



Appeal Decision

Inquiry opened on 21 June 2011

Site visit made on 15 November 2011

by Andrew Pykett BSc(Hons) PhD MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 19 December 2011

Appeal Ref: APP/X1165/A/11/2145178

Former Pontin's Holiday Centre, Wall Park Road, Brixham, Devon TQ5 9UG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Northern Trust Company Limited against the decision of Torbay Council.
 - The application Ref: P/2010/0541/MOA, dated 14 May 2010, was refused by notice dated 6 January 2011.
 - The development proposed is the demolition of the bungalow on Wall Park Road and all buildings on the site, and the erection of up to 219 residential dwellings, a 60 bed care/nursing home (C2 Use), 2 bat barns (one of which would be a heated winter roost), use of land for touring caravans/camping and associated administration facilities, alterations to access onto Centry Road and Wall Park Road, provision of a formal LEAP and informal public open space, landscape and wildlife mitigation measures and associated works.
 - The inquiry sat for 8 days on 21 June, and on 15, 17, 18, 22-25 November 2011.
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Preliminaries

1. As originally submitted the scheme envisaged the erection of up to 231 dwellings and 14 tourist chalets, as well as the other components cited above. During the processing of the application however the proposed development was amended as described above, together with changes to the distribution of the proposed uses and details of the landscape and wildlife mitigation measures. With the exception of the proposed access arrangements on Wall Park Road and Centry Road, the application was made in outline form. The appearance, landscaping, layout and scale of the site were reserved for subsequent approval. However, the application was accompanied by a Design and Access Statement (DAS) which, amongst other matters, included townscape, landscape and building envelope regulatory plans. These were revised in October 2010 to take account of the alterations to the submitted scheme. I have taken the DAS into account in the determination of this appeal.
2. The application was also accompanied by an Environmental Statement (ES) in accordance with the provisions of the EIA Regulations. Amongst other matters, it includes an assessment of the impact of the scheme in relation to: agriculture and land use; air quality; archaeology; contaminated land; ecology; landscape and visual; noise and vibration; socio-economic; traffic and transport; and the water environment. There is also a non-technical summary. Following the changes to the scheme described above a Supplementary Report was prepared in September 2010, together with a revised non-technical

summary. I have taken the contents of the ES and its revisions into account in the determination of the appeal.

3. At the inquiry two obligations made under section 106 of the above Act were submitted. An Agreement dated 21 November 2011 was executed between the prospective developer and the council¹ concerning the provision of affordable housing, various contributions, the provision of the LEAP (locally equipped area of play) and the public open space, the implementation of a Landscape and Ecological Management Plan, and the phasing of the proposed care home.
4. The prospective developer also submitted a Unilateral Undertaking dated 24 November 2011². Its purpose, in the event of the appeal succeeding and permission being granted and implemented, is to extinguish certain lawful use rights established in 1997³ and 2009⁴. I consider the contents and provisions of the obligations later in this decision, but both have been taken into account in the determination of the appeal.
5. Two Statements of Common Ground (SoCG) were completed by the principal parties to the inquiry. The planning SoCG includes a site description and planning history of the land, together with details of relevant planning policies and matters remaining in dispute. The landscape SoCG includes photographs and photomontages principally from viewpoints to the south-east and east of the appeal site, together with a number of cross sections. Table LCG5 comprises a joint visual impact assessment which records the extent of agreement, and disagreement, in relation to the significance of the visual impact of the scheme at the viewpoints.

Decision

6. The appeal is dismissed.

Main Issues

7. Taking account of the council's refusal reasons, the issues raised by the appellant and those by interested people, and my own assessment of the site and its surroundings, I consider there are three main issues in this case. They are:
 - (i) the effect of the proposed development on the character and appearance of the Area of Outstanding Natural Beauty (AONB) in which it would be sited;
 - (ii) taking account of its planning history and the provisions of the development plan, whether the redevelopment of the site for non-tourism uses would be appropriate; and
 - (iii) having regard to the contents of the development plan and paragraph 71 of Planning Policy Statement (PPS) 3: *Housing*, the extent to which the proposal is supported by the deliverability of a 5 year supply of housing land in Torbay.

¹ See Documents 15, 39, 40 and 41. The latter documents rectify omissions in the first.

² Document 42

³ Document 21; for the use of land for up to 30 touring caravans and tents.

⁴ Document 22; for the use of land for (1) miniature and novelty golf course, (2) football pitch/overspill car park/hosting special events, and (3) caravan/camping park.

Reasons

Planning History

8. The appeal site – which covers an area of 17.2ha – and its surroundings now have a fairly long planning history. It is evident from maps of the nineteenth century that the built-up area of Brixham was confined to the lower lying area around the harbour together with extensions along the roads towards Kingswear (to the south-west) and, to a lesser extent, towards Churston (to the west). The land rises steeply to the east of the town, and save for two military forts of the Napoleonic era, the land is essentially undeveloped. The maps indicate this landscape was nevertheless enclosed by a patchwork of small fields before reaching more open land at Berry Head Common and the coast and cliffs at Berry Head itself.
9. By the middle of the twentieth century Brixham had expanded onto the steep slopes to the east, and Wall Park Road had been constructed. The OS map for 1954 shows detached residential development along the south-east side of the road but with little other development to either the north-west (overlooking Torbay) or on the land which constitutes the appeal site. Holiday accommodation is evident both near St Mary's Bay and at Landscope. There is no dispute between the parties that at least part of the land which now forms the appeal site was in use as a holiday camp – planning permission for this use was granted in 1953, with permission for up to 160 caravans and tents granted in 1957.
10. The South Devon AONB was designated in 1960. It covers an area of 337km² and extends from Plymouth in the west to Brixham in the east. It comprises a variety of different landscape character types including coastal landscapes and estuaries and a number of urban areas. Although most of the designated area lies with the area of South Hams District Council, land to both the north-west and south-east of Brixham (falling within the boundaries of Torbay Council) is also included. Most of the built-up area of the town is not included. The seaward boundary of the designated area is, of course, defined by the sea itself, but on its landward side the relevant length of the boundary is defined by Wall Park Road, Centry Road and the south-western part of Gillard Road.
11. As recorded in paragraph 21 of PPS7: *Sustainable Development in Rural Areas*, the AONBs have been confirmed by the Government as having the highest status of protection in relation to landscape and scenic beauty, and the bulk of the designated area to the south-east of Brixham is not built-up. The use of suburban streets, at least in part, to define the area results in the inclusion of developed areas which are of limited value in terms of both their landscape and their scenic beauty. In Wall Park Road, for example, the dwellings on the south-east side of the road are included in the AONB. Although certain lengths of the boundary may be curious, there can be no doubt that the land between the Wall Park houses and the sea to the south-east was intentionally included.
12. I understand that Pontins involvement with the site originates with a planning permission for the erection of 352 chalets in 1962⁵. Amenity buildings were also permitted in 1962, and the existing buildings were subsequently erected. Many additional permissions were granted in the following 40 years, but these

⁵ Document 2. Occupation of the chalets is restricted by condition to the period between 15 March and 31 October each year.

would not have substantially changed the character or use of the holiday park. The buildings which formed the holiday centre were complemented by the uses cited in paragraph 4 above including the siting of touring caravans and tents, a miniature golf course, and a football pitch and overspill car park. The holiday centre functioned for just under 50 years. However, it closed in December 2008 (although the buildings remain), and the site was subsequently acquired by the appellant.

