



Friday, 30 October 2015

DEVELOPMENT MANAGEMENT COMMITTEE

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

Monday, 9 November 2015

commencing at **2.00 pm**

The meeting will be held in the Grace Murrell Suite, Riviera International Conference Centre, Chestnut Drive, Torquay

Members of the Committee

Councillor Kingscote (Chairman)

Councillor Barnby	Councillor Robson
Councillor Darling (S)	Councillor Stringer
Councillor Manning	Councillor Winfield
Councillor Morey	Councillor Tolchard

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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 - 7)
To confirm as a correct record the Minutes of the meeting of this Committee held on 12 October 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. **Hill House Nursing Home, Park Avenue, Brixham** (Pages 8 - 16)
(P/2015/0038/PA)
Proposed outbuildings to house Biomass Boiler and Fuel Store (Revised Plans Received).

7. **Landscope Holiday Village, Gillard Road, Brixham (P/2015/0791/MVC)** (Pages 17 - 28)
Removal of Condition 01 of P/2009/0452/PA (Use of land for the stationing of additional 101 static holiday caravans for occupation between 16th February and 14th January in any year, installation of public footpath and ancillary operations)-Condition 01- No caravan or chalet on the site shall be occupied between 15th January and 15th February in any one year.
8. **The Cottage, Windmill Lane, Paignton (P/2015/0755/PA)** (Pages 29 - 35)
Provision of 2 x new 3 bedroom dwellings with garages and associated works.
9. **Gleneagles Hotel, Asheldon Road, Torquay (P/2015/0836/MPA)** (Pages 36 - 57)
Demolition and Redevelopment to form 32 retirement apartments for the elderly including communal facilities, access, car parking and landscaping (revision of P/2014/1062) (revised).
10. **Spatial Planning Performance Report October 2015** (Pages 58 - 63)
To note the Spatial Planning Report for quarters 1 and 2.
11. **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, 4 November 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

12 October 2015

-: Present :-

Councillor Kingscote (Chairman)

Councillors Barnby, Cunningham, Darling (S), Manning, Morey, Robson and Winfield

(Also in attendance: Councillors King and Sykes)

32. Apologies for absence

An apology for absence was received from Councillor Stringer.

33. Minutes

The Minutes of the meeting of the Development Management Committee held on 10 August 2015 were confirmed as a correct record and signed by the Chairman.

34. Urgent Item

The Committee considered the item in Minute 40, and not included on the agenda, the Chairman being of the opinion that it was urgent by reason of special circumstances i.e. the matter having arisen since the agenda was prepared and it was unreasonable to delay a decision until the next meeting.

35. The Cottage, Windmill Lane, Paignton (P/2015/0755/PA)

The Committee considered an application for the provision of two new three bedroom dwellings with garages and associated works. Prior to the meeting, Members of the Development Management Committee undertook a site visit and written representations were circulated to Members.

At the meeting Mrs Clark addressed the Committee against the application. In accordance with Standing Order B4 Councillor Sykes addressed the Committee.

Resolved:

That the application be deferred for:

(i) further negotiations in respect of the following;

(a) the opportunity to replace dormer windows with velux rooflights; and

- (b) submission of details showing visibility angles from first floor windows.
- (ii) further consideration of the ridge height;
- (iii) the submission of drainage details; and
- (iv) confirmation from highways on the suitability of the visibility splay when exiting the site via Windmill Lane on to Longmead Road.

(Note 1: During consideration of the item in Minute 35 Councillor Cunningham declared a non-pecuniary interest as the application site backs on to her sister's property. Councillor Cunningham did not take part in the debate and abstained from the vote.)

36. Jewson Ltd, St James Road, Torquay (P/2014/1231/MPA)

The Committee considered an application for the redevelopment of former builders' store to form 24 flats with 20 car parking spaces, and construction of office building: Amended scheme including increasing height of flat building by 1m, deletion of roof garden, adjustment of landscape proposals, reduction in size of, and position of office building with increased car parking levels to serve the office building. 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 Section 106 Legal Agreement or Unilateral Undertaking in terms acceptable to the Executive Director of Operations and Finance within three months of the date of this Committee to secure £30,000 towards community infrastructure contributions;
- (ii) a reassessment of viability and possible deferred contributions in relation to Affordable Housing if the scheme is not complete within three years;
- (iii) the costs of Traffic Regulation Orders/pavement reinstatement if appropriate; and
- (iv) the conditions listed at the end of the submitted report, with final drafting and determination of appropriate planning conditions being delegated to the Executive Director of Operations and Finance.

37. 22-24 Roundhill Road, Torquay (P/2015/0467/PA)

The Committee considered an application for a change of use of Unit 22 from Use Class D1 (non residential institution) to Use Class A5 (hot food takeaway) and the change of use of Unit 24 from Use Class A1 (retail) to Use Class A5, together with the amalgamation of Units 22 and 24 into one Use Class A5 unit. Prior to the

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

At the meeting Mr Boland addressed the Committee against the application. In accordance with Standing Order B4 Councillor King addressed the Committee.

Resolved:

Approved, subject to conditions:

- (i) the hours of operation being between 08:00 and 22:00;
- (ii) details of the extract ventilation system to be submitted and approved by the Local Planning Authority prior to commencement of use of the development and the informatives as set out in the submitted report.

38. Lansdowne Hotel, Old Torwood Road, Torquay (P/2015/0524/VC)

The Committee considered an application for the removal of condition no. 01 of planning permission P/2015/0203. Demolition of existing building, construction of 14 apartments with underground parking, revision to vehicular and pedestrian access.

Prior to the meeting Members of the Development Management Committee undertook a site visit.

Resolved:

Approved, subject to:

- (i) the completion of a Unilateral Undertaking to link Section 106 Contributions paid in respect of the original grant of planning permission (P/2014/0501) to this application. The Unilateral Undertaking to be completed within three months of the date of this Committee; and
- (ii) the conditions as set out in the submitted report.

39. Maycliffe Hotel, St Lukes Road North, Torquay (P/2015/0715/MPA)

The Committee considered an application for a change of use of hotel to form 10 flats including communal space and nine car parking spaces. Demolition of more recent additions to villa and remodelling of some existing extensions, new windows and balconies. Modification of roof to include slated pitched elements (Re-submission P/2015/0067). 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) a Unilateral Undertaking or Section 106 Legal Agreement to secure community infrastructure contributions in relation to waste only; and
- (ii) the conditions as set out in the submitted report.

40. Former Royal Garage Site, 4-24 Torwood Street, Torquay (P/2014/0965/MPA)

The Committee were advised by the Team Leader Development Management that on 16 March 2015 approval was granted, subject to a Section 106 Legal Agreement being completed within six months of the date of the Committee. The Section 106 Legal Agreement has been completed however it was slightly over the time limit set by the Committee, officers therefore sought a two week extension.

Resolved:

That an extension of 14 days from the date of this Committee for the signing of a Section 106 Legal Agreement be approved.

Chairman/woman

Agenda Item 6

Application Number

P/2015/0038

Site Address

Hill House Nursing Home
Park Avenue
Brixham
Devon
TQ5 0DT

Case Officer

Carly Perkins

Ward

St Marys With Summercombe

Description

Proposed outbuildings to house Biomass Boiler and Fuel Store (Revised Plans Received)

Executive Summary/Key Outcomes

This is a largely retrospective application for two single storey buildings in the eastern corner of the site to house a Biomass boiler and fuel store.

The application site is occupied by a nursing home, part of which is grade II listed and included within the Higher Brixham Conservation Area. It is located at the junction of Mathill Road and Horsepool Street. Park Avenue runs along the western boundary of the site. An extension to the site was added post listing which fronts on to Park Avenue. To the south west of the site was a detached building that faces Park Avenue. This is currently in the process of being incorporated into the nursing home. There are construction works ongoing at the site with a permission for 10 bed extension (approved under references P/2014/0829 and P/2014/0830) being implemented.

As noted the application is retrospective (in part) with the two buildings proposed already in situ albeit unfinished. The proposal, once complete, is for two buildings of a maximum height of 4m (to the ridge) with the chimney extending beyond the ridge by a further 900mm. The buildings are to be clad in cedar weatherboard, feature natural slate to the roof (to match the slate used on the existing listed building to the north west of the application site) and a rendered chimney stack which encases the two flues required for the biomass boilers contained within the larger of the two buildings. The smaller building is a fuel store adopting the same materials listed above and both buildings are connected by a pipe which spans 500mm. The two buildings are set back from Horsepool Street by 3.5m and additional planting is proposed along the boundary with Horsepool Street. A previous application for two buildings in a similar location albeit closer to the boundary with Horsepool Street was approved under application reference P/2014/0523. This proposal included the retention of a further building and would have resulted in three buildings in total being alongside this boundary with Horsepool Street. This existing building has since been removed and the proposal remains for only two buildings in this location.

The proposal will provide a renewable energy development in accordance with the objectives of the National Planning Policy Framework, specifically paragraphs 17, 93, 97 and 98. The associated buildings are traditional in appearance and considered to be adequately screened by existing and proposed landscaping which will provide a soft

landscaped edge to the Higher Brixham Conservation Area and nearby listed buildings. The impact of the development on residential amenity of nearby occupiers is a material consideration and is not considered to be detrimentally impacted as a result of the development. In conclusion and on balance the proposal is considered acceptable and in accordance with both national and local policy subject to conditions relating to surface water drainage, roof material and landscaping.

Recommendation

Conditional approval; conditions are listed at the end of this report, however final drafting and determination of appropriate planning conditions to be delegated to the Executive Director of Operations and Finance.

Statutory Determination Period

8 weeks, the determination date was the 11th July 2015 however this has been exceeded to allow for the submission of revised plans, further consultation with the relevant consultees and to allow for the determination of the application to be referred to the Development Management Committee.

Site Details

The application site is occupied by a nursing home, part of which is grade II listed and included within the Higher Brixham Conservation Area. It is located at the junction of Mathill Road and Horsepool Street. Park Avenue runs along the western boundary of the site. The main vehicular access to the site is from Park Avenue. There is also pedestrian access from Horsepool street. An extension to the site was added post listing and fronts on to Park Avenue. To the south west of the site was a detached building which fronts on to Park Avenue and has recently been included as part of the nursing home. There are currently construction works ongoing at the site with permission for a 10 bed extension (approved under references P/2014/0829 and P/2014/0830) being implemented.

As this is a largely retrospective application, two buildings both subject of this application are also present to the eastern corner of the site. These buildings are sited close to the boundary of the site with Horsepool Street. There is a significant difference in levels between the application site and Horsepool Street, which is over 2 metres below the application site. On the opposite side of Horsepool Street there are residential properties. The surrounding area is predominantly in residential use.

Detailed Proposals

As noted above the application is retrospective (in part) with the two buildings proposed already in situ albeit unfinished. The proposal once complete is for two buildings of a maximum height of 4m (to the ridge) with the chimney extending beyond the ridge by a further 900mm. The buildings are to be clad in cedar weatherboard, feature natural slate to the roof (to match the slate used on the existing listed building to the north west of the application site) and a rendered chimney stack which encases the two flues required for the biomass boiler contained within the larger of the two buildings. The smaller building is a fuel store adopting the same materials listed above and both buildings are connected by a pipe which spans 500mm.

The two buildings are set back from Horsepool Street by 3.5m and additional planting is proposed along the boundary with Horsepool Street. A previous application for two buildings in a similar location albeit closer to the boundary with Horsepool Street was

approved under application reference P/2014/0523. This proposal included the retention of a further building and would have resulted in three buildings in total being alongside this boundary. This existing building has since been removed and the proposal remains for only two buildings in this location.

Summary Of Consultation Responses

Senior Environmental Health Officer: In terms of biomass boilers NOx emissions, the emission standard that has to be met relates to the amount of NOx released per gigajoule of heat generated. This standard is a rate of emission and is chosen as emitted gasses are diluted by the atmosphere as they mix. This standard exists for all biomass boilers below 2MW. Above 2MW there is likely to be an effect on local air quality and as a result these sites also require permitting.

In relation to NOx gas emissions, with both boilers running continually at maximum it is estimated that there will be approximately 64g of NOx emitted to atmosphere per hour. Using a dispersion model it is estimated that the emission of this gas will have a very limited effect on air quality. The calculations indicate that the effect will add an additional 9.6 micrograms per m³ to the current level of NOx in the atmosphere at the facades of properties directly opposite the boiler. This is unlikely to have a measurable effect on air quality. DEFRA's air quality index bands treat this as being a very low concentration of NOx falling into Band 1 of the low level for its air quality forecasts. Band 1 finishes at 67 micrograms per m³. The low concentration band finishes at 200 micrograms. It is noted that there would be very little control over household wood burning stoves and open fires of which there are many in Brixham.

As part of the considerations, a biomass boiler at the Abbey Lawn Hotel on Scarborough Road, Torquay has been visited by the Senior Environmental Health Officer. The boiler is housed in shipping container and they have 10 tonne of pellets delivered at a time. It was running while the Officer was there and they opened it up for the Officer to view. A faint odour of wood smoke sort similar to someone burning a taper in the garden was detected but it really wasn't very intense. While the unit is running, there is no odour at all and you cannot see any smoke. The only thing you can see is a heat haze from the exhaust gas. In this case the boiler flue is significantly lower than the neighbouring block of flats and the manager of the hotel states that now it is up and running there has been no complaint. The unit runs on a 24/7 basis. It would appear the installation has little or no impact.

In conclusion, the neighbours may occasionally smell wood smoke from the system as it fires up; it is unlikely that this could be considered detrimental to the amenity of the locality let alone a nuisance. It is not considered that the boiler will be any more detrimental than a gas boiler of similar capacity. They are designed to go into residential areas and so providing it complies with the Building Regulations, the Senior Environmental Health Officer has raised no objection.

Building Control: Providing the works are carried out by an installer registered under a Competent Person Scheme, the installer can self-certificate their work. In these instances an application for building regulation approval is not required.

Senior Design and Heritage Officer: The revised plans which include a chimney enclosure around the two flues, natural slate and steeper pitch to the roof to conceal the flues and additional planting are considered acceptable and an improvement to the

previously approved scheme.

Brixham Town Council: No comments received however it is noted that the Town Council did object to the previous application with concerns raised regarding the over dominance of the wooden sheds over Horsepool Street and the stress on the historic walls. It was noted in this response that a more permanent structure with better sound proofing that was set further into the site would be more appropriate.

Summary Of Representations

7 representations have been received. Issues raised:

- o Impact on health as a result of emissions
- o Impact to amenity as a result of odour and emissions
- o Impact to amenity as a result of noise
- o Impact to the character and appearance of the area specifically the nearby conservation area and listed building
- o Concerns regarding future maintenance
- o Comments regarding the need for building regulations approval.

