



Friday, 8 April 2011

DEVELOPMENT MANAGEMENT COMMITTEE

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

Monday, 18 April 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 Addis
Councillor Carter (R)
Councillor Charwood
Councillor Manning

Councillor McPhail
Councillor Morey
Councillor Pentney
Councillor Thomas (D)

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 March 2011.

(Pages 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. (Churston with Galmpton Ward)

(Pages 7 -
14)

6. **2009/1287/MOA Land at Park Bay Garden Centre and Holly Gruit, Brixham Road, Paignton** (Pages 15 - 18)
 Section 106 details.
 (Blatchcombe Ward)
7. **Belvedere, 37 Marine Drive, Paignton** (Pages 19 - 22)
 P/2010/0931/VC
 Apartment 1
 Removal of condition on applications P/2000/1231/OA and P/2002/1352/RM to allow apartment 1 as a permanent dwelling house
- P/2010/1178/VC
 Apartment 6
 Removal of condition 4 relating to holiday use on application P/2000/1321/OA to allow apartment 6 to be used as a permanent dwelling house
- P/2010/1023/VC
 Apartment 15
 Remove of conditions to remove restriction of occupancy and allow residential status on applications P/2000/1231/OA and P/2002/1352/RM
- P/2010/1236/VC
 Apartment 18
 Remove of conditions to remove restriction of occupancy and allow residential status on applications P/2000/1231/OA and P/2002/1352/RM
- P/2010/0947/VC
 Apartment 19
 Removal of conditions to allow residential use
- P/2010/1056/VC
 Flat 20, Belvedere
 Removal of conditions relating to holiday use on applications P/2000/1231/OA and P/2002/1352/RM to allow flat 20 to be use as a permanent dwelling house
- P/2010/0864/VC
 Flat 5 Belvedere
 Remove condition 4 to planning application P/2000/1231 to allow and live in as residential status
- (Preston Ward)
8. **2011/0105/MPA Seaford Sands Hotel, 17 Roundham Road, Paignton** (Pages 23 - 26)
 Demolition, alterations and conversion to form 14 dwellings.
 (Roundham with Hyde Ward)

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|------------|---|--------------------|
| 9. | 2011/0163/PA 10-12 Palace Avenue, Paignton
Change of use of ground and lower floors from class A1 (retail) to mixed A1/A3 use.
(Roundham with Hyde Ward) | (Pages 27 -
30) |
| 10. | 2011/0185/R4 Parkfield House, Esplanade Road, Paignton
Demolish conservatory to entrance elevation; replace existing spiral staircase to rear elevation with new to British standard means of escape; install fire glazing internally to 2 windows adjacent to fire escape.
(Preston Ward) | (Pages 31 -
34) |
| 11. | 2011/0186/LB Parkfield House, Esplanade Road, Paignton
Demolish conservatory to entrance elevation; replace existing spiral staircase to rear elevation with new to British standard means of escape; install fire glazing internally to 2 windows adjacent to fire escape.
(Preston Ward) | (Pages 35 -
38) |
| 12. | 2011/0273/PA Occombe Farm, Preston Down Road, Paignton
Installation of solar photovoltaic panels on the roof of 5 agricultural barns.
(Preston Ward) | (Pages 39 -
42) |
| 13. | 2011/0062/PA Daleside Court, Lincombe Drive, Torquay
Demolition of the existing building (arranged as 5 flats) and formation of 7 new apartments with vehicular and pedestrian access.
(Wellswood Ward) | (Pages 43 -
48) |
| 14. | 2011/0082/PA White Lodge, Ilsham Marine Drive, Torquay
Extend time limit - demolition of house and construction of 5 flats-
application P/2007/1106/PA.
(Wellswood Ward) | (Pages 49 -
52) |
| 15. | 2011/0227/MPA 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.
(Tormohun Ward) | (Pages 53 -
62) |
| 16. | Appeal Decisions
To note the outcomes of appeals for 2009-2010. | (Pages 63 -
64) |



Minutes of the Development Management Committee

21 March 2011

-: Present :-

Councillor McPhail (Vice-Chair, in the Chair),

Councillors Addis, Carter (R), Charlwood, Morey, Pentney, Manning, Richards (In place of Scouler) and Thomas (D)

(Also in attendance: Councillor Ellery and Councillor Lewis)

612. Apologies for absence

It was reported, in accordance with the wishes of the Conservative Group, Councillor Scouler had been replaced by Councillor Richards for this meeting only.

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

613. Minutes

The Minutes of the meeting of the Development Management Committee held on 21 February 2011 were confirmed as a correct record and signed by the Vice-Chairwoman.

614. 2010/0616/MPA land Adjoining Cayman Golf Course, Dartmouth Road, Churston, Brixham (Churston with Galmpton Ward)

Members considered an application for the formation of a combat games area with car parking, administration building with changing/toilet facilities. Revised plans received showed a new layout for the site, further details of structures (including heights and materials) and additional landscaping and screening.

Prior to the meeting, Members of the Development Management Committee undertook a site visit and written representations were circulated to members. At the meeting Mr Bridge addressed the Committee in support of the application. In accordance with Standing Order B4.1 Councillor Ellery also spoke in support of the application.

Resolved:

Consideration deferred to allow for officers to further negotiate with the applicant on the use of appropriate screening/mature planting, and seek to reduce the detrimental visual impact of the proposal.

(Note 1: Prior to consideration of application 2011/0616/MPA, Councillor Morey declared a personal prejudicial interest and withdrew from the meeting room.)