First Main Issue

Landscape Character

13. Within the terms of the *Torbay Landscape Character Assessment*⁶ (2010) the area between the sea and the built-up edge of Brixham is defined as part of LCT 1B: Open Coastal Plateau. Amongst other matters, it is noted that around Brixham these areas are located in close proximity to housing, but a sense of wildness and isolation becomes apparent where the urban areas are hidden from view. Berry Head itself is a National Nature Reserve and Country Park, with a car park close to the Southern Fort and a network of footpaths. It lies at about 50-60m AOD with some dramatic cliff scenery. I saw on my visits that, even during a none-too promising weekday afternoon in November, it is a popular destination – especially for dog walkers. The area is broadly rated in the Assessment as highly sensitive.
14. Area LCT 1B is further sub-divided in the Assessment into its component areas of local character. The whole of the Berry Head area (Area 5D) and the land to its south-west, including both the appeal site and the development at Landscope, fall within the same area. In the *Torbay Local Plan* (2004) however, the buildings of the Wall Park Holiday Centre are differentiated from the adjoining land to the east, south-east, south, and south-west. These areas, which include a substantial part of the appeal site, are indicated as falling within the countryside zone where Policy L4 applies. Subject to some exceptions including tourist facilities, this policy seeks to restrict development which would lead to the loss of open countryside and the creation of urban sprawl. The open enclosures between the Wall Park Holiday Centre and the detached dwellings fronting onto Wall Park Road are not included in the countryside zone. Three of the relevant enclosures fall within the appeal site, and the submitted scheme indicates that the two closest to the means of access would be developed; by the care home to the south-west, and by housing to the north-east.
15. I recognise that the differences between the various designations are a reflection of their origins and purposes. The complexity of the inter-relationships between their boundaries is also evident along the southern and the north-western edges of the built-up area of the town. Their different purposes create a tension between, for example, the AONB and the area excluded from the countryside zone. The same matter is recognised as part of the rationale for the *Brixham Urban Fringe Landscape Study*⁷ issued in September 2011.
16. The Study recognises the complications which attend the town's urban fringe and draws attention to particular problems and issues at many locations.

⁶ CD13

⁷ Documents 10 and 11

Amongst many other matters it identifies a network of landscape compartments. The appeal site falls within three of the identified areas. The built-up part of the site constitutes *Landscape compartment 6: Wall Park Camp*. Most of the remainder of the appeal site falls into *Landscape compartment 2: Berry Head grassland areas*, while the open enclosures between the holiday centre and the Wall Park Road houses is designated as *Landscape component 4: Wall Park Road*.

17. The authors of the Study were evidently aware of the current redevelopment proposals which form the subject of this appeal. It is recognised that the existing buildings (in *Landscape compartment 6*) intrude into the important open coastal landscape between Berry Head and Sharkham Point, and it is suggested that redevelopment should 'draw back' from the line of built development further from the coastal edge. The design of any permitted development should aim, in terms of its built form, lighting, external works etc, to enhance the open plateau landscape character of the area. It is suggested that landscape enhancement may be achieved by dense buffer or screen planting to the edge of the AONB⁸. In *Landscape compartment 2* the Study recognises the benefit of much of the area being placed under the management of the Torbay Coast and Countryside Trust (TCCT), together with hedgerow restoration, including tree planting⁹.
18. Without prejudging the conclusion of the appeal, the Study provides a useful and detailed examination of the issues relevant to both the appeal site and to Area 5D as a whole. It is clear that the alterations to the submitted scheme referred to in paragraph 1 above were, at least in part, a response to some of the considerations which informed the Study.
19. Most of the built-up area of the town together with Berry Head itself north of St Mary's Bay is composed of relatively hard limestone. A section though the peninsula from the landward end of the breakwater to Durl Rock would include the holiday centre. The built-up length to the north is a relatively steep slope from sea level up to Wall Park Road and the holiday centre. Thereafter, the land slopes more gently down to the south-east until the cliffs and promontory at Durl Head and Durl Rock. Although the Study refers to a relatively level limestone plateau¹⁰, the changing geomorphology of the peninsula coincides with changes in land use – with the appeal site (and the smaller holiday development at Landscope) being confined to the latter area. I consider the break of slope roughly coincidental with Wall Park Road makes a particularly important contribution to the distinction between the urban area to the north-west and the limestone plateau landscape to the south-east, including Berry Head itself.
20. Most of the existing buildings which constitute the holiday centre are single storey chalets which have less of a visual impact on their surroundings than might have been expected. The larger communal buildings are in the middle of the developed area, and this assists in ameliorating their impact from middle-distance viewpoints. The scheme envisages the redevelopment of the land occupied by the chalets and the communal buildings, together with the two open enclosures on either side of the entrance. The existing chalets are about

⁸ The precise meaning or location of this suggestion was discussed at the inquiry. Its meaning is not entirely clear, but the appellant considers it was intended to refer to the seaward edge of any development permitted.

⁹ The fifth schedule of the s106 Agreement effectively allows for this possibility.

¹⁰ See paragraph 3.23. The appeal site lies generally above 50m AOD with a high point at 59m AOD close to the north-western edge of the existing chalets.

2.5m in height, and the building envelope regulatory plan included in the DAS records that the proposed buildings would vary between 7m and 9.3m in maximum height. The lower buildings would be sited towards the eastern and south-eastern sides of the redeveloped area. The proposed caravan and camping site would be located between the south-west end of the new dwellings and Centry Road. It would use land which is currently either unused or which enjoys the benefit of a Certificate of Lawfulness for use as a caravan/camping park¹¹. Most of the rest of the appeal site also enjoys lawful use certification for use as a caravan and camping site¹², and use as a miniature and novelty golf course¹³. This essentially comprises the frontage of the land to Gillard Road, and, except for the proposed public open space and LEAP, this area would revert to small fields and cattle grazing together with the formation of new footpaths and cycleways. Two unused enclosures at the north-east end of the appeal site would also revert to grazing with a possible new footpath.

21. At the inquiry the appellant submitted a Note¹⁴ on the extinguishment of the Certificates of Lawfulness supported by reference to a Court of Appeal judgement¹⁵. The Note expresses the view that the appeal proposals would constitute the creation of a 'new planning unit' and a 'new chapter in the planning history' of the site. These would be incompatible with the existing lawful uses, and it would not therefore be necessary that they should be extinguished by any other means. Alternatively, and in the event that these arguments were considered inadequate, a Unilateral Undertaking was submitted to terminate the certificates.
22. I have taken account of the submissions, and consider the current circumstances are very different from those in *Jennings*. That case involved a comparatively small vehicle repair and car sales site which was the subject of enforcement action. I do not think the cases are comparable. Nor do I believe the proposals included in the Landscape and Ecological Management Plan are sufficiently incompatible with, for example, the use of land as a site for touring caravans and camping, to render the certificates superseded or of no value. In the circumstances I consider the obligation to be necessary within the terms of the proposal as a whole, directly related to the proposed development, and fairly and reasonably related in scale and kind to the development. It thus complies with the requirements of Regulation 122 of the CIL Regulations 2010. It also complies with the outstanding policy requirements of ODPM Circular 05/2005 *Planning Obligations*. It is both relevant to planning, and reasonable in all other respects.