Relevant Planning History

P/1981/3019 Demolish part of chimney stack APPROVED 25.02.1982

P/1996/0141 Partial demolition of dwelling, alterations and part change of use from dwelling to nursing home extension APPROVED 19.03.1996

P/1996/0142 Partial demolition of dwelling, alterations and part change of use from dwelling to nursing home extension APPROVED 19.03.1996

P/1996/0542 Alterations to lounge with pitched roof over APPROVED 20.06.1996

P/1996/0541 Alterations to lounge with pitched roof over APPROVED 20.06.1996

P/1998/0437 Alterations And 2 Storey Bedroom Wing Extension With Single Storey Link To Existing Building (As Revised By Plans Received 9th April, 1998) REFUSED 06.10.1998

P1998/0444 Alterations and 2 storey bedroom wing extension with single storey link to existing building REFUSED 05.10.1998

P/1998/2077 Revised proposals, alterations and 2 storey bedroom wing extension with single storey link to existing building APPROVED 30.11.2000

P/1998/2078 Revised proposals, alterations and 2 storey bedroom wing extension with single storey link to existing building APPROVED 30.11.2000

P/2003/0703 Shed REFUSED 17.06.2003

P/2007/1857 Block up access to road APPROVED 15.01.2008

P/2014/0523 Proposed outbuildings to house biomass boiler and fuel store APPROVED 28.10.2014

P/2014/0467 General repairs to windows, secondary glazing, replacement of roof slates and associated flashings APPROVED 23.09.2014

P/2014/0830 Extension to provide 10 additional bedrooms, offices and staff facilities to existing 10 bed nursing home APPROVED 27.02.2015

P/2015/0829 Extension to provide 10 additional bedrooms, offices and staff facilities to existing 10 bed nursing home APPROVED 27.02.2015

Key Issues/Material Considerations

The relevant considerations are the principle of renewable energy generation, the impact of the proposals on residential amenity, highways, drainage and the impact of the proposals on the setting of the listed buildings and conservation area.

Principle of renewable energy generation: Paragraph 17 of the National Planning Policy Framework states that planning should support the transition to a low carbon future in a changing climate by encouraging the use of renewable resources with paragraph 93 going on to the state that planning plays a key role in supporting the delivery of renewable energy. Following on from this, paragraph 97 suggests that local planning authorities should recognise the responsibility on all communities to contribute to energy generation from renewable sources with paragraph 98 suggesting that local planning authorities should approve applications (unless other material considerations suggest otherwise) for this type of development if its impacts are or can be made acceptable. At a local level, policy ES2 of the New Torbay Local Plan 2012-2030 states that the Council will support in principle, proposals for new renewable and low carbon energy generating systems at all scales except in instances where the negative impacts of the proposals outweigh the benefits of the scheme. It is however noted within the supporting text to this policy that it is important that sufficient weight is given to the benefits of proposals for renewable infrastructure. In accordance with the policies detailed above, the principle of the installation of biomass boilers in this location is considered acceptable.

Impact on residential amenity: Representations have been received which have raised concerns regarding the impact of the biomass boiler on health and amenity by reason of the emissions, odour and noise. Paragraph 120 of the National Planning Policy Framework states that to prevent unacceptable risks from pollution, planning decisions should ensure that new development is appropriate for its location and that the effects of pollution on health and general amenity should be taken in to account. The National Planning Policy Framework also confirms that local planning authorities should focus on whether the development itself is an acceptable use of the land and the impact of the use rather than the control of processes or emissions themselves where these are subject to approval under pollution control regimes. Paragraph 123 of the National Planning Policy Framework also specifically refers to noise and states that planning decisions should avoid noise from giving rise to significant adverse impacts on health and the quality of life as a result of the development. At a local level, policy DE3 of the New Torbay Local Plan 2012-2030 states that all development should be designed to not unduly impact upon the amenity of neighbouring and surrounding uses and that proposals will be assessed using set criteria namely point 9 which refers to the impact of noise and air pollution.

The Council' Senior Environmental Health Officer has been consulted with regard to the impact of the development in terms of air and noise pollution. As part of the Officer's

consideration a biomass boiler that is in operation has been visited by the Officer to assist in assessing the impact of this proposal. The Officer has not raised any objection to the proposal subject to the proposal being in compliance with building regulations. The Officer explained that the emission standard for NOx emission relates to the amount of NOx released per gigajoule of heat generated which is a rate of emission and is chosen as emitted gasses are diluted by the atmosphere as they mix. The Officer has stated that this standard exists for all biomass boilers below 2MW (the proposed biomass boilers are below 2MW) and that above 2MW (as there is likely to be an effect on local air quality) such proposals also require permitting through pollution control regimes. With both boilers running continually at maximum it is estimated that there will be approximately 64g of NOx emitted to atmosphere per hour and using a dispersion model it is estimated that the emission of this gas will have a very limited effect on air quality. The calculations indicate that the effect will add an additional 9.6 micrograms per m³ to the current level of NOx in the atmosphere at the facades of properties directly opposite the boiler and it is considered that this is unlikely to have a measurable effect on air quality. DEFRA's air quality index bands treat this as being a very low concentration of NOx falling into Band 1 of the low level for its air quality forecasts. An existing biomass boiler at the Abbey Lawn Hotel in Torquay was visited by the Officer, this boiler was housed in an ISO container with 10 tonne of pellets delivered at a time. It was running while the Officer was there and they opened it up for the Officer to view. A faint odour of wood smoke was detected while the unit was running with no odour detected and no visible smoke but a heat haze from the exhaust gas was visible. This biomass boiler runs on a 24/7 basis and no complaints have been received from nearby occupants therefore it would appear that this installation has little or no impact. In conclusion, whilst there may be a smell of wood smoke from the biomass boilers at the application site whilst it fires up; it is not considered that this would be detrimental to the amenity of neighbouring occupiers nor constitute a nuisance. The concerns raised regarding the noise impact of the proposal are also noted; whilst the proposal will inevitably result in some noise associated with its operation this is not considered to be of a level detrimental to the amenities of neighbouring occupiers. The level of noise as a result of the operation of a biomass boiler was heard during the visit to the boiler at the Abbey Lawn Hotel and it was not considered to be detrimental to residential amenity. In addition it is noted that were an issue to arise in the future this could be sufficiently mitigated. The impact of the boilers is considered to be comparable with a gas boiler of a similar capacity and in line with the considerations set out above is considered to comply with the aims and objectives of the National Planning Policy Framework specifically paragraph 120 and 123 and policy DE3 of the New Torbay Local Plan 2012-2030.

Comments regarding building regulations approval are noted however an application for building regulations approval is not required in instances where a biomass boiler has been installed by an installer registered with a competent person scheme.

Impact on the character and appearance of the Higher Brixham Conservation Area and setting of the nearby grade II listed buildings: Representations have been received which have raised concerns regarding the impact of the biomass boiler buildings on the setting of both the Higher Brixham Conservation Area and the nearby grade II listed buildings and are noted. Paragraph 131 of the National Planning Policy Framework states that in determining planning applications, local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets, the positive contribution that conservation of heritage assets can make to sustainable communities

and the desirability of new development making a positive contribution to local character and distinctiveness. At a local level, policy SS8.1 of the New Torbay Local Plan 2012-2030 states that development will be required to sustain and enhance those monuments, buildings, areas, walls and other features which make an important contribution to Torbay's built and natural setting and heritage.

During the course of the application the proposals have been revised to take into account both the concerns raised within the public representations and the Council' Design and Heritage Officer with regard to the appearance of the building within its setting. The proposal has been revised so that the two flues can be encased within one chimney breast with more of the flues/chimney being screened from view by a steeper roof pitch which is comprised of natural slate. This has resulted in a more traditional roof form and building design less akin to an industrial type building which was caused by the flue design. The revised design of the buildings adopting traditional materials to the roof and a chimney design comparable with others locally is considered to sit reasonably comfortably with its surroundings. Whilst the location is visible from Horsepool Street existing planting does provide some screening, restricting views from some public vantage points. The proposal includes additional planting to the boundary with Horsepool Street enhancing the existing screening and providing a soft edge to Horsepool Street. Whilst this is unlikely to completely screen all views from public vantage points, having considered the benefits of the scheme in terms of promoting renewable energy and the outbuilding that previously existed on the land and the improved appearance of the current scheme, on balance the proposal is considered acceptable in terms of its impact on the setting of the Conservation Area and nearby listed buildings on Horsepool Street and within the application site. In line with paragraph 134 of the National Planning Policy Framework the harm to the significance of a designated heritage asset has been weighed against the public benefits of the proposal. In this instance, in line with comments in earlier paragraphs, this type of development is supported by both national and local policy and the impact of the proposal has and can be sufficiently mitigated in line with paragraph 98 of the National Planning Policy Framework. Weight is given to the benefits of renewable energy and as above having considered this against the impact of the development to nearby heritage assets with reference to the revised proposal and recommended conditions, the proposal is considered acceptable.

The additional landscaping is noted as honeysuckle on a trellis of 1.8m high. Further consultation with the Council' Design and Heritage Officer and Arboricultural Officer is required to confirm that this is the most suitable form of landscaping in this location. Irrespective of the outcome of this additional consultation further details regarding species, size, density, number, implementation and maintenance is required and this has been recommended as a condition of approval. It is recommended that such details be submitted to the Council for consideration within 1 month of the date of the decision being issued. In addition a condition requiring the proposed slate to match that used on the listed building on site is included as part of this recommendation.

Impact on highway safety and parking provision: The proposal is not located in an area used for parking and as such is not considered to result in any detriment to the parking provision available at the application site. As part of the previously approved application the Agent provided a delivery schedule which was considered by the Council' Highways Engineer who confirmed that the number of deliveries proposed per year was not considered to cause a concern in terms of highway safety.

Drainage: Torbay has been designated as a critical drainage area by the Environment Agency and as the Lead Local Flood Authority, Torbay Council needs to be satisfied that surface water runoff from future development, within the critical drainage area, can be managed to ensure risks are not exceeded. The Environment Agency also recommend that in Critical Drainage Areas run off be managed in a manner that reduces risk and/or measures be taken to reduce the risks. All off site surface water discharges from new development should mimic Greenfield performance up to a maximum 1 in 10 year discharge and on-site all surface water should be safely managed up to the 1 in 100 + climate change conditions. In light of this a condition has been recommended to this effect unless an alternative scheme of surface water drainage is submitted to and approved in writing by the Local Planning Authority.

S106/CIL -

N/A

Conclusions

The proposal will provide a renewable energy development in accordance with the objectives of the National Planning Policy Framework, specifically paragraphs 17, 93, 97 and 98. The associated buildings are traditional in appearance and considered to be adequately screened by existing and proposed landscaping which will provide a soft landscaped edge to the Higher Brixham Conservation Area and nearby listed buildings. The impact of the development on residential amenity of nearby occupiers has been considered and would not be detrimentally impacted as a result of the development. In conclusion and on balance the proposal is considered acceptable and in accordance with both national and local policy subject to conditions relating to surface water drainage, roof material and landscaping.

Condition(s)/Reason(s)

01. Submission of landscaping details within one month of the date of the decision notice. To include details of species, size, density, number and an implementation and maintenance scheme.
02. The proposed natural slate shall match that used on the existing listed building within the application site - compliance only.
03. Surface water drainage to be dealt with via soakaways unless an alternative scheme for surface water drainage is submitted to and approved in writing by the Local Planning Authority.

Informative(s)

01. In accordance with the requirements of Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order, 2015, in determining this application, Torbay Council has worked positively with the applicant to ensure that all relevant planning concerns have been appropriately resolved. The Council has concluded that this application is acceptable for planning approval.

Relevant Policies

BES - Built environment strategy
BE1 - Design of new development
BE5 - Policy in conservation areas
BE6 - Development affecting listed buildings
EP2 - Renewable energy
EP3 - Control of pollution
EP4 - Noise
EPS - Environmental protection strategy
HE1LFS - Conservation and historic environment
DE1 - Design
DE3 - Development Amenity
ES2 - Renewable and low carbon infrastructure
ER1 - Flood Risk

Application Number

P/2015/0791

Site Address

Landscope Holiday Village
Gillard Road
Brixham
Devon
TQ5 9EP

Case Officer

Mr Alexis Moran

Ward

Berry Head With Furzeham

Description

Removal of Condition 01 of P/2009/0452/PA (Use of land for the stationing of additional 101 static holiday caravans for occupation between 16th February and 14th January in any year, installation of public footpath and ancillary operations)-Condition 01- No caravan or chalet on the site shall be occupied between 15th January and 15th February in any one year

Executive Summary/Key Outcomes

This application seeks the removal of condition 1 of P/2009/0452 which prevents caravans or chalets on the site being occupied between 15th January and 15th February in any one year.

There have been a number of appeal decisions which conclude that sufficient controls are available to ensure holiday occupancy of caravans and chalets can be maintained even where the seasonal occupancy period is removed entirely and occupation takes place throughout the year. It should be noted that Condition 2 of application P/2009/0452 states that the caravans on the site shall be for holiday use only and not for permanent residential occupation and that the site manager of the facility shall maintain a register of the names of all the owners/occupiers of the caravans and of their home addresses.

It is considered that condition 2 is suitably worded and sufficiently enforceable to limit the use of the caravans and chalets and, on this basis, the removal of condition 1 would be appropriate.

Recommendation

Conditional approval subject to completion of a deed of variation to link S106 contributions in respect of the original grant of planning permission (P/2009/0452) to this application. The deed of variation to be completed within 3 months of the date of this committee. The conditions will reflect those added to P/2009/0452.

Statutory Determination Period

The target date for determination of the application was 07.11.2015. This has been exceeded due to the need for a legal agreement to be prepared.

Site Details

The application site is an existing Holiday Park on Gillard Road, Nr Berry Head, Brixham. The site lies within an Area of Outstanding Natural Beauty, Countryside Zone

and a Coastal Preservation Area. The site is adjacent to a National Nature Reserve (NNR), Site of Special Scientific Interest (SSSI) and Coastal Protection Zone on the coastal fringe and is in the vicinity of the Berry Head Country Park, which is designated as a Special Area of Conservation (SAC), Site of Special Scientific Interest (SSSI) and National Nature Reserve (NNR).

The site is a long established holiday park that comprises two areas of holiday accommodation to the north and south of Gillard Road. On the site there is a combination of holiday chalets and static caravans. There is also an outdoor and indoor swimming pool, administration building and club house and a number of recreation areas on the site

The 101 static caravans approved under application reference P/2009/0452PA currently have permission for occupancy over 11 months of the year with no occupancy permitted between 15th January and 15th February in any one year

Detailed Proposals

This application seeks the removal of condition 1 of P/2009/0452 which is as follows:

"No caravan or chalet on the site shall be occupied between 15th January and 15th February in any one year.

Reason: In the interests of the amenities of the area and to ensure that the caravans on the site are occupied for holiday purposes only and not as a persons' sole or main residence. In accordance with the objectives of policies TU9, H13, L1, L3 and L4 of the saved adopted Torbay Local Plan (1995-2011)."

Summary Of Consultation Responses

Brixham Town Council - Approval

SWW - No objection

Environment Agency - No objection

Natural England - No comment

Strategic Transport - No objection subject to the retention and implementation of the previous conditions

Arboricultural Officer - No objection

Green Infrastructure Coordinator - Greater Horseshoe Bats will be hibernating at this time and therefore it is not considered the proposal would be detrimental to them. No objection subject to the implementation of the conditions previously applied.

Summary Of Representations

None received.

Relevant Planning History

P/2009/0452 - Use of land for the stationing of additional 101 static holiday caravans for occupation between 16th February and 14th January in any year, installation of public footpath and ancillary operations; approved 26.7.12.

P/2005/1242 Use Whole Site For 11 Months Letting Period. Approved 30/8/2005.

Key Issues/Material Considerations

The key issue in this case is whether condition 1 that limits the occupation of the site to

11 months of the year should be removed and the use of the 101 static caravans continue without this condition.