(Note 2: Prior to consideration of application 2011/0616/MPA Councillor Ellery declared a personal interest as he worked in the vicinity of the application.)

615. 2011/0018/MPA Torbay Holiday Chalets, Fishcombe Road, Brixham (Berry Head with Furzeham Ward)

The application was withdrawn from the agenda by the applicant.

616. 2011/0039/PA Bench House, Blackball Lane, Brixham (Berry Head with Furzeham Ward)

The Committee considered an application for demolition works and alterations to form road widening, reduction of residential curtilage and formation of new retaining wall topped by new railings.

Prior to the meeting written representations were circulated to members.

Resolved:

Approved with the conditions set out in the submitted Report.

(Note 3: Prior to consideration of application 2011/0039/PA, Councillor Carter (R) declared a personal interest as a Director of the TDA (Torbay Development Agency).)

617. 2011/0040/CA Bench House, Blackball Lane, Brixham (Berry Head with Furzeham Ward)

The Committee considered an application for demolition works. Prior to the meeting written representations were circulated to members.

Resolved:

Approved with the conditions set out in the submitted Report.

(Note 4: Prior to consideration of application 2011/0040/CA, Councillor Carter (R) declared a personal interest as a Director of the TDA (Torbay Development Agency).)

618. 2011/0042/PA 55 Metherell Avenue, Brixham (St Marys with Summercombe Ward)

The Committee considered an application for formation of a new dwelling at the side of the existing dwelling with vehicular and pedestrian access.

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

Resolved:

- (i) Approved with the conditions and informative set out in the submitted Report; and
- (ii) in the event Council, at its meeting on 24 March 2011, resolves to remove the £5,000 threshold for current applications the decision also be subject to the signing of a Section 106 Agreement in terms acceptable to the Executive Head for Spatial Planning.

619. 2010/1308/PA Parkfield House, Esplanade Road, Paignton (Preston Ward)

The Committee considered an application to relocate the BMX track previously approved by moving it seven metres to the south of its approved location.

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

Resolved:

Approved with conditions to be delegated to the Executive Head for Spatial Planning.

620. 2011/0064/HA 10 Hutton Road, Paignton (Preston Ward)

The Committee considered an application for the extension of a dormer (under permitted development), addition of windows to dormer and deletion of velux windows.

Prior to the meeting written representations were circulated to members.

Resolved:

Approved.

621. 2010/1389/MPA Land Rear Of Edinburgh Villas, Off McKay Avenue And Newton Road, Torquay (Tormohun Ward)

The Committee considered an application for the construction of 74 assisted living extra care units with associated communal and care facilities, car parking, landscaping and servicing.

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

Resolved:

Approved subject to:

- (i) the receipt of satisfactory amended plans which resolve the design concerns identified in the submitted Report;
- (ii) negotiations on the potential use of renewable/sustainable energy sources;
- (iii) the signing of a Section 106 Agreement to achieve the contributions set out in the submitted Report, on terms acceptable to the Executive Head for Spatial Planning and resolved within six months of the date of the Committee; and
- (iv) the addition of appropriate conditions being delegated to the Executive Head for Spatial Planning.

622. 2010/1404/MPA Former G A Insurance Building, Greenway Road/St Marychurch Road, Torquay (St Marychurch Ward)

The application was withdrawn from the agenda by the applicant.

623. 2011/0035/MPA Former Royal Garage Site, 4-24 Torwood Street, Torquay (Wellswood Ward)

The Committee considered an application for demolition works, formation of mixed use development to form hotel, A3 units, 2 external purpose units (D2 for the fitness centre and B1 use for the office suite) and 14 apartments with vehicular and pedestrian access.

Prior to the meeting, Members of the Development Management Committee undertook a site visit and written representations were circulated to members. At the meeting Mr Tisdale addressed the Committee in support of the application. In accordance with Standing Order B4.1 Councillor Lewis also spoke in support of the application.

Resolved:

Consideration deferred to an additional meeting of the Development Management Committee to be held before 18 April 2011 in order for Members to receive additional information with regard to:

- (i) the relationship the proposal has to the Building Heights Strategy, prepared by Urban initiatives;

- (ii) the impact the increased height of the proposal would have on the conservation area;
- (iii) consideration of a computer model / fly through of the proposal from different vantage points; and
- (iv) further information from the Council's Highway's department with regard to servicing of the development.

624. 2011/0036/CA Former Royal Garage Site, 4-24 Torwood Street, Torquay (Wellswood Ward)

The Committee considered an application for demolition works.

Prior to the meeting, Members of the Development Management Committee undertook a site visit and written representations were circulated to members. At the meeting Mr Elliott addressed the Committee in support of the application. In accordance with Standing Order B4.1 Councillor Lewis also spoke in support of the application.

Resolved:

Consideration deferred to an additional meeting of the Development Management Committee to be held before 18 April 2011 to allow for the proposal to be considered in conjunction with application 2011/0035/MPA.

625. 2011/0092/PA Watcombe Primary School, Moor Lane, Torquay (Watcombe Ward)

The Committee considered an application for alterations and extension to the existing galvanised steel frame/glazed canopy to match existing.

Resolved:

Approved with the informative set out in the submitted report.

626. 2011/0227/MPA Shedden Hall Hotel, Shedden Hill Road, Torquay (Tormohun Ward)

The Committee considered an application for part demolition, conversion and alteration from hotel to seven residential dwellings, formation of three residential dwellings and four new residential houses with parking.

