



Thursday, 2 May 2013

DEVELOPMENT MANAGEMENT COMMITTEE

A meeting of **Development Management Committee** will be held on

Monday, 13 May 2013

commencing at **2.00 pm**

The meeting will be held in the Burdett Room,
Riviera International Conference Centre, Torquay

Members of the Committee

Councillor McPhail (Chairwoman)

Councillor Morey (Vice-Chair)

Councillor Addis

Councillor Baldrey

Councillor Barnby

Councillor Hill

Councillor Kingscote

Councillor Pentney

Councillor Stockman

Working for a healthy, prosperous and happy Bay

For information relating to this meeting or to request a copy in another format or language please contact:

Kay Heywood, Town Hall, Castle Circus, Torquay, TQ1 3DR
01803 207087

Email: governance.support@torbay.gov.uk



DEVELOPMENT MANAGEMENT COMMITTEE AGENDA

1. **Apologies for absence**
To receive apologies for absence, including notifications of any changes to the membership of the Committee.
2. **Minutes** (Pages 1 - 6)
To confirm as a correct record the Minutes of the meeting of this Committee held on 8 April 2013.
3. **Declarations of Interests**
 - (a) To receive declarations of non pecuniary interests in respect of items on this agenda
For reference: Having declared their non pecuniary interest members may remain in the meeting and speak and, vote on the matter in question. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.
 - (b) To receive declarations of disclosable pecuniary interests in respect of items on this agenda
For reference: Where a Member has a disclosable pecuniary interest he/she must leave the meeting during consideration of the item. However, the Member may remain in the meeting to make representations, answer questions or give evidence if the public have a right to do so, but having done so the Member must then immediately leave the meeting, may not vote and must not improperly seek to influence the outcome of the matter. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.

(**Please Note:** If Members and Officers wish to seek advice on any potential interests they may have, they should contact Governance Support or Legal Services prior to the meeting.)
4. **Urgent Items**
To consider any other items that the Chairman decides are urgent.
5. **P/2013/0165/MRM - Land at Park Bay Garden Centre And Holly Gruit, Brixham Road, Paignton** (Pages 7 - 13)
Residential development to form 91 houses with matters reserved - siting, design and external appearance, access, parking, drainage and landscaping.
6. **P/2013/0417/VC 2 Fore Street, Brixham** (Pages 14 - 17)
Variation of Condition 6 to previously approved scheme P/2012/0911, Revised wording of condition in respect of the Herring Gull Nesting Season.

7. **P/2013/0421/VC - 2 Fore Street, Brixham** (Pages 18 - 21)
Variation of Condition 2 to previously approved scheme
P/2012/0910, revised wording of condition in respect to the Herring
Gull Nesting Season.
8. **Public speaking**
If you wish to speak on any applications shown on this agenda,
please contact Governance Support on 207087 or email
governance.support@torbay.gov.uk before 11 am on the day of the
meeting.



Minutes of the Development Management Committee

8 April 2013

-: Present :-

Councillor McPhail (Chairwoman)

Councillors Morey (Vice-Chair), Addis, Baldrey, Barnby, Brookbank, Hytche, Pentney and Stockman

(Also in attendance: Councillors Davies, Doggett and Richards)

143. Apologies for absence

It was reported that, in accordance with the wishes of the Conservative Group, the membership of the Committee had been amended for this meeting by including Councillors Brookbank and Hytche instead of Councillors Hill and Kingscote.

144. Minutes

The Minutes of the meeting of the Development Management Committee held on 6 March 2013 and 11 March 2013 were confirmed as a correct record and signed by the Chairwoman subject to it being noted that Councillors Baldrey and Morey proposed and seconded the resolution in minutes 135/03/2012.

145. Urgent Items

The Committee considered the items in Minute 157 and 158, and not included on the agenda, the Chairman being of the opinion that they were urgent by reason of special circumstances i.e. the matter having arisen since the agenda was prepared and it was unreasonable to delay a decision until the next meeting.

146. P/2013/0166/PA 45 Winsu Avenue, Paignton

The Committee considered an application for the demolition of existing house and construction of two new detached houses with integral garages with vehicular and pedestrian access.