The applicant has advised that Park Holidays UK is seeking to extend the seasonal holiday occupancy period from 11 to 12 months at Landscope Park. This will coincide with its other holiday park operations and the holiday caravan market as a whole, where extended seasonal use has become commonplace over the last 20 years. The company's Riviera Bay Holiday Park in Brixham has already been permitted holiday occupancy throughout the year.

In support of the application the applicant has referred to a number of appeal decisions that suggest that it is not necessary to limit the occupancy of caravans and chalets to seasonal holiday periods as appropriately worded conditions limiting the use of the caravans and chalets, for holiday use only, are a sufficient means of control.

This would effectively allow the caravans and chalets to be used all year round, but would prevent occupation as a person's sole or main residence. The applicant has submitted evidence of previous Inspectors rulings on this matter. The decisions are in favour of removing conditions which limit the periods in which the site can be used (document titles Seasonal and Holiday Occupancy Conditions dated August 2014).

There is little current formal guidance on holiday occupancy conditions, however the following provides a helpful basis in understanding the basis upon which planning policy and appeal decisions have been determined;

Circular 11/95 (repealed) - indicated that in cases where holiday use would be acceptable, but permanent residential use would not, holiday occupancy conditions alone would be more appropriate unless there were exceptional reasons why the holiday occupancy should be more limited e.g. to certain months of the year (for instance where the character or design of the construction means that the structure is unsuitable for continuous occupation, particularly in the winter months)

Good Practice Guide on Planning for Tourism (repealed) - states that the imposition of holiday occupancy conditions would be appropriate (a) in order to ensure that policies for the protection of the countryside are not compromised, (b) to avoid occupation by permanent households which would put undue pressure on local services or (c) to strengthen tourism in an area by ensuring that there is a wide range of properties available to tourists. This guidance proposed the use of the following conditions:

- i. Units used for holiday purposes only
- ii. Not person's sole or main residence in the UK
- iii. Owner to maintain an up to date register of occupiers

Although both sets of guidance have been repealed, they have not been contradicted by subsequent policy and therefore, can be considered as a reasonable starting point in determining what would be considered 'reasonable' should the matter be considered on appeal.

It is considered that Condition 2 of application P/2009/0452 is sufficiently worded and detailed so as to limit the residential occupancy of the caravans and chalets on the site. As well as stating that the caravans should be for holiday use only and not for

permanent residential occupation, this condition also requires the site manager to maintain a register of the names of all the owners/occupiers of the caravans and of their home addresses. The S106 agreement (which governs permission P/2009/0452 and will be linked to the new permission through a deed of variation) includes a monitoring contribution of £4000, which, in combination with the site's register, will allow the Council to check on the occupancy of the caravans and chalets to ensure they are not being used for residential purposes.

Condition 2 states that:

"With the exception of the staff accommodation as shown on plan titled 'Staff Caravan Allocation, Landscope' dated October 2011, the caravans on the site shall be for holiday use only and not for permanent residential occupation. The caravans shall not be occupied as a person's sole or main residence and the on-site manager of the facility shall maintain a register of the names of all the owners/occupiers of the caravans and of their home addresses and shall make this information available at all reasonable times to the Local Planning Authority.

Reason: To ensure that the holiday units are used for holiday purposes only to accord with policies L2, L4, TU3, TU9 and T1 of the saved adopted Torbay Local Plan (1995-2011)."

The proposed deletion of condition 1 would be consistent with Policies TUS in the Torbay Local Plan 1995-2011, and TO1 in the new Local Plan "A landscape for success". The explanation to Policy TUS states "tourism is the cornerstone of the economy of Torbay" and in addition "sustaining the tourism industry is a main strand in Torbay's Economic Development Strategy". Policy TO1 states "the Council wishes to see the quality of accommodation improved with a wider range of new and refurbished facilities and services."

The proposed increase in occupancy by an additional period of 1 month per year would have no material effect upon ecology, landscape or environmental issues.

It is therefore deemed that condition 1 of application P/2009/0452 can be released.

S106/CIL -

A section 106 legal agreement was entered into as part of application reference P/2014/0501. This included contributions totalling £128,000.00 towards sustainable transport, monitoring and boundary treatment works. The proposal also included clauses requiring the implementation and maintenance of the Ecological Management Plan, the completion of the nature trail and that the staff accommodation shall not be sold or leased separately. A deed of variation is required to link these contributions to the current proposal and the applicant has confirmed that they are willing to enter into this.

Conclusions

In conclusion, it is considered that condition 2 is sufficient to protect against the residential use of the site and that condition 1 is no longer required. It would be appropriate to grant a revised planning permission without condition 1 from application reference P/2015/0791.

Condition(s)/Reason(s)

01. No caravan or chalet on the site shall be occupied between 15th January and 15th February in any one year.

Reason: In the interests of the amenities of the area and to ensure that the caravans on the site are occupied for holiday purposes only and not as a persons sole or main residence. In accordance with the objectives of policies TU9, H13, L1, L3 and L4 of the saved adopted Torbay Local Plan (1995-2011).

02. With the exception of the staff accommodation as shown on plan titled 'Staff Caravan Allocation, Landscope' dated October 2011, the caravans on the site shall be for holiday use only and not for permanent residential occupation. The caravans shall not be occupied as a person's sole or main residence and the on-site manager of the facility shall maintain a register of the names of all the owners/occupiers of the caravans and of their home addresses and shall make this information available at all reasonable times to the Local Planning Authority.

Reason: To ensure that the holiday units are used for holiday purposes only to accord with policies L2, L4, TU3, TU9 and T1 of the saved adopted Torbay Local Plan (1995-2011).

03. The 7 No. caravans to be used for staff accommodation, as shown on plan titled 'Staff Caravan Allocation, Landscope' and dated October 2011, hereby approved, shall not be used for any form of residential accommodation other than as accommodation for bona fide staff when they are working at Landscope Holiday Park, ancillary to the use of the site as a holiday resort.

Reason: The use of the accommodation for the purpose specified is appropriate to serve the development, but any use of the accommodation for unassociated residential uses would result in the provision of new dwellings in the countryside contrary to the objectives of policies L1, L3, L4, TU9 and TS of the saved adopted Torbay Local Plan (1995-2011).

04. Prior to the commencement of the development, or at such other time as may be agreed in writing with the Local Planning Authority, a phasing plan shall be submitted to and approved in writing by the Local Planning Authority. The plan shall demonstrate how the development and implementation of the scheme will be phased in relation to an agreed timetable of works and shall include provisions for the proposed landscaping, the ecological enhancement works required by condition 25, the works to the highway and Gillard Road, the works to form the footpath/cycleway/nature trail running parallel to Gillard Road, provision for bus turning on the site, the implementation of the proposed improvement works to the sewage plants and all other approved works. The phasing plan shall secure the implementation of all roads, footpaths, parking areas, landscaping, bases for the caravans and drainage, telecoms, gas, electricity and fresh water supply infrastructure relevant to each phase prior to occupation of any caravan that forms part of that phase.

Reason: To ensure that the scheme is implemented within an agreed timetable

and that essential elements of the scheme are delivered at an appropriate stage and to comply with policies LS, L1, L3, L4, L8, L9, L10, TU9, EP10, T25 and T26 of the saved adopted Torbay Local Plan (1995-2011).

05. Prior to the commencement of the development details of all of the proposed roads, footpaths, parking areas and all hard surfaces within the site boundary shall be submitted to and approved in writing by the Local Planning Authority. These details shall specifically indicate the proposed materials and types of construction for the hard surfaced areas and how storm water will be allowed to return to ground at or near its source through the use of permeable surfacing. The approved details shall be implemented in full prior to occupation of the caravans in each phase of development.

Reason: In order to protect the visual amenities of the AONB and to reduce surface water run off in accordance with the requirements of Paragraphs 99 and 103 of the National Planning Policy Framework in respect of sustainable drainage and flood risk.

06. Prior to the commencement of the development a definitive and detailed surface water drainage scheme for the whole site, based on sustainable drainage principles and based on an assessment of the hydrological and hydro geological context of the development shall have been submitted to and approved in writing by the Local Planning Authority. The system shall be in line with the details submitted within the Flood Risk Assessment and shall include information on who will be responsible for the operation and maintenance of the drainage infrastructure for the lifetime of the development. The drainage scheme shall then be implemented either in strict accordance with the phasing plan required by condition 04 of this consent, or prior to the occupation of any caravan hereby approved in the event that the scheme requires an holistic treatment, and the approved system shall be maintained effective at all times thereafter.

Reason: To prevent the increased risk of flooding and to improve water quality, habitat and amenity and to ensure future maintenance of the surface water drainage system, in accordance with the provisions of Paragraphs 99 and 103 of the National Planning Policy Framework

07. Before any caravan hereby approved is used or occupied, detailed plans of secure covered cycle parking areas for staff shall be submitted to and approved in writing by the Local Planning Authority. The cycle parking areas shall then be provided and made available for use in accordance with the phasing plan for the development and shall be so retained thereafter.

Reason: To secure the appropriate provision of staff cycle parking facilities to serve the development and to promote and enable the use of sustainable methods of transportation, in accordance with the terms and objectives of policies TS, T1 and T2 of the saved adopted Torbay Local Plan (1995-2011).

08. The development hereby permitted shall not be commenced until details of the proposed improvement works to the car park on the opposite side of Gillard Road in the vicinity of the site shop have been submitted to and approved in writing by the Local Planning Authority. The proposed works, including hard and soft

landscaping and boundary treatments, shall then be completed in strict accordance with the agreed details prior to the occupation of any of the development hereby approved.

Reason: In order to ensure that the proposed works preserve and enhance the Area of Outstanding Natural Beauty in accordance with policies L1, L8, L9 and L10 of the saved adopted Torbay Local Plan (1995-2011).

09. The development hereby permitted shall not commence until the applicant (or any future successors in title to the land) has entered into an agreement with the Council pursuant to s278 of the Highways Act 1980, providing for the proposed works to the highway at Gillard Road, including the provision of a pedestrian crossing facility in the form of a raised table in the area of the pedestrian access gate on the opposite side of Gillard Road to the site shop. This facility shall be provided in full and made available for use before the use hereby granted commences, or at such other time as may be agreed in writing with the Local Planning Authority.

Reason: The permission hereby granted is only be acceptable in respect of highway safety with this provision of this facility in accordance with policies T1, T3, T18 and T27 of the Saved Adopted Torbay Local Plan (1995 - 2011). However, the land upon which the facility will be placed is not within the applicant's ownership. Therefore the Council requires assurance through the provisions of such a legal agreement that the works will be carried out.

10. No part of the development shall be used/occupied until the related vehicle parking areas shown on approved detailed plans have been provided and made available for use. These areas shall be kept permanently available for parking purposes to serve the development.

Reason: To ensure that adequate off-street parking is provided in accordance with policy T25 of the saved adopted Torbay Local Plan 1995-2011.

11. Prior to the commencement of the development details of any necessary improvements to the foul water system to ensure continued satisfactory performance in connection with the increased occupancy at the park, shall be submitted to and approved in writing by the Local Planning Authority. Any necessary improvement works shall then be implemented in accordance with the agreed details prior to the occupation of the development hereby approved.

Reason: To ensure that there is adequate capacity for sewage treatment to control foul water on the site in accordance with Environment Agency requirements and to safeguard against contamination of the environment. To accord with policies EP3, EP9 and EP10 of the saved adopted Torbay Local Plan (1995-2011).

12. Prior to the commencement of the development, a plan indicating the positions, design, materials and type of any boundary treatment that is to be erected on the site shall be submitted to and approved in writing by the local planning authority. The boundary treatment shall be carried out in accordance with the approved details and completed prior to occupation of any caravan in the relevant phase.

Reason: To preserve the rural character of the site in the interests of visual amenity and to accord with policies L2, L4, TU3 and TU9 of the saved adopted Torbay Local Plan (1995-2011).

13. Prior to the commencement of the development a full and detailed lighting scheme for the whole site shall be submitted to and agreed in writing by the Local Planning Authority. The lighting scheme shall include details of any lighting proposed during construction but shall not include flood lighting on the site either during or after construction. The lighting proposed shall conform to appropriate ecological requirements in relation to the protection of dark corridors for the commuting bat population, and shall comply with the mitigation measures set out in the document titled Appropriate Assessment of the potential impacts on the South Hams SAC (as amended in July 2011). Specifically relevant are the numbered points on pages 13 and 14 (point 3 of section 1; points 8, 9 and 10 of section 2; and point 5 of section 3). The approved lighting scheme shall then be implemented in accordance with the approved phasing plan for the development.

Reason: To preserve the rural character of the site in the interests of visual amenity and to create dark corridors along the commuting routes used by the Greater Horseshoe Bats. To accord with policies L2, L4, TU3, TU9, NC4 and NC5 of the saved adopted Torbay Local Plan (1995-2011).

14. Prior to the commencement of the development, a full Tree Protection Plan (TPP) shall be submitted to and approved in writing by the Local Planning Authority. The TPP shall accord with the strategy established in the Tree Retention Plan (Drawing No. OX4356/1-P-003 Rev E), hereby approved. The TPP shall demonstrate, through the provision of a plan and method statements, how the existing trees, shrubs and hedges on the site together with any specimens planted as part of the approved landscaping scheme, will be protected during the course of the development. In particular, detailed method statements for the construction of any caravan bases that are to be situated within tree rooting zones and detailed information on drainage and service channels shall have been submitted to and approved in writing by the Local Planning Authority, so as to avoid detrimental impacts on the trees that are to be retained. The development shall then be carried out in strict accordance with the agreed TPP. Any works of protection shall be carried out prior to development and retained during development, unless otherwise approved in writing by the Local Planning Authority.

Reason: To ensure that all existing trees, shrubs and hedges on the site that are intended to be retained are adequately protected in accordance with policies L8 and L9 of the saved adopted Torbay Local Plan (1995-2011).

15. No vegetation clearance that involves the removal of habitats such as scrub or hedges, including bramble patches, shall occur during the bird breeding season (1st March to 30th September).

Reason: In order to avoid damage to any breeding bird or its nest thereby avoiding any potential conflict with The Wildlife and Countryside Act 1981 and policy NC5 of the Saved Adopted Torbay Local Plan (1995 - 2011).

16. Notwithstanding the submitted landscaping strategy plan (Ref: OX4356/1-P-002 Rev I), prior to the commencement of the development a full and detailed landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The landscaping scheme shall be included in the phasing plan for the development in order that the implementation of the new planting can be achieved in tandem with the phasing of the development. The landscaping scheme shall include indications of all existing trees and hedgerows on the land, and details of any to be retained along with details of the quantity, size, species and position of all new trees, hedges and shrubs to be planted, together with an indication of how they integrate with the proposal in the long term with regard to their mature size and anticipated routine maintenance. The plans and particulars submitted in accordance with this condition shall also include details of the means of protection, maintenance and the replacement of failures of the trees, shrubs and hedges referred to above, until they are established.

Reason: To ensure that the landscaping for the development is acceptable in this Area of Outstanding Natural Beauty and to accord with policies TU9, R2, L1, L3, L4, L8, L9 and L10 of the saved adopted Torbay Local Plan (1995-2011).