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

Resolved:

Approved with the conditions set out in the submitted Report subject to:

- (i) no adverse representations being received on or before 1 April 2011;
- (ii) further negotiations with the applicant and the Council's Arboricultural Officer with regard to the oak tree;
- (iii) receipt of satisfactory design details and schedule of works for the villa; and
- (iv) signing of a Section 106 Agreement in terms acceptable to the Executive Head for Spatial Planning before 23 May 2011.

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. Application withdrawn by agent's letter dated 21st March 2011.

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, and sought 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.. Members resolved to approve the application at that meeting, 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. The RSPB have indicated that they support the recommendations made in this document as well, but that conditions may be required to secure restrictions regarding timing of any site clearance works and the appropriate management of habitats.

Since Members' meeting in October last year the applicant has proceeded to commence the works to implement the scheme, albeit that the formal planning consent has not been issued. The applicant 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 been submitted to reflect the revised layout and design of the scheme. The application still needs formal determination.

This application was presented to Members at their February 2011 meeting after which and following instruction, a formal stop notice was 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 has not been appealed and so took effect on the 25th March. The applicant has until 25th April to comply or else the matter would become a criminal offence. The Council would withdraw the notice if planning permission was granted in the interim.

The application was again presented to Members at their last meeting on 21st March, when it was resolved to defer the application again to allow officers to undertake further negotiations and try to resolve the outstanding issues.

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 ???.

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. The landscaping officer has confirmed that the planting that has occurred on site is in accordance with his requirements, although more will need to take place in order to ensure full compliance.

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.1.

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' consideration in October 2010. Also, it will be noted that the land has had the benefit of permission in the past for sport uses on this site (2003) and although that permission has lapsed and was unimplemented, it does establish that the principle of a sporting use for the field has been accepted in the past. This is also a material consideration. The crucial consideration now is that details have been submitted of the structures and man made features on the site, and given the concerns raised about the 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.

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, and therefore the use now proposed would not be contrary to policy L4. This is provided that the detail of the proposed structures is appropriate for this substantially rural location.

This scheme will provide a valuable tourism and leisure facility to support the existing provision in this area (Go Karts, Caymen Golf, Farm shop). It will therefore bolster visitor and tourist attractions within the Bay. The development will also bring a sports and recreation use for the benefit of many young people in the area. Currently, the nearest similar facility is in Newton Abbot.

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 in a 'disruptive' pattern. 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. At the last meeting of the Committee, it was mooted that the proposal might be better assimilated into the landscape if some of the structures were removed from the site, thereby lessening the impact of solid man made structures. However, the applicant has responded by saying that the structures indicated on the plans are all required in order to ensure a worthwhile and suitable gaming experience.

Officer's opinion is that 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. The details of the temporary screen fencing currently submitted have gone a long way to alleviate Officers' concerns in this regard. It is intended that the hedging proposed would eventually grow to a height and thickness such that the temporary screening would not be necessary, but would remain on site to provide a barrier to the infra-red gun system.

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 trees required have 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 Brixham Road has been removed and this area is now to be banked and planted up to complete the landscape screening of the games area.

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. It is considered that the hedging to be provided on top of the sculptured mounding as shown at the Brixham Road frontage to the site, should continue along the western edge of the game area up to the car park. The plans would need amending in this regard. In the short term until the tree screen and hedging becomes mature, the 'hit and miss' fence screening now suggested by the applicant would provide suitable visual protection if continued around all open boundaries to the site.

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. The further information now submitted on the temporary fence screening does attempt to achieve this and officers consider that the latest submission is a distinct improvement that could meet concerns raised in this regard.

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.

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 last 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.
- 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. 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.

Recommendation

Conditional Approval; Subject to receipt of satisfactory revised plans to show the planting of hedging along the top of the full extent of the proposed banking. Conditional Approval

Condition(s):

01. All of the man made structures on the site, excluding the Marshall's post, the bunding, and the boundary fencing, shall be painted in camouflage colours of greens and blacks in a 'disruptive' pattern in accordance with a scheme that shall first have been submitted to and approved by the Local Planning Authority. All painting required by this condition shall be completely finished in accordance with the approved details before the site is first used or opened to members of the public, whichever is the sooner.

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.

02. 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.

03. 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 prior to the first public use of the site.

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.

04. 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.

05. 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.

06. 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).

07. 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.

08. No structure, man made feature or other artefact, except the Marshall's watch tower, shall have a height greater than 2.6 metres above a defined 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 public use of the site 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/2009/1287/MOA

Blatchcombe Ward

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

Section 106

Site Details

The proposal site is land at Parkbay Garden Centre and Holly Gruit, off the main Brixham Road (A3022) in Paignton. Holly Gruit is the former campsite adjacent to the local Western Business Park.

The remainder of the application site is the former Torbay Garden Centre, now known as Parkbay Garden Centre. The vehicular access to the site is proposed to be via a cross road junction off of Brixham Road (approved under reference P/2007/1421 in 2008).