Landscape and Ecological Management Plan

23. Much of the proposed detail and use of the Gillard Road frontage of the appeal site would not constitute development with the terms of the above Act, but it forms an essential part of the appellant's scheme. Its implementation is covered in the Landscape and Ecological Management Plan included in the section 106 Agreement¹⁶. This is a comprehensive document which, amongst other matters, refers to the proximity of the South Hams Special Area of

¹¹ Document 22

¹² Document 21

¹³ Document 22

¹⁴ Document 25

¹⁵ Document 26

¹⁶ Document 15, Fifth Schedule

- Conservation (SAC). The SAC is a composite area comprising five SSSIs designated primarily due to the presence of two habitats and one species. The protected species is the greater horseshoe bat. The bats roost in caves in the cliffs at Berry Head and they utilise a foraging/commuting corridor to the south-east of the existing holiday centre.
24. Along with the establishment of new hedgerows, the Agreement requires that the area is grazed by cattle (or sheep), as dung beetles are an attractive source of food for young horseshoe bats in July and August. In addition, the appeal proposal includes the construction of two purpose-built roosts. One of the roosts would be heated to a year-round minimum of 7°C. There is a comprehensive tree planting regime – within and around the proposed buildings, and along the existing and proposed hedges. Amongst other benefits, the scheme seeks also to enhance the nesting and feeding opportunities for birds, including the curlew, and the value of the site to badgers.
 25. In view of its proximity to the Berry Head component of the South Hams SAC an independent Appropriate Assessment of the potential effect of the scheme has been conducted. This concluded that, subject to the implementation of the proposal, the impact of the scheme in its entirety would be beneficial to the greater horseshoe bats. No significant negative effects on the integrity of the SAC would result from the development. No party to the inquiry questioned any part of the Assessment and I agree with its conclusions. I consider the ecological component of the scheme to be a considerable benefit of the project as a whole, and that it complies with the tests included in Regulation 122 and ODPM Circular 05/2005.
 26. I have referred above to the status awarded AONBs in PPS7. This is given regional and local effect in the development plan. Policy EN 1 (Landscape and Biodiversity) of the *Regional Planning Guidance for the South West* (RPG10) provides, amongst other matters, for the strong protection and enhancement of the region's nationally important landscape areas and nature conservation sites. Where possible this should be planned into new development. Policy CO3 (Areas of Outstanding Natural Beauty) of the *Devon Structure Plan* records that in AONBs the conservation and enhancement of the natural beauty will be given priority over other considerations. Local plan Policy L1 is virtually identical with Policy CO3.
 27. For the reasons I have recorded, I consider that the appeal scheme complies with the requirement that proposals should protect and enhance the nature conservation sites referred to in RPG10.
- Landscape and Scenic Beauty*
28. I turn now to consider to impact of the scheme on the landscape and natural beauty of this part of the AONB. It is in this respect that the landscape SoCG is particularly informative. It includes photographs, photomontages after the implementation of the proposed development, and photomontages 20 years later, from 8 viewpoints with two additional assessment locations. There are many additional photographs and photomontages in the ES and in the appellant's evidence.
 29. Other than in close proximity, the topography of the site and its surroundings has the effect of rendering the existing mass of the chalet park less

conspicuous than might have been anticipated from its size and extent. However, I saw during my site visits that the chalets on the eastern and south-eastern edges of the site are readily visible from a number of important locations within the AONB. An exception is from viewpoint B looking north-west where Gillard Road passes through a shallow valley. Viewpoint C is also located in the same valley. The land rises to the east of these locations however, and from viewpoints F (the footpath alongside Gillard Road), G (close to the Berry Head car park) and H (near the access to Berry Head Fort) the chalets become more visible. I recognise that the numbers of receptors would be larger in the summer and that the trees would be in leaf, but on the basis of the numbers of people and cars which I saw in November, I consider the sensitivity of the area as a whole to be greater than the appellant suggests.

30. From the eastern ramparts of Berry Head Fort itself (viewpoint J1) the chalets are obscured by both the land form and by thicker vegetation on the Common, but in contrast, they are readily visible in the prospect from the ramparts of the Southern Fort looking west (viewpoint E). The parties agree that the sensitivity of this location is high. From middle-distance public vantage points the chalets are visible at their closest near the entrance to the Landscope site looking north-west. From other locations on Gillard Road and Centry Road however the visibility of the site is limited by the existing hedgerows and walls.
31. In respect of all the viewpoints included in the SoCG, the parties disagree about the magnitude of change which would result from the proposed development. Similarly, there is only limited agreement about the significance of the visual impact, especially on completion in winter. There is more agreement under this measure during the summer 20 years after implementation.
32. Access to Berry Head and to the Common, and to Landscope and the surrounding fields can only be obtained via the streets and the urban area of Brixham. Approaching from the south-west via Rea Barn Road and Gillard Road, there is a distinct change in the character of the route at the Gillard Road/Centry Road junction. The south-west length of Gillard Road is developed with detached houses on both sides with a relatively wide carriageway and two pavements. Immediately beyond the junction the road narrows and passes between walls and hedgerows with open fields behind. The pavements and lighting ceases, and the road takes on the quality and appearance of a lane. It retains much of this quality as far as the Berry Head car park. To a degree, the Landscape and Ecological Management Plan would enhance the experience of this approach, but notwithstanding the proposed planting and hedgerow proposals, I fear the new buildings would be more visible than the existing chalets. Even the 1½ storey houses would be about 4.5m higher above ground level than the existing chalets. At their closest they would be only about 110m from Gillard Road on gently rising land, and I do not believe it would be possible to disguise or ignore their presence. Only thick screen planting would render the houses invisible, and I agree with the council that this quantity of tree screening would compromise the landscape and scenic beauty of the locality.
33. The second location where I believe the impact of the development would be greatest is in the vicinity of the Berry Head car park – including the panorama from the Southern Fort. From these locations, which are higher than Gillard Road, I fear the proposed development would be even more visible, and

although its mass would be broken by trees, the presence and extent of the new buildings would be all too evident. During my visits to these locations I could not see any the houses on the south-east side of Wall Park Road, but the bulk of the appeal scheme would be sited on the gently sloping seaward side of the ridge. The compatibility between the land form and the land uses of the town and its surroundings would have been irretrievably compromised by an urban encroachment into the latter. I consider this would be harmful to the landscape and scenic beauty of this important part of the AONB.

