05) to explain the characteristics of the site and surroundings. This will be supported by an explanation of the development of the settlement, its community infrastructure and local historical buildings.

The Appeal Site

- 2.8** The appeal site is 7.22ha in extent. It is agricultural land, but has previously been used on for car boot sales on up to 28 days per year as development which does not require planning permission.
- 2.9** The Appellant will set out that the A385 Totnes Road bounds the site to south with estate railings and a mixture of roadside trees and shrubs. Beyond that is a linear area of post-war suburban housing. The entrance to the site is formed by overgrown conifers. The north west and north east boundaries are formed by mixed deciduous hedgerows with some variation in size, density and intactness of planting. To the west is a relatively large caravan / leisure park while to the north east is a low-lying area of land and a stream corridor and beyond that Blagdon Road. To the north of Blagdon Road, the land rises steeply on the opposing valley side.
- 2.10** It will further draw upon the evidence that has been prepared by the Council to support on-going work which identifies the area as a location for an urban extension to provide for future growth in Torbay.

3 Planning History

- 3.1** The planning history for the appeal site falls into two categories, that which relates to planning applications and that which relates to the site's promotion through the development plan.

Planning Applications

- 3.2** The Appellant's evidence will describe the outline planning application (ref P/2013/0572) which is the subject of this appeal and which was submitted to Torbay Council on 31st May 2013. It will confirm that all matters were reserved with the exception of two points of access off the A385 Totnes Road. As described on the application forms:

'Outline Application for proposed residential development (up to 175 units) and associated development including provision of open space, landscaping, ponds and other associated development. All matters reserved for further consideration except access.'

- 3.3** Core Document D33 (list of refused plans) sets out the plans for which formal approval is sought, the evidence will explain the range of illustrative documents submitted as part of this application. It will confirm the key findings of the supporting material and will relate this to the responses from relevant consultees during the life of the planning application.
- 3.4** Evidence will address the 6 reasons for refusal set out in the officers' report to planning committee (CD/E01) and the Decision Notice (CD/E02). It will refer to common ground in so far as refusal reason 6 (access) has been formally withdrawn by the Council. It is anticipated that evidence will also refer to further common ground with the Council in respect of refusal reasons 3 and 4. Specifically confirmation that the proposals will not have any detrimental effect upon foraging and commuting bats and that development will not lead to increased flooding off site. This is explained further in Section 5 of this Statement of Case.
- 3.5** The appeal site was previously the subject of a Full Planning Application (ref P/2012/1037) which was submitted to Torbay Council in September 2012 by Taylor Wimpey. This application was for:

'Proposed development to include 197 residential units, a local centre building (ground floor only) comprising Use Class A1 floor space of 460sqm GIA, creation of vehicular access arrangements, internal road layout car parking, open space, landscaping ponds, services and infrastructure and all other associate developments.'

3.6 This Full Application was refused by Torbay Council on 12th December 2012. The Officers Report (CD/E03) and Decision Notice (CD/E04) set out a total of 4 reasons for refusal.

Development Plan

3.7 The Appellant's evidence will demonstrate that the site has a substantial and relevant development plan history. In particular reference will be made to the 5 year gestation of the emerging Local Plan which first introduced the concept of major development at Collaton St Mary at the Regulation 25 stage of plan preparation in 2009. The Appellant will show that between 2009 and 2014, the appeal site has consistently been recognised as a potential strategic development location. It will refer to the most recent master planning led assessment of the wider area commissioned by the Council and which identified a significant part of the site for residential development.

3.8 Specific reference will be made to the following documents in this respect:

3.9 Regulation 25 Draft Core Strategy: was published for consultation between September and November 2009 and considered five possible spatial approaches to growth. Collaton St Mary (and the appeal site itself) is identified within 3 of these growth options (CD/B05):

- Option 2: Urban Focus and Limited Greenfield Development suggests c. 2,000 houses in the growth area
- Option 3A: Greenfield Approach: Mixed Greenfield Approach, suggests c.3,000 houses in the growth area
- Option 3B: Greenfield Approach: Single Urban Extension includes Collaton St Mary as part of an Urban Extension west of Paignton for 6,700 homes.

3.10 Reference will also be made to the corresponding Sustainability Appraisal CD/B06.

3.11 Draft New Local Plan - A Landscape for Success: was published in September 2012. The Appellant will demonstrate that the appeal site is included within Focus Area 'SDP3: Paignton

West' (CD/B07) in the Vision, Objectives and Options for Growth document. Reference will also be made to the delivery of a new village hub / local centre at Collaton St Mary, new employment tourism, education facilities and new homes on Totnes Road. It will explain that the Paignton North and West Cluster of sites were identified to provide 4,000 jobs and 2,500+ homes over the plan period. (CD/B07).

