

Application Number

P/2011/1158

Site Address

Dainton Self Store Ltd Torre Station Yard
Newton Road
Torquay
Devon
TQ2 5DD

Case Officer

Mr John Burton

Ward

Cockington With Chelston

Description

Change of use from B8 storage to C3 dwelling houses; formation of 10 townhouses with 3 storeys and integrated garages and off street parking

Executive Summary/Key Outcomes

The application site and adjoining land in the same ownership has a B8 (storage or distributions) use permission which has been implemented. The land is at the margins of the storage use and other commercial/business uses that exist at Torre Station and so is not considered to be integral to the function and performance of the areas business prospects. The site has been untidy and under utilised for some time now and would benefit from being brought back into a good use. Residential use is considered to be acceptable because the site is immediately adjacent to the long established residential development at Crownhill Rise. The proposed design is in keeping with local traditions and appearance, and is shown to a high standard including thought having been given to energy efficiency. The proposal takes advantage of the ability to have a relatively high density of development, but still fits within national and local guidance in this respect. The development will provide the size and type of accommodation which is needed in the Torbay housing market. There are no interests of acknowledged importance that would be adversely impacted by this proposal, and issues which have arisen can be handled by use of conditions. The proposal qualifies for a Planning Obligation in order to defray the costs that would arise from the development.

Recommendations

Members are asked to assess the issues on-site first (site visit). However, subject to this, the proposal is considered to be acceptable by officers and is recommended for conditional approval, subject to the further views of the Environmental Health Officer (with respect to potential land contamination), the views of the Highways Authority, and the successful signing of a Planning obligation under s106 of the Act, which should be completed within 6 months from Members' resolution.

Site details

Site of approximately 0.23 hectares in size, accessed off Cleveland Road (a small access road off Avenue Road), immediately on the western side of the Newton Abbot/Paignton railway line. The land slopes from the east to the west of its width by approximately 3 metres.

The land is currently owned by Dainton Group Services Limited who acquired the land from Network Rail, but who reserved rights of access over part of the site. The land had previously been railway sidings. The Dainton Group also own a lot of land to the north of this current application site, from where they currently operate a storage business. This has been at this site since approximately 2003.

There is a narrow strip of land immediately due south of the site which is in the Council's ownership and links to the Rowcroft land further up. It is a green corridor that appears to be in use as an informal footway. On the other side of this strip are the properties on Crownhill Rise.

The site is not within a designated Conservation area, but does lie adjacent to the Torre Conservation Area. Torre Station is a listed building, primarily for its historic connections with I. K. Brunel.

Detailed proposals

Full planning permission is sought to change the use of this land from B8 storage use (as defined by the Town and Country Planning, Use Classes Order) to a C3 residential use, in order to facilitate the development of a terrace of 10 dwelling houses. The plans show 3 storey dwellings with integrated garaging and driveways at the front for additional car parking. The plans indicate a minimal amount of soft landscaping at the fronts of the dwellings, but each property would have rear gardens running down to the Council owned informal footpath. The dwellings are shown arranged with a stepped terrace footprint, with the land cut and filled to negate the existing slope of the land. The material palette shows predominantly rendered elevations with contrasting timber effect and plain pre-coloured fibre-cement panels, painted timber windows, and interlocking plain grey concrete tiles for roofing.

Access to the site is under the existing railway bridge and this will remain unaltered, except for a proposed new pedestrian footpath link (subject to negotiation with Network Rail). Pedestrian access to the Crownhill Rise alley way in between nos. 8 and 9 is shown provided by a new foot and cycle path off Cleveland Road running down to the Council owned 'green corridor'. This new footway/Council footpath system would also provide access to the rears of the proposed properties. Access to the rear gardens from within the new dwellings themselves would be via the first floor living room (ground floor at the rear, first floor at the front, due to the level of the land).

The site would have close proximity to public transport links (buses and trains), and good access to local amenities and services.

