

DEVELOPMENT MANAGEMENT COMMITTEE

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

Monday, 21 March 2011

commencing at **2.30 pm**

The meeting will be held in the Ballroom, Oldway Mansion, Torquay Road,
Paignton, TQ3 2TE

Members of the Committee

Councillor Scouler (Chairman)

Councillor Manning
Councillor Addis
Councillor Carter (R)
Councillor McPhail

Councillor Morey
Councillor Pentney
Councillor Thomas (D)
Councillor Charlwood

Our vision is for a cleaner, safer, prosperous Bay

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

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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**

To confirm as a correct record the Minutes of the meeting of this Committee held on 21 February 2011.

(1 - 6)

3. **Declarations of Interests**

(a) To receive declarations of personal interests in respect of items on this agenda.

For reference: Having declared their personal interest members and officers may remain in the meeting and speak (and, in the case of Members, vote on the matter in question). If the Member's interest only arises because they have been appointed to an outside body by the Council (or if the interest is as a member of another public body) then the interest need only be declared if the Member wishes to speak and/or vote on the matter. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.

(b) To receive declarations of personal prejudicial interests in respect of items on this agenda.

For reference: A Member with a personal interest also has a prejudicial interest in that matter if a member of the public (with knowledge of the relevant facts) would reasonably regard the interest as so significant that it is likely to influence their judgement of the public interest. Where a Member has a personal prejudicial 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 Democratic Services or Legal Services prior to the meeting.)

4. **Urgent Items**

To consider any other items that the Chairman decides are urgent.

5. **2010/0616/MPA land Adjoining Cayman Golf Course, Dartmouth Road, Churston, Brixham**

Formation of combat games area with car parking, administration building with changing/toilet facilities Revised plans received now showing new layout for site, further details of structures (including heights and materials) and additional landscaping and screening.

(7 - 14)

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| 6. | 2011/0018/MPA Torbay Holiday Chalets, Fishcombe Road, Brixham | (15 - 22) |
| | Formation of 40 self-catering units with associated leisure facilities. | |
| 7. | 2011/0039/PA Bench House, Blackball Lane, Brixham | (23 - 26) |
| | Demolition works and alterations to form road widening, reduction of residential curtilage and formation of new retaining wall topped by new railings. | |
| 8. | 2011/0040/CA Bench House, Blackball Lane, Brixham | (27 - 28) |
| | Demolition works. | |
| 9. | 2011/0042/PA 55 Metherell Avenue, Brixham | (29 - 32) |
| | Formation of new dwelling in curtilage with vehicular and pedestrian access. | |
| 10. | 2010/1308/PA Parkfield House, Esplanade Road, Paignton | (33 - 36) |
| | Revised siting of BMX track and omit proposed on site parking area due to discovered badger setts. | |
| 11. | 2011/0064/HA 10 Hutton Road, Paignton | (37 - 38) |
| | Extension of Dormer (Under Permitted Development) Addition of Windows to Dormer and Deletion of Velux Windows. | |
| 12. | 2010/1389/MPA Land Rear Of Edinburgh Villas, Off McKay Avenue And Newton Road, Torquay | (39 - 42) |
| | Redevelopment to form 74 assisted living extra care units with associated communal and care facilities, car parking, landscaping and servicing. | |
| 13. | 2010/1404/MPA Former G A Insurance Building, Greenway Road/St Marychurch Road, Torquay | (43 - 48) |
| | Demolition of former G A building; formation of up to 7 retail units for purposes of use classes A1,A2,A3,A4 and/or A5 with 6 residential units above with associated vehicle and pedestrian access and associated highway works, car parking and landscaping. | |
| 14. | 2011/0035/MPA Former Royal Garage Site, 4-24 Torwood Street, Torquay | (49 - 62) |
| | Demolition works; formation of mixed use development to form hotel, A3 units, 2 external purpose units (D2 use for fitness centre and B1 use for office suite) and 14 apartments with vehicular and pedestrian access. | |
| 15. | 2011/0036/CA Former Royal Garage Site, 4-24 Torwood Street, Torquay | (63 - 64) |
| | Demolition works. | |
| 16. | 2011/0092/PA Watcombe Primary School, Moor Lane, Torquay | (65 - 66) |
| | Alterations and extend existing galvanised steel frame/glazed canopy to match existing. | |

17. **2011/0227/MPA Shedden Hall Hotel, Shedden Hill Road, Torquay** (67 - 74)
Part demolition, conversion and alteration from hotel to 7 residential dwellings and formation of 3 residential dwellings and 4 new residential houses with parking.



Minutes of the Development Management Committee

21 February 2011

-: Present :-

Councillor McPhail (Vice-Chairwoman)

Councillors Addis, Amil, Carter (R), Morey, Pentney
and Richards

(Also in attendance: Councillors Butt and Lewis)

548. Apologies.

Apologies for absence were received from Councillors Scouler (Chairwoman) and Faulkner (A)

In the absence of the Chairwoman (Councillor Scouler) the Vice-Chairwoman (Councillor McPhail) chaired the meeting.

549. Committee Membership.

It was reported that, in accordance with the wishes of the Conservative Group, the membership of the Committee had been amended for this meeting by including Councillor Richards instead of Councillor Thomas (D) and Councillor Amil instead of Councillor Manning who had been suspended.

550. Minutes.

The Minutes of the meeting of the Development Management Committee held on 24 January 2011 were confirmed as a correct record and signed by the Chairwoman.

551. Applications for Planning Permission etc.

The Committee considered the schedule of applications for planning permission etc.

Resolved:

that the applications be dealt with as set out in Appendix 1 to these Minutes.

Chairman

APPENDIX 1

to the Minutes of the Development Management Committee held on 21 February 2011

(Referred to in Minute 551/02/10)

Reference	Description and location	Decision	Site Visit	Representations
2010/0616/MPA	Formation of combat games area with car parking, administration building with changing/toilet facilities, revised plans received now showing new layout for site, further details of structures (including heights and materials) and additional landscaping and screening, Land Adjoining Cayman Golf Course, Dartmouth Road, Churston, Brixham.	Consideration deferred for further information and legal advice	Yes	Written
2010/1350/PA	Formation of five self-catering holiday apartments, owners accommodation and rationalisation of parking layout including works to existing car park, Berry Head Hotel, Berry Head Road, Brixham.	<p>Subject to:</p> <ul style="list-style-type: none"> (i) the receipt of satisfactory revised plans showing removal of the conservatory to the owners accommodation; (ii) the resolution of the objections from Natural England; (iii) the completion of a Section 106 Legal Agreement in terms acceptable to the Executive Head of Spatial Planning within six months of the date of this Committee; and 	Yes	Written and oral

A P P E N D I X 1 (continued)

Reference	Description and location	Decision	Site Visit	Representations
		(iv) the inclusion of an additional condition in relation to the accommodation being used only as part of the Berry Head Hotel and not let or sold separately, approved with the conditions set out in the submitted schedule.		
2010/1351/LB	Formation of five self-catering holiday apartments, owners accommodation and rationalisation of parking layout including works to existing car park, Berry Head Hotel, Berry Head Road, Brixham.	Approved with the conditions as set out in the minute above.	Yes	Written and oral
2010/1361/HA	Alterations, ground floor living room extension and first floor extension to form additional bedrooms, linen room and bathroom with velux windows and dormer roof extensions with glass balustrading, 14 Springdale Close, Brixham.	Subject to the inclusion of an extra condition in relation to there being no additional opening to the side elevations (east and west) of the extension approved with the condition and informative set out in the submitted schedule.	Yes	Written
2011/0018/MPA	Formation of 40 self-catering units with associated leisure facilities, Torbay Holiday Chalets, Fishcombe Road, Brixham.	Deferred for further negotiation regarding occupancy, , a Section 106 Legal Agreement, access and further discussions with AONB Manager	Yes	Written and oral
2010/1308/PA	Revised siting of BMX track and omit proposed on site parking area due to discovered badger setts, Parkfield House, Esplanade Road, Paignton.	That approval be delegated to the Executive Head of Spatial Planning subject to a meeting with the applicant, objectors and Ward Councillors to resolve outstanding issues. Should a solution not be	Yes	Written and oral

A P P E N D I X 1 (continued)

Reference	Description and location	Decision	Site Visit	Representations
2010/1379/MPA	Formation of 61 bed hotel (C1) and pub/restaurant (A3)/(A4) with associated car parking and landscaping, Land at Long Road South, off Brixham Road, Long Road and Waddeton Road, White Rock, Paignton.	<p>forthcoming the matter will be referred back to the Committee for a decision.</p> <p>Subject to:</p> <ul style="list-style-type: none"> i) no new adverse comments being received during the consultation period; ii) receipt of satisfactory revised plans regarding outstanding detailed design issues; iii) the views of Natural England; and iv) the completion of a Section 106 Legal Agreement in terms acceptable to the Executive Head of Spatial Planning within six months of the Committee meeting; <p>approved with the conditions and informative set out in the submitted schedule.</p>	Yes	Written and oral
2010/1399/PA	Demolition of building and reconstruction of a semi detached building to include seven residential apartments, 31 Marine Drive, Paignton.	Refused for the reasons set out in the submitted schedule.	Yes	Written and oral
2011/0064/HA	Dormer extension, 10 Hutton Road, Paignton (amendment to previous approval P/2009/0939).	Approved.	Yes	Written

A P P E N D I X 1 (continued)

Reference	Description and location	Decision	Site Visit	Representations
2008/0114/MPA	Construction of 185 residential apartments with associated vehicular and pedestrian access, parking, infrastructure and landscaping works, outstanding matters of access, decontamination and Section 106 Legal Agreement, Hollicombe Gas Works, Torbay Road, Torquay. This is a departure from the Torbay Local Plan.	<p>Subject to:</p> <ul style="list-style-type: none"> i) comments received from the Government Office for the South West; ii) the completion of a Section 106 Legal Agreement, including provision for an independent observer on site at the cost of the applicant and other terms acceptable to the Executive Head of Spatial Planning; and iii) the inclusion of an additional condition that tenting will be used as an appropriate remediation strategy', unless otherwise agreed by the Council's Environmental Health Officer on safety grounds, <p>approved with the conditions and informative set out in the submitted schedule.</p>	No	Written and oral
2010/1383/MPA	Extend time limit – demolition of building and erection of 11 flats, 1 Warbro Road, Torquay.	Subject to the signing of a Section 106 Legal Agreement, including provision for two staged payments, in terms acceptable to the Executive Head of Spatial Planning by 11 April 2011, approved with the conditions set out in the submitted schedule.	Yes	Oral
2011/0012/MPA	Demolition of building (arranged as two flats) and formation of 12 new	Refused for the reasons set out in the submitted schedule.	Yes	Written

APPENDIX 1 (continued)

Reference	Description and location	Decision	Site Visit	Representations
2011/0013/CA	apartments with vehicular access and pedestrian access, 42 Warren Road, Torquay. Demolition of building (arranged as two flats), 42 Warren Road, Torquay.	Refused for the reasons set out in the submitted schedule	Yes	Written

P/2010/0616/MPA

Churston With Galmpton Ward

Land Adjoining Cayman Golf Course, Dartmouth Road, Churston, Brixham

Formation of combat games area with car parking, administration building with changing/toilet facilities Revised plans received now showing new layout for site, further details of structures (including heights and materials) and additional landscaping and screening

Site Details

Area of land located to the north east of Dartmouth Road in between the Cayman Golf complex, the Go Kart track and the Council's park and ride facility. The site is bordered on its eastern edge by Elberry Lane.

Relevant Planning History

P/2000/0058 - Change of use of former park and ride field into an extension to Cayman Golf. Conditional Approval – 3rd April 2000.

P/2002/0876 - Retention of office and W.C. on the field adjacent to the Go Kart track. Conditional Approval – 1st August 2002.

P/2003/0051 - Erection of multi-use sports and football facility with associated work and landscaping on field adjacent to the GO Kart track. Refused 30th April 2003.

P/2003/1626 - Erection of multi-use sports and football facility with associated works and landscaping. Conditional Approval – 23rd December 2003.

P/2006/0129/R3 - Temporary park and ride facility for 300 vehicles for 4 years from 1st April 2006 with temporary buildings. Conditional Approval – 3rd April 2006.

P/2010/0260 - Renewal of application P/2006/0129/R3 for existing temporary park and ride facility with an extension of boundary and an increase in capacity from 300 vehicles to 800 vehicles. Application withdrawn April 2010.

P/2010/0444 - Change of use for temporary park and ride facility for 300 vehicles with temporary buildings to run until 30th June 2012. Conditional approval granted 18th May 2010.

P/2011/0138/AD - Non Illuminated advertisement sign for the use proposed with this current application. Current application, not as yet determined.

Relevant Policies

Saved Adopted Torbay Local Plan 1995-2011

RS	Recreation and Leisure Strategy
R2	Outdoor Recreation Developments
LS	Landscape Strategy
L4	Countryside Zone
L8	Protection of Hedgerows, Woodlands and other Natural Landscape Features
L9	Planting and Retention of Trees
L10	Major Development and Landscaping
NC5	Protected Species
T25	Car Parking in New Development
T26	Access from the Development onto the Highway

Proposals

This application was originally presented to Members at their meeting on 4th October 2010. Members resolved to approve the application, subject to conditions and subject to satisfactory further negotiations with Natural England (NE) and the Royal Society for the Protection of Birds (RSPB) and the imposition of any conditions these agencies deemed necessary. The permission was never issued, because it took some time to clear the phase 1 habitat survey (regarding wildlife) with Natural England. This has however now been achieved, and Natural England no longer object to the scheme, so long as all works are completed in accordance with the agreed habitat survey.

In the meantime, the applicant has proceeded to commence the works to implement the scheme without the benefit of a formal planning consent. He is fully aware that he is proceeding at his own risk. In doing so the applicant has also proceeded to considerably alter the layout of the scheme and erect structures on the site the details of which have not been approved by the Local Planning Authority. Following further negotiations on site, revised plans have now been submitted to reflect the revised layout and design of the scheme.

The application still needs formal determination and seeks permission for a change of use of the land into a combat games area together with associated structures and ancillary features. The method of gaming would be with the use of infra-red technology and not the more conventional paint-balling or laser guns.

The land has had the benefit of permissions in the past for sport uses on this site (2003). Although that permission has lapsed and was unimplemented, it does establish that the principle of a sporting use for the field was accepted in the relatively recent past.

This application was presented to Members at February's meeting after which and following instruction, a formal stop notice has been served which is now in force. Concurrently, an Enforcement Notice has also been served ordering the removal of all unauthorised works from the site and the land reinstated to its position before these works were undertaken. This notice will take effect on the 25th March unless an appeal is lodged in the meantime.

In an effort to overcome the concerns raised by Members and Officers, the revised plans for the site have been supplemented with additional information to demonstrate the likely impact of the proposed development and the landscape mitigation that is proposed.

The fact that Members resolved to approve the principle of this scheme in October 2010 is a material consideration in this case and, as such, it is predominantly the detailing of the proposed structures and their revised positioning within the site that is now submitted for consideration. Hedging and landscaping is also indicated, particularly around the boundaries to the site, and this detail has been examined by the Council's Urban Design and Landscaping Officer. The proposal includes changing facility buildings, septic tank and soakaways. Parking will be immediately adjacent to the existing car park serving the Cayman Golf Facility, which is within the same ownership. The parking area will be treated in the same way as the park and ride, with the use of grasscrete to retain a green landscaped area and with the use of a low-level entrance barrier.

Consultations

Natural England: Originally recommended refusal on the basis of the likely incidence of protected species in and around the site. However, the applicant has produced the relevant survey information and on that basis Natural England no longer objects, provided that the copse / orchard on the site is not used as part of the gaming area.

RSPB: Concerned about potential impact upon Cirl Buntings, but supports the recommendations made in the consultant's wildlife report. Full comments reproduced at page B.200.

Highways Authority: Raise no objection.

Arboricultural Officer: States that there are no tree constraints as part of the scheme, but asks for a detailed landscaping scheme with a management plan for a 10 year period, to ensure establishment of screen planting. The landscaping scheme has been negotiated and submitted and the management can be dealt with by way of a condition.

Strategic Transportation: No basic objection, but asks for secure lit and covered cycle parking.

Brixham Town Council: Recommends approval subject to environmental considerations.

Representations

Concerns have been raised regarding the visual impact of the proposed scheme, representations have been reproduced at page B.200.

Key issues/Material considerations

Principle and Policy

Members will recall that they have already considered and resolved to approve the use at their meeting in October last year. That was subject to wildlife considerations which have now been resolved satisfactorily. It was also subject to conditions, one of which was to have sought details of the structures required as part of the gaming experience. Nothing has changed regarding the suitability of the use proposed since Members previous considerations. It is a material consideration that this use has been sanctioned in the recent past. The difference now is that details have been submitted of the structures and man made features on the site, and as such, and given the concerns raised about those structures that have been erected on the site already, it is important to get this detail right in order that the structures can be assimilated appropriately into the landscape.

In approving the scheme previously, it was recognised that the land is identified within the Saved Adopted Torbay Local Plan as being within a Countryside Zone, but that it has no other landscape designation. The site boundary with Elberry Lane is the boundary with the Churston Conservation Area, although with only open fields beyond, it is unlikely that this development would adversely impinge upon the Conservation Area, which is primarily designated to conserve the built environment. This is provided that the detail of the proposed structures is appropriate for this substantially rural location.

In terms of policy L4 (Countryside Zone), there are a number of exceptions which the policy states will be acceptable within the Countryside Zone so long as the rural character, wildlife habitats and any historic features are not adversely affected. One of those exceptions is development associated with outdoor sport and recreation.

This scheme will provide a valuable tourism and leisure facility to support the existing provision in this area and to bolster visitor and tourist attractions. The development will also bring to Torbay a sports and recreation use for the benefit of many young people in the area.

In conclusion, officers are of the opinion that the basic use is acceptable in policy terms, and Members indicated agreement to this at their meeting last October. However, it is worthy of note that the Local Planning Authority has not granted permission for this development (no decision notice has been issued) and were members to remain unconvinced about the details now being shown, they would still be in a position to refuse the application. The previous decision made at committee in October 2010, whilst being a material consideration does not bind the Authority to continue in the same course of action, this is especially true given the new information available about the design of the scheme and given the changes that have been made to the layout.

Ecology & Landscape

In reaching the decision to approve the scheme last October, it was recognised that, in policy terms, there are no objections to the proposal so long as the scheme can be assimilated into the landscape and so long as any potential impact upon protected species can be mitigated.

The applicant has now provided the information required by Natural England. On this basis, there are no objections under adopted Nature Conservation policy NC5. Furthermore, subject to a satisfactory management plan, the landscaping proposed will provide suitable screening and mitigation for the proposed use in the longer term. In addition, screen fencing is proposed to assist in the shorter term.

Officers are of the opinion that the site could be screened appropriately on site so that the use was assimilated into the countryside setting. However, the further information now submitted on the temporary fence screening fails to achieve this and officers remain particularly concerned about the appearance of this screening.

Traffic and Parking

It is noted that the Highway Authority have no objections. However, Strategic Transportation asks for cycle parking and a staff/visitor travel plan. These can be dealt with by condition.

