



Friday, 31 July 2015

DEVELOPMENT MANAGEMENT COMMITTEE

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

Monday, 10 August 2015

commencing at **2.00 pm**

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

Members of the Committee

Councillor Kingscote (Chairman)

Councillor Barnby
Councillor Cunningham
Councillor Darling (S)
Councillor Manning

Councillor Morey
Councillor Robson
Councillor Stringer
Councillor Winfield

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:

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www.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 4 - 5)
To confirm as a correct record the Minutes of the meeting of this Committee held on 13 July 2015.
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. **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.
6. **Land At Brixham Road, Yannons Farm (Areas C And D), Paignton (P/2015/0124)** (Pages 6 - 23)
Hybrid application. Full planning application for 70 dwellings, related infrastructure, landscaping, play areas and a hill top park. Outline planning permission for up to 70 dwellings with all matters reserved except for access.

7. **Torbay Hospital, Newton Road, Torquay (P/2014/0859)** (Pages 24 - 50)
Creation of new car parks and reorganisation of existing car parks to provide 201 additional car parking spaces (131 on main hospital site and 70 on Annexe site), with associated access, barriers, footpaths, lighting, signage, ticket machines and soft landscaping (Revised).
8. **La Rosaire, Livermead Hill, Torquay (P/2014/1182)** (Pages 51 - 64)
Demolition of existing building and construction of 8 new apartments.
9. **101 Braddons Hill Road East, Torquay (P/2015/0320)** (Pages 65 - 77)
Demolition of existing warehouse, and construction of 9 two storey dwellings with 9 car parking spaces. Partial demolition of stone boundary wall fronting Museum Road to create vehicular and pedestrian access.
10. **Land Rear Of 200 - 208 Teignmouth Road, Torquay (P/2015/0459)** (Pages 78 - 85)
Formation of 2 flats.
11. **Adjacent Inner Harbour, The Strand, Torquay (P/2015/0589)** (Pages 86 - 91)
Coffee sales kiosk.
12. **Site visits**
If Members consider that site visits are required on any of the applications they are requested to let Governance Support know by 5.00 p.m. on Wednesday, 5 August 2015. Site visits will then take place prior to the meeting of the Committee at a time to be notified.

Note

An audio recording of this meeting will normally be available at www.torbay.gov.uk within 48 hours.



Minutes of the Development Management Committee

13 July 2015

-: Present :-

Councillors Barnby, Cunningham, Darling (S), Manning, Morey, Robson, Winfield and Tolchard (In place of Kingscote)

17. Apologies for absence

An apology for absence was received from Councillor Stringer.

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 Councillor Tolchard instead of Councillor Kingscote.

Councillor Morey in the Chair.

18. Minutes

The Minutes of the meeting of the Development Management Committee held on 8 June 2015 were confirmed as a correct record and signed by the Chairman.

19. Land At Sharkham Village (Phase 6), St Mary's Hill, Brixham (P/2015/0003/MPA)

The Committee considered an application for a proposed residential development at Phase 6 Sharkham Village, for 31 dwellings and the associated infrastructure.

Prior to the meeting, Members of the Development Management Committee undertook a site visit and written representations were circulated to Members.

Resolved:

Approved subject to:

- (i) the completion of a deed of variation to the original S106 agreement to deliver the education contribution, the receipt of a Habitats Regulations Assessment which demonstrates that the proposed development would not result in a likely significant effect on the integrity of the South Hams Greater Horseshoe Bat Special Area of Conservation and confirmation from the Council's Landscape Officer that the scheme does not have a detrimental effect on the local landscape, and to the conditions itemised at the end of this report. Final drafting and determination of appropriate planning conditions to be delegated to the Executive Director of Operations and Finance.

20. Snooty Fox, 89 - 91 Fore Street, St Marychurch, Torquay (P/2015/0289/VC)

The Committee considered an application for the erection of four storey block of flats containing fourteen no. 1-bed flats and thirteen no. 2-bed flats (27 flats in total) and associated parking (14 spaces for new block of flats and 8 additional spaces for existing properties) (revision to refused application ref. P/2013/0698) (variation of condition P1 of original planning permission P/2013/1125 - variation to facade treatments) (Revised Plans received 18.05.15).

Prior to the meeting, Members of the Development Management Committee undertook a site visit and written representations were circulated to Members.

Resolved:

Approved subject to:

- (i) receipt of amended plans showing the extent of the timber fence extended by approximately 6m to the south-west; and
- (ii) amendment to condition 9 of the submitted report, to ensure it is clear that the floor level of the balconies includes any additional surface placed on top of the balcony floor, precise wording delegated to Officers.

21. 5-7 East Street, Torquay (P/2015/0521/PA)

Members considered an application to change the use of two vacant conjoined shop units to a single B1 office.

Resolved:

Approved with the conditions set out as per the submitted report.

Chairman

Agenda Item 6

Application Number

P/2015/0124

Site Address

Land At Brixham Road
Yannons Farm (Areas C And D)
Paignton

Case Officer

Matt Diamond

Ward

Blatchcombe

Description

Hybrid application. Full planning application for 70 dwellings, related infrastructure, landscaping, play areas and a hill top park. Outline planning permission for up to 70 dwellings with all matters reserved except for access.

Executive Summary/Key Outcomes

The application is a hybrid application, part full/part outline, and relates to the remaining two phases to be approved at the Yannons Farm development site - Phase C and Phase D - to the west of Brixham Road, Paignton. Phase C and Phase D will deliver the remaining two thirds of the housing, originally approved under outline planning permission ref. P/2010/0289/MOA in 2011. The application has been submitted because the deadline for submitting reserved matters applications in connection with the previous outline planning permission expired in October 2014.

Phase C has been submitted in full and Phase D has been submitted in outline, with all matters reserved except access. Phase C will comprise 70 dwellings and Phase D will comprise up to 70 dwellings. This means that the total number of dwellings to be delivered on the Yannons Farm site will be up to 211 dwellings, as 57 dwellings have already been permitted and are under construction on Phase B, and 14 dwellings have been permitted on Phase A as part of the Local Centre.

Phase C will include a mix of dwelling types, including terraced, semi-detached and detached housing, as well as four flats over garages. This phase will also include a hilltop park on the higher ground to the south of the site, which will include a playground and kickabout area.

The RSPB has recommended that compensation be secured for loss of ciril bunting habitat on the site and a financial contribution should be paid accordingly. However, no mechanism has been identified at the current time to ensure the delivery of this compensation. The applicants are in the process of identifying land offsite that can be enhanced for the benefit of ciril buntings to act as suitable compensation. This will need to be agreed with the RSPB and secured in a s106 legal agreement. An update will be provided at committee.

Engineering officers currently object to the application on the basis of inadequate

information on the proposed surface water drainage strategy. Additional information has been submitted by the applicants and further comments are awaited from Engineering. These will either be reported as a late representation or verbally at committee.

The applicants have submitted revised drawings in order to address various design issues that were identified by officers. On balance, these are now acceptable and Highways officers have no objections.

The application was accompanied by a Viability Assessment, commissioned by the applicants, which concluded that neither the planning obligations secured in the s106 agreement that was entered into when planning permission was granted in 2011, i.e. 15% affordable housing and £150k education contribution, nor a scenario of zero affordable housing and contributions, are viable. However, despite this, the applicants have offered to provide the same level of affordable housing that was agreed previously (15%) and the £150k education contribution that was also previously agreed. Furthermore, the applicants have submitted legal advice, which claims that no supplemental s106 agreement is considered necessary and the development subject to this application can be bound by the terms of the previous agreement.

In accordance with the Council's adopted policy procedures, the Torbay Development Agency was commissioned by the Council to carry out an independent review of the submitted Viability Assessment and this was agreed mutually with the applicants. The initial advice from the TDA varied considerably from the results of the applicants' commissioned study and indicated that approximately 26-28% affordable housing is viable. Following discussions, further advice has been received from the TDA, which recommends that the Council does not accept the applicant's offer of 15% affordable housing until further evidence has been provided by the applicants on the actual build costs of earlier phases of the wider scheme. If this evidence is not forthcoming, the TDA recommends that a cost estimate is obtained from an independent quantity surveyor. The applicants have not released this information and the TDA have been commissioned to carry out the independent cost estimate accordingly. The results of this work will not be available until the end of August.

The applicants are unwilling to agree to a further extension of time in order to postpone a decision on the application being taken to allow further discussions on the viability issues to take place. Therefore, the application is being brought to committee for determination in order to avoid it going over time.

At the current time, comments are awaited from the Head of Asset Management and Housing on the proposed level of affordable housing pending the outcome of the viability discussions. Interim comments will be sought and these will either be reported as a late representation or verbally at committee.

Whilst various matters are at present unresolved, officers consider that the principle of the development is acceptable and do not wish to stifle the delivery of new housing. Therefore, officers' recommendation is to approve the application, subject to Engineering officers removing their objection and a s106 agreement securing the following:

- o A minimum of 15% affordable housing in relation to the wider Yannons Farm development, pending further advice from the TDA.
- o Waste Management Contribution
- o Cirl bunting compensation
- o Deferred contributions mechanism as the level of affordable housing falls below the Council's policy of 30% and the development will be delivered in phases
- o Access to the adjoining site (ref. P/2014/0983) and adequate provisions to ensure that this is not obstructed in such a way as would stifle development of the remainder of the Future Growth Area
- o Administration/monitoring charge (amount tbc)

These heads of terms have not been agreed with the applicants at the current time and a verbal update will be provided at committee.

Recommendation

Conditional approval; subject to the applicant submitting further details in relation to surface water drainage which are acceptable to the Assistant Director of Corporate and Business Services, within 3 months of the date of this committee or the application be reconsidered in full by the committee; subject to the signing of a s106 legal agreement in terms acceptable to the Assistant Director of Corporate and Business Services, within 3 months of the date of this committee or the application be reconsidered in full by the committee, unless otherwise agreed by the Assistant Director of Corporate and Business Services in consultation with the Chairman of the Development Management Committee; subject to the applicant agreeing in writing to an extended time period for decision to allow the above matters to be resolved, or the application be refused; and final drafting and determination of appropriate planning conditions to be delegated to the Assistant Director of Corporate and Business Services.

Statutory Determination Period

The application is for a major development and was validated on 05.03.2015. The 13 week determination date was 05.06.2015, but an extension of time has been agreed to 14.08.2015.

Site Details

The site comprises the final two phases, C and D, of the Yannons Farm mixed use development site to the west of Brixham Road, Paignton. Until 4 October 2014 it benefitted from outline planning permission for residential development under the wider Yannons Farm outline planning permission granted in 2011, but

this has now expired. It covers a site area of 5.13ha and consists of sloping, partially vegetated, open ground. It is bounded by the recently completed Torbay Pharmaceutical Manufacturing Unit (PMU) and agricultural fields to the north, residential development under construction in Yannons Farm Phase B to the east, a sports pitch and open land belonging to South Devon College to the south, and agricultural fields to the west. The land adjoining the site to the west and northwest is currently subject to a separate planning application for a major mixed use development comprising housing and business uses (ref. P/2014/0983). Access to this land could potentially be provided, in part, via the application site.

The majority of the site is allocated for employment use (saved Policy E1) in the Adopted Torbay Local Plan 1995-2011 ('the Local Plan'), with a large part also allocated for strategic landscaping for employment areas (saved Policies E1 and L10). The southern part of the site and part of the site to the west is allocated as countryside zone (saved Policy L4) and Area of Great Landscape Value (AGLV) (saved Policy L2). All the site area is located within the Greater Horseshoe Bat sustenance zone associated with the South Hams SAC at Berry Head.

The whole site is allocated as a Future Growth Area for housing and related development (emerging Policies SS1, SS2, SS5 and SS11) in the Torbay Local Plan - A landscape for success (Proposed Submission Plan) ('the emerging Local Plan').

Detailed Proposals

The application has been submitted as a hybrid application: Phase C to the south has been submitted in full and Phase D to the north has been submitted in outline with all matters reserved except access. The application is for up to 140 dwellings, 70 in Phase C and up to 70 in Phase D. Overall there will be a total of up to 211 dwellings on the Yannons Farm site, together with the PMU, Aldi and other non-residential uses in the new Local Centre. If the adjoining housing sites to the east are included, referred to as Parkbay/Triangle Site, there will be a total of 316 dwellings. These adjoining sites are being delivered by a different house builder, but share the same access onto Brixham Road.

Phase C will comprise 11 no. 2-bed dwellings, 29 no. 3-bed dwellings and 30 no. 4-bed dwellings, 16%, 41% and 43% respectively. This will include a mix of dwelling types - terraced, semi-detached and detached houses, as well as four flats situated over garages. The heights of the dwellings will vary from 2 storeys, primarily to the east and west, to two and half and three storeys in the middle of the site and further up the slope.

Phase D will also comprise a mix of house types. The indicative plans show a greater proportion of flats than Phase C, with shared parking courts, as well as 3 and 4 bedroom detached and semi-detached housing. However, these plans are indicative at this stage and the detailed design of this area will be established

through the submission of reserved matters applications(s) and is not a consideration in the current application.

All of the dwellings in Phase C will have two parking spaces and in some cases this will include provision within integral garages. Parking for some of the dwellings will be provided off-plot in allocated spaces a short distance away from the dwellings themselves and will need to be clearly marked to avoid potential conflicts from arising. 17 of the allocated spaces are located outside the application site boundary within Phase B.

The detailed proposals for Phase C include a new 'hilltop park' on the higher ground to the south of the site. This will include a children's play area.

The applicants propose that 15% of the total number of dwellings on the Yannons Farm development site are affordable dwellings; this equates to 32 affordable dwellings (15% of 211).

This is the same level of affordable housing that was agreed within the s106 agreement entered into in connection with the 2011 outline planning permission, signed on 30 September 2011. For information, 30% of the total number of dwellings on the Yannons Farm development site as a whole equates to 63 affordable dwellings, and 30% of the proposed dwellings in Phases C and D, subject to the current planning application, equates to 42 affordable dwellings.

Although the 2011 permission did not deliver 30% affordable housing, the s106 did not require the financial viability of the scheme to be reviewed at any point. Instead, the applicant agreed to ensure that the development was delivered promptly, to an agreed timetable. This timetable has not been adhered to and during discussions the applicants have so far indicated that they do not agree that the financial viability of the current application should be reviewed at a future date to see whether, once the scheme is built, an additional financial contribution towards affordable housing is viable.

The applicants have submitted a letter from a firm of solicitors stating that, in their view, there have been no changed material considerations since this time that would require the obligations in the 2011 agreement to be varied. However, officers consider that the agreement reached in 2011 was made on the basis of economic conditions and planning policies subsisting at that time and that the current application must be considered against the economic conditions and planning policies that are relevant at the current time, as it is a new full/outline application. Therefore, a new s106 agreement is appropriate.

The majority of the affordable housing for the scheme as a whole will be delivered within Phases C and D. Phase B, under construction to the east, will not contain any affordable housing, whereas a proportion of the 14 dwellings in the Local Centre (Phase A) will be affordable.

Summary Of Consultation Responses

SPMT - Transport/Highways: No comments received from Strategy and Project Management Team in regard to strategic transport issues, however Highways officers originally commented that the access has been agreed in principle and any finer details can be agreed at the section 38 agreement stage. They had one concern regarding the temporary turning heads adjoining the site in Phase B becoming permanent, however further discussions with Highways officers confirmed that these are acceptable and similar turning heads can be designed into Phases C and D.

Highways officers have confirmed that the revised plans are acceptable and there are no technical highways issues.

Environment Agency: Objected initially due to a lack of detail in the submission documents, especially as the site, like the majority of Torbay, is located within a critical drainage area. However, withdrew their objection following the submission of a revised Flood Risk Assessment.

Lead Local Flood Authority (Engineering - Drainage): The preliminary drainage strategy in the FRA is acceptable, however further detailed design works are required before it can be approved. No detailed design information has been submitted for the soakaways, deep bore soakaways or surface water drainage system. Trial holes undertaken are not in the location of the proposed soakaways. These details are required before planning permission can be granted. Maintained objection following submission of revised FRA. Further comments awaited following the submission of additional information by the applicants.

Natural England: Object/require further information to rule out significant effects on the South Hams SAC (greater horseshoe bats) under the Habitats Regulations. Refer to published Standing Advice with regard to impacts on other protected species.

Biodiversity enhancements should be sought in the application, such as green/brown roofs, landscaping, bat and bird nesting/roosting sites and sustainable urban drainage systems. The application does not include the swales and grass margins indicated in the outline planning permission. The proposed development is located within an area that can also benefit from enhanced green infrastructure provision and the Council's Green Infrastructure Coordinator should be consulted.

NB. The Habitats Regulations Assessment has been completed by the Council's ecology consultant and has been sent to Natural England. Further comments are awaited.

RSPB: Support NE comments concerning the Habitats Regulations.

The site has been cleared of much of its former habitat and will not provide the same quality or quantity of cirl bunting habitat as was present previously. 2008 surveys recorded cirl buntings using the site and the 2003 RSPB national survey recorded two breeding territories within 250m of the site. Cirl bunting mitigation/compensation is therefore required, which could be an appropriate financial contribution (confirmed as £74,193) to secure and manage offsite cirl bunting habitat as part of proposals for other developments in the area.

Biodiversity enhancements are recommended to include nest sites for birds, such as swifts, house sparrows and starlings at a ratio of one per dwelling. Wildlife friendly plants should be used in landscaping.

Concerned that the amount of green infrastructure has been reduced compared to the outline planning permission.

The potential for increased recreational use of adjoining ecological mitigation land, subject to application ref. P/2014/0983, is recommended to be taken into account when determining both applications.

Police Architectural Liaison Officer: In regard to Phase C, raised concerns with the addition of a pedestrian link to the rear of Plots 26 and 27 into the parking area of Plots 28-30, due to a lack of overlooking. The parking area should also be gated. The development should be constructed to meet full Secured by Design compliance. Rear garden access should be provided within the curtilage of dwellings, but where this is not possible rear access paths should be gated. This also applies to the paths to the rear of Plots 1-13. The car park adjacent to Plot 49 is not overlooked, which could be improved with an upper floor side window in the dwelling. Provided crime prevention guidance with regard to Phase D also.

Arboricultural Officer: Recommends refusal until the loss of the green corridor linking the hilltop park and north end of the site, included in the outline planning permission, has been reviewed for re-inclusion. No comment is provided on Phase D at this stage. Future management of soft landscaping areas should be detailed in a Landscape and Ecological Management Plan (LEMP). Detailed tree advice provided.

Natural Environment Services/Green Infrastructure Coordinator: The level of green infrastructure has reduced from the outline planning permission. This should be reviewed in terms of connectivity for people and wildlife. Welcome pedestrian link to west from hilltop park. A 2m high close boarded fence must be shown on the plans for the dwellings backing onto the existing dark corridor for bats. A LEMP and Habitats Regulations Assessment are required.

Head of Asset Management and Housing: Awaiting comments pending

completion of independent viability review.

Senior Heritage and Design Officer: Verbal discussions pointed out the lack of 'sense of place' in the central cul-de-sac accessed from Wilkins Drive and need for a pedestrian link behind Plots 26 and 27 in order to enhance pedestrian permeability to the hilltop park. The design of unit H18 is also unsatisfactory. No further comments provided on revised plans.