Summary of consultation responses

Network Rail: Objects to the proposal in its current form, primarily because the suggested layout application does not take account of the legal right of access reserved by Network Rail through the site for maintenance vehicles. If the layout could be amended, Network Rail may withdraw their objection but seek to ensure conditions (relating to fencing, drainage, safety, ground levels, site layout, landscaping and environmental issues such as noise, vibration and dust), as requirements for the safe operation of the railway and the protection of Network Rails' adjoining land.

Highways Officer: No objections in principle, but would need to see the highway become adopted.

Strategic Transportation: Has no basic objection. However notes that the road under the railway bridge is not adopted (believed to be owned by Network Rail) and with 10 houses being proposed it may be wise to seek adoption. The proposal should also secure a Planning obligation, the sustainable transportation element of which should be used to enable a cycle path to be formally provided down from the Rowcroft land around this site and up to Avenue Road.

Arboricultural Officer: The site contains no trees of merit and only smaller self set trees and scrub bound the site which offer little potential. However there is a large TPO woodland to the north-west which does not form part of the proposal site.

Environmental Health Officer: Notes the comments made as part of the application, but would prefer the desk top study and intrusive investigations to be undertaken before permission is granted, not dealt with by way of a condition. The E.H.O.'s best information indicates that there might be underground storage tanks in situ associate with the former use as a train sidings. A previous use as a coal merchants also has the capacity to make the land contaminated. However, the E.H.O. is of the opinion that any likely contamination could be mitigated.

Summary of representations

Letters of representation have been received and are reproduced at page T.200. The gist of the comments made can be summarised as follows:-

- Would set a precedent for even more houses;
- Will not mix with the storage business adjacent;
- Will bring noise into a quiet area;
- Will obscure outlook from properties in Crownhill Rise;
- Impact upon trees and wildlife;
- The access lane to Torre Station was illegally blocked off a couple of years

- ago, and now it is proposed to re-open it;
- Would result in a lack of privacy for those properties facing in Crownhill Rise;
 - Loss of privacy if the old footpath is to be re-opened;

Relevant planning history

P/2008/0754 Removal of condition 2 (ref app no P/2008/0293/PA) re temporary permission for use of land for containerised self storage, Refused permission 26/06/2008 but allowed on appeal by decision notice dated 15/05/2009

P/2008/0293 Use Of Land For Containerised Self Storage. Approved 16/04/2008 for a temporary period not exceeding 1 May 2013

P/2002/2014 Use Of Land For Containerised Self Storage 20.02.2003 (condition 2 stating that the use shall be temporary up to 1 March 2004).

Key issues/material considerations

Principal and planning policy

The land is zoned in the Saved Adopted Torbay Local Plan as being a Business Investment Area (policy E3.5), in which employment uses should be retained and developed. However there are no employment uses on this parcel of land or any of the Dainton Group land of which this is a part. Although there is a limited amount of management and security associated with the storage use, this cannot be considered to be an employment generator. Policy E3 does go on to say that small scale warehousing uses (B8) will be permitted in the Business Investment Areas, and the Council has authorised such a use at this site on a temporary basis. Attempts to make the containerised storage use permanent were resisted by the Council, but allowed on appeal (see Inspector's decision reproduced at page T.200) as it is quite clear in planning law that temporary uses should not be renewed with a further temporary use. So the site has little employment benefit, and it is difficult to see how this could be changed given that the site is in private ownership and operating a lawful B8 use. It therefore has to be concluded that it would be very difficult to enforce the terms of policy E3 on the current proposal site, without making a Compulsory Purchase Order. This is unlikely to be part of the Council's thinking.