Parking is indicated for the grassed land next to, but separate from the Cayman Golf car park. The surfacing of this area is intended to be grasscrete rather than tarmac or hard surfacing to blend in with the natural environment. The access is clearly suitable as it is a traffic light controlled junction also serving the Council's park and ride facility. On this basis, traffic and parking issues are considered to be acceptable.

Primary Considerations

In the light of the above, the primary issues that Members are asked to consider are:-

- 1) The nature and appearance of the structures and facilities at the site, for which detailed and further information has now been submitted, and;
- 2) whether the landscaping proposed, which has now been improved and expanded from that previously submitted, is appropriate to screen the structures and assimilate the scheme into the landscape setting.

1) Structures

The principle structures proposed are 3 forts, a structure replicating a bombed building, tunnels, a safety marshall outpost, 3 land rovers, induction tents and reception portakabins. These are all structures that are considered to be essential for the gaming facility. It should be noted that the most prominent 'fort' set closest to the main road, has now been remodelled from its originally proposed (and built) two-storey square appearance, to a single storey but larger footprint. This alteration was undertaken by the applicant following negotiation with officers. It is considered by officers that the changes made now considerably reduce the impact of this structure, this is combined with the change in the colour of the fort nearest the road, which again reduces its visual prominence.

It is important to note that Officers have clearly stated that if approval were to be granted, then all of the structures would need to be painted in camouflage colours of greens and blacks. Some of this has already occurred on-site. In addition, landscaping is proposed, which has been specifically sited to provide additional screening of the site from the areas around. This would take some years to become fully effective, and temporary fence screening is proposed in the interim. The principal objective is to ensure that the structures are recessive in the landscape and that the landscaping provides appropriate additional screening befitting of this rural setting.

Officer's opinion is that, subject to further negotiations on the tree species and the temporary screen fencing, and subject to changes to the colour of all of the structures to make them more recessive, the proposal could be sufficiently screened and successfully assimilated into the landscape. However, the details currently submitted fail to achieve sufficient and appropriate screening. It is understood that the hedging proposed would eventually grow to a height and thickness such that the temporary screening would not be necessary, but the short term solution must be acceptable.

2) Landscaping

This is an important aspect of the proposal, as it will determine the appearance of the site, its assimilation into the landscape, and the degree of prominence of the structures on the site. Officers have negotiated a mix of primarily native species of trees and hedging, incorporating repairs and infilling to the existing boundary hedging, although tall 'extra heavy standards' are proposed which will give some immediate cover, it must be borne in mind that complete screening would take a number of years. Some of the required tree planting has already been planted on site in advance of formal

approval, but consent is not normally required for planting and the applicant is aware that he has proceeded at his own risk. It is also worthy of note that the original intention to provide a vehicular access to the site near the entrance onto Dartmouth Road has been removed and this area is now to be banked and planted up to complete the landscape screening of the games area.

Subject to further negotiations on species, officers are of the opinion that the landscaping scheme could work and would be likely to provide the intended screening and assimilation into the natural environment in the longer term. In the short term, the fence screening referred to above could provide suitable visual protection, however, this has not yet been successfully demonstrated and officers remain concerned that this will be significantly visually detrimental as currently depicted.

Sustainability

This was in planning terms a green field site (the previous permission for sporting use having time expired) and it could be argued that its location would not therefore be sustainable. However, this kind of use would be beneficial to the holiday and leisure trade of Torbay, it would not be appropriate within a built up urban area, and the land is located between existing sporting facilities, the park and ride area and existing properties in Churston village. The site is therefore considered to be an appropriate and sustainable location for the proposed use. Furthermore, because the land would need to be heavily landscaped and should still retain most of its rural feel, it is not considered that there are any issues with sustainability that indicate that the application should be refused.

Crime and Disorder

This is not considered to be a significant issue, so long as the applicant utilises security and safety devices for any buildings and facilities at the site.

Disability Issues

The land is entirely flat and therefore there are no difficulties with access. Whether or not those with disabilities would actually want to use the facility is another issue which is not really within the control of the Planning system to consider.

Conclusions

On many of the primary issues with this application, there would appear to be no overriding objections. On highways grounds, it is noted that the Highways Authority are not objecting and Strategic Transportation suggest that the application could be approved with suitable conditions. In policy terms, the proposal is not contrary to the relevant policies of the Saved Adopted Torbay Local Plan, provided the landscaping and wildlife issues are satisfactorily resolved by condition. Natural England has now withdrawn their objections.

On the substantive outstanding issues of landscaping and design, a further meeting took place with the applicant earlier this month when it was made clear what would be required in order for a positive recommendation to be made to Members.

The crucial items discussed were:-

- The exact nature and composition of the temporary screen fencing, this is understood to constitute 'heras' fencing fixed to timber posts, but would need to be covered with a camouflaged membrane, black netting and branches interwoven.
- The exact colour and finish for the building blocks used to form the structures, some on site have been painted using recessive colouring of green and black. Officers consider that this works much better than the original grey colour.
- A schedule of gaming items and structures noting which are to be fixed and those that are to be 'moveable' along with their design, colour, texture and size.

- Details of the grass or other natural surfacing for the vehicle parking area.
- Confirmation that no structure on site (other than the Marshall's post) is to be over 2.6 metre in height.
- Information demonstrating the appearance of the facilities buildings and tented structures and a further visual impact assessment of the development

Provided the details requested above are acceptable, officers consider that the scheme could be suitable for planning approval.

However, on one of the most important issues of the screen fencing, a solution has not yet been submitted that would, in the opinion of Officers be acceptable.

Recommendation

Committee Site Visit; Report the results of further negotiations.

Recommendation:

Condition(s):

01. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out before the proposal hereby approved is first opened to the public, or at such other time as agreed by the Local Planning Authority in writing, and any trees, hedging 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: The site is located outside of the built environment of Paignton and Churston in highly visible open countryside, immediately adjacent to the Churston Conservation Area and opposite a designated 'Area of Great Landscape Value' as defined by the Saved Adopted Torbay Local Plan. All of these factors make it imperative that the proposal is appropriately screened and landscaped in order to prevent potentially damaging and visual insensitivity in the landscape and to ensure accordance with policies RS, R2, LS, L2, L4, L8, L9, L10, BE1 and BE2 of the Saved Adopted Torbay Local Plan.

02. The landscape works approved as part of the development shall be managed in accordance with a Landscape Management Plan/Schedule for a period of 10 years from the first public use of the site and this plan shall first have been submitted to and approved by the Local Planning Authority.

Reason: To ensure establishment of planting in the interests of visual amenity and to comply with the objectives of Policies H9, L8, L9 and BE2 of the saved adopted Torbay Local Plan 1995-2011.

03. The proposal hereby approved shall be carried out entirely in accordance with the 'Reptile Survey', report no. 10/100b, dated September 2010 and the 'Ecological construction method statement', report no.10/100arev01, dated December 2010. The specifications and recommendations of these two reports shall be strictly adhered to and carried out in full as prescribed.

Reason: The site is located outside of the built environment of Paignton and Churston in highly visible open countryside, immediately adjacent to the Churston Conservation Area and opposite a designated 'Area of Great Landscape Value' as defined by the Saved Adopted Torbay Local Plan. The site is also known to be used by species of wildlife protected in law. All of these factors make it

imperative that the proposal is implemented entirely in accordance with the two specialist reports in the interests of wildlife, public amenity and to order to ensure accordance with policies RS, R2, LS, L2, L4, L8, L9, L10, NCS, NC5, BE1 and BE2 of the Saved Adopted Torbay Local Plan.

04. The use hereby approved shall not be used on any day during the British 'lighting-up time', defined as from one half-hour after sunset to one half-hour before sunrise.

REASON: To prevent the use occurring during the hours of darkness when activity, lighting and noise would present detrimental problems to wildlife, local residents and other amenity concerns contrary to policies R2, L4, NC5, EP4 and EP5 of the Saved Adopted Torbay Local Plan.

05. Prior to the first use of the site for combat gaming, or at such other time as may be agreed in writing by the Local Planning Authority, a comprehensive staff and visitor Travel Plan shall be submitted to and agreed in writing with the Local Planning Authority. The use of the development, hereby approved, shall thereafter accord with the provisions of the approved Travel Plan.

Reason: In order to ensure that the development complies with policies TS, T1, T2, T3, T7, T25, T26 and T27 of the saved adopted Torbay Local Plan (1995-2011).

06. No structure, sculpture, artefact, furniture, vehicle or other form of apparatus other than those shown on the plans and details, hereby approved, (DRAWING NUMBERS TO BE REFERENCED HERE) shall be placed on the site without the prior consent of the Local Planning Authority in writing.

Reason: In order to protect the visual amenities of this area of Countryside Zone adjacent to the Churston Conservation Area, in accordance with the objectives of policies TU3(3, 4 and 5), RS, R2 and L4 of the Saved Adopted Torbay Local Plan.

07. No structure, man made feature or other artefact, except the Marshall's watch tower, shall have a height greater than 2.6 metres above defined a point off site (e.g. gully or kerb), and that point shall first be agreed with the Local Planning Authority as a Temporary Bench Mark before the use is commenced.

REASON: In order to allow the Local Planning Authority to maintain control over the height of such structures as a means of ensuring that the use is always assimilated appropriately into the landscape minimising any potentially harmful visual intrusion in accordance with policies TU3(3, 4 and 5), RS, R2 and L4 of the Saved Adopted Torbay Local Plan.

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P/2011/0018/MPA

Berry Head With Furzeham Ward

Torbay Holiday Chalets, Fishcombe Road, Brixham

Formation of 40 self-catering units with associated leisure facilities

Site Details

The plot contains a long established holiday complex that sits in a relatively small and secluded site off Fishcombe Road, Brixham, which is sandwiched between the wooded areas of Battery Gardens and The Grove. The existing complex contains 30 holiday chalets arranged within curved terraces along with some ancillary buildings, which have northerly coastal outlooks over Fishcombe Cove.

The existing development is not only in general poor repair due to non-use over the past few years, but also more fundamentally displays quite poor architectural form, with an ad-hoc mix of pitched and flat roofed buildings. Towards the coast the buildings overlook an area of hardstanding and managed grassland, which in-turn gives way to a steeply sloping cliff face that continues to the northern site boundary where it meets the cove. The site itself has a direct corner access and the area as a whole is accessed via a winding road (Fishcombe Road) that leads from Northfields Lane and serves the small number of sites in the locality, including the beach access lane, the Brixham Holiday Park and the public footpath leading towards The Grove woodland.

In regard to planning designation the site sits immediately adjacent to the South Hams Area of Outstanding Natural Beauty (AONB) and is within the 5km buffer zone of the Berry Head SAC (Special Area of Conservation). In addition approximately half of the site (on the coastal side) sits under the local designations of Countryside Zone (CZ) and County Wildlife Site (CWS). It is also pertinent to acknowledge that the site sits adjacent to the Battery Gardens SAM (Scheduled Ancient Monument) and the Candidate Marine SAC.

Relevant Planning History

P/2006/0838 - Six New Holiday Flats, New Clubhouse with managers flat above and guest facilities (In Outline) (Renewal Of Application P/2003/1221/OA) – Approved (previously considered and approved under 1993/0169, 1997/0975, 2000/0889 and 2003/1221).

Relevant Policies

Saved Torbay Local Plan 1995–2011:

- LS Landscape Strategy
- L1 Areas of Outstanding Natural beauty
- L4 Countryside Zone
- L10 Major development and landscaping
- NCS Nature conservation strategy
- NC1 Protected sites – internationally important sites
- NC3 Protected sites – locally important sites
- NC5 Protected species
- EPS Environmental protection strategy
- EP6 Derelict or under-used land
- BES Built environment strategy
- BE1 Design of new development
- BE2 Landscaping and design
- TUS Tourism strategy
- TU3 New Tourist facilities elsewhere
- TU5 New holiday accommodation
- TU7 Change of use or redevelopment of holiday accommodation outside Principal Holiday Accommodation Areas
- TU9 Refurbishment and development of new holiday centres or parks
- TU10 Change of use or redevelopment of holiday centres and parks

TS	Land use transportation strategy
T25	Car parking in new development; and
T26	Access from development on to the highway
CFS	Sustainable communities strategy
CF6	Community infrastructure contributions
HS	Housing strategy
H2	New housing on unidentified sites
H6	Affordable housing on unidentified sites
H9	Layout, design and community aspects
W7	Development and waste facilities

Proposals

The proposal is a redevelopment scheme to clear the site of the current buildings in order to supply 40 self-catering units with associated leisure facilities. These facilities are to include a spa, restaurant, indoor and outdoor pools, and a 'natural' play area. The proposed units are a mix of one and two storey buildings that incorporate outdoor terraces and light glass-box detailing within the upper floor (in order to respond to the orientation and viewpoints).

The units are laid out in curved terraces with 'green' roofs, which layer down the site with the natural topography. The associated leisure facilities are set towards the east of the site close to the proposed entrance. The proposed access has been twice revised in order to respond to local concerns over highway safety and pedestrian movement to and from the beach access lane, and now sits in the same position as the current site access on the corner of the site.

On site parking is split between a small number of greeting spaces and groupings of spaces dotted amongst the upper areas of the development within a 'home zone' design scheme, which in total provides for 1:1 parking. In regard to landscaping the proposal shows the retention of a green fringe towards the coast, albeit reduced due to the extent of built footprint proposed. This is supplemented by green roofing and landscaping works within the built area, which is stated as providing an overall net gain of greenscape across the site over the existing arrangement.

The application includes aspirations to provide off-site enhancements by improving the access to The Grove woodland via America Lane, along with the proposed rerouting of the coastal footpath to provide a route seaward of the development that links more directly with Fishcombe Cove Beach.

It should be noted that the current application seeks approval for 40 self-catering units of residential occupation without holiday restriction clauses.

Consultations

Various consultations have been requested in response to the scale of the proposals and the landscape designations over the site, a number of which are still pending.

Consultation responses received

Environment Agency:

No objection to the proposal subject to best practice being used for the disposal of surface water run-off.

Natural England:

Considers that the proposal has the potential to adversely impact the natural beauty of the AONB and therefore request that due consideration is given to the comments submitted by the AONB Unit/Partnership.

It is also noted that the proposals put forward by EAD Ltd and Section 4 of the Ecological Impact Assessment (JAN 2011) should be conditioned as part of any potential permission by the Authority, in order to maintain the favourable conservation status of the South Hams SAC.

The Authority's Conservation & Design Team:

No objections, the scheme has responded positively to the Design Review Panel comments.

The Authority's Arboriculture Team:

No arboricultural constraints will exist to the proposed development given the recently approved tree work application, and therefore there are no objections to the application on arboricultural merit.

The Authority's Highways Department:

Highways would raise no objection to the proposals shown in Drawing Number 3173-d-40, although it should be noted that the access to the site isn't directly onto the public highway and therefore permission to use the Beach access lane should be sought.

Strategically a Transport Statement has been submitted to the satisfaction of the Authority's Senior Transport Planner and the application also includes an outline staff and visitor Travel Plan. The transportation team request a s106 contribution to improve walking and cycling in the area.

South Hams AONB Unit:

The principle of redeveloping the site from its present derelict state is supported, as is the retention of a leisure / tourism use, and the Unit Manager welcomes the improved visual impact of the development. However, the level of development and the movement towards the coast runs contrary to basic principles. The concluding comment outlines that the scheme is not supported by the AONB office. It should be noted that should the Local Planning Authority be minded to approve the application conditions should be secured in respect to details of external works, securing genuine holiday use and the access is suitably explored.

It has been indicated that further comments will be supplied following an explanatory meeting with the Agents and the assessment of the more recent plans submitted.

English Heritage:

Advice received outlining that English Heritage do not wish to comment on the scheme.

The Authority's Drainage Department:

The proposal decreases the amount of impermeable surface within the site and drains surface water to the surrounding fields, which currently happens. There is no objection to the development.

Brixham Town Council:

Support the scheme.

Consultation responses still pending

The Authority's Affordable Housing Team:

Representations

A number of representations both in support and opposing the scheme have been received. These have been re-produced and placed in the Members Room.

Broadly the letters in support raise the positive benefits of investment and regeneration, along with the removal of an existing eyesore and improvements to the coastal footpath route.

Objections appear to largely cite concerns in regards to the proposed access point part of the way down the beach access lane and the harm that could result from this upon pedestrians using the beach and the Brixham Battery Museum. Also raised is the more limited concern in regard to the positioning of the refuse/storage area near the museum and the impact of this in terms of odour and noise. It should be noted that revised drawings have been submitted that show the access at its present location on the corner, which is a direct response to the number of highway concerns raised

within public representation. It is hence important to note that none of the numerous highway related objections are a response to the present access scheme put forward.

Key Issues/Material Considerations

The key issues relate to the acceptability of the proposed open and unrestricted residential use of the site within this context, the implications for the local landscape and ecology from the development, the impact upon the highway network from the development, and the possible implications upon the amenity afforded to neighbouring sites/occupiers.

The Principal of Residential Development

The proposal sets out the aspirations to provide up-market holiday accommodation that is not provided through restricted holiday use but through an open residential consent for reasons of viability.

On paper the proposal is therefore for the loss of a holiday site (albeit derelict) for residential use, albeit with ancillary leisure facilities, but with the aspiration for the delivery of holiday-based occupancy within the units.

The ethos that supports the development is the philosophy that design influences use and that, therefore, through restricting private outdoor space and providing only minimal kitchen and storage space internally and through the sites overall layout, the design will encourage holiday use and discourage permanent residential use. In addition, the provision of engrained leisure facilities and the cost to each unit occupier of supporting the site's higher than average maintenance should likewise discourage permanent use. It is also of relevance that the coastal aspect is supportive of a holiday let income from units. In combination these set of circumstances, alongside commitments to build out the leisure facilities prior to occupation of any of the units and other terms relating to the it will provide an arrangement and set of influences that will present a natural steer towards holiday occupancy over permanent occupancy.

Leading from the above, in respect to open occupancy, the key questions are considered to be whether the Authority is satisfied with the assertion that design will indeed influence use, and if so how this could be bolstered through other measures within conditions and the S106 Legal Agreement. Members have expressed their concerns that the site should be restricted to holiday use notwithstanding the clear investment and the issues raised by the applicant in relation to the viability of restricted uses. Officers will continue to negotiate with the applicant and progress on the issue of agreeing appropriate restrictive clauses will be reported at the committee meeting.

Visual Implications

The proposal removes the unsightly semi-derelict buildings that currently scar the site and the wider area and AONB. The removal of the existing development is therefore clearly supported and this is reiterated by the South Hams AONB Team.

The proposal provides a radial pattern of development, which harks back to the historical development pattern on the site from the 1950s timber holiday chalets (as referred to and visually illustrated in the submitted Design and Access Statement). The terraced form seeks to utilise the natural drop in topography, minimising the apparent scale of the development when viewed from outside of the site (both from the sea and the land).

The architectural form seeks to provide clearly modern development which includes intelligent use of the internal/external space to make best use of the views and limited sun-path. The rhythm of buildings refers to the historical chalet use and the street enclosure and the provision of viewing steps down through the site takes its reference from the historic core of Brixham. The layout seeks to integrate parking within the development but restricted to the upper half, through a pedestrian-friendly Home Zone. All these components fuse to provide an interesting and positive scheme for the site which is considered to respond to the constraints and opportunities.