Prior to the meeting, Members of the Development Management Committee undertook a site visit and written representations were circulated to members. At the meeting Mr Ian Hancock addressed the Committee against the application and Mr Geoff Manning addressed the Committee in support of the application. In accordance with Standing Order B4.1 Councillor Doggett addressed the Committee.

Resolved:

Refused on the grounds:

- i) that the proposal would result in overdevelopment of the site,
- ii) that the proposal would have a negative effect on the amenities of adjacent neighbouring properties; and
- iii) that the proposal was out of character and would have an adverse affect on the street scene.

(Note: Councillor Hytche declared a pecuniary interest and left the meeting.)

147. P/2013/0180/R4 145 -149 Winner Street, Paignton

The Committee considered an application for the construction of three dwellings with two bedrooms.

Prior to the meeting, Members of the Development Management Committee undertook a site visit and written representations were circulated to members. At the meeting Mr Adrian Peach and Ms Tina Neal addressed the Committee against the application. In accordance with Standing Orders B4.1 Councillor Davies addressed the Committee.

Resolved:

Approved subject to:

- i) the conditions set out in the submitted report; and
- ii) Planning Contributions, achieved via an upfront payment or Section 106 Legal Agreement, any Section 106 Legal Agreement to be completed within three months of the date of this Committee or the application be refused for reason of the lack of a Section 106 Legal Agreement.

148. P/2013/0187/MPA 36 Preston Down Road, Paignton

The Committee considered an application for the formation of 12 dwellings comprising of seven houses and five apartments with associated external works and infrastructure, vehicular and pedestrian access.

Prior to the meeting, Members of the Development Management Committee undertook a site visit and written representations were circulated to members. At the meeting Mr McNally addressed the Committee against the application and Mr Vic Maskell addressed the Committee in support of the application.

Resolved:

Approved subject to the conditions set out in the submitted report and the following details being delegated to the Executive Head of Spatial Planning:

- i) the refinement of the design of the elevations to the villa (block A) and the rear dwellings (block B) and minor variations to the landscaping strategy;
- ii) subject to the views of highways and the response of the architects to the suggestion of moving plot 12 forward on the site;
- iii) subject to the completion of a Section 106 Legal Agreement (in respect of the options to either deliver affordable housing and any relevant contributions or provide the full range of SDLR and sustainable development contributions) by 17 May 2013. In the absence of a completed Section 106 Legal agreement by 17 May 2013, the application will be returned to Committee for reconsideration; and
- iv) subject to the submission and completion of a contamination remediation strategy in terms acceptable to the Executive Head of Spatial Planning.

149. P/2013/0194/MR3 Eastern Esplanade, Paignton Seafront, Paignton

The Committee considered an application for the change of use from public highway to public car park for use as an events area for up to 60 days per annum.

Prior to the meeting, written representations were circulated to members. At the meeting Mr Tim Northway addressed the Committee in support of the application.

Resolved:

Deferred for further advice from the Service Manager – Streetscene and consultation with Members of the Public.

150. P/2013/0214/PA Oldway Mansion, Torquay Road, Paignton

The Committee considered an application on the revised footprint of the proposed indoor bowling club at Oldway Mansion and changes to the elevation.

Prior to the meeting, Members of the Development Management Committee undertook a site visit and written representations were circulated to Members. At the meeting Mr Mark Jones addressed the Committee in support of the application.

Resolved:

Approved subject to the informative set out in the submitted report and there being no objections received raising new issues (not covered in the submitted report) following the expiration of the consultation period on 11 April 2013.

151. P/2012/0078/MPA Westhill Garage, Chatto Road, Torquay

The Committee were informed of an application to extend the time limit for residential development comprising of eight houses, three flats, two bungalows and two maisonettes (15 units in total) with vehicular/pedestrian access – application P/2009/0422.

Members were advised that an extension of time was being sought in relation to the signing of the Section 106 Legal Agreement of three months from the date of this Committee.

Prior to the meeting, written representations were circulated to members.

Resolved:

Approved subject to:

- i) the conditions set out in the submitted report;
- ii) the signing of a Section 106 Legal Agreement in terms acceptable to the Executive Head of Spatial Planning, within three months of the date of this Committee meeting. If the Section 106 Legal Agreement is not completed within this time period the planning application shall be refused on the grounds of the lack of a Section 106 Legal Agreement to secure contributions in order to mitigate against the detrimental effects of the development on local infrastructure in accordance with saved Policy CF6 of the Adopted Torbay Local Plan 1995-2011.