Urban Design Officer (Landscape): Verbal discussions confirmed that the street design cues should be taken from Phase B, which went to the Torbay Design Review Panel, and not be Highways led. Consequently, the pavement in the central cul-de-sac should be removed in favour of a shared mews street design, and the turning heads/parking areas should follow the same informal design as those in Phase B. This is important to achieve design consistency in the scheme as a whole. No further comments provided on revised plans.

Summary Of Representations

No public representations were received.

Relevant Planning History

Below is a full planning history for the Yannons Farm development site, excluding minor application types and discharge of condition applications:

P/2013/1282/MRM: Erection of retail building (Use Class A1), with associated access, parking, service yard and plant; health centre (Use Class D1), with 2 no. complimentary healthcare units (Use Class D1/A1/A2) and associated access and parking; mixed use building comprising 6 no. 2-bed flats and 2 no. commercial units (Use Class B1/A1/A2/A3/D1), with associated access and parking; 4 no. 2-bed dwellings and 4 no. 3-bed dwellings, with associated access and parking; associated roads, parking, play area, amenity space, landscaping and substation to form a Local Centre (reserved matters relating to P/2010/0289/MOA):. Approved 11.04.2014

P/2013/1021/PA: Erection of external chiller units with acoustic screening and associated cooling compound: Approved 21.11.2013

P/2013/0873/PA: Erection of a gas store and substation and recycling enclosure: Approved 21.11.2013

P/2013/0856/RM: Approval of Reserved Matters (scale, appearance and layout) for dwelling Plot 57 (Phase B): Approved 11.12.2013

P/2012/1351/MRM: Approval of reserved matters (scale, appearance, layout, access and landscaping) for 56 dwellings (Phase B): Approved 21.03.2013

P/2012/1104/RM: Landscaping reserved matters for a 6257 sqm Pharmaceutical Manufacturing Unit (Use Class B1): Approved 28.01.2013

P/2012/0815/RM: Phase 2 Road Layout: Approved 09.11.2012

P/2012/0633/MRM: Approval of all reserved matters for a 6257sqm pharmaceutical manufacturing unit (use class B1) with associated external buildings: Approved 12.09.2012

P/2011/1143/PA: Junction improvements and formation of new access, pursuant to permitted scheme P/2007/1421/PA: Approved 05.03.2012

P/2010/0289/MOA: Mixed use development to form approx 220 dwellings, approx 5,600 SQM gross of employment (B1) floorspace, local centre and public open space with roads and car parking (In Outline) THIS IS A DEPARTURE FROM THE TORBAY LOCAL PLAN: Approved 04.10.2011

P/2007/1421/PA: Junction Improvements And Formation Of New Access To Facilitate Access To Land To The West (Resubmission Of P/2006/0678): Approved 14.11.2008

Key Issues/Material Considerations

The key issues are:

1. Principle of Development
2. Amenity Considerations
3. Design
4. Parking
5. Impact on Highways and Access Issues
6. Green Infrastructure and Ecology Issues
7. Drainage
8. Viability and Affordable Housing

1. Principle of Development

Whilst the majority of the land is allocated for employment use in the current adopted Local Plan, the principle of developing the site for residential use was established through the 2011 outline planning permission. This permission granted a mix of employment and residential uses, as well as a new local centre. The employment use has been delivered in the form of the 6,547 sq m PMU building (Use Class B1), an increase in the amount of employment floor space originally envisaged, and the local centre is under construction. This application will deliver the remaining two thirds of the housing permitted by the outline planning permission. The reason it has been submitted as a new full/outline application is because the deadline for submitting reserved matters applications for this part of the Yannon's Farm development under the previous outline permission expired in October 2014.

Part of the site to the south and west is allocated as countryside zone and Area of Great Landscape Value in the Local Plan, where development is normally restricted unless it is for agriculture, forestry or tourism purposes. Again, the principle of developing this land for residential use was established by the previous outline planning permission. Furthermore, the land to the south at the top of the slope will be developed as a park, maintaining its openness and landscape character.

In addition to the supportive planning history, the site is allocated in the emerging Local Plan as a Future Growth Area for housing and related development. Whilst the emerging Local Plan has not been adopted, it is at an advanced stage in its preparation and therefore has significant weight as a material consideration in assessing the principle of developing the site for housing.

Therefore, the principle of the proposed development is considered to be acceptable and accords with Policy SS2 of the emerging Local Plan.

2. *Amenity Considerations*

As originally submitted, the back-to-back separation distances between the row of dwellings to the south of the site and the row of dwellings in the middle of the site were approximately 21m. Whilst 20m is regarded as the norm for protecting privacy for two storey dwellings at the same level, the dwellings to the south are three storeys to the rear and also sited at a higher level, further up the slope. This relationship is not uncommon in Torbay, with its hilly topography, and it could be argued that privacy is less important for new build dwellings, as residents will be aware of the situation when they purchase their properties. However, as no mitigation was proposed, it was considered that the separation distances should be increased if possible, in order to improve the privacies of the middle row of dwellings (Plots 49-62).

Revised plans have been submitted showing the separation distances increased to circa 22-25 metres, through the removal of the pavement in the central cul-de-sac (see Design below). On balance this is considered to be acceptable taking into account Policy H9 of the adopted Local Plan and Policy DE3 of the emerging Local Plan.

3. *Design*

Despite a request to do so in accordance with national policy, the applicants chose not to take the draft proposals to the Torbay Design Review Panel. Therefore, officers encouraged the applicants to follow the same design principles as Phase B, which was considered by the DRP, in the design of Phase C.

As originally submitted, the layout of the proposed development and design of

the dwellings in Phase C was considered to be acceptable in general, subject to amendments including: providing a pedestrian link from the central cul-de-sac to the street to the west to facilitate easier access to the hilltop park; revising the street design of Phase C to match that of Phase B to ensure design consistency in the scheme as a whole (including removal of the pavement to create a shared surface); providing upper side windows on dwellings overlooking public areas in accordance with comments received from the Police Architectural Liaison Officer to improve safety and security; and other minor detailing.

The applicants have followed the advice of officers and submitted revised plans that address these issues. Therefore, on balance, the design of Phase C is considered to be acceptable and in accordance with Policies BES and BE1 of the adopted Local Plan and Policy DE1 of the emerging Local Plan. Furthermore, the design of the hilltop park is considered to be acceptable, subject to a Landscape and Ecological Management Plan, which can be secured by condition. Detailed landscaping and materials conditions are also considered to be necessary.

4. Parking

As previously stated, each dwelling in Phase C will have two parking spaces. This accords with the maximum parking standards set in Policy T25 of the adopted Local Plan, which requires two spaces per dwelling. However, the dimensions of the integral garages are smaller than the minimum required to be considered as parking spaces within the parking standards at Appendix G of the emerging Local Plan, i.e. 6m x 3.3m.

As the proposed parking accords with the current adopted parking standards, it is considered to be acceptable despite the small size of the garages.

5. Impact on Highways and Access Issues

Highways officers have raised no objections or concerns with the application. Whilst comments are awaited from strategic planning colleagues, it is expected that the wider road network has sufficient capacity to accommodate the extra traffic generated by the development.

Officers have requested access to be provided through the application site to the adjoining site, subject to current 'live' application ref. P/2014/0983. This will require an access to be created in the hedgerow at the northern end of the indicative access road to Phase D shown on drawing 11112L01.204. Officers have requested that this is used by residential traffic and for any ransom issues not to stifle development coming forward on the adjoining site, which is also located within the Future Growth Area. The applicants have informed officers that residential traffic will be subject to a ransom, although the value of this has not been calculated or included in the submitted Viability Assessment. However, the applicants have indicated that they will agree to employment traffic using their

site to access the adjoining site free of any ransom issues, in accordance with the 2011 s106 agreement.

It would be unacceptable for employment traffic to utilise Phase D to access the adjoining site, due to the impact this would have on the amenity of residential properties, from noise, vibrations and pollution of HGV movements. The design of the overall street hierarchy would also have to change in order to upgrade the design of the junction and access road into Phase D to make them suitable for employment traffic. The applicants have informed officers that employment traffic could use the road to the west of the PMU to do this; however, it is understood that there is third party land between the application site and the adjoining site via this route, potentially leading to further ransom issues.

Negotiations are continuing between officers and the applicants over these issues. Access to the adjoining site through Phase D for residential traffic is sought as part of the s106 negotiations. In addition, a detailed access plan will be required for this new access, which could be made a requirement of the s106.

6. Green Infrastructure and Ecology Issues

A number of consultees have pointed out that the green corridor linking the hilltop park and north end of the site, which was indicated and considered as part of the outline planning permission, has been removed in the current application. The Council's Green Infrastructure Coordinator has recommended that this is reviewed in terms of connectivity for people and wildlife.

Whilst the green corridor provided a green swathe through the site that was undoubtedly beneficial, it is not considered essential for either humans or wildlife. Previously, in the outline proposals, it was shown connecting the hilltop park with the local centre. However, as the local centre has now moved to adjacent to Brixham Road, its purpose in connecting these key spaces no longer applies. The Council's external ecological adviser has concluded that it is also not essential for wildlife.

A Habitats Regulations Assessment has been carried out by the Council's ecological consultant that concludes that the proposed development will not have a likely significant effect on the South Hams SAC and therefore an Appropriate Assessment is not required. A number of conditions are recommended to secure a lighting design strategy, a Landscape and Ecological Management Plan (LEMP) and a greater horseshoe bat monitoring strategy.

The RSPB has highlighted that the site has provided habitat for cirl buntings in the past and therefore mitigation/compensation is required, which can take the form of a financial contribution to secure and manage cirl bunting habitat elsewhere. In response, the applicants' ecologist wrote to officers stating that on the basis of surveys carried out prior to the outline application, which did not

identify cirr buntings on the site, and the fact the site has been largely cleared of vegetation and is subject to noise and vibrations from heavy plant and construction vehicles, they consider it very unlikely that cirr buntings are using the site. However, they subsequently submitted the results of a survey carried out in May 2015, which identified cirr buntings using the hedgerows around the site boundary and the adjoining fields to the north and west, and also flying over parts of the site.

In view of this, and the fact that a large part of the site was still vegetated when officers carried out their site visit, compensation for loss of cirr bunting habitat is considered necessary. The RSPB has stated that this should equate to £74,193 for at least one pair of cirr buntings. At present, neither the applicants nor the RSPB have put forward proposals for how this money will be spent in order to ensure delivery of the compensation. However, the applicants have informed officers that they are in the process of identifying land offsite that can be enhanced for the benefit of cirr buntings to act as suitable compensation. This will need to be agreed with the RSPB and secured in a s106 agreement. An update will be provided at committee.

It is the applicant's responsibility to ensure that the development will not result in any harm to a protected species or its habitat. The Council does not have a compensation programme to offset the impact of development on cirr buntings and therefore would not be in a position to accept a financial payment as there is no certainty of delivery of appropriate compensation. Unless this issue can be resolved, planning consent should not be granted for the proposed development, as it would fail to accord with Policies NCS and NC5 of the adopted Local Plan.

7. Drainage

Torbay Council engineers, acting as Local Lead Flood Authority, and the Environment Agency objected to the proposed development initially, due to a lack of detailed design information regarding the proposed drainage strategy. Following the submission of a revised Flood Risk Assessment, the Environment Agency withdrew its objection. However, Torbay Council engineers maintained their objection and requested further information. This information has now been submitted and further comments are awaited from the engineers. These comments shall either be provided as a late representation or reported verbally at committee. Unless the engineers remove their objection, the application should be refused on this basis, taking into account Policy EPS of the adopted Local Plan and paragraph 103 of the NPPF.

8. Viability and Affordable Housing

The applicants submitted a Viability Assessment with the application, which appraised the viability of the wider Yannons Farm development site, including Phase C and Phase D. This concluded that neither the planning obligations

agreed for the 2011 outline planning permission, i.e. 15% affordable housing and £150k education contribution, or a scenario of no affordable housing and contributions, are now viable. Despite this conclusion, the applicants have offered the same package of obligations that were agreed for the outline planning permission: 15% (32 dwellings) affordable housing and £150k education contribution.

It should be noted that the Viability Assessment submitted by the applicants is not considered to be independent in accordance with the Council's adopted Planning Contributions and Affordable Housing SPD and its Update 3, as it was commissioned by the applicants and not Torbay Council. Therefore, with the agreement of the applicants, officers commissioned the Torbay Development Agency to carry out an independent review of the submitted Viability Assessment.

The initial advice from the TDA varied considerably from the Viability Assessment submitted by the applicants. It concluded that 28.4% (60 dwellings) of the total number of dwellings on the Yannons Farm development site should be affordable housing, assuming 18 months between the start of works and commencement of sales. This drops to 26.1% (55 dwellings) assuming 24 months between the start of works and commencement of sales.

Following discussions between the TDA and the applicant's viability assessor, further advice has been received from the TDA. This recommends that the Council does not accept the applicant's offer of 15% affordable housing until further evidence has been provided by the applicants on the actual build costs of earlier phases of the wider scheme. If this evidence is not forthcoming, the TDA recommends that a cost estimate is obtained from an independent quantity surveyor. The applicants have not released this information and the TDA have been commissioned to carry out the independent cost estimate accordingly. This is not expected to be completed until late August.

NB. The initial advice letter from the TDA states that the appraisal does not allow for any income from any possible ransom strip relating to the adjoining application site (ref. P/2014/0983) and if any such payment is received, it should be included in the Viability Assessment accordingly.

S106/CIL -

As previously stated, a new s106 agreement is considered necessary, as the application is a new full/outline application and material circumstances have changed since permission was originally granted in 2011. As negotiations over the viability of the proposed development are continuing, heads of terms have not been agreed with the applicants at the current time. However, officers consider that the following heads of terms should be secured in a s106 agreement if the application is approved:

- o A minimum of 15% affordable housing in relation to the wider Yannons Farm development, pending further advice from the TDA.
- o Waste Management Contribution at £50/unit in accordance with SPD
- o Cirl bunting compensation (up to £74,193)
- o Deferred contributions mechanism as the level of affordable housing falls below the Council's policy of 30% and the development will be delivered in phases
- o Access to the adjoining site (ref. P/2014/0983) and adequate provisions to ensure that this is not obstructed in such a way as would stifle development of the remainder of the Future Growth Area
- o Administration/monitoring charge (amount tbc).

The waste management contribution and cirl bunting compensation are considered to be site acceptability matters that take the highest priority. Any remaining funding should be used to deliver the maximum level of affordable housing that is viable, as it has higher priority than sustainable development contributions. As the proposed development will be delivered in phases and falls below the Council's policy-compliant provision of 30% affordable housing, a deferred contributions mechanism is required to address the scenario that viability improves over time. The principle of requiring a deferred calculation of financial contributions as part of the s106 agreement is set out in the Planning Contributions and Affordable Housing Supplementary Planning Document - Update 3. It has been included in a number of other s106 agreements on other residential development in Torbay.

The tenure of affordable housing is expected to be split as a third social rent, a third affordable rent and a third intermediate (e.g. shared equity). The mix of affordable housing in terms of unit size is expected to reflect the mix of the scheme as a whole.

Justifications:

The waste management contribution is justified in paragraph 2.18 of the Planning Contributions and Affordable Housing: Priorities and Delivery SPD (LDD6) and accords with Local Plan Policy W7. It will pay the cost of providing waste and recycling bins to the dwellings.

A contribution to mitigate for the loss of cirl bunting habitat is justified in paragraph 118 of the NPPF and Natural England standing advice for wild birds. It will be used toward the creation of replacement cirl bunting habitat and its management.

The justification for the provision of affordable housing is set out in section 3 of the Planning Contributions and Affordable Housing: Priorities and Delivery SPD (LDD6).

The administration/monitoring contribution is justified in paragraphs 5.6-5.8 of the Planning Contributions and Affordable Housing: Priorities and Delivery SPD (LDD6), and will be used to administer/monitor the s106 agreement.

Status:

The above heads of terms have not been agreed with the applicants, therefore Legal Services has not been instructed to prepare a s106 agreement for the application. A verbal update will be provided at committee.

The applicants have submitted a letter with the application from a firm of solicitors stating that, in their view, there have been no changed material considerations since the outline planning permission was granted that would require the obligations in the 2011 agreement to be varied, and no supplemental agreement is necessary in respect of the current application.

Even if the terms of the previous agreement were still agreed, it would need to be modified to link it to the current application. However, as the application is for a new full/outline application and nearly four years have passed since the 2011 s106 agreement was negotiated, during which time market conditions have changed and the relevant planning policy context has changed, it is considered appropriate to re-evaluate the viability of the wider development site and prepare a new s106 agreement accordingly that supersedes the previous agreement. Paragraph 205 of the NPPF states that local planning authorities should take account of market conditions over time and, wherever appropriate, be sufficiently flexible to prevent planned development being stalled.

Conclusions

Despite the outstanding issues discussed in this report, officers consider that refusing the application on this basis would stall the continued development of the site and the delivery of new homes in the Bay. Therefore, as the principle and design of the proposed development are considered to be acceptable, and the applicants have informed officers that they are close to agreeing a compensation strategy for the impact on curlew buntings, officers recommendation is to approve the application, subject to Engineering officers removing their current objection and the completion of a s106 agreement to secure the heads of terms identified in this report.

Relevant Policies

- CF2 - Crime prevention
- CF6 - Community infrastructure contributions
- CF7 - Educational contributions
- W6 - New development and the minimisation of
- W7 - Development and waste recycling facilities
- LS - Landscape strategy
- L2 - Areas of Great Landscape Value

L4 - Countryside Zones
L8 - Protection of hedgerows, woodlands and o
L10 - Major development and landscaping
NCS - Nature conservation strategy
NC1 - Protected sites - internationally import
NC5 - Protected species
EPS - Environmental protection strategy
EP1 - Energy efficient design
EP5 - Light pollution
BES - Built environment strategy
BE1 - Design of new development
BE2 - Landscaping and design
TS - Land use transportation strategy
T1 - Development accessibility
T2 - Transport hierarchy
T25 - Car parking in new development
T26 - Access from development onto the highway
SS1 - Growth Strategy for a prosperous Torbay
SS2 - Future Growth Areas
SS3 - Presumption in favour of sustainable dev
SS7 - Infrastructure, phasing and employment
SS8 - Natural Environment
SS9 - Green Infrastructure
SS10 - Sustainable communities strategy
SS11 - Housing
SS12 - Five year housing land supply
SDP1 - Paignton
SDP3 - Paignton North and Western area
TA1 - Transport and accessibility
TA2 - Development access
TA3 - Parking requirements
C4 - Trees, hedgerows and natural landscape
NC1LFS - Biodiversity and Geodiversity_
H1LFS - Applications for new homes_
H2LFS - Affordable Housing_
DE1 - Design
DE2 - Building for life
DE3 - Development Amenity
DE4 - Building heights
SC1 - Healthy Bay
SC2 - Sport, leisure and recreation
SC3 - Education, skills and local labour
SC4 - Sustainable food production
SC5 - Child poverty
ER1 - Flood Risk
W1LFS - Waste hierarchy_

W2LFS - Waste audit_
HS - Housing Strategy
H2 - New housing on unidentified sites
H6 - Affordable housing on unidentified sites
H9 - Layout, and design and community aspects
H10 - Housing densities
H11 - Open space requirements for new housing
E116C - Yalberton Road, Paignton (New Policy)

Agenda Item 7

Application Number

P/2014/0859

Site Address

Torbay Hospital
Newton Road
Torquay
Devon
TQ2 7AA

Case Officer

Matt Diamond

Ward

Shiphay With The Willows

Description

Creation of new car parks and reorganisation of existing car parks to provide 201 additional car parking spaces (131 on main hospital site and 70 on Annexe site), with associated access, barriers, footpaths, lighting, signage, ticket machines and soft landscaping (Revised).