It should be noted that the proposal has been though the Torbay Design Review Panel and the current

submission has positively responded to the comments that were outlined by the panel. A copy of the panel's comments to the previous scheme has been supplied within the Design & Access Statement with the application and a copy will be provided within the representations bundle for members.

The comments of the South Hams AONB Unit are mixed, outlining both perceived benefit and potential harm. On the one hand there is acceptance that the current development is harmful to the character and appearance of the adjacent AONB and that boundary improvement works and off site works to America Lane, along with the revised coastal footpath route, would improve the experience of the AONB. However, on the other hand it is iterated that development encroaching towards the coast in terms of the extended footprint is clearly not a philosophy that can be supported in principle.

Officers consider it important to have regard to the comments of the South Hams AONB Unit Manager, however, it this is one of a multitude of issues to consider. Officer consider, on balance, that given the positive enhancement set out in the overall design philosophy and given the investment opportunity and the intended leisure and tourist uses, the wider benefits of the scheme outweigh concerns related to the extension of the built footprint in this instance. This is provided that an appropriate agreement can be reached in relation to the control of the use of the site for holiday and leisure purposes.

The likely impact upon the adjacent Battery Gardens Scheduled Ancient Monument is negligible, due to the scale and form of development and the distance between the two sites. English Heritage has confirmed they do not wish to provide detailed comment on the proposal.

The key issues for members to consider in relation to design and visual impact are therefore:

1. The extent of built footprint on the site, which goes beyond the existing built footprint towards the coast,
2. the visual impact of the development from public vantage points, including Battery Gardens, the coast and coastal path and the land behind at Brixham Holiday Park and comparison between the impact of the existing built form, and;
3. the design approach in relation to the site itself and how this provides for the intended holiday / leisure use and responds to the unique setting.

Ecological Implications

As the site is largely covered by existing development, through buildings and hardstandings, there is limited flora and fauna of any value. However, a phase 1 Habitat Survey has however recorded evidence of slow worms and the Lesser Horseshoe Bat.

Natural England has not identified specific concern in regard to any particular issue, however, they have indicated that the mitigating measures identified within the submitted Ecological Impact Assessment should be conditioned as part of any planning approval. Deferring to this advice the proposal is considered acceptable in respect of the ecological implications and provided that these measures are controlled by condition it is considered that the development will not have a likely significant impact on the South Hams SAC so as to warrant a Habitats Regulations Assessment.

Highway Issues

The proposal provides a 1:1 parking ratio with the access amended to the corner adjacent to Beach lane. The Authority's Highways Department considers the proposals acceptable on highways grounds as the established use largely mitigates the implications of the redevelopment scheme of 40 units. There is therefore no stated objection on highways grounds, and officers consider that the revised site access has appropriately responded to the concerns raised by local neighbouring occupiers and interest groups.

Amenity Issues

The scale and form of the proposal, in conjunction with the orientation and distances to surrounding

sites and buildings, provides a scheme that is likely to have little impact upon the amenity afforded to neighbouring occupiers and businesses. The proposal is therefore considered acceptable on amenity grounds.

Planning Contributions

As the proposal is effectively for the provision of 40 open residential units, the scheme should attract affordable housing and sustainable development contributions in line with the Authority's adopted policy, unless mitigation for current use or viability demonstrates otherwise. This point will be raised in discussions with the applicant and it is hoped that this can be resolved through restrictive clauses in order to move the type of development away from open residential into restricted holiday occupancy. If this is not feasible then officers recommend that a viability assessment be carried out to determine the viability of this scheme and the level of affordable housing / commuted sum that the scheme could yield.

Sustainability -

The scheme will bring back to life a brownfield semi-derelict tourism site that sits within a sustainable location near to supporting holiday facilities and transport infrastructure. This is a sustainable location for the espoused leisure and tourism use, however, without restrictions over the use the site could adapt to permanent residential occupancy, which would not be a sustainable form of development without the provision of appropriate affordable housing and community infrastructure under s106 of the planning act.

Crime and Disorder -

It is likely that an operational and managed site would increase activity and natural surveillance in and around the area and therefore reduce the likelihood of trespass or antisocial or unlawful behaviour which is more likely to take place on a semi-derelict site.

Disability Issues -

The land is steeply sloping and it is not clear how the applicant intends to provide the necessary level platforms in order to meet with Part M of the Building Regulations. However, it is considered appropriate in any event to resolve this at the detailed design stage.

Conclusions

The scheme provides an innovative redevelopment proposal of a brownfield site that is currently detrimental to the visual qualities of the area and does not contribute to the wider holiday package offered by Brixham. There are concerns raised in relation to the footprint of the scheme, which extends beyond the existing built footprint, however, the overall design approach is considered to be a significant enhancement over the existing built form. In addition there are wider net benefits to this scheme on top of the improvement to the appearance of the site, these include the provision of leisure facilities, units designed for holiday occupancy and new employment opportunities.

The packaging of the scheme as an open residential development due to the constraint that holiday restrictions place on viability adds a degree of complexity to this scheme, which is on a holiday site in an important coastal location.

Officers consider that, on balance, given the positive benefits of the scheme in design terms and given the intended use and the importance of this investment in regenerating the built environment, the extension of the built footprint is acceptable in this case. However, this is subject to continuing negotiations in relation to the use of the proposed units, with officers negotiating on the basis of members clear concerns that the site should be restricted for holiday occupancy. The outcome of these negotiations will be reported at the committee meeting.

Recommendations

Committee site visit; Conditional approval; subject to the signing of a s106 legal agreement with

clauses to ensure the appropriate holiday occupancy of the site, the s106 to be signed within 6 months of the date of this committee meeting. Conditions to be delegated to the Executive Head of Spatial Planning.

Condition(s):

01. The development shall not be used/occupied until the vehicle parking areas and access thereto shown on the approved detailed plans have been provided and made available for use. These areas shall be kept permanently available at all times thereafter for parking and access purposes to serve the development.

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 Torbay Local Plan, 1995 - 2011 (as adopted in April 2004), in the interests of highway safety, and in order to protect the amenities of the neighbourhood.

02. No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority. These details shall include hard surfacing materials, planting plans, schedules of plants noting species, plant sizes and proposed numbers/densities where appropriate, along with an implementation programme. The works shall be carried out within the first available planting season following the first occupation of the development. If within a period of 2 years from the completion of the development any tree or shrub planted as part of the approved landscaping scheme is cut down, felled, uprooted, removed, destroyed or dies or becomes seriously defective, it shall be replaced by another of a similar size and species in the next planting season following its removal/death or deflection, unless otherwise approved in writing by the Local Planning Authority.

Reason: In the interests of the landscape character of the area and the impact on the Conservation Area, in accordance with Policies LS, L9 and BES of the Saved Adopted Torbay Local Plan 1995-2011.

03. All mitigation and enhancement proposals put forward within the submitted Ecological Impact Assessment (EAD, Jan 2011) shall be implemented as detailed, in full, unless otherwise submitted to and approved by the Local Planning Authority.

Reason: To suitably manage and protect identified species and habitats, in accordance with Policies NCS, NC1 and NC3 of the Saved Torbay Local Plan 1995-2011.

04. The leisure facilities detailed within the plans hereby approved shall be completed and made available for use, in full, prior to the first occupancy of the first unit, unless otherwise submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure an appropriate mix of uses on the site and form of development, in accordance with Policies BES, BE1, LS, L1, TUS, TU3, H9 and W7 of the Saved Torbay Local Plan 1995-2011.

05. Prior to the commencement of the development hereby approved samples of all external materials shall be submitted to or made available on site for the Local Planning Authority and agreed in writing. The development shall be completed in the approved materials.

Reason: In the interests of the visual amenities of the locality, in accordance with Policies H2, H9, BES, BE1 and BE5 of the Saved Adopted Torbay Local Plan 1995-2011.

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P/2011/0039/PA

Berry Head With Furzeham Ward

Bench House, Blackball Lane, Brixham

Demolition works and alterations to form road widening, reduction of residential curtilage and formation of new retaining wall topped by new railings

Site Details

Residential property with access to Blackball Lane, but situated above the road, due to the lie of the land. The site is situated opposite Dalverton Court.

Relevant Planning History

P/2001/0524 - Alterations And Erection Of Ground And First Floor Extension At Side To Form A Granny Annex, approved 9/07/2001.

P/2010/1262/R3 - Erection of flagpole at Bench House, concurrent item, not as yet determined.

P/2011/0040/CA - Conservation area consent for demolition works in association with this application, concurrent.

Relevant Policies

INS Infrastructure Strategy

TU1 Harbourside and waterfront regeneration

NCS Nature Conservation Strategy

NC5 Protected species

EPS Environmental Protection Strategy

EP12 Coastal Protection Zone

BES Built Environment Strategy

BE1 Design of new development

BE5 Policy in Conservation Areas

TS Land use Transportation Strategy

T1 Development accessibility

T3 Cycling

T6.3 New access to Fish Quays and Oxen Cove as part of Brixham Harbour regeneration.

T20 Road improvements.

Proposals

It is proposed to widen Blackball Lane at its current pinch point in between Bench House and Dalverton Court. This would be achieved by demolishing a section of an existing retaining wall that surrounds the property and forms its boundary. The wall has a varying height up to a maximum of 5.650 metres above the existing road level. The proposal would effectively be taking part of the existing curtilage of Bench House. An old but not listed lime kiln is situated under the land in question.

The current width of the road narrows down to a minimum of 3.6 metres, but would be improved at this pinch point to an average of 6 metres in width. The new carriageway would be delineated on the landward side by a new replacement stone wall reusing stone from the demolished lime kiln and new stone to match.

Consultations

Natural England: No comments

Highway Authority: Observations awaited

RSPB: No impact on curlew buntings or seabirds, but notes the loss of ivy which is a valuable habitat for nesting birds (see comments reproduced at page B.201).

Representations

The consultation period expires on 11th March. So far there have been 2 letters of objection, both from occupiers of flats within Dalverton Court. Concerns include:

- * Blackball Lane would still have pinch points, so the scheme does not address all of the access problems in the area,
- * The proposal will result in the loss of an historic lime kiln
- * The application will be a vast economic cost for future development that may not happen
- * Traffic lights would be a better option than road widening

All representations currently received are reproduced at page B.201.

Key Issues/Material Considerations

Background

There are 3 main issues driving this application. 1), Reducing congestion, 2) improving highway and pedestrian safety, and 3) the future possibility of regeneration upon the two harbourside car parks at Freshwater Quarry and Oxen Cove. Any form of development on the Cove here would require an improved vehicular access. Now that the Fishquay has been redeveloped and improved, the only feasible way of achieving this is to improve Blackball Lane. The drawings and technical data clearly show that this can be achieved.

Policy considerations

The proposal clearly supports the tourism and regeneration policies identified within the Saved Adopted Local Plan. In terms of the built environment policies, the new retaining wall proposed will replicate and match the existing and so it is felt that the proposal would have a minimal visual impact upon the conservation area.

The proposal would involve the loss of the historic lime kiln, however, this is not a listed structure and it is considered that the loss of this structure is acceptable given the proposed re-alignment using stone reclaimed from the site and given the access and regeneration objectives driving this proposal.

There would be only a very minimal impact on the areas designation as being within a Coastal Protection Zone. The proposal would provide for improved access along Blackball Lane to the betterment of the occupiers of properties along the access road. Transport policies would generally support the proposal, although significant emphasis is given to the needs to take cyclists into account.

The new road would not be wide enough to accommodate a cycle lane, but the improvements to the carriageway width would improve the experience for all road users. On this basis, there is not considered to be any over-riding policy objections.

Impact on Dalverton residential properties accessed off Blackball Lane

It is noted that neither of the two representations so far received have referred to adverse impact upon residential amenity. As the road already exists and is well used, on balance it is considered that any adverse impact arising from the widened road would be compensated for by the improvement that would be realised through better access.

Loss of historic lime kilns

This issue has been given due consideration. The Lime Kilns are of historic value, however, they are not listed and their value must be set against the benefit to accessibility and potential regeneration that this scheme will bring.

Impact on wildlife (Bats and birds)

An independent bat survey has been produced which concludes that the kilns could have some low level potential for bat hibernation roosts. However, no evidence has been observed. The mitigation measures suggested in the Ecological Memorandum submitted with the application should be sufficient to cover any potential presence. This can be covered in a suitably worded condition. No adverse comments have been received from Natural England.

Sustainability -

Road widening is often viewed as not being sustainable, however, if it facilitates the regeneration of the harbourside area, then this would contribute towards wider sustainability.

Crime and Disorder -

Not really an issue in this instance, other than a consequent improvement to highway safety.

Disability Issues -

The proposal would have benefited from a footpath on the landward side, but as this would have reduced the available carriageway width, the one footpath on the seaward side is considered sufficient.

Conclusions

On the major considerations of highways, policy issues, impact on residential amenity, loss of part of the wall and loss of the Lime Kiln, and impact on wildlife, the proposal is considered to be acceptable subject to conditions.

Conditional Approval.

Recommendation:

Conditional Approval

Condition(s):

01. No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority.

Reason: To ensure that archaeological remains are preserved and/or recorded in accordance with PPS16 and policy BE9 of the saved adopted Torbay Local Plan (1995-2011).

02. Before the new section of road hereby approved is used, the new retaining wall shall have been finished entirely in accordance with the approved plans.

REASON:- In order that the visual amenities of the Conservation Area are not adversely affected in accordance with policies BES, BE1 and BE5 of the Saved Adopted Torbay Local Plan.

03. The proposal hereby approved shall be carried out entirely in accordance with the recommendations of the bat hibernation roost survey and the memorandum dated 6th January 2011. The specifications and recommendations of the memorandum shall be strictly adhered to and carried out in full as prescribed.

Reason: The site contains two old lime kilns which could have some potential as a bat hibernation roost, which is a species of wildlife protected in law. This makes it imperative that the proposal is implemented entirely in accordance with the specialist report in the interests of wildlife and to order to ensure accordance with The Countryside and Wildlife Act and policies NCS and NC5 of the Saved Adopted Torbay Local Plan.

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P/2011/0040/CA
Berry Head With Furzeham Ward
Bench House, Blackball Lane, Brixham
Demolition works

Site Details

Residential property with access to Blackball Lane, but situated above the road, due to the lie of the land. The site is situated opposite Dalverton Court.

Relevant Planning History

P/2001/0524 - Alterations And Erection Of Ground And First Floor Extension At Side To Form A Granny Annex, approved 9/07/2001.

P/2010/1262/R3 - Erection of flagpole at Bench House, concurrent item, not as yet determined.

P/2011/0039 - planning application for the works associated with the road widening scheme, concurrent application also on this agenda.

Relevant Policies

- INS Infrastructure Strategy
- TU1 Harbourside and waterfront regeneration
- NCS Nature Conservation Strategy
- NC5 Protected species
- EPS Environmental Protection Strategy
- EP12 Coastal Protection Zone
- BES Built Environment Strategy
- BE1 Design of new development
- BE5 Policy in Conservation Areas
- TS Land use Transportation Strategy
- T1 Development accessibility
- T3 Cycling
- T6.3 New access to Fish Quays and Oxen Cove as part of Brixham Harbour regeneration.
- T20 Road improvements.

Proposals

It is proposed to widen Blackball Lane at its current pinch point in between Bench House and Dalverton Court. This would be achieved by demolishing a section of the existing retaining wall that surrounds the property and forms its boundary. The wall has a varying height up to a maximum of 5.650 metres above the existing road level. The proposal would effectively be taking part of the existing curtilage of Bench House. An old but not listed lime kiln is situated under the land in question and would also be demolished as part of this scheme. This application seeks conservation area consent for the works of demolition. The demolition is proposed in connection with future intentions to redevelop the car parks at Freshwater Cove and Oxen Cove in order to facilitate the provision of the Northern Arm breakwater in Brixham Harbour.

Consultations

Senior Urban Design Officer – No objections, the lime kiln is not listed and the proposed demolition and re-alignment of the wall is acceptable

Representations

Letters have been received in connection with the concurrent planning application, and these have been reproduced elsewhere on this agenda. However, nothing received has made specific reference to the works of demolition covered by this conservation application.

Key Issues/Material Considerations

The primary consideration is the impact of the proposal upon the conservation area and any consequential policy considerations. In terms of the built environment policies, the new retaining wall proposed will replicate and match the existing and so it is felt that the proposal would have minimal visual impact upon the conservation area. The proposal would involve the loss of the historic lime kiln, however, this is not listed and its loss is not considered of such significance in relation to the importance of the widening of this access to warrant refusal due to its loss.

Sustainability -

It is noted that the newly aligned wall will comprise materials partly sourced from the site (old lime kiln and wall). This is a sustainable form of construction.

Crime and Disorder -

Not of relevance in this instance.

Disability Issues -

Not a concern for this conservation area application.

Conclusions

The works of demolition in connection with the wall are considered acceptable on the basis of the wall being re-aligned, as proposed. The loss of the lime kiln is not considered of such import, given that it is not listed, as to warrant refusal. However, there will be a need for a watching archaeological brief in order to record any relevant artifacts that may be discovered during the course of the work.

Recommendation:

Conditional Approval

Condition(s):

01. No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority.

Reason: To ensure that archaeological remains are preserved and/or recorded in accordance with PPS16 and policy BE9 of the saved adopted Torbay Local Plan (1995-2011).

02. The wall and lime kiln shall not be demolished before a contract for the carrying out of works for the widening of the road has been made, and planning permission has been granted for those works for which the contract provides.

Reason: To ensure that the character and appearance of the conservation area is not prejudiced in accordance with policies BES and BE5 of the Saved Adopted Torbay Local Plan.

P/2011/0042/PA

St Marys With Summercombe Ward

55 Metherell Avenue, Brixham

Formation of new dwelling in curtilage with vehicular and pedestrian access

Site Details

Plot of land fronting Penn Lane, and lying between 31 Penn Lane and 55 Metherell Avenue, with a former electricity substation and public access to the allotments immediately to the south-east.

Relevant Planning History

P/2006/1728 Land r/o 53-55 Metherell Avenue, house and garage, refused 15 December 2006.

Relevant Policies

Saved Adopted Torbay Local Plan 1995 - 2011, relevant policies:-

- H2 New housing on unidentified sites
- H9 Layout, design and community aspects
- H10 Housing densities
- CF6 Community Infrastructure contributions
- BES Built environment strategy
- BE1 Design of new development
- T25 Car parking and new development
- T26 Access from development onto the highway network.

Urban Design Guide - Adopted Supplementary Planning Guidance as part of the Torbay Local development Framework (LDD7), Urban design objectives A.1 (Background), A.4 (relationship to existing layouts), A.5 (local building forms and patterns of development) A.6 (local distinctiveness) and A.7 (scale, massing and height).

Proposals

Permission is sought to continue the line of the existing terrace in order to provide 1 new dwelling at the side of the existing house. The curtilage shown for the new dwelling would include garden area fronting Penn Lane, with off street vehicular parking for 4 vehicles at the end adjacent to a disused electricity sub-station. The plans show a two storey, three-bedroom house.