34. The effect is indicated on the photomontage from viewpoint E. The scale of the proposed development is such that the dwellings would extend beyond the south-western extremity of Landscope on or close to the skyline. This would compromise the rural prospect from a location which is specifically designed – albeit for a now defunct military purpose – to oversee the surrounding landscape. I recognise that additional tree planting as proposed would screen the buildings after 20 years (as shown in Drawing No: L118), but native species would lose their leaves in autumn, and the use of non-native evergreen species would be inappropriate.
35. From a number of the locations in the vicinity of the car park, the holiday development and bungalow ('Due South') at Landscope is easily visible. The dwellings and chalets together with a small shop are sited to the north of Gillard Road, with dark-painted caravans or chalets on the southern side of the road. The units closest to the cliff edge are particularly visible from the Southern Fort (viewpoint E). Although it cannot be said the holiday park makes a positive contribution to the landscape and scenic beauty of this part of the AONB, it is evidently separate from the built-up area of Brixham, and I believe its impact on visual amenity is significantly less than that which would result from the appeal proposal. I do not consider it sets a precedent for large scale urban development on the seaward side of Wall Park Road.
36. I have taken account of the proposed layout of the buildings indicated on the DAS regulatory plans along the north-east boundary of the built-up area to the west of Berry Head Road. On the basis of these plans the gable ends of the buildings would adjoin the western side of the small valley between the site and Berry Head Road. The vegetation is rather thicker at this more sheltered location (in the vicinity of viewpoint K), but the existing chalets are still visible. Although the implementation of the scheme would result in the loss of their heavy horizontality, they would be replaced by notably taller permanent dwellings, leading to the conclusion that the town would have permanently expanded into a part of its hinterland which is specifically protected for its landscape and scenic beauty.
37. I have come to opposite conclusions in relation to the effect of the scheme on nature conservation on one hand, and landscape and scenic beauty on the other. The AONBs were designated however for their landscape and scenic beauty, and these qualities must therefore carry greater weight. Although I recognise the proposals would enhance the landscape of parts of the appeal site, this would be achieved at the expense of the irrevocable urbanisation of the rest. On balance, I consider the scheme would be harmful to the character and appearance of the AONB. Nevertheless, the policies I have cited also refer to the need for account to be taken of the economic and social well-being of designated areas, including the provision of adequate housing to meet local needs. I consider the effect of this requirement later in the decision.

38. Paragraph 22 of PPS7 also establishes an additional requirement that major development should not take place in designated areas, except in exceptional circumstances. Paragraph (i) requires need to be established together with the impact of permitting it, or refusing it, upon the local economy. Paragraph (ii) seeks to encourage the investigation of alternative sites outside the designated area, and paragraph (iii) requires an assessment of any detrimental effects on the environment, the landscape and recreational opportunities, and the extent to which they could be moderated. In this case the parties agree that the proposed development constitutes major development, and I concur. All such development should be subject to the most rigorous examination.

Second Main Issue

Tourism use

39. As recorded above, Pontins involvement with the site began in 1962. It had evidently been in some form of tourism use before that date, but on a less intensive basis. I understand that at its peak in the 1980s the firm operated 22 sites across the UK. By the 2007 season however only 8 sites remained providing low cost family holiday accommodation on either a self-catering or half board basis. Although I gather it was a small site in Pontins terms, it nevertheless provided self-catering accommodation for up to 1,400 people at a time. After a gradual decline the site closed in December 2008.
40. Consultants appointed by the Board advised that the reduction in visitor numbers was largely driven by industry wide factors, but principally by the growth in low cost overseas holidays and the move towards short breaks. Other factors were the introduction of the minimum wage in 1999, and the smoking ban in 2007. In addition, the site was aimed towards those falling within socio-economic groups C2, D and E. In the period 2000 to 2010, the numbers in these groups declined by -1.5%, -16% and -6.9% respectively. At the same time those falling within socio-economic groups AB and C1 increased by +26.6% and +15.9%. The site was evidently effectively losing its client base over this period.
41. I saw on my visit to the site that both the chalets and the communal buildings are distinctly utilitarian. The company's consultants considered various forms of upgrading but concluded that these were not viable options. Possible alternative uses were also considered including: a health and fitness centre, a bowling alley, a driving range, a theme park, a golf course, or a caravan site. In each case it was concluded that the size of the site and/or the small local population were inadequate to render the alternative uses sufficiently profitable.
42. In evidence submitted on behalf of the appellant¹⁷ it was estimated that the majority of the communal buildings were constructed in the 1960s. They were therefore of some considerable age and approaching the end of their original design life. The chalets themselves are of a similar age and they too are at the end of their design lives. These observations were not disputed by the council, and I agree with the general tenor of the appellant's case that it is unrealistic to consider the existing buildings are capable of viable reuse.

¹⁷ Paragraph 3.5.6 of Mr Simpson's Proof

Planning and tourism policy

43. Tourism is a major contributor to the economy and society in Torbay as a whole. To this end it is entirely understandable that local plan Policy TUS (Tourism Strategy) seeks, amongst other matters, to protect and retain existing tourist attractions; tourism accommodation within PHAAs (Principal Holiday Accommodation Areas); and the most important holiday accommodation outside the PHAAs. It also seeks to encourage investment in new facilities, and the sensitive development of Torbay's heritage as a tourism asset. As it happens, all the PHAAs are located in either Torquay or Paignton, with none in Brixham.
44. Paragraph 5.91 of the local plan records that holiday centres and parks offer an important source of holiday accommodation. Although it is recognised that potential environmental problems can occur in sensitive areas, or where sites are concentrated, it is the council's policy generally to support their retention. To this end Policy TU9 is permissive in relation to the refurbishment and upgrading of existing facilities. However, for the reasons I have reported above, I agree with the appellant that this is not a realistically viable option.
45. The purpose of local plan Policy TU10 is more directly applicable to the appeal scheme, but it is far from permissive. Indeed, its purpose is the opposite. It seeks to prevent the redevelopment of holiday centres, chalets, caravan and camping sites where: (1) the proposal would result in the loss of the site; (2) the site offers potential for alternative tourist accommodation or uses; (3) the site is in a prime location for holiday use; (4) the loss would be detrimental to the holiday character of the locality or damaging to other nearby similar uses; or (5) the proposal would be contrary to the countryside and landscape policies of the plan.
46. Notwithstanding the general thrust of this policy, I do not dispute the appellant's argument in this case that the site has already been lost as a tourist destination. For the reasons recorded above, the holiday centre has now been closed for three seasons, and it serves no useful purpose. Nor do I consider the loss of the site would be detrimental to the general holiday character of the locality. On the contrary, the loss may well be beneficial as far as other suppliers of similar facilities in the area are concerned. I have considered the impact of the scheme against the countryside and landscape policies of the plan under the first main issue. Much of the evidence at the inquiry under the tourism heading concerned the possibility that the site was, or ought to be considered, an attractive proposition for redevelopment which would contribute to the tourist infrastructure of Torbay.
47. This approach is reinforced in paragraph 6.27 of the structure plan. It observes that further inappropriate non-tourist development within the principal tourist areas – which includes Brixham – should be resisted in order to maintain their character and viability. The approach is expressed through Policy TO1. Policy TCS1 (Tourism) of RPG10 includes similar encouragement.
48. The Government's most recent approach to the visitor economy is included in the *Government Tourism Policy* published by the Department for Culture, Media and Sport in March 2011. The policy emphasises the extent of the contribution to the economy made by tourism, and, amongst other matters, it seeks to encourage the industry and increase domestic tourism. It notes that tourism is labour intensive. Paragraph 6.5 of the policy also touches on the dilemma

present in many planning decisions – the need to reconcile development and the preservation of landscape. It is recognised that both are vital parts of the tourism industry.