152. P/2012/1155/PA Dainton Self Store Ltd, Torre Station Yard, Newton Road, Torquay

The Committee were informed, by way of a verbal report, of an application for a change of use from B8 storage to C3 dwelling house and formation of eight townhouses with three storeys and three bedrooms with integrated garages and off street parking and one single storey bungalow with three bedrooms with pedestrian access.

Members were advised that an extension of time was being sought in relation to the signing of the Section 106 Legal Agreement of two months from the date of this Committee.

Resolved:

Approved subject to the signing of a Section 106 Legal Agreement in terms acceptable to the Executive Head of Spatial Planning, within two months of the date of this Committee meeting. If the Section 106 Legal Agreement is not completed within this time period the planning application shall be refused on the grounds of the lack of a Section 106 Legal Agreement to secure contributions in order to mitigate against the detrimental effects of the development on local

infrastructure in accordance with saved Policy CF6 of the Adopted Torbay Local Plan 1995-2011.

153. P/2012/1259/PA 4 Bishops Rise, Torquay

The Committee considered an application for the formation of a single storey dwelling in land part of the garden at 4 Bishops Rise with all associated works and vehicular and pedestrian access.

Prior to the meeting, Members of the Development Management Committee undertook a site visit and written representations were circulated to members. At the meeting Mr Philip Martin addressed the Committee against the application.

Resolved:

Refused on the grounds:

- i) that the proposal would result in overdevelopment of the site,
- ii) that the proposal would have a negative effect on the amenities of adjacent neighbouring properties; and
- iii) that the proposal was not in keeping with the character of the area.

154. P/2013/0053/MPA Roebuck House, Abbey Road, Torquay

This application was withdrawn by the applicant.

155. P/2013/0057/MPA South Devon Hotel, 10 St Margarets Road, Torquay

The Committee considered an application to extend the time limit for refurbishment of the original building and formation of 26 Extra Care Units. Revised scheme to include single storey restaurant area, increased communal facilities at basement level and amendments to elevations – application P/2009/0073/MPA.

Prior to the meeting, written representations were circulated to members. A copy of the previous report (2009) was included with the written report to Committee.

Resolved:

Approved, subject to:

- i) conditions as applied to P/2009/0073 with an additional condition to secure the repair of a boundary wall and retention/replacement of tree screening; and
- ii) a supplementary Section 106 Legal Agreement to be drawn up at the applicant's expense and to be completed and signed by 11 May 2013 to reflect the extension of time hereby approved. In the absence of a Section 106 Legal Agreement being completed and signed on or before 11 May

2013, the application be refused for reasons of the lack of a Section 106 Legal Agreement and therefore lack of compliance with policy CF6 of the Local Plan, paragraph 203 of the National Planning Policy Framework and the adopted SPD 'Planning Contributions and Affordable Housing'.

156. P/2013/0167/PA Princess Gardens, Off Torbay Road, Torquay

The Committee considered an application for the installation and operation of a 50 metre observation wheel with ticket office to front and supporting coffee and crepe unit with decked seating area and secure panelled service and generator compound area to rear on a temporary basis from 24 May 2013 to 5 November 2013.

Prior to the meeting, Members of the Development Management Committee undertook a site visit and written representations were circulated to members. At the meeting Mr Tim Morris addressed the Committee against the application.

Resolved:

That temporary consent be approved until 5 November 2013 subject to

- i) the terminal hour of operation being 10 p.m. seven days a week;
- ii) the submission of a Light Impact Assessment and subsequent reinstatement of the affected part of the gardens; and
- iii) the informative set out in the submitted report.

157. P/2012/0841/PA Wilsbrook, 77 Avenue Road, Torquay

Members were informed that permission had previously been granted for a change of use from guest house to (C3) dwelling, the previous permission required the completion of a Section 106 Legal Agreement. Members agreement was sought for the application to be refused on the grounds of the lack of a Section 106 Legal Agreement.

Resolved:

Refused on the ground of a lack of a Section 106 Legal Agreement to secure contributions in order to mitigate against the detrimental effects of the development on local infrastructure in accordance with saved Policy CF6 of the Adopted Torbay Local Plan 1995-2011.