Consultations

Highways - Highways raise no objection, but note that a formal footway crossover will need to be constructed under license to Highways by a contractor qualified to carry out works on the public highway.

Representations

Letters of representation have been received from several addresses and are reproduced at page P.200. Issues raised include:-

Road safety, impact on street scene, loss of privacy, traffic congestion, loss of on-street parking, lack of footpaths in the area, water run-off from proposed parking area onto Penn Lane and hence into surrounding properties.

Key Issues/Material Considerations

The primary issues in this application are:-

Is the land large enough to sustain a separate detached dwelling?

The footprint of the building would be approximately 43 sqm and the plot of land available has an area of approximately 170 sq. m. This would be physically big enough, to allow for a house. The

house itself would be a similar size and shape to the other dwellings of which this would form the new end of terrace. The curtilage would provide space for off-street parking to serve both the existing and the proposed dwellings, together with room for bin storage, rotary clothes line and garden space as well. The site is therefore considered large enough to sustain a separate detached dwelling.

Impact on residential amenity

The plot of land is surrounded on all sides by other residential properties, but the proposed dwelling would not have any worse a relationship to the existing than is the case with any typical residential estate. The distance between the rear of the proposed dwelling and no. 31 Penn Lane would be approximately 24 metres and this exceeds the normally permitted minimum. The distance to the closest part of 44 Penn Lane on the other side of the road would be approximately 16.5 m, but this is a standard distance in the estate and the relationship would be side to front anyway. As proposed the layout would replicate the established pattern of development in the area, and is not considered to be likely to lead to any adverse relationships with neighbouring properties nor have the potential for unacceptable loss of privacy and amenity.

Impact upon street scene

The front face would line up with the other properties in Metherell Avenue by continuing the line of the existing terrace. There would be no loss of space in the street scene as this is a corner site in what is a spaciouly planned estate. The proposed dwelling would be closer to the street on Penn Lane than other properties in the area and would effectively break the building line at this point on Penn Lane. However, on balance, it is not considered that this relationship in the street would be sufficiently detrimental to the character of the area as to warrant refusal in this case.

Parking and access issues

Parking is shown for four vehicles off-street to serve both the existing and the proposed dwellings. This meets the required standards. Many of the representations are concerned about the potential loss of on-street parking, however, Officers are of the opinion that the provision of off-street parking is preferable and the plans include parking for the existing dwelling, which is not currently provided for. It would not be reasonable to refuse an application by virtue of its provision of off-street parking denying on-street parking.

Policy arguments

By virtue of the arguments made above, it would be difficult to conclude that the proposal is contrary to any relevant policy within the Saved Adopted Torbay Local Plan, and the Urban Design Guide, which forms Adopted Supplementary Planning Guidance to the plan. The issue of the impact on the character of the area through the proposal stepping forward of the building line on Penn Lane is a material consideration, however, in this instance it is considered that the development would not be significantly harmful to the streetscene.

Community Infrastructure contribution

The Council has decided in line with Central Government legislation and advice from the Government Office for the South West that the true cost of any development should be realised by the development itself without becoming a burden upon the Local Authority or its Council Tax payers. This is made quite clear in policy CF6 of the Saved Adopted Torbay Local Plan. According to the 'Planning contributions and affordable housing supplementary document, update 2', adopted by the Council in June 2010, planning infrastructure contributions due are now based on floorspace to be created. The proposed dwelling would have a footprint of 86 metres sq. (covering both of its floors), and on this basis, the amount owed would work out as follows:

Municipal waste and recycling	- £50
Sustainable transportation	- £2350
Lifelong learning	- £300
Green space and recreation	- £2050

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TOTAL	£ 4750
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This amount falls below the suggested threshold of £5,000 within the update paper, adopted in June 2010, however, the Local Development Framework Working Party considers that this threshold should be removed. Full Council are expected to ratify that change in policy on 24 March. It will also be confirmed at that Council meeting whether the removal of the threshold should apply to applications such as this or only to new applications received after 24 March.

If the s106 contribution is payable in this case, the amount due as a planning contribution would normally be proffered by way of either a legal agreement under s106 of the Town and Country Planning Act 1990 (as amended), or by way of a Unilateral Undertaking. Alternatively, the monies due could be paid upfront, thus avoiding the need for any formal legal agreement and solicitor's costs. In recognition of saved time and saved costs, there is an early payment discount of 5% for up front payments.

Sustainability -

This is a brownfield site, and so would be a highly sustainable use for the land, in compliance with the relevant national and local policy guidance in this regard. However, this should not take precedent over other interests of acknowledged importance.

Crime and Disorder -

Unlikely to be an issue, so long as the developer incorporates the latest home security devices, the site has been used for fly tipping in the recent past and this development will reduce the likelihood of such anti-social behaviour taking place in future.

Disability Issues -

It is expected that the applicant could achieve a relatively level access from the parking area to the front door, and therefore this would not be in breach of Part M of the Building Regulations.

Conclusions

The proposal is considered to meet all of the relevant considerations of acknowledged importance, and is not therefore considered to be contrary to relevant policy considerations. This is a good use for a brownfield site and does not over develop the site. All the usual facilities that an additional dwelling would require have been designed into the scheme. The proposal is therefore acceptable, subject to agreement on the Planning Obligation for a community infrastructure contribution, should this be required pending the outcome of the Full Council meeting on 24 March.

Recommendation

Committee Site Visit; Conditional Approval. In the event that Full Council decides on the 24 March to remove the £5,000 threshold for current applications the recommendation would also be subject to the signing of a s106 agreement in terms acceptable to the Executive Head of Spatial Planning.

Recommendation:

Conditional Approval

Condition(s):

01. The development shall not be used/occupied until the vehicle parking areas, and the access thereto from the public highway shown on the approved plans has been provided and made available for use. This area shall then be kept permanently available for parking and access 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, in the interests of highway safety and to ensure accordance with policies T25 and 26 of the Saved Adopted Torbay Local Plan (1995 – 2011).

02. 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 existing building, and the area in general, in accordance with policies H2, BES and BE1 of the Saved Adopted Torbay Local Plan and the Urban Design Guide which is an Adopted Supplementary Planning Document forming part of the Torbay Local Development Framework 2005-2026.

03. 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).

04. Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) (Amendment), (No.2) (England) Order 2008 (or any order revoking and re-enacting that order), no development of the types described in Schedule 2, Part 1 (classes A - E, inclusive) shall be carried out without the prior written consent of the Local Planning Authority.

Reason: To allow the Local Planning Authority to maintain control over all of the cited developments in the interests of the amenities of the surrounding properties and the area in general, in accordance with policy BE1 of the saved adopted Torbay Local Plan (1995-2011).

Informatives:

01. 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).

P/2010/1308/PA

Preston Ward

Parkfield House, Esplanade Road, Paignton

Revised siting of BMX track and omit proposed on site parking area due to discovered badger setts

Site Details

The application site relates to the curtilage of Parkfield which is a Grade II Listed Building. It is situated to the north of Esplanade Road and Lower Polsham Road. The railway line runs along the western boundary of the site. The site is situated close to the sea front. The southern part has significant mature tree cover, most of the trees being the subject of Tree Preservation Orders (TPOs).

The walls and gate piers on the site and a garden house to the north of Parkfield (known as the folly) are also listed. Parkfield was most recently used as Council offices. The My Place development is currently under construction on the site.

Vehicular access to the site is from Esplanade Road with a one way system in the site exiting onto Lower Polsham Road, which is also a one way street. Along the eastern boundary of the site are residential and commercial properties fronting Esplanade Road, Marine Drive and Colin Road. There are also residential properties on the opposite side of Lower Polsham Road. The surrounding area is in mixed use, predominantly comprising residential properties and hotel uses.

In the Torbay Local Plan 1995-2011 the southern part of the site is shown as being within the Polsham Conservation Area.

Relevant Planning History

2009/0983/R4 Demolish nursery buildings. Replace with new build 'My Place' building containing indoor sports hall, associated changing and toilet facilities, cafe/internet areas, recording and sensory rooms. Outdoor facilities to include BMX and skate board tracks, on site car parking and landscaping. Renovation and change of use to Parkfield House from Council offices to 30 bed youth hostel for new 'My Place' building. Landscaping to existing grounds. Approved 26/11/2009.

2010/0155R4 Change of use of existing folly from garden storage to skate park kiosk and first floor office. Adjustment and widening of exit pillars onto Lower Polsham Road from approved site approved 10.5.10

2010/0156 Change of use of existing folly from garden storage to skatepark kiosk and first floor office, adjustment and widening of exit pillars onto Lower Polsham Road from approved site approved 14.6.10

Relevant Policies

In the *Saved Adopted Torbay Local Plan 1995-2011* the following policies are relevant:

- R2 Proposals for outdoor recreation developments will be permitted subject to a number of criteria
- CF1 Provision of new and improved community facilities
- BES Requires new development to conserve or enhance the built environment
- BE1 Requires design of new development to take account of the wider context
- BE5 Development will only be permitted where it will preserve or enhance the character or appearance of the conservation area
- BE6 Requires development to have regard to preserving any listed building, its setting or features of interest
- L8 Protection of hedgerows, woodlands and other natural landscape features
- L9 Protection of trees

Proposals

This proposal is to relocate the BMX track that has previously been approved, moving it by 7 metres to

the south of its approved location, closer to the boundary of the site with Lower Polsham Road. The area to the north of the site, originally allocated for parking for 50 vehicles, four of which were disabled spaces, is to be retained as grass.

The reason for these revisions is that a badger sett was found on the area originally proposed for car parking. Badgers are protected under the Protection of Badgers Act 1992. This has meant that it is not possible to use the originally intended area for parking, and the size of the protected area has resulted in the need for the BMX track to be re-sited 7 metres to the south.

The re-siting of the BMX track would necessitate the felling of 2 additional trees to those which the Council has already agreed could be felled. These are located adjacent to the exit to Lower Polsham Road. In addition, the re-location of the BMX track necessitates a revised approach to the cut and fill process and provides for a steeper gradient for the retaining structures and an increased overall height for the BMX track in the vicinity of Lower Polsham Road.

Consultations

Highways: No objection.

Strategic Transport: Requests a revised staff and visitor travel plan. Raises concerns over increased need for young people to cross roads to access the site from alternative car parks in the absence of significant on-site parking provision.

Arboricultural officer: No objection.

Representations

Letters of representation have been received. These have been reproduced and placed in the Members Room. They cite the following key concerns:

- * Grave concerns about height and proximity of bank in relation to Lower Polsham Road.
- * Suggests height of bank would be twice the height of the railway bridge.
- * Increase in activity, traffic and general mayhem will be intolerable.
- * Are humans not considered worthy of protecting?
- * Bmx track would be an eyesore
- * Angle of sight from Lower Polsham Road to the top of the structure is dramatically increased
- * This was never a suitable site for this sort of facility
- * When the track is completed there will be a clear view into our bedrooms resulting in a loss of privacy
- * A better solution would be to remove the earth bank
- * The badgers will naturally relocate
- * Will be so high it will overpower the whole area

Key Issues/Material Considerations

The main issues are the principle of the loss of on site parking spaces and the impact of the revised siting of the BMX track on the appearance and character of the area, particularly with regard to alterations to ground levels and the removal of additional trees.

Car parking

The loss of the on site car parking provision would result in additional demand for public parking in the area. However, there is dedicated parking available at the Colin Road car park (seasonal), along the sea front (seasonal) and also in the Victoria car park. The Strategic Transport Officer has advised that this would be likely to result in more young people needing to cross roads in the area. As such the Travel Plan should be revised to address the lower provision of on site parking. This would enable the applicant to consider the issue of safe travel to and from the site and provide sufficient mitigation.

Trees

The proposal would necessitate the felling of a grade C sycamore tree (originally surveyed as tree number 140) and a Portugal Laurel which was not included in the original tree survey due to the species type. The Arboricultural Officer has confirmed that he has no objection to these changes.

Ground levels

The ground levels drop at the southern end of the site and therefore the proposed re-siting of the BMX track will necessitate increasing the steepness of the gradient of the bank substantially and increasing the height of the track nearest to Lower Polsham Road by several metres. The submitted plan shows that a Tensar Tech green slope retaining structure will be used to form a bank. Sections through the site have now been received and these illustrate how the ground levels will be changed. Further details in respect of the impact of the structure in this location have been requested and will be presented at the committee meeting.

The applicant has been requested to place markers on site to show the proposed changes in levels. It is suggested that Members visit the site to assess the visual impact of this part of the proposals.

Noise impact

As a result of the proposal, the BMX track would be sited closer to residential properties in Lower Polsham Road. In the Acoustic Impact Assessment submitted with the original planning application (2009/0983) it advised that the National Playing Fields Association's guidelines contained in its publication "Planning and Design in Open Spaces" recommends that there should be a buffer zone between play and recreation activities and residential properties. It is suggested that wheeled activities should be situated a minimum of 30 metres from the residents boundary. The submitted plan shows that the revised location of the BMX track would be 27 metres from Lower Polsham Road. The applicant has submitted a plan showing the closest part of the BMX track would be 27 metres from 'Hydrina' in Lower Polsham Road.

The original Acoustic Impact Assessment advised that the sound sources at a BMX track are associated with the sound interaction of a rubber tyre with the track surface, and the voices of the users using the track. Given that the track is to be constructed of dirt and tarmac mixture, the sound from the tyre interaction with the surface is likely to be minimal. The dominant source of noise would be likely to be from people congregating and talking. The spectator areas would be adjacent to the centre of the track and therefore it would be unlikely that the revised siting of the track would generate additional noise nuisance to have a detrimental impact on residential amenity in the area. At any rate a 1.5 metre high timber acoustic screen is currently proposed along the western boundary on the top of the BMX track.

Update

This application was considered at the meeting of the Development Management Committee on 21st February and was delegated to the Head of Spatial Planning subject to a meeting with the applicant, objectors and Ward Councillors to resolve outstanding issues. Due to a number of letters of representation not being reported to Members at this meeting it is considered appropriate for the application to be considered again by the Development Management Committee.

Since the previous meeting the following issues have been explored;

- * A community consultation exercise has been requested and the feedback will be reported to Members at their meeting.
- * The applicant has been requested to provide a statement of why the loss of car parking from the site would not be detrimental to the use of the site and how this will be addressed.
- * The applicant has advised that it is not possible to reduce the height of the BMX track due to drainage on the site and having already placed drainage tanks

under this area. A further statement on this has been requested.

- * Further consideration of whether it is possible to close one or more of the badger setts is being explored.
- * A section showing the relationship of the height of the BMX track to the railway line has been requested.
- * A montage of the visual impact of the BMX track from Lower Polsham Road has been requested.
- * Further details of the acoustic barrier and how it could be screened by planting has been requested.
- * Clarification of the benefits to the community from the development and the funding constraints has been requested.
- * A statement from the applicant has been requested to explain why the presence of badgers on the site could not have been addressed earlier in the development process.

Sustainability - The proposal would make effective use of the existing site. It is located within walking distance of Paignton Town Centre and is accessible by public transport.

Crime and Disorder - The proposal would not increase the risk of crime in the area subject to the incorporation of crime prevention measures.

Disability Issues - The proposal would not change access to the site for disabled persons in comparison with the scheme approved under 2009/0983

Conclusions

In conclusion the changes to the ground levels to form the BMX track will make the track more visible from Lower Polsham Road. An important consideration is the impact of the development on the visual amenity of the area. Further information about the height and external appearance of the BMX track has been requested and will be useful in assessing the proposal. Further clarification of the way in which the loss of parking spaces on the site will be managed is awaited.

Recommendation

Committee Site Visit; Subject to the receipt of satisfactory further information; Conditional Approval. Conditions to be delegated to the Executive Head of Spatial Planning.

P/2011/0064/HA

Preston Ward

10 Hutton Road, Paignton

Extension of Dormer (Under Permitted Development) Addition of Windows to Dormer & Deletion of Velux Windows

Site Details

The site, 10 Hutton Road, Paignton, is a detached residential property located midway along the cul-de-sac. Due to the topography of the area the properties are slightly more elevated as you proceed up the road. This application is retrospective.

Relevant Planning History

P/2009/0939 - 10 Hutton Road, Dormer loft extension; application approved by Development Management Committee on 23.11.2009.

Relevant Policies

Saved Adopted Torbay Local Plan 1995-2011 -
H15 House extensions

Proposals

The application seeks permission to extend the previously approved flat roofed dormer on the side elevation of the property to the elevation which faces 8 Hutton Road. The proposed dormer protrudes from the existing roofslope by approximately 2.71m (previously 3m) is 8.35m long (previously 5.5m) and 2m high, the same height as the previously approved application. The dormer consists of four sets of windows which are to be clear glazed and can be opened.

A development of this type would have been permitted development until the introduction of the amended Town and Country Planning (General Permitted Development) Order which came into effect in October 2008. This amendment restricts the addition of clear glazed windows and windows which open on side elevations above ground level without first gaining planning permission from the Local Authority. In effect therefore, the proposal solely requires permission for the addition of clear glazed and opening windows and not the dormer structure.

Consultations

None.

Representations

Mr & Mrs Ellis – 8 Hutton Road: Object to the proposal on the grounds that the dormer overlooks their property and that the windows should be fitted with obscure glazing. This letter is reproduced at page P.202.

This application has been put to the Development Management Committee as the applicant is an employee of the council. Although the application was considered at the previous committee meeting (21/02/11) the consultation expiry date was not until the 25th February. A representation was subsequently received between these two dates. In order to ensure that the objectors points are taken into account the application has been put forward for consideration again.

Key Issues/Material Considerations

The main issues in relation to this application for an extension to the previously approved flat roofed dormer and the addition of extra windows is the impact the development may have on the streetscene, and the potential detrimental impact on the amenity of neighbouring properties.

It is considered that the proposed flat roofed dormer does not have a significant impact on the character and appearance of the street scene due to its size and siting and as the addition of the

dormer structure would be permitted development.

In terms of the impact the proposal has on the neighbouring property, although the dormer protrudes further to the rear than that previously approved, it is considered that the relationship is acceptable. This is due to the slight difference in level between the properties, 10 Hutton Road being slightly higher, and this resulting in the immediate outlook from the dormer being onto the pitched roof of 8 Hutton Road. The proposal would not therefore result in a loss of privacy or amenity to a level that would warrant the application being refused.

Sustainability – No special issues.

Crime and Disorder - No special issues.

Disability Issues – No special issues.

Conclusions

Bearing in mind the considerations previously discussed it is deemed that the proposal is appropriate for planning approval, having regard to all national and local planning policies, specifically policy H15 of the saved adopted Torbay Local Plan 1995-2011, and all other relevant material considerations.

Recommendation:

Approval

P/2010/1389/MPA

Tormohun Ward

**Land Rear Of Edinburgh Villas, Off McKay Avenue And Newton Road, Torquay
Redevelopment to form 74 assisted living extra care units with associated communal and care facilities, car parking, landscaping and servicing**

Site Details

This vacant site originally formed part of the old South Devon College before it was redeveloped for housing purposes. It is located to the north-west of Edinburgh Villas with the Foyer Project to the east, Kwik Fit to the south-west and the completed streets of Torre Marine to the north. These comprise 2 storey terraces on McKay Avenue with taller bookend buildings which terminate the junction with Richardson Walk.

