

# Brixham Town Council

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## Minutes of the Meeting of the Planning and Regeneration Committee held in the Furzeham Room of Brixham Town Hall on 4<sup>th</sup> December 2017 at 7:00pm.

**Present:** Cllrs R Clarke, I Carr, M Day, D Giles and J Stockman.

**Also present:** L McGuirk, Deputy Town Clerk and one member of the public.

**17137. Apologies.**

Cllrs V Campbell, M Day and Mr Adam Billings Brixham Peninsular Forum (BPNF).

**17138. Declarations of Interest.**

None

The declaration of interest book was available to sign.

**17139. To consider any requests for Dispensation on agenda items.**

None

**17140. Minutes of the meeting held on 6<sup>th</sup> November 2017.**

The minutes of the meeting held on 06.09.17 were **resolved** and signed

**17141. To hear an update on creating a Best Practice Guide.**

Cllr Carr updated members on his meeting with Jonathan of MTA architects who advised the Best Practice Guide might not be the best way forward. A Grant funding scheme could be a better approach and would assist landlords to renovate properties sympathetically. Members discussed this variation and agreed further investigation is required. Continued discussion on good design in a conservation area took place. Members decided to prioritise the implementation of Article 4 directive.

**17142. To discuss and Consider Article 4 Direction.**

Cllr Carr updated members on a meeting he attended at Torquay Town Hall with Torbay Council Officers Helen Addison, Team Leader Development Management Spatial Planning, Hal Bishop Senior Conservation Officer, Jim Blackwell Strategy and project Delivery Officer and the deputy town clerk. The meeting was very positive, and Torbay Council are keen to work with BTC towards the implementation of Article 4 directive. Discussion took place around the maps provided by Hal. Members were informed a great deal of work will be required and BTC will need to assist by creating a document with street names and numbers and include a list of items BTC want to protect. Ian will start the work in the New Year and will require some assistance.

**17143. To hear an update on Town Centre Master Plan.**

An update is due in December, is it still on track? The clerk will request an update. Discussion on empty shops took place. A template letter could be created as part of the regeneration process.

**17144. To hear an update on S106/CIL.**

No update.

**17145. To consider a response to the Heart of South West Productivity Strategy**

Discussion took place on the report circulated prior to the meeting. Members agreed there is little or no value to Torbay, lacking in detail and significant aspiration. It was **agreed** the deputy clerk will compile a response outlining these concerns.

**17146. To consider the reasons for refusal of planning applications**

Application P/2017/1021, AT/2017/0246 reasons were noted. Members were informed application P/2017/1065 had been refused but the decisions report was not yet available. Members requested to be updated at the next meeting.

**17147. To note planning decisions made by Torbay Council or any appeals.**

Decisions were noted Report 37/2017 refers.

**17148. Planning Applications to be considered by Torbay Development Management Committee.**

None

**17149. Planning Applications to be put to Torbay Council Planning Officers  
(Report No 37/2017 refers)**

The planning applications contained in report 37/2017 were considered and it was **resolved** to respond to the applications as contained in annex 1.

**17150. An update on Highways issues**

General discussion on pot holes and the poor condition of roads ensued.

**17151. To hear an update from BrixhamFuture**

Discussion took place on the report circulated prior to the meeting. Members were updated on the successful outcome of the lottery bid. The committee send their Congratulations to BrixhamFuture and look forward to seeing their plans.

Discussion on the micro regeneration projects took place. Further details should be brought to BTC before progression. Members agreed a wider consultation should be undertaken prior to the start of any projects.

**17152. To consider any license applications**

Cow Town Bistro, 107 Drew street, Brixham TQ5 9LA.

No comment.

**17153. To put forward any items for the next Planning Committee Agenda.**

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The meeting closed at 8:50pm. Date of the next meeting **Thursday 4<sup>th</sup> January 2018**

Chairperson ..... Date .....