17. The landscaping scheme, submitted and approved as details pursuant to condition 16 of this consent shall be managed in accordance with a Landscape Management Plan that shall have previously been submitted to and approved in writing by the Local Planning Authority. The trees, shrubs and hedges and all landscaped areas shall be managed in accordance with the Landscape Management Plan for a period of at least 5 years, unless the Local Planning Authority agrees in writing to any written request for a variation to any of the terms of the plan.

Reason: To ensure the proper establishment and maintenance of the landscaped areas and to protect the landscape character of this Area of Outstanding Natural Beauty, in accordance with policies L1, L3, L4, L8, L9 and L10 of the saved adopted Torbay Local Plan (1995-2011).

18. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in accordance with the phasing plan required by condition 04 of this consent. The planting within each phase shall be completed during the first available planting and seeding season following the commencement of that same phase, or at such other time as agreed by the Local Planning Authority in writing. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: In the interests of the amenities of the area and to accord with policies L1, L3, L4, L8, L9, L10 and TU9 of the saved adopted Torbay Local Plan (1995-2011).

19. No further works shall be carried out within a period of five years from the completion of the development for the cutting, felling, uprooting, removal,

destruction, lopping or topping of any of the new trees or shrubs or any tree or shrub planted as a replacement for any of those trees or shrubs other than as may be approved in writing by the Local Planning Authority.

Reason: To ensure that the trees are properly protected in line with policies L1, L3, L4, L8, L9 and L10 of the saved adopted Torbay Local Plan (1995-2011).

20. The development hereby approved shall be managed in accordance with a staff and visitor travel plan, which shall have been submitted to and approved in writing by the Local Planning Authority prior to occupation of the units. The travel plan shall include confirmation of the provision of travel information on site and should encourage visitors to avoid travelling by car to the town centre of Brixham. The travel plan shall be monitored annually and an annual report shall be submitted to and approved in writing by the Local Planning Authority. The report shall set out how the holiday park has fared in relation to the objectives set out in the travel plan and shall report the modal split of visitors and staff arriving at Landscope Holiday Park and how this has changed as the objectives of the travel plan have been implemented.

Reason: In order to ensure that the management of the development maintains a priority of reducing dependence on the private car, in accordance with policies T1, T2 and T26 of the saved adopted Torbay Local Plan (1995-2011).

21. Prior to the commencement of the development or at such other time as may be agreed in writing by the Local Planning Authority, detailed plans of the location and design of waste and recycling bin storage areas on the site shall be submitted to and approved in writing by the Local Planning Authority. The proposed bin stores shall then be constructed in accordance with the phasing plan for the development and shall be maintained at all times thereafter for the purposes of waste storage to serve the development.

Reason: In order to ensure that the management of the development is appropriate and that the design of ancillary buildings accords with the requirements of the development plan. In accordance with policies W7 and EP3 of the saved adopted Torbay Local Plan (1995-2011).

22. The external appearance of those caravans around the periphery of the proposed development that are hatched and coloured green on the Landscape Strategy Plan (No. OX4356/1-P-002 Rev I), hereby approved, shall be agreed in writing by the Local Planning Authority prior to the commencement of the development. The details shall include a sample of the proposed external finishes and full specification of the type, texture and colour of the materials to be used. The external finish of those caravans and any future replacement caravans in those same locations shall remain as agreed at all times thereafter, unless agreement is obtained in writing from the Local Planning Authority to any variation.

Reason: To ensure that the visual impact of the holiday park development is acceptable within the landscape of this Area of Outstanding Natural Beauty and to accord with policies TU9, R2, L1, L3, L4, L8, L9 and L10 of the saved adopted Torbay Local Plan (1995-2011).

23. In accordance with the proposed site layout plan, no more than 198 caravans shall be stationed on the land at any one time. The caravans shall be sited in accordance with the agreed layout plan for the development and any caravans that are, subsequent to the implementation of this planning permission, replaced with new or alternative caravans shall be situated in the same location as the existing caravans that are being replaced, so as to retain the agreed layout for the development. Any changes to the agreed layout shall be subject to agreement by the Local Planning Authority in writing.

Reason: Reason: To ensure that the layout of the holiday park development remains acceptable in this Area of Outstanding Natural Beauty and to accord with policies TU9, R2, L1, L3, L4, L8, L9 and L10 of the saved adopted Torbay Local Plan (1995-2011).

24. The proposed development shall be carried out only in accordance with detailed plans which shall previously have been submitted to and approved by the Local Planning Authority, showing the datum levels for the bases upon which each caravan is to be positioned and the highest point of the roof of each caravan in relation to an agreed fixed point or O.S. datum.

Reason: To ensure that adequate information is available about the height of the caravans, and to ensure that this does not unduly affect the sensitive nature of the surrounding countryside in compliance with policies TU10, LS, L3 and L4 of the Torbay Local Plan 1995 - 2011, as adopted in April 2004

25. Prior to the commencement of the development, an Ecological Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The plan shall including provisions for the implementation and ongoing maintenance of the ecological enhancement works set out in the 'Landscape Strategy Plan' (Drawing No. OX4356/1-P-002 Rev I) and the 'Landscape Strategy Overview and Bat Mitigation Measures Plan' (Drawing No. 11053 P. 01, dated March 2012), hereby approved, and shall include detailed works and monitoring in compliance with the mitigation measures set out on pages 13 to 19 of the Council's Appropriate Assessment document, as amended July 2011. The land shall then be managed in accordance with the agreed Ecological Management Plan in accordance with an agreed timetables and perpetuity period that shall form a part of that plan.

Reason: In order to ensure that appropriate mitigation is provided for the impact on the wider ecology of the area and specifically to promote enhancements for the Greater Horseshoe Bat population in relation to flight corridors and foraging zones. In accordance with policies NC1, NC2, NCS, NC5, L1, L3 and L4 of the saved adopted Torbay Local Plan (1995-2011).

Relevant Policies

BE1 - Design of new development

BE2 - Landscaping and design

L3 - Coastal Protection Areas

L4 - Countryside Zones

L1 - Areas of Outstanding Natural Beauty

EP12 - Coastal Protection Zone
NCS - Nature conservation strategy
NC1 - Protected sites - internationally important
TU5 - New holiday accommodation
TU9 - Refurbishment and redevelopment of holiday
CF6 - Community infrastructure contributions
LS - Landscape strategy
L8 - Protection of hedgerows, woodlands and other
L9 - Planting and retention of trees
L10 - Major development and landscaping
NC2 - Protected sites - nationally important
NC3 - Protected sites - locally important site
NC4 - Wildlife Corridors
NC5 - Protected species
EP5 - Light pollution
TS - Land use transportation strategy
T1 - Development accessibility
T2 - Transport hierarchy
T25 - Car parking in new development
T26 - Access from development onto the highway

Agenda Item 8

Application Number

P/2015/0755

Site Address

The Cottage
Windmill Lane
Paignton
Devon
TQ3 1AA

Case Officer

Mr Alexis Moran

Ward

Preston

Description

Provision of 2 x new 3 bedroom dwellings with garages and associated works

Update

The application was deferred at the September committee in order for further details to be submitted. These details were requested in order to determine whether the proposal would have a detrimental impact on the privacy and amenity of neighbouring properties on Longmead Road and Dolphin Court Road; and the impact the two storey dwellings would have on the character and appearance of the street scene.

The following details have been requested:

- Plan showing distances between the proposed dwellings and the properties on Longmead and Dolphin Court Road
- Cross sections, specifically through the front dormer and rear Velux of plot 1 and the dormers of the main bedroom of plot 2, showing the properties to the front on Longmead Road and those to the rear on Dolphin Court Road, which should include
 - lines of sight into the properties to the front and rear
 - the original ridge height of The Cottage
- To look at the opportunity of providing a lower ridge height. (However this may be detrimental to the design of the proposed dwellings)
- Photos from the four points, agreed with the case officer, with the ridge heights of the proposed dwellings indicated
- A plan showing Dutch hip to garage of plot 1 rather than a full gable
- Drainage details.

Highways have confirmed that the visibility for access and egress from Windmill Lane is acceptable.

Executive Summary/Key Outcomes

The application seeks permission for the demolition of the existing property on the site, The Cottage (formally known as Windmill Cottage) and its replacement with two dwellings of one and a half stories each.

The concept of the proposed dwellings takes note of the Grade II Listed windmill adjacent (which has recently gained planning permission for a residential use). Their design, size and siting, particularly the separation distance, compliment the setting of the Listed Building and would not be in conflict with policy BE5 of the saved adopted Torbay

Local Plan 1995-2011.

The Cottage has been unsympathetically extended in the past and has no design merit that makes it worthy of retention. The principle of demolition and redevelopment on the site is acceptable. Subject to achieving a good quality design the proposed redevelopment would not have a significant impact on the setting of the adjoining Listed windmill.

There is a mix of dwelling sizes and types in the area, albeit that the immediate vicinity comprises mainly single storey properties. However, due to the location of the site, between properties on Longmead Road and Dolphin Court Road, the proposed dwellings will not appear incongruous or highly visible in the street scene.

A number of objections to the proposal have been received from nearby residents. The relationship in terms of privacy and neighbour amenity is considered to be acceptable however additional plans to confirm this have been requested. The proposed dwellings are in excess of 20m from the properties on Dolphin Court Road.

Recommendation

Conditional Approval; Subject to the submission of additional information, submission of drainage details, ecological surveys and the completion of a section 106 agreement or payment by unilateral undertaking within three months of the date of this committee. The proposed conditions are listed at the end of this report.

Statutory Determination Period

This application has an 8 weeks determination period which expired on 05.11.2015. The case officer will request an extension of time from the applicant if the application is approved.

Site Details

The site, The Cottage (formerly known as Windmill Cottage), Windmill Road, Paignton, is a single storey residential property set within a parcel of land between Dolphin Court Road and Longmead Road. Although not Listed the cottage would have once been associated with the adjacent Listed windmill which itself has recently been granted permission to convert to a residential dwelling (P/2015/0052 & P/2015/0053).

Vehicular access to the site is from Windmill Lane. There are no designations in the Torbay Local Plan 1195-2011 relating to the site.

Detailed Proposals

The application seeks permission for the demolition of the cottage and its replacement with two residential properties of one storey and a half with dormers in the roof and attached garages. Each dwelling would have three bedrooms. There would be a garage and parking space to serve both properties. Access would be from Windmill Lane. Materials would comprise rendered walls with timber windows and natural slate roofs.

Summary Of Consultation Responses

Highways: The access is existing and has sufficient visibility splays. Therefore highways do not object to the proposal.

Strategic Transport: No objection.

Green Infrastructure Coordinator: An extended Phase 1 Habitat Survey, along with any subsequently recommended surveys, should be undertaken and submitted to the Council prior to the determination of the application.

Senior Heritage and Design Officer: The siting of the proposed dwellings does not have a significant impact on the Windmill

Arboricultural Officer: No objection subject to the addition of conditions requesting the submission of a tree report and landscaping scheme including one tree for the garden/hedge bank to the east elevation of the site

Historic England: No comment

SWW: No objection

Drainage Engineer: The applicant has indicated that surface water from the development will be drained via soakaways however there are no details of where these soakaways are to be located.

In addition there are no details of any infiltration testing to confirm whether or not the ground is suitable for soakaways. Before planning permission is approved for this development, the applicant must submit detailed designs for these soakaways in accordance with the details identified below.

The developer must carry out trial holes and infiltration tests in accordance with BRE 365 at the locations and invert levels of the proposed soakaways. The design for these soakaways must be submitted showing that the proposed soakaways have been designed to cater for the critical 1 in 100 year storm event plus an allowance for climate change.

The applicant must demonstrate that his surface water drainage design will not result in any increased risk of flooding to properties or land adjacent to his development.

Based on the above comments, before this planning permission can be granted the applicant must supply details to address all the points identified above.

Summary Of Representations

At the time of writing this report sixteen letters of representation have been received in relation to this application, the key issues raised are:

- o The demolition of Windmill Cottage and resultant loss of a Heritage Asset
- o Out of character
- o Overdevelopment
- o Loss of privacy
- o Impact on ecology and trees
- o Increase in noise and disturbance
- o Unacceptable in principle
- o Increase in traffic
- o Loss of light.

Relevant Planning History

P/2013/0530 Demolition of Windmill Cottage and formation of Two x Three bedroom dwellings with garages; the application was deferred for further negotiations in relation to the size and design of the proposed dwellings by Development Management Committee 12.08.2013. It was subsequently withdrawn.

ZP/2012/0061 - Demolition of Windmill Cottage and addition of 2 dwellings in grounds - Officer support was given to the principle of the development 09.04.2013

Key Issues/Material Considerations

The key issues to consider in relation to this application are:

1. the impact it would have on the character and appearance of the street scene
2. the impact the proposal would have on the setting of the adjacent Grade II Listed windmill
3. the amenity and privacy enjoyed by the occupiers of neighbouring properties
4. Highways
5. Drainage.

1. Character and appearance

The proposed dwellings will not appear incongruous in the street scene due to their location on a parcel of land between the properties on Longmead Road and Dolphin Court Road. The proposed residential development of this site would be consistent with the established form and scale of development in the surrounding area. As a result of their siting the proposed dwellings would not be highly visible from the wider area. Members have requested further consideration of the height of the proposed dwellings and the applicant has been requested to consider this issue and to assess the visibility of the site from the surrounding area.

There are a number of different house styles in the area and as such the addition and the layout of two 1.5 storey properties would not be contrary to the urban grain. The subdivision of the plot to form two dwellings would be consistent with the existing density of development in the area. It is considered that the properties, due to their size, siting and design would be acceptable additions to the area and would accord with policies BES, BE1, HS & H9 of the saved adopted Torbay Local Plan 1995-2011.

The proposed buildings are of a modern design which is consistent with the character and appearance of the street scene in the area. The dwellings are deemed to be acceptable in design terms and comply with the objectives of policies BES & BE1 of the saved adopted Torbay Local Plan 1995-2011 and DE1 & DE3 of the .

The two new properties have sufficient amenity space and parking without resulting in an overdevelopment of the plot.

2. Impact on adjacent Listed Windmill

The Listed windmill has recently gained consent to be converted into a single dwelling which involved use of current openings as windows, the addition of a new roof structure and a single storey extension.

The existing cottage is not a Listed Building and therefore does not benefit from the same protection when it comes to demolition. But Section 66 of the Listed Buildings Act

requires LPAs to pay "special regard" to the desirability of preserving, inter alia, the setting of a listed building.

When assessing the impact (if any) of the proposed development on the setting of the Listed Building there are two principal factors to be taken into account -

- a. the architectural quality or interest of the Listed Building itself (i.e. the setting of a Grade I building is likely to be more sensitive than that of a Grade II building)
- b. the nature and appearance of the existing surroundings of the listed building immediately prior to the proposed development being carried out (impact is likely to be diminished if the surroundings already contain many unsympathetic features).

The NPPF accords with s.66 in that

- o Paragraph 129 makes it clear that, in determining applications, it is relevant to consider the significance of any heritage assets affected, including any contribution made by their setting. It is necessary to consider whether the relevant heritage asset is of any great significance in itself, and whether its setting makes any great contribution to the character and appearance of the listed building;
- o Paragraph 132 advises that "when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be."

The Listed Building itself, i.e. the windmill, is surrounded by housing developments and as Windmill Cottage is not listed, it has been added to in an unsympathetic way in the past and has not been maintained to the same standard expected if it was protected.

