

**STATEMENT OF COMMON GROUND (CD/H01)**

**LAND ADJ A385 TOTNES ROAD COLLATON ST MARY**

**APPEAL REFERENCE: APP/X1165/A/14/2214154**

**APPEAL BY TAYLOR WIMPEY (EXETER) LIMITED**

**LOCAL PLANNING AUTHORITY TORBAY COUNCIL**

**27<sup>th</sup> JUNE 2014**

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**1. Introduction**

- 1.1. This document has been prepared by Origin3 on behalf of Taylor Wimpey Exeter (the Appellant) and agreed by Torbay Council (the LPA) in relation to the appeal against the refusal by Torbay Council (the Council) of Outline Planning Application P/2013/0572 (Appeal reference APP/X1165/A/14/2214154).
- 1.2. The purpose of this document is to establish factual information and clarify those matters that are agreed and those matters which remain in dispute between the parties.
- 1.3. It should be noted that the Appellant and Torbay Council are seeking to agree separate Statements of Common ground in respect of Five Year Housing Land Supply, Landscape matters and drainage. Work on these items is ongoing. Furthermore, the parties will continue to discuss draft planning conditions and seek to agree these prior to the Inquiry.
- 1.4. This Statement is prepared jointly and agreed by:

Signed:

Date:

Origin3 Ltd (on behalf of the Appellant)

Signed:

Date:

(on behalf of Torbay Council)

## 2. Site and Surroundings

Location and extent of Appeal Site are shown in **Appendix 1**.

### Surrounding Area

- 2.1. The appeal site lies within the administrative boundary of Torbay Council, it lies on the west of Collaton St Mary immediately north of the A385 and is located approximately 3km west of Paignton.
- 2.2. **Strategic location of Collaton St Mary:** Collaton St Mary lies between the settlements of Paignton (to the east) and Totnes (to the west). Totnes sits outside of the administrative boundary of Torbay and instead is located within South Hams District Council.
- 2.3. **Bus Services:** Bus services and frequencies will be agreed between the parties.
- 2.4. **Settlement:** The following local services and facilities are located in the vicinity of the site:
  - Church of St Mary, Collaton St Mary;
  - Collaton St Mary Church of England Primary School;
  - Collaton St Mary Parish Rooms;
  - The Blagdon Inn and The Parkers Arms Public Houses;
  - Devon Hills Holiday Village (open to the public and incorporates a health and leisure club)

The Appellant and the Council will agree a full audit of facilities and their respective distances from the subject site. A plan of these facilities showing the site in the context of Collaton St Mary and the wider Paignton area will also be agreed and submitted.

- 2.5. **Committed Development:** At the time of writing there are no extant planning permissions within 400 metres of the appeal site for major development.

The following planning permission relates to land adjacent to the north east boundary of the site; P/2012/0865 Formation of phase 1 unit for poultry breeding unit with vehicular access and parking, Long Meadow, Blagdon Road, approved 19.4.13. A copy of the decision notice, site plan and proposed layout are attached at **Appendix 2**.

### Land Adjacent to A385 Totnes Road, Collaton St Mary (The Site)

- 2.6. **Site Description:** The site is roughly triangular in shape, covers an area of 7.22ha and is made up of grassland which has been used on occasion for car boot sales which are carried out under Permitted Development Rights.