3.12 Torbay Local Plan: Proposed Submission Plan February 2014: was published for consultation in February 2014. Collaton St Mary (including the appeal site) is included within Policy SDP3: Paignton North and Western Area. Specifically, SPD3.3 Totnes Rd, Collaton St Mary is identified to provide for 836 new homes. Reference will be made in evidence to the proposals map which specifically identifies the site as part of a future growth area for housing through policy SS2.2 (CD/B08

3.13 Torbay Local Plan: Proposed Submission Plan February 2014 Key Diagram and Policies Map Booklet, Sustainability Report and Habitats Regulations Assessment: The following policies are identified (CD/B09):

- Policy SS2.2 – Future Growth Area for Housing and related Development
- Policy SS6.2 (immediate adjacent to the site) – A385 Totnes Road Improvements.
- Policy ER1 (northeast of the site and outside of the site boundary) – Flood Risk Area.

3.14 The purpose of examining these documents and their supporting evidence base through the Appellant's PoEs will be to demonstrate that the Council has consistently concluded this location, and more specifically the appeal site, has residential development credentials.

3.15 The Appellant's evidence will also make necessary reference to any updated or additional work undertaken by the Council post submission of this SoC.

4 Relevant Planning Policy Context

- 4.1** Relevant planning policy guidance will be described at a national and local level. This is further detailed in the SoCG (CD/H01).

National Planning Policy

- 4.2** The main structure of the evidence will be based around the NPPF (CD/A01) and NPPG (CD/A03) which currently provide the policy background for plan-making and decision-taking within England.
- 4.3** The full extent of the relevant paragraphs and policies are agreed within the SoCG (CD/H01).
- 4.4** The Appellant's evidence will examine the appeal proposals in light of guidance contained within the above documents. It will demonstrate a consistency with national policy and on-going objectives, specifically paragraphs 47, 49 and 14 of NPPF (CD/A01).

Development Plan Policy

- 4.5** The Appellant is seeking to reach common ground on relevant Development Plan policies with the Local Planning Authority. These documents are explored further within the SoCG (CD/H01).
- 4.6** The Appellant's evidence will examine adopted and emerging local policy (including previous iterations and consultation documents) as well as the relevant evidence base. This includes matters such as housing and economic delivery, directions of the growth and sustainability and the extent of which is agreed with the Local Planning Authority in the SoCG (CD/H01).
- 4.7** An extant Development Plan is still in place in Torbay, this being the Adopted Torbay Local Plan (1995-2011) (CD/B01). Although the operative period of this plan is now expired, reference will be made to the saved policies of this plan in the context of the appeal site alongside the emerging policies of the Proposed Submission Version of the Torbay Local Plan (2012-2032) (CD/B08).
- 4.8** Appropriate weight will be attached to these policies in light of the NPPF (CD/A01) and other material considerations will be explored through evidence. In particular, it will be demonstrated that the strategic housing policies are now out of date. The resultant need for greenfield land to

meet the minimum housing land availability requirements of NPPF also means that policies which define open countryside in these circumstances, conflict with the wider objectives of NPPF in terms of delivering housing and the presumption in favour of sustainable development.

Supplementary Planning Guidance and other Guidance

- 4.9** Further details in respect of these can be found in the SoCG (CD/H01). Reference will be made to relevant Supplementary Planning Guidance in respect of Planning Contributions and Affordable Housing and Urban Design.

- 4.10** Reference will also be made to the Guidelines for Landscape and Visual Impact Assessments (LI/IEMA) 2013 (CD/A05) and other published local and national landscape character assessments.