In housing policy terms the proposal is clearly consistent with the aims of the housing chapter of the Saved Adopted Torbay Local Plan. There is no conflict with policy HS (Housing Strategy), because the proposal would be providing low cost open market housing of the type needed in Torbay, securing a balance between new housing and the protection of environmental quality, maximising the re-use of urban brownfield land, resulting from a sequential approach to housing provision. The proposal meets the terms of policy H2 (New housing on unidentified sites) because the proposal promotes sustainable development, contributes to the provision of a full range of house types, re-uses urban

'brownfield' land in a sequential and sustainable manner, has good public transport accessibility, has good access to infrastructure and community provision, and promotes good design and energy efficient dwellings. The proposal is considered to be in accordance with policy H9 (Layout design and community aspects) because a strong emphasis has been given to the design of the new dwellings. The proposal does not breach the requirements of policy H10 (Housing densities) because it would be developed at a high density (equivalent to 44 dwellings per hectare of land) but consistent with key environmental objectives. This is in accordance with national planning policy guidance. The scheme makes little provision for amenity open space, play areas, wildlife areas and landscaping, and so could be seen as being contrary to the provisions of policy H11 (open space requirements). However this can be overcome through appropriate provisions within the Planning Obligation (under s106 of the Act).

The proposal will need to show compliance with policy CF6 (Community Infrastructure Contributions), but this can be achieved. This will be discussed later.

A small portion of the proposal site in the east is part of a larger wildlife site, although given the B8 use that could lawfully operate at the site, the nature of previous uses of the site, the fact that there is no evidence of any important species on site, the openness of the site and the amount of hard surfacing within the site, it is not felt appropriate to invoke policy NC3 (Locally important protected sites).

The proposed dwellings have an energy efficient design (see 'Environmental Impacts' below) and so meet the terms of policy EP1. Although this site has a B8 permission controlling its use, it has not been used effectively as such. The site used to be overgrown, was subject to fly tipping and has most recently been used for the storage of vehicles. It does still contain some remnants of former structures, and is generally in an untidy state. On this basis, the proposal would accord with the provisions of policy EP6 (derelict and under-used land). It is likely that the risk of the site being contaminated is low, and it is noted that there are residential properties in the immediate area (to the south) anyway. However, given previous uses for the site, the applicant has offered to undertake a desk top study and intrusive ground investigation before any development that might be permitted is commenced. This would establish the likelihood of contamination and if likely, suggest mitigation and remediation measures. This can be dealt with by condition, and would therefore comply with policy EP7 (contaminated land) of the Saved Adopted Torbay Local Plan.

Policies within the 'Built Environment' chapter of the Saved Adopted local Plan are more subjective. However, the design and choice of materials is considered appropriate, because it continues themes established in Crownhill Rise, uses substantially vernacular materials and will enhance the existing character of the area. The design and appearance is typical of many developments throughout

Torbay, but by adding colour and interest to the street scene will create its own sense of place. The site is not within a Conservation Area, and far enough removed from Torre Station itself so as not to impact upon the setting of this Listed building. It is therefore considered that the proposal would meet the requirements of policies BES and BE1.

The proposal includes for off-street parking to standard and has a suitable access, although this may need to become an adopted highway in time. However it is noted that the Highway Authority is not objecting to the proposal and Strategic Transportation are in general agreement. It has been suggested that the proposal should be accompanied by a Planning Obligation that makes provision for a sustainable transportation contribution to assist in improving local footpaths and cycle ways. With all of these factors in mind, it is concluded that the proposal would be in accordance with Transport and accessibility policies T3 (cycling), T10.1 (Torre Station transport interchange), T25 (car parking) and T26 (access).

This site was identified in the 'Action Framework Plan' supporting the previous Mayor's Vision as a development site. It was seen very much as a gateway site for Torbay. It did include some residential. Considerations have moved on now however, and it is now more appropriate to defer to the policies of the Saved Adopted Torbay Local Plan.

In conclusion, the proposal is not considered to be in breach of any of the relevant adopted policies and can therefore be considered to be acceptable in principle.