Reference	Applicant	Site Address	Proposal	BTC Recommendation
P/2017/1080	Mr A Marks	1 Fourview Close Brixham TQ5 9BR	Proposed loft conversion to form Day room and bed room with en-suite. New gable with balcony and dormer window. Raise roof to accommodate conversion	Recommend approval
P/2017/1133/MOA	Abacus Projects Limited/Deeley Freed Limited	Land to The South of White Rock Adjacent to Brixham Road Aka Inglewood Paignton	Outline application for residential led development of up to 400 dwellings (C3) together with the means of vehicular and pedestrian/cycle access together with the principle of a public house (A3/A4 use), primary school with nursery (D1), internal access roads and the provision of public open space (formal and informal) and strategic mitigation. The proposal includes amendments to Brixham Road, Long Road junction and Windy Corner junction. Details of access to be determined with all other matters reserved. This application is accompanied by an Environmental Statement and the proposed development does not accord with the provisions of the development plan (Torbay Local Plan 2012-2030) in force in the area in which the land to which the application relates is situated.	Recommend Refusal. See official letter attached which includes the reasons for refusal from both Brixham Town Council and Brixham Peninsular Neighbourhood Forum.
P/2017/1145	Mr & Mrs Turner	Greengates Southdown Hill Brixham TQ5 0AE	Proposed alterations and extensions at ground and first floor including raised patio area	Recommend Approval.
AT/2017/0265	Mrs Juliette Thomas	Wedgewood Penpethy Road TQ5 8NN	It is necessary to remove the mature Beech tree in the South West corner of the plot. In accordance with the advice received from Lee Marshall of your offices on Friday 17/11/2017, the tree is shown circled on the plan and/or photograph and/or Google Earth Image which will be hand delivered to your offices on Monday 20/11/2017. Works to Tree Within TPO	Permitted. Re-planting.

AT/2017/0257	Mr John Stevenson	Combe Bank Lindthorpe Way TQ5 8PB	T1-5- Trim back to the stone boundary wall	Recommend Approval.
AT/2017/0259	Not Available	Berrybank 105A Berry Head Road Brixham TQ5 9AG	T1 Elm Crown reduction of up to 2 metres to suitable pruning points	Recommend Approval.
P/2017/1124	Dr D Lyle	33 North View Road Brixham TQ5 9TS	Creation of aperture in wall and the installation of gate to create access to rear	Recommend Approval.



# Brixham Town Council

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Town Clerk: Mrs Tracy Hallett



Torbay Council  
Planning Department  
Town Hall  
Castle Circus  
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TQ1 3DR

4<sup>th</sup> December 2017

Dear Sirs

## **Whiterock II (P/2017/1133)**

Brixham Town Council considered the above planning application at its Planning and Regeneration Committee on Monday 4<sup>th</sup> December. The meeting included representatives from the Brixham Peninsula Neighbourhood Forum and the following objection to the above application is a joint representation between Brixham Town Council and Brixham Peninsula Neighbourhood Forum.

We write to **object** for the following reasons:

### **Conflict with the adopted Local Plan**

In law (and NPPF11 and 196) a decision on a planning application must be made in accordance with the approved Development Plan unless material considerations indicate otherwise. The relevant Development Plan here is the new Torbay Local Plan ('the Local Plan') adopted by the Council on 10 December 2015. This carries significant weight because:

- Being only 2 years old, it is an up to date Development Plan and cannot be considered by NPPF14 to be one that is “*absent, silent or relevant policies are out of date*”;
- No evidence has been submitted with the application to suggest the lack of a 5 year housing supply. As a result, the “*tilted balance*” approach (in favour of housing) identified by the Supreme Court is “*not engaged*” (UKSC 37 Judgement 10 May 2017); and
- Even if there was an absence of a 5 year housing supply, the NPPF14 “*presumption in favour of sustainable development*” does not apply in this instance as the site involves a “*Likely Significant Effect*” on protected species habitat and “*Appropriate Assessment*” considerations which NPPF119 makes clear rules out any NPPF14 presumption in favour.

The application conflicts significantly with the Local Plan. The policies maps (sheets 29/30) show the site designated for the following purposes:

- Countryside Area – to which **Policy C1** applies. The policy states that development of the nature and location proposed will be resisted. None of the exceptions apply that are listed in the policy;
- Proposed Country Park / Countryside Access or Enhancement Scheme – to which **Policy SS9** applies. The policy states the objective is to protect the high quality green space. This in turn links with the Council’s approved Green Infrastructure delivery plan proposals for the site, and the sites “*mitigation*” role for the adjacent White Rock development still under construction; and
- Minerals Safeguarding Area (MSA) – to which **Policy M3** applies. The policy resists any proposal that would result in the sterilisation of the finite mineral resource of the site as would apply in this case.

Partly recognising these defects, the application suggests other material considerations justify its approval. The suggested other material consideration has no genuine basis:

- There has been no demonstrable housing land shortage presented that justifies setting aside the conflict with Policy **C1**, **SS9** and **M3** referred to above;
- The school is not well situated in relation to the population it would serve and is not needed in any event except for consenting of the very houses which form the core of this application; and
- Part time bar jobs in the proposed public house and a handful of teaching jobs in proposed school will not meet the employment needs of the extra population and will add to the current imbalance within the Bay, leading to further reliance on outward commuting.