5 Case for the Appellant

Overarching Planning Case for Sustainable Development

- 5.1** The Appellants case will explain that the proposed development of the appeal site is sustainable development. It will substantiate this by reference to NPPF and particularly the presumption in favour of sustainable development (para 14 CD/A01).
- 5.2** The Appellant will use NPPF (and NPPG), as a whole, to form the basis of demonstrating that sustainable development can be achieved at the appeal site. Through reference to paragraph 6 of NPPF (CD/A01), evidence will systematically examine each component part of the NPPF to lend weight to the application of the presumption in favour of sustainable development in this case. In doing so, reference will be made to the Core Planning Principles (para 17 CD/A01)
- 5.3** The evidence will show, notwithstanding the land supply issues and the need to boost the supply of housing (discussed below), this proposal represents sustainable development which should be granted planning permission.
- 5.4** In responding to Paragraph 14, it will be shown that the adopted Torbay Local Plan whose operative period was 1995-2011 is no longer up to date in many regards. It no longer has the benefit of weight previously afforded by paragraph 214 of NPPF (CD/A01) and through evidence, the level of weight to be attached to policies will be discussed and concluded upon in accordance with paragraph 215 of NPPF. In particular the Appellant's case will show that many of the strategic and historic housing policies were prepared before the publication of NPPF but moreover are now inconsistent with it. Reference will be made to the growth agenda and the significant need to boost the supply of housing that is central to Government policy and which posts dates the adopted Local Plan. Reference will also be made to paragraph 196 of NPPF (CD/A01).
- 5.5** To lend further structure to the consideration of weight to be attached to policies of the adopted Local Plan (CD/B01), reference will be made to the Saving Direction and accompanying letter (CD/A10) previously issued by DCLG as well as cross referencing other appeal decisions where the same issues have been examined.

- 5.6** In transitional development plan circumstances such as at Torbay, the Appellant's evidence will demonstrate that the adopted Local Plan is either absent, silent or the policies are out-of-date in several areas. This particularly applies to those strategic policies in respect of housing provision amongst others.
- 5.7** The housing need part of the evidence will be couched in 5 year land supply terms (examined below). However, prior to establishing a 5 year land supply position, the Appellant's overarching case will be to demonstrate that there is no up to date housing requirement set out in an up to date development plan document. The explanation of this will be linked to the adopted Local Plan being out-of-date in this respect.
- 5.8** The issue of this site being brought forward for development in advance of the New Local Plan 2012-2032 (CD/B08) will also be addressed. The housing supply case will show that development is needed now, whilst wider evidence will show that any adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, taking the policies in NPPF and material considerations into account. This is explained further in respect of individual proofs of evidence below.
- 5.9** The overarching case will show that there are no specific policies in NPPF that would indicate development should be restricted.
- 5.10** To conclude the case, it will be shown through a planning balance exercise that any adverse impacts of granting planning permission cannot be shown to significantly and demonstrably outweigh the benefits. Amongst other matters, this will have reference to those issues raised in NPPF as a whole, a response to the remaining reasons for refusal, third party comments and planning obligations that comply with the Regulation 122 of the Community Infrastructure Levy Regulations 2010.
- 5.11** The planning balance will explain the locational credentials of this site with reference to the Council's own work with regard to establishing a sustainable development plan for submission to the Secretary of State. It will confirm the numerical need for housing in 5 year land supply terms as well as the local effects of failing to provide sufficient housing in socio and economic terms. It will balance this with the mitigated change effected to the local landscape, highway network, ecological network, flooding and climate change, historic and social infrastructure.

- 5.12** The conclusion of the overarching case will demonstrate that conditional planning permission can be granted in a consistent manner with National Policy and that the benefits are not significantly outweighed by any adverse impacts. This will have regard to the principles of a development plan led approach to development by means of reference to significant and overriding material considerations.
- 5.13** To support the overarching planning case, housing need evidence will be produced by the Appellant.

Population, Household and Economic Growth and Housing Need PoEs

- 5.14** The Appellant's evidence will conclude in the context of the wider sustainable development case, that a 5 year land supply, including an appropriate buffer cannot be demonstrated by the Council.
- 5.15** The Appellant will demonstrate through evidence that there is an absence of strategic level policy such as the Regional Spatial Strategy or County Structure Plan upon which to base the housing requirement. In that absence, a series of indicators should be drawn upon to determine an appropriate range of housing need. Reference will be made to evidence produced through various iterations of Council's Strategic Housing Market Assessment (SHMA) and update papers, the tested evidence that supported the emerging Regional Spatial Strategy, household and population projections and demographic modelling information. This will point towards a range of requirements that are capable of acting as indicators of need in this transitional period in Torbay. The housing requirement will be put into context with employment trends and market signals.
- 5.16** The Appellant's case will examine population and statistical modelling to provide one of the several benchmark positions in respect of housing need.
- 5.17** Reference will then be drawn from paragraph 47 of NPPF (CD/A01) and the need to meet the full objectively assessed needs for market and affordable housing.
- 5.18** With support from NPPG (CD/A03) evidence will establish the accumulated shortfall which will be applied to the housing requirement in line with the Sedgfield approach described in NPPG (CD/A03).