158. P/2011/0197 Land West of Brixham Road, Paignton

Members considered a request for a two week extension to enable the signing of a Section 106 Legal Agreement.

Resolved:

Approved.

Chairman/woman

Agenda Item 5

Application Number

P/2013/0165

Site Address

Land At Park Bay Garden Centre And Holly
Gruit
Brixham Road
Paignton
Devon

Case Officer

Mr John Burton

Ward

Blatchcombe

Description

Residential development to form 91 houses with matters reserved -siting, design and external appearance, access, parking, drainage and landscaping,

Executive Summary/Key Outcomes

This application has been the subject of detailed negotiation with officers to work up the layout and design of the scheme. The scheme has been improved from that originally considered at pre-application stage and has also been amended throughout the planning application process.

It is now considered that, subject to a number of further amendments, the proposal is acceptable on planning merit. The proposal is somewhat different from the development currently being progressed to the north at Yannons Farm, however, it is considered complementary and will result in the provision of a variety of new housing stock on the western side of Paignton.

The application seeks approval to those matters which were reserved by the outline consent, and so there will still be some conditions that require addressing. However, officers are confident that the 'overall' scheme can be progressed to a high standard and the efforts made by the applicant to assist in this venture are welcomed.

Recommendation

Subject to the receipt of further detailed alterations to the layout and design, it is recommended that the application for reserved matters in relation to access, appearance, landscaping, layout and scale be approved.

Statutory Determination Period

This proposal is a major application and as such is due to be decided within a 13 week timeframe. The 13 week timeframe will expire on 16th May and so it is important that a decision is reached on this application at this committee

meeting. The reason that this application has not come before members sooner is due to time taken to successfully negotiate improvements to the scheme.

Site Details

The proposal site constitutes land at Parkbay Garden Centre and the former Holly Gruit camp site, off the main Brixham Road (A3022) in Paignton.

Approval was granted in outline by the Council in January 2012 (under reference P/2009/1287) for the development of approximately 95 residential units on the site. This application follows on from the outline consent and deals with the matters reserved by that original permission.

The site as a whole rises from north to south and peaks at the south west corner to the rear of Western Business Park. The land is broadly triangular widening from the northern corner adjacent to Yannons Farm towards the south west of the site.

Detailed Proposals

Approval is sought for detailed consent for the access, appearance, landscaping, layout and scale of the proposed residential development. This following the granting of outline consent Council in January 2012, for the development of approximately 95 residential units. The submission proposes the erection of a total of 91 dwellings.

Other conditions attached to the outline consent will need to be satisfied by a further submission.

Summary Of Consultation Responses

Police Architectural Liaison Officer (ALO) Disappointed at the lack of reference to designing out crime in the 'Design and Access Statement' and emphasises that the development should meet full Secured by Design compliance. The ALO comments on the position of footpaths, particularly those at the rear of properties, and comments on planting in relation to surveillance opportunities. A copy of these comments have been sent electronically for the Members perusal. The architect has been asked to respond to the views expressed, and try to take these on board in the design stage.

South Hams District Council No observations.

Summary Of Representations

2 letters of representation have been received. The main concerns raised are as

follows:

- The 'Design and Access' statement makes no reference to sustainable construction methods, nor proposals to combat climate change
- The proposal does not meet the Council's current policies in respect of sustainability, low carbon developments, or the need to be resilient to climate change
- The access to the former Holly Gruit camp site needs to remain shut
- Concerns about traffic and noise from construction work

The architect has been asked to provide a response to these points and an update on these matters will be reported at the committee meeting. By way of an interim response, officers view the strong landscape led approach and the sustainable drainage as assisting in providing a sustainable development. As to the use of renewable technologies and sustainable construction, this has been discussed with the applicants, however, it is understood that the development is unlikely to exceed the Building Regulations in that regard.

The comment about the access to the Holly Gruit site is dealt with by the outline permission, which established consent to use the access for construction only and not to access the development for occupation.

Whilst there are legitimate concerns about construction traffic and noise, this development has approval in principle and is a part of the wider development of Yannons Farm (adjacent) given distances away from nearby residents it is not considered likely that construction noise and traffic will cause significant harm.

These representations have been sent electronically for the Members perusal.