This site was included in the Master Plan for Torre Marine and was to provide 61 category II Sheltered units in a building that extended up to seven stories with office floorspace on the ground floor and in a discrete block to the north and included 42 car parking spaces.

The site is at a key location in terms of views and routes through the wider development site and key areas of public realm about its boundaries.

McCarthy and Stone purchased the site soon after development was commenced on the wider site and although they did make a start on construction, this stalled due to difficulties in the market. The site has remained vacant since.

As the permission for the wider development has been implemented, the permission to construct the 61 sheltered units and office floorspace remains live in perpetuity and can be built out at any time.

Relevant Planning History

P/2005/0138: Redevelopment of South Devon College to provide 258 residential units, 61 Sheltered units and 1500 m2 office floorspace. Approved: 30.09.05

P/2007/0968: Amendments to the approved scheme comprising changes to balconies, fenestration and roof detail. Approved: 9.08.07

Relevant Policies

PPS1 Delivering Sustainable Development

PPS3 Housing

PPS5 Planning for the Historic Environment

Saved Torbay Local Plan 1995-2011

BES Built environment strategy

BE1 Design of new development

BE5 Policy in conservation areas

BE6 Development affecting listed buildings.

CF6 Community Infrastructure contributions

CF15 Accommodation for people in need of care

ES Employment strategy

E6 Retention of employment land

T25 Car parking

Proposals

This is a detailed application for the construction of 74 Extra care apartments with communal facilities, 32 car parking spaces and space for 19 mobility scooters. The building scales up from 4 to a maximum of 7 stories in height. It is largely rendered, with balconies, a brick plinth and curved metal roofs.

Consultations

Torbay Development Agency: No observations received

Representations

Objections received from near neighbours concerned at the size and scale of the building and the relative shortage of car parking. The representations have been reproduced at page T.200 of this agenda.

Key Issues/Material Considerations

a) The provision of extra care accommodation in place of sheltered accommodation and loss of office floorspace

In order to accommodate the additional 14 units, the office space is deleted. The original approval, in trying to deliver a suitably balanced mixed use scheme involved the provision of commercial floorspace in this part of the site that had to be delivered as part of a phasing plan. The applicant has supplied marketing information to confirm that attempts have been made to find occupiers, but that such attempts have failed. The TDA have been asked to comment on the quality of the marketing exercise and the likelihood of letting this floorspace, but a response has not yet been received.

It is the opinion of officers, that in the current market delivery of this space looks increasingly less likely. It also has to be weighed in the balance that the extra care accommodation, with its higher level of care and associated staffing levels will to some extent compensate for the loss of the employment related office floorspace.

The number of car parking spaces within the scheme has been reduced, largely to provide some external amenity space although there is storage space for 19 mobility scooters which will compensate to some degree for this reduction. It is noted that the loss of office floorspace coupled with the provision of higher dependency units will significantly reduce the demand for car parking, which will address some of the concerns raised by residents about lack of car parking and local congestion.

b) The size and scale of the building and impact on amenity

The proposed building ranges in height from 4 stories adjacent to Kwik Fit to a maximum of seven stories towards the junction of McKay Avenue and Richardson Walk. It will be about 2 stories higher than the bookend buildings which terminate these streets. However, the scheme is, in terms of size mass and footprint, similar to that approved under previous applications and, by virtue of the overall implementation of P/2005/0138, a similar size, mass and footprint remains extant in perpetuity. Comparative plans have been requested which will better illustrate the close similarities between the proposed scheme and the extant permission.

Concerns have been expressed by residents in McKay Avenue and Richardson Walk about the impact that a building of this size will have on their amenity. Whilst it is the case that they will suffer a loss of their existing amenity, there is an extant permission which was in place contemporaneously with the approval for these properties and which can be built out at any time.

c) Design

There are a number of changes to the appearance of the building. These comprise modifications to the elevational treatment, to the overall shape of the building, to the form of the roof, to the fenestration and to the balcony treatments. Additional roof terraces are introduced and there are changes to the ground floor treatment which result in a more closed aspect and a poor relationship with the public realm. The quality of the relationship between this building and the public realm was considered an important feature of the approved building and does require some further thought. Ground floor terraces encroach onto what was shown to be a public thoroughfare in the original scheme and there are modifications to the hard and soft landscaping which are a retrograde response to the setting to the building and the quality of the public space.

In addition, in some key locations blank elevations are introduced which will need to be remedied in order to retain attractive frontages onto the street. Comparative plans have been requested so that the degree of change can be properly understood. The applicants have been advised of concerns and a meeting has been arranged with officers to resolve these concerns. Progress on this will be reported verbally at the meeting.

It is also important that there is a clear contextual relationship with the wider site. The design changes have diluted the relationship between this and the adjacent development. It is contended that, for a building of this size to be readily absorbed into the built environment, it is important that the design does relate to the wider context in terms of architectural features, public realm, overall approach and use of materials.

d] S106 Requirements

The implemented permission for the redevelopment of the former college site delivered a range of S106 contributions.

As the scheme for 61 flats can be built out with no further contributions, it is thought appropriate in this case that contributions should be sought in respect of the uplift only, i.e. the 13 additional units.

Therefore the s106 should achieve infrastructure contributions for those additional units in respect of waste, sustainable transport, greenspace and lifelong learning. It should also deliver 30% affordable housing across the development and the applicants have been requested to deliver 4 on site units. It is also thought appropriate that a contribution towards the loss of employment floorspace is made.

Sustainability

The proposed development makes effective use of brownfield site within a sustainable location near to local amenities and services at Torre.

Crime and Disorder

The development will conform to the secure by design principles espoused within the wider scheme, provided that the design changes mentioned above are achieved.

Disability Issues

The proposal is set within a level and accessible site, well suited to the proposed use, which provides suitable facilities and care for those with mobility and other disability problems.

Conclusions

The broad principles of the scheme are thought to be acceptable in terms of the use and broad disposition of the building on site which accords closely to the live permission. However there are design concerns that need to be addressed and progress on this will be reported to the meeting.

Recommendation

Site Visit: Conditional Approval; subject to the receipt of amended plans that resolve the design concerns identified and; subject to the signing of a S106 agreement to achieve the contributions described above, the s106 to include terms acceptable to the Executive Head of Spatial Planning and to be resolved within 6 months of the date of this committee meeting.

Conditions delegated to the Head of Spatial Planning to resolve.

Condition(s):

P/2010/1404/MPA

St Marychurch Ward

Former G A Insurance Building, Greenway Road/St Marychurch Road, St Marychurch Torquay

Demolition of former G A building; formation of up to 7 retail units for purposes of use classes A1,A2,A3,A4 and/or A5 with 6 residential units above with associated vehicle and pedestrian access and associated highway works, car parking and landscaping

Site Details

The GA building is a 2 storey office building which has been vacant for at least 10 years. It was constructed in the 1960s and now has a dated and neglected appearance that is out of character with the predominantly Victorian streetscape which typifies this part of the St Marychurch Conservation Area. The building fronts the busy junction of Greenway Road, St Marychurch Road and Fore Street and is adjacent to the boundary of the defined District Centre.

Vehicular access to the car parking area to the rear is found to the west of the building close to the no entry sign on Greenway Road. Bordering the car park is a narrow vehicular route at Greenway Lane, which is backed by a terrace of Victorian dwellings which directly overlook the site. The rear of shops within the nearby St Marychurch District Centre forms the eastern boundary to the site.

The existing frontage to the site comprises planting, pavement and a bus stop. To the west of the site is Kingsbridge, an attractive Victorian villa and to the east the Corinthian Babbacombe Sailing Club and the Co op supermarket. Opposite the vehicular access to the site is Alderbourne, a Grade II listed building. The frontage to the opposite side of St Marychurch Road is an attractive 2-3 storey Victorian terrace which sympathetically addresses the corner into Fore Street.

Relevant Planning History

P/2006/1070: Demolition of building and construction of supermarket and 14 2 bed flats. Withdrawn.

Relevant Policies

PPS1 Delivering Sustainable Development

PPS5 Planning for the Historic Environment

PPS4 Planning for Sustainable Economic Growth

Saved Torbay Local Plan 1995-2011

- SS shopping Strategy
- S6 Retail development outside identified town, district and local centres.
- S8 Hot food takeaways
- S9 District Centres
- ES Employment strategy
- E6 Retention of Employment land.
- HS Housing Strategy
- H9 Layout, design and community aspects.
- H10 Housing densities.
- BES Built Environment Strategy
- BE1 Design of new development
- BE5 Policy in Conservation Areas
- BE6 Development affecting listed buildings.
- TS Land use transportation strategy
- T1 Development accessibility
- T2 Transport hierarchy
- T25 Car parking
- T26 Access to the highway
- CF6 Community infrastructure contributions.

Proposals

The application is submitted in detail for the replacement of the existing building with a mixed residential/retail development, which comprises 1000m² of retail floorspace in up to 7 units of various sizes and requested to be in classes A1, A2, A3, A4 and A5. The scheme includes 6, 2 bed flats in a second storey of accommodation to the rear of the site. The submitted plans indicate a larger anchor unit of 370m² located adjacent to Greenway Road with a Sainsburys Local store as the potential occupier. 12 car parking spaces are provided parallel to the retail units, 6 to serve the anchor unit and 6 the flats. It is also proposed to relocate the bus stop to Fore Street.

Consultations

English Heritage: Consider that further attention needs to be applied to the creation of a meaningful street frontage and that height and boundary relationships need to be resolved if a successful scheme is to be achieved.

This letter has been reproduced and placed in the Members Room.

The application was referred to the Design Review Panel meeting of the 4th February. In summary their comments are:-

1. The use of separate parking and service accesses creates an interrupted street frontage and creates more 'edges' to the scheme.
2. The relationship to Greenway Lane needs to be improved and made more positive.
3. The linear nature of the parking creates difficulties of manoeuvring and access.
4. Concerns at long term viability of units to the rear of the site due to limited footfall.
5. A single retail occupier with residential may ease conflicts.
6. In order to relate to context and to avoid amenity issues, the scale of the scheme to the front should be increased and that to the rear reduced.
7. The flat roofed pod and views from the west are unresolved
8. Questioned the ability of planters to create a quality landscape scheme.
9. Felt that the scheme could benefit from a more profound urban analysis of its relationship to the town.

The full comments have been reproduced and placed in the Members Room.

Highways: Some concerns have been raised about backing up of traffic at the junction, proximity of the service access to the junction of Greenway Road, concern at relocation of bus stops and the need to improve pedestrian safety/facilities.

Representations

There are many objections from local residents. Concerns raised are:-

- * Impact on existing shops and supermarkets within the District Centre
- * Need to integrate the site more sympathetically to the centre
- * Increased traffic/congestion, impact on junction of Priory Road and Greenway Road
- * Lack of car parking
- * Arrangement of parking within the scheme which will be hazardous to vehicular and pedestrian safety
- * Concern at movement of bus stop
- * Impact on amenity from servicing vehicles/plant/noise activity/overlooking
- * Visual impact of boundary to Greenway Lane

Sainsburys are keen to occupy the site and have written explaining the benefits they will bring to the centre and that the scheme will create 20 local jobs and achieve significant regeneration. All letters of representation have been placed in the Members Room.

Key Issues/Material Considerations

There are a number of key issues:-

1. Existing condition of the site
2. Impact on the existing centre
3. Design and layout
4. Impact on amenity
5. Highways/congestion/parking
6. Loss of employment land
7. S106 contributions

Each of these issues is addressed in turn below.

1. Existing condition of the site

The existing building is neglected and dated in appearance. Its redevelopment is long overdue and is welcomed, subject to a suitable use and design being achieved.

2. Impact on the District Centre

This is a matter of significant concern to local people.

The site is located at the edge of the defined District Centre and as such the relevant policies are nationally, PPS4 'Planning for Sustainable Economic Growth' and locally, policies SS, S6, S8 and S9 of the Saved Torbay Local Plan.

The acceptability of the proposal has to be tested in terms of its impact on the retail function of the shopping centre, it has to be sequentially preferable and has to meet standards in terms of design and sustainability. A Retail Impact Study has been submitted, even though at the proposed scale of use it is not mandatory, and this has been evaluated by officers. The study assessed the broad health of the centre, the likely impact on turnover and included shoppers surveys to establish shopping patterns and likely future behaviour. It concluded that the health of the centre was good, that the size and scale of the scheme was acceptable and that the impact on turnover was low at around 4%.

Officers consider that the trade draw could be higher than suggested in the report, as the scheme is more likely to draw expenditure from the centre than larger stores at the Willows, even so it is not thought that the impact would be significant. Any impact will also be substantially mitigated by the linked trips associated with the pull factor of the new Sainsburys store, which could significantly benefit the centre's long term future. The shoppers survey identified that a high proportion of shoppers [48.4%] visited the centre on foot and that 67.5% would combine a visit to the proposed development with a trip to the existing facilities in St Marychurch. 90 per cent of those surveyed indicated that they would carry out these linked trips on foot.

It is therefore important that the scheme is designed in such a way as to reinforces links between the site and the existing District Centre. The impact on the centre could be greater if it operates more as a stand alone outlet than as a natural extension to the centre.

In conclusion, it is thought that the scale of development is such that it will not harm the centre and that the proposed regeneration of the site would be beneficial to the overall range and quality of the retail offer in St Marychurch. This is provided that a satisfactory design and good integration of the scheme is achieved in order to support and emphasise linked trips.

3. Design and Layout

The scheme is arranged in an L shape cul-de-sac overlooking a shared space with parallel parking for 12 cars. The larger (convenience store) unit has a frontage to Greenway Road as does a small flat roofed 'pod' abutting the sailing club. The site is served by 2 vehicular entrances one for servicing and

one for parking. The scheme is single storey to the front of the site with a part pitched roof and 2 stories to the rear where the smaller retail units and flats are located.

The service yard is located to the rear of the site adjacent to Greenway Lane and a 2.4 m high timber fence is to be erected on the boundary. The Design and Access statement anticipates that the parking area will be treated in a manner that will create a high quality public space. The edge of this space is defined by the rear of the shops on Fore Street.

This layout has raised concerns with English Heritage, the Design Review Panel and Officers, as it creates a self-contained scheme with interrupted frontages that is isolated from its context and relates poorly to both the character of the conservation area and to the wider shopping area. The inclusion of 2 vehicular accesses creates difficult edges both within the scheme and to its neighbours. It also creates a poor public realm and introduces more potential conflicts between shoppers and vehicles. Although the scheme has the ambition to deliver a quality space for the shops and flats to overlook, achievement of this is questionable given the dominating backdrop to the space formed by the rear elevations of the shops on Fore Street.

In response to the DRP comments, the applicant has:

1. Reduced the height of the 2 storey element to the rear of the site by around 600mm,
2. increased the height of the retail unit to the front of the site by a similar amount,
3. introduced a pitched roof to the flat roofed pod,
4. enlarged windows and juliet balconies to the rear of the flats overlooking Greenway Lane, and;
5. included low level planting to the Greenway lane side of the close boarded timber fence which will enclose the back of the site.

The detailed response of the applicant to the DRP comments is attached at appendix...

Officers do not consider that these amendments fully address the fundamental problems arising from the layout of the site. The specific concerns are as follows.

The revised scheme remains self-contained and isolated from the adjacent centre with a lack of a continuous frontage. This is exacerbated by the location of the car parking within the cul-de-sac which is limited and designed for short stay use. The opportunity for pedestrian links via Greenway Lane to the centre and the neighbourhood beyond would enhance integration and permeability. The relocation of car parking to the rear of the site, with the building pushed to the front would allow such linkages to be better exploited.

The scheme relates poorly to the character of the conservation area in terms of form, scale and appearance. The location of buildings of the greatest scale to the rear of the site is counterintuitive. A more substantial frontage building is needed if it is to satisfactorily relate to its context. In terms of form, the design is more typical of a suburban housing estate than a Victorian town centre. Views from the west are dominated by the rear elevation of the anchor store, and from the east by its failure to relate to its context.

The separation of customer car parking and servicing seems to be a key driver in determining the layout and this raises functional and aesthetic concerns as well as generating many of the concerns highlighted above. It creates a poor public realm to the existing frontage dominated by hard surfacing and car parking. The quality of the internal space is also compromised by the backdrop of the rear of the shops and there is a lack of turning space which will make leaving the site difficult in the event of all spaces being full. Cumulatively this will inhibit pedestrian movement and safety.

The location of the flats to the rear of the site will result in a poor quality environment for future occupiers of the site with a constrained outlook across the car park to the rear of the shops. The scale and location of the block will impact on the amenity of neighbours through overbearing impact and loss of privacy. This impact is exacerbated by the visual intrusion of the timber fence in place of the

existing stone wall.

In terms of the design and layout of the scheme, PPS4 is relevant. Policy EC10, whilst explaining that applications for economic development should be regarded favourably, requires LPAs to fully consider whether a scheme secures a high quality and inclusive design which takes the opportunities available for improving the character, quality and character of an area and how it functions.

This advice is reiterated in policy EC17 of PPS4, which relates to edge of centre retail developments. The fact that the site is sensitive in terms of its prominence within the Conservation area and proximity to listed buildings supports the legitimacy of concerns about design.

4. Impact on amenity

This has been touched on in the previous section. The size and position of the block to the rear will have an impact on properties backing onto Greenway Lane through overbearing impact, loss of privacy and overshadowing. The outlook from Kingsbridge will be affected by views of the rear of the store. The servicing arrangements and roof design which will not enclose proposed plant are likely to raise concerns about noise and nuisance.

5. Highways/congestion/parking

This is a matter of general concern to residents who consider that there is insufficient parking that it is poorly arranged, and that the location of accesses will jeopardise vehicular and pedestrian safety. Residents also consider that traffic will back up at the junction to the site and that the relocation of the bus stop to Fore Street should be resisted.

A Transport Statement has been submitted and Highway officers do have some concerns about servicing and access, but consider that making Greenway Road two way for more of its length would help resolve this. There are concerns about how the junction will operate. There are also concerns from Highways that the site layout reduces the quality of the pedestrian experience and that improved linkages should be encouraged if the site is to be effectively integrated with the centre.

6. Loss of employment floorspace

On the basis that the floorspace is of a poor quality and has not been occupied for over 10 years and that the proposed use would create alternative employment, it is considered that the loss of this building would have a significant positive effect on employment opportunities. The scheme would not limit the range and quality of available sites for employment purposes, but would positively contribute to employment opportunities in the area.

7.S106 requirements

A s106 Legal Agreement would be required in relation to this scheme and would be in line with the SPD 'Planning Contributions and Affordable Housing'. Terms have not been agreed in the absence of an acceptable scheme.

Sustainability – The scheme would make effective use of a brownfield site, but at a clear cost to the local environment.

Crime and Disorder – No obs received.

Disability Issues – The site is level and there are no concerns in terms of meeting mobility needs

Conclusions

The site has been vacant for over 10 years and redevelopment for a retail scheme of this scale is acceptable and welcomed. However, for the scheme to act in a way that reinforces the District Centre it does need to be better integrated and designed in a way that makes it more pedestrian friendly, in this way it will encourage the high level of top up shopping and promote opportunities for linked trips highlighted in the RIA and in the letter from Sainsburys.