Further Update Report (August 2015)

This application was reported to Development Management Committee in April 2015. It was approved subject to:

1. conditions preventing works on the car parks that are in ecologically sensitive locations until ecological surveys and details of any necessary mitigation works have been submitted to and agreed by the Director of Place in consultation with Ward Councillors and the Chairman of the Development Management Committee;
2. full payment of sustainable transport contribution or the signing of a Section 106 Legal Agreement to secure sustainable transport contribution, within 3 months of the date of this Committee or the application be reconsidered in full by the Committee, unless otherwise agreed with the Chairman of the Development Management Committee; and
3. the conditions listed in the submitted Update Report, with any further conditions being delegated to the Director Place.

The 3 month period in relation to 2 above ended on 20 July. Therefore, the application has been brought back to committee for reconsideration in accordance with the committee's previous resolution.

In terms of the Section 106 Legal Agreement, following discussions, officers have agreed that the applicants will provide the bus shelter and stop themselves instead of paying a contribution to the Council for its delivery. Furthermore, it has been agreed that the remaining £175,070 sustainable transport contribution will be split as follows:

- o £64,000 as contribution towards public transport improvements, including for a new bus service to bring twice hourly Brixham connections
- o £111,070 as a contribution towards the cost of a new rail station located off Newton Road between Scott's Bridge and Brown's Bridge, Edginswell, Torquay.

In addition, it has been agreed with Finance Services that the above contribution will be paid in instalments with interest over a 10 year period to reflect the gradual income from the new car parks over time.

The Section 106 Legal Agreement is now almost complete and ready to be signed. Draft conditions have been issued to the applicants, which are listed at the end of this report.

Recommendation

Conditional approval; subject to the signing of a s106 legal agreement to secure the sustainable transport contribution, within 3 months of the date of this committee or the application be reconsidered in full by the committee, unless otherwise agreed with the Chairman of the Development Management Committee; conditions are listed at the end of this Report, however final drafting and determination of appropriate planning conditions to be delegated to the Assistant Director of Corporate and Business Services.

Update Report (April 2015)

Executive Summary/Key Outcomes

This application was reported to Development Management Committee in November 2014. It was approved subject to various matters being carried out within 3 months of the date of the committee (10.02.2015), or the application be brought back to committee to be reconsidered in full. The application is being brought back to committee for full reconsideration accordingly.

The application has been revised since the previous committee. The number of new parking spaces to be created on the main Hospital site and the annexe site has reduced from 398 to 201, a reduction of almost 50%. The reason for this is that the Hospital has received further professional advice concluding that a number of the proposed car parks would be cost prohibitive to construct for the potential gain in spaces. These include the proposed car park below the Helipad adjacent to residential properties in Oak Park Avenue and one of the proposed car parks below Kitson Hall adjacent to residential properties along Shiphay Park Road. In addition, the proposed row of 9 spaces adjacent to the site entrance via Newton Road/Lowe's Bridge will no longer be provided.

Further ecological surveys are still awaited. Whilst normally these would be

expected to be submitted as part of the application and prior to determination, officers consider that given the information submitted to date planning permission can be granted subject to pre-commencement (Grampian) conditions to ensure these surveys are carried out, and any necessary mitigation secured, in advance of the works commencing on the affected areas. This will allow the Hospital to commence works on the other parking areas not affected by these issues. The detailed surveys could not be carried out over the Winter.

Officers have requested section drawings of the car parks to be constructed on sloping ground to show whether these will be built flush with the ground or level with appropriate retaining walls/structures. This will have implications on the drainage strategy to be secured by condition. The latter is preferred for the car park to be constructed in the Local Wildlife Site to the west of the site in order to reduce surface water runoff into the stream running along the western boundary (Flood Zone 3) and reduce its visual impact on the landscape character of this area.

A revised sustainable transport contribution has been calculated and requested to reflect the reduced number of car parking spaces. The applicants have not yet confirmed whether they are willing to pay this contribution or enter into a s106 agreement with the Council to make this payment.

Recommendation

Conditional approval; subject to the applicant submitting section drawings for the car parks to be constructed on sloping land, which are acceptable to the Director of Place, within 3 months of the date of this committee or the application be reconsidered in full by the committee; subject to full payment of sustainable transport contribution or the signing of a s106 legal agreement to secure sustainable transport contribution, within 3 months of the date of this committee or the application be reconsidered in full by the committee, unless otherwise agreed with the Chairman of the Development Management Committee; conditions are listed in the Key Issues section of this Update Report, however final drafting and determination of appropriate planning conditions to be delegated to the Director of Place.

Statutory Determination Period

The application was validated on 23.09.2014. The statutory determination date was 24.12.2014 (13 weeks). An extension of time has been agreed to 24.04.2015.

Site Details

(See original planning officer report below.)

Detailed Proposals

Since the previous committee decision, the applicants have revised the proposals. The revised description above reduces the number of car parking

spaces applied for previously from 398 to 201.

Revised parking space figures have been submitted. To clarify, as existing there are a total of 1,575 car parking spaces on the main site and 69 spaces on the annex site. Of the 1,575 spaces on the main site, 1,143 (73%) are for staff parking and 432 (27%) for patients/visitors parking. Of the 69 spaces on the annex site, 63 (91%) are for staff parking and 6 (9%) for patients/visitors parking. Of the 432 patients/visitors spaces on the main site, 51 (12%) are disabled spaces, and of the 6 patients/visitors spaces on the annex site, 2 (33%) are disabled spaces.

Of the 201 car parking spaces to be created, 131 will be provided on the main site and 70 on the annex site. The total number of spaces on the main site will increase from 1,575 spaces to 1,706 spaces (8% increase). The total number of spaces on the annex site will increase from 69 spaces to 139 spaces (101% increase).

Of the 1,706 spaces on the main site, 1,094 (64%) will be for staff parking and 612 (36%) will be for patients/visitors parking. Of the 139 spaces on the annex site, 100 (72%) will be for staff parking and 39 (28%) will be for patients/visitors parking. Of the 612 patients/visitors spaces on the main site, 95 (16%) will be disabled spaces, and of the 39 patients/visitors spaces on the annex site, 9 (23%) will be disabled spaces.

Overall, across the two sites there will be a gain of 213 patient/visitor spaces and a loss of 12 staff spaces.

Summary Of Consultation Responses

Consultees have been re-consulted. The deadline for responses has been set at 16.04.2015. Consultee responses received are summarised below. Further consultee responses will be provided to Members as late representations or reported verbally at committee.

Strategic Transportation: Responded to the revised proposals prior to their submission following discussions with the applicants. No objection to the revised proposals, subject to a sustainable transport contribution (see S106 below).

Environment Agency: Awaiting response (no previous objection).

Engineering - Drainage: Commented on drainage plans that have been submitted as part of the revised proposals. Further information is still required. (This can be addressed via a pre-commencement (Grampian) condition.)

Natural England: Awaiting response (no previous objection - refer to standing advice).

Arboricultural Officer: Commented on Arboricultural Method Statement (AMS), Tree Protection Plans and Planting Pit plan that have been submitted as part of the revised proposals. The AMS is sound and should be implemented. Further details required with respect to the Planting Pit plan and previous landscape plans. Tree numbers are low in the Old Social Club and Football Field car parks. (These matters can be addressed by condition.)

Natural Environment Services: The Green Infrastructure Coordinator has responded and confirmed that the loss of part of the Local Wildlife Site (LWS) can be mitigated by enhancements in the remainder of the LWS, which can be secured in a Landscape and Ecological Management Plan (LEMP). Further ecological surveys are still required. Trees to be removed must be assessed for bat roost potential.

Police Architectural Liaison Officer: Awaiting response.

Building Control: Awaiting response.

Summary Of Representations

Objectors to the application have been re-consulted. The deadline for responses has been set at 16.04.2015. No representations have been received to date. Representations received will be provided to Members as late representations or reported verbally at committee.

Relevant Planning History

As per the original planning officer report below, except application P/2014/0879/MPA is now approved (20.11.2014) and a number of minor applications have been approved/submitted in the intervening period.

Key Issues/Material Considerations

The application was approved by Members at the 10 November 2014 Development Management Committee, subject to the resolution of a number of matters (a copy of the previous committee minutes have been circulated to Members). The proposals have since been revised to reduce the number of new parking spaces by almost half. The revisions do not result in any new material considerations that have not been considered previously. The outstanding matters from the previous committee decision are addressed below:

- i) Revised layout/landscaping plans and an Extended Phase 1 Habitat Survey for the remaining undeveloped areas of the site, together with protected species surveys if necessary*

Due to the revisions the revised layout/landscaping plans are no longer necessary as part of the application, as the aim previously was to show additional landscaping to screen some of the car parks from neighbouring properties etc. The revisions have the beneficial effect of reducing potential

impacts on the amenity of neighbouring residential properties in Oak Park Avenue and along Shiphay Park Road accordingly. However, revised detailed landscaping/planting plans must be secured by condition and should take into account the Arboricultural Officer's comments. In addition, section drawings have been requested for the proposed car parks on sloping land in order to show whether these will be built flush to the ground or level with use of appropriate retaining walls/structures. This may have implications on the drainage strategy and the applicants have been informed accordingly. The latter is preferred for the car park to be constructed in the Local Wildlife Site to the west of the site in order to reduce surface water runoff into the stream running along the western boundary (Flood Zone 3) and reduce its visual impact on the landscape character of this area.

A second Extended Phase 1 Habitat Survey was submitted on 07.11.2014 just before the original committee date. This covered land to the north and south of the main Hospital site (originally only the land to the west of the site within the Local Wildlife Site had been surveyed). However, surveys have still not been received for the eastern part of the annexe site and area proposed for the Brookside Residents car park. Furthermore, the Extended Phase 1 Habitat Surveys received to date recommend further detailed protected species surveys for reptiles and badgers (a badger sett is located adjacent to the Football Field car park). These surveys have also still not been submitted, although Natural England advise that reptile surveys must be carried out between mid-March and June or September, and badger surveys are carried out between February and April or October and November. Whilst it is normally good practice to ensure that ecology surveys are carried out before planning applications are determined, in the circumstances, officers consider that planning permission can be granted subject to pre-commencement (Grampian) conditions to ensure that these surveys are carried out before works commence in the affected areas and any recommended mitigation is carried out as required. This will allow the Hospital to commence works that are not affected by these issues (subject to other pre-commencement conditions, such as drainage). The Hospital has submitted a Construction Phasing schedule indicating works to commence in the affected areas in April-May 2015. Officers have informed the Hospital that it must not commence works in these areas until the surveys have been carried out and any necessary mitigation secured accordingly.

- ii) Agreeing an appropriate mitigation strategy for the loss of part of the Local Wildlife Site*

Officers have agreed in consultation with the Green Infrastructure Coordinator that this issue can be addressed by securing a Landscape and Ecological Management Plan (LEMP) to secure biodiversity enhancements in the remaining parts of the Local Wildlife Site on Hospital land. This must be secured by condition.

- iii) *Full payment of sustainable transport contribution or the signing of a s106 legal agreement to secure sustainable transport contribution*

(See S106/CIL section below)

- iv) *A condition preventing construction of parking places on the Local Wildlife Site until the rest of the parking hereby permitted has been provided and the applicant has demonstrated through appropriate monitoring, the need for the Local Wildlife Site to also be used for parking*

The submitted Construction Phasing schedule shows the Hospital's intention to construct this car park about three quarters of the way through the overall construction timetable in August-September 2015. Officers have informed the Hospital that a reptile survey must be carried out for part of this area. Officers have also asked the Hospital whether it has investigated whether these (or at least some of these) staff spaces can be provided elsewhere on the site, possibly at the expense of some of the new patient/visitor spaces? No response has been received and an update will be provided verbally at committee.

- v) *The conditions set out in the submitted report and any further conditions being delegated to the Director of Place*

The applicants have submitted additional information in order to negate the requirement for some of the pre-commencement conditions indicated previously at committee. However, in the majority of cases, additional information/further detail is still required. A revised list of conditions is provided below and officers will endeavour to provide fully worded draft conditions prior to committee.

- o Construction and Environmental Management Plan (CEMP)*
- o Secure measures in Arboricultural Method Statement/Tree Protection Plans*
- o Detailed Landscaping/Planting Plans*
- o Tree Pit Designs*
- o Landscape and Ecological Management Plan (LEMP)*
- o Surface Water Drainage Strategy Detailed Design*
- o Updated Travel Plan - incorporate facilities for charging plug-in and other ultra-low emission vehicles*
- o Lighting Strategy*
- o Full compliance with the Safer Parking - Park Mark award scheme*
- o Location and Details of Cycle Parking*
- o Extended Phase 1 Habitat Surveys for relevant areas*
- o Reptile surveys for relevant areas*
- o Badger survey for relevant area*

S106/CIL -

The sustainable transport contribution has been recalculated based on the

reduced number of new parking spaces. The total sum requested is £181,820 (or £160,320 with hospital land agreement), split as follows:

- o £6,750 to provide a bus shelter and stop close to the Women's Health Unit.
- o £64,000 as contribution towards public transport improvements, including for a new bus service to bring twice hourly Brixham connections.
- o £38,500 for a new 3 metre shared use path via the rear of the Lodge (subject to hospital land agreement), or via the existing footway fronting that property at an extra cost of £21,500.
- o £16,070 for a central refuge island or similar facility to enable walkers and cyclists safer crossing across the Lowes Bridge main entrance, linking the shared use path (SUP) towards Shiphay Lane with the opposite side to the lodge.
- o £35,000 towards the new £1,148,000 Lowes Bridge - Shiphay junction improvements for which the Council has underpinned funding through Prudential Borrowing, including improving junction performance through selected lane widening and reallocating functions of lanes, to relieve delay and queues benefiting access into and out of the hospital.

Justifications:

The contribution towards sustainable transport is justified in paragraphs 4.12-4.24 of LDD6 and will be used towards the provision of sustainable transport projects in local area. The NPPF and Local Plan Policy T2 promote sustainable transport modes. The proposed development would generate additional trips and should therefore contribute toward sustainable transport in the area.

Status:

The applicant has not confirmed whether they are willing to pay the required contribution, or by which method they wish to make payment. A verbal update will be provided at committee.

Conclusions

The revised proposals are considered to be acceptable, subject to pre-commencement (Grampian) conditions to address the outstanding matters from the previous committee decision that are still applicable and payment or a s106 to secure the sustainable transport contribution. The conditions must necessarily include the requirement to submit further ecology surveys for the relevant parts of the site and secure any necessary mitigation as may be required in advance of the works of those parts of the site. This will allow the Hospital to commence works on the car parks that are not affected by these issues. Additional section drawings have also been requested and should be submitted before the application is determined.

Original Report (November 2014)

Executive Summary/Key Outcomes

Torbay Hospital serves the whole of the South Devon area. It not only provides for patient care, but also makes a very valuable contribution to Torbay's economy in terms of the medical / healthcare sector and employment.

There is an existing parking pressure at the Hospital, with drivers parking in unsuitable locations or circling the site looking for spaces. This pressure has led to hospital appointments being missed, with consequent costs to patients and to healthcare provision.

This proposal seeks to create an additional 398 car parking spaces on the main hospital site (321 spaces) and on the hospital annex site (77 spaces). The total number of spaces on the main site would increase from 1,584 spaces to 1,905 spaces (20% increase). The total number of spaces on the annex site would increase from 69 spaces to 146 spaces (112% increase). The additional spaces are for staff, patients, visitors and residents (for those living on site). The increase in parking spaces will be complemented by revised circulation space and lighting.

Both sites contain a number of large buildings and are extensively landscaped.

The proposal is supported in principle by Policy CF13 Torbay Hospital of the adopted Local Plan and by Policy SDT3 of the emerging Local Plan.

There is a need to carefully balance the Health Care Trust's operational needs, the need to protect residential amenity, ecology interests and maintain the landscape setting of the Hospital's sites. Negotiation has resulted in a slight reduction of parking spaces from that originally proposed, increased planting and landscaping (including retention of TPO'd trees), ecology mitigation and protection of residential amenity for those people living close to the sites.

This report should be read in conjunction with the report, on this agenda, for the proposed new Critical Care Unit (P/2014/0879)

Recommendation

Conditional approval; subject to the applicant submitting revised layout/landscaping plans and an Extended Phase 1 Habitat Survey for the remaining undeveloped areas of the site with natural features (main site and annex site), together with protected species surveys if necessary, which are acceptable to the Director of Place, within 3 months of the date of this committee or the application be reconsidered in full by the committee; subject to agreeing an appropriate mitigation strategy for the loss of part of the LWS on the site to be secured by condition or s106 legal agreement as appropriate which is acceptable

to the Director of Place, within 3 months of the date of this committee or the application be reconsidered in full by the committee; and subject to full payment of sustainable transport contribution or the signing of a s106 legal agreement to secure sustainable transport contribution, within 3 months of the date of this committee or the application be reconsidered in full by the committee, unless otherwise agreed with the Chairman of the Development Management Committee; conditions are listed at the end of this report, however final drafting and determination of appropriate planning conditions to be delegated to the Director of Place.

Statutory Determination Period

The application was validated on 23.09.2014. The statutory determination date is 24.12.2014 (13 weeks). An extension of time will be sought with the applicant if the sustainable transport contribution has not been paid or the s106 legal agreement has not been completed before the statutory determination date.

Site Details

The site comprises two parcels of land belonging to Torbay Hospital: the main hospital site and its grounds, hereby referred to as 'the main site', and a smaller site off Newton Road north of the main hospital campus, hereby referred to as 'the annexe site'. The total site area is 21.38ha.

The main site is bounded by residential and commercial properties to the north, the railway line to the east, residential properties to the south, residential properties and Kitson Park to the west, and Cadewell Lane to the northwest. The main access points are via Newton Road to the east and Cadewell Lane to the northwest. There is also an emergency access off Shiphay Park Road to the south.

The annexe site is bounded by the railway line to the north, a supermarket to the east, Newton Road to the south and a shared use cycle/footpath to the west beyond which is residential development.

Both sites comprise numerous large buildings, roads, car parks and ancillary open space, including many trees.

The main site is designated as Torbay Hospital in the Adopted Torbay Local Plan 1995-2011 ('the Local Plan'), where expansion, redevelopment and improved facilities are permitted, subject to four criteria. In addition, the western area of the main site is designated a Local Wildlife Site (LWS). There are no other policy designated areas around the site, except for the railway line which is designated as another LWS. The annex site is undesignated.

The main site is shown as a 'Potential development site for consideration in the Neighbourhood Development Plan - primarily employment investment' in the Torbay Local Plan - A landscape for success (Proposed Submission Plan,

February 2014) ('the new Local Plan'). Whilst the new Local Plan is a material consideration, this designation is shown for information only. The western area is still designated as a LWS. The annex remains undesignated, although Newton Road is shown as part of the National Cycle Network.

The vast majority of the site is within Flood Zone 1; however, the western edge of the main site is within Flood Zone 3 due to a watercourse running along the western boundary, which is a tributary of the Aller Brook (main river). The railway embankment to the north of the annex site is also within Flood Zone 3.

The Torbay Hospital Chapel on the main site is a Grade II listed building.

Detailed Proposals

The proposals are to provide additional car parking on the two sites for both staff and patients/visitors. This would entail extending and rearranging existing car parks, and building new car parks on undeveloped ancillary open space. The application also includes associated access roads, footpaths, lighting, signage, ticket machines, barriers and soft landscaping. New cycle parking facilities will also be provided.