Relevant Planning History

P/2009/1287 Residential development to form approx 95 dwellings with associated vehicle/pedestrian access, roads; footpaths (in outline). Approved 06.01.2012

Key Issues/Material Considerations

There are 5 matters reserved by the original outline consent. These are access, appearance, landscaping, layout and scale. After a brief examination of the policy considerations, each of these will be examined in detail.

Principle and Planning Policy -

The principle of development has already been established and approved by the outline consent. That original consent also dealt with many policy issues. In respect of the matters reserved by the outline decision, the primary policy considerations relate to transportation, design and landscaping.

Access

The plans show 1 point of vehicular access. This is shown on the western side, (the rear of the garden centre) and would be accessed via a new spur road off the first roundabout created into the new Yannons Farm development. 3 pedestrian and cycling accesses/egresses are provided for ease of access through and from the site. One is shown through the new coastal garden area accessing onto the new spine road off Brixham Road. The other two are on to Brixham Road itself, the most southerly of which exits close to the new bus stop.

In the site itself, the layout shows a main plaza/square at the point of access to announce arrival into the development. This feeds in to a central spine road, off which there are shorter cul de sacs ending with terminal vistas.

Appearance

The main theme for the development has been designed to replicate the main previous (existing) use of the site as a garden centre. It is thus heavily tree'd and landscaped with ornate and non-native species. The dwellings have been designed with a local feel, using a mixture of brickwork and render. The design principles for the dwellings are loosely based on arts and crafts period dwellings.

The applicant is currently exploring the use of non-standard materials for the road surfaces in order to improve the overall appearance of the area.

Landscaping

Landscaping is intended to be the dominant feature of this new development, which will help to set it apart from the surrounding residential areas and create a distinctive identity. The main features include –

- A coastal garden entrance for pedestrians and cyclists (only) in the north, with a good range of 'coastal' plants. This will also act as a drainage point for the SUDS scheme.
- A playground and communal green area in the south of the site, overlooked by the larger detached dwellings.
- The existing TPO'd trees on the south-western boundary of the site all being shown as retained.
- A landscape buffer area between the development and the Brixham Road. This also contains a bund, which will not only act to screen the development from the main road, but will also act to provide a noise and visual barrier to the dwellings themselves.
- A good range and quantity of trees to help 'green' the area, many being of a fastigate nature to help create a Mediterranean feel.

- Hard landscaping, including careful choice for road surfaces, parking courtyards and other communal areas.

There are a lot of green areas and planting within the scheme that will need careful and longer term maintenance in order for the layout to retain an appropriate green feel. The developer has agreed to maintain these through a management company at their expense. There is therefore no cost to the Authority.

Layout

The layout shows a medium density development containing a mixture of house types and sizes, all of which will add variety to the urban form and will suit all kinds of market demand. The houses on the main spine roads give a traditional estate feel. However, this is countered by properties off the cul-de-sacs and fronting the pedestrian footways, which help to give a varied and interesting form to the layout.

Parking has been deliberately designed at the rear of most of the properties in order to take cars off the frontages. This is complimented by alterations to the road widths to try and discourage parking on the highway itself. The idea is to try and create the appearance of a car free environment where priority is given to pedestrians and cyclists, making the layout safer and less cluttered. Some parking courtyards exist, but these are screened by tree planting and landscaping.

Scale

The site is developed at a medium density giving ample room for landscaping and tree planting in order to provide a greener feel to the development. The development has a human scale, giving the pedestrian and landscaping dominance over the motor vehicle. The properties are traditional two storey dwellings but with good spacing to assist in creating a more pleasing environment.

S106/CIL -

A Planning Obligation under s106 of the Act was appropriately provided for at the outline stage and is not an issue that is relevant to a reserved matters application.

Sustainability

The principle of the proposed development in sustainability terms was tested at outline stage and consent granted. The reserved matters details incorporate a strong landscaping scheme, permeability and access for and to sustainable modes of transportation and provide for sustainable drainage.

Conclusions

Officers are very pleased with the effort the applicant has employed to help create a pleasing and distinctive environment on this western fringe of Paignton. The main landscaped fringe reflects the former/existing use of the site as a garden centre and will help to provide an important transition between the built environment and the more rural areas beyond. It is considered that the scheme would not impact detrimentally upon the existing environment, neighbouring uses, or any other interest of acknowledged importance.