5.19 An appropriate buffer will be applied in accordance with paragraph 47 of NPPF (CD/A01) with reference to how Inspectors have approached the question of whether an authority is under-performing or not. In this case it will be demonstrated that since 2006 Torbay has under-performed based upon objectively assessed need. It will also demonstrate the effect of applying only a 5% buffer, therefore showing that in either scenario a 5 year supply shortfall in housing provision exists.

5.20 Evidence will show that there are a variety of methods for establishing housing supply in accordance with NPPF and NPPG. Each method will be demonstrated and explained in order to provide a range of supply figures that encompass differing approaches to this part of the assessment. Each method will demonstrate that an overall 5 year land supply position cannot be substantiated.

Reason for Refusal 1

5.21 The Appellant will address Refusal Reason 1 by reference to landscape, design and heritage and planning PoEs. The evidence will address each element of the reason for refusal in the following manner.

5.22 The landscape PoE will examine the character of the local landscape and neighbouring area, which will be described by reference to field observations; the 2010 Torbay Landscape Character Assessment of Torbay (CD/A05); and Countryside Character, Volume 8, South West, 1999 (CD/A11).

5.23 The characteristics of the site will be described, including:

- Topography;
- Access;
- Land cover; and
- Vegetation

5.24 The Zone of Theoretical Visual Influence of the site will be described and illustrated with photographs of key views.

5.25 The form and character of Collaton St Mary will be described, including the post-war housing to the south of the site and the caravan and leisure park to the west. The evidence will demonstrate

that the proposed development is well related to the urban area of Collaton St Mary and benefits from clearly defined and defensible boundaries with the neighbouring countryside.

- 5.26** The impact of the proposed development on the landscape and visual resource will be assessed. Reference will be made to the Landscape Capacity Assessment of Torbay which, in respect of the area in which the appeal site lies, concluded that:

“This fragmented area of land is visually contained from much of the wider surrounding area by higher land which forms the backdrop to the area. Significant parts are already developed and this development and the presence of the A385 detract substantially from the quality and character of the area. The area offers an opportunity to accommodate significant change, to rationalise the existing scattered land uses and contribute to a gateway and sense of arrival to Torbay”.(Part 2 - Pg 29, CD/A05).

- 5.27** The evidence will show that the landscape and visual effects of the proposed development will be localised and that the site lies within an area that is subject to a range of urbanising influences.
- 5.28** Reference will also be made to the Stride Treglown Concept Master Plan of 2014 (CD/C14) which shows the eastern portion of the site as an area of potential development.
- 5.29** Computer Generated images (CGIs) will be provided for a limited number of selected viewpoints to show the potential impact of development. A comparative analysis will be made between the undeveloped site, the potential area of development identified in the Stride Treglown Masterplan and the appeal scheme.
- 5.30** The appeal scheme will be assessed against the relevant landscape policies in the adopted and emerging Local Plan.
- 5.31** The design and heritage evidence will provide an understanding of the historical development, the resulting built form and its character, the setting of the heritage asset, assessment of significance, sensitivity to development and how these can be taken into account in arriving at a detailed design scheme.
- 5.32** It will go on to explain that Collaton St Mary does not have a coherent historical urban form and has evolved in a very ad-hoc manner and the housing on the southern side of Totness Road is

typical of this ribbon development. The evidence will conclude that when coupled with the mobile home/ chalet developments to the west, this does not provide a logical urban edge, on the contrary it makes more sustainable sense in urban design terms to develop both sides of the road.

- 5.33** The planning evidence will demonstrate that the settlement boundary policy referred to from the adopted Local Plan is out of date for two reasons. Firstly, the operative period for the plan was until 2011 and the boundaries and allocations were drawn to provide guidance for development up to that point and secondly, as a result of this there insufficient land identified to accommodate ongoing housing requirements.
- 5.34** Evidence will show this is supported by the Council's decision to explore substantial levels of development outside of existing settlement boundaries in their ongoing development plan preparation. The planning evidence will also draw together the issues raised in the reason for refusal and examine them in the wider planning balance, concluding that the proposals represent sustainable development in accordance with NPPF (CD/A01) and NPPG (CD/A03). Amongst others, reference will be made to those paragraphs from NPPF and the adopted Local Plan which listed in the Decision Notice and SoCG. In conclusion, the evidence will show with reference to the Council's own masterplanning work, that the proposals would not significantly adversely affect longer term wider development proposals for the area.
- 5.35** The Planning PoE will also demonstrate by reference to NPPF that there is no sequential requirement to use brownfield land first and that the correct question is whether the proposal represent sustainable development; a matter addressed in the overarching case and planning balance.