As existing, there are a total of 1,584 car parking spaces on the main site and 69 spaces on the annex site. Of the 1,584 spaces on the main site, 1,148 (72.5%) are for staff parking and 436 (27.5%) for patients/visitors parking. Of the 69 spaces on the annex site, 63 (91%) are for staff parking and 6 (9%) for patients/visitors parking. Of the 436 patients/visitors spaces on the main site, 52 (12%) are disabled spaces, and of the 6 patients/visitors spaces on the annex site, 2 (33%) are disabled spaces.

Due to tree constraints, the proposed number of parking spaces on the sites have been revised since the original submission. The New Parking Layout drawing (8/15/52_26 Rev B) shows a number of proposed parking spaces removed, highlighted in red. Therefore, the revised proposals are to develop an additional 398 car parking spaces on the two sites (321 spaces on the main site and 77 spaces on the annex site). The total number of spaces on the main site would increase from 1,584 spaces to 1,905 spaces (20% increase). The total number of spaces on the annex site would increase from 69 spaces to 146 spaces (112% increase).

Of the 1,905 spaces on the main site, 1,151 (60%) would be for staff parking and 754 (40%) would be for patients/visitors parking. Of the 146 spaces on the annex site, 75 (51%) would be for staff parking and 71 (49%) would be for patients/visitors parking. Of the 754 patients/visitors spaces on the main site, 96 (13%) would be disabled spaces, and of the 71 patients/visitors spaces on the annex site, 12 (17%) would be disabled spaces.

Of the proposed 398 additional car parking spaces to be provided on the two

sites overall, 15 (4%) would be for new staff parking and 383 (96%) would be for new patients/visitors parking.

As existing, there are a total of 10 cycle spaces on the main site. The proposals are to increase this to 40 cycle spaces (300% increase). No information has been provided in the application regarding cycle spaces on the annex site. This information has been requested.

The car parks, access roads and footpaths would primarily be surfaced in Bitmac, with some spaces surfaced in granular materials.

The application form states that surface water will be drained to soakaway, but no details are provided. The Site Specific Flood Risk Assessment states that surface water from the 0.8ha of increased impermeable area created by the application will discharge to a sustainable drainage system where practicable. It also states that the surface water runoff from the new car parking areas to the west of the main site will discharge at a controlled rate (the existing greenfield runoff rate) to the open watercourse located on the western boundary.

No development is proposed near to the Grade II listed Chapel, therefore a Statement of Heritage Significance is not required.

Summary Of Consultation Responses

(The agent for the application is an employee of the Council - the Engineering Service Manager. Therefore, a different officer has been consulted in Engineering who has not been involved in the application.)

Strategic Transportation/Highways: No objection. Requires a sustainable transport contribution to mitigate the additional trips generated by the development. This totals £293,750 and would contribute to a number of sustainable transport projects in the area.

Environment Agency: No objections. Suggest condition for the management of the site's surface water drainage.

Engineering - Drainage: No details of proposed soakaways provided. Therefore, Grampian style condition required for details of infiltration testing and detailed design of soakaways prior to any development works commencing. The applicant must also demonstrate that the surface water drainage design will not increase the risk of flooding to properties or land adjacent to the site.

Natural England: No objection re statutory nature conservation sites. Natural England's standing advice should be used to assess any potential impacts on protected species. The standing advice is a material consideration in making planning decisions. The local authority should ensure it has sufficient information to understand the impact of the proposal on any local sites.

Arboricultural Officer: Lengthy discussions have taken place with the applicant's agents. This has led to a revised plan with fewer car parking spaces to account for arboricultural concerns. The application is suitable for approval on arboricultural and landscape merit if the following are addressed by conditions:

- *Landscape strategy to be amended to indicate exact species per plotted point, with additional detail of management plans, tree pit volumes relating to specific volume required (both engineered and in soft), replacement of losses, watering regimes, type of nursery stock and so on.*
- *Method statements for tree protection fencing alignments.*
- *Enhanced planting as described in comments 4 (a and b) 8 & 9.*
- *All protective fencing to be erected prior to any commencement on site*
- *Arboricultural ongoing support to be appointed to all fencing supervision and consideration of any required deviation from approved plans.*

Police Architectural Liaison Officer: The reorganised car parks should achieve full compliance with the Safer Parking - Park Mark award scheme as detailed on the Secured by Design website. There should be clear and substantial boundaries/buffer zones between the public space of the hospital grounds and adjacent dwellings. Surveillance responsibilities over the parking areas should be in control of the Hospital and not neighbouring residents. New landscaping should not prevent natural surveillance.

Building Control: These will, if forthcoming, be presented verbally to DMC.

Summary Of Representations

10 representations have been received, 9 objecting and 1 neutral. The following material considerations have been raised:

- *Noise pollution from vehicles*
- *Air pollution from vehicles*
- *Light pollution from new lighting*
- *Loss of trees*
- *Impact on privacy*
- *Impact on wildlife*
- *Increased risk of flooding from surface runoff*
- *Water pollution*
- *Parking charges will mean staff and public will still park on surrounding roads*
- *Greenspace Strategy*
- *Overdevelopment - loss of ring of green space*
- *Security risk to neighbouring properties.*

Relevant Planning History

P/2014/0879/MPA: Demolition of existing main entrance and shop. Construction

of new main entrance facilities, new critical care unit, new support facilities and plant room. New hard landscaping and planting around new building: Pending Decision

P/2003/1802/PA: Temporary Car Park To Provide Approximately 150 Additional Car Spaces On Existing Playing Field: Approved 15.01.2004

Numerous other non-major planning applications for building extensions, minor works, etc.

Key Issues/Material Considerations

The key issues are:

- 1. The Principle of the Development*
- 2. Impact on Local Highways*
- 3. Design Layout and Landscaping*
- 4. Safety and Security*
- 5. Impact on Amenity of Neighbouring Properties*
- 6. Impact on Trees*
- 7. Impact on Ecology*
- 8. Surface Water Drainage and Flood Risk*
- 9. Water Pollution*
- 10. Air Pollution*

- 1. The Principle of the Development*

The principle of the development is acceptable. The application has been submitted due to parking pressures at the hospital, where due to the insufficient number of parking spaces for patients/visitors, appointments have been missed. It has also led to overspill parking on roads both within and outside the main hospital site, effecting the function and safety of these roads, which can cause delay to emergency vehicles. Local Plan Policy CF13 permits proposals for the expansion, redevelopment and improvement of facilities at Torbay Hospital, subject to the following four criteria:

- 1) the campus is used only for development related to the hospital's primary function of providing healthcare;*
- 2) landscaping is provided both within and around the perimeter of the site which maintains and enhances the amenity and wildlife features of the hospital grounds and which reduces the impact on surrounding residential areas of any development which may take place;*
- 3) an integrated transport and parking policy which seeks to address the transportation needs of the campus and the surrounding area is implemented; and*
- 4) new development does not have a detrimental effect on the amenities of the surrounding residential areas.*

Taking the above criteria in turn: (1) the proposed development is related to healthcare, in so much as the new parking will be for staff and (primarily) patients/visitors of the hospital; (2) whilst the proposals will lead to the loss of some areas of open space and trees, new landscaping will be provided to mitigate for this loss ensuring no harm to wildlife or impact to neighbouring properties; (3) the application is accompanied by an updated Travel Plan committed to implementing sustainable transport choices alongside the new parking provision; and (4) landscape buffers will be provided between the newly created parking areas and surrounding residential properties to protect their amenity.

Subject to appropriately worded conditions securing the matters under 2-4 above, the proposed development is considered to accord with Local Plan Policy CF13. Furthermore, provided the development is linked to a fully up-to-date Travel Plan with clear targets and monitoring/review mechanisms, it is considered to accord with the twin requirements of the NPPF of supporting economic growth and promoting sustainable travel to reduce greenhouse gas emissions. However, it is considered there is an opportunity to incorporate facilities for charging plug-in and other ultra-low emission vehicles in accordance with the NPPF, and this should be added to the Travel Plan by condition.

Local Plan Policy T25 states that parking provision for major, non-residential sites will be based on an assessment of parking needs, to be defined as part of a travel plan to be submitted by the developer and agreed by the local planning authority. It goes on to state that car parking provision in excess of the assessed need will not be permitted, except on a temporary basis during the implementation of the travel plan. The applicant has submitted a Travel Plan as part of the application, which sets out the required parking provision based on staff and visitor surveys undertaken in 2005, 2009, 2010 and 2013. It sets a public/staff car parking split target of 40-60% respectively. The proposals would achieve this on the main site and exceed it on the annex site. Therefore, the proposed development accords with Local Pan Policy T25.

2. Impact on Local Highways

The Transport Statement submitted with the application states that the car parking proposals address the problem of demand exceeding supply at the hospital, and as there are no proposals to change the services of the hospital or alter the existing operation, there will be no material increase in demand or impact on local highways. Furthermore, the new parking provision will prevent overspill parking on the local highway network allowing these roads to function better.

Strategic Transportation and Highways officers raise no objection to the application in terms of specific highways impacts. However, officers consider the

proposals will result in a greater number of car trips to/from the site than at present and therefore a sustainable transport contribution should be secured from the development in accordance with the Council's Planning Contributions and Affordable Housing SPD and its Update 3. This is addressed under S106/CIL below.

Therefore, provided the sustainable transport contribution is either paid in full as an upfront payment or secured by way of a s106 legal agreement, the proposals are considered to accord with Local Plan Policies TS, T1, T2, T7 and T26.

3. Design Layout and Landscaping

The layouts of the proposed car parks are acceptable and will allow adequate access and manoeuvring for vehicles. A Landscape Strategy Report has been submitted with the application, which includes landscape proposals for the newly created car parks. The Council's Arboricultural Officer has agreed to these, subject to some minor amendments for the benefit of the amenities of neighbouring properties and visual amenity of the car parks themselves. Revised layout/landscape proposals are required incorporating these amendments and accounting for the reduced number of car parking spaces now agreed. These should be submitted prior to planning permission being granted, whilst detailed landscaping/planting plans can be conditioned.

Therefore, subject to the applicant submitting the revised layout/landscape proposals for the new car parks and an appropriately worded condition securing detailed landscaping/planting plans, the proposed development is considered to accord with Local Plan Policies L10 and BE1.

4. Safety and Security

The Police Architectural Liaison Officer has highlighted the requirement for defensible planting within buffers zones between the hospital grounds and neighbouring residential properties. In addition, landscaping within the car parks should not prevent natural surveillance, i.e. plant species should be chosen that grow to low heights and planting should be adequately maintained. These issues can be taken into account in the detailed landscaping/planting plans to be secured by condition.

In addition, the reorganised car parks should achieve full compliance with the Safer Parking - Park Mark award scheme as detailed on the Secured by Design website. A condition requiring this should be added accordingly.

Getting the right balance in lighting is important to ensure safety without impacting on the amenity of neighbouring properties or ecological interests. A condition requiring a lighting strategy for the new car parks with detailed lighting proposals should be added accordingly.

Therefore, subject to appropriately worded conditions securing the matters above, the proposed development is considered to accord with Local Plan Policy CF2.

5. Impact on Amenity of Neighbouring Properties

Local residents have raised concerns with the potential impact of the proposals on their amenity, in terms of privacy, noise and lighting. The New Parking Layout drawing (8/15/52_26 Rev B) shows that buffer strips would be provided between the new car parking and residential gardens. Provided these buffers are appropriately planted and maintained in accordance with detailed landscaping/planting plans to be secured by condition, it is considered that the proposed development will not have a significant adverse impact on the amenity of neighbouring properties, in terms of privacy and noise. As discussed above, a lighting strategy for the new car parks with detailed lighting proposals is required by condition and this should include details of how lighting will not adversely affect the amenity of neighbouring properties.

Therefore, subject to appropriately worded conditions securing the matters above, the proposed development is considered to accord with Local Plan Policies CF13, EPS, EP4 and EP5.

6. Impact on Trees

The proposals will necessitate the removal of a number trees. However, the Council's Arboricultural Officer has had lengthy discussions with the applicant's agents to ensure high quality trees are retained. This has resulted in the removal of a number of the proposed car parking spaces. The Arboricultural Officer has recommended a number of conditions to protect the trees to be retained during construction, further landscape enhancements, planting methodologies and management regimes. Therefore, subject to appropriately worded conditions securing these matters, including a Landscape and Ecological Management Plan (LEMP), the proposed development is considered to accord with Local Plan Policy L9.

7. Impact on Ecology

The applicant has submitted a Phase 1 Habitat Survey with the application for the western area of the main site. It identifies the Shiphay Hospital LWS as being on the site and recommends consultation should take place with the landowners and managers of the site to devise an appropriate mitigation package, due to the loss of part of the LWS to development. The details of this have yet to be agreed and should be identified before planning permission is granted. This may include biodiversity offsetting. The mitigation will have to be secured by pre-commencement condition or s106 agreement if mitigation funding is proposed.

No direct evidence of protected species was found on the western area of the site, but trees and habitats on the site are suitable for protected species, specifically bats, birds and reptiles. Therefore, the survey recommends any trees with ivy to be removed must be checked by a suitably qualified ecologist beforehand to ensure there are no roosting bats. In addition, trees and vegetation should not be removed during the bird breeding season from March to August inclusive (this should be changed to from March to September inclusive for consistency with other applications). In addition, it recommends a reptile survey is carried out if reptile habitat is planned to be removed. All these matters should be addressed in a Construction and Environmental Management Plan (CEMP) which must be secured by pre-commencement condition and cover the site as a whole, including the main site and the annex site.

Since the application was submitted, officers have been informed that there is a badger sett on the site to the south of the 'Football Field' car park. Therefore, prior to planning permission being granted, an Extended Phase 1 Habitat Survey should be carried out for this area, together with any other undeveloped areas with natural features on the site (main site and annex site) which will be affected by the proposals. If the Extended Phase 1 Habitat Survey recommends further protected species surveys, then these must also be carried out prior to planning permission being granted and submitted with the Extended Phase 1 Habitat Survey. Any further recommended mitigation must be secured by condition.

8. Surface Water Drainage and Flood Risk

The proposals aim to drain surface water from the new car parks via sustainable drainage systems, including soakaways where ground conditions are suitable. It is understood that some of the existing car parks on the site already drain to soakaways. No details of the proposed locations/designs of new soakaways or other sustainable drainage systems have been provided. Engineering has recommended a Grampian condition, whereby no development works can take place until the details have been submitted and agreed, to secure details of the proposed surface water drainage systems. Therefore, subject to an appropriately worded Grampian condition securing details of the proposed surface water drainage systems for the new car parks, the proposed development is considered to accord with Local Plan Policy EPS and paragraph 103 of the NPPF.

9. Water Pollution

A few local residents have raised concerns with potential water pollution from surface runoff from the proposed car parks. This issue should be taken into account in the detailed designs of the proposed surface water drainage systems for the new car parks, including appropriate filters which must be easily maintained. Therefore, subject to an appropriately worded Grampian condition

securing details of the proposed surface water drainage systems for the new car parks that take into account this issue, the proposed development is considered to accord with Local Plan Policy EP9.

10. Air Pollution

The increased car trips to/from the site will result in more air pollution from vehicles. However, air pollutants disperse quickly particularly on exposed sites. The nearest Air Quality Management Area (AQMA) is in Hele Road, approximately 1.6km to the east. Therefore, it is considered that the proposals will not have an adverse impact on air quality on the site or in the local area. The proposals therefore accord with Local Plan Policy EP3.

S106/CIL -

A sustainable transport/SDLR contribution is required in accordance with Local Plan Policies TS, T1 and T2, the Planning Contributions and Affordable Housing SPD and adopted Council Report 'Third Party Contributions towards the South Devon Link Road'. This is based on an assessment of the number of trips the proposed development will generate. The total sum is £293,750 and is split as follows:

- £6,750 to improve bus services to the site by providing a covered bus stop at near Lowes Bridge main entrance specifically close to the Women's Health Unit*
- £60,000 for a toucan crossing over Lowes Bridge main entrance*
- £60,000 for a 3 metre cycle route across the grass rear of the Lodge, to link the new cycle route to Newton Road*
- £64,000 as contribution towards public transport improvements including for the new Edginswell Station due to be constructed from 2017/18, and an enhancement of bus services*
- £35,000 towards the new £1,148,000 Lowes Bridge - Shiphay junction improvements that the Council has underpinned funding its construction through Prudential Borrowing*
- £68,000 towards the new South Devon Link Road, for which the Council has underpinned funding its construction through Prudential Borrowing.*

Justifications:

The contribution towards sustainable transport is justified in paragraphs 4.12-4.24 of LDD6 and will be used towards the provision of sustainable transport projects in local area. The NPPF and Local Plan Policy T2 promote sustainable transport modes. The proposed development would generate additional trips and should therefore contribute toward sustainable transport in the area.

The contribution towards the SDLR is justified in Appendix 1 of the 'Third Party Contributions towards the South Devon Link Road' report adopted by the Council

on 6 December 2012 and is based on an assessment of the impact that the development would have on the road.

Status:

The applicant has not confirmed whether they are willing to pay the required contribution, or by which method they wish to make payment. A verbal update will be provided at committee.

Conclusions

The proposal will meet the operational needs of the Health Care Trust, now and into the future, as well as the needs of patients, visitors and on-site residents.

The proposal, as now presented and subject to the suggested conditions and S106 requirements, meets the requirements of existing and emerging Local Plan policies.

The proposal will provide much needed new parking spaces, with associated circulation space, landscaping and lighting.

However, further information is awaited on ecological impact and mitigation. Planning permission should only be issued once that information has been provided, assessed and the necessary conditions applied.

Draft Conditions

Pre-commencement Details

01 Construction and Ecological Management Plan (CEMP)

No development (including demolition and ground works) or vegetation clearance works shall take place of any new car park or parking area, as shown on approved drawing 100-XX-007 (New Parking Areas), until a Construction and Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall be prepared in accordance with specifications in clause 10.2 of BS 42020:2013 (or any superseding British Standard) and shall include the following:

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of 'biodiversity protection zones'.
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction.
- d) The location and timing of sensitive works to avoid harm to biodiversity features. This includes the use of protective fences, exclusion barriers and warning signs.

- e) The times during construction when specialist ecologists need to be present on site to monitor works to ensure compliance with the CEMP, and the actions that will be undertaken.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.

The approved CEMP shall be adhered to and implemented throughout the construction period of each new car park or parking area strictly in accordance with the approved details.

Reason: In the interests of biodiversity and to minimise impacts on protected species in accordance with saved Policies NCS, NC1, NC2 and NC5 of the Adopted Torbay Local Plan 1995-2011, emerging Policy NC1 of the Torbay Local Plan - A landscape for success (Proposed Submission Plan, February 2014), and paragraphs 109 and 118 of the NPPF. These details are required pre-commencement as specified to ensure that biodiversity is not harmed by building operations or vegetation removal.

02 Surface Water Drainage Strategy Detailed Design

No development (including demolition and ground works) or vegetation clearance works shall take place of any new car park or parking area, as shown on approved drawing 100-XX-007 (New Parking Areas), until a detailed surface water drainage scheme for that new car park or parking area has been submitted to and approved in writing by the Local Planning Authority. Priority shall be given to sustainable urban drainage systems, where soakaways must be designed in accordance with Building Research Establishment Digest 365 and include details of how they have been designed to cater for the 1 in 100 year critical rainfall event plus an allowance for climate change. Evidence that trial holes and infiltration tests have been carried out in accordance with Building Research Establishment Digest 365 in the same location as any soakaways must be provided. The schemes shall demonstrate that there will be no increased risk of flooding to surrounding buildings, roads and land. The new car parks and parking areas shall not be brought into use until the relevant surface water drainage schemes have been implemented as approved. The schemes shall be continually maintained thereafter.