- 2.7. **Access:** Access to the site is currently available from the A385 Totnes Road. The submitted scheme proposed access via 2 priority junctions from the A385 Totnes Road.
- 2.8. **Totnes Road:** Totnes Road runs east-west along the southern boundary of the site providing a connection to Paignton to the east and Totnes to the west.
- 2.9. **Flood Zone / Drainage:** The Environment Agency's indicative flood risk map for planning shows that the appeal site is within Flood Zone 1 (low probability). In accordance with the Technical Guidance to the NPPF all uses of land in this zone are appropriate.
- 2.10. **Public Right of Way:** There are no public rights of way running across the appeal site.
- 2.11. **Boundaries:** The southern boundary of the appeal site adjoins the A385 Totnes Road with estate railings, a mixture of roadside trees and shrubs. The entrance to the site is framed by overgrown conifers. The northwest and northeast boundaries are formed by mixed deciduous hedgerows.
- 2.12. **Surrounding Land Uses:** The surroundings of the application site consist of various land uses. They include pasture to the north, the Devon Hills Holiday Village consisting of caravan, health and leisure club and public house to the west, linear housing along the A385 Totnes Road to the south and a primary school and St Mary's Church to the north east.
- 2.13. **Landscape:** The appeal site is not subject to any national landscape designations. It is locally designated as an 'Area of Great Landscape Value' and 'Countryside Zone' within the Torbay Local Plan 1995-2011 (see Section 3 for further detail). The Torbay Landscape Character Assessment produced by Enderby Associates (2010) identifies the site as LC1 Rolling Farmland, which is subdivided into a number of areas. The subdivided category is defined as 1L Blagdon Barton.
- 2.14. **Archaeology & Cultural Heritage:** The site is not the subject of any national or local architectural or historic designations. There are a number of designations in the area surrounding the site. St Mary's Church to the east of the site is listed at Grade II\*. The Church lych gate and two memorials are also listed at Grade II. To the west of the Church, the Old Vicarage and the former school rooms are listed at Grade II. To the south of this group are a drinking fountain and two thatched cottages listed at Grade II and to the west of the site is Blagdon Manor which is listed at Grade II\*. The gate piers to Blagdon Manor are separately listed at Grade II\*, as is Pound House. The locations of these designations will be shown on a plan to be agreed and submitted.
- 2.15. **Ecology:** The appeal site does not lie within or adjacent to a statutory or non-statutory designated site of nature conservation value. The site does lie within a greater horseshoe bat 'Sustenance Zone' and partially within a greater horseshoe bat 'Strategic Flyaway' associated with the South Hams Special Area of Conservation (SAC). The appeal site is dominated by poor semi-improved grassland. Species-rich hedgerows with trees occur along the north-eastern and north-western site boundaries, and scrub

and scattered trees occur along the southern boundary. A school borders the site to the east and a road with associated residential development borders the southern boundary. A holiday park is present to the immediate west of the site and two pasture fields are present to the immediate north; the north-eastern field contains several ponds.

2.16. The following protected species were recorded during ecological surveys of the site (undertaken by EAD [ecological consultants] on behalf of the Appellant):

- Reptiles – low populations of slow worm and grass snake.
- Nesting birds – numerous bird species including Species of Principal Importance under the NERC Act 2006. Cirl Bunting was not recorded;
- Bats – at least 10 species recorded foraging / navigating within the site boundary. The north-western and north-eastern site boundaries were considered to be the most important foraging / flight corridors within the site boundary, including for greater horseshoe bat. No roosts were recorded.
- Badgers – a main sett was recorded to the immediate north of the northern site boundary. Several other badger setts (subsidiary to outlier) occurred along the north-western and north-eastern boundaries.