To this end it is not considered that the proposal to demolish the existing cottage would have a significant impact on the setting of the Listed Building as it has not been deemed important enough to be Listed itself and now has a distinct separate boundary and curtilage away from the windmill.

The scheme to replace the demolished cottage with 2 dwellings is considered to preserve the setting of the windmill and would comply with policy BE6 of the saved adopted Torbay Local Plan 1995-2011 which relates to how a development relates to a Listed building. This is because of the clear separation between the windmill and the proposed dwellings, and the height of the proposed dwellings would be demonstrably lower than the windmill. The visual prominence of the windmill would be retained in the street scene, and would not be harmed by the proposed dwellings.

3. Impact on neighbouring living conditions

Although the proposed dwellings are likely to result in some over-looking of garden areas, which does not exist at present, particularly of the adjacent properties on Longmead Road, it is considered that this relationship is not uncommon in the area, particularly given the recent approval for a residential use of the adjacent windmill structure. The original submitted plan has been revised to replace two dormer windows on the south elevation of plot 1 with velux rooflights, due to the proximity of the proposed dwelling to 73 Longmead Road. Further details including sections showing lines/angles of sight have been requested to clarify the relationship of the proposed dwellings with

nearby properties.

4. Highways

Access to the site is via Windmill Lane, which provides access to the cottage at present. Highways have confirmed that the access is suitable for the additional dwellings and have no objection to the proposal. Each dwelling includes a garage with a parking space in front which is considered to provide sufficient parking of the form of development. The driveway and garages are located so as to minimise noise and disturbance to neighbouring occupiers. The proposal is therefore considered to comply with policies T25 & T26 of the saved adopted Torbay Local Plan 1995-2011.

5. Drainage

The majority of Torbay has been designated as a critical drainage area by the Environment Agency. In order not to increase the risk of flooding in Torbay all new development has to play its part in reducing rainfall runoff rates. Surface water discharges from new development should 'mimic' Greenfield performance. In order to meet this standard the Council's Drainage Engineer has advised that details of the location of the proposed soakaways should be submitted and infiltration testing should be carried out before planning permission is granted to ensure that soakaways proposed by the applicant could be used in this location. This information is required before planning permission is granted to ensure the development would not contribute to a risk of flooding downstream.

S106/CIL

Since April 2015 S106 contributions towards infrastructure can no longer be pooled. A contribution towards waste management will be required.

Conclusions

The proposed development is considered to be appropriate for planning approval subject to the receipt of further information, submission of drainage details, submission of a phase 1 ecological report and any subsequent surveys and payment of the S106 contribution, having regard to all national and local planning policies and all other relevant material considerations.

The demolition of the existing cottage is acceptable, given the damage caused to it by additions and changes over time and given that it is not a protected heritage asset. Its replacement with the revised scheme for 2 dwellings will not harm the setting of the adjacent Windmill.

This is subject to the following conditions:

- Sections and elevations to a scale of not less than 1:20, indicating the following details, have been submitted to and approved by the Local Planning Authority:
 - (i) eaves overhang;
 - (ii) rain water goods;
 - (iii) reveals to window/door openings;
 - (iv) sub cills;
 - (v) slating/tiling;
 - (vi) soffits.

- Details of boundary treatment and implementation of approved boundary treatment
- Submission of detailed plan including the datum level in relation to an agreed fixed point or O.S. datum off site.
- Removal of permitted development Part 1 Classes A-E.
- Retention of parking provision on site.
- Landscaping scheme to include details of new hedge planting.
- Landscaping implementation.
- Submission of a tree report.

Relevant Policies

BES - Built environment strategy

BE1 - Design of new development

BE6 - Development affecting listed buildings

HS - Housing Strategy

H9 - Layout, and design and community aspects

T25 - Car parking in new development

T26 - Access from development onto the highway

CF6 - Community infrastructure contributions

Agenda Item 9

Application Number

P/2015/0836

Site Address

Gleneagles Hotel
Asheldon Road
Torquay
Devon
TQ1 2QS

Case Officer

Matt Diamond

Ward

Wellswood

Description

Demolition and Redevelopment to form 32 retirement apartments for the elderly including communal facilities, access, car parking and landscaping (revision of P/2014/1062) (revised)

Executive Summary/Key Outcomes

The application is for the change of use and redevelopment of the currently vacant, three star Gleneagles Hotel, Asheldon Road, Torquay into a block of 32 retirement apartments for the elderly, with 12 car parking spaces. The existing building on the site will be demolished. The hotel was the inspiration for the BBC Fawlty Towers TV series. The south part of the site is undesignated in policy terms, but the grounds to the north are covered by woodland designated an Urban Landscape Protection Area (ULPA) and wildlife corridor. The site is covered by an area Tree Preservation Order (TPO) and there is a prominent cedar tree to the front of the existing hotel building. The site is opposite the Lincombes Conservation Area and affects its setting. The hotel ceased trading in early 2015.

The proposed apartment block will be split level, 5 storeys to the front and 6 storeys to the rear. The top floor will have a smaller floor area than the floors below and will be inset from the edges behind a parapet wall. The new building will be 4.4 metres higher than the existing building to the north and 0.6 metres higher to the south, but it will be further away from the neighbouring properties with a smaller footprint on the plot. It will include landscaped gardens around it and retention of the existing woodland. The existing access will be retained, with the creation of a second access on Asheldon Road to the north.

A similar application for 36 apartments by the same applicants was refused due to its poor design in February 2015. This scheme is currently subject to an appeal. The principle of allowing the change of use of the site from tourist accommodation to residential was accepted by officers for the previous application and this was supported by Members. This decision was based partly on the submission of viability information showing the former hotel use and alternative tourism uses on the site to be commercially unviable. The main reason for this is its location in a residential neighbourhood, with little passing trade and distance from the town centre/harbour. Whilst the emerging new Local Plan now carries more weight in decision making, there are no material considerations that alter officers' view that the change of use is acceptable in policy terms. The site is not located within a Principal Holiday Accommodation Area (PHAA) (Adopted Local Plan) or Core Tourism Investment Area (CTIA) (new Local Plan), where tourist

accommodation and investment are promoted. Sheltered housing is considered to be an appropriate use for the site, as it is in walking distance of Wellswood Local Centre.

The applicants have worked with officers to produce a satisfactory design for the site, taking into account the independent Torbay Design Review Panel's advice. The scheme has been amended once again during the course of the application, resulting in the loss of one of the apartments (33 to 32). Officers consider the amended design proposal for 32 apartments to be acceptable in accordance with the relevant Built Environment policies of the adopted Local Plan and Policies SS8.1, TO2 and DE1 of the new Local Plan. It has a smaller footprint than both the existing hotel and the appeal proposal allowing for more space around it. This reflects the historic development pattern of the nearby Lincombes Conservation Area comprising Victorian villas set in spacious landscaped grounds. It will not have an adverse impact on the amenity of neighbouring properties, subject to conditions to secure obscured glazing to certain side elevation windows and side privacy screens to the balconies. The increase in height of the proposal is considered to be acceptable in the street scene and would not impact the visual amenity of Stoodley Knowle recreation ground to an extent that would warrant refusal.

Despite local residents' concerns, the proposal will not have a significant impact on local highways from increased vehicular traffic and the amount of car parking accords with the adopted and emerging parking standards. A s106 agreement is required to secure contributions towards waste management and off-site affordable housing, in lieu of on-site provision. A number of planning conditions will be required and these are provided at the end of this report.

Recommendation

Conditional approval; subject to s106 legal agreement to secure necessary contributions within 3 months of the date of this committee or the application be reconsidered in full by the committee; conditions listed at the end of this report, however final drafting and determination of appropriate planning conditions to be delegated to the Executive Director of Operations and Finance.

Statutory Determination Period

The application was validated on 19.08.2015. The statutory determination date is 19.11.2015 (13 weeks).

Site Details

The site comprises the vacant Gleneagles hotel and its grounds accessed from Asheldon Road in the Wellswood neighbourhood of Torquay. The site area is 0.6ha. The hotel is sited to the southwest of the plot, with a car park to the front and amenity garden space to the rear. The northern part of the site is wooded and slopes down to Stoodley Knowle recreation ground, with a pedestrian footpath leading to Ansteys Cove car park. The footpath is uneven in places and in need of repair. The hotel ceased trading in early 2015.

The hotel is a three storey building with 41 bedrooms. It has a single storey conservatory extension to the rear formerly used as a lounge/dining area. There is a swimming pool and patio behind a white rendered wall to the southeast of the building. There is a highly prominent cedar tree in the middle of the car park to the front of the building. There is also a row of poplar trees along the southern edge of the car park. There are numerous

trees within the grounds and around the edge of the site; those identified as high quality include a 14 metre high yew tree next to the south boundary and 20 metre high Holm oak tree next to the north boundary in the adjacent property. The rooms to the rear of the hotel have sea views.

The site is located in a residential neighbourhood. It is a short walking distance from the centre of Wellswood to the south, which includes a number of shops and local facilities. It is a short distance away from Stoodley Knowle recreation ground and the beach at Anstey's Cove. It is also a short distance from the South West Coast Path.

The site is bounded by two storey residential properties in Ansteys Close to the northwest, woodland to the north, Stoodley Knowle recreation ground at the foot of the wooded slope to the east, residential properties to the south and Asheldon Road to the southwest. The residential properties to the south include 'Over Anstey', a split level detached dwelling, set at a significantly lower level to the hotel, and two storey dwellings in Colwyn Court. The private access to 'Over Anstey' runs adjacent to the southern boundary. Asheldon Road is a quiet road with a sylvan character and is lined with lime and horse chestnut trees opposite the hotel. Across the road from the hotel is Asheldon House, a seven storey block of flats.

The west side of Asheldon Road and properties to the west are located within the Lincombes Conservation Area. The historic character of the conservation area and wider area is defined by Victorian villas set in spacious landscaped grounds. The site is covered by an area Tree Preservation Order dated 7th November 1973. The hotel, car park and amenity garden are undesignated in the Adopted Torbay Local Plan 1995-2011 ('the Local Plan'), however the northern wooded slope is designated an Urban Landscape Protection Area (ULPA) (Policy L5) and Wildlife Corridor (Policy NC4). The northern tip of the site is within the Coastal Protection Zone. The policy context remains unchanged in the new Torbay Local Plan - A landscape for success (Proposed Submission Plan, February 2014) plus Replacement Main Modifications as agreed by the Inspector ('the new Local Plan'), except Wildlife Corridor designations have been removed from the Plan. However, these still exist and are referred to in the Torbay Green Infrastructure Delivery Plan (April 2011).

Detailed Proposals

The proposals have been amended since the application was originally submitted. Originally the application was to redevelop the site to provide a block of 33 retirement apartments. Following discussions with officers, the applicants agreed to amend the design of the building, which resulted in the loss of one apartment. The amended application is to redevelop the site to provide a block of 32 retirement apartments, following demolition of the existing hotel.

The new building will be 5 storeys to the front facing Asheldon Road and 6 storeys to the rear. The top storey will be inset from the edges of the building with a smaller floor area. The building will include a wing to the rear in the middle of the site, which steps down in height down the slope. The building will not be as wide as the existing hotel and will be further away from the residential properties in Ansteys Close to the north and Colwyn Court to the south. However, it will be approximately 2 storeys higher to the north (4.4 metres) and marginally higher to the south (0.6 metres).

The building will have a contemporary appearance with more substantial primary facade

to the north and a lower subservient wing to the south. The primary part of the building reflects the Victorian villa characteristic of the area and will be symmetrical with two lower storey projecting bays facing forward. It will be faced in render while the inset top storey will be clad in Cedar boarding. The subservient wing to the south will be red brick and separated from the main part of the building by a stairwell, which will be artificially clad and set in from the front elevations. The lower storey to the rear will also be red brick to ground it into the landscape setting.

Internally the building will comprise 21 no. 1-bed apartments and 11 no. 2-bed apartments, as well as a guest suite, two communal lounges and a refuse store. It will have two internal stairwells and a lift. A number of the apartments will have balconies. Externally to the rear and also to the side of the building where the existing swimming pool is located the grounds will be landscaped to create shared garden areas with footpath access. A shelter to store mobility scooters will also be provided.

The existing access off Asheldon Road will be retained and another will be provided to the north. In total, 12 car parking spaces will be provided, including 6 disabled spaces. The existing low brick wall along the site frontage and the prominent cedar tree will be retained.

The woodland on the north part of the site will remain undisturbed. The submitted Ecological Assessment recommends managing this to include the removal of non-native species.

According to the Planning Statement, the building will be run by a management company who will employ a lodge manager to provide assistance and security, and oversee maintenance during the day time. There is an emergency alarm system, which can be activated by pendants worn around residents' necks at other times of the day. The Statement says the lease will contain an age restriction of 60 years, but the average age of occupiers is 79 who tend to be single females.

Summary Of Consultation Responses

Strategic Transport/Highways ('Local Highway Authority'): No objection, as there is unlikely to be a net increase in traffic compared to the former use as a hotel. The visibility splays of the existing and new access points are acceptable. The footpath along Asheldon Road should be continued in front of the site, with dropped kerbs at the access points. This should be secured in a s278 agreement and completed before the apartments are occupied. The amount of car parking is acceptable, as it accords with the adopted and emerging car parking standards.

Environment Agency: Refer to standing advice.

Engineering (on behalf of Torbay Council as Lead Local Flood Authority): No details provided in the application of the proposed surface water drainage system. This information should be submitted before planning permission is granted.

Following advice from the applicant's drainage consultants that the requisite soakaway tests cannot be carried out until the building has been demolished in order to provide access for equipment, Engineering recommended a condition to secure the requisite testing and detailed design of the soakaways prior to construction works commencing. This will need to be worded to allow the demolition of the building.

RSPB: Recommend provision of integral nest sites for species such as swift and house martin, new planting and management of the grounds outside the woodland to include native species, a Landscape and Ecological Management Plan (LEMP) to include management of the woodland, and carefully controlled lighting to avoid spill onto the woodland area. Mature trees scheduled for felling should be assessed for bats prior to the works and any works that may affect nesting birds should be carried out outside the bird breeding season (March to August inclusive). These recommendations can be conditioned.

South West Water: No objection subject to surface water disposal being managed on site by means of SUDS with foul flows only being connected to the public sewer. If a SUDS solution is not achievable, details of how surface water will be managed need to be submitted for approval.

Police Architectural Liaison Officer: Site must be enclosed by a solid 1.8m high boundary treatment. There should be no open access to the sides or rear of the development. Private areas should be clearly defined. 13 parking spaces seems inadequate. Lighting should be carefully coordinated, so potential areas of risk are covered - bollard lighting is not appropriate. Ground level sight lines should be simple to not hinder surveillance. A number of other recommendations are made, which don't have a bearing on the application - these can be included in an informative if the application is approved.

English Riviera Tourism Company: No response; however, did not raise an objection to previous application P/2014/1062.

Arboricultural Officer: No objection, subject to conditions to secure the measures in submitted Arboricultural Report to protect existing trees, detailed landscaping plan and specific measures to protect the prominent cedar tree during construction works.

Building Control: The proposed development will require building regulations approval. Key BR issues listed, but none considered to affect the planning application.

Head of Asset Management & Housing: Comments awaited pending independent viability assessment.

Natural Environment Services: A contribution towards 'Greenspace and Recreation' should be sought in accordance with the adopted SPD. This will be used for enhancements to Stoodley Knowle recreation ground. The recommendations in the Extended Phase 1 Ecological Assessment are supported, including planting of native species and management of the woodland. A LEMP and lighting details should be secured by condition. Works during the bird breeding season should be avoided.