49. Prompted, at least in part, by the decline in tourism which afflicted the Wall Park Holiday Centre, the Torbay Development Agency has issued a new strategy – *Turning the Tide for Tourism in Torbay 2010-2015*. The strategy recognises the particular strengths and weaknesses of Brixham as a tourist destination. It identifies a current lack of quality modern serviced and self-catering accommodation leading to an over-reliance on day visitors. To correct this it encourages the provision of boutique hotels, self-catering, and restaurants, especially in the harbour area. It recommends an emphasis on seafood and arts and crafts, but it also seeks to promote the position of the town as a Global Geopark¹⁸ gateway – especially as expressed through walking, exploring and maritime heritage.
50. The strategy records the tourist bed spaces available in 2007 and their distribution in the 3 towns. There were a total of 43,140 spaces distributed as follows: Torquay 18,500 (43%); Paignton 18,070 (42%); Brixham 6,570 (15%). Within these totals there were 12,300 bed spaces on holiday parks, with a distribution of: Torquay 1,790 (15%); Paignton 5,800 (47%), and Brixham 4,710 (38%). The number of bed spaces as a whole has been in decline for some time – from 51,500 in 1999; a decline of 16.3% in a decade.
51. The consultation leading to the strategy indicated a significant long term decline in demand for basic chalets and caravans as a means of holiday accommodation. However, there is an increased demand for premium caravans and lodges, including those acquired as second homes. The strategy forecasts a reduced need for holiday park bed spaces of 10,000. The evidence base for the strategy¹⁹ notes the concentration (relative no doubt to its population and total bed space availability) of holiday park bed spaces in Brixham, and it suggests future holiday park development should be concentrated in Paignton. The concentration of holiday park development in Brixham should be reduced to allow for the diversification of bed stock development and the introduction of more contemporary serviced and luxury self-catering accommodation. The evidence base also clarifies the strategy in the sense that the figure of 10,000 is identified as a minimum which would require planning policy protection.
52. In evidence submitted to the inquiry the appellant estimates that the number of holiday park bed spaces in Torbay is actually approximately 16,590. This was not disputed by the council. However, it is a significantly larger figure than that included in the strategy and it does therefore rather undermine the council's precision. Nevertheless, I do not question the general thrust of the strategy of a reduced reliance on holiday parks, and a specific recognition that the future of tourism in Brixham is likely to be better served by other forms of accommodation.

Alternative uses

53. Other than its preference for a tourism based facility and/or accommodation, the council does not have a specific form of development in mind. The

¹⁸ The English Riviera Global Geopark was established in 2007. It seeks to promote the natural and cultural heritage of the area – especially its geological heritage. See Document 5, page 9.

¹⁹ CD12, page 57.

possibility of a bowling alley or of a seafood based cookery school/hotel was raised. The first was one of the options considered and dismissed by the consultants acting for Pontins. As far as the second is concerned, this would certainly occupy a smaller proportion of the appeal site, and it would have a correspondingly lesser impact on the AONB, but I am dubious that such an enterprise would succeed both divorced from the harbour and with a suburban means of access. It is on this basis that I am doubtful – within the terms of paragraph (3) of local plan Policy TU10 – that the site can legitimately be said to fall within a *prime* location for holiday use. Although it is in a coastal location, visibility of the sea is actually rather limited, and its means of access gives it a distinctly urban fringe character rather than a rural one. Nor do I believe it can be considered to be sufficiently close to either Brixham harbour or Berry Head to be judged close to a major tourist attraction. I do not believe the site would be sufficiently attractive to support a major investment.

54. I am more confident about the final criterion (paragraph 2) in local plan Policy TU10. Most significantly, the appeal scheme includes a touring caravan/camping site for up to 140 units²⁰, and I infer that such a use is therefore considered to be a viable option. I note that the location of the proposed touring caravan/camping site is in direct conflict with the only part of the appeal site which is subject to a specific allocation. Under local plan Policy R3(4) most of the land concerned is allocated for new playing fields and related facilities. However, the incompatibility of the scheme with this allocation does not form part of the council's objection to the scheme. Although cited by third parties, I received no confirmation that the requirement referred to in paragraph 8.39 is extant, and in the circumstances I have further concluded the council raises no objection to this component of the appeal scheme.
55. I have also considered the potential of the appeal site against the advice included in Policy EC7 (Planning for tourism in rural areas) in PPS4: *Planning for Sustainable Economic Growth*. The policy is generally supportive of the provision of tourist and visitor facilities, but this should be balanced by the need to protect landscapes and environmentally sensitive sites. Paragraph (d) seeks to ensure that new or expanded holiday and touring caravan sites are not prominent in the landscape and that any visual intrusion is minimised by effective, high-quality screening. Paragraph (e) recognises that in statutorily designated locations – such as AONBs – there will be scope for tourist and leisure related developments, subject to appropriate control over their number, form and location to ensure the particular qualities or features that justified the designation are conserved.
56. Taking account therefore of both the first and the second main issues, I conclude the site does retain some potential for limited reuse. I note that quality touring pitches with hard standings are held to be an accommodation gap in the tourism strategy²¹. Any such proposal would of course fall to be considered by the council in the first instance, but I conclude this form of redevelopment would be likely to fall within the purposes of paragraphs (2) and (5) of local plan Policy TU10 and with the contents of PPS4 to which I have referred. It follows that I further conclude the appeal scheme is in conflict with both this policy and with local plan Policy TUS, and that its redevelopment for non-tourism uses would be inappropriate.

²⁰ See Document 44, draft conditions 17 and 18.

²¹ See p 18 of the tourism strategy

57. In its first refusal reason the council refers to the danger, should it have allowed the development, of establishing an undesirable precedent which might threaten the future of other holiday parks in Torbay. However, I have considered the circumstances of this case on their own unique merits, and I attach no weight to this contention.

Third Main Issue

Housing land supply

58. Although the council did not object to the proposed development on the grounds that a 5 year supply of housing land was available elsewhere, this forms an important component of the appellant's case. In the event of a 5 years supply of housing land not being available in Torbay, paragraph 71 of PPS3 indicates that, subject to the contents of paragraph 69, planning applications for housing should be considered favourably. In addition, the lack of a 5 year supply would contribute to the possibility that the 'exceptional circumstances' referred to in paragraph 22 of PPS7 might exist.