Relevant Policies

National Planning Policy Statements

PPS1 Delivering sustainable development

PPS3 Housing

PPS4 Planning for sustainable economic growth

Saved Adopted Torbay Local Plan (1995-2011)

ES Employment strategy

E1 New employment on identified sites

E1.16c Yalberton Road, Paignton

E6 Retention of employment land

HS Housing strategy

H2 New housing on unidentified sites

H6 Affordable housing on unidentified sites

CF6 Community infrastructure contributions

CF7 Education contributions

T2 Transport hierarchy

Proposals

The Development Management Committee of 19 April 2010 granted approval for the proposed development of the site in outline for circa 95 dwellings, subject to the completion of a Section 106 Legal Agreement in terms acceptable to the Executive Head of Spatial Planning.

s106 Proposals

The s106 agreement has not as yet been signed and the applicant is seeking to redefine the terms of the agreement in order to obtain financial support to build the scheme out. It is intended that the proposed draft s106 will be available for members before the Committee meeting.

In essence, the change that is being sought from the heads of terms that were agreed prior to the committee meeting of 19 April is specifically in relation to the mechanism for the calculation of deferred payments. This was originally proposed to apply to the development in its entirety, but is now proposed only to apply to those dwellings that are not completed within a period of 5 years from the date of the outline consent.

Consultations

Affordable Housing Manager "Housing Services support the delivery of new housing and particularly the provision of affordable housing. When this site was considered by committee

previously there were two main areas that Members were particularly keen to protect – Deferred Contributions and Early Delivery.

Due to viability reasons this development is not delivering any affordable housing or any other planning contributions that would normally be expected for a development of this size. Torbay Council must protect itself against allowing an unprecedented reduction in planning contributions and the development then going on to make a higher level of profit than was predicted in the viability report. It is policy that a deferred contribution arrangement is detailed within the S106 agreement to deal with this eventuality.

Early delivery of these homes was put forward by the applicant to encourage members to consider this departure site favourably and is an important issue, but this early delivery has never previously been linked to the deferred contribution arrangements. Members are now being asked to link these two elements so that deferred contributions are only paid if the homes are not built within the agreed timeframe regardless of the level of profit made by the developer. Each are important but doing one should not remove the need to provide for the other. If a higher level of profit is achieved Torbay Council should receive planning contributions regardless of the point in time the homes are delivered.

Housing Services would recommend that Members decline this request and that any approval should be subject to the applicant agreeing a satisfactory S106 agreement that contains a deferred contribution arrangement and an early delivery arrangement that are not linked.”

Representations

2 letters of objection and 1 letter of support were received in relation to the scheme, these were considered as part of the deliberations at the original committee meeting at which the development was approved. The representations have no substantial bearing on the issue of the detailed wording of the s106 clauses.

Key Issues/Material Considerations

Principle

This application was approved subject to the signing of a s106 legal agreement at the committee meeting of 19 April 2010. As such the key consideration for the Committee at this time is whether or not the detailed wording of the s106 is acceptable in this case.

s106

Recently agreed Council policy states that, in order to respond to the economic circumstances in relation to development viability, the Authority will consider viability and will make use of deferred payment clauses in s106 agreements. This is in order to enable schemes to go ahead that are not currently able to provide the policy level of s106 contributions.

In addition, the Government has recently made it clear that Local Planning Authorities should renegotiate the terms of s106 agreements in order to make development happen. Officers are keen to put this into practice and in the case of this development officers recognise the importance of delivery of this scheme to the delivery of infrastructure to service a quantum of employment land.

Early delivery of schemes such as this is also likely to be a key factor in kick starting the local economy, and it is also clear that there is a desperate need for new homes in Torbay.

It was originally agreed that because the development is not providing any affordable homes or community infrastructure contributions (due to the viability of the scheme) it would be necessary to include a standard deferred calculation of payments mechanism. This would

mean that the viability of the scheme would be reassessed at a later stage once the development has been substantially built out when there will be an understanding of the actual costs and sales values for the development. This would enable half of any profit, over a standard 20% profit for the developer, to be paid to the Authority as a commuted payment for community infrastructure. Alternatively this clause could be worded in such a way as affordable homes are provided on site in the event that the viability exceeds 20%.

The applicant has stated that such an agreement would make it difficult to obtain financial support for the scheme, principally due to the need for the financier and developer to have control of the return on capital employed (ROCE) when building out a scheme. It has been suggested that the deferred payments mechanism creates a level of uncertainty for the developer and in effect increases the risk to the financial equation of the development, by introducing an element of uncertainty about the returns the scheme could proffer.

Officers, have suggested that this need not be the case given that the deferred payments mechanism would still enable the developer to obtain 20% profit before anything comes back to the Authority.

However, the applicant has now proposed that a traditional deferred payments mechanism be replaced with a clause in the s106 that does not include any calculation of deferred payments for those units that are completed within a period of 5 years from the date of the approval of the outline planning consent.

This proposal is intended to drive forward the development, and secure early delivery through an effective penalty of re-assessment for those dwellings that are not completed within 5 years of the consent. Importantly this will also drive forward the delivery of the junction, because the previous legal agreement includes provision for the payments to the junction to come forward as soon as an enabling project commences.

In essence, therefore, the deferred contributions mechanism would only apply to those units that are not completed within 5 years from the date of consent. It is proposed that the viability of the remaining units be calculated on the basis of serviced plots, i.e. the infrastructure, roads etc that form part of the wider scheme will not be included in the viability assessment. The notion of a calculation on this basis could work, assuming that the land value is set at today's price, and that the land value of the serviced plots does not form part of the viability assessment of those remaining plots.

The applicant's proposal in this case differs from a strict interpretation of Council policy, in that deferred calculations of contributions would only take place on dwellings that are not completed within the first 5 years following the grant of consent. Whilst this is intended to drive forward the development it does clearly enable the developer to have the potential to make additional profits that are not shared with the Authority in relation to development that is completed in the 5 year window.