Senior Heritage & Design Officer: Objected to the original design, primarily due to over dominant roofscape and extension to the south. These elements were scaled back in the amended design, resulting in the loss of one apartment. The Senior Heritage & Design Officer confirmed that the amended design is acceptable, subject to conditions relating to materials and window details.

Urban Design Officer (Landscape): Comments awaited.

Summary Of Representations

The application has been publicised twice relating to the original and amended designs. 13 letters of objection have been received in total, 10 during the first publicity period and 3 during the second publicity period. One letter of objection has been signed by 14 residents of Asheldon House opposite the site. A few local residents have telephoned to say that their comments on the original design are still applicable to the amended design.

The following issues have been raised:

- Not enough car parking
- Overlooking/impact on privacy
- 5/6 storeys is too high
- Too many flats/overdevelopment
- Too many retirement flats in the area
- Unsympathetic architecture/impact on conservation area
- The building is too big
- Traffic generation
- Asheldon Road is dangerous and should be one-way
- Asheldon Road already heavily used/rat-run
- No space for delivery vehicles
- Noise and disturbance during demolition/construction
- Will overshadow neighbouring properties
- Loss of light to Asheldon House flats
- Visual impact on Stoodley Knowle recreation ground
- Impact on tourism - too many retirement properties
- Impact on foul drainage infrastructure
- Site should be retained as a hotel and cultural asset (Fawlty Towers connection).

Members will be provided with copies of the representations and any further representations received.

Relevant Planning History

The relevant planning history for the site is shown below. A planning application by the same applicants was submitted in 2014 to redevelop the site to provide a block of 36 retirement apartments and this was refused by the Development Management Committee in February 2015. The application was refused due to the design of the proposed building, as it was considered to be out of character with the area and would harm the setting of the conservation area. The building was slightly higher than the existing hotel, but was wider and extended the full width of the site. The Senior Heritage & Design Officer objected to the design, in part because it did not follow the recommendations of the independent Torbay Design Review Panel Report. A copy of this report has been included in the consultations pack. The applicants have submitted an appeal in relation to this scheme and the informal hearing took place on 15 October. The Inspector's decision is currently awaited and the applicants have indicated that should it be allowed, irrespective of the decision on the current application they will build the appeal scheme.

P/2014/1062/MPA: Demolition and Redevelopment to form 36 retirement apartments for the elderly including communal facilities, access, car parking and landscaping.: Refused

10.02.2015: Appeal in Progress

DE/2014/0278/ZP: Redevelopment to form approx 39 sheltered apartments for the elderly inc communal facilities, access, car parking and landscaping: Split decision 11.12.2014

P/2004/0050/PA: Demolition Of All Existing Buildings And Redevelopment With 25 Apartments With Parking, Ancillary Works And Replacing Footpath and Pedestrian/Vehicular Access (Revised Scheme): Refused 31.03.2004 (Appeal dismissed 22.11.2004)

P/2003/1345/PA: Demolition Of All Existing Buildings And Replacement With 25 Apartments With Parking, Ancillary Works And Replacing Footpath And Pedestrian/Vehicular Access: Refused 30.09.2003

P/2002/1244/PA: Swimming Pool: Approved 27.09.2002

P/1997/0380/PA: Erection Of Conservatory At Rear: Approved 27.05.1997

P/1988/1432/OA: Erection Of 25 Flats With Associated Parking (In Outline): Refused 06.12.1988

Key Issues/Material Considerations

The key issues are:

1. The Principle of the Development
2. Design and Impact on Setting of Conservation Area
3. Impact on Amenity of Neighbouring Properties
4. Visual Impact on Stoodley Knowle Recreation Ground
5. Impact on Local Highways
6. Car Parking
7. Impact on Trees
8. Impact on Ecology
9. Surface Water Drainage and Flood Risk

1. The Principle of the Development

At the time the previous application was refused in February 2015, the Inspector's Initial Findings on the new Torbay Local Plan - A landscape for success had been received. The new Local Plan policies carried weight accordingly. The Inspector's Final Report has now been received concluding that the new Local Plan is sound subject to replacement main modifications. Full Council will receive a report in December 2015 recommending adoption of the new Local Plan, subject to the main and additional minor modifications. Therefore, the new Local Plan policies now carry significant weight in decision making.

A detailed assessment was carried out for the previous application concerning the principle of allowing the loss of tourist accommodation on the site and changing the use of the site to residential. This took into account adopted Local Plan Policies TUS, TU7, HS, H2 and CF15, the Council's 'Revised Guidance on the interpretation of Policies TU6 (Principal Holiday Accommodation Areas) and TU7 (Holiday Accommodation elsewhere) of the Adopted Torbay Local Plan' (March 2010), the 2004 appeal decision above and the NPPF. It also took into account viability evidence submitted by the applicants

concerning the business case of the existing hotel and a number of alternative tourism uses. Policy TO2 of the new Local Plan was also taken into consideration.

Officers concluded that the principle of the change of use was acceptable and this was supported at committee by Members. There are no material considerations that alter this recommendation for the current application. Therefore the change of use is considered to be acceptable. It should be noted that the site is not located within a Principal Holiday Accommodation Area (PHAA) (Adopted Local Plan) or Core Tourism Investment Area (CTIA) (new Local Plan), where tourist accommodation and investment are promoted. In addition, Policy H6 of the new Local Plan supports new sheltered housing schemes where they are within easy reach of community facilities, shops and public transport. This is the case for this site, as it is in easy reach of Wellswood Local Centre.

2. Design and Impact on Setting of Conservation Area

The previous application was refused because the scale and massing of the replacement building were considered to be too wide on the plot and out of character with the area. It was also considered to harm the setting of the Lincombes Conservation Area. The recommendations of the independent Torbay Design Review Panel were taken into account in the previous decision in accordance with the NPPF (Para 62). The TDRP were very critical of the approach taken by the applicants with the previous design.

Whilst the applicants have appealed the refusal of the previous scheme, they have continued discussions with officers in accordance with best practice in order to attempt to resolve the issues with the design. This has led to the amended design of the current application. The applicants have worked with officers and taken into account the TDRP comments to achieve the current design proposal. It has a smaller footprint than the existing building allowing for more space around it. This is to reflect the historic development pattern of the conservation area comprising of Victorian villas set in spacious landscaped grounds. Whilst it will be higher than the existing building and a number of local residents object to this, it will only be marginally higher to the south yet further away from the neighbouring properties. To the north it will be two storeys higher, but again further away from the neighbouring properties and the top floor will be set back from the front and north elevations behind a parapet wall making it appear recessive. The parapet wall will only be 1.5 metres higher than the neighbouring dwelling, however the building will be 3.5 metres further away compared to the existing hotel. The step up in heights between the neighbouring dwelling and the proposed building is considered to be acceptable in the streetscene. The design of the new building is not considered to be overly dominant and the larger gaps to the sides will open up views of the gardens and landscape beyond. The site level is lower than the site level of the neighbouring dwelling to the north and the principle of going higher on the site was one of the recommendations of the TDRP, provided it will not harm the amenities of the neighbouring properties. This issue is addressed separately below.

Therefore, officers consider the scale and massing of the proposed building to be acceptable. It should be noted that local residents have raised concerns with the wing to the rear of the site stepping down the slope primarily in relation to overlooking issues. These issues are considered later in this report, however in terms of design it is considered to be acceptable and make good use of the site. The wing is only 5 metres wide, 8.5 metres distance away from the north boundary and 6.5 metres away from the south boundary at its nearest points. Its height reduces from 5 storeys to 3 storeys,

diminishing its presence and impact. It has well articulated facades, which help to break up its massing further. Whilst it comes close to the woodland on the site, lighting impacts can be controlled by condition.

In summary, the amended design proposal is considered to be acceptable and a significant improvement compared to the appeal scheme. It will have less impact on the setting of the conservation area than both the appeal scheme and the existing building. It is therefore considered to accord with adopted Local Plan Policies BS, BE1 and BE5 and new Local Plan Policies SS8.1, TO2 and DE1. It is also considered to make a positive contribution to local character and distinctiveness, and will enhance the setting of the conservation area accordingly (NPPF, Para 131). However, the Senior Heritage & Design Officer has recommended conditioning materials and window design details to ensure these are of suitably high quality.

3. Impact on Amenity of Neighbouring Properties

The proposed building has a number of balconies and side elevation windows that, without proper care and attention, could lead to overlooking of neighbouring properties, impacting their privacy. This issue is examined below for the north, south and rear elevations separately. It is considered that the front elevation will not have an adverse impact on the amenities of flats in Asheldon House, due to the distance between the buildings and trees along Asheldon Road.

The north elevation of the main part of the building facing Villa Anstey includes kitchen windows, secondary bedroom windows and bathroom windows to the apartments, as well as windows to the internal corridors. In addition, apartments 32 and 33 on the fourth floor have balcony terraces that wrap around the side of the building. The elevation is orientated at a slight angle to the neighbouring property and is 3.5-5.5 metres away from the boundary. There is limited vegetation screening along the boundary. In light of this, it is considered that - with the exception of the bedroom windows towards the front of the building on the first, second and third floors - all the windows on the ground floor and above should be obscured glazed. In addition, privacy screens should be installed along the edge of the fourth floor balcony terraces facing towards Villa Anstey and the other properties in Ansteys Close. These should be secured by conditions.

The north elevation of the rear wing includes bedroom windows on the lower ground floor, bedroom and bathroom windows on the ground and first floors, and bedroom windows on the second and third floors. Apart from the larger bedroom windows to apartments 8, 16 and 23 (which are positioned behind balconies on the rear elevation), it is considered that all the windows on the ground floor and above should be obscured glazed. This should be secured by condition.

The south elevation of the main part of the building facing Colwyn Court includes kitchen windows and secondary living room windows to the apartments, as well as windows to the internal corridors. There are no balconies on this elevation. The elevation is orientated at an angle to the neighbouring properties. It is 10.5-14.7 metres away from the rear boundaries and 13-16.8 metres away from the rear elevations. The existing trees along the south boundary will be retained. In light of this, the relationship is considered to be acceptable, subject to a condition to prevent access to the flat roof from apartment 31. Conditions could also be used to ensure the corridor windows and upper floor windows are obscured glazed if Members believe this to be necessary.

The south elevation of the rear wing includes a bathroom window on the lower ground floor and living room and bedroom windows on the ground and first floors. Due to the greater distance and existing vegetation screening it is considered that there will not be any harmful overlooking from these windows to the properties in Colwyn Court or Over Anstey.

All the windows on the rear elevations of the building face away from the neighbouring properties, including Over Anstey. Therefore, there will be no overlooking from these windows. However, all the apartments at the rear of the building and the third floor coffee lounge will have balconies/balcony terraces, and it is considered that side privacy screens should be installed on all of them to prevent overlooking of neighbouring properties and between individual apartments. This should be secured by condition.

The other key amenity issue to consider is whether the building will overshadow any of the neighbouring properties and if it does so the extent of this overshadowing. As was the case for the appeal scheme, a shading study was requested from the applicants to assess this issue. The shading study shows that there will be some increased overshadowing of the gardens of the neighbouring properties in Ansteys Close in winter compared to the existing building, however this will not last all day mainly occurring from late morning to early afternoon. This is not considered to be significant enough in terms of causing undue detriment to warrant a reason for refusal. There are no other issues in terms of overshadowing or loss of light that would warrant refusal of the application.

In summary, subject to the conditions above and a condition to secure a Construction Method Statement to ensure there will be no undue noise or disturbance to neighbouring residents during the construction phase, the application is considered to accord with Local Plan Policy H9 and new Local Plan Policy DE3 in terms of amenity issues.

4. Visual Impact on Stoodley Knowle Recreation Ground

Local residents have raised concerns over the impact of the proposed building on views from Stoodley Knowle recreation ground. Parts of the existing building are visible from the recreation ground, however to a large extent it is screened by trees. Whilst the reduced width of the proposed building will mean that there will be less building visible to the sides of the plot, the addition of two storeys will mean that more of the building will be visible above the tree line. However, the existing trees on the wooded slope will still screen a large amount of the rear of the building.

The views of the Council's Urban Design Officer are still awaited on this issue. However, it is considered that any additional impact in this regard will not be significant enough to warrant a reason for refusal. The NPPF states that distinctions should be made between the hierarchy of international, national and locally designated sites when judging the affect of development proposals on protected wildlife/geodiversity sites or landscape areas, so that protection is commensurate with their status (Para 113). Stoodley Knowle recreation ground is designated an Urban Landscape Protection Area (ULPA) in the adopted and new Local Plans (Adopted Local Plan Policy L5 and new Local Plan Policy C5). In addition, the north part lies within the Coastal Protection Zone (Adopted Local Plan Policy EP12) and Coastal Change Management Area (new Local Plan Policy C3). These policy areas are locally designated. None of these policies offer protection to the designated areas in terms of development outside the areas that may affect their settings. They specifically control development within them. They therefore carry little weight in this regard, which is added to by their locally designated status.

In terms of general visual amenity considerations, Adopted Local Plan Policy H9 includes amenity in relation to 'the local area generally' as a prime consideration. New Local Plan Policy SS8 supports development proposals outside the AONB where they conserve or enhance distinctive landscape character and biodiversity or where the impact is commensurate with the landscape and ecological importance. It goes on to say it will be particularly important to ensure development outside the AONB does not have an unacceptable impact on the special landscape qualities of a nearby AONB or other valued landscapes such as country parks. In addition, new Local Plan Policy DE1 includes the protection of important local and longer distance views and impact on the skyline, especially from public vantage points, having regard to the location and prominence of the site as a design consideration. New Local Plan Policy DE3 requires development to not have undue impact upon the amenity of surrounding uses, including visual intrusion, and New Local Plan Policy DE4 supports buildings above the prevailing height provided they are appropriate in terms of their visual impact. As stated above, officers do not consider that the addition of two more storeys will have such undue impact on views from the recreation ground to warrant a reason for refusal, particularly as the width of the building on the site will be reduced and the rear elevation will be partly screened by trees. In addition, the site is not considered to be overly prominent in relation to the recreation ground and the protection afforded to it visually, in policy terms, is limited, due to its locally protected status, as set out above.

5. Impact on Local Highways

A number of representations raise concerns with the impact of the proposals on traffic generation and safety of Asheldon Road. Highways officers have raised no objections in this regard and it was not a reason for refusal on the previous application. In light of this decision, it should be noted that the number of apartments is fewer than the previous application. Highways officers have confirmed that the visibility splays for the existing and new access points are acceptable. Therefore, the proposals are considered to accord with Local Plan Policy T26 and new Local Plan Policies TA1 and TA2. Highways officers requested the extension of the footpath to the front of the site and this is shown in the amended proposals; this will need to be secured in a s278 agreement. A residential travel plan should be secured by condition to encourage sustainable modes of travel. Secure, covered cycle parking should also be secured by condition.

6. Car Parking

A number of representations raise concerns with the lack of on-site car parking for the residents of the apartments. 12 spaces are provided for 32 apartments, including 6 disabled spaces. However, the number of car parking spaces accords with Policies T25 and TA3 of the Local Plan and new Local Plan respectively. Policy T25 sets a maximum parking standard of one space per two units for sheltered flats, which equates to a maximum of 16 spaces - the proposed number of parking spaces is below this maximum. Policy TA3 requires one space per five units for sheltered flats, which equates to 6 spaces - the proposed number of parking spaces meets this requirement.