Reason: In the interests to adapting to climate change and managing flood risk, and in order to accord with saved Policy EPS of the Adopted Torbay Local Plan 1995-2011, emerging Policy ER1 of the Torbay Local Plan - A landscape for success (Proposed Submission Plan, February 2014), and paragraph 103 of the NPPF. These details are required pre-commencement as specified to ensure that appropriate drainage systems are provided for the development and there will be no increased risk of flooding to surrounding buildings, roads and land.

03 Secure Measures in Arboricultural Method Statement/Tree Protection Plans

No development (including demolition and ground works) or vegetation clearance works shall take place of any new car park or parking area, as shown on approved drawing 100-XX-007 (New Parking Areas), until fences have been erected and any other protection measures put in place for the protection of trees and/or hedgerows to be retained in accordance with the Arboricultural Method Statement (Hi-Line, March 2015) and Tree Protection Plans submitted with the application. The fences and any other protection measures required shall be retained until the completion of each new car park or parking area to which they relate and no vehicles, plant or materials shall be driven or placed within the areas enclosed by the fences.

Reason: To protect the trees and hedgerows to be retained in the interests of the amenities of the area, in accordance with saved Policies L9 and L10 of the Adopted Torbay Local Plan 1995-2011, and emerging Policy C4 of the Torbay Local Plan - A landscape for success (Proposed Submission Plan, February 2014). These details are required pre-commencement as specified to ensure that trees and hedgerows to be retained are not damaged by building operations or vegetation removal, including biodiversity interests.

04 Reptile Surveys for relevant areas

No development (including demolition and ground works) or vegetation clearance works shall take place of the following new car parks or parking areas, as shown on approved drawing 100-XX-007 (New Parking Areas), until a Reptile Survey of that new car park or parking area has been submitted to and approved in writing by the Local Planning Authority:

- o Car Park D & E
- o Overflow Cadewell Lane
- o Tennis Court (and access thereto from Old Social Club/Football Field car parks)

Any recommended mitigation and enhancement measures contained in the Reptile Surveys shall be implemented in full.

Reason: To ensure no harm to reptiles in accordance with saved Policies NCS and NC5 of the Adopted Torbay Local Plan 1995-2011, emerging Policy NC1 of the Torbay Local Plan - A landscape for success (Proposed Submission Plan, February 2014), and paragraphs 109 and 118 of the NPPF. These details are required pre-commencement as specified to ensure that reptiles are not harmed by building operations or vegetation removal.

05 Badger Survey for relevant area

No development (including demolition and ground works) or vegetation clearance works shall take place of the following new car parks or parking areas, as shown on approved drawing 100-XX-007 (New Parking Areas), until a Badger Survey of that new car park or parking area has been submitted to and approved in writing by the Local Planning Authority:

- o Football Field (including badger sett to south)

Any recommended mitigation and enhancement measures contained in the Badger Survey shall be implemented in full.

Reason: To ensure no harm to badgers in accordance with saved Policies NCS and NC5 of the Adopted Torbay Local Plan 1995-2011, emerging Policy NC1 of the Torbay Local Plan - A landscape for success (Proposed Submission Plan, February 2014), and paragraphs 109 and 118 of the NPPF. These details are required pre-commencement as specified to ensure that badgers are not harmed by building operations or vegetation removal.

06 Access Plan

No development (including demolition and ground works) or vegetation clearance works shall take place of the following new car parks or parking areas, as shown on approved drawing 100-XX-007 (New Parking Areas), until a detailed access plan has been submitted to and approved in writing by the Local Planning Authority:

- o Overflow Cadewell Lane

The detailed access plan shall show the requisite visibility splays onto Cadewell Lane in accordance with the comments received from the Highways Principal Engineer on 10.04.2015. The Overflow Cadewell Lane car park shall not be brought into use until the access has been constructed as approved and the visibility splays provided. The area of land between the visibility splays and edge of the carriageway of the highway shall be kept free of any obstruction exceeding 600mm in height above the adjacent carriageway level.

Reason: To ensure the access onto Cadewell Lane is built to a safe standard in accordance with saved Policy T26 of the Adopted Torbay Local Plan 1995-2011, and emerging Policy TA2 of the Torbay Local Plan - A landscape for success (Proposed Submission Plan, February 2014).

Pre-use Details

07 Detailed Landscaping/Planting Plans

Prior to the first use of any new car park or parking area hereby permitted, detailed landscaping plans of the new and reorganised car parks shall be submitted to and approved in writing by the Local Planning Authority. The landscaping plans shall include details of tree and other plant species, and methods of planting. The comments of the Arboricultural Officer received on 01.04.2015 shall be taken into account in the production of the detailed landscaping plans. The trees and plants on the approved detailed landscaping plans shall be planted in the first planting season following the first use of the new or reorganised car parks to which they relate, or in earlier planting seasons wherever practicable, and any trees or plants which within a period of 5 years from the completion of the new and reorganised car parks as a whole die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: In the interests of amenity, design and biodiversity in accordance with saved Policies L10, NCS and BE2 of the Adopted Torbay Local Plan 1995-2011, emerging Policies C4, NC1 and DE1 of the Torbay Local Plan - A landscape for success (Proposed Submission Plan, February 2014), and paragraphs 58, 109 and 118 of the NPPF.

08 Tree Pit Designs

Prior to the first use of any new car park or parking area hereby permitted, a revised Planting Pit Plan shall be submitted to and approved in writing by the Local Planning Authority. The comments of the Arboricultural Officer received on 01.04.2015 shall be taken into account in the production of the revised Planting Pit Plan. The relevant trees and plants on the detailed landscaping plans approved under condition 7 shall be planted in accordance with the approved Planting Pit Plan.

Reason: In the interests of the health of the trees and plants to be planted in accordance with saved Policy L9 of the Adopted Torbay Local Plan 1995-2011, and emerging Policy C4 of the Torbay Local Plan - A landscape for success (Proposed Submission Plan, February 2014).

09 Landscape and Ecological Management Plan (LEMP)

Prior to the first use of any new car park or parking area hereby permitted, a Landscape and Ecological Management Plan (LEMP) for the site shall be submitted to and approved in writing by the Local Planning Authority. The content of the LEMP shall be prepared in accordance with the specifications in clause 11.1 of BS 42020:2013 (or any superseding British Standard) and shall include the following:

- a) Description and evaluation of features to be managed.
- b) Ecological trends and constraints on site that might influence

- management.
- c) Aims and objectives of management.
 - d) Appropriate management options for achieving aims and objectives.
 - e) Prescriptions for management actions.
 - f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five year period).
 - g) Details of the body or organisation responsible for implementation of the plan.
 - h) On-going monitoring and remedial measures for biodiversity features included in the LEMP.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(s) responsible for its delivery.

All post-construction management of landscape and ecological features on the site shall be undertaken in accordance with the approved LEMP.

Reason: In the interests of amenity and biodiversity in accordance with saved Policies L10 and NCS of the Adopted Torbay Local Plan 1995-2011, emerging Policies C4 and NC1 of the Torbay Local Plan - A landscape for success (Proposed Submission Plan, February 2014), and paragraphs 58, 109 and 118 of the NPPF.

10 Lighting Strategy

Prior to the first use of any new car park or parking area hereby permitted, an External Lighting Scheme for the new and reorganised car parks shall be submitted to and approved in writing by the Local Planning Authority. The External Lighting Scheme shall include the location, design and specification details of all external lighting in the new and reorganised car parks, and access thereto. The external lighting shall be provided as approved prior to the first use of the new and reorganised car parks to which it relates. Should any of the external lighting become damaged and need replacement, it shall be replaced with external lighting of the same type and specification.

Reason: In the interests of amenity, design, crime prevention and biodiversity in accordance with saved Policies CF2, NCS, EP5 and BE2 of the Adopted Torbay Local Plan 1995-2011, emerging Policies NC1, DE1 and DE3 of the Torbay Local Plan - A landscape for success (Proposed Submission Plan, February 2014), and paragraph 125 of the NPPF.

11 Location and Details of Cycle Parking

Prior to the first use of any new car park or parking area hereby permitted, plans showing the location and details of cycle parking to be provided on the site shall

be submitted to and approved in writing by the Local Planning Authority. The cycle parking shall be secure, covered and located where it is well overlooked, wherever practicable, to reduce opportunities for crime. The cycle parking shall be provided as approved prior to the first use of any new car park or parking area hereby permitted.

Reason: To promote cycling as an alternative mode of transport to the private car in accordance with saved Policies TS and T2 of the Adopted Torbay Local Plan 1995-2011, and emerging Policy TA1 of the Torbay Local Plan - A landscape for success (Proposed Submission Plan, February 2014).

12 Updated Travel Plan - incorporate facilities for charging plug-in and other ultra-low emission vehicles

Prior to the first use of any new car park or parking area hereby permitted, an updated Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The updated Travel Plan shall incorporate facilities for charging plug-in and other ultra-low emission vehicles, as well as measures to promote the use of sustainable modes of travel instead of private car by staff and visitors. The updated Travel Plan shall be implemented as approved and shall be continually monitored by a Travel Plan Coordinator (TPC) on behalf of the South Devon Healthcare NHS Foundation Trust to ensure that it meets its objectives and targets. The contact details of the TPC shall be provided in the updated Travel Plan. In the event that the objectives and targets of the updated Travel Plan are not met, it shall be updated by the TPC setting out further measures in order to rectify this. A copy of the most up-to-date Travel Plan shall be made available to the Local Planning Authority upon request during normal business hours.

Reason: To promote sustainable modes of travel in the interests of reducing greenhouse gas emissions and pollution, in accordance with saved Policies EPS, EP3, TS and T1 of the Adopted Torbay Local Plan 1995-2011, emerging Policies SS13, TA1, TA2 and DE3 of the Torbay Local Plan - A landscape for success (Proposed Submission Plan, February 2014), and paragraph 36 of the NPPF.

13 Full compliance with safer Parking - Park Mark award scheme

Prior to the first use of any new car park or parking area hereby permitted, evidence shall be submitted to and approved in writing by the Local Planning Authority to demonstrate that the new and reorganised car parks comply with the Safer Parking - Park Mark award scheme, as detailed on the Secured by Design website, as far as practicable.

Reason: In the interests of crime prevention in accordance with saved policy CF2 of the Adopted Torbay Local Plan 1995-2011, emerging Policy DE1 of the Torbay Local Plan - A landscape for success (Proposed Submission Plan, February

2014), and paragraphs 58 and 69 of the NPPF.

Restrictive - Permanent

14 Car parks used for parking purposes only

The new and reorganised car parks hereby permitted shall be used for car parking purposes only. The parking spaces and access thereto shall be kept permanently available for parking and access purposes.

Reason: To ensure that the off-street parking spaces and access thereto are retained in order to limit parking overspill onto surrounding streets to the detriment of their function and safety, in accordance with saved Policies T25 and T26 of the Adopted Torbay Local Plan 1995-2011, and emerging Policies TA2 and TA3 of the Torbay Local Plan - A landscape for success (Proposed Submission Plan, February 2014).

Relevant Policies

CFS - Sustainable communities strategy
CF2 - Crime prevention
CF6 - Community infrastructure contributions
CF13 - Torbay Hospital
LS - Landscape strategy
L8 - Protection of hedgerows, woodlands and o
L9 - Planting and retention of trees
L10 - Major development and landscaping
NCS - Nature conservation strategy
NC5 - Protected species
EPS - Environmental protection strategy
EP3 - Control of pollution
EP4 - Noise
EP5 - Light pollution
TS - Land use transportation strategy
T1 - Development accessibility
T2 - Transport hierarchy
T7 - Access for people with disabilities
T25 - Car parking in new development
T26 - Access from development onto the highway

Application Number

P/2014/1182

Site Address

La Rosaire
Livermead Hill
Torquay
Devon
TQ2 6QX

Case Officer

Mr Scott Jones

Ward

Cockington With Chelston

Description

Demolition of existing building and construction of 8 new apartments

Executive Summary/Key Outcomes

This application, for the demolition and redevelopment to provide 8 flats, was previously considered at the DMC meeting 16.03.2015. The report is attached as Appendix 1.

The proposal was previously resolved as follows:

Conditional approval subject to:

- i) Achieving appropriate planning obligations as considered necessary;
- ii) The submission of an ecological survey that is to the satisfaction of the Director of Place;

The following additional conditions to be added to those set out in the submitted report:

- iii) The siting of three bat boxes and two bird boxes; and
- iv) An ecological consultant being consulted immediately should bats be encountered during construction.

The purpose of this report and the return of the scheme for consideration is to review the S106 contributions in relation to greenspace and recreation and sustainable transport, in light of the change in guidance from central government and a request to review the requirements by the applicant.

Recommendation

Conditional approval as previously determined by the committee, with revised S106 contributions of £350 towards waste and £1500 for a traffic regulation order.

Site Details

The site sits on the junction of Livermead Hill and Cockington Lane, overlooking Torbay Road, and currently contains a relatively distinctive semi-detached

property known as La Rosaire.

Detailed Proposals

This application proposes the demolition of the existing building and replacement with a 3 storey apartment building providing 8 units with a lower ground floor entrance and under-croft parking.

Summary Of Consultation Responses

Council's Legal Officer - The requirement for waste and recycling obligations to pay for the necessary bins remains necessary, directly related, and fair and reasonable in scale. This obligation should remain.

The requirement for the applicant to provide obligations to pay for the Traffic Regulation Order to move the existing taxi rank in order to accommodate the new entrance is considered necessary, directly related and fair and reasonable and should remain.

The requirement for the proposal to pay £12,620.00 to fund improvements to the lighting at Corbyn Head does not meet the relevant tests and is not aligned with the recent government guidance on planning obligations for schemes of less than 10 units. The obligation should no longer be sought.

The requirement for the proposal to pay £17,170.00 to fund walking and cycling improvements between the site and Cockington Village does not meet the relevant tests and is not aligned with the recent government guidance on planning obligations for schemes of less than 10 units. The obligation should no longer be sought.

Summary Of Representations

The application has not been re-advertised and no new representations have been received.

The applicant's letter citing why they consider the obligations unnecessary has been copied for members.

Relevant Planning History

N/A.

Key Issues/Material Considerations

The main issue is the removal of the requirement for greenspace/recreation and sustainable transport contributions in light of the changes to government guidance in relation to schemes of 10 units or less.

Sustainable transport and greenspace contributions in light of the changes to government guidance for apartments

Revised guidance from DCLG is that 'tariff style' contributions should not be sought from 'small scale' developments of 10 units or less which have a maximum combined gross floor space of less than 1000m².

It is also necessary for the request to meet the following tests as defined in the Community Infrastructure Levy 2010 and the NPPF. These are that they are necessary to make the development acceptable in planning terms; they are directly related to the development and are fairly and reasonably related in scale and kind to the development.

Appeal decisions increasingly support the DCLG position which means we have to be rigorous about the requests for contributions and to be sure that they meet the relevant tests. Failure to do this could result in costs against the Council if we are unable to defend our position at appeal.

The works required by Highways to relocate the taxi rank via a Traffic Regulation Order (estimate £1,500) is necessary to make the development acceptable in planning terms.

The waste contribution (£350) to provide bins is directly related to the development.

A Greenspace contribution was sought in the original report in order to provide works to the lights at Corbyn Head. The improvements to the lights are not considered necessary in order to make the proposal acceptable on planning merit and are not directly related to the development. The payment of an improvement that will be a public benefit is disproportionate and hence would not be fairly and reasonably related in scale.

The contributions towards a pedestrian and cycle route towards Cockington Village is also difficult to justify. Similarly the improvement works are not necessary to make the development acceptable on planning merit, unlike the clearly necessary TRO works. Also the generic improvement of a route in the vicinity of the land is not directly related and the payment of the improvement that will be a public benefit is disproportionate and hence would not be fairly and reasonably related in scale.

S106/CIL -

The previous S106 detail is as follows:

1. Sustainable Development Contributions:

Based on supply of 5 units 75-94m², 2 units 95-119m² and 1 unit +120m², with mitigation for the current building, 1 unit at +120m²

Waste Management	£ 350
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Sustainable Transport	£17,170
Greenspace and Recreation	£12,620

2. Highway Contribution:

Traffic Regulation Order Works: £1,500 (cost quote from the Highway Authority).

It is considered that in order to comply with current guidance the proposed S106 agreement should omit the sustainable transport and greenspace obligation.

It remains appropriate to seek contributions for waste management and for a traffic regulation order as these are directly related to the development.

Conclusions

Following advice from the Council's legal officer and the rise in appeal decisions, which are clarifying that contributions on smaller schemes should only be sought in clearly defined circumstances to comply with recent DCLG guidance, the greenspace and transport obligations (apart from the contribution of £1500 towards a traffic regulation order) are not considered to meet the tests for obligations.

APPENDIX 1 – Original Committee Report

Executive Summary/Key Outcomes

The application is to demolish the existing dwelling and construct a three-storey building that would provide 8 apartments with 12 parking spaces.

The existing property is a relatively distinctive two-storey building with a three-storey corner tower feature. The plot is in a prominent location on the junction of Livermead Hill and Cockington Lane, overlooking the busy Torbay Road coastal route.

The scale and modern form of the proposed building is considered acceptable in the context. The design approach sits comfortably with the adjacent modern buildings. The height is aligned with the adjacent property/s, with only the feature corner element that would break the prevailing ridge line. The size of the plot is considered sufficient to comfortably accept the additional width proposed.

In terms of residential amenity the scheme retains acceptable living conditions for the occupants of adjacent properties. The proposed building lines and screening will not unduly affect the amenity of the residents of the attached property Oversands and there are no other residential plots in the locality that are likely to be affected due to the distances involved.

Parking is proposed at a ratio of 1:1 for the 8 flats with 4 additional visitor spaces. 7 spaces are provided in an under-croft, which also provides for safe and secure covered cycle parking. The level of parking is considered acceptable.

As the proposal increases the number of dwellings on the site developer contributions may be required to off-set the impact upon social and physical infrastructure if there are identified schemes in the locality. The agent has confirmed that the applicant is willing to pay the necessary obligations prior to the grant of permission.

Recommendation

Conditional approval; with conditions to include those laid out within this report; subject to (i) achieving appropriate planning obligations as considered necessary and (ii) the outcome of the pending ecological survey supporting the proposed redevelopment.

Site Details

The site sits on the junction of Livermead Hill and Cockington Lane, overlooking Torbay Road, and currently contains a relatively distinctive semi-detached property known as La Rosaire.

It adjoins a property known as Oversands, which is a relatively new modern-styled building that mixes render, expansive sections of glazing and cladding, all under a low-lying roof. To the other side of Oversands there is another modern styled building currently under construction, which will be flat-roofed with rendered elevations, extensive glazing and balconies.

In terms of plot layout the building sits in the southern part of the site and faces east towards the sea. The majority of the garden space is to the side (north) of the building with the land dropping gently towards Cockington Lane. Vehicular access is presently off Livermead Hill.

The site is within a Principal Holiday Accommodation Area and the train line to the rear is designated as a Wildlife Corridor. There is a linear flood risk zone adjacent to the site along Cockington Lane.