This proposal would not strictly accord with recently adopted Council policy and it is imperative if members accept the proposed alternative mechanism in this case, that the Local Authority does not lose out on community infrastructure contributions that could have come forward...

{\b Conclusions}

The development of this site is tied into providing a 50% contribution towards the provision of the new junction/access from Brixham Road, this coupled with an element of future proofing land for the potential widening of the Brixham Road and the existing land value provides for a slim margin in terms of development viability.

On the back of this viability constraint members agreed to approve the development at the committee of 19 April 2010, subject to a s106 that was to include a deferred contributions clause.

The applicant is seeking to alter the wording of this clause such that deferred contributions will not apply to any of the units that are completed within 5 years of the grant of outline consent. This will effectively drive forward the delivery of the housing and infrastructure associated with this scheme, however, this wording does not strictly accord with Council policy and as such it is imperative that the detailed wording is written in such a way as to not substantially prejudice the Council's and the community's position.

Recommendation Report further information in relation to the wording of the s106 clauses to ensure they do not disadvantage the Council but do enable the delivery of the scheme.

P/2010/0931/VC

Preston Ward

Apartment 1 Belvedere, 37 Marine Drive, Paignton

Removal of condition on applications P/2000/1231/OA and P/2002/1352/RM to allow apartment 1 as a permanent dwelling house

P/2010/1178/VC

Preston Ward

Apartment 6 Belvedere, 37 Marine Drive, Paignton

Removal of condition 4 relating to holiday use on application P/2000/1321/OA to allow apartment 6 to be used as a permanent dwelling house

P/2010/1023/VC

Preston Ward

Apartment 15 Belvedere, 37 Marine Drive, Paignton

Remove of conditions to remove restriction of occupancy and allow residential status on applications P/2000/1231/OA and P/2002/1352/RM

P/2010/1236/VC

Preston Ward

Apartment 18 Belvedere, 37 Marine Drive, Paignton

Remove of conditions to remove restriction of occupancy and allow residential status on applications P/2000/1231/OA and P/2002/1352/RM

P/2010/0947/VC

Preston Ward

Apartment 19 Belvedere, 37 Marine Drive, Paignton

Removal of conditions to allow residential use

P/2010/1056/VC

Preston Ward

Flat 20, Belvedere, 37 Marine Drive, Paignton

Removal of conditions relating to holiday use on applications P/2000/1231/OA and P/2002/1352/RM to allow flat 20 to be use as a permanent dwelling house

P/2010/0864/VC

Preston Ward

Flat 5 Belvedere, 37 Marine Drive, Paignton

Remove condition 4 to planning application P/2000/1231 to allow and live in as residential status

Site Details

Purpose built block of holiday flats on the site of the former Belvedere Hotel, located on the western side of Marine Drive, opposite the Preston seafront greens.

Relevant Planning History

P/2000/1231/OA Erection Of 20 Holiday Apartments With Associated Facilities (In Outline), approved 25 July 2001. Condition 4 regarding the units being used for holiday purposes only was subsequently challenged on appeal, but the appeal was dismissed, with the Inspector confirming the primacy of policy TU6.

P/2002/1352/RM Reserved matters approved 7 February 2003

P/2010/0566 Removal of Condition 4 of application P/2000/1231/OA to allow flat 7 to be used as a residential flat. Approved 12th July 2010.

There are 7 identical applications within the Belvedere apartment block, which are on this agenda.

Relevant Policies

Saved Adopted Torbay Local Plan, relevant policies

TU6 (PHAA)

CF6 (Community Infrastructure Contributions)

CF7 (Education contributions)

Also relevant are:-

Revised guidance on PHAA's adopted by the Council in March of this year (Report no. 73/2010), and LDD6 (Planning contributions and affordable housing) adopted April 2008, and the subsequent update (mitigation and clarification) paper of June 2010.

Proposals

Permission is sought to vary the original planning condition that restricted occupancy. Condition 4 of permission 2000/1231 states that "The accommodation hereby approved shall be used for the purpose of holiday accommodation only and not as a UK main residence without the express permission of the Local Planning Authority. Reason: To ensure that the flats are used for holiday purposes only." The removal of this condition would allow permanent residential occupancy of the relevant flats.

This applies to each of the 20 units within the development. However, it is understood that the units are in separate ownership. Some, possibly all, of the flats have been sold off individually, meaning that each unit of occupation (flat) has effectively become a separate planning unit, irrespective of the fact that they were all built pursuant to the same consent. No constraints were imposed by the LPA in 2001 to prevent the flats being sold individually.

Consultations

Legal Services: Make the following points:-

It is highly likely that a precedent has been set when consent 2010/0566 was issued.

It is unfortunate that it appears that the owners of these holiday flats have the potential to increase the value of their properties without being obliged to contribute towards the additional costs that a change to permanent residential accommodation will add to public finances. However, the original consent was granted nearly 10 years ago; the economy and planning policies have changed in the intervening period.

Flats 1,5,6,15,18,19 and 20 are all separate planning units and are each the subject of different applications. It is not considered that the fact there is a potential for 20 residential flats to be created without any infrastructure contribution or provision for Affordable Housing is a valid reason for refusing any of the individual applications.

Relevant Saved Adopted Local Plan policy T25 regulates maximum provision of parking, rather than minimum.