Therefore, the proposed level of car parking provision is acceptable.

7. Impact on Trees

There will be no impact on important trees either on or near the site. The prominent cedar tree to the front of the building will be retained and its health can be improved. Should the application be approved, the Council's Arboricultural Officer has

recommended a number of conditions to ensure the protection of this and other trees on the site, during the construction phase. In addition, a condition should be added to secure a detailed landscaping plan, including mitigation planting for low quality trees removed.

Therefore, subject to appropriately worded conditions, the proposals accord with Local Plan Policy L9 and new Local Plan Policy C4.

8. Impact on Ecology

The proposals will not affect the area of woodland on the north part of the site. This area is overgrown at present and unmanaged. A condition should be added requiring the submission and implementation of a Landscape and Ecological Management Plan (LEMP), including Woodland Management Plan, to cover this area and the remaining site. The LEMP should provide for Phase 2 bat surveys of mature trees should they be lost from the woodland, in accordance with the submitted Extended Phase 1 Ecological Assessment. Conditions should also restrict works to outside the bird breeding season and require details of external lighting to ensure no harm to wildlife, including bats. Conditions should also secure provision of bird and bat boxes.

Therefore, subject to appropriately worded conditions, the proposals accord with Local Plan Policies NCS and NC5, and new Local Plan Policy NC1.

9. Surface Water Drainage and Flood Risk

Since the previous application was refused, the majority of Torbay has been classified as a Critical Drainage Area by the Environment Agency. Details of drainage are therefore usually sought as part of applications. South West Water has encouraged the use of sustainable drainage systems on the site, with foul flows only being connected to the public sewer. This is indicated on the application form, but details are awaited. In discussing this issue with the applicants, it has emerged that the requisite infiltration testing on the site cannot be carried out until the existing building has been demolished to provide access for equipment. Therefore, officers consider that in this case it will be appropriate to add a precedent condition requiring details of the surface water drainage design prior to constructions works commencing, with the exception of the demolition of the existing building.

Therefore, subject to an appropriately worded precedent condition, the proposals accord with Local plan Policy EPS and new Local Plan Policies ER1 and ER2.

S106/CIL -

The affordable housing and contributions for the application are set out below, in accordance with Local Plan Policies H6 and CF6, and the adopted Planning Contributions and Affordable Housing SPD and its Update 3. No Sustainable Transport contribution is required, due to mitigation applied to the existing use. In addition, the Greenspace and Recreation contribution has been partly mitigated to account for the dwellings being sheltered accommodation.

Waste Management (Site Acceptability)	£1,600.00
Affordable Housing	10 affordable dwellings
Stronger Communities (Sustainable Development)	£3,320.00
Lifelong Learning (Sustainable Development)	£5,780.00
Greenspace and Recreation (Sustainable Development)	£17,600.00

TOTAL = £28,300.00
plus 10 affordable dwellings

The applicants consider the scheme will be financially unviable if it has to deliver the policy compliant level of affordable housing and contributions above. Therefore, an Independent Viability Assessment (IVA) was commissioned by officers to determine what level of affordable housing and contributions will be viable. The IVA concludes that a total contribution of £100k is viable for the development. In accordance with the Council's priorities set out in the SPD, this will be split as follows:

Waste Management (Site Acceptability)	£1,600.00
Affordable Housing Contribution in lieu of on-site provision	£98,400.00
TOTAL =	£100,000.00

NB. In this case, an affordable housing contribution has been agreed to provide affordable housing off-site, in lieu of any on-site provision.

Justifications

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

The contribution towards affordable housing is justified in Section 3.0 of the Planning Contributions and Affordable Housing: Priorities and Delivery SPD (LDD6). It also accords with Local Plan Policy H6.

The stronger communities contribution is justified in paragraphs 4.31-4.35 of the Planning Contributions and Affordable Housing: Priorities and Delivery SPD (LDD6) and will be used towards the funding of a street warden (or part of a post) in the area in the interests of safer communities.

The lifelong learning contribution is justified in paragraphs 4.47-4.51 of the Planning Contributions and Affordable Housing: Priorities and Delivery SPD (LDD6) and will be used towards the cost of improving provision at Torquay Library, including IT equipment. The dwellings will place additional demand on the services provided by Torquay Library and the contribution will ensure these services are provided with funding to mitigate the proposed development.

The greenspace and recreation contribution is justified in paragraphs 4.52-4.58 of Planning Contributions and Affordable Housing: Priorities and Delivery SPD (LDD6) and will be used towards improving maintenance, management and equipment at existing facilities within easy walking distance of the site. The dwellings will place additional demand on these facilities and the contribution will ensure these facilities are provided with funding to mitigate the proposed development.

Status

The agreed contributions will need to be secured in a s106 agreement or Unilateral Undertaking. The applicants have submitted a draft s106 for the application committing

to pay a waste management contribution and affordable housing contribution once the amounts have been agreed. A similar agreement was prepared and agreed for the appeal relating to P/2014/1062. Officers will provide a verbal update at committee.

Conclusions

Officers consider that the change of use of the site from tourist accommodation to residential is acceptable and in accordance with adopted Local Plan Policies TUS and TU7, and new Local Plan Policy TO2. Members agreed this for the previous application, subject to a current appeal. This decision took into account viability evidence relating to the former hotel and alternative tourism uses.

The previous application was refused by Members on the basis of the design being out of character with the area and its harmful impact on the setting of the conservation area. The independent Torbay Design Review Panel's report was a material consideration in making this decision. The applicants have worked with officers to overcome the design issues resulting in the current submission. Officers consider the amended design proposal to be acceptable and in accordance with adopted Local Plan Policies BS, BE1 and BE5 and new Local Plan Policies SS8.1, TO2 and DE1. It is considered to be a significant improvement compared to the appeal scheme and will make a positive contribution to local character and distinctiveness. Therefore, officers consider the application should be approved, subject to a s106 agreement and various conditions as outlined in this report.

Condition(s)/Reason(s)

01. No development (including demolition and ground works) or vegetation clearance works shall take place until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The Statement shall provide for:
 - a) The parking of vehicles of site operatives and visitors;
 - b) Loading and unloading of plant and materials;
 - c) Storage of plant and materials used in constructing the development
 - d) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
 - e) Wheel washing facilities
 - f) Measures to control the emission of dust and dirt during construction
 - g) A scheme for recycling/disposing of waste resulting from demolition and construction works, with priority given to reuse of building materials on site wherever practicable
 - h) Measures to minimise noise nuisance to neighbours from plant and machinery
 - i) Construction working hours from 8:00 to 18:00 Monday to Friday, 8:00 to 13:00 on Saturdays and at no time on Sundays or Bank Holidays.

The approved Statement shall be adhered to throughout the construction period of the development.

Reason: To safeguard the Local Planning Authority's rights of control over these details to ensure that the construction works are carried out in an appropriate manner to minimise the impact on the amenity of neighbouring uses and in the

interests of the convenience of highway users. These details are required pre-commencement as specified to ensure that building operations and vegetation removal are carried out in an appropriate manner to avoid nuisance to neighbouring uses and inconvenience to highway users.

02. No development (including demolition and ground works) or vegetation clearance works shall take place 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 the development 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.

03. No development (including demolition and ground works) or vegetation clearance works shall take place 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 a scheme which has been submitted to and approved in writing by the Local Planning Authority. The scheme must comply with British Standard BS 5837:2012 (or any superseding British Standard). The fences and any other protection measures required in the approved scheme shall be retained until the completion of the development 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. No development (including demolition and ground works) or vegetation clearance works shall take place until a Method Statement has been submitted to and approved in writing by the Local Planning Authority detailing how the prominent cedar tree to the front of site shall be protected and enhanced during the construction and occupation of the development. The Method Statement shall be implemented as approved.

Reason: In the interests of the amenities of the area and biodiversity in accordance with saved Policies L9 and NCS of the Adopted Torbay Local Plan 1995-2011, emerging Policies DE1 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. These details are required pre-commencement as specified to ensure that the tree is not damaged by building operations and its health is maintained.

05. No development (with the exception of demolition of the existing building) or vegetation clearance works shall take place until a detailed surface water drainage scheme for the site 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 or sustainable drainage features must be provided. The scheme shall demonstrate that there will be no increased risk of flooding to surrounding buildings, roads and land. The development shall not be occupied or brought into use until the approved surface water drainage system has been completed as approved and it 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 an appropriate drainage system is provided for the development and there will be no increased risk of flooding to surrounding buildings, roads and land.

06. No tree works or felling, cutting or removal of hedgerows or other vegetation clearance works shall be carried out on the site during the bird breeding season from March to September, inclusive. If this period cannot be avoided, these works shall not be undertaken until the reasons why have been submitted to and approved in writing by the Local Planning Authority. The works shall not be undertaken except in the presence of a suitably qualified ecologist. If breeding birds are found or suspected, the works will not be permitted until the ecologist is satisfied that breeding is complete.

Reason: To ensure no harm to breeding birds 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. In the event that reasons are submitted to undertake the works during the bird breeding season, these are required pre-commencement as specified to ensure that breeding birds are not harmed by building operations or vegetation removal.

07. Prior to the commencement of development of the building hereby permitted, an External Materials Schedule shall be submitted to and approved in writing by the Local Planning Authority. The Schedule shall specify the external materials to be used in the construction of the building, including product specification details, colouration and images. Where samples of materials are to be provided, the Schedule shall include details of how these will be made available to view prior to the approval of the Schedule. The building shall be constructed from the materials specified in the approved Schedule.

Reason: In the interests of design and the character of the area in accordance with saved Policies BES and BE1 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 paragraph 58 of the NPPF. These details are required pre-commencement as specified to ensure that the building is constructed in accordance with the approved details.

08. Prior to the commencement of development of the building hereby permitted, details of the following building elements shall be submitted to and approved in writing by the Local Planning Authority:
- 1) Doors
 - 2) Windows, including reveals
 - 3) Roof lights
 - 4) Rain water goods
 - 5) Fascia, soffit and barge boards.

The above building elements shall be installed as approved.

Reason: In the interests of design and the character of the area in accordance with saved Policies BES and BE1 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 paragraph 58 of the NPPF. These details are required pre-commencement as specified to ensure that the building is constructed in accordance with the approved details.

09. Prior to the occupation of any of the dwellings hereby permitted, a detailed landscaping scheme for the site shall be submitted to and approved in writing by the Local Planning Authority. The Landscaping Scheme shall include details of hard and soft landscaping, including all boundary treatments. Where applicable, it shall specify tree and plant species and methods of planting. The hard landscaping shall be constructed as approved prior to the occupation of the dwellings. The soft landscaping shall be planted in the first planting season following the occupation of the dwellings or completion of the residential

development, whichever is the sooner, or in earlier planting seasons wherever practicable, and any trees or plants which within a period of 5 years from the completion of the residential development 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 residential amenity and design in accordance with saved Policies H11, L10 and BE2 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 paragraph 58 of the NPPF.

10. Prior to the occupation of any of the dwellings hereby permitted, an external lighting scheme for the site shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include the location and specification of external lighting and be designed to minimise harm to neighbouring properties and biodiversity. The external lighting scheme shall be implemented as approved prior to the occupation of any the dwellings. Should any of the external lighting become damaged and need replacement it shall be replaced with external lighting of the same specification. No additional external lighting shall be installed on the building or the site.

Reason: In the interests of amenity and design, crime prevention and biodiversity in accordance with saved Policies H9, CF2, NCS and EP5 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. Prior to the occupation or first use of the development hereby permitted, a Landscape and Ecological Management Plan (LEMP) 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 site management shall be undertaken in accordance with the LEMP.

Reason: In the interests of the amenities of the area and biodiversity in accordance with saved Policies H11, L10 and NCS of the Adopted Torbay Local Plan 1995-2011, emerging Policies DE1 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.

12. Prior to the occupation of any of the dwellings hereby permitted, a Residential Travel Plan shall be submitted to and approved in writing by the Local Planning Authority incorporating measures to promote the use of sustainable modes of travel instead of private car by future residents of the dwellings. The Residential Travel Plan shall be implemented as approved and shall be continually monitored by a Travel Plan Coordinator (TPC) appointed by the developer of the dwellings to ensure that it meets its objectives and targets. The contact details of the TPC shall be provided in the Residential Travel Plan. In the event that the objectives and targets of the Residential Travel Plan are not met, the Residential Travel Plan shall be updated by the TPC setting out further measures in order to rectify this. A copy of the Residential Travel Plan or updated Residential Travel Plan, as the case may be, shall be made available to the Local Planning Authority upon request during normal business hours. A summary of the Residential Travel Plan shall be provided to the first occupier of each dwelling hereby permitted setting out the options for sustainable modes of travel in the area.

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. Prior to the occupation of any of the dwellings hereby permitted, details of cycle parking provision to the dwellings shall be submitted to and approved in writing by the Local Planning Authority. The cycle parking shall be secure and covered. The approved cycle parking shall be provided prior to the occupation of the dwellings.

Reason: To promote cycling as a sustainable mode of travel in the interests of health and reducing greenhouse gas emissions and pollution in accordance with saved Policies TS and T2 of the Adopted Torbay Local Plan 1995-2011 and emerging Policies SS13 and TA1 of the Torbay Local Plan - A landscape for success (Proposed Submission Plan, February 2014).

14. Prior to the occupation of any of the dwellings hereby permitted, details of waste storage and collection to the dwellings shall be submitted to and approved in writing by the Local Planning Authority. The details shall make provision for appropriate storage, recycling, treatment and removal of waste likely to be generated. Adequate space shall be provided for refuse bins and recycling boxes. The details shall be implemented as approved prior to the occupation of the dwellings.

Reason: To provide a sustainable waste management scheme for the development in accordance with saved Policy W7 of the Adopted Torbay Local

Plan 1995-2011 and emerging Policy W1 of the Torbay Local Plan - A landscape for success (Proposed Submission Plan, February 2014).

15. None of the dwellings shall be occupied until all of the car parking spaces and access thereto shown on the approved plans have been provided and made available for use. The car parking spaces shall be kept permanently available for parking and access purposes thereafter, and shall be clearly marked as being designated to individual dwellings and/or visitors parking.

Reason: To ensure that adequate off-street parking and access thereto is provided and kept permanently available for use, in accordance with saved Policies T25 and T26 of the Adopted Torbay Local Plan 1995-2011, and in the interests of highway safety and in order to protect the residential amenities of the neighbourhood.

16. None of the dwellings shall be occupied until a Section 278 Highways Agreement has been entered into in order to secure the necessary works to the public highway. The s278 works shall include the extension of the public footway along the north-eastern side of Asheldon Road to the front of the site. The works shall be implemented prior to the first occupation of any of the dwellings.

Reason: In the interests of pedestrian safety and promoting sustainable modes of travel in accordance with saved Policies TS, T2 and T26 of the Adopted Torbay Local Plan 1995-2011, emerging Policies TA1, TA2 and DE1 of the Torbay Local Plan - A landscape for success (Proposed Submission Plan, February 2014), and paragraph 36 of the NPPF.