Detailed Proposals

This application proposes the demolition of the existing building and replacement with a 3 storey apartment building with a lower ground floor entrance and under-croft parking.

The building has a modern contemporary look, with rendered elevations punctuated with areas of metal cladding, plank boarding and prominent areas of glazing. The bulk of the roof would comprise a low-lying, dual-pitched structure finished in seamed aluminium, aside an area of flat-roofing.

Elevations are broken up by subtle changes in building lines and the mixing of materials.

Balconies are offered within the elevations through a mix of recessed and suspended structures enclosed with glass. The corner of the building is emphasised by a largely glazed tower with architectural detailing.

Internally the lower ground floor and under-croft offers 7 covered car parking spaces and covered cycle storage. The ground floor offers 3 flats (79m², 80m² and 95m²), the first floor 3 flats (79m², 88m² and 95m²), and the second floor 2 flats (85m² and 151m²).

Vehicular access is moved from Livermead Hill to Cockington Lane via a recessed gated entrance that leads to 5 external car parking spaces and a defined waste storage area and the under-croft where 7 further parking spaces and cycle parking is provided.

Summary Of Consultation Responses

Torbay Design Review Panel comments - Historical but relevant comments date from late 2012 where the panel reviewed two options. The proposal under consideration is comparable to the Option 1 favoured by the panel and considered the one most likely of success. General comments about the scheme included;

- *The approach to the height and massing was perfectly satisfactory*
- *The North East elevation was good*
- *Support given to the idea of raising the height of the corner*
- *The landscape design was under-developed and needed exploring more*
- *The use of glazing should be carefully thought out to achieve a balance towards heat losses and gains, with potential more natural shading techniques utilised in the design.*

The full comments of the DRP and detail of the two options has been provided in the representations pack for context.

Network Rail - No objection in principle. Advice given that the applicant should contact Network Rail's Asset Protection Team as early as possible within the structural design phase should planning permission be granted, as there may be a risk that the railway may be undermined by the works.

Highways Department - No objection in principle. Parking spaces should be a minimum of 2.4m x 4.8m with adequate manoeuvring space. The visibility splay should be within the site boundary and a continuous footway clearly demarcated across its frontage. A financial obligation should be sought to cover the costs of the Traffic Regulation Order in order to cover the cost of relocating the taxi rank

from where the new access is proposed.

Arboricultural Officer - Previous comments advised that no trees or significant vegetation exist within the site that would constrain development. The scheme was considered suitable for approval on arboricultural merit subject to a detailed landscape plan being submitted and approved. The arboricultural context has not changed and these comments are considered valid.

Drainage Department - Detailed design of the soakaways and how they have been informed through infiltration testing should be sought prior to the grant of permission in order to ensure flood risk to properties and land adjacent is not increased as a result of the development.

The design of the soakaways should be in accordance with BRE Digest 365 and should cater for the 1 in 100 year storm event plus an allowance for climate change.

South West Water - No comments supplied. Previous application comments stated that as SWW has no apparatus that would be affected by the proposal they would offer no comment or requirement to development.

Summary Of Representations

Six representations received. The comments include:

- *Supports the application but raises concern in regard to the flag-like pole and whether this establishes a building height for future development*
- *Concern in regard to overdevelopment*
- *The proposal is unsympathetic*
- *Visual impact and impact upon the spacious green quality*
- *Building heights going up*
- *Concern over how the proposal would be built where there is a flying freehold*

Relevant Planning History

Planning Applications:

- | | |
|--------------------|--|
| <i>P/2001/0395</i> | <i>Erection of four 1 bedroom holiday apartments with garages (in outline). Refused 18/5/2001.</i> |
| <i>P/2007/1945</i> | <i>Demolition of house, formation of 8 apartment building with 22 car park spaces and vehicular access. Refused 12/3/2008.</i> |
| <i>P/2008/1255</i> | <i>Demolition of house; formation of 8 apartment building on four floors and 12 car parking spaces and 1 space for disabled parking with vehicular access (revised scheme). Refused 16/10/2008. Appeal dismissed 06/05/2009.</i> |

- P/2009/0688 Redevelopment to form 8 apartments, 13 car parking spaces with vehicular access (second revision). Refused 13/11/2009. Appeal dismissed 01/09/2010.*
- P/2012/0972 Demolition of existing building and new build 8 apartments - Withdrawn.*
- P/2112/1225 Demolition of existing building and new build 8 apartments - Resolved approval under delegated powers following Site Review Meeting protocol raised no member requests - Subsequently withdrawn by the applicant/agent due to the inability to sign the proposal S106 Legal Agreement and achieve the necessary planning obligations.*

Appeal Decisions:

The two previous appeals dismissed relate to proposals for a 4-storey building with a central glazed atrium.

Inspector's comments indicated that a contemporary building on this prominent corner would be appropriate.

The Council's concerns about the additional bulk of these schemes were not shared.

Concern was largely related to design, initially the poor relationship with the adjacent property in terms of un-aligned floor heights and roof pitches, and the plain form which would provide a large yet bland building in a prominent location.

Detail of the schemes dismissed at appeal will be included within the committee presentation for context.

Key Issues/Material Considerations

The main issues are:

- 1. The principle of apartments*
- 2. Visual impact*
- 3. The quality of the residential environment*
- 4. Amenity impact upon neighbouring plots/occupiers*
- 5. Highway movement and parking*
- 6. Flood risk and drainage*
- 7. Ecology*

1. The principle of apartments

The principle of apartments on the site is considered acceptable as it sits comfortably with the mixed residential character of the area, where both dwellings and flats/apartments sit side by side in varying building forms.

The location is well suited for residential use set in an urban context relatively close to employment opportunities, social and recreational infrastructure and transport links.

The principle of providing a larger building (and a greater number of units) on the site is generally supported in planning policy in terms of seeking to maximise the re-use of urban land, subject to other considerations.

Previous applications for apartments refused by the Authority in 2008 and 2009 did not cite objection to the principle of flats. The Inspector's comments in each subsequent appeal also omitted to raise the concept of flats as a concern.

Having considered the location and the mixed character of the area, in terms of building type and occupation, the provision of flats is considered aligned with Saved Local Plan Policies HS (Housing Strategy), H9 (Layout, design and community aspects) and H10 (Housing densities).

2. Visual impact

The scale, height and form of the building is considered acceptable in the context.

The height of the proposed building respects the established ridge line of the three properties on this part of Livermead Hill and is considered acceptable. To replicate the existing corner turret of La Rosaire the proposal includes a corner feature that extends above the height of the main building. This approach was endorsed by the Torbay Design Panel and the detail of the corner element is considered a successful response to the panel's desire for a bolder feature that added further 'delight' to the building.

The proposal would result in an increase in the size of the built form on the site. In regard to the proposed footprint the building will extend approximately 8m closer to Cockington Lane than the current building. Due to the splayed border to the north this will present a building where the front corner is approximately 11m from the edge of the plot with the lane and the rear corner 23m from the lane. The resultant gap between the building and Cockington Lane is considered sufficient in the context in order to retain a landscape setting, subject to planting detail. It is considered that by reason of the size of the application site and the context of the surrounding area that a building of the proposed scale could be satisfactorily accommodated without resulting in harm to the visual amenity of the area.

The front building line is pushed forward slightly however it retains an appropriate relationship and respect for the setting of the adjoining properties.

The rear building line is pushed back towards the boundary with the adjacent rail

line however the additional extent of development is not considered visually harmful in the context of big buildings and big gaps that is locally prevalent.

The judgement on acceptance of the scale and height of the building is considered to be aligned with comments expressed by the Planning Inspectors in previous appeals. The scale and height is aligned with Option 1 considered by the Torbay Design Panel where the panel concluded the scale and height to be perfectly satisfactory.

The elevation treatment has been explored and the concept is largely that submitted to and reviewed by the Torbay Design Review Panel where it was considered likely to be a success.

Subject to detail to ensure the quality of the layered approach and quality of the materials the scheme is considered to provide a suitable design solution for the site.

It is concluded that the scale, height and form proposed, subject to securing a high quality facade detail via condition, will provide a modern interesting building that would sit comfortably within the site and contribute positively to the evolving character of the locality.

The proposal is considered to sit comfortably with the aims of objectives in Saved Local Plan Policies BES (Built Environment Strategy), BE1 (Design of new development) and H9 (Layout design and community aspects).

3. Quality of the residential environment

The proposal will provide 8 apartments, each with 2 or 3 bedrooms, within the size range of 80m² to 150m².

The scale of the units that are proposed is considered acceptable as they appear to provide good quality internal living spaces with plenty of space, good natural lighting to rooms and good outlooks.

Outdoor amenity space is provided in the form of terraces/balconies and a degree of garden space. The level of space is sufficient in the context of seaside apartments.

With consideration of the scale of the units and broad living environment the quality of the proposal in habitation terms is considered acceptable and compliant with planning policy guidance, notably the aims and objectives of Saved Local Plan Policies HS (Housing Strategy) and H9 (Layout, design and community aspects), which seek to secure good quality homes and high standards of design.

4. Amenity issues

The impact of the additional height, the revised building lines and the proposed windows and balconies within it has been considered.

The plot is relatively detached from neighbouring plots other than to the south where it borders with and attaches to Oversands. The impact upon the occupiers of Oversands is considered below.

The proposed building lines to the front and rear close to this border are similar to those of La Rosaire. It is unlikely that outlook or levels of natural lighting into rooms would be demonstrably affected by the bulk of the building that is proposed.

In terms of privacy the proposal seeks to provide balcony space to serve the apartments, which is similar to how Oversands has evolved. Due to the intricate relationship and building lines screening is detailed in order to protect amenity. With screening as detailed the relationship is considered acceptable as the development would retain suitable levels of privacy between properties.

With acceptable levels of local amenity maintained the proposal is considered compliant with the aims and objectives of Saved Local Plan Policies HS (Housing Strategy) and H9 (Layout, design and community aspects)

5. Highway and movement matters

The proposal provides a revised access with 12 parking spaces and covered cycle storage.

The revised access off Cockington Lane is considered acceptable and the Highway department do not object to this. Previous highway comments advised that the access should be no less than 6m back from the highway in order to ensure that cars do not temporarily overhang the highway. This can be addressed by condition. Also related to the access the Highway Authority has identified that funding for the Traffic Regulation Order should be achieved in order to move the taxi rank demarked where the proposed entrance will sit. This can be achieved within the wider request for planning obligations and is not a constraint to the development.

The level of parking, which provides 1:1 parking and 4 visitor spaces is considered acceptable. The layout and size of the spaces appears to accord with guidance (spaces being a minimum 2.4m x 4.8m with 6m manoeuvring space). The scheme also provides safe and secure cycle parking in the under-croft.

In the context the proposal provides acceptable development in terms of parking, movement and highway issues, subject to the obligations above being achieved. The proposal is considered compliant with the aims and objectives of Saved Local Plan Policies TS (Transportation strategy), T25 (Car parking in new

development) and T26 (Access from development on to the highway).

6. Flood risk and drainage

The building sits outside of the adjacent linear flood risk zone however it is important to secure appropriate development that does not increase rainwater run-off and thus contribute to the flooding of land or properties adjacent.

The proposed landscape plan details the location of new soakaways to serve the development. The Authority's Drainage Officer has requested further information in respect of detailed design and has recommended that this should be achieved prior to the grant of planning permission.

In this instance, as the plot is relatively large and there would appear scope to provide SUDS and/or on-site attenuation, it is considered pragmatic to seek detailed design prior to commencement via a planning condition.

7. Ecology

The ecological implications of the proposal have been considered in terms of protected species, habitat and biodiversity.

With the scheme involving the removal of a relatively old building and there being a large garden that sits adjacent to a wildlife corridor, it is considered that protected species may be present.

Further survey work has been requested which the agent is seeking to respond to.

The findings of this survey work will be a material consideration. It is not considered appropriate to grant permission in the absence of this detail.

It is recommended that a positive committee resolution is subject to the findings of this ecological work supporting the notion of the development in the context of protected species and/or habitats.

This survey work and mitigation proposals if required will ensure that the proposed development would be consistent with Policies NCS (Nature conservation strategy) and NC5 (Protected species) in the saved Local Plan.

S106/CIL -

The proposal seeks to intensify the residential provision on the site from one large dwelling to 8 flats of varying sizes. In-line with Council policy planning contributions related to the scale and the nature of residential development should be sought to counter the likely impact of the development upon local infrastructure.

1. *Sustainable Development Contributions:*

Based on supply of 5 units 75-94m², 2 units 95-119m² and 1 unit +120m², with mitigation for the current building, 1 unit at +120m²

<i>Waste Management</i>	<i>£350</i>
<i>Sustainable Transport</i>	<i>£17,170 (subject to scheme identification)</i>
<i>Greenspace and Recreation</i>	<i>£12,620 (subject to scheme identification)</i>

2. *Highway Contribution:*

Traffic Regulation Order Works: Subject to cost quote from the Highway Authority.

Total for development: subject to the matters above.

The applicant has confirmed that they are willing to pay any necessary obligation prior to the grant of permission.

Conclusions

The proposed apartment building, which offers 8 flats, is considered to be suitably scaled within the context of the area and considering the prominence of large buildings.

Its form and detailed design is also considered to present a successful modern development in an area where there is an eclectic building form and mixed character.

The building is supported by suitable levels of ancillary facilities, such as parking, cycle provision, waste storage and amenity space.

On balance the scheme is considered to offer an acceptable form of residential redevelopment, subject to suitable conditions to achieve a high quality finish, achieving planning obligations to offset its direct impact upon local infrastructure, and subject to findings of the pending ecological survey work.

Condition(s)/Reason(s)

- 01. submission and approval of materials and colour palette*
- 02. submission and approval of detailed design drawings for key elements of the building*
- 03. submission and approval of a detailed landscape scheme*
- 04. submission and approval of a sustainable urban drainage solution*
- 05. submission and approval of a revised access detail that shows a gated entrance no less than 6m beyond the edge of the public highway*
- 06. submission and approval of boundary wall and any other means of*

- boundary enclosure*
07. *car parking to be completed and made available prior to occupation and maintained thereafter*
 08. *cycle parking made available prior to occupation and maintained thereafter*
 09. *prior to occupation the obscure glazed screening shall be fitted and then maintained thereafter*
 10. *The flat roof shall not be used for recreational purposes and shall only be accessed for essential maintenance*
 11. *Removal of permitted development in regard to walls, fences and other means of enclosure.*

Relevant Policies

-

Application Number

P/2015/0320

Site Address

101 Braddons Hill Road East
Torquay
Devon
TQ1 1HF

Case Officer

Mrs Ruth Robinson

Ward

Wellswood

Executive Summary/Key Outcomes

This application, for redevelopment of the storage depot to the rear of Torquay Museum to provide for 9 dwellings, was previously considered at the DMC meeting of the 8th June. The report considered at that meeting is attached as Appendix 1. It was approved subject to:

1. Submission of revised plans and a drainage statement.
2. Conclusion of a S106 agreement to secure waste facilities, site specific highway works, sustainable transport and green space contributions.
3. A range of conditions as detailed below.

Members also requested that the quality of materials be reviewed prior to the issue of the decision.

Revised plans have been received which are acceptable and the Drainage Engineer has confirmed that as the site is all hard surfaced then the drainage strategy can be dealt with by condition.

The purpose of this supplementary report is to:

1. To update Members on the changes to the palette of materials which has increased construction costs and generated a request from the applicant for some flexibility regarding payment of S106 contributions.
2. To review the S106 contributions requested in relation to Greenspace and sustainable transport in light of the change in guidance from central government.

Recommendation

Approve: subject to the conclusion of a S106 or Unilateral Undertaking to meet the waste, possibly sustainable transport and site specific highway works and to the following conditions.

1. Large scale details of key features.
2. Samples or specification of all external materials.
3. Schedule of works in relation to stone boundary walls within the site and along Museum Road.

4. No further demolition of stone boundary walls beyond that identified in the schedule of works.
5. Detail of modifications to planter fronting Museum Road including sample of stone to be used.
6. Implementation of landscaping scheme.
7. Closure of existing access and appropriate treatment.
8. Provision of nesting boxes and implementation of demolition in line with advice in submitted ecological report.
9. Contaminated Land Survey and Remediation Strategy.

Any S106 agreement or Unilateral Undertaking to be completed within 3 months of the date of this committee.

Statutory Determination Period

This application should have been determined by the 4th June. It is now out of time but an extension of time has been agreed.

Site Details

The site comprises a furniture storage/removals depot located to the rear of Torquay Museum and the Living Waters Church both of which are Grade II listed. It is also within the Torquay Harbour Conservation Area. The site is currently occupied by a large pitched roof single storey storage shed with a 2 storey wing of a similar height. It is of no intrinsic architectural or historic merit and is set in a hard surfaced yard.

The site is served by a vehicular access onto Braddons Hill Road East.

Detailed Proposals

This application is a detailed one for the redevelopment of the site to provide 9, two storey 3 bed dwellings arranged in detached and semi detached forms around a shared courtyard area with parking for 9 cars and with hard and soft landscaping. The existing access from Braddons Hill Road East is to be closed off and a revised access created onto Museum Road by partial demolition and remodelling of the stone boundary wall.

Summary Of Consultation Responses

Highways: Do not object to the scheme in principle but consider that as the courtyard serves more than 5 dwellings then the route through the courtyard along with a turning head should be constructed to an adoptable standard. More detail in relation to its construction is therefore required.

They also require the provision of a cycle route to Babbacombe Road and the introduction of footway widening to the junction of Babbacombe Road and Museum Road to overcome visibility concerns. Both these are to be provided via a S278 Agreement .

Conservation Officer: Considers the scheme to be acceptable in terms of its relationship to the listed buildings and to the character and appearance of the Conservation area.

Arboriculturalist: Has requested amendments to the landscape scheme to include larger and more appropriate specimens to achieve greater visual impact particularly in relation to strategic views into the site.

Drainage Engineer: Requires more information regarding the potential for sustainable means of surface water disposal.

Summary Of Representations

There have been 6 letters of objection based on the creation of the new access impact of traffic on Museum Road which is considered to be too narrow and congested to cope with the additional traffic; concerns also include the level of car parking provided on site and the partial loss of the stone wall.

One letter offers support providing the closure of the existing access is achieved and there is no increase in height of the replacement buildings.

These have been reproduced and sent electronically for Members consideration.

Relevant Planning History

P/1991/1066: Construction of 16 flats: Approved 19.09.91

P/1987/1810: Construction of 16 flats: Approved 3.12.87.

Key Issues/Material Considerations

There are 2 key issues to consider.

1. A review of materials Members requested and the impact on construction costs.
2. A review of the requests for sustainable transport and greenspace contributions in light of the changes to government guidance in relation to schemes of less than 10 units.

Each of these will be addressed in turn.

1. Review of Materials.

The scheme considered by Members on the 8th June included natural slate roofs, rendered walls, UPVC windows and mineral fibre board cladding. These buildings will be viewed from key vantage points between listed buildings (the Museum and Living Waters Church) and it was felt that there was scope for improvement in the quality of materials to be used.

In response, the applicant has agreed to use aluminium windows, which provide a far finer and more elegant profile and has deleted the mineral board cladding to

be replaced with a rough cast render panel to add some texture to the appearance of the elevations.

The use of aluminium windows had been suggested to the applicant early in the negotiations on the basis that it would enhance the simple lines of the proposed dwellings. It has now been agreed but it does add significantly to the construction costs. A simple appraisal has been submitted which indicates an increase in costs of around 40% for the windows.