Impact on neighbouring properties

The southern elevation (rear) of the ten properties proposed are only two storeys in height, with plots 1 to 8 being more than 21 metres away from the nearest neighbouring houses in Crownhill Rise, and plots 9 and 10 being 19 metres away. This is considered to be acceptable in terms of potential for any overlooking and loss of amenity. Some of the representations received have made objection on a perceived loss of outlook that would arise if this application were to be approved, but Members will be aware that no one individual or property has a right to a view in planning law. It should also be noted that the landscape value of the site would be improved by the proposal as currently the site consists of uneven ground covered in stone chippings and the remains of demolished buildings.

Economy

The site is identified in the former Mayor's vision document as being suitable for a mixed use development that included some residential use. However, the land has been in private ownership for some time now, and it is not clear how that particular proposal could have been implemented without the agreement of the owner.

Although the site benefits from planning permission for B8 storage use and more recently permission for containerised self storage use, this is a very low employment generator. The main containerised storage area of the Dainton Group is utilised by local businesses and so does impact obliquely upon employment and business. However, the application site itself is subsidiary to the main trading and container site, storing vehicles and caravans. As such there are no implications to the economy of Torbay in converting the site to residential use. In any event, any perceived loss in employment opportunity could be provided, if felt necessary by Members, on the main site storage subject to agreement.

Environmental impacts

The proposal is a redevelopment of a brownfield site currently consisting of uneven ground covered in stone chippings with the remains of some demolished buildings scattered around. This can be considered a sustainable solution to fulfilling local housing need, and is certainly making full and effective use of urban land in a manner, that is sequentially more preferable to building on 'greenfield' land or countryside.

The proposed layout and configuration of the houses on the site with south facing gardens, living and bedroom spaces will help to improve the energy efficiency of the houses through natural solar gain and ventilation.

The application is accompanied by an 'Environmental Noise Statement'. This takes on board the proximity of the proposed dwellings to the Paignton/Newton Abbot railway line. The statement concludes that there could be some impact and so the design of the dwellings has been developed to take this into account as mitigation measures have been incorporated into the design. It is considered that these measures are sufficient to ensure that the amenity of any future residents will be protected and a good standard of acoustic environment can be delivered. This accords with the principles of PPG 24 (Planning and Noise) and would meet with the terms of Saved Adopted Torbay Local Plan policy EP4 (Noise). However, its implementation will be largely down to the Building Regulations.

The site is not within an identified flood risk area.

Planning Obligation

This proposal is liable for a planning obligation under s106 of the Town and Country Planning Act to offset the costs that would arise from it. The 'Planning contributions and affordable housing supplementary document, update 3', was adopted by the Council in March 2011. Both the original document and the current update form part of the Torbay Local Development Framework. The document splits contributions up into 5 categories according to size. It is considered that contributions would be due for the following items - municipal

waste and recycling, sustainable transportation, lifelong learning, and green space/recreation. The amount that is currently charged for each new dwelling unit is now based on floorspace to be created. However it is reasonable to mitigate the transportation costs to take account of the fact that the existing use for B8 purposes would have an impact upon the immediate road network. The figure charged should reflect the net additional impact as stated in the S.P.D. This is currently being calculated and may reduce or negate the figure quoted below. Each house has a gross internal area measuring 120 sq. metres (including a single garage of 14 sq. metres), and so fit into category 5 for contributions.

Category 5 (120 Sq. M. +)	
Municipal waste and recycling	£ 50.00
Sustainable transportation	£3610.00
Stronger communities	£ 200.00
Lifelong learning	£ 470.00
Green space and recreation	£ 2370.00

TOTAL £6700 x 10 units = £67000.00

Conclusions

On all of the relevant policy considerations, the proposal is considered to be acceptable. The land is not used for employment purposes despite its zoning as a Business Investment Area, and the Council has little control over its future use given that it is in private ownership. The site is currently in a mess and would benefit from investment and development. There are no wildlife or tree issues that would prevent development. The applicant has agreed to a Planning Obligation to defray costs that will arise from the proposal. The application will provide housing of the sort required by the local housing market. The proposal does therefore appear to be acceptable in principle, in policy and in detail. However, there have been a number of objections to the proposal and it is therefore appropriate for members to undertake a site visit to assess these for themselves.