At the time of compiling this report there are still some minor outstanding issues relating to the detailed appearance of the development. However, officers are encouraged from recent meetings and believe that these issues can be resolved appropriately before the matter comes before the committee. Matters relating to other conditions not covered by the reserved matters will still need to be submitted for approval, but negotiations indicate that these will flow quite readily from the basic form that Members are being asked to establish through this application.

Relevant Policies

National Planning Policy Framework, particularly its 'Golden thread' of a presumption in favour of sustainable development.

Saved Adopted Torbay Local Plan (1995-2011)

- HS Housing strategy
- H2 New housing on unidentified sites
- H6 Affordable housing on unidentified sites
- H9 Layout, design and community aspects
- H10 Housing densities
- H11 Open space requirements for new housing
- BES Built Environment Strategy
- BE1 Design of New Development
- BE2 Landscaping and design
- T1 Development accessibility
- T2 Transport hierarchy
- T25 Car parking in new development
- T26 Access from development onto the highway
- L8 Protection of hedgerows, woodlands and other natural landscape features
- L9 Planting and retention of trees
- L10 Major development and landscaping
- EPS Environmental protection strategy
- EP1 Energy efficient design

Relevant Policies

Agenda Item 6

Application Number

P/2013/0417

Site Address

2 Fore Street
Brixham
Devon
TQ5 8DS

Case Officer

Mr Scott Jones

Ward

Berry Head With Furzeham

Description

Variation of Condition 6 to previously approved scheme P/2012/0911, Revised wording of condition in respect of the herring gull nesting season

Executive Summary/Key Outcomes

The proposal seeks to amend the wording of Condition 06 attached to the previously approved planning consent for the demolition and redevelopment of 2 and 2a Fore Street, Brixham (Commonly known as the “Threshers” building).

At present Condition 06 prohibits demolition and redevelopment through the Herring Gull breeding season.

The application seeks to amend the wording to permit demolition and redevelopment during the bird breeding season. This is so long as a suitably qualified ecologist considers that the works would not contravene the provisions of the Wildlife and Countryside Act 1981 (As Amended), which is the relevant statutory instrument that affords protection to wild birds, their nests and eggs.

It is considered that the revised wording retains the objectives of the existing condition, i.e. to afford suitable protection to nesting birds.

Recommendation

Approval; Subject to the receipt of no further representations that raise any new issues deemed significant by the Executive Head of Spatial Planning in consultation with the Development Management Committee Chair; Revised wording of the condition to be;

“No demolition shall take place during the bird breeding season, unless the building, rooftop and its immediate proximity has been inspected by a suitably qualified ecologist with full knowledge of the proposed demolition program and processes, and the ecologist concludes that the development would not contravene protection afforded within the Wildlife and Countryside Act (As Amended).

In the event that demolition is to be undertaken during the bird breeding season, no demolition shall take place until a copy of the ecologists' report confirming the acceptability of the demolition program and process has been submitted to the Local Planning Authority.

Reason: To afford suitable protection to wild nesting birds, in accordance with the provision of the Wildlife and Countryside Act 1981 (As Amended) and Policy NC5 of the Saved Local Plan”

Statutory Determination Period

8 weeks

Site Details

“Threshers” building, 2 and 2a Fore Street, Brixham.

Detailed Proposals

Amend wording of Condition 06 from;

“No works of demolition shall be carried out during the breeding season for Herring Gulls (April to June)”.

To;

“No demolition shall take place during the bird breeding season, unless the building, rooftop and its immediate proximity has been inspected by a suitably qualified ecologist with full knowledge of the proposed demolition program and processes, and the ecologist concludes that the development would not contravene protection afforded within the Wildlife and Countryside Act (As Amended)”.

In the event that demolition is to be undertaken during the bird breeding season, no demolition shall take place until a copy of the ecologists' report confirming the acceptability of the demolition program and process has been submitted to the Local Planning Authority.

Reason: To afford suitable protection to wild nesting birds, in accordance with the provision of the Wildlife and Countryside Act 1981 (As Amended) and Policy NC5 of the Saved Local Plan”

Summary Of Consultation Responses

None.

Summary Of Representations

Pending representations received during the consultation period 25th April – 16th May. Any representation received before 09 May will be reported to the Committee Meeting. As the committee meeting will take place prior to the expiration of the 21 day consultation period, the recommendation is also subject to the receipt of no further representations that raise any new issues deemed significant by the Executive Head of Spatial Planning in consultation with the Development Management Committee Chair.