This does impact on the viability of the scheme and the applicant has requested that consideration be given to reducing the level of developer contribution. A viability assessment has been submitted which indicates a developer profit of around 8%.

2. *Review of sustainable transport and greenspace contributions in schemes of 10 units or less*

Revised guidance from DCLG is that 'tariff style' contributions should not be sought from 'small scale' developments of 10 units or less which have a maximum combined gross floor space of less than 1000m².

It is also necessary for the request to meet the following tests as defined in the Community Infrastructure Levy 2010 and the NPPF. These are that they are necessary to make the development acceptable in planning terms; they are directly related to the development and are fairly and reasonably related in scale and kind to the development.

Appeal decisions increasingly support the DCLG position which requires some rigour about the requests for contributions and certainty that they meet the relevant tests. Failure to do this could result in costs against the Council if we are unable to defend our position at appeal.

The works requested by Highways to improve visibility (kerb build outs, cost estimate £7,500) are necessary to make the development acceptable in planning terms. The waste contributions (£450) are directly related to the development, and therefore can also be considered necessary .

The contributions towards a cycle route, (£10,000) and towards 'works' in Torwood Gardens are more difficult to justify but for slightly different reasons.

The sustainable transport request for a contribution towards the provision of a cycle lane would fall to be considered as a tariff style contribution unless it is for an identified and relevant part of the network which is close to delivery. If it is towards a larger infrastructure project and reliant on pooled contributions then it would be difficult to justify under current guidelines. However, clarity is being sought from Highways in relation to this request.

A Greenspace contribution was justified in the original report in that the scheme was slightly below the standards in the emerging local plan for the provision of amenity space. As the scheme involves (small) family homes, given the proximity to Torwood Gardens and the extra impact the development would have it could be argued that such a contribution is both reasonable and necessary.

However, in order to avoid the contribution being defined as 'pooled' a specific project needs to be identified for the money to be spent on. The reinstatement of the Compass feature in the gardens was identified as a possible scheme. However, this is not now going ahead and in the absence of an implementable scheme which is relevant and related to the development in question such a contribution would be contrary to current guidance.

3. *The demolition of the building and disposal of asbestos.*

The viability assessment includes detail regarding demolition costs and it is apparent that the buildings include asbestos. Whilst this will be dealt with under license from the EA, it indicates that the site has some contamination issues and a Contaminated Land Survey and Remediation strategy should be required by condition.

Conclusions

The scheme is considered to be acceptable from a design perspective and revised plans have been received which are satisfactory and reflect the improvements in materials that Members requested. This has affected the viability of the scheme as construction costs have increased. As a consequence, the applicant has asked that the S106 contributions be reduced and has submitted a basic viability assessment to illustrate his reduced profit margin.

Coupled with this is the rise in appeal decisions which are clarifying that contributions on smaller schemes should only be sought in clearly defined circumstances which comply with recent DCLG guidance.

In respect of community infrastructure contributions, clarity is being sought from Highways about the status of their request for funding for a cycle lane. It is likely that this request will be contrary to DCLG guidelines but an update will be provided at the meeting. Greenspace contributions may have been regarded as 'reasonable' or 'necessary' due to the slight shortfall in amenity space and the close proximity of Torwood Gardens. However in the absence of a clearly defined project for the funding to be spent on it cannot now be justified against DCLG guidance.

Recommendation

Approve: subject to the conclusion of a S106 or Unilateral Undertaking to meet the waste and site specific highway works and to the following conditions.

1. Large scale details of key features.

2. Samples or specification of all external materials.
3. Schedule of works in relation to stone boundary walls within the site and along Museum Road.
4. No further demolition of stone boundary walls beyond that identified in the schedule of works.
5. Detail of modifications to planter fronting Museum Road including sample of stone to be used.
6. Implementation of landscaping scheme.
7. Closure of existing access and appropriate treatment.
8. Provision of nesting boxes and implementation of demolition in line with advice in submitted ecological report.
9. Contaminated Land Survey and Remediation Strategy.

Any S106 agreement or Unilateral Undertaking to be completed within 3 months of the date of this committee to secure the following contributions:

- | | |
|-------------------------------|---|
| 1. Waste Management | £ 450 |
| 2. Highways (kerb build outs) | £ 7,500 |
| 3. Highways (cycle route) | £10,000 (subject to further info from Highways) |

APPENDIX 1 – Original Committee Report

Description

Demolition of existing warehouse, and construction of 9 two storey dwellings with 9 car parking spaces. Partial demolition of stone boundary wall fronting Museum Road to create vehicular and pedestrian access.

Executive Summary/Key Outcomes

The site, currently used as a furniture storage/removals depot is located to the rear of Torquay Museum and the Living Waters Church which are both Grade II listed. It is within the Torquay Harbour Conservation Area. The existing buildings on the site are large, poor quality sheds set in a hard surfaced yard. The site is set at a lower level than adjacent building groups and is largely screened from public view. Vehicular access is via a service lane from Braddons Hill Road East.

The proposal involves redevelopment to provide 9 x 3 bed dwellings with 9 car parking spaces arranged around a well designed and landscaped courtyard. Revised plans are awaited to confirm design amendments that the applicant is agreeable to. A good quality design to the buildings and the courtyard has been secured.

Neighbour objection relates to the creation of a new access onto Museum Road and the level of parking provided on site.

The new access requires the partial demolition of a distinctive and attractive boundary wall fronting Museum Road. There is no highway objection to this and from a heritage asset perspective, this wall is currently in a poor state of repair and an associated planting bed is overgrown. A schedule of repairs will ensure that the wall is sensitively restored and a detailed landscape scheme will provide an enhancement to the public realm. It also provides an entrance with a more 'residential character' than currently serves the site.

In terms of parking, the scheme is compliant with current Local Plan policy (H10 and T25) as it is well located for local services and public transport.

It is therefore considered that the scheme should be granted conditional approval subject to securing contributions towards site specific highway matters (footway widening and cycle route), waste and possibly greenspace. An update on this will be provided at the meeting.

Recommendation

On receipt of revised plans, a drainage statement and subject to the conclusion of a S106 or Unilateral Undertaking to meet the waste, sustainable transport and possibly greenspace contribution then it is recommended that planning permission should be granted for the development subject to the following conditions.

- 1. Large scale details of key features.*
- 2. Samples or specification of all external materials.*
- 3. Schedule of works in relation to stone boundary walls within the site and along Museum Road.*
- 4. No further demolition of stone boundary walls beyond that identified in the schedule of works.*
- 5. Detail of modifications to planter fronting Museum Road including sample of stone to be used.*
- 6. Implementation of landscaping scheme.*
- 7. Closure of existing access and appropriate treatment.*
- 8. Provision of nesting boxes and implementation of demolition in line with advice in submitted ecological report.*

Any S106 agreement or Unilateral Undertaking to be completed within 3 months of the date of this committee.

Statutory Determination Period

The application should be determined by the 4th June. It will not be approved 'in time' due to the timing of the Committee schedule.

Site Details

The site comprises a furniture storage/removals depot located to the rear of Torquay Museum and the Living Waters Church both of which are Grade II listed.

It is also within the Torquay Harbour Conservation Area. The site is currently occupied by a large pitched roof single storey storage shed with a 2 storey wing of a similar height. It is of no intrinsic architectural or historic merit and is set in a hard surfaced yard.

The site is served by a vehicular access onto Braddons Hill Road East.

To the north is a three storey Victorian terrace which backs onto and is set at a higher level than the application site. To the west is a terrace of more modern brick built 2 storey dwellings. To the south of the site are larger Victorian villas set in spacious grounds and, some yards distant, is the rear of the Terrace Car Park. The area is generally a mix of commercial and residential uses.

The site is currently tucked from public view; it is set at a lower level than surrounding buildings and along Museum Road the site is bounded by a distinctive random natural stone boundary wall of approximately 2-3 m in height. This is a prominent feature in the streetscape particularly given its relationship to the side elevation of the listed Museum and Pengelly Hall.

The site is bound internally on three sides by natural stone walls of varying heights and historic interest.

Detailed Proposals

This application is a detailed one for the redevelopment of the site to provide 9, two storey 3 bed dwellings arranged in detached and semi detached forms around a shared courtyard area with parking for 9 cars and with hard and soft landscaping. The existing access from Braddons Hill Road East is to be closed off and a revised access created onto Museum Road by partial demolition and remodelling of the stone boundary wall.

Summary Of Consultation Responses

Highways: Do not object to the scheme in principle but consider that as the courtyard serves more than 5 dwellings then the route through the courtyard along with a turning head should be constructed to an adoptable standard. More detail in relation to its construction is therefore required. They also require the provision of a cycle route to Babbacombe Road and the introduction of footway widening to the junction of Babbacombe Road and Museum Road to overcome visibility concerns. Both these are to be provided via a S278 notice.

Conservation Officer: Considers the scheme to be acceptable in terms of its relationship to the listed buildings and to the character and appearance of the Conservation area.

Arboriculturalist: Has requested amendments to the landscape scheme to include larger and more appropriate specimens to achieve greater visual impact particularly in relation to strategic views into the site.

Drainage Engineer: Requires more information regarding the potential for sustainable means of surface water disposal.

Summary Of Representations

There have been 6 letters of objection based on the creation of the new access impact of traffic on Museum Road which is considered to be too narrow and congested to cope with the additional traffic; concerns also include the level of car parking provided on site and the partial loss of the stone wall.

One letter offers support providing the closure of the existing access is achieved and there is no increase in height of the replacement buildings.

Relevant Planning History

P/1991/1066: Construction of 16 flats: Approved 19.09.91

P/1987/1810: Construction of 16 flats: Approved 3.12.87.

Principle and Planning Policy -

The relevant policies to consider in relation to this scheme are E6 which seeks to retain employment uses unless the site is of limited significance from an employment perspective or its continued use would be harmful to amenity. Also significant are policies H9 and H10 in the Adopted Local Plan which require housing schemes to demonstrate a high standard of design and to respond to key characteristics in the local environment whilst making efficient use of urban land by building at high densities in central locations close to services and public transport.

It is also necessary to consider policies BES, BE1 BE5 and BE6 which require good quality design detail and sensitivity to context in terms of the relationship to listed buildings and other heritage assets.

The Emerging Local Plan carries similar policies but include specific standards in relation to dwelling and garden size (DE1-DE3)

In respect of highway access, congestion and car parking levels, policies T25 and T26 are relevant. Requirements for sustainable drainage are included in the NPPF and the Emerging Local Plan (ER1-ER2).

Policy NC5 requires the consideration of possible ecological impacts on bats and birds arising from demolition of the buildings on site. An Ecological Study has identified no impact on wildlife subject to care being taken during demolition in line with the advice in the report and the installation of nesting boxes.

Key Issues/Material Considerations

The key issues are:

- 1. The principle of the new use and the design quality of the scheme and its*

- impact on the adjacent listed buildings and the wider Conservation Area.*
2. *The suitability of the proposed new access to the site and adequacy of car parking levels.*
 3. *Whether it is necessary to adopt the access road.*
 4. *Drainage proposals to reduce surface water discharge.*

Each of these will be addressed in turn.

1. *The principle of the new use and the design quality of the scheme and its impact on the adjacent listed buildings and the wider Conservation Area.*

The site is currently used for the storage of furniture and as a base for a removals business. The buildings on the site are poor quality and in a sensitive location. It is poorly serviced and it is located close to existing dwellings. It is unlikely that the current storage use would generate sufficient investment to achieve the necessary refurbishment of the site. Therefore the loss of employment land is acceptable as it is of limited significance due to the overall quality of the site, it is a potential 'bad neighbour' and there is a need to generate some investment in the site in view of its relationship to key listed buildings.

In terms of design quality, it is necessary to consider the impact of the scheme on its surroundings as well as the internal quality of this courtyard development.

The majority of the site is well screened from public view being set within surrounding building groups. There is however sensitivity along Museum Road as the dwellings will be visible above the retained boundary wall and views into the site will be created as a consequence of the new vehicular access. There are also important views of the site from Babbacombe Road framed by the listed Museum and Living Waters Church.

Revised plans are awaited which demonstrate that the scheme will be simple but well detailed with the use of natural slate and metal rainwater goods. The use of earth coloured render and complementary weatherboarding will result in a scheme that will sit comfortably with neighbouring buildings. The courtyard will be resurfaced with sets, includes new areas of tree planting and includes good quality boundary treatments to create a shared central courtyard/parking area that is to a high standard of design in terms of quality and finish.

As originally submitted, the Museum Road wall was extensively reduced in height but this has since been amended to retain its full height and keep the scale of demolition to the minimum necessary to provide safe vehicular access.

The streetscape along Museum Road is particularly attractive, taking in views of the side elevation of the Museum and Pengelly Hall. In this context, the alteration of the existing stone boundary wall is a key issue. Whilst the applicant was initially advised to retain the wall in its entirety and to retain the access to

Braddons Hill Road East, this is more of a service access and did not provide the character of approach required.

In view of the previous approval for partial demolition of this wall and the lack of highway objection, the applicant was advised that if the wall was repaired (in accordance with a schedule of works), the planting bed along the frontage properly landscaped (it is currently overgrown) and the scale of demolition confined to that essential to providing safe access and egress from the site then consideration could be given to allowing the wall to be breached. This has some amenity benefit for future residents in that it does open up the site in terms of light and views.

The limited exposure of the site to public view coupled with the quality of the scheme in terms of both buildings and the courtyard space results in a scheme that is acceptable from a design perspective.

2. *The suitability of the proposed access to the site and adequacy of car parking levels.*

There have been 2 previous approvals for redeveloping this site. Both included the provision of 16 flats. The original approval involved a one way system with access from Museum Road and egress from Braddons Hill Road East. The most recent retained use of the existing access.

As explained, the alteration to the boundary wall to provide a vehicular access from Museum Road is thought to be acceptable from a conservation perspective. Highways have not raised an objection requiring only the provision of footway widening at the junction of Museum Road and Babbacombe Road to improve visibility. There are therefore very limited grounds to resist the approach favoured by the applicant.

It is therefore acceptable from a conservation and highways perspective and it provides an entrance with a more residential character than would be the case if the existing service access were used. The applicant has been asked to provide clarity about the future treatment of the closed off access to ensure that it does not become a neglected space.

In terms of parking levels, 9 spaces are provided on site. This is in accordance with policies H10 and T25 of the Adopted Local Plan which encourages reduced levels of car parking on centrally located sites which are close to public transport links. It is also within a short walk of the Terrace Car Park which provides ample public car parking.

3. *Whether it is necessary to adopt the access road.*

Highways have commented that as the access road serves more than 5

dwellings, it should, in order to comply with the Councils' Highway Design Guide, be constructed to an adoptable standard and it, along with the turning head, become public highway. This would require it to be constructed of tarmac, possibly to a wider dimension which would detract from the visual quality of the courtyard space.

This guidance however is not designed to protect highway safety but to avoid problems of lack of maintenance and to 'manage' inconsiderate parking. However, the site is, due to its design, essentially a private courtyard quite separate from the public realm and wider highway network and the applicant is quite clear that the site will be privately maintained by a Management Company. This, coupled with the design concerns indicates that there is no overriding imperative to adopt this route and it would be preferable for its maintenance and management to remain under private control.

4. Drainage

The Councils Drainage Engineer has indicated that the site should not discharge surface water to the combined sewer as suggested on the application form. However, the scheme will involve a reduction in the amount of building coverage and a replacement of the existing tarmac surface with more porous setts. This coupled with landscaped areas, tree planting and grassed areas will result in more surface water being absorbed on site and a net reduction in surface water being discharged to the combined sewer. However, this needs to be evaluated and a drainage statement is needed to confirm this before permission is issued.

S106/CIL -

As a scheme for 9 units 'pooled contributions' such as identified in the Adopted SPD 'Planning Contributions and Affordable Housing' cannot be requested in line with recent changes to government guidance.

Any requests for S106 contributions have to be shown to relate specifically to the impact of the development on the immediate area. Highways have specific site related requirements which include provision of footway widening to improve visibility and cycle route which is priced at around £18,000. Waste facilities should also be funded via developer contributions (£450). The scheme relates to family sized dwellings with minimal garden areas. This is likely to lead to greater use of the adjacent Torwood Gardens and it would be appropriate for this scheme to contribute towards any imminent project in relation to this site. Advice is awaited from Natural Services in relation to this and a verbal update will be given at the meeting.

Conclusions

The scheme is considered to be acceptable from a design perspective; the new access does not raise any sustainable concern either from a highway safety or streetscape point of view. Parking levels are considered to be in line with

established policies given its central location and proximity to services and public transport.

Revised plans are awaited which confirm the use of natural slate and metal rainwater goods, confirm retention of the full height of the wall along Museum Road, includes an amended landscape plan, confirms the use of rendered garden walls in place of timber fences and the use of good quality setts for the Courtyard.

A drainage strategy to confirm that the site reduces discharge to the combined sewer is also awaited.

Recommendation

On receipt of these and subject to the conclusion of a S106 or Unilateral Undertaking to meet the waste, sustainable transport and possibly greenspace contribution then it is recommended that planning permission should be granted for the development subject to the following conditions.

- 1. Large scale details of key features.*
- 2. Samples or specification of all external materials.*
- 3. Schedule of works in relation to stone boundary walls within the site and along Museum Road.*
- 4. No further demolition of stone boundary walls beyond that identified in the schedule of works.*
- 5. Detail of modifications to planter fronting Museum Road including sample of stone to be used.*
- 6. Implementation of landscaping scheme.*
- 7. Closure of existing access and appropriate treatment.*
- 8. Provision of nesting boxes and implementation of demolition in line with advice in submitted ecological report.*

Relevant Policies

-

Agenda Item 10

Application Number

P/2015/0459

Site Address

Land Rear Of 200 - 208 Teignmouth Road
Torquay
Devon
TQ1 4RX

Case Officer

Mr Scott Jones

Ward

St Marychurch

Description

Formation of 2 flats

Executive summary

The site is a small rectangular plot of undeveloped scrub land and an adjacent garage, which in terms of size is approximately 20m deep by 13m wide.

The proposal is to provide a detached two-storey modern building that will supply two flats with two parking spaces.

The scale and design of the building is considered to provide an acceptable addition within the locality, one which will fit comfortably as a stand-alone structure in a domestic setting, with limited visual impact.

In regard to local amenity the internal layout and window detail limits any overlooking. The impact upon neighbours outlook, due to the height and bulk of the building, is considered "borderline" however officers feel that the relationship can be improved to provide an acceptable relationship by; (i) moving the building west, away from the edge of the plot with the rear of an adjacent residential terrace, and (ii) exploring a visually "soft" boundary treatment on the eastern boundary that that will help screen the building from below. This will also reduce the ability to overlook the gardens of properties from the footway access along this border.

As the plot is restricted a detailed landscape plan should be submitted in order to seek to provide a limited but beneficial outdoor space for residents.

A sustainable drainage solution should be duly considered and in this instance it is deemed acceptable to seek this detail by planning condition.

The proposal is considered by officers to result in the efficient use of undeveloped urban land that presently holds little value. It will help meet housing needs whilst locally resulting in little impact upon the built environment, transport and the amenity afforded to neighbouring occupiers.

Recommendation

Approval; Subject to (i) the receipt of revised plans to the satisfaction of officers (which suitably addresses concerns in regard to amenity), (ii) the receipt of an extended phase one habitat survey that concludes that protected species would not be unduly affected, (iii) Planning obligations as considered necessary in-line with local and national guidance, and (iv) conditions as detailed at the end of this report.