Representations

A letter of objection to the applications has been received and is reproduced at Page P.202. Objections are made on the grounds that:-

1. The proposals are contrary to the Adopted Local Plan
2. Mixing residential and holiday uses in the same block of flats would have a detrimental effect on all occupants of the building.
3. That change of use should be considered looking at the block as a whole rather than piecemeal consideration of individual flats.
4. Approval could set a dangerous precedent which could be detrimental to the Tourist Industry.

5. Approval could lead to new blocks of holiday flats being built then converted to residential without payment of Infrastructure Contributions or the provision of Affordable Housing.
6. Insufficient parking as determined by the Inspector in 2002.

Key Issues/Material Considerations

The property is a medium sized block of holiday flats situated within a Principle Holiday Accommodation Area, as defined by policy TU6.9 of the Saved Adopted Torbay Local Plan. As originally approved by the Council, the purpose of this policy was to resist changes of use away from holiday accommodation where that change would be detrimental to the character and function of the Principal Holiday Accommodation Area. This usually resulted in refusal to grant planning permissions to change of uses from holiday accommodation to permanent residential occupation. In fact this occurred in relation to the site of the Belvedere apartments when condition 4 of application P/2000/1231/OA was originally challenged on appeal and the inspector, in 2001, dismissed that appeal, confirming the primacy of policy TU6.

However because of recent changes in holiday trends, the policy has been examined again and re-interpreted to ensure that it is up to date, clear and gives a degree of flexibility in the current economic climate. The Council's adopted Tourism Strategy (2009) recommends a reduction in small and marginally located accommodation and the promotion of the best areas as Core Tourism Development Areas.

Last year, the Council adopted a revised interpretation of the PHAA policy. Prior to its adoption, this Revised Guidance was the subject of public and stakeholder consultation. Although the Revised Guidance does not form part of the LDF or Local Plan, it is capable of constituting a material consideration which can be weighed against others when determining whether consent may be granted.

The revisions to the policy as adopted in March of last year make clear that the site is a 'green area', where only 50+ bed hotels will be protected as holiday accommodation and residential use would be likely to be allowed on small to medium sized properties. The prevailing context is not of a particularly strong holiday character and the majority of properties along the road are not in holiday use. It is therefore clear that in the case of the Belvedere Holiday apartments complex there is no longer a strong policy objection to the proposed removal of the condition restricting occupancy for holiday purposes only. This would apply to whichever unit made the relevant planning application in this regard.

Paragraph 4:17 of report no. 73/2010 (Revised guidance on Principal Holiday Accommodation Areas in response to the Adopted Torbay Tourism Strategy) makes clear that when dealing with applications for the conversion of holiday accommodation to residential use, developer contributions will be sought on the basis of the Adopted Supplementary Planning Document LDD6 ('Planning Contributions and Affordable housing: Priorities and Delivery'). This was originally adopted in May 2008, but has now been examined again and re-interpreted in the light of the current severe economic problems faced by this country, in order to ensure that it is up to date, clear and gives a degree of flexibility in the current economic climate. The 'Planning contributions and affordable housing SPD update 2: Economic recovery measures was updated in June 2010.

It had previously been Council policy not to charge for such contributions where the amount would have been less than £5000. However, this has now been amended by Full Council at its meeting on 24th March 2011, such that smaller developments must now also contribute to any adverse impacts they may generate, with no minimum threshold for contributions. However, Council also resolved that any such contributions should not be sought retrospectively in relation to live applications such as this one. Therefore on this basis no Community Infrastructure Contribution is due for this proposal.

Affordable housing should rightly be considered as a requirement of any residential development. Indeed LDD6 makes clear that this should be sought before the various other contributions that could

be sought. The planning contributions and Affordable Housing SPD only requires affordable housing to be provided on developments of 15 or more dwellings. Although the block consists of 20 flats, in so far as they are in separate ownership, each flat is now an individual planning unit and a change to permanent residential accommodation would not trigger the Affordable Housing requirements of the SPD.

This application was first presented to Committee at their meeting on 1st November 2010, when Members deferred the item until such time as the complaint made in respect of the application was resolved. Officers have taken further legal advice on this point and it has been confirmed that it would not be reasonable behavior for the Council to hold up the applications due to an ongoing complaint.

Sustainability - The proposal is a sustainable one in as much as it creates residential accommodation on an existing brownfield site.

Crime and Disorder - Not an issue in this instance as the units are already in existence and the requirement for crime prevention will not alter.

Disability Issues - This will remain the same as existing, and so there are no new issues arising from these current proposals.

Conclusions

Flats 1,5,6,15,18,19 and 20 are all separate planning units and are each the subject of a different application. In the absence of planning reasons to refuse consent, the fact that there is a potential for 20 residential flats (in this case) to be created without any infrastructure contribution or provision for Affordable Housing is not a valid reason for refusing any of the individual applications.

This proposal meets the tests of policy as re-defined by the new documents recently adopted by the Council. Developer contributions are not required on the basis of the recent decision by Full Council. It is therefore appropriate to recommend approval to the proposal.

Recommendation

Approval

P/2011/0105/MPA

Roundham With Hyde Ward

Seaford Sands Hotel, 17 Roundham Road, Paignton

Demolition, alterations and conversion to form 14 dwellings

Site Details

The application site is a broadly rectangular plot on the north side of Roundham Road opposite the junction with Braeside Road. The site currently contains a hotel within a detached villa which has been extended over the years. It is two storeys with rooms in the roof. The site is within the Roundham and Paignton Harbour conservation area and is covered by a Tree Preservation Order.