### 3. Site History

#### Planning Application History – Outline Planning Application

- 3.1. **Outline Planning Application:** The Outline Planning Application (ref P/2013/0572) which is the subject of this appeal was submitted to Torbay Council on 31<sup>st</sup> May 2013. All matters were reserved with the exception of access off the A385 Totnes Road. A list of the original information submitted and identifies subsequent revisions / replacement information can be found at CD/D33.
- 3.2. **Description of Development:** As agreed with the Council is set out on the Appeal Form *'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. **Environmental Statement:** The appeal scheme was screened for an Environmental Impact Assessment in 2013 and Torbay Council confirmed on 20<sup>th</sup> June 2013 (**Appendix 3**) that the Environmental Statement (ES) was not required to support this application. The reasons being that it was considered by Torbay Council that, taking account of the criteria in Schedule 3 of the 2011 Regulations, the proposed development would not be likely to have significant effects on the environment by virtue of its size, location or character.
- 3.4. **Habitat Regulations Screening:** Torbay Council 'Screened' the Outline Planning Application under the Conservation of Habitat and Species Regulations 2010 (as amended). The conclusion of this Screening Assessment was that the proposed development would not have a Likely Significant Effect, alone or in combination, on the Conservation objectives of the South Hams SAC. Consequently, no 'Appropriate Assessment' of the proposed development was undertaken, or was required to be undertaken, by Torbay Council. A copy of the Screening Assessment is documented in **Appendix 4**. In light of the Habitat Regulations Assessment for the emerging Local Plan, Torbay Council intends to re-screen the planning application. The conclusion of this second Screening Assessment will be submitted.
- 3.5. **Refusal:** Outline Application was refused by Torbay Council on 21<sup>st</sup> August 2013. The Officers Report and Decision Notice have been supplied.

#### Other Relevant Planning Applications

- 3.6. **Full Application:** The appeal site was previously the subject of a Full Planning Application (ref P/2012/1037) submitted to Torbay Council in September 2012.
- 3.7. **Description of Development:** *'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 associated development'*



- 3.8. **Habitat Regulations Assessment Screening:** Torbay Council ‘Screened’ the planning application under the Conservation of Habitat and Species Regulations 2010 (as amended). The conclusion of this Screening Assessment was that the proposed development would not have a Likely Significant Effect, alone or in combination, on the Conservation Objectives of the South Hams SAC. Consequently, no ‘Appropriate Assessment’ of the proposed development was undertaken, or was required to be undertaken, by Torbay Council.
- 3.9. **Refusal:** Full Application was refused by Torbay Council on 12<sup>th</sup> December 2012. The Officers Report and Decision Notice have been supplied.

### **Development Plan History**

- 3.10. **Saved Adopted Torbay Local Plan 1995-2011:** Adopted with modification on 5<sup>th</sup> April 2004. Although the operative period of this plan was up to 2011, the majority of its policies and proposals have been saved, subject to their consistency with the National Planning Policy Framework (with reference to paragraph 215 of the National Planning Policy Framework – NPPF). Torbay have assessed the Local Plan against the NPPF, please refer to CD/B04. A copy of the Saving Direction and a schedule of Saved Policies can be found at **CD/A07**. The Torbay Local Plan 1995-2011 Proposals Plan (**CD/B02**) shows that the following policies are relevant to the appeal site:
- Policy CF4.1 identifies the appeal site as a potential location for a new cemetery in Collaton St Mary
  - Policy L2 identifies the appeal site as an Area of Great Landscape Value
  - Policy L4 identifies the appeal site as being within the Countryside Zone
  - Policy R3.2 identifies an area in the south east as a potential location for new playing fields and related facilities.
- 3.11. **Regulation 25 Draft Core Strategy:** The Core Strategy is part of the Local Development Framework for Torbay 2006 -2026. The ‘Vision, Objectives and Options for Growth’ document 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.
- A copy of the Sustainability Appraisal can be found at **CD/B06**.
- 3.12. **Draft New Local Plan - A Landscape for Success:** This document was consulted on between September and November 2012. The appeal site is included within Focus Area

‘SDP3: Paignton West’ in the Vision, Objectives and Options for Growth document. Reference is 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’ after 10 years. The Paignton North and West Cluster of sites are identified to provide 4,000 jobs and 2,500+ homes over the plan period. (CD/B07).