It is also important that it is sympathetic to the character and appearance of the Conservation Area and to the neighbouring occupiers and buildings. The applicants are emphatically of the view that this is the only viable option for the site. However it is considered that there is a better solution for the site that will deliver longer term benefits to the operation of the centre and if this cannot be delivered in the current market it may be better to wait until a more sympathetic solution is achievable rather than accept one that has demonstrably harmful impacts.

Recommendation

Committee Site Visit; Refusal

1. The design of the scheme, comprising an L shaped block extending from single to two stories to the rear of the site and arranged around a cul-de-sac of parallel parking with separate service access, results in a form of development that:-

A] Is self-contained and not well integrated with the adjacent District Centre as evidenced by disruptions to the frontages by vehicular accesses, the location and design of the car parking and the lack of linkages to the shopping and residential areas to the north of Greenway Lane. As such it will operate more as a stand alone outlet than as a natural extension to the centre with consequent impacts on its character and function.

B] Relates poorly to the Victorian town centre character of the surrounding Conservation Area in terms of scale, form, appearance, and design and will adversely impact on key public views and on the settings of adjacent listed buildings.

C] Provides a poor pedestrian experience both to the frontage of the site and within the scheme, due to likely conflicts with vehicular traffic and to the backdrop of the public space being dominated by the rear elevations of the shops on Fore Street.

D] Adversely affects the amenity of adjacent occupiers through loss of privacy, outlook, overshadowing and overbearing impact from the size and position of the building and boundary treatments and creates a poor quality residential environment for future occupiers of the site due to a constrained and limited outlook.

As such the scheme does not offer a high quality inclusive design that would improve the quality of the area or the way it functions and is contrary to policies EC10 and EC17 of PPS4 'Planning for Sustainable Economic Growth'. It also fails to comply with guidance in PPS5 'Planning for a Historic Environment' and PPS1 'Delivering Sustainable Development'. It further fails to comply with policies BES, BE1, BE5 BE6, S9, T26 and H9 of the saved Torbay Local Plan 1995-2011.

2. The scheme does not provide for developer contributions in line with the adopted SPD 'Planning Contributions and Affordable Housing' and is thus contrary to the provisions of that document and to policy CF6 of the saved Torbay Plan 1995-2011.

Recommendation:

Refusal

P/2011/0035/MPA

Wellswood Ward

Former Royal Garage Site, 4-24 Torwood Street, Torquay

Demolition works; formation of mixed use development to form hotel, A3 units, 2 external purpose units (D2 use for fitness centre and B1 use for office suite) and 14 apartments with vehicular and pedestrian access

Site Details

The site comprises the frontage buildings of 4 – 24 Torwood Street and includes the land to the rear of these buildings, which is currently being used as a car park. It is bound to the south by Torwood Street and to the north by a concrete faced rock wall of approximately 10m in height beyond which is The Terrace at the higher level. To the west of the site is a public right of way which provides pedestrian access between the two roads. The car park originally provided stabling and garaging for the former Royal Hotel, to the west of the application site. The site area is approximately 0.23ha.

In terms of constraints; the site is within the Torquay Harbour Conservation Area. The Torquay Harbour Area Character Appraisal identifies most of the buildings on the site as key buildings within the conservation area with largely unspoilt frontages. Within the Local Plan the frontage buildings are identified as being within a Secondary Shopping Frontage. Most of the site is allocated for mixed use development which could include retail, leisure, employment and residential. Torwood Street is part of the major road network.

The existing buildings on the site are as follows:

- 4 Torwood Street – “Tictocs’n’rocks” – Retail
- 6 Torwood Street – “Devon Kebab House” – Takeaway
- 8 Torwood Street – “Trents” – Bar
- 10 Torwood Street – “Legends” – Restaurant
- 12 – 16 Torwood Street – “Brights of Nettlebed” – Retail
- 22 Torwood Street – “Wild Jacks” – Takeaway
- 24 Torwood Street – “The Gold Shop” - Retail

Relevant Planning History

Various applications have been submitted in relation to the existing buildings on site including changes of use, minor alterations including shop-front alterations and signage.

Various applications were submitted in the 1980’s as follows:

- P/1983/1792 Retail unit/multi-storey car park. Refused 4/6/1984
- P/1984/3237 84 Sheltered flats and wardens flat. Refused 29/1/1985
- P/1985/0361 49 flats. Refused 2/4/1985. Appeal dismissed 5/9/1985
- P/1986/2379 Erection of 43 sheltered flats plus wardens accommodation, offices and retail/storage space. Approved 25/9/1987

Subsequently an application for a certificate of lawfulness was submitted in 2005 in an attempt to prove that work had commenced on the scheme which was approved in 1987, thereby allowing the work to continue. The certificate of lawfulness application was refused on 6/3/2006 and subsequently dismissed at appeal on 22/08/2007.

P/2009/0689 – Demolition Works. Approved 06/07/2010

P/2009/0690 – Demolition of 4 – 24 Torwood Street. Redevelopment of site comprising 12 residential apartments with residential parking, 80 bedroom hotel and associated facilities, 6 screen cinema. 1 retail unit and 3 restaurants. Approved 6/1/11

Relevant Policies

HS	Housing Strategy
H2	New Housing on Unidentified Sites
H3	Residential Accommodation in Town Centres
H6	Affordable Housing on unidentified sites
H9	Layout, design and community aspects
H10	Housing densities
ES	Employment strategy
E1	New employment on identified sites
E9	Layout, design and community aspects
TUS	Tourism Strategy
TU1	Harbourside and waterfront regeneration
TU5	New holiday accommodation
SS	Shopping strategy
S1	Town Centres
S2	Town centres mixed use developments
S4	Secondary shopping frontages
S5	New town centre shopping developments
CF6	Community infrastructure contributions
W6	New development and minimisation
W7	Development and waste recycling facilities
EP1	Energy efficient design
EP7	Contaminated land
EP8	Land stability
BES	Built environment strategy
BE1	Design of new development
BE5	Policy in conservation areas
BE6	Development affecting listed buildings
TS	Land Use Transportation Strategy
T1	Development Accessibility
T2	Transport Hierarchy
T3	Cycling
T19	District Distributor Road Network
T25	Car Parking in New Development
T26	Access from development onto the highway

Supplementary Planning Documents:

“Planning Contributions and Affordable Housing: Priorities and Delivery”
 “Urban Design Guide”

PPS1 “Delivering Sustainable Development”

PPS3 “Housing”

PPS4 “Planning for Sustainable Economic Growth”

PPS5 “Planning for the Historic Environment”

PPG13“Transport”

PPS25 “Development and Flood Risk”

Good Practice Guide on Planning for Tourism (replacement for PPG21)

Proposals

As mentioned above a mixed use scheme involving the demolition of the existing buildings and the erection of a replacement structure has been approved. Members resolved to approve that scheme in June 2010 and following extensive negotiations in relation to the s.106 agreement and finalising the detailing of the scheme, it was approved in January 2011.

This proposal is a revised version of the approved scheme which incorporates a different mix of uses and a revised building envelope.

The main changes in terms of the mix of uses are summarised below:

P/2009/0690

12 flats
80 bedroom hotel
1 x retail unit
3 x restaurant
6 screen cinema

P/2011/0035

14 flats
113 bedroom hotel
1 x retail unit
3 x restaurant
Office
Gym

The accommodation would be laid out as follows:

Ground Floor

It is proposed to provide 4 units on the ground floor. Three of these would be in A3 use (of 367/270/371 sqm) and one would be in A1 use (361 sqm). The western-most of the A3 units (adjacent to the existing footpath) would also have a first floor mezzanine. The frontage of the retail unit would be recessed with access to the lift, providing access to the hotel above. Leading from this recess steps would lead up to a new public footpath which provides pedestrian access between Torwood Street and The Terrace.

First Floor

The main pedestrian access to the hotel would be off the new footpath. This floor of the hotel provides the public facilities; reception, bar, meeting and working areas, breakfast area, kitchen, office and WC facilities. A central light well is accessible from the public areas. Beyond the hotel facilities, adjacent to the highway wall would be a gym of 327 sqm, including welcome desk, changing rooms and plant room. This would be accessed from The Terrace.

Second Floor

Above the gym would be a purpose built office of 294 sqm, with ancillary toilets and kitchen. This would also be accessed from The Terrace. The remainder of this level is given over to hotel rooms and a fitness room.

Third Floor (ground floor from The Terrace)

This storey of accommodation is at the level of The Terrace. 14 parking spaces are provided for the residential accommodation. Entrances are provided into the office/gym area of the building and also to the residential flats. There is also a secondary access to the hotel. The remainder of this level is given over to hotel rooms and ancillary functions.

Fourth Floor (first floor from The Terrace)

This floor is given over wholly to hotel rooms and associated circulation space.

Fifth Floor (second floor from The Terrace)

From this floor upwards the accommodation is only provided within the rear section of the building which faces onto The Terrace. At this level 2 flats are provided, the remainder of the floor is given over to hotel rooms.

Sixth Floor (third floor from The Terrace)

This floor provides 9 flats, 6 of which are duplex style with bedrooms on the floor above.

Seventh Floor (fourth floor from The Terrace)

In addition to the upper floors of the 6 duplex apartments, 3 additional flats are provided on this floor.

In terms of building form the current scheme is very similar to the previous scheme in that it presents 3 storeys to Torwood Street. There are also still two linear elements in the same

locations as the approved scheme. The front element which is set back from the Torwood Street elevation is still two storeys in height. However, it is 1m lower than the approved scheme. The rear element, which fronts onto The Terrace now has an additional storey and is 2m higher than the approved scheme. The two upper storeys of this element are set back from The Terrace elevation by 1.8m.

The materials are similar to the approved scheme comprising white render, cedar cladding, zinc, grey interlocking cladding, lime stone, sand stone and areas of glazing.

Consultations

Environment Agency – No objections to the proposal, provided the finished floor levels are set no lower than the 5.6 AOD shown on drawing no. 3145-212.

English Heritage – Full text copied with representations. Extract below:

“... we do not believe that the extra height to The Terrace block will generate a sufficiently additional strategic impact on the historic townscape of the area to prompt fundamental objection on our part, nor do we consider it a significant and unjustified departure from the guidance contained in the recently completed Building Height Strategy.

The ‘penthouse’ treatment of the uppermost tier of the building further assists in its mitigation... One aspect of the approved scheme which generated significant attention in principle was the treatment of the new roof above and set back from the Torwood Street frontage. While an acceptable solution was achieved eventually, we welcome the opportunity provided by the need to review the scheme which allows this element to be improved and its impact to be further reduced.

Structural Engineer – No objection in relation to the rear wall, subject to conditions.

Sustainable Transport Officer – Require a full SPD contribution towards Sustainable Transport/Public Realm, payable on commencement. Double clearway bus box required which can accept loading 1600 to 1000 daily. Each dwelling must have at least one secure, lit and covered cycle space and there should be travel plans for all the commercial uses.

Drainage – Requested to see detailed Flood Risk Assessment (Subsequently supplied). Details of sustainable drainage system required.

Highways – No objection. Levels of parking appear to be acceptable, The Harbourside car park opposite will be able to accommodate any additional demand. Improvements are required to existing footpath. Footways on both sides of Torwood Street should be widened. Slight amendments to the loading bay design will be required.

Representations

At the time of writing approximately 15 letters of objection had been received which relate to the following issues:

- Building should not be any higher than was previously agreed
- Negative impact on views from the harbour and from The Terrace car park
- Negative impression for visitors
- Building heights should be limited around the harbour
- Size and scale is inappropriate
- Heritage justification tests in PPS5 have not been met. Demolition should not be approved.
- Negative impact upon properties in Museum Road and Braddons Hill
- General concern about the Mayoral Vision and Torwood Street’s part in it
- Scheme is in direct contravention of a number of policies and documents some of which were not in place when previous scheme was approved.
- Negative impact upon nearby listed buildings

- Cinema was an excellent part of the approved scheme. Its loss is regrettable
- The hotel does not appear to be of a high standard
- The loading bay will lead to a bottle-neck on Torwood Street
- Materials are inappropriate
- No mention of green technology or renewables
- Concern that buildings will be demolished and site will remain vacant
- Proposed gym will not help in providing family visitor attraction
- There are already too many gyms in Torquay
- Viability arguments are spurious
- Consultation has been inadequate
- Drawings are misleading

These have been re-produced and placed in the Members Room.

Key Issues/Material Considerations

The key issues in determining this application are considered to be (1) The principle of the uses, (2) the demolition of the existing buildings, (3) the size, design and impact on the conservation area, (4) parking and access issues, (5) appropriate planning contributions, (6) Impact on residential amenity, (7) land conditions.

Principle

The land is allocated for mixed used development within the Local Plan. Policy S2 states that the Torwood Street site is suitable for retail and leisure uses. The approved scheme included a cinema, this has now been removed from the proposal for commercial viability reasons. Many people supported the idea of a cinema in this location and the quarry-like nature of the site seemed to lend itself to this use. However there is no policy reason to object to its removal from the proposal.

The alternative package includes a larger hotel than which was approved, 2 additional residential units and, within the void at the rear, an office suite and a gym. This mix of uses is considered to be equally in line with policy and as such the principle is considered to be acceptable. It is considered that the mix of uses and their disposition on the site will contribute positively to the viability and vitality of this part of the town centre. The scheme has the advantage of being financially viable, whereas the developers have stated that the previous scheme was not. The alternative mix of uses and the increase in scale has had a consequent impact upon the building envelope as described above. The consequences of this change are considered in detail below.

Demolition

The demolition of the buildings on the site was approved as part of the earlier scheme. There is extant conservation area consent for their demolition. The applicant has submitted a fresh application for demolition although this is technically not required. Members will recall from considering the approved scheme that the principle of the demolition of these buildings within the conservation area was closely linked with the quality of the replacement scheme.

It was shown that an acceptable scheme, which delivered regeneration benefits, was well designed and appropriate to the conservation area was possible on this site. English Heritage agreed to the demolition on this basis and after all the possible ways of retaining the building were explored and discounted. It was therefore concluded that all the tests of PPS5 were met. The merits of the revised design will be discussed below. The demolition of the buildings is considered to be acceptable. The concurrent conservation area consent application is recommended for approval subject to a condition which prohibits the demolition of the buildings until planning permission is approved for a replacement scheme and a contract let for the work.

Visual Impact

Significant levels of negotiation were required in order to bring forward an acceptable scheme for the site. This involved the applicant employing new architects to bring forward a fresh approach from the site which moved from a very vertical form of development to a more horizontal form of development which sits much more comfortably in the landscape and respects the topography of this part of Torquay. This followed consideration by both the local and regional design review panel. The revised scheme was successful in securing the support of English Heritage and of the Development Management committee. The proposal was delegated in order to finesse the small scale details of the scheme and it was subsequently approved.

The key consideration here is the impact that the revisions have had on the proposal both in terms of its quality as a piece of architecture and also in terms of how well it relates to the townscape.

The most significant change in terms of visual impact is the increase in the height of the rear element of the building, which fronts The Terrace, by one storey. The architect has managed to accommodate the increase of one storey within a 2m increase by rearranging the internal spaces. The upper two storeys are recessed from the main elevation on to The Terrace which assists in reducing the perceived mass. In terms of context, the height of the building now sits between the eaves and ridge of the listed terrace immediately to the north west of the development.

The proportions of the building have changed, however the elevational treatment to The Terrace has been adjusted to accommodate this. There is no doubt that this part of the development is larger, and therefore closer to the limit of what is considered to be too tall for the site. However the height is still comparable to similar scale buildings nearby e.g. The Terrace and it is not considered that the scheme has moved so significantly beyond what has been approved as to be considered unacceptable.

The other significant change to the building envelope is that the 'middle row' of development is now 1m lower in height. This is considered to be a significant benefit as it reduces the visual impact of this element of the scheme then viewed from Torwood Street and from the harbour. Therefore on balance the changes to the building envelope are considered to be acceptable. This view is supported by English Heritage.

Other changes have been made to the elevations which are considered to be generally acceptable, although it will be necessary for the same level of detailed information to be produced for this proposal as was produced for the approved scheme. The drawings indicate that the cladding would be dark grey, rather than the approved muted blues. It is considered that the blue colour scheme would be far more appropriate for the upper parts of the development and the applicant has been asked to amend this. Subject to this additional level of detail being agreed, the visual impact is considered to be acceptable.

Parking and Access

This issue is unchanged from the previous application. Although the exact patterns of vehicular activity and associated parking demand associated with the application will not be identical due to the changed nature of the scheme, this has not given rise to any new areas of concern. The provision of the loading/bus bay was negotiated through the original proposal and is not required to be changed. The proposed footpath is unaffected by the revisions to the proposal. Similar conditions will be attached to the new consent securing detailed design of these areas and improvements to the existing foot path.

Planning Contributions (s.106)

The previous scheme was approved following the signing of a s.106 agreement which secured the following contributions:

- £280,000 towards sustainable transport/public realm improvement in the area
- £20,000 to pay for inspections of the highway wall at the rear of the site.

At the time of the application the applicant stated that this was the maximum contribution the scheme would yield without making the scheme unviable. Due to the new mix of uses that the scheme includes it is considered necessary to revisit this issue. Taking account of the new supplementary Planning Document and fully mitigating for the existing uses on the site the required contribution would be as follows:

- Waste Management - £400
- Lifelong Learning - £2,400
- Green Space - £16,400
- Sustainable Transport/Public Realm - £341,540
- Highway Inspections - £20,000
- **Total - £380,740**

The impact of this requirement upon the viability of the new proposal has not yet been confirmed and negotiations were not concluded at the time of writing. This matter will be updated at the meeting.

Impact on Residential Amenity

The increase in the height of the rear section of the scheme will undoubtedly make the scheme more visible to people who live up-hill from the site. However as members will be aware, private views are not protected under planning law. Given the distances involved the proposal would not have an overbearing impact on any nearby residential properties and would not result in a loss of privacy or light.

Land Conditions

A standard land remediation condition is recommended. Council Engineers and the applicant's engineers have been in discussions in relation to the issue of the rear wall which retains the highway above (The Terrace). A series of conditions and items included in the s.106 agreement were agreed in order to ensure that the development proceeds and operates in a way which does not jeopardise the stability of the rear wall or its future maintenance. An additional condition is required on a technical matter, however subject to the appropriate conditions and clauses this issue is considered to be acceptable.

Flood Issues

No new issues, the proposal is acceptable from a flood risk perspective.

Sustainability – The site is in a highly sustainable location and would involve the re-use of a brownfield site. Its presence would encourage people to holiday and recreate in the town centre, rather than make trips further away. No explicit reference is made to the use of green technologies which is regrettable, however this is not yet a mandatory requirement. Current Building regulations will have to be met.

Crime and Disorder – The police architectural liaison officer was happy with the approved scheme. No comments have been received in relation to the current application however it is not considered that the changes to the scheme impact on this issue.

Disability Issues – lift access is provided to all floors. The proposal would need to be compliant with the Disability Discrimination Act.