59. There is no dispute between the principal parties that the correct area against which to consider the local effect of paragraph 71 is defined by the geographical boundaries of Torbay Council. I agree with the parties that no useful purpose would be served by seeking to apply the principles established in paragraphs 52-61 of PPS3 on the basis of Brixham alone. Apart from any other considerations, it is recognised that the constraints of the sea and of the surrounding AONB place severe limitations on the expansion of the town. Unfortunately, this agreement does not extend to other aspects of calculating the 5 year supply requirement.

60. There is a substantial difference between the appellant's and the council's projected supply figures²². The appellant suggests there is sufficient land for the delivery of 2,385 dwellings, but the council's suggested equivalent figure is 3,591 dwellings. In both cases the largest component is derived from site specific sources included in the Strategic Housing Land Availability Assessment (SHLAA) carried out by consultants on behalf of the council in September 2008. I agree with the appellant that the economic downturn – and especially in the housing market – indicates that a revised exercise may well be overdue. The purpose of the Assessment is to inform plan-making, and it is for the development plan itself to specify the annual requirement. Changes in legislation and policy have not assisted in the establishment of a secure and consistent basis against which to assess the requirement and the supply.

61. The appellant has identified no fewer than 10 alternatives to the calculation of the annual requirement²³. They range from 290 dwellings in the local plan to 2,104 dwellings in the Strategic Housing Market Assessment – equivalent to a land supply of between 8.22 years and 1.13 years respectively. Notwithstanding the downturn since 2008, completions in the plan period (1995-2011) exceeded the local plan requirement, and more recently derived requirements have generally been significantly greater. Under Policy H1 of the local plan the requirement was 6,200. In the draft RSS (Option 1) the total requirement was 10,000 (for the period 2006-2026). The Panel Report increased this to 20,000, but in the Secretary of State's Proposed Changes this

²² See Document 34

²³ See Document 33

was reduced to 15,000. In the DCLG's household projections for 2011-2031, the total requirement is calculated at 13,051.

62. The current position is that although local plan Policy H1 has been saved, the plan period has expired. None of the later suggested requirements form part of the development plan, and, although the RSs are due to be revoked, the Government has indicated that the data which informed their preparation may be a material consideration. In particular, the Option 1 numbers are identified as appropriate targets. In this case the requirement of 10,000 dwellings over a 20 year period is the council's preference. I recognise, as reported by the appellant, that this figure was rejected by the Panel. On the basis of the appellant's projected supply figure there is 5.24 years worth of housing land available.
63. In contrast to the circumstances surrounding the future of the RSs, the DCLG household projections (2008-2033) are both current and of relatively recent origin. I have no reason to doubt their reliability. On this basis the appellant estimates that only 3.65 years worth of land supply is available. I share the appellant's concern about the fluctuations in the council's supply estimates. These appear to be based on an optimistic prediction of completions over the coming 5 years of 720 dwellings per year. But in the past 3 years the average annual rate of completions has been only 391 dwellings. I consider it is more likely the rate of completions will continue at this reduced volume, and that it is unlikely it will exceed the more typical totals derived from the period before the height of the housing boom. Indeed, the council observed at the inquiry that, other than making some revisions to its requirements under section 106 Agreements, there was little it could do apart from allocating land and granting permissions when applications are made. The actual rate at which buildings are erected and sites are developed is a matter which is largely outside its control. In my view the appellant's discounting of building rates in future years²⁴ is a realistic method of seeking to take account of current economic circumstances.
64. I have therefore concluded that in the light of the evidence I have received it is appropriate to determine the appeal on the basis that there is not a current 5 year supply of housing land available. It follows that paragraph 71 of PPS3 is triggered.

Other matters

65. Most of the interested persons who made representations in respect of the appeal supported the council's objections to the scheme. A number of other matters were also raised including the effect of the proposals on traffic²⁵. Concern was expressed about the impact of additional traffic on the A3022, which links Brixham to Paignton, and on the roads and junctions closer to the appeal site.
66. A comprehensive Transport Assessment was completed by highways consultants at the application stage for a rather larger scheme (comprising 242 dwellings; a 60 bed care home; 14 tourist lodges; and 50 touring caravans). The difference in terms of trip rates between the proposed use and the former holiday centre was judged to have no discernable effect on the junction

²⁴ As per Document 12

²⁵ See Documents 50, 52, 55, and 58

modelling results. Although it is recognised the junctions at Tweenaways Cross (A380/A385) and Windy Corner (A3022/A379) are very busy at times, it is estimated that the development traffic would represent a maximum of 1.5% of the total traffic at Tweenaways Junction. I acknowledge that the peninsular nature of Brixham leaves few options for motorists, but I agree with the appellant that the effect would be very limited. The amendment to the scheme did not affect the validity of the original assessment.

67. Closer to the appeal site the scheme envisages improved accesses off both Wall Park Road and Centry Road, and off-site improvements within the highways at the Wall Park Road/Ranscombe Road junction; at the Ranscombe Road/Centry Road junction; and along the footpaths between Marina Close and Marina Drive, and from Marina Drive to Heath Road. In addition, the proposed new footpath and cycleway parallel with Gillard Road would improve conditions for pedestrians and cyclists along part of this route. The implementation of the schemes would contribute to the safety of pedestrians, including children using the schools in the vicinity. They could be secured by the imposition of appropriately worded conditions.
68. I conclude there is no reason to object to the proposal on highway impact grounds.

Section 106 Obligations

69. I have referred in other parts of this decision to the Unilateral Undertaking and to the Landscape and Ecological Management Plan – which forms the Fifth Schedule of the section 106 Agreement. I also take account of the affordable housing provisions of the Agreement which I consider to be necessary, directly related to the proposal and proportionate. The Agreement includes a number of other contributions to which I now turn.
70. Notwithstanding the agreement between the principal parties in relation to the necessity of the Agreement, I have considered its content and provisions against Regulation 122 of the CIL Regulations 2010 and the advice included in ODPM Circular 05/2005 *Planning Obligations*. The Third Schedule of the Agreement lists the contributions payable, and the council has provided a justification²⁶.
71. The Ecological Consultants HRA Advice Fee is for to £2,400. As recorded above, the appeal site is close to the Berry Head SAC used by greater horseshoe bats. The council has sought and obtained advice to secure the compatibility of the proposed development with the bats, especially in relation to their foraging and commuting routes. It is a specialised matter and in view of their status and proximity I consider the contribution to be necessary, directly related to the proposal, and fair and reasonable in scale and kind. It therefore falls within the terms of Regulation 122. I consider it is also relevant to planning and reasonable in all other respects, and it thus also complies with the outstanding tests included in Circular 05/2005.
72. The Off-Site Infrastructure Contributions comprise (i) the Sustainable Transport Contribution, (ii) the Lifelong Learning Contribution, (iii) the Stronger Communities Contribution, and (iv) the Public Open Space Contribution. Contributions (i), (ii) and (iii) are derived from sliding scales in proportion to the sizes of individual dwellings, but the contribution (iv) is for £100,000.