- 3.13. **Torbay Local Plan: Proposed Submission Plan February 2014:** Published for consultation 24<sup>th</sup> February to 7<sup>th</sup> April 2014 and will in due course be submitted to the Planning Inspectorate for Examination. 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 for a total of 836 new homes, likely to come forward towards the end of the 20 year plan period due to the complex infrastructure and masterplanning needed to facilitate development. (CD/B08)
- 3.14. **Torbay Local Plan: Proposed Submission Plan February 2014 Key Diagram and Policies Map Booklet:** 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.
- 3.15. **Torbay Local Plan: Proposed Submission Plan February 2014 Sustainability Report & Appendices (CD/B10)**
- 3.16. **Torbay Local Plan: Proposed Submission Plan February 2014 Habitat Regulations Assessment (CD/B11)**

#### **4. Relevant Development Plan and National Planning Policy Guidance and Related Documents**

- 4.1. This section seeks to identify the Development Plan for the purposes of Section 38(6) of the Planning and Compulsory Purchase Act 2004 and any relevant policies. The section also identified those national planning policy guidance which is considered to be of relevant to the consideration of the appeal.

#### **Development Plan**

- 4.2. For the purpose of determining the appeal, the development plan comprises the saved Policies of the Torbay Local Plan
- 4.3. The parties agree that the following policies are relevant to this Appeal:

##### **Saved Policies of Torbay Local Plan (CD/A07)**

- Policies HS, H2, H6, H9, H10 and H11
- Policies EPS, EPS1
- Policies BES, BE1 and BE2
- Policies LS, L2 L4, L8, L9 and L10
- Policies NCS and NC5
- Policy CFS and CF6
- Policy TS, T1, T2, T3 T18, T25 and T26

#### **Emerging Torbay Local Plan and Evidence Base**

- 4.4. The Proposed Submission Version of the new Torbay Local Plan was published for consultation between 24<sup>th</sup> February 2014 and 7<sup>th</sup> April 2014. The Local Plan sets out key issues, aspirations for the future, and policies for delivering and managing change over the next 20 years and beyond. The Local Plan will form the statutory basis for decisions on spatial planning within Torbay when adopted. This version of the Local Plan represents what the Council believed to be the most sustainable approach for guiding development in Torbay, having regard to government guidance and good practice. This document and the existing evidence base identified below are considered relevant in the determination of this appeal:

- Exeter and Torbay Housing Market Assessment (SHMA) 2007 (and Torbay update 2011 – CD/C01 & CD/C02)
- Torbay Strategic Housing Land Availability Assessments (SHLAA) (2008 and 2013) (CD/C03 & CD/C04)
- Torbay Housing Requirements Report 2013 (CD/C05)
- Torbay Landscape Character Area Assessment 2010 (CD/C06)
- Torbay Infrastructure Delivery Study 2012 (CD/C07)
- Annual Monitoring Report 2013 (CD/C08)
- Torbay Local Plan Viability Report 2014 (CD/C09)

- Strategic Flood Risk Assessment Level 1 (2008) and Level 2 (2010) (CD/C10 & C11)
- Stride Treglown Collaton St Mary Concept Masterplan Response (April 2014) (CD/C14)
- Torbay Report to Council regarding Third Party Contributions towards the South Devon Link Road (2012) (CD/C15)

## **National Planning Policy**

### National Planning Policy Framework (NPPF)

4.5. Published 27<sup>th</sup> March 2012. The following paragraphs are relevant to this appeal. (CD/A01)

4.6. Paragraphs 9, 10, 11, 12, 14, 17, 32, 34, 47, 48, 49, 50, 56, 57, 58, 60, 61, 64, 99, 100, 103, 109, 111, 118, 125, 126-141, 196, 197, 203, 204, 205, 206, 215, 216

### National Planning Practice Guidance

4.7. Released 6<sup>th</sup> March 2014. The following sections are relevant to this appeal (CD/A03).

- Housing and Economic Development Needs Assessments
- Housing and Economic Land Availability Assessment
- Planning Obligations
- Conserving and Enhancing the Historic Environment
- Natural Environment
- Design
- Flood Risk and Coastal Change
- Health and Wellbeing
- Open space, sports and recreation facilities, public rights of way and local green space
- Use of Planning Conditions
- Water supply, wastewater and water quality