Relevant Planning History

P/1990/1514 Alterations and extensions to form additional accommodation – PER – 19/10/1990

P/1994/0209 Replacement UPVC windows to front and side elevations and erection of rear conservatory - REF – 05/05/94

P/1994/0236 Demolition works in connection with replacement UPVC windows to front and side elevations – REF – 05/05/94

P/1998/1468 Change of use to residential/nursing care for the elderly – PER – 29/10/98

P/2008/0950 Replacement 34 windows and doors with UPVC – PER – 01/09/08

Pre-application enquiries ZP/2010/0527 & ZP/2011/0012 – Conversion to 14 residential units, this proposal has come about as a result of these pre-application discussions.

Relevant Policies

HS Housing Strategy

H2 New Housing on unidentified Sites

H4 Conversion and Sub-division into flats

H9 Layout design and community aspects

TU6.12 Principal Holiday Accommodation Areas

CF6 Community Infrastructure Contributions

W7 Development and waste recycling facilities

L9 Planting and Retention of Trees

BES Built Environment Strategy

BE1 Design of New Development

BE5 Policy in Conservation areas

T1 Development Accessibility

T3 Cycling

T25 Car Parking in New Development

T26 Access from Development onto the Highway

Guidance on Principal Holiday Accommodation Areas

Planning Contributions and Affordable Housing Supplementary Planning Document

Proposals

This application proposes the demolition of some of the extensions to the existing building, comprising the conservatory on the south west corner of the building and the two storey side extension with conservatory on the east elevation of the building. It is also proposed to reconstruct the two storey rear element and replace the conservatory with a smaller, more sympathetic version. The resultant building would be reconfigured to provide 12 dwellings which are mostly two storey. It is also proposed to construct a 'coach house' style building to the south east corner of the site which would accommodate 2 more dwellings. Parking provision would be provided to the front of the building along with bin and bike storage facilities.

Consultations

English Heritage: No comments

Highways: The number and layout of the parking spaces is acceptable. The access needs some work to bring it up to standard.

Tree Officer: Acceptable subject to conditions securing a tree protection plan in relation to the off site Beech tree and the submission of a landscaping scheme which achieves space for planting of at least one Pine tree.

Representations

1 comment has been received which relates to the following issues:

- Concerns about overlooking
- Concerns about potential disruption through construction period

This has been re-produced at Page P.201.

Key Issues/Material Considerations

The key issues in determining this application are (1) the principle, (2) the visual impact and impact on the conservation area, (3) neighbour amenity, parking and access issues, (4) trees and landscaping issues, (5) S.106 issues.

Principle

The application involves the conversion of a hotel into residential units. The site is within the Roundham Road West Principal Holiday Accommodation Area (PHAA). However, the recent review of PHAAs designated this area as a 'green zone', which means that conversions to residential use would be considered acceptable in principle. The proposal is for good sized units, most of which are two storeys. The proposal also involves the removal of unsightly additions to the building. Therefore the proposal is considered to be acceptable in principle and in line with current policy.

Impact on Conservation Area

The hotel has been significantly extended over the years. This proposal seeks to remove unsightly additions to the building in order to reinstate the relationship of a detached villa in its grounds. As such the proposal is considered to be an enhancement of the conservation area. New additions are proposed, however, these are sympathetic to the building and the conservation area.

The proposal involves the erection of a coach house in the grounds of the building. This is considered to be an acceptable way to develop the site and the proportions of the building are appropriate for the context. The front elevation of this building has been redesigned following feed back from the conservation officer.

Neighbour Amenity

The alterations to the main building essentially result in the removal of elements of the building and minor additions. Therefore the general mass of the building exists and would not result in an additional impact upon neighbouring properties. Some windows have been made into doors, some of which have small balconies. An issue has been raised with regards to the relationship of the new balcony at roof level, with Roundham House, however this is over 30m away, and as such results in an acceptable residential relationship.

The arrangement of windows is similar on the west elevation to the existing building, the main change being a balustrade to a full length window, a projecting gabled extension of 1.2m deep, and a new window within the existing side extension. The balconette is over 25m from 15 Roundham Road and the new window in the gable is 10m away, this being obscure glazed. These relationships are considered to be acceptable in terms of overlooking. The coach house lies low in the site and has no windows on the rear, except for roof light windows. It is not considered that this element of the proposal would have an adverse impact on neighbouring properties.

Parking and access

The proposal provides for 1:1 parking which is considered to be acceptable in this location. The layout is workable and the access provides sufficient visibility. Minor alterations to the access will be required and these will be secured by condition.

Trees and Landscaping

The site is currently relatively devoid of soft landscaping and as such it is recommended that a landscaping condition is attached. An off site tree is considered to be important and as such a condition requiring its protection is also recommended. Subject to these controls the issue of trees and landscaping is considered to have been appropriately dealt with.

S.106 Issues

The s.106 contributions have been calculated in accordance with the Councils SPD as follows. The sustainable transport contribution (£23,960) is fully mitigated by the existing use as a hotel. The remainder of the contributions are as follows:

* Waste Management	£ 700
* Stronger Communities	£ 1,780
* Education	£ 5,350
* Lifelong Learning	£ 3,060
* Greenspace	£15,830

TOTAL: £26,720

The applicant has confirmed that he is happy to enter into a s.106 agreement. This will need to be signed before the application can be approved.

Sustainability – The proposal results in the efficient reuse of a building in a relatively sustainable location.