Relevant Planning History

P/2010/1189	Demolition of 2 and 2A Fore Street - PER - 22/03/2011
P/2010/1192	Demolition of 2 and 2A Fore Street; Alterations and works to form junction realignment; formation of new ground floor retail and 2 number first floor apartments - PER - 08/03/2011
P/2012/0910	Demolition of 2 and 2A Fore Street - PER - 16/04/2013
P/2012/0911	Demolition of 2 and 2A Fore Street; junction realignment and replace with 2 ground floor retail units and 2 first floor apartments - PER - 16/04/2013

Key Issues/Material Considerations

Principle and Planning Policy -

The proposal seeks to amend the wording of Condition 06 attached to the previously approved planning consent.

At present Condition 06 prohibits demolition and redevelopment through the Herring Gull breeding season.

The application seeks to amend the wording to permit demolition and redevelopment during the bird breeding season, should a suitably qualified ecologist consider that it would not contravene the provisions of the Wildlife and Countryside Act 1981 (As Amended), which is the relevant statutory instrument that affords protection to wild birds, their nests and eggs.

The revised wording will only permit demolition in the event that a suitably qualified ecologist is satisfied that the protection afforded birds under the Wildlife and Countryside Act 1981 (As Amended) would not be contravened. The revised wording retains the objectives behind the original condition (to protect wild nesting birds), but provides increased flexibility to enable works to proceed during the nesting season, in the event that birds would not be unduly affected. This is considered to be consistent with the tests of necessity and reasonableness set out in the conditions Circular 11/95.

Conclusions

The revised wording retains the key objective, which is to afford wild nesting birds suitable protection. The variation to the condition provides a more reasonable solution, by enabling demolition to proceed where expert advice confirms that wild nesting birds will not be harmed / unduly affected by the demolition process. As such the application to vary the condition should be approved.

Condition(s)/Reason(s)

01. No demolition shall take place during the bird breeding season, unless the building, rooftop and its immediate proximity has been inspected by a suitably qualified ecologist with full knowledge of the proposed demolition program and processes, and the ecologist concludes that the development would not contravene protection afforded within the Wildlife and Countryside Act (As Amended). In the event that demolition is to be undertaken during the bird breeding season, no demolition shall take place until a copy of the ecologists' report confirming the acceptability of the demolition program and process has been submitted to the Local Planning Authority.

Reason: To afford suitable protection to wild nesting birds, in accordance with the provision of the Wildlife and Countryside Act 1981 (As Amended) and Policy NC5 of the Saved Local Plan.

Relevant Policies

NC5 Protected species

Application Number

P/2013/0421

Site Address

2 Fore Street
Brixham
Devon
TQ5 8DS

Case Officer

Mr Scott Jones

Ward

Berry Head With Furzeham

Description

Variation of Condition 2 to previously approved scheme P/2012/0910, Revised wording of condition in respect to the Herring Gull Nesting Season

Executive Summary/Key Outcomes

The proposal seeks to amend the wording of Condition 02 attached to the previously approved planning consent for the demolition and redevelopment of 2 and 2a Fore Street, Brixham (Commonly known as the “Threshers” building).

At present Condition 02 prohibits demolition and redevelopment through the Herring Gull breeding season.

The application seeks to amend the wording to permit demolition and redevelopment during the bird breeding season. This is so long as a suitably qualified ecologist considers that the works would not contravene the provisions of the Wildlife and Countryside Act 1981 (As Amended), which is the relevant statutory instrument that affords protection to wild birds, their nests and eggs.

It is considered that the revised wording retains the objectives of the existing condition, i.e. to afford suitable protection to nesting birds.

Recommendation

Approval; Subject to the receipt of no further representations that raise any new issues deemed significant by the Executive Head of Spatial Planning in consultation with the Development Management Committee Chair; Revised wording of the condition to be;

“No demolition shall take place during the bird breeding season, unless the building, rooftop and its immediate proximity has been inspected by a suitably qualified ecologist with full knowledge of the proposed demolition program and processes, and the ecologist concludes that the development would not contravene protection afforded within the Wildlife and Countryside Act (As Amended).