Condition(s)/Reason(s)

01. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development.

Reason In the interests of the amenities of the area, and to accord with policies L8, L9 and BE2 of the Saved Adopted Torbay Local Plan.

02. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of the buildings or the completion of the development) whichever is the sooner, or at such other time as agreed by the Local Planning Authority in writing, and 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 a 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 L8, L9 and BE2 of the Saved Adopted Torbay Local Plan.

03. The development hereby approved shall not be commenced until details of the colour type and texture of all external materials, including hard-surfaced areas, to be used in the construction of the proposed development have been submitted to and approved by the Local Planning Authority.

Reason To allow the Local Planning Authority to assess this element of the proposal and ensure that the development does not prejudice the character and setting of the area or the adjacent Torre Conservation area or the Listed Torre Station, in accordance with policies BEs and BE1 of the Saved Adopted Torbay Local Plan.

04. Prior to the commencement of any development, details of a sustainable urban drainage system shall be submitted to and approved by the Local Planning Authority, such system as may be approved shall be installed prior to the occupation of the development. The system shall be maintained effective at all times thereafter unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order to reduce surface water run off in a catchment area where flooding occurs and to accord with the requirement of PPS25 "Development and Flood Risk" in respect of sustainable drainage, and policy EP11 of the Saved Adopted Torbay Local Plan (1995 – 2011).

Informative

A Sustainable Drainage Solution such as a soakaway should be designed and constructed in accordance with Building Research Establishment Digest 365. A Sustainable Urban Drainage System should be designed and constructed in accordance with Construction Industry Research and Information Association Document 522 for surface water disposal (Clean surface water and roof water should be kept separate from foul drainage systems).

05. The development hereby approved shall not be used or occupied until all of the garages and car parking areas and access thereto shown on the approved plans have been provided and made available for use, or to a stage previously agreed in writing with the Local Planning Authority. The car parking areas shall be kept permanently available for parking purposes to serve the development at all times thereafter.

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

06. Development shall not begin until a remediation statement to deal with contamination of the site has been submitted to and approved in writing by the Local Planning Authority. The above statement shall include a report of the investigation and assessment, identifying the extent of contamination and the measures to be taken to contamination and the measures to be taken to comply Part IIA Environmental Protection Act 1990. The development shall not be used or occupied until the measures approved in the statement have been implemented and the validation process has been completed.

Reason: To ensure that there is no risk from land contamination in accordance with National Planning Policy Guidance (PPG 24 'Planning and Noise') and to accord with policy EP7 of the Saved Adopted Torbay Local Plan.

07. The development hereby approved shall be constructed in accordance with detailed drawings, which shall previously have been submitted to and approved by the Local Planning Authority, showing the datum level at which it is to be constructed in relation to an agreed fixed point or O.S. datum.

Reason To enable the Local Planning Authority to fully assess the impact of the proposal and ensure a satisfactory form of development that does not adversely impact upon neighbouring uses or the area in general, in accordance with policies BES and BE1 of the Saved Adopted Torbay Local Plan.

Relevant Policies

- E3 Business Investment Areas
- HS Housing Strategy
- H2 New housing on unidentified sites
- H9 Layout, and design and community aspects
- H10 Housing densities
- H11 Open space requirements for new housing
- CF6 Community infrastructure contributions
- NC3 Protected sites - locally important site
- EP1 Energy efficient design

EP6 Derelict and under-used land
EP7 Contaminated land
BES Built environment strategy
BE1 Design of new development
BE2 Landscaping and design
T3 Cycling
T10 Transportation interchanges
T25 Car parking in new development
T26 Access from development on to the highway
EP4 Noise