In contrast, the proposal will result in “*significant and demonstrable*” harm to material planning considerations that have great weight:

- Loss of countryside and impact on the Dart Valley Area of Outstanding Natural Beauty (AONB) remains as important today as when the Secretary of State refused development in the vicinity for this reason in 1997. The difference in site area currently presented does not overcome the Secretary of State’s reason. The importance to the tourist economy of the area has increased still further since then. NPPF115 requires great weight to be given to conserving AONB landscape.

- Impact on internationally important biodiversity will result, as acknowledged by the application. Seeking to provide “mitigation” space is insufficient. The site is already the ‘mitigation’ area for dealing with the impact of the adjacent White Rock development not yet completed. The “in-combination” impact on Cirl Buntings and of losing further Greater Horseshoe Bat sustenance zone from the Special Area of Conservation will lead to unnecessary “Likely Significant Effect” and conflicts significantly with the intent of NPPF118-120, Local Plan Policy NC1 and final version of the Habitat Regulation Assessment approved with the Local Plan on 10 December 2015.
- Loss of agricultural land of high grade will result from building on the soil involved (Grade 1, 2 and upper 3). This is irreplaceable and its unjustified and unnecessary loss fails to meet the requirement of NPPF112.
- Transport impact resulting from the proposal will have two harmful effects. The flow of traffic along Brixham Road will be interrupted to a significant degree where the residual cumulative impact of the development will be “severe” in the terms of NPPF32. The location and limited balance of land uses proposed on site will result in occupants having to rely on increased journey lengths for employment, shopping, leisure and other activities elsewhere, contrary to the land use balance sought by NPPF37.
- Surface water and Foul water impacts from the proposal are stated to rely on part of the surface water run-off going into the existing combined foul/surface sewer network that is known to be overloaded. Additionally, it states, the foul water solution requires a pumping station to reach an off-site point of connection downstream where network restrictions exist that it is assumed will be resolved by making “a contribution” to South West Water. The Supreme Court in 2009 ([2009] UKSC 13 Judgement 9 December 2009) made it clear that where constrictions of this type are involved it needs to be the local planning authority that ensures the drainage solution is satisfactory. Sufficient detail to satisfy this requirement has not been provided with the application and it is not appropriate to deal with it by condition given that it has such a fundamental relationship to the drainage problems of the area and potential impact on constraining other sites in appropriate locations.

### **Neighbourhood Plan**

Such a large development within the Neighbourhood Plan area made after submission and publication of the plan, but before the plan has even been adopted will totally undermine years of work put in by the community in preparing the plan.

This proposed development is so substantial, and the cumulative effects so significant, that granting permission would prejudice the Neighbourhood Plan by predetermining decisions about the scale, location and phasing of new development all of which are addressed in the policy of the Neighbourhood Plan.

If consented, the development would deliver in one stroke almost 4x the amount of expected allocated housing for the area over the next 20 years. This means the local community would be denied the opportunity to determine its preferred choice of housing sites through the allocation of sites in the plan making process.

It is simply inadequate and moreover untrue for the developer to state in the Consultation Statement:

*At the time of the Neighbourhood Plan Forums’ consultation Abacus/DFE project team had only recently completed their evidence base work and did not have the technical information required to deliver this site for development. Hence the team was not in a position to engage with, or to promote the site during both Neighbourhood Forums’ plan making process.*

The developer like all other developers had every opportunity to promote the site through the Neighbourhood Plan process. A myriad of other developers have engaged with the Neighbourhood Forum at an early formative stage of their proposals (e.g., Bloor Homes) and have on the back of this now been able to bring forward new developments (e.g., Wall Park).

The developer will no doubt make submissions to the Planning Authority at the current Publication Stage of the Neighbourhood Plan closing on 18th December. That is the correct stage for this site to be considered, where the huge strategic impact of such a development can be considered by the Independent Assessor in light of the Neighbourhood Plan as a whole. We submit, respectfully, the sole reason for this application at this time is the developer is rightfully concerned about the outcome of such consideration.

After the 18th December we will make further submissions on this issue.

**Request for further consultation**

Given the scale, location and complexity of the proposal, it is reasonable to believe that further detail may be requested by the Council before it is possible to come to a fully considered decision.

Should this be the case, Brixham Town Council and Brixham Peninsula Neighbourhood Forum request the opportunity to be consulted further on any changes made to those matters raised in this representation.

Yours faithfully

Tracy Hallett  
Town Clerk