In the event that demolition is to be undertaken during the bird breeding season, no demolition shall take place until a copy of the ecologists' report confirming the acceptability of the demolition program and process has been submitted to the Local Planning Authority.

Reason: To afford suitable protection to wild nesting birds, in accordance with the provision of the Wildlife and Countryside Act 1981 (As Amended) and Policy NC5 of the Saved Local Plan”

Statutory Determination Period

8 weeks

Site Details

“Threshers” building, 2 and 2a Fore Street, Brixham.

Detailed Proposals

Amend wording of Condition 02 from;

“No works of demolition shall be carried out during the breeding season for Herring Gulls (April to June)”.

To;

“No demolition shall take place during the bird breeding season, unless the building, rooftop and its immediate proximity has been inspected by a suitably qualified ecologist with full knowledge of the proposed demolition program and processes, and the ecologist concludes that the development would not contravene protection afforded within the Wildlife and Countryside Act (As Amended)”.

In the event that demolition is to be undertaken during the bird breeding season, no demolition shall take place until a copy of the ecologists' report confirming the acceptability of the demolition program and process has been submitted to the Local Planning Authority.

Reason: To afford suitable protection to wild nesting birds, in accordance with the provision of the Wildlife and Countryside Act 1981 (As Amended) and Policy NC5 of the Saved Local Plan”

Summary Of Consultation Responses

None.

Summary Of Representations

Pending representations received during the consultation period 25th April – 16th May. Any representation received before 09 May will be reported to the Committee Meeting. As the committee meeting will take place prior to the expiration of the 21 day consultation period, the recommendation is also subject to the receipt of no further representations that raise any new issues deemed significant by the Executive Head of Spatial Planning in consultation with the Development Management Committee Chair.

Relevant Planning History

P/2010/1189	Demolition of 2 and 2A Fore Street - PER - 22/03/2011
P/2010/1192	Demolition of 2 and 2A Fore Street; Alterations and works to form junction realignment; formation of new ground floor retail and 2 number first floor apartments - PER - 08/03/2011
P/2012/0910	Demolition of 2 and 2A Fore Street - PER - 16/04/2013
P/2012/0911	Demolition of 2 and 2A Fore Street; junction realignment and replace with 2 ground floor retail units and 2 first floor apartments - PER - 16/04/2013

Key Issues/Material Considerations

Principle and Planning Policy -

The proposal seeks to amend the wording of Condition 02 attached to the previously approved planning consent.

At present Condition 02 prohibits demolition and redevelopment through the Herring Gull breeding season.

The application seeks to amend the wording to permit demolition and redevelopment during the bird breeding season, should a suitably qualified ecologist consider that it would not contravene the provisions of the Wildlife and Countryside Act 1981 (As Amended), which is the relevant statutory instrument that affords protection to wild birds, their nests and eggs.

The revised wording will only permit demolition in the event that a suitably qualified ecologist is satisfied that the protection afforded birds under the Wildlife and Countryside Act 1981 (As Amended) would not be contravened. The revised wording retains the objectives behind the original condition (to protect wild nesting birds), but provides increased flexibility to enable works to proceed during the nesting season, in the event that birds would not be unduly affected. This is considered to be consistent with the tests of necessity and reasonableness set out in the conditions Circular 11/95.

Conclusions

The revised wording retains the key objective, which is to afford wild nesting birds suitable protection. The variation to the condition provides a more reasonable solution, by enabling demolition to proceed where expert advice confirms that wild nesting birds will not be harmed / unduly affected by the demolition process. As such the application to vary the condition should be approved.

Condition(s)/Reason(s)

01. No demolition shall take place during the bird breeding season, unless the building, rooftop and its immediate proximity has been inspected by a suitably qualified ecologist with full knowledge of the proposed demolition program and processes, and the ecologist concludes that the development would not contravene protection afforded within the Wildlife and Countryside Act (As Amended). In the event that demolition is to be undertaken during the bird breeding season, no demolition shall take place until a copy of the ecologists' report confirming the acceptability of the demolition program and process has been submitted to the Local Planning Authority. Reason: To afford suitable protection to wild nesting birds, in accordance with the provision of the Wildlife and Countryside Act 1981 (As Amended) and Policy NC5 of the Saved Local Plan.

Relevant Policies

NC5 Protected species