²⁶ Document 7

Paragraph 2 of the Schedule provides for reductions of 100% and 50% contingent upon the successful occupation of different types of affordable housing.

73. The details relevant to contribution (iv) are included in the Fourth Schedule. It requires the equipping of the LEAP of approximately 400²m, the landscaping of the public open space of approximately 3,500m², and the treatment of the boundaries. On the basis of Figure 15 of LDD6²⁷ the on-site space created would not conform to the council's standard for a residential development of the size proposed, and the purpose of the contribution is to make up the shortfall. Any residue would be spent at two parks within 400m of the appeal site. I consider the Public Open Space Contribution to be necessary, directly related to the proposal, and fair and reasonable in scale and kind. It therefore falls within the terms of Regulation 122. I consider it is also relevant to planning and reasonable in all other respects, and it thus also complies with the outstanding tests included in Circular 05/2005.
74. The Sustainable Transport Contribution would be used to subsidise improved bus facilities and frequency in the vicinity, as well as contributing to certain strategic highway improvements. I raise no objection to the proposed subsidy. As far as the possibility of contributing to the strategic highway is concerned the council has raised no objection to the proposed development on the grounds part of the contribution would be directed towards the cumulative need to improve strategic junctions. Notwithstanding the modest increase in traffic flow the scheme would generate, I acknowledge the rationale behind this part of the contribution. I therefore consider the contribution to be necessary, directly related to the proposal, and fair and reasonable in scale and kind. It therefore falls within the terms of Regulation 122. I consider it is also relevant to planning and reasonable in all other respects, and it thus also complies with the outstanding tests included in Circular 05/2005.
75. The Lifelong Learning Contribution would be used to subsidise the local library service, especially for children and elderly people. As with many new housing developments, I would expect the scheme to attract young families. The care home would provide accommodation for the elderly. Because of its size, I agree that the scheme would have a noticeable impact on the local service, and I therefore consider the contribution to be necessary, directly related to the proposal, and fair and reasonable in scale and kind. It therefore falls within the terms of Regulation 122. I consider it is also relevant to planning and reasonable in all other respects, and it thus also complies with the outstanding tests included in Circular 05/2005.
76. The Stronger Communities Contribution would be used to provide for street wardens in the area. On the basis of the council's justification²⁸, I understand the wardens currently only operate in the centre of Torquay, and they would be of little benefit to the future residents of the proposed development. I believe the benefit would be too distant to be considered to be directly related to the proposed development. However, paragraph 1.4 of the Seventh Schedule covenants the council to use the contribution towards the cost of a street warden in the appeal site and its surroundings. On this basis I consider the contribution to be necessary, directly related to the proposal, and fair and reasonable in scale and kind. It therefore falls within the terms of Regulation

²⁷ Document 9

²⁸ Document 9, paragraphs 8.1-3

122. I consider it is also relevant to planning and reasonable in all other respects, and it thus also complies with the outstanding tests included in Circular 05/2005.
77. The Waste Management Contribution would be £50 per dwelling. Its purpose would be to subsidise the costs of additional physical property and the re-routing of services. The proposed development would necessitate changes in the provision of the waste collection and recycling service, and I consider the contribution to be necessary, directly related to the proposal, and fair and reasonable in scale and kind. It therefore falls within the terms of Regulation 122. I consider it is also relevant to planning and reasonable in all other respects, and it thus also complies with the outstanding tests included in Circular 05/2005.
78. The Sixth Schedule of the Agreement requires the proposed care home to be constructed and occupied before the occupation of 50% of the proposed dwellings. The requirement is a mechanism to secure the construction of the care home. As the most significant employment generating component of the scheme, the care home would make an important contribution to ensuring that longer term jobs are created and that the mix of uses is delivered. I consider the contribution to be necessary, directly related to the proposal, and fair and reasonable in scale and kind. It therefore falls within the terms of Regulation 122. I consider it is also relevant to planning and reasonable in all other respects, and it thus also complies with the outstanding tests included in Circular 05/2005.
79. To the extent that these matters fall within the terms of the relevant tests, I have taken account of the contents and provisions of the obligations.

Conclusions

80. I have referred above to the consequential provisions of paragraph 22 of PPS7 in respect of need and the local economy, alternatives, and the extent to which any harm might be moderated. As far as the need for the development is concerned, the proposal includes provisions for the erection of 30% of the dwellings as affordable houses; and at least 5% of these would be adapted so that they were suitable for people using wheelchairs. I gather that the completion rate for affordable housing units in Brixham in 2006-8 was 93 dwellings. In the past two years however this has fallen to 20 dwellings. I agree with the appellant that this is disappointing and harmful to those who are in serious housing need. The downturn is no doubt partly attributable to the decline in market housing completions.
81. The prospect of a significant number of affordable houses is an important benefit of the scheme²⁹. As far as the proposed market housing, care home, and the caravan/camping site are concerned, I have considered the alternative sites recorded in the ES. A total of 29 alternatives were considered; subsequently reduced to a shortlist of 6 (including the appeal site). It was concluded that for various reasons the other sites were unavailable or unsuitable for the type and mix of development proposed.
82. However, as one of the 8 criteria against which the comparison was made included land ownership, and none of the other sites were within the appellant's ownership, the outcome would not have been unexpected. In any

²⁹ I have taken account of the need for affordable houses cited in Mr Stacey's Appendix 13.

event, I consider the appeal scheme to be capable of disaggregation in terms of both the numbers of units and/or the mix of uses, and I consider the components of the scheme to be relatively footloose. I recognise that the development would make a contribution to the local economy, especially during the construction phase, but in the longer term the benefit would be limited essentially to the jobs created in the care home, and to a lesser extent those derived from the touring caravan and camping site. With the exception of the Landscape and Ecological Management Plan (which *is* site specific), I conclude the possibility of the component parts of the proposal taking place outside the AONB to be a realistic prospect.

83. I have considered the extent to which the proposed development could be moderated under the first main issue and concluded, on balance, that this would be insufficient to outweigh the detrimental effect on the environment.
84. I have also concluded, to the benefit of the appellant's case, that there is not a 5 year supply of housing land in Torbay. Under the terms of paragraph 71 of PPS3 the site therefore falls to be considered against the contents of paragraph 69. In most respects the development of the site as proposed would satisfy the criteria listed, but, given the conclusion I have reached in respect of the first main issue and the advice included in paragraph 22 of PPS7, it follows that I consider the site to be both unsuitable for housing and environmentally unsustainable. I note in this respect that one of the 4 aims of sustainable development is recorded in paragraph 4 of PPS1: *Delivering Sustainable Development* as the effective protection of the environment.
85. There is essentially no disagreement between the principal parties that, as a tourist facility and destination, the holiday centre has fulfilled its purpose. Nor is there any dispute that the land now occupied by vacant chalets and communal buildings is previously-developed land (brownfield) within the terms specified in Annex B of PPS3. While paragraph 36 (and paragraph 1(v) of PPS7) records the priority for the reuse of such land, the Annex makes it clear that there is no presumption that such land is necessarily suitable for housing development. In respect of the second main issue, I have concluded furthermore that the site retains some prospect of redevelopment for a tourism-based use. I have taken account AONB Officer's assessment of the scheme, and of the Planning Officer's recommendation made at the application stage, but it follows that I consider, on balance, the exceptional circumstances referred to in paragraph 22 of PPS7 do not apply. Notwithstanding the benefits of the proposal to which I have referred, and my conclusion in respect of the third main issue, I conclude that these are insufficient to outweigh the harm derived from the other two main issues.
86. I further therefore conclude the proposed development would conflict with the contents and purposes of: Policy EN1 of RPG 10; Policy CO3 of the structure plan; Policies LS, L1, TUS and TU10 of the local plan.
87. It is for the reasons recorded above that I have concluded the appeal should be dismissed.