17. Notwithstanding the approved drawings listed under condition P1, the balconies and balcony terraces to the apartments shall incorporate side privacy screens to a design and specification submitted to and agreed in writing by the Local Planning Authority. The privacy screens shall be installed as approved prior to the occupation of the apartments. Should the screens become damaged and need replacement, they will be replaced with screens of the same specification as approved.

Reason: To protect the privacy of neighbouring properties and individual apartments in accordance with saved Policy H9 of the Adopted Torbay Local Plan 1995-2011 and emerging Policy DE3 of the Torbay Local Plan - A landscape for success (Proposed Submission Plan, February 2014).

18. Notwithstanding the approved drawings listed under condition P1, the following windows of the apartments shall be obscured glazed:

Reason: To protect the privacy of the neighbouring properties in accordance with saved Policy H9 of the Adopted Torbay Local Plan 1995-2011 and emerging Policy DE3 of the Torbay Local Plan - A landscape for success (Proposed Submission Plan, February 2014).

19. Notwithstanding the approved drawings listed under condition P1, no parts of the roof of the building shall be accessed, other than to carry out maintenance works. The roof shall not be used by occupiers of the apartments for amenity purposes.

Reason: To protect the privacy of the neighbouring properties in accordance with saved Policy H9 of the Adopted Torbay Local Plan 1995-2011 and emerging Policy DE3 of the Torbay Local Plan - A landscape for success (Proposed Submission Plan, February 2014).

20. TBC

21. TBC

Relevant Policies

HS - Housing Strategy
H2 - New housing on unidentified sites
H9 - Layout, and design and community aspects
H11 - Open space requirements for new housing
TUS - Tourism strategy
TU7 - Change of use/redevelopment outside PHAA
CF2 - Crime prevention
CF6 - Community infrastructure contributions
CF15 - Accommodation for people in need of care
W7 - Development and waste recycling facilities
LS - Landscape strategy
L5 - Urban Landscape Protection Area
L9 - Planting and retention of trees
L10 - Major development and landscaping
NCS - Nature conservation strategy
NC4 - Wildlife Corridors
NC5 - Protected species
EPS - Environmental protection strategy
EP5 - Light pollution
EP6 - Derelict and under-used land
BES - Built environment strategy
BE1 - Design of new development
BE2 - Landscaping and design
BE5 - Policy in conservation areas
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
SS3 - Presumption in favour of sustainable dev
SS8 - Natural Environment
SS81 - Conservation and historic environment
SS9 - Green Infrastructure
SS11 - Housing
SS12 - Five year housing land supply
TO2 - Change of use of tourism accommodation
TA1 - Transport and accessibility
TA2 - Development access
TA3 - Parking requirements

C4 - Trees, hedgerows and natural landscape
C5 - Urban landscape protection areas
NC1 - Protected sites - internationally import
H1LFS - Applications for new homes_
H6LFS - Housing for people in need of care_
DE1 - Design
DE3 - Development Amenity
DE4 - Building heights
ES1 - Energy
ER1 - Flood Risk
W1 - Waste management facilities

Agenda Item 10

Spatial Planning Performance Report

Quarters 1 and 2, 2014/15 (01 April to 30 September 2015)

Executive Summary

This report provides information on the performance of the Spatial Planning Team in Quarters 1 and 2, 2015. It gives members of the Development Management Committee the opportunity to oversee performance against a number of indicators.

The Council's performance against the statutory function of determining planning applications and producing a local plan is vital to investment in the Bay. A strong well functioning planning service is vital for long term, sustainable economic growth. Investors look at, for example, the degree to which Members follow officer advice, the percentage of approvals on major applications, how quickly those decisions are made and how robust the policy framework is against which these decisions are made.

The Council has performed well in some areas such as the determination rate for major applications being well above target and the new Local Plan being close to adoption. However there are some areas that require attention such as meeting targets on the determination rate for 'other' and 'minor' applications, and production of neighbourhood plans.

Headlines

The following areas of performance are highlighted given their importance in national measures of Local Planning Authority's; these indicate a good picture for Torbay in the national context:

- Major planning applications - 80% in quarter 1 and 75% in quarter 2 were determined in time (either within 13 weeks or within the time agreed with the developer). This is well above the Government's special measures threshold of 40%.
- The Inspector's final report, dated 12 October 2015, on the new Local Plan concluded that the Plan is sound and can be adopted by the Council, subject to a small number of modifications. The Local Plan has also been found satisfactory in the three specified areas of compliance with the duty to cooperate, soundness (positively prepared, justified, effective and consistent with national policy) and compliant with legal requirements.
- 15 appeals have been determined, of which 66.6% were dismissed and 33.3% were allowed.

Performance against 8 week time period:

The combined performance for quarters 1 and 2 is:

Major applications – 77.5%

Minor applications (includes applications for less than 10 dwellings, small office, light industrial development and retail development) – 50.6%

Other applications (includes change of use, householder, listed building and certificate of lawfulness applications) – 67.8%

Performance

The following areas of performance are set out in this report:

- (1) Local and Neighbourhood Plans
- (2) Planning appeal decisions
- (3) Performance on Major planning applications
- (4) Performance on Minor and Other planning applications
- (5) Committee decisions and officer recommendations, and
- (6) Forthcoming applications.

1. Local and Neighbourhood Plans

A new statutory Local Plan has been prepared for Torbay. This document, the 'Torbay Local Plan (A landscape for success: The Plan for Torbay - 2012 to 2030 and beyond)' is the Council's key development plan document and will form the basis for decisions on spatial planning matters within the Bay over the next fifteen years or so. The Plan sets out a balanced strategy for change in Torbay, which embraces growth but puts protection and enhancement of Torbay's unique environment at its heart.

Following earlier draft stages of Plan preparation, the new Torbay Local Plan was formally submitted to the Secretary of State for Independent Examination in July 2014, heralding the start of the Examination. Hearing Sessions were conducted in November 2014 by the Inspector appointed by PINS, after which the Council received his Initial and Further Findings. As a consequence, a series of Proposed Modifications to the Plan were published for consultation. Following consideration of responses, these were later substituted by the publication of a set of Proposed Replacement Modifications. All representations received and the Council's responses were published and passed to the Inspector for his consideration.

The Council has now received the Inspector's Report of the Examination into the soundness of the Torbay Local Plan, dated 12 October 2015. This has been published in accordance with the Local Planning Regulations.

In compliance with the relevant legislation, the Inspector has been required to indicate that the Plan as originally submitted had a number of initial deficiencies relating to soundness. However, the Inspector has concluded that the Local Plan can be found sound subject to a series of Modifications requested by the Council. These are binding on the Local Planning Authority. Without these Modifications, the Plan as submitted would not be considered sound by the Inspector and could not be adopted. Receipt of the Report marks the end of the Examination process and allows the Council to proceed to the formal Adoption of the Local Plan, as modified.

The Local Plan has been found satisfactory in all three specified areas, namely compliance with the duty to cooperate, soundness (positively prepared, justified, effective and consistent with national policy) and compliant with legal requirements. It should be recognised that this is a major achievement for Members and Officers of the Council and provides the Authority with a very effective and positive basis for future planning in the Bay.

The Inspector's Report includes four main modifications, the first three of which were proposed by the Council and included in its Proposed Replacement Main Modifications document:

1. The Plan should cover the period to 2030, with regular reviews and assessment against the delivery of new jobs and homes;
2. Delivery of 8,900 homes in the Bay to 2030, which reflects Torbay's environmental quality and capacity;
3. A requirement for the Council to produce new site allocation plans, showing the location and type of development over the medium term, if Neighbourhood Forums fail to deliver formal draft Neighbourhood Plans by the end of March 2016; and
4. The inclusion of a site at Churston Golf Course (1st and 18th hole/clubhouse site) as a potential housing site over the medium to long term.

The Inspector rejected calls, by the housing industry, for much more development and for higher levels of affordable housing. He believes that quantum of development is unrealistic, in such an environmentally sensitive area, and that the level of demand from the market does not justify increased levels of growth. He also firmly rejected Neighbourhood Forums calls for less growth. He said it was right for the Local Plan to be ambitious for new jobs and homes.

The Inspector has confirmed that the Plan includes enough land for housing for the next 5 years.

The following additional commentary is relevant to the Inspector's modifications:

- Plan period: This starts in 2012. The National Planning Policy Framework (NPPF) requires a minimum Plan period of 15 years from adoption. It was considered prudent during the Examination to reduce the Plan period rather than seek to increase housing numbers, not least because to add in further housing sites would have greatly extended the Examination period.
- Number of new homes: The agreed level of 8900 new homes reflects both the environmental capacity of the Bay and the need for more homes, as driven by a number of factors, including jobs. This figure equates to almost 500 homes per annum across the Plan period. Delivery rates over the last 10 years have averaged around 480, although for the past three years this figure has averaged only around 300. This will require strong focus on ensuring a sufficient housing land supply;
- Neighbourhood Plan: The Inspector has confirmed the deadline for delivery of neighbourhood plans for Torquay, Paignton and Brixham. By the end of March 2016, the Council will need to receive proposed neighbourhood plans and related documentation in order to comply with Regulation 15 of the Neighbourhood Planning (General) Regulations 2012. In practice, this means that well before the end of March 2016, Forums will have to have consulted with various consultation bodies for at least 6 weeks on the pre-submission version of the neighbourhood plan. If the Council does not receive proposed neighbourhood plans by the end of March 2016 it will be necessary for the Council to begin the preparation of Site Allocations Development Plan Documents in order to deal with local spatial planning matters. The Council has written to the Chairs of all three Neighbourhood Forums to ensure this position is absolutely clear and to offer continued support in preparing neighbourhood plans.
- Churston Golf Course: The Inspector believes this site could be delivered. Such redevelopment is likely to require a new location for a club house and new holes to replace any lost as result of development. Both these have proved undeliverable to date, as a recent appeal decision has shown. It will be the role of the emerging neighbourhood plan to consider how this site might be promoted and tested further.

The Inspector's Report includes a number of implications for future work and working arrangements with neighbouring Councils:

- The Council would be required to undertake the rapid production of three Site Allocation Development Plan Documents if Neighbourhood Plans fail in one way or another
- Formal establishment of a South Devon Delivery Review Panel (or similar), with Teignbridge and South Hams District Councils, to monitor delivery of jobs and homes in the Bay
- 5 yearly reviews of the Plan, with evidence required to support those reviews
- Earlier review of the Plan, if land south of White Rock is shown to be capable of development

Given the support provided by the Inspector's final report, the new Local Plan already carries significant weight in the determination of planning applications. As the new Local Plan is up to date and based on the most recent evidence it carries more weight than the existing Local Plan. So, until the new Local Plan is formally adopted and the existing Local Plan is formally superseded, both policy documents must be considered in the determination of planning applications.

The Council will be asked to adopt the new Local Plan at its meeting on 10 December 2015.

2. Planning Appeal Decisions

Fifteen appeals have been determined in the last six months. Ten cases were dismissed and five were allowed. One application for costs against the Council was dismissed (34 Broadsands Road, Paignton). A summary of these cases is attached at Appendix A. All these appeals have been dealt with by the written representations process. There have been no public inquiries. One informal hearing has taken place into the redevelopment proposal at the Gleneagles Hotel. The result of this has not yet been received.

The Council has successfully defended 66.6% of appeals against a target of 60%. This should be seen as a good level of performance that reflects good quality decision making on planning applications. It is worth noting that a 100% success rate at appeal would indicate that the Council is not being tough enough on applications for poor quality development, by refusing them, and therefore would not be performing at the most effective level.

As none of the appeal decisions in the last two quarters has related to a major development, the Government's target for Council's appeal performance does not apply.

3. Performance on Major Planning Applications

Determinations within 13 weeks

Councils are expected by the Government to determine at least 40% of major planning applications within 13 weeks although this rate will increase to 50% in November 2015. Quarter 1's performance on Major Planning Applications was 80 % determined in time. Quarter 2's performance was 75% determined in time.

This reflects a strong performance on determining the larger applications at a rate well above the national target. These applications generally relate to major investment and regeneration proposals and performing well above target is a reflection of good performance.

Early collaboration with applicants and consultees is actively encouraged through the pre application process. The majority of major applications go through the pre application

process prior to the submission of an application. This provides an effective opportunity for issues to be addressed at an early stage in the process, for value to be added to the scheme through consultation and provides a basis for a swifter determination of subsequent applications.

A number of Design Review Panel meetings have been held throughout the year which make an important and positive contribution to the quality of development schemes that are submitted for planning permission. The Design Review Panel has proved to be an effective tool in the planning process, with a number of schemes that have been influenced by the Panel now completed or under construction (Abbey Sands, Lansdowne Hotel). Feedback from developers about the Design Review Panel is nearly always positive. Torbay is fairly unique in the South West in running its own DRP however there are a number of advantages of this such as being able to provide a lower cost service and having flexibility over timing and of tailoring a panel meeting to the type of development that is being considered.

A customer satisfaction survey is sent out with every decision on a planning application. The most recent results show a 90% satisfaction level for determination of planning applications.

4. Performance on 'Minor' and 'Other' Planning Applications

The Council's performance overall for quarters 1 and 2 for Minor applications was 50.6% and for Other applications 67.8% against targets of 65% and 80%. Performance for both development types is below target.

The Government has announced that it intends to extend performance measures to non-major development. No relevant criteria have been announced or timescales for this measure, although it is likely to apply to performance levels below 50%. If the threshold is set at this level Torbay's performance is very close to the target. Close monitoring of performance of these development types is needed to ensure that it does not decline.

The principle reasons behind this level of performance were that the Development Management team were short of one FTE officer during quarters one and two due to a delay in replacing a former member of staff. This post was filled in August. In addition delays in the determination of applications also occurred due to the time taken to complete S106 agreements. Following a change to legislation in April 2015 whereby S106 contributions towards infrastructure can no longer be pooled, the number of applications subject to S106 agreements has reduced, which will make a positive contribution towards improving performance.

5. Committee Decisions and Officer Recommendations

As has previously been reported decisions made at Development Management Committee are, in the majority of cases, consistent with the officer's recommendation (approx 95% over a 2 year period). This demonstrates a strong consistency between the officers and the members of the committee in making planning decisions.

This level of consistency in decision making provides applicants with a high level of certainty that the eventual decision will be likely to tally with the advice they have received through the negotiation process.

6. Forthcoming applications

The following is a list of forthcoming Major projects and their current status:

Site Address	Summary proposal	Target DMC
Pavillion, Torquay	Hotel, Flats, Car Parking	Jan 15
Yalberton Road	Residential and Commercial	Dec 2015
South Devon College	LDO for comprehensive redevelopment	Jan 2015
White Rock	Residential	May 16
Edginswell Rail Halt	rail halt	Feb 16

It is proposed to put in place a Local Development Order for education development at South Devon College which will cover a 15 year period. This will effectively provide a blanket consent for all future education development on the site subject to an agreed set of criteria. This will mean that the college will not need to submit individual planning applications for each new development proposal. The advantage of this is it will provide the college with a greater level of certainty on whether a proposed development would be acceptable and reduce the timescales for agreeing such a proposal with the Council. This will help the college with bidding for funds for new development.

Conclusion

The Spatial planning team remains successful and performs well in relation to key indicators. In addition, the Council continues to perform well at appeal and the relationship between officer advice and the decisions of the committee are consistently in line with one another.

However, the changes to the thresholds for assessing performance mean that the Council needs to maintain and, if possible, improve its performance. There is no room for complacency.