Conclusions

The proposal has had to change in order to become a viable and realistic proposal. Taken in the round the changes are not considered to be detrimental. Therefore the scheme still represents a significant opportunity for investment into the town centre. The range of uses, whilst different from the approval would still offer significant regenerative benefits to this part of the town.

Recommendation

That the application be delegated to the Executive Head of Spatial Planning for approval subject to the following:

- receipt of satisfactory detailed drawings in relation to the finish of the buildings
- The signing of a s.106 securing an appropriate level of contributions.

Recommendation:

Conditional Approval

Condition(s):

01. Prior to the first use or occupation of the dwellings hereby approved as part of the development, the car parking shown on drawing number 3079-203 Revision 0 shall be provided in accordance with said plan and shall be retained thereafter for the purposes of residential parking for the approved flats unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order to provide off street parking for the residential element of the proposal, in accordance with policy T25 of the Saved Torbay Local Plan 1995 – 2011.

02. Prior to the first use or occupation of the dwellings hereby approved as part of the development, the cycle parking shown on drawing number 3079-203 Revision 0 shall be provided in accordance with said plan and shall be retained thereafter for use by the residents unless otherwise agreed in writing by the Local Planning Authority.

Reason: To encourage residents to utilize sustainable modes of transport, in accordance with policy T3 of the Saved Torbay Local Plan 1995 – 2011.

03. Prior to the first use or occupation of the dwellings hereby approved as part of the development the bin storage area shown on drawing number 3079-203 Revision 0 shall be provided in accordance with said plan and shall be retained thereafter for the sole purpose of bin storage in connection with the residential units unless otherwise approved in writing by the Local Planning Authority

Reason: To ensure that there is adequate space within the development for waste and recycling purposes, in accordance with policy W7 of the Saved Torbay Local Plan 1995 – 2011.

04. Prior to the commencement of the development hereby approved samples of all the materials to be used externally in the development shall be submitted to and approved in writing by the Local Planning Authority. The development shall be constructed using only the approved materials. The Pantone colours to be used in the glazing system for the elevations shall be restricted to lighter shades which shall be agreed in writing by the Local Planning Authority prior to the commencement of works.

All sections of new stone wall shall be constructed of natural stone laid on its natural bed and lime mortar. A sample panel shall be constructed on site and agreed in writing by the Local Planning Authority prior to the construction of any new sections of wall.

Reason: To ensure that the appearance of the finished development is acceptable, in accordance with policies BES, BE1 and BE5 of the Saved Torbay Local Plan 1995 – 2011.

05. Provision shall be made for keeping foul drainage separate from clean surface and roof water and connected to the public sewerage system, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of the efficient drainage of the site, in accordance with policy EP11 of the Saved Torbay Local Plan 1995 – 2011.

06. The development hereby approved shall be carried out in strict accordance with the submitted Flood Risk Assessment ref. R22509Y001/B dated June 2010 and the update of October 2010, unless otherwise approved in writing by the Local Planning Authority.

Reason: To ensure that the development does not result in unacceptable flood risk, in accordance with policy EP11 of the Saved Torbay Local Plan 1995 – 2011

07. The finished floor levels of the development shall be no lower than 4.45 AOD, unless otherwise approved in writing by the Local Planning Authority.

Reason: To reduce the risk of flooding in the vicinity of the site, in accordance with policy EP11 of the Saved Torbay Local Plan 1995 – 2011.

08. Prior to the commencement of the development hereby approved (or at such other time as may be agreed with the Local Planning Authority), a scheme to deal with the risks associated with contamination of the site shall be submitted to and approved, in writing, by the Local Planning Authority. That scheme shall include the following elements, unless otherwise agreed in writing by the Local Planning Authority:

a) A desk study identifying:

- all previous uses
- potential contaminants associated with those uses
- a conceptual model of the site indicating sources, pathways and receptors
- potentially unacceptable risks arising from contamination at the site.

b) A site investigation scheme based on a) above to provide information for an assessment of the risk to all receptors that may be affected, including those off site.

c) The results in the site investigation and risk assessment and a method statement based on those results giving full details of the remediation measures required and how they are to be undertaken.

d) A verification report on completion of the works set out in c) above confirming the remediation measures that have been undertaken in accordance with the method statement and setting out measures for maintenance, further monitoring and reporting.

Reason: To prevent pollution of the water environment and in the interests of the well-being of future users, in accordance with policy EP11 and EP7 of the Saved Torbay Local Plan 1995 – 2011.

09. Prior to the commencement of the development hereby approved a noise impact assessment shall be carried by a suitably qualified person of the existing noise climate within the area likely to be affected by noise produced by the development. The assessment shall identify all residential and commercial properties likely to be affected by such noise and provide predictions of the noise impact of the proposed development on these properties. Regard shall be had to guidance contained in the document 'British Standard 5528:2009. Code of practice for noise and vibration control on construction and open sites – part 1: noise'.

Reason: In the interests of the amenities of the occupants of nearby properties, in accordance with policy EP4 of the Saved Torbay Local Plan 1995 – 2011.

10. Demolition or construction works that are likely to be audible in neighboring properties shall be carried out only during the following times:

08:00 – 18:00 hours Mondays to Fridays (excluding Bank Holidays)
08:00 – 13:00 hours Saturdays

All deliveries shall only occur during the above mentioned working hours.

No work of this nature is to be carried out on the site on Sundays or Bank Holidays.

In exceptional circumstances, where noisy works are believed to be necessary outside these hours, such works shall only take place on the following basis:

- prior approval for specified works must be obtained from Torbay Council's Environmental Health Team; and
- Notification must be provided to those local residents that are likely to be affected, of the nature and duration of the works.

Reason: In the interests of the amenities of the occupants of nearby properties, in accordance with policy EP4 of the Saved Torbay Local Plan 1995 – 2011.

11. All equipment to be used in the construction of the scheme hereby approved shall be operated, sited and maintained so that disturbance to people living and working in the immediate areas is minimized. In particular, all items of machinery powered by internal combustion engines must be properly silenced and/or fitted with effective and well maintained mufflers in accordance with the manufacturers instructions.

Reason: In the interests of the amenities of the occupants of nearby properties, in accordance with policy EP4 of the Saved Torbay Local Plan 1995 – 2011.

12. Any piling operations required in connection with the construction of the scheme hereby approved shall be carried out using the quietest practicable method available. The use of any other method shall first have been agreed in writing by Environmental Protection under the provisions of section 61 of the Control of Pollution Act 1974

Reason: In the interests of the amenities of the occupants of nearby properties, in accordance with policy EP4 of the Saved Torbay Local Plan 1995 – 2011.

13. A method for controlling the vibration in relation to the construction of the scheme hereby approved shall be adopted and put in place before and/or during construction. This shall have regard to guidance contained in the document 'British Standard 5228:2009. Code of practice for noise and vibration control on construction and open sites – Part 2: Vibration'

Reason: In the interests of the amenities of the occupants of nearby properties, in accordance with policy EPS and EP4 of the Saved Torbay Local Plan 1995 – 2011.

14. During the course of the demolition and construction of the development hereby approved all reasonable steps shall be taken to minimize dust and litter emissions from the site, including damping down site roads. An adequate water supply must be provided with a means of disposal of waste water. The perimeter of the site shall be screened to a sufficient height to prevent the spread of dust. Where this is not practicable, screening should be provided close to the source of the dust, unless otherwise approved in writing by the Local Planning Authority.

Reason: In the interests of the amenities of the occupants of nearby properties, in accordance with policy EPS and EP3 of the Saved Torbay Local Plan 1995 – 2011.

15. No development shall commence until a scheme for the off site highway works has been submitted to and approved in writing by the Local Planning Authority. These works shall include:
- Works to The Terrace of the type shown on drawing number 2239.03 A received on 18/01/11

- Works to Torwood Street of the type shown on drawing number 2239.02C received on 18/01/2011
- Details of the proposed hard landscaping of the type indicated on drawing number 3145-210 Revision 0.

The agreed works shall be completed prior to the first use or occupation of the development hereby approved unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of highway safety, in accordance with policy T26 and T27 of the Saved Adopted Torbay Local Plan 1995 -2011.

16. Unless otherwise agreed in writing by the Local Planning Authority, prior to the commencement of any development, details of a sustainable urban drainage system shall be submitted to and approved in writing 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.

17. No demolition/development shall take place/commence until a programme of archaeological work including a Written Scheme of Investigation has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include: a programme and methodology for site investigation and recording; post-investigation assessment and analysis; publication; and archive deposition.

Reason: To ensure that any archeological remains present on the site are appropriately recorded, preserved and stored, in accordance with Policy BE10 and advice contained in PPS5 "Planning for the Historic Environment".

18. No development shall commence until a scheme for improvements to the existing public footpath to the west of the site has been submitted to and approved in writing by the Local Planning Authority. This shall include new lighting, and/or such other proposals to mitigate the impact of the new building as shall be agreed with the Local Planning Authority.

Reason: To mitigate against the impact of the building on the footpath and to ensure that the path remains safe to use, in the interests of all users of the footpath, in accordance with policies TS, T1 and T2 of the Saved Torbay Local Plan 1995 – 2011.

19. No equipment, signage or plant shall be located on the roof, walls or in the grounds of the development hereby permitted (other than those indicated on the approved plans) unless otherwise approved in writing by the Local Planning Authority, including air conditioning units, aerials, tanks, satellite dishes and external lighting.

Reason: In the interests of the visual amenities of the conservation area, in accordance with policy BE5 of the Saved Torbay Local Plan 1995 – 2011.

20. The development shall not be commenced until the following information has been submitted to and approved in writing by the Local Planning Authority:

– Structural Engineers sectional sketches, method statements and risk assessment to assist in demonstrating that the parts of the development hereby approved, adjacent to the existing wall which retains the highway, can be constructed without materially affecting the stability of this wall.

- Preliminary calculations that indicate the critical stability conditions of the ground at the base of the retaining wall during the excavation phase in forming new reduced ground floor levels

The development shall be carried out in accordance with the submitted information.

Reason: To ensure that the development does not result in the movement or partial failure of the rear wall and thereby to ensure that the function of the highway it retains can continue, in accordance with policy TS and T26 of the Saved Torbay Local Plan 1995 – 2011.

21. Prior to the commencement of the development hereby approved details of a monitoring system shall be submitted to and approved in writing by the Local Planning Authority. The system shall include monitoring locations and methodology for monitoring the existing retaining wall and road surfacing behind the wall during construction period. The development shall be carried out in accordance with the agreed monitoring system.

Reason: To ensure that the development does not result in the movement or partial failure of the rear wall and thereby to ensure that the function of the highway it retains can continue, in accordance with policy TS and T26 of the Saved Torbay Local Plan 1995 – 2011.

22. No development shall commence until written confirmation has been submitted to the Local Planning Authority which confirms that the proposed development will not impart any dead or live loads on the existing wall retaining the highway.

Reason: To ensure that the development does not result in the movement or partial failure of the rear wall and thereby to ensure that the function of the highway it retains can continue, in accordance with policy TS and T26 of the Saved Torbay Local Plan 1995 – 2011.

23. An assessment shall be made of the change in relative member loadings being carried by the existing retaining wall at critical stages during and after construction, in accordance with a timetable which shall first have been submitted to and approved in writing by the Local Planning Authority, and their levels checked against the original designed loadings. Any significant changes in loading shall be agreed in writing by the Local Planning Authority.

Reason: To ensure that the development does not result in the movement or partial failure of the rear wall and thereby to ensure that the function of the highway it retains can continue, in accordance with policy TS and T26 of the Saved Torbay Local Plan 1995 – 2011.

24. No development shall commence until information has been submitted to, and approved in writing by the Local Planning Authority, which demonstrates how the section of original masonry wall will be protected and supported during the construction phase. It will also demonstrate how the completed development will support the highway live and dead loads associated with this section of wall during the operational phase.

Reason: To ensure that the development does not result in the movement or partial failure of the rear wall and thereby to ensure that the function of the highway it retains can continue, in accordance with policy TS and T26 of the Saved Torbay Local Plan 1995 – 2011.

25. Prior to the commencement of the development hereby approved the results of an assessment into the following shall be submitted to and approved in writing by the Local Planning Authority:

- the impact on the existing upper level of masonry wall supporting The Terrace highway as a result of any material changes to the wall or its foundations, particularly in relation to the wall's ability to resist highway loadings during and after the construction phase of the development.

Any strengthening works recommended in response to the assessment shall be agreed in writing by the Local Planning Authority and carried out in accordance with a timetable which shall

also by agreed in writing.

Reason: To ensure that the development does not result in the failure of the rear masonry wall and thereby to ensure that the function of the highway it retains can continue, in accordance with policy TS and T26 of the Saved Torbay Local Plan 1995 – 2011.

26. The gym hereby approved shall be used only for that purpose and for no other purposes within Class D2 of the Use Classes (Amendment) Order 2005 without the prior grant of planning permission.

Reason: To ensure that the mix of uses provided on the site is compatible with, and generates vitality in this key town centre site. In accordance with policies E1.10, S5.2 and S2 (TM4) of the Saved Torbay Local Plan 1995 – 2011.

Informatives:

01. The applicant is advised that any works to the highway will require the consent of the highway authority.

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P/2011/0036/CA
Wellswood Ward
Former Royal Garage Site, 4-24 Torwood Street, Torquay
Demolition works

Site Details

The site comprises the frontage buildings of 4 – 24 Torwood Street and includes the land to the rear of these buildings, which is currently being used as a car park. It is bound to the south by Torwood Street and to the north by a concrete faced rock wall of approximately 10m in height beyond which is The Terrace at the higher level. To the west of the site is a public right of way which provides pedestrian access between the two roads. The car park originally provided stabling and garaging for the former Royal Hotel, to the west of the application site. The site area is approximately 0.23ha.

In terms of constraints; the site is within the Torquay Harbour Conservation Area. The Torquay Harbour Area Character Appraisal identifies most of the buildings on the site as key buildings within the conservation area with largely unspoilt frontages. Within the Local Plan the frontage buildings are identified as being within a Secondary Shopping Frontage. Most of the site is allocated for mixed use development which could include retail, leisure, employment and residential. Torwood Street is part of the major road network.

The existing buildings on the site are as follows:

- 4 Torwood Street – “Tictocs’n’rocks” – Retail
- 6 Torwood Street – “Devon Kebab House” – Takeaway
- 8 Torwood Street – “Trents” – Bar
- 10 Torwood Street – “Legends” – Restaurant
- 12 – 16 Torwood Street – “Brights of Nettlebed” – Retail
- 22 Torwood Street – “Wild Jacks” – Takeaway
- 24 Torwood Street – “The Gold Shop” - Retail

Relevant Planning History

Various applications have been submitted in relation to the existing buildings on site including changes of use, minor alterations including shop-front alterations and signage.

Various applications were submitted in the 1980's as follows:

- P/1983/1792 Retail unit/multi-storey car park. Refused 4/6/1984
- P/1984/3237 84 Sheltered flats and wardens flat. Refused 29/1/1985
- P/1985/0361 49 flats. Refused 2/4/1985. Appeal dismissed 5/9/1985
- P/1986/2379 Erection of 43 sheltered flats plus wardens accommodation, offices and retail/storage space. Approved 25/9/1987

Subsequently an application for a certificate of lawfulness was submitted in 2005 in an attempt to prove that work had commenced on the scheme which was approved in 1987, thereby allowing the work to continue. The certificate of lawfulness application was refused on 6/3/2006 and subsequently dismissed at appeal on 22/08/2007.

P/2009/0689 – Demolition Works. Approved 06/07/2010

P/2009/0690 – Demolition of 4 – 24 Torwood Street. Redevelopment of site comprising 12 residential apartments with residential parking, 80 bedroom hotel and associated facilities, 6 screen cinema. 1 retail unit and 3 restaurants. Approved 6/1/11

Relevant Policies

- BES Built environment strategy
- BE1 Design of new development
- BE5 Policy in conservation areas

BE6 Development affecting listed buildings
PPS5 "Planning for the Historic Environment"

Proposals

The demolition of 4 – 24 Torwood Street and associated structures in connection with a scheme for redevelopment. This is the subject of a concurrent application P/2011/0035.

Consultations

English Heritage – responded that they do not need to be consulted.

Representations

At the time of writing approximately 15 letters of objection had been received in relation to the associated planning application, a number of which express concern about the loss of these buildings. These have been re-produced and placed in the Members Room.

Key Issues/Material Considerations

As an application for conservation area consent the key issue is whether demolition of these buildings is acceptable.

The demolition of the buildings on the site was approved as part of the approved scheme. There is extant conservation area consent for the demolition. The applicant has submitted a fresh application for demolition although this is technically not required. Members will recall from considering the approved scheme that the principle of the demolition of these buildings within the conservation area was closely linked with the quality of the replacement scheme. It was shown that an acceptable scheme, which delivered regeneration benefits, was well designed and appropriate to the conservation area was possible on this site. English Heritage agreed to the demolition on this basis and after all the possible ways of retaining the building were explored and discounted. It was therefore concluded that all the tests of PPS5 were met. The demolition of the buildings is considered to be acceptable. The application is therefore recommended for approval subject to a condition which prohibits the demolition of the buildings until planning permission is approved for a replacement scheme and a contract let for the work.

Conclusions

There is an unexpired consent for the demolition and it is still considered to be acceptable.

Recommendation:

Conditional Approval

Condition(s):

01. The building(s) shall not be demolished before a contract for the carrying out of works of redevelopment of the site has been made and planning permission has been granted for the development for which the contract provides.

Reason: To ensure that the character and appearance of the area is not prejudiced in accordance with Policy BE5 of the Saved Adopted Torbay Local Plan 1995-2011 and advice in PPS5 "Planning for the Historic Environment".

P/2011/0092/PA

Watcombe Ward

Watcombe Primary School, Moor Lane, Torquay

Alterations and extend existing galvanised steel frame/glazed canopy to match existing

Site Details

Watcombe Primary School occupies a range of single storey buildings on the south side of Moor Lane. At the western end, these buildings are linked to the Sure Start and nursery building by a glazed covered outdoor play area.

Relevant Planning History

P/2005/0584 Erection Of Children's Centre With Training Rooms, Consulting Rooms Etc And With New Vehicular/Pedestrian Access. Approved.

P/2008/1505 Formation of external buggy shelter and extension of building under existing covered roof area. Approved.

Relevant Policies

Saved Adopted Torbay Local Plan 1995-2011

Proposals Map: Community facility CF8.1

Other Policies:

CF10 New Schools and improved school facilities

Proposals

The proposal is to extend the above-mentioned glazed roof to provide an enlarged covered outdoor play area. Its purpose would be to increase the flexibility of the outdoor area during hot and inclement weather. The existing glazed roof that rises upwards from the Moor Lane side would be extended by adding a complete rear roof slope to line up with an existing canopy. In addition, alongside this new rear roof slope, on its east side, there would be an additional glazed roof, finishing, at its highest point, with a vertical face of glass in line with the rear elevation of the existing school building. The new eastern roof slope would be 0.4m lower in height than the ridge of the existing glazed roof.

Materials: Galvanised steel frame: Glazed canopy roof.

The application is supported by a Design & Access Statement.

Consultations

No comments.

Representations

No objections received at the time of the preparation of this report. Any comments received will be reported at the meeting.