Site Details

Parcel of land that sits off a short private road and to the rear of a terrace of residential properties, 200-208 Teignmouth Road. The site is close to the junction of Teignmouth Road with Westhill Avenue and opposite St Cuthbert Mayne School.

The plot is a small rectangular site of largely undeveloped scrubland approximately 20m deep by 13m wide. It is supplemented by a garage structure that lies adjacent to the rear of number 200 Teignmouth Road.

To the north and west the plot abuts the edge of exposed rock-faces, which rise up to land and residential properties off Lincoln Green / Truro Avenue. To the south the plot fronts a short private lane and a public footpath that runs east-west and connects to Truro Avenue. To the east the plot looks down and over the rear of numbers 200-208 Teignmouth Road which are on a lower level. The backs of these properties are served by a sweeping vehicular access that comes in from the north and parking and gardens are present.

Detailed Proposals

Provision of two flats with associated parking.

The proposed building is two-storey in terms of scale, and modern in its style and finish. The external form is principally two interconnected two-storey pods connected by a lower central mono-pitched roof.

The southern element of the building is two-storey and flat-roofed with the elevations finished in vertical cladding. The northern element is mono-pitched with a standing seam roof with rendered elevations.

The fenestration is varied in order to provide light to rooms but limit overlooking.

The footprint of the building is varied due to its design but at its longest and widest points it will be 15.5m by 10m.

The building is set central fairly centrally within the plot, which provides circulation space to the east and west along its flanks. A degree of planting to the

south is shown between the building and the public footpath, and amenity space is shown to the north between the building and the rock face.

Bin storage areas and bike storage is shown.

Two car parking spaces are to be provided in the area of the plot where an existing garage sits. Vehicular access to the site would be from Teignmouth Road.

Summary Of Consultation Responses

Highways: No objection is raised to the proposal.

South West Water: Surface water drainage should not connect to the public sewer unless it has been demonstrated that a SUDS alternative is not available.

Drainage: The potential for a sustainable urban drainage system should be investigated prior to the grant of planning permission. Only if ground conditions are unsuitable should surface water be drained to the sewer system and SWW should confirm that that discharge is acceptable at a "Greenfield" rate.

Building control: Note on design advice in regard to waste storage and travel distances.

Summary Of Representations

5 letters of representation have been received objecting to the proposals. Concern has been raised on the following matters;

- Parking pressure and access
- Stability
- Contamination
- Impact upon amenity
- Visual impact
- Air pollution and traffic fumes

A copy of these representations have been sent electronically for Members consideration.

Relevant Planning History

None.

Key Issues/Material Considerations

With consideration of the proposal and the context the key issues and material considerations are;

1. Visual impact

2. Impact upon adjacent occupiers / amenity
3. Quality of the proposed residential environment
4. Highway / movement impact
5. Drainage / flood risk
6. Impact upon protected species
7. Other matters raised in consultations and/or representations

1. Visual impacts

The proposal is considered acceptable in regard to the likely visual impact.

The building is of a domestic scale and the proposed height and bulk will sit comfortably within the context of the residential buildings that surround it.

The mono-pitched form, where the building rises towards the rock face to the west, relates well with the land levels and the design of the roof form will help lessen the buildings impact when seen from longer views from the east, principally from Westhill Road.

The modern architectural form of the proposal is considered to be an acceptable design solution in the context. The adjacent architecture is mixed and ranges from the visually pleasant Victorian architecture to the east to the somewhat unremarkable architecture of the late 20th century to the west. Due to the street arrangement and the varied ground levels the building will sit as a lone structure, set close to but somewhat detached from the properties that surround it. In this circumstance a unique building form is considered acceptable.

With matters of scale and design considered the proposal would result in little visual harm to the character and appearance of the area and the scheme is considered to comply with Policies BES, BE1 and H9 of the Saved Local Plan.

2. Amenity impacts

The proposal is considered acceptable on amenity grounds subject to improvements being achieved in regard to the relationship with the residential properties to the east (200-208 Teignmouth Road).

The plot fronts a footpath to the south and there are rising rock faces to the north and west. As a result the key relationship to consider is to the east where the border of the plot is defined by a rendered wall atop a rock face and where there is a drop in levels to the rear of properties within the residential terrace 200-208 Teignmouth Road.

The drop in levels to the adjacent properties heightens the sensitivity of the building in terms of impacts upon outlook and privacy. Aside this the sensitivity is diminished somewhat by the immediate use of the rear as an access lane and the prevalence of parking spaces off it, which generally increase the distances to usable amenity space. In terms of building-to-building the distance is 16m from

the eastern building line to the somewhat uniform line of the rear wings of the properties within the terrace.

Firstly in terms of overlooking the internal layout and window detail will limit the visual links from the proposed building to the terrace. The present border treatment along the eastern border is relatively low and without supplement it would have potential to result in overlooking from the proposed access path to these properties and gardens. A condition on the border treatment is recommended which would ensure that the boundary is revised in order to limit this potential impact.

In regard to outlook and loss of light the likely impact is considered "borderline". The rise in levels will provide a prominent building but aside this, when viewed from the east, the building will be set in front of the western rockface and the tree line that sits upon it. It is officers view that the relationship could be improved to provide an acceptable relationship by (i) moving the building west away from the edge of the plot with the rear of an adjacent residential terrace, and (ii) exploring a visually "soft" boundary treatment on the eastern boundary that that will help screen the building from below. These matters have been raised with the agent and response is pending.

Subject to the receipt of revised siting of the building that increases its distance to the eastern edge of the plot and a detailed border treatment that will partially screen the building and access, the proposal will retain suitable levels of amenity locally.

The development is considered to comply with relevant criteria within Policy HS and H9 of the Saved Local Plan subject to the matters above.

3. Quality of the proposed residential environments

The proposal is considered to provide suitable units of living accommodation.

The units are considered to be a suitable scale and will provide a good level of internal habitable space. Each dwelling would comprise a living room, kitchen/dining room and two bedrooms.

The orientation and design of the building ensures that outlooks and key rooms are naturally lit by north and south facing windows. This ensures that key spaces are not facing the immediate rockface to the west and amenity is protected to the east towards the adjacent residential properties within the terrace.

There is a small degree of amenity space to the north of the plot which is considered acceptable in the context.

Bin and cycle storage has been considered and provided within the scheme.

Considering the scale and attributes the units are considered acceptable and the proposal is considered to comply with relevant criteria of Policy HS and H9 of the Saved Local Plan in terms of residential quality.

4. Highway and movement impacts

The proposal is considered acceptable on highway and movement grounds.

Each unit will be provided with a parking space as the existing garage is to be removed and two side-by-side spaces are to be created.

The level of parking is considered acceptable in the context of the scheme, considering the scale of the units and its location close to facilities at Hele Centre and also local bus routes.

The Highway Department does not object to the proposal.

With matters of highway and movement considered the proposal is deemed to be compliant with Policies H9, T25 and T26 of the Saved Local Plan.

5. Drainage / flood risk impacts

The proposal is considered acceptable on drainage and flood risk grounds subject to condition.

The proposal does not sit within an area with heightened flood risk however as Torbay is designated as a Critical Drainage Area the impact of surface water run-off should be duly considered.

The proposal identifies that surface water will be connected to the public sewer.

South West Water advice is that such a connection would only be permitted were SUDS explored and discounted. The Council's drainage department advice is similar, that SUDS should be explored and only if discounted should mains connection be permitted and if so at a rate equivalent to Greenfield discharge and subject to SWW acceptance.

Due to site coverage the availability of soakaways is questionable. It is however clear that this option should be explored in order to sit with local planning policy and comments from SWW.

It is, in the circumstance, considered acceptable to seek the drainage detail by planning condition, as SWW have indicated that connection would be acceptable subject to due consideration.

6. Impact upon protected species

The impact upon protected species has yet to be established in the absence of an ecological survey.

The application should not be determined until any likely impact / mitigation has been considered and found to be acceptable.

An extended phase one habitat survey has been requested and is pending. Should members be minded to approve the application it is recommended that the resolution should be subject to the receipt and conclusions of such a survey indicating that the scheme would not unduly impact protected species and having consideration for appropriate mitigation as deemed necessary.

7. Other matters

land stability -

The matter of land stability has been raised within the public representations.

Advice within the national PPG (Planning Policy Guidance) offers that the planning system has a role in considering land stability by minimising the risk and effects of land stability, helping ensure development should not be placed in unsuitable locations, and in order to bring unstable land, where possible back into productive use.

As the matter of stability has been raised this has been forwarded to the Council's Engineers Department for comment. Observations are awaited and will be covered by officers on the day of the committee.

Contamination -

The matter of potential contamination has been raised within the public representations.

As the matter of contamination has been raised this has been forwarded to the Council's Community Safety Team for comment. Observations are awaited and comment will be provided to members at the committee.

S106/CIL -

The application has been assessed against the Council's adopted Planning Contributions and Affordable Housing Supplementary Planning Document and subsequent updates ('the SPD').

In this instance the net provision of two residential units requires contributions as necessary. A calculation of the contribution is provided below;

Planning Contributions Summary

Waste and recycling facilities: £100 (£95 if paid prior to grant of permission)

Conclusions

Having considered the aims and objectives of relevant planning policy guidance and other material considerations the proposal is considered acceptable on

planning merit subject to the following;

- (i) Revised siting of the building away from the eastern border that lessens the impact of the development upon the occupants of 200-208 Teignmouth road,
- (ii) The submission and conclusions of an extended phase 1 habitat survey which outline no undue Impact upon protected species, and
- (iii) Achieving appropriate planning obligations as considered necessary by officers and in-line with local and national policy guidance.

The application is recommended for approval subject to the above and conditions as outlined and the end of this report.

Condition(s)/Reason(s)

- 01. Submission of soakaway design or similar form of sustainable urban drainage system
- 02. Materials to be submitted to and agreed
- 03. Provision of parking, cycle and bins storage prior to the first occupation and their retention thereafter
- 04. Submission of a detailed border treatment for the eastern boundary designed to retain amenity whilst limiting its visual impact.
- 05. submission of a detailed landscape scheme and maintenance detail
- 06. The receipt of detail confirming the right of access over the private lane for vehicles or the reasonable probability of the right of access.

Relevant Policies

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Agenda Item 11

Application Number

P/2015/0589

Site Address

Adjacent Inner Harbour
The Strand
Torquay

Case Officer

Mrs Ruth Robinson

Ward

Tormohun

Description

Coffee sales kiosk.

Executive Summary/Key Outcomes

This application is for a purpose designed kiosk for the sale of coffee and snacks to be located on The Strand within the Torquay Harbour Conservation Area. It is proposed to site it on the linear strip of public amenity space that immediately borders the length of the listed quayside.

This is identified in the Torquay Town Centre Master Plan (adopted June 2015) as 'arguably one of the most important public spaces in Torquay' although it is recognized as one in need of improvement. Proposals to achieve this are included in this document.

As a temporary measure, a portacabin has been erected on the application site for the sale of refreshments. This was put in place in advance of an application being made and has generated a number of complaints.

This structure is of a poor utilitarian design and is unacceptable in terms of location, design and its impact on the character of the Conservation Area and on views of the harbour.

The proposed kiosk is 2 metres wider and a metre higher than the existing portacabin. This is a sizeable structure and is considered unduly dominant and of a design that does not obviously fit with the character of the harbour.

The location is also of concern in terms of the impact on key public views of the harbour and on the quality of this important public space. It could also impede implementation of the improvements included in the adopted Master Plan.

Whilst it is recommended that this application is refused, it is suggested that an alternative scheme be invited prior to any action being taken to secure the removal of the portacabin and that a three month period be allowed to seek some resolution of the matter.

Recommendation

Refuse for the following reason:

The proposed kiosk, due to a combination of location, size and height, is unduly dominant and does not relate well to the character of the harbour in terms of its overall design. It adversely impacts on the quality of the public space of which it forms a part and on public views of the harbour and as such is harmful to the character and appearance of the Conservation Area and adjacent listed structures. Its location would also frustrate implementation of adopted proposals for improvement of the public realm along The Strand. It is thus contrary to policies TU1, BES, BE1, BE5 and BE6 of the saved Adopted Local Plan 1995-2011, to the Adopted Torquay Harbour Master Plan and to the relevant provisions of the NPPF.

It is also recommended that any action to secure the removal of the existing portacabin be held in abeyance for a 3 month period to allow the applicant to come forward with a more suitable alternative scheme in terms of location and design that relates better to the character of the Conservation Area.

Statutory Determination Period

The application should be determined within 8 weeks expiring on the 21st August.

Site Details

The small rectangular application site is located on the listed Harbourside in a linear strip of amenity space which is identified as a key public space in the adopted Torquay Master Plan. This is an important pedestrian route and an opportunity to enjoy views across the harbour and out to sea. It largely comprises public seating and planting beds with footpaths to either side. It is positioned close to the bus stops and bus shelters which occupy a substantial part of The Strand.

It is currently occupied by an 'off the shelf' portacabin which is being used for the sale of coffee and snacks. This was put in place prior to a planning application being submitted. It is proposed to replace this unauthorised structure with a purpose designed permanent structure.

Detailed Proposals

The application is for the construction of a 'purpose built' kiosk with a floor space of about 12m² for the sale of coffee and snacks. It is to be constructed of 'timber effect' panelling and uprights which support a pitched 'slate coloured' roof with ridge detail which attains a height of 4.2M. It sits on the limestone plinth left from the partially dismantled seating and planting bed. It is to be shuttered when closed. The hours of opening are 8.00-23.00 hours.

Summary Of Consultation Responses

Historic England: Do not wish to comment and prefer the assessment to be based on local policies.

Conservation Officer: Considers it would be harmful to the character of the conservation area and particularly to the listed harbour.

Environmental Health Officer: Would like to see hours of operation restricted to 23.00 to avoid impact on residential amenity.

Environment Agency: Has no objection subject to the flood resilience measures outlined in the submitted flood risk assessment being implemented.

Drainage Engineer: Has no objection subject to compliance with flood resilience measures.

South West Water: Has no objection.

Summary Of Representations

11 letters of objection have been received. Concerns relate to the impact on views of the Harbour, erosion of public open space and adverse impact on the character of the Harbour, impact on pedestrian safety, impact on existing businesses, question need given quantity of vacant premises in this part of town, litter, loss of public seating and the fact of it being in situ in advance of planning permission being granted.

Relevant Planning History

The existing structure on site was erected without planning permission.

Key Issues/Material Considerations

Principle and Planning Policy -

The Torquay Harbour Conservation Area is the most architecturally significant and diverse of all of the Conservation Areas. The Harbour has listed quay walls and is often described as the 'jewel in the crown' making it one of the most valuable elements within this rich and varied townscape. The need to protect the character of the harbour, key views of it and its contribution to the quality of the townscape is a key policy requirement.

Policy TU1 of the Adopted Local Plan 'Harbourside and Waterfront Regeneration' explains that as major focal points for tourism, shopping and leisure, development must safeguard the charm and heritage value of the site. Policies BES, BE1, BE5 and BE6 are relevant in ensuring that schemes are designed to the highest quality and that development is sensitive to its context in terms of its position in the Conservation Area and in relation to nearby listed buildings.

In the emerging Local Plan the harbour is identified as a Core Tourism Investment Area and proposals to upgrade its environment, particularly the quality of the public realm are included in the Torquay Town Centre Master Plan, adopted June 2015, which is now for planning purposes a supplementary

planning document (SPD) and so of material weight.

The proposed kiosk is positioned within a linear strip of amenity space which is largely dedicated to public seating and low level planting and bordered by public footpaths. This is described as one of Torquay's most important spaces in the Torquay Town Centre Master Plan where important views of the harbour can be enjoyed.

It is necessary to consider whether its location is appropriate in terms of its prominence in the street scene and impact on views, whether the loss of the open area and impact on the public realm is acceptable, whether the design is of a sufficiently high standard and how it relates to the proposals to improve this space included in the Torquay Town Centre Master Plan.

Other issues raised in public consultation relate to the impact on other businesses, levels of vacancy and the unauthorised nature of the current kiosk.
[c1]

Is this an acceptable form of development in this location?

To reach a judgement about this it is necessary to consider the use, its location and the quality of the design. In terms of use, the provision of a small kiosk selling drinks and snacks is an acceptable addition to the harbour activity. From a commercial point of view, the location adjacent to the bus shelters with its steady flow of customers makes sense.

The location, in a key public space, is however poor in terms of townscape, the quality of the public realm and ease of pedestrian movement. The proposed kiosk is substantially bigger than the existing structure. It will be 2 meters wider, a meter taller and about 400mm deeper.

Whilst the design of the new kiosk could be described as an improvement on the portacabin, it is a bigger structure and is unduly dominant, on views and on the quality of the public space.

It is superimposed on the public realm rather than integrated within it. It will impinge on the public footpaths to either side of the structure, will be intrusive and dominating in public views of the harbour and when viewed in association with the adjacent bus stops/ shelters this prominent harbour edge would look increasingly 'cluttered'. This would further affect the visual quality of this key public space.

The need to substantially upgrade the quality of The Strand is recognised and proposals to achieve this included in the recently adopted Master Plan. A permanent structure in this location would prevent these proposals from coming forward.

It also identifies that Victoria Parade would be the best location for the incorporation of 'contemporary food pods' There are concrete bases already in situ from former kiosks which could probably be better utilized for a similar use to that included in this application.

The Highway Authority also has drawn up proposals for improvement to the public realm along The Strand which may be included in future LTP funding applications. These are all compatible with the proposals included in the Master Plan but would not accommodate a structure of the size and position proposed.

There is the opportunity in determining the application to balance any harm to the conservation area against the public benefit. It will provide 1-2 full time jobs and offer convenient refreshments to passersby. It is not considered that currently this offers sufficient mitigation.

Is there a need for this development given the levels of vacancy in the immediate area?

There is no shortage of outlets selling coffee and snacks around the harbour and the lower part of the town. There are also a number of vacant units. Objections have been received from nearby businesses concerned at the increasing competition and the 'unfair' advantage that this scheme would enjoy in terms of lower operating costs. It is not a function of the planning system to intervene in competition; this is properly a matter for the market.

The purpose of the Torquay Town Centre Master Plan is however to ensure that development around the harbour is appropriate in terms of scale, form and the contribution it makes to the overall vitality of the area. In the long term, and without this framework for growth, the spread of 'low cost' commercial set ups such as this could lead to a disincentive to invest in the existing buildings around the harbour and the lower part of the town. This should be resisted in the interests of ensuring that the existing building stock is viable, fully used and maintained.

Can the amenity impacts of the scheme be properly controlled?

The obvious impacts on the local environment can be controlled through conditions to ensure that litter and waste is properly managed and that hours of operation are confined to those regarded as necessary by the EHO.

S106/CIL -

N/A

Conclusions

Both the existing and the proposed kiosks are unacceptable in terms of location, size and design. It would thus be contrary to various policies in the Adopted and

Emerging Local Plan relating to the quality of design of both space and buildings and would be harmful to the character of the Conservation Area.

The Torquay Town Centre Master Plan, which is recently adopted and is of material weight in determining applications includes public realm improvements for The Strand which this proposal would frustrate. It also indicates that uses such as this would be better absorbed along Victoria Parade.

It is recommended that the application be refused, but that further discussions take place to identify a more appropriate location and form of development and that providing a resolution is identified within the next 3 months, no action be taken to secure the removal of the existing portacabin from the site.

Relevant Policies

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