### The Conservation of Habitats and Species Regulations (2010) (as amended) (CD/A06)

## **Supplementary Guidance**

4.8. Torbay Council Planning Contributions and Affordable Housing SPD (2008) (CD/C12)

4.9. Torbay Council Planning Contributions and Affordable Housing SPD Economic Recovery Measures Update 3 (2011) (CD/C13)

## **5. The Proposal and Plans for Approval**

### **The Description of Development**

5.1 The Appeal Site is identified on Drawing 6951 PL01 at **Appendix 1**.

5.2 The proposal comprises the following:

- Up to 175 dwellings (Use Class C3)
- Open space
- Two new vehicular access junctions onto the A385
- Pedestrian accesses at eastern and western corners
- Landscaping
- Ponds
- Provision of foul and surface water and infrastructure

### **Plans for Approval**

5.3 Please refer to CD/D33 for a list of plans and documents for which approval is sought.

## **6.0 Consultation**

### **Statutory Consultees**

6.1 The following Statutory Consultees have engaged in the application process:

- Environment Agency
- Local Highway Authority
- Natural England

### **Statutory Undertakers**

6.2 The following Statutory Undertakers have been consulted as part of the application process:

- South West Water

6.3 Copies of the above responses can be found at **Appendix 5**

## **7.0 Section 106 Agreement**

- 7.1. A set of Heads of Terms was submitted as part of the Outline Planning Application.
- 7.2. As detailed in Section 8 below the Section 106 Proposals formed part of the reasons for refusal. The Appellant is prepared to re-enter negotiations with Torbay Council on this matter.
- 7.3. On the basis of the above the Parties are seeking to agree a set of acceptable Heads of Terms.

## **8.0 Reasons for Refusal**

8.1 In response to the Reasons for Refusal the following has been agreed with the Local Planning Authority.

### **Reason for Refusal 2**

8.2 It has been agreed that the Appellant and Torbay Council will seek to enter into a separate Statement of Common ground relating to landscape issues. This will cover the following:

- Identification of key viewpoints
- Land use
- Approximate zone of theoretical visual influence of the site
- Impact on vegetation resulting from formation of the access
- Description of the topography of the site.

### **Reason for Refusal 3**

8.3 Whilst this has not been removed, the Appellant is in discussions with the Local Planning Authority and the latest position is set down below.

8.4 Draft conditions (**Appendix 6**) and a supporting plan (**Appendix 7**) which deal with the above are currently being discussed.

8.5 An email dated 25<sup>th</sup> June 2014 from the Appellant's Agent has confirmed that they will not pursue costs against the Council in respect of this reason for refusal providing the Appellant and the Council come to an agreement on addressing the reason for refusal. A copy of this email is attached at **Appendix 8**.

### **Reason for Refusal 4**

8.6 The Appellant is seeking to agree this matter with the relevant officers and has submitted additional plans and calculations to this effect. If common ground can be reached on this matter, an update will be provided in this respect.

### **Reason for Refusal 5**

8.7 The Appellant is seeking to agree acceptable terms regarding this matter with the Local Planning Authority, where agreement is not able to be reached, this will be dealt with via Proofs of Evidence.



### **Reason for Refusal 6**

- 8.8 The development through the provision of an additional two new highway junctions will impede the free flow of traffic along the A385 Totnes Road.
- 8.9 On 12<sup>th</sup> May 2014, The Torbay Council Development Management Committee decided to remove reason number 6 (highways) from the decision on planning application reference P/2013/0572. The Committee Report and Minutes are attached at **Appendices 9 and 10** respectively. The Council advised PINS of this decision in email dated 14<sup>th</sup> May 2014.
- 8.10 In email dated 6<sup>th</sup> May 2014 the appellant confirmed that they would not pursue costs against the Council in respect of this reason for refusal providing it is removed. A copy of this email is attached at **Appendix 11**.