Andrew Pykett

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr Gavin Collett	of Counsel, instructed by Torbay Council
He called:	
Mr Christopher McDermott BSc(Hons) BLD MLI	Associate Director, The Landmark Practice
Mr Alan Denby	Director of Economic Strategy and Performance, Torbay Development Agency
Mr Pat Steward BA(Hons) DipUP DipUD	Senior Service Manager, Strategic Planning and Implementation, Torbay Council

FOR THE APPELLANT:

Mr Christopher Young	of Counsel, instructed by James Stacey of Tetlow King Planning
He called:	
Mr Julian Copper BSC(Hons) DipLD FLI ASLA	Managing Director, Cooper Partnership
Mr Ian Simpson BSc FRICS	Director, Savills (L & P) Ltd
Dr Stephanie Wray BSC(Hons) PhD	Environmental Adviser, Hyder Consulting (UK) Ltd
Mr Derek Grant BEng MSc	Technical Director, WSP Consulting Engineers
Mr James Stacey BA(Hons) DipTP MRTPI	Director, Tetlow King Planning

INTERESTED PERSONS:

Cllr J Stockman	Member, Torbay Council and Brixham Town Council. Chairman, Brixham Peninsula Neighbourhood Plan
Cllr D Thomas	Deputy Mayor, Torbay Council
Cllr M Morey	Member, Torbay Council and Brixham Town Council
Mr W Ford	Director, English Riviera Tourism Company
Cllr A Baldrey	Member, Torbay Council
Mr L & Mrs A Goring	Local residents
Ms H Braybrook	Local resident
Mr K Williams	Member, Brixham Chamber of Commerce
Cllr R Gardner	Local resident
Mr W Baker	Local resident
Mr B Harland	Local resident and Chairman, Brixham Town Council Planning Committee
Ms D McDowell	Local resident
Mr R Jinks	Local resident
Ms O Farnham	Local resident
Mr D Hodgetts	Local resident and member of Brixham 21

Mr S Furminger	Local resident
Mr C Chandler	Local resident
Cllr M Hodge	Local resident and member Brixham Town Council

DOCUMENTS SUBMITTED AT THE INQUIRY

Documents submitted by the council

- 1 Council's notices and circulation list + notice of resumed inquiry
- 1a Additional material received on 21 June 2011
- 2 Planning permission dated 26 October 1962 for the erection of 352 chalets
- 3 Torbay Council Opening Statement
- 4 Photograph – Berry Head from St Mary's Bay, Brixham
- 5 The Torbay Green Infrastructure Delivery Plan
- 6 Notices of Listing – various buildings at Berry Head Fort (also known as the Northern Fort) and at the Southern Fort, Brixham
- 7 Wall Park Inquiry, Section 106 justification
- 8 Planning Contributions and Affordable Housing Supplementary Planning Document – Update 3, April 2011
- 9 Planning Contributions and Affordable Housing: Priorities and Delivery, April 2008
- 10 Brixham Urban Fringe Study – Final Report
- 11 Brixham Urban Fringe Study – Appendices
- 12 Torbay 5 year land supply
- 13 Changing Planning Groundrules, The Savills Monitor, November 2011
- 14 Letter dated 8 November 2011 concerning Torbay Holiday Chalets, Brixham
- 15 Section 106 Agreement dated 21 November 2011
- 16 Certificate of Completion of Work at 4 Waterleat Road, Paignton
- 17 Revised Guidance on the interpretation of Policies TU6 and TU7 of the adopted Torbay Local Plan, March 2010
- 18 Letter dated September 2007 concerning saved policies, Devon Structure Plan
- 19 Letter dated September 2007 concerning saved policies, Torbay Local Plan
- 20 Torbay Council Closing Statement

Documents submitted by the appellant

- 21 Certificate of Lawful Use or Development, dated 30 January 1997
- 22 Certificate of Lawful Use or Development, dated 17 September 2009
- 23 Note on behalf of Northern Trust Company Ltd
- 24 Draft section 106 Agreement
- 25 Note on Extinguishment of Certificates of Lawfulness, dated 17 November 2011
- 26 Jennings Motors Ltd v. Secretary of State for the Environment and Another (1981) CA 541
- 27 Draft Unilateral Undertaking
- 28 Committee Report dated 21 February 2011, 40 self-catering units with associated leisure facilities, Torbay holiday Chalets, Brixham
- 29 Email exchange dated 22 November 2011 concerning head office costs
- 30 Second draft Unilateral Undertaking
- 31 Agreed draft planning conditions (Superseded)
- 32 Torbay 5 year housing land supply

- 33 Appellant's Revised Land Supply Position – with 2385 projected supply
- 34 Table showing appellant's and council's land supply figures
- 35 Appendix 3 – Table of Rejected Sites (Rev A)
- 36 Exeter & Torbay – Strategic Housing Market Assessment: Torbay Update September 2011
- 37 Application under section 288 of the Town and Country Planning Act 1990 – Details of Claim
- 38 Consent Order, dated 18 October 2011
- 39 Email exchange dated 25 November 2011, concerning the section 106 Agreement
- 40 Cooper Partnership Plan L12 – Appendix A to the s106 Agreement
- 41 Forbes-Laird Arboricultural Consultancy, Tree Survey & Preliminary Constraints Advice – Appendix B to the s106 Agreement
- 42 Section 106 Unilateral Undertaking dated 24 November 2011
- 43 Closing Submissions on behalf of the Appellant
- 44 Agreed Draft Planning Conditions

Documents submitted by others

- 45 Statement by Cllr Stockman
- 46 Statement by Cllr Thomas
- 47 Statement by Cllr Morey
- 48 Statement by Mr Ford
- 49 Statement by Cllr Baldrey
- 50 Submissions by Mr & Mrs Goring dated 22 November, 17 November and 14 November 2011
- 51 Transcript by Ms Braybrook
- 52 Statement by Mr Williams
- 53 Statement by Cllr Gardner
- 54 Statement by Mr Baker
- 55 Statement by Cllr Harland
- 56 Statement by Ms Farnham
- 57 Statement by Mr Hodgetts
- 58 Statement by Mr Furminger
- 59 Letter dated 15 November 2011 and enclosures from Mr Chandler
- 60 Statement and attachment by Mr Chandler