Reason for Refusal 2

- 5.36** The Appellant will address Refusal Reason 2 by reference to a number of points made in respect of Refusal Reason 1 through the Landscape, Design and Heritage and Planning PoEs where there is repetition between the reasons for refusal.
- 5.37** To support the design case, evidence will be provided in respect of St Mary's Church, which is Grade II* listed. Far from being the focus of a long-established community, the evidence will explain it was built as a memorial to his daughter by the owner of the Blagdon Estate. It will go on to demonstrate that measures to safeguard the setting of the church and associated assets can be incorporated into the proposed development as well as safeguarding longer views of the tower.

In arriving at this, reference will be made to Section 12 of NPPF (CD/A01) and the relevant local plan policies listed in the SoCG.

Reason for Refusal 3

5.38 In the absence of Common Ground, an Ecology PoE will be produced. At this stage, it is anticipated that as a result of on-going common ground discussions, it can be submitted as an inquiry statement appended to the Planning PoE.

5.39 The Ecology PoE will reference that an Ecological Impact Assessment has been produced, which was undertaken in accordance with guidelines produced by the Chartered Institute of Ecology and Environmental Management (CIEEM) and that all work was undertaken in accordance with CIEEM's Code of Practice. Reference would be made to the main conclusions of this Assessment, which are as follows:

- The proposed development would not have a risk or probability of a likely significant effect on the South Hams Special Area of Conservation (SAC); the Torbay Council Habitats Regulations Screening Assessment also reached this conclusion.
- No other statutory or non-statutory designated sites would be affected.
- Mitigation measures could be provided for construction impacts on protected species and Habitats and Species of Principal Importance in England, as identified under the Natural Environment and Rural Communities Act 2006.
- The proposed development would deliver net biodiversity gain in the medium-term (3-10 years following completion of the development).

5.40 Through the Screening process of Torbay Council and under the Habitat Regulations, no Appropriate Assessment is being 'considered, planned or determined' and therefore it will be demonstrated that the presumption in favour of sustainable development is maintained with reference to para 119 NPPF (CD/A01). It is anticipated this can be confirmed in further Common Ground.

5.41 It will also be demonstrated that light spillage from motor vehicles will not have a detrimental effect upon any foraging or commuting bats by reference to the proposed dark corridors.

5.42 A summary of consultation undertaken with Natural England (Officer: Mr Julien Sclater) and the Torbay Council Ecologist (Officer: Mr Michael Oxford) will also be provided within the Ecology PoE; neither individual objected to the proposed development.

Reason for Refusal 4

- 5.43** In the absence of Common Ground a Drainage and Flooding PoE will be produced. It is anticipated as a result of on-going common ground discussions, it can be submitted as an inquiry statement appended to the Planning PoE.
- 5.44** Reference will be made to the Flood Risk Assessment having been undertaken in accordance with the Technical Guidance to the National Planning Framework (CD/A02) and in accordance with best SUDS drainage practice (CIRIA C697) (CD/A08). It will be reiterated that the assessment has been reviewed by the Environment Agency and they have not objected to the proposal.
- 5.45** It will be explained that the site is located in Flood Zone 1, the lowest risk of flooding, and is suitable for residential development. The drainage design addresses storms up to the 1 in 100 year event and includes a 30% increase in flow attributable to the predicted climate change. The climate change provision is set by the UK Climate Impacts Programme (UKCIP) and enforced by the Environment Agency.
- 5.46** The appellant's evidence will set out calculations and analysis that will demonstrate that the rate of surface water run-off from the development will be significantly improved compared to the existing greenfield situation. The drainage proposals retain water on site with ponds and swales working to infiltrate and balance flows to ensure that there is no discharge from site at up to the 1 in 100 year event. This will ensure that flood risk to downstream properties is not increased.

Reason for Refusal 5

- 5.47** The Appellant and the Council are at an advanced stage of discussing a planning obligation. The Council has produced a draft S106 Justification document in accordance with Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended) (CD/A04). At this stage of its preparation, the Appellant agrees in principle to the following contributions:

- Affordable Housing
- Education
- Life Long Learning
- Off Site Public Open Space
- Waste management

- Drainage (agreed in part only)
- Sustainable Transport (agreed in part only)
- Masterplan contribution (not agreed)

5.48 Unless agreed, the Appellant will present evidence in respect of drainage and sustainable transport contributions, in particular, the proposed contribution towards a shared footpath along the Totnes Road and a contribution towards a downstream flood alleviation scheme.