Key Issues/Material Considerations

The main issue in this case is the resulting appearance of the school premises in the public view.

The proposals would represent a relatively minor alteration to the appearance of the school premises. The design and materials would reflect those of the adjacent Sure Start/nursery building.

Policies CF8 and CF10 of the Local Plan provide for extensions and the improvement of school such as Watcombe Primary School, so long as the proposals can be accommodated without undue detriment to surrounding residential areas.

It is considered that the proposal would not result in material detriment to the visual amenities of neighbouring residential occupiers on the north side of Moor Lane, or on Isambard Court to the south, and the resulting appearance of the premises in the public view would be acceptable.

Sustainability - Environment Agency Flood Risk Map Status: Flood Zone 1. Standard advice applies. Surface Water Drainage: This outdoor area is already surfaced – No new issues arise.

Crime and Disorder - No special issues.

Disability Issues – No special issues.

Conclusions The proposal is supported as it will improve the amenities of the school premises and reflects Local Plan Policy criteria.

Recommendation:

Approval

Informatives:

01. Summary of reasons for the grant of permission: This proposal meets Local Plan policy criteria because of its size, siting and design. The scheme is appropriate in respect of its appearance and its impact on nearby residential occupiers.

P/2011/0227/MPA

Tormohun Ward

Shedden Hall Hotel, Shedden Hill Road, Torquay

Part demolition, conversion and alteration from hotel to 7 residential dwellings and formation of 3 residential dwellings and 4 new residential houses with parking

Site Details

The application site is the Shedden Hall Hotel which is a large Victorian property situated on the west side of Shedden Hill. The building has most recently been in use as a hotel, although it is not currently trading. It has been extensively extended in the past. It is situated at the back of the pavement and is a prominent building and clearly visible in the street scene. It is also visible in views across the site from the sea front. The original part of the building is a Victorian Villa.

Shedden Hill road slopes to the south past the site. The ground levels on the site also drop significantly to the west. The existing building appears as two storeys in height fronting Shedden Hill. Due to the changes in ground level on the site accommodation is provided over four floors. There are extensions at both the north and south ends. There is a large mature Turkey Oak tree in the rear curtilage of the property.

The surrounding area is largely in commercial use. There are a number of hotels in the area. Land to the west is in use as a public car park. In the Torbay Local Plan 1995-2011 the site is shown as being within the Belgravia Conservation Area and within the PHAA (Principal Holiday Accommodation Area).

The site falls within the amber area of the Council's recently adopted PHAA guidance where residential use may be permitted subject to consideration of viability and facilities.

Relevant Planning History

Extensive previous planning history. Most recent application are as follows:

2010/0884 Conversion of hotel to 9 holiday apartments with owners accommodation and construction to 2 buildings to form 14 residential flats. Withdrawn 4.3.11.

2005/2079 White UPVC windows and French doors. Approved 31/1/2006.

1996/1118 Demolition works in connection with alterations and extensions at 3rd floor level to form additional bedroom accommodation. Approved 16/12/1996

1996/1117 Alterations and extensions at 3rd floor level to form additional bedroom accommodation. Approved 16/12/1996.

1996/1116 Alterations and extensions at basement and ground floor level to form additional bedroom accommodation. Approved 16/12/1996.

1996/1115 Demolition works in connection with alterations and extensions at basement and ground floor level to form additional bedroom accommodation. Approved 16/12/1996.

1995/1115 Demolition of works in connection with erection of detached garage. Approved 23/11/1995.

1995/1114 Erection of detached garage. Approved 23/11/1995.

Relevant Policies

In the *Torbay Local Plan 1995-2011* the following policies are relevant:

H2 Promotes sustainable forms of new development

H6 Affordable housing will be secured on residential sites that meet the threshold requirements

H9 Requires a high standard of design, taking into account characteristics of existing environment

H10 Supports development at maximum densities

H11 Open space requirements for new housing

TU6 Changes of use that are detrimental to the character and function of the PHAA will not be permitted

CF6 Requires appropriate contributions to provide social, physical or environmental infrastructure

L9 Development will only be permitted where trees will not be harmed

- L10 Major development and landscaping
- EP1 Supports incorporating energy saving features into design and layout
- BES Requires new development to conserve or enhance the built environment
- BE1 Requires design of new development to take account of the wider context
- BE2 Proposals for new buildings should incorporate landscaping as an integral part of the design
- BE5 Development will only be permitted where it will preserve or enhance the character or appearance of the conservation area
- T2 Sets out a transport hierarchy for all new development
- T25 Maximum car parking standards are set out in the schedule
- T26 Requires a safe standard of access

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

Proposals

The application is for the following:

- Conversion of the existing building into 7 residential dwellings. At ground and first floor 2 x two bedroom apartments are proposed. Two x 2 bedroom apartments both with studies would be formed over the lower ground and lower lower ground floor levels. The seventh unit would be formed to the north of the main building on part of the site where the existing building would be demolished. It would have two bedrooms and be split over the ground and first floors. As part of the proposal the following extensions to the building would be demolished; the large flat roof southern extension, the two storey northern extension, the flat roof extension on the south side of the building and an extension on the rear (west) of the building. The majority of the dwellings would be accessed from a new entrance that would be formed at the northern end of the building.
- Construction of a new detached 4 storey building to the south of the main building to form 4 residential dwellings. The proposed building would be sited adjacent to Shedden Hill Road. It would comprise two x 3 bedroom dwellings and one x 4 bed dwelling split over 3 levels and a three bedroom penthouse at roof level which would be accessed by a lift and stairs. Materials would be rendered walls with stone at lower ground floor level and lead effect roof.
- Construction of a 2 storey detached building at the rear of the main building to form three apartments. Two of these would be at ground floor level with the third apartment at first floor level. Materials would be rendered walls with a pitched slate roof.

Vehicular access to the site would remain in the same position. Sixteen parking spaces are shown at the rear of the site. The existing garden area within the site would be retained. The swimming pool is shown as being removed. The large mature Turkey Oak tree at the rear of the site would be retained.

The application is a resubmission of application reference 2010/0884 which was withdrawn. In comparison with this proposal the proposed use of the dwellings/apartments on the site has been revised to full residential use rather than a split residential/ holiday use and the design of the detached new building to the south of the main building has been significantly revised.

Consultations

Senior Transport Planner: Consultation response awaited
Highways: Consultation response awaited
Drainage and Structures: Consultation response awaited
Arboricultural Officer: Consultation response awaited
Conservation Officer: Consultation response awaited.
English Heritage: Consultation response awaited.

Representations

None received at time of preparing this report although it should be noted that the consultation period does not expire until 1.4.11.

Key Issues/Material Considerations

The main issues are the principle of the loss of a holiday use from the site, the principle of the proposed development within the Conservation Area, the design of the proposed buildings and their impact on the appearance and character of the area, along with highways impact, trees issues and Section 106 obligations.

The principle of the proposed change of use of the site from a hotel to 14 residential dwellings

The Council adopted revised guidance on PHAAs in March 2010. In this document the application site is identified as being within the 'amber' category and the guidance relevant to a 26 bedroom hotel advises "Residential use may be permitted, subject to consideration of facilities and viability". The guidance advises that amber areas retain a fair holiday character. For medium sized hotels "Changes of use to residential may be granted, subject to location, range of facilities, viability and other considerations".

In this case the site is reasonably well located for holiday use as it is close to the sea front and the town centre. There are good sea views from accommodation on the south side of the building. There are a number of properties in holiday use in the vicinity such as the adjoining Heritage Hotel, and the former Belgrave Hotel which is currently being extended.

It is noted that there is a need for investment in the property. In the design and access statement the agent advises that "the present hotel is suffering from dire lack of renovation, renewal and replacement. The building needs urgent maintenance, even the newer parts are suffering from neglect."

Under the previous proposal (2010/0884) the proposal was for a mixed holiday and residential use on the site. However, officers have concluded that it would be preferable in this instance in order to achieve the regeneration of the main villa and the regeneration of the site as a whole, for the site to be used entirely for residential purposes.

Due to the level of investment that would be needed to maintain the existing Victorian part of the building some residential use would be required on the site to generate income to invest in the main building. This would reduce the amount of holiday use on the site. As the site is in a mixed area it is considered that the loss of all holiday use would not have an adverse affect on the tourist character of the area or result in the loss of important facilities in the Bay.

In comparison with the Belgrave Hotel and Heritage Hotel the site is in a more marginal location without direct access to the seafront. The character of the surrounding area has less of a holiday influence. A number of alternative development schemes for the site have been discussed with officers over several years. It has been difficult to find a viable solution that enables the retention of some holiday use on the site, whilst providing the required improvements to the existing villa.

The current proposal for full residential use would provide a robust solution that would have a positive effect on the townscape of the area and is therefore considered to be the most appropriate approach to development and investment in the site.

On balance the benefits attributable to the development of the site outweigh concerns about the loss of a tourist related use.

The principle of the proposed development within the Conservation Area and design of buildings

The proposal presents an opportunity to remove unsightly extensions that have been added in the past and therefore to improve the appearance of the original building. Extensive areas are proposed for demolition. These are modern additions that detract from the appearance of the original building and the removal of these would significantly improve its appearance.

The proposed new building to form 4 permanent residential apartments would be situated adjacent to Shedden Hill and would be clearly visible in the street scene. There are currently views of the sea from the road and the proposal would have some affect on these. The design and access statement identifies that the proposed building would be detached from the main building thereby creating punctuation to the street scene. The height of this building would be lower than the main building on the site, with the second floor accommodation set within a mansard roof. An elevation showing the scale and height of the proposed building relative to the existing building and the adjoining Heritage Hotel has been submitted. The appearance to Shedden Hill Road would reflect the main building through the use of a relatively simple rendered elevation on a single plane with sash windows.

The proposed building would constitute a significant scale of development on the site and would inevitably have some impact on the appearance and character of the Conservation Area. However, the proposal should be considered in conjunction with the proposed demolition of the southern wing of the building and the flat roof extensions to the main building, which would significantly improve the appearance of the building and constitute a positive improvement to the appearance and character of the Conservation Area.

The scale and design of the proposed pavilion that would accommodate 3 additional units of permanent residential accommodation would be subservient to the main building. It would be sited behind the main building and would barely be visible in the street scene. It would in part replace a two bedroom unit of accommodation on the west elevation that would be demolished. The design of the proposed pavilion would reflect the Victorian character of the main building on the site, although modern side hung windows are proposed. Materials would be rendered walls and a slate roof.

Limited detail of the proposed cottage at the northern end of the site has been submitted. There is some concern about the elevational treatment to Shedden Hill and this has been discussed with the agent.

Consultation responses from the Conservation Officer and English Heritage are awaited and will be helpful in reaching an informed assessment of the proposal.

Highways

It is considered that the provision of on site parking on a one for one basis would be acceptable in this location. Additional off site parking is available in the nearby Shedden Hill car park and Lower Union Lane car park. Cycle parking has been included within the scheme.

In the design and access statement it is advised that the existing steep sloping access would be improved by turning the access road and raising the lower parking levels which would permit the gradient to be reduced.

The highways officer's consultation response is awaited.

Trees

There is a mature Turkey Oak tree on the site that is shown as being retained. A condition will be needed to ensure that it is protected on site during construction. A landscaping condition would also be appropriate on a development of this scale to secure appropriate planting around the site.

Section 106 Contributions

The proposal for the loss of a 26 bedroom hotel and formation of 14 permanent residential apartments

would require the payment of Section 106 contributions in accordance with Policy CF6.

The number of units within the proposed development would fall below the threshold to require the provision of affordable housing under Policy H6. In accordance with the updated SPD "Planning Contributions and Affordable Housing: Priorities and Delivery" the following contributions are required;

Waste Management £650
Stronger Communities £2320
Lifelong Learning £4970
Greenspace £26530
Monitoring £2800

Total £37270

It is noted that a number of the units are of a substantial size in terms of floor area and consideration needs to be given to the fact that only 14 units have been provided on the site (below the threshold of 15 at which the need to provide affordable housing kicks in).

There are two ways in which additional units could be provided on this site. The first is to increase the bulk of building, this would not be an acceptable approach given that this scheme has been negotiated over several months following concerns raised about the height and bulk of building that was previously proposed.

The second option would be to sub-divide some of the units into smaller flatted accommodation in order to provide more than 14 units. This would be achievable in this case, given the size of some of the units. However, this would, in the opinion of officers, be a retrograde step, given the commitment in this case to large family units of accommodation and given the mix that has been achieved on this site.

There is a paucity of this type of accommodation in the vicinity, with many properties having been converted to small single bedroom flats and it is this larger family size of property that is in shortest supply on the housing market.

In order to ensure that, in the event one or more units apply for subdivision in the future, appropriate S106 contributions are paid for the provision of affordable housing it will be appropriate for the Council to control any subdivision through the S106 agreement. This would clarify through restrictive clauses that the site would be considered as a whole and that any sub-division of any of the units will effectively trigger affordable housing contributions, as the total number of units on the site would then be above the threshold of 15 or more. This would be applicable notwithstanding the ownership of the dwellings on the site. In addition a monitoring contribution is required as part of the S106 agreement to enable the use of the site and any potential sub-division to be monitored.

It should be considered that this scheme enables the demolition of the poor additions to the main villa and its restoration, these positive enhancements form part of the package in this case and would be less likely to come forward were the scheme to be required to provide affordable housing. It is considered that in this case the number of units and the mix of accommodation is appropriate for this site.

In accordance with the SPD "Planning Contributions and Affordable Housing: Priorities and Delivery" no sustainable transport contribution would be required because the mitigation from the existing use as a 26 bedroom hotel with owners accommodation outweighs the transport impact of use of the site by 14 dwellings.

Sustainability - The proposal would result in development of a brown field site. It is located within walking distance of the town centre and is a sustainable location for residential development.

Crime and Disorder - Subject to the incorporation of normal crime prevention measures it is unlikely that there would be an increase in crime.

Disability Issues - The proposed block of 4 dwellings would include a lift. It is also proposed to install a lift into the main building.

Conclusions

In conclusion, the Council's recently adopted guidance on PHAA's has provided increased flexibility in considering proposals relating to premises in holiday use. The site is in an "amber" area which allows residential use in appropriate circumstances.

In this case the proposal represents an opportunity to significantly improve the appearance of the existing building through the removal of largely unsympathetic extensions. The proposed development of two detached buildings in the curtilage of the property would retain the integrity and character of the main building and would be unlikely to harm the appearance and character of the area. In this instance, the loss of a tourism use from this site would not significantly harm the tourist industry in the locality. Subject to the receipt of satisfactory consultation responses and further information it is considered that the proposal would be consistent with the objectives of the policies in the Torbay Local Plan 1995-2011 and therefore would constitute an appropriate form of development in this location.

The consultation period in respect of this application does not expire until 1.4.11. As such the recommendation will be subject to their being no adverse comments received within the consultation period.

Recommendation

Committee Site Visit: Subject to their being no adverse representations received on or before 01 April 2011; subject to satisfactory further information; subject to the views of relevant consultees and subject to the signing of a s106 legal agreement in terms acceptable to the Executive Head of Spatial Planning by 23 May 2011; Conditional Approval

Recommendation:

Conditional Approval

Condition(s):

01. Notwithstanding the provisions of Part 1, Article 3 Classes A,B,C,D and E of the Town and Country Planning (General Permitted Development) Order 2008 (or and Order revoking or re-enacting that Order with or without modification), the enlargement, improvement or alteration of any dwelling; the addition or alteration to its roof; the construction of a porch; or the construction of any structure within the curtilage shall not be allowed without the granting of a specific planning permission.

Reason; To safeguard the residential character of the area, in accordance with Policy BE1 of the Torbay Local Plan 1995-2011.

02. Notwithstanding the details submitted in the planning application, prior to the commencement of any of the works hereby approved on the site a schedule of all the works to be carried out to the main villa and details of the timing of these works and their implementation shall be submitted to and approved in writing by the Local Planning Authority. The works to the main building shall be carried out prior to the occupation of any of the new residential accommodation on the site, hereby approved, and in accordance with the approved schedule, unless otherwise agreed in writing by the Local Planning Authority.

Reason; In the interests of the visual amenity of the area and in accordance with Policies BE1 and BE5 of the saved adopted Torbay Local Plan 1995-2011.

03. No development shall take place until samples of the materials to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason; In the interests of visual amenity in accordance with Policies BE1 and BE5 of the Torbay Local Plan 1995-2011.

04. The parking and cycle parking facilities shown on the approved plan shall be provided before the use of the dwellings hereby approved commences and thereafter used for no other purpose unless otherwise agreed in writing by the Local Planning Authority.

Reason; To ensure that parking facilities will be available at all times to serve the premises, in accordance with Policy T25 of the Torbay Local Plan 1995-2011.

05. No development or other operations shall commence on site until the existing tree to be retained has been protected in accordance with a scheme that has been submitted to and approved in writing by the Local Planning Authority. The scheme shall provide for the erection of fencing for the protection of any retained tree before any equipment, machinery or materials are brought on to the site for the purposes of development or any other operations. The fencing shall be retained intact for the full duration of the development until all equipment, materials and surplus materials have been removed from the site. If the fencing is damaged all operations shall cease until it is repaired in accordance with the approved details. Nothing shall be stored or placed in any fenced area in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavations be made without the written approval of the Local Planning Authority.

Reason; To safeguard the existing trees and hedges in accordance with Policy L9 of the Torbay Local Plan 1995-2011.

06. The development hereby approved shall not commence until 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) glazing bars.

The buildings shall not be occupied until it has been completed in accordance with these details.

Reason: To ensure that the architectural detailing of the development is completed to a satisfactory standard in accordance with Policies BE1 and BE5 of the Torbay Local Plan 1995-2011.

07. 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, in accordance with Policy BE2 of the saved Torbay Local Plan 1995-2011.

08. Before any development is commenced details of the existing and proposed levels of all buildings or structures and the levels of the site, any changes proposed to the site including to the parking areas and the finished ridge levels of the new buildings shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be constructed in accordance with the approved level details unless otherwise agreed in writing by the Local Planning Authority.

Reason; In the interests of visual and residential amenity, in accordance with Policies BE1, BE5 and H9 of the Torbay Local Plan 1995-2011.

09. The dwellings hereby approved shall not be occupied until the areas for demolition shown on plan reference 20745/120A dated December 2010 have been demolished unless otherwise agreed in writing by the Local Planning Authority.

Reason; In the interests of the amenity of the area in accordance with Policy BE1 of the Torbay Local Plan 1995-2011.

10. This permission is related to an Agreement entered into by the applicant and the Torbay Council, under Section 106 of the Town and Country Planning Act 1990.

Reason; For the avoidance of doubt and to ensure a satisfactory standard of development.

11. No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a plan indicating the positions, design materials and type of boundary treatment to be erected. The boundary treatment shall be completed before the use hereby permitted is commenced or before the building occupied. Development shall be carried out in accordance with the approved treatment.

Reason; In the interests of the amenity of the area in accordance with Policy BE1 of the Torbay Local Plan 1995-2011.

12. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping. This scheme shall include details of the size, species and positions or density of all trees and shrubs to be planted, and 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 interest of the amenities of the area, in accordance with Policy BE2 of the Torbay Local Plan 1995-2011.