5.49 The evidence will show with reference to CIL that the drainage proposals on site do not exacerbate downstream flood events. In this respect and in the absence of any CIL charging schedule, such a contribution is not necessary to make unacceptable development acceptable in planning terms.

5.50 Evidence will demonstrate the spurious nature of the proposed masterplan contribution which as yet remains undefined. The effects of developing this site upon local infrastructure have been examined and quantified. As a result evidence will show that such a contribution is not necessary to make unacceptable development acceptable in planning terms when this site is considered on its merits.

Reason for Refusal 6

5.51 The Council have sought the opinion of their consultant Jacobs who were commissioned to assess the Council's reason for refusal 6. Jacobs concluded their assessment stating:

"It would be difficult to defend the highways refusal reason 6 at a planning inquiry"

5.52 The Council has now withdrawn this reason for refusal. The Appellant will however provide a short statement to the Inquiry to explain why in the Appellant's view the access proposals are appropriate, having regard to Third Party comments which have been submitted to this appeal.

5.53 This will be with reference to the highway work provided as part of the planning application and also to Manual for Streets II (CD/A09)

Third Party Comments

5.54 Representations have been made by third parties to the appeal. The Appellants Evidence will group individual topics and address them specifically. Many of the point will be addressed in the

overarching case or responses to the reasons for refusal. Some are addressed in the SoCG (CD/H01). Additional points that the evidence will address include the following:

- The weight to be attached to the evidence base that sits behind the emerging local plan and revoked regional strategy is a matter for consideration as part of this appeal. Reference will be made to the 6 July letter from S Quatermain to Local Planning Authorities (CD/A10).
- The Appellant's case will explain consistency or otherwise of the adopted development plan with NPPF and the application of the document as a whole.
- The evidence or common ground will confirm that the Habitats Directive has been correctly applied.
- The Appellant will explain that the appeal scheme is a departure from the adopted Local Plan, but the evidence will explain why a departure is consistent the provisions of the Act, having regard to other material considerations and the level of weight to be attached.
- Reference will also be made to agricultural land quality and the application of paragraph 112 of NPPF (CD/A01) in the balancing exercise.
- Reference will be made to both the SoCG (CD/H01) and the planning obligation to demonstrate that the effects of development upon community services and facilities such as schools will be addressed.

5.55 The PoEs will conclude that the additional points raised through third party representations do not either individually or collectively amount to an adverse impact which would significantly and demonstrably outweigh the benefits of granting planning permission.

Other Matters

5.56 The Appellant intends to continue to discuss draft planning conditions, which it is anticipated will form part of further common ground. In the event that this is not possible, a list of proposed conditions will be appended to the planning PoE. They will be formed around the current PINs model conditions (or any future updates as advised by NPPG). They will be explained by reference to the six test set out in paragraph 206 of NPPF (CD/A01).

Conclusion

5.57 Acknowledging that new development will generate changes to the local area through the use of greenfield land, these need to be put in the context of the wide ranging benefits of development in terms of the overall suitability of this location and the need for new housing in the next 5 year period.

5.58 It is also recognised that Torbay is in a transitional period in development plan terms and as a result, some policies of the historic Local Plan (CD/B01) are now out of date, leaving national policy in the form of NPPF (CD/A01) as the routemap to determining the suitability of the appeal proposals.

5.59 The evidence which is to be presented, will focus upon that routemap as a means of drawing together all aspects of the sustainability balancing exercise. The Appellant's case will conclude by demonstrating that:

- While there will be change to the urban form of Collaton St Mary, it is appropriate in the context of the character of the settlement and the need for housing.
- Development will have no adverse effect upon nature conservation and by contrast it will improve biodiversity in the short to medium term.
- The highway infrastructure network and links to it will not be adversely affected by development and new local improvements can be achieved.
- The local heritage assets and their setting can be appropriately maintained
- The proposals being brought forward in the emerging development plan will not be adversely impeded.
- Local infrastructure either has capacity to accommodate development or appropriate contributions can be made to mitigate the effects of development.
- The proposals will provide affordable and open market housing in an area of high demand for both where the historic local plan makes insufficient provision.

5.60 In concluding the balancing exercise set out in Paragraph 14 of NPPF (CD/A01) the evidence will show that in this case, the presumption in favour of sustainable development applies and conditional planning permission should be granted.