Crime and Disorder – No issues

Disability Issues – No issues

Conclusions

The application is in line with the new guidance on changes of use within PHAAs. The unsightly extensions are to be removed, new additions and changes are sympathetic. As such the proposal is recommended for approval subject to conditions and the signing of a s.106.

Recommendation Conditional Approval: subject to the signing of a s106 agreement in terms acceptable to the Executive Head within 6 months of the date of this committee. Conditional Approval

Condition(s):

01. 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 and these works shall be carried out as approved. These details shall include means of enclosure, hard surfacing materials, bin stores, bike stores, meter boxes. Soft landscape works shall include planting plans, written specifications (including cultivation and other operations associated with plant and grass establishment), schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate, implementation programme. The planting scheme shall include at least one pine tree.

Reason: In the interests of visual amenity and to comply with the objectives of policies H9, L9 and BE2 of the saved adopted saved Torbay Local Plan 1995-2011.

02. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of the buildings or the completion of the development, whichever is the sooner, or at such other time as agreed by the Local Planning Authority in writing, and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of 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.

03. Prior to the commencement of the development hereby approved a scheme for improvements to the access to the car park shall be submitted to and approved in writing by the Local Planning Authority. The approved works shall be carried out in accordance with the approved details.

Reason: To ensure that the access to the site is safe and convenient in accordance with policy T26 of the Saved Torbay Local Plan 1995 – 2011.

04. Prior to the commencement of the development hereby approved a Tree Protection Plan in line with B.S. 59837 shall be submitted for the approval for the protection of the rooting environment and above ground tree parts of the offsite Beech tree, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved plan.

Reason: In order to protect the off site tree, in the interests of the amenity of the area, in accordance with policy L9 of the Saved Torbay Local Plan 1995 – 2011.

P/2011/0163/PA

Roundham With Hyde Ward

10 - 12 Palace Avenue, Paignton

Change of use of ground and lower floors from class A1 (retail) to mixed A1/A3 use

Site Details

The property comprises 2 Victorian 2-storey buildings plus a basement. The property is currently arranged in 4 sections and comprises a double fronted retail unit and basement, first floor offices with ground floor street entrance and self contained flats on the upper floors. The retail units are presently vacant. The application site is located within the Primary Shopping Frontage of the Paignton central area. The site is located on the south side of Palace Avenue and stands within the Paignton Conservation Area. Supporting information indicates that the premises accommodates 178 square metres of retail showroom with an additional 106 square metres of ancillary storage area. Properties either side of the application site are occupied by Barclays Bank on one side and a tattoo parlour and barbers on the other side.

Relevant Planning History

P/2010/1227 Alterations, existing retail unit to be on ground and lower ground floors, re-furbishment of existing accommodation which includes 2 residential flats and formation of extension to form 9 residential units in total. This application is pending, currently under consideration.

Relevant Policies

Torbay Local Plan 1995-2011

SS Shopping Strategy

S1 Town Centres (Paignton)

S3 Primary Shopping Frontages. The shopping function of town centre primary shopping frontages will be safeguarded and enhanced. Development and change of use of ground floor retail premises (Use Class A1) for other uses (including A2 and A3) will not be permitted where:

- 1) The primary retail role and character is undermined.
- 2) It would harm the vitality and viability of the primary shopping frontage.
- 3) Introduction of non retail use would cause unacceptable fragmentation of the remaining shops.

Proposals

Permission is sought to change the use of the ground floor of the premises to include a mix of A3 and A5 (consumption of food on and off the premises) along with the existing A1 retail use. The application does not seek permission for any external alterations to the building, merely to establish the principle of a change of use in order to improve the prospects of the premises being let. The change of use only relates to the ground floor. No information has been submitted in respect of extraction and ventilation equipment at this stage. It does not involve any alterations to the character and appearance of the building.

Consultations

None

Representations

One letter of representation has been received from the occupier of the upper floor flat – No objections to a restaurant, main concern related to the location of the extractor fan and associated noise. Also collection of refuse is seen as a potential problem with noise from bottles etc. The representation has been re-produced at Page. P.200.

Key Issues/Material Considerations

In assessing this application, consideration should be given to the following criteria: The location and prominence of the premises within the shopping frontage, the floor space and length of frontage of the premises, the number distribution and proximity of other premises within A2 and A3 uses, the particular nature and character of the use proposed, including the level of pedestrian activity associated with it, the level of vacancies and ground floor properties and whether it would give rise to any problems related to noise, smell or any other environmental problems.

In support of the application, the agent has confirmed that the premises is located outside the "central core" of the Primary Shopping Frontage, near to the Secondary Shopping Frontage of Palace Avenue. It is accepted that the main shopping area in Paignton is the pedestrianised section of Victoria Street.

Whilst this is an area of primary shopping frontage, it is on the edge and in its character, location and range of uses it functions more as a secondary frontage. The premises does have a double frontage with generous floor areas within. However, the agent has confirmed that the premises have been marketed in an attempt to re-occupy it and the former use of the premises was as a ladies dress shop and prior to this it was occupied by the Lloyds Bank, Class A2. The ladies retailer vacated the site in October 2007 and it has been actively marketed since.

The Torbay Retail Monitor indicates that most of the units within this part of Palace Avenue are in use as retail shops with just a few cafes and restaurants. Because of this relatively healthy retail mix along Palace Avenue, it is not considered that the loss of the double fronted A1 unit would undermine the shopping character of the area. Indeed, an A3 restaurant facility could be seen as a complimentary use ideally located for theatre goers at the Palace Avenue Theatre.

Consideration should be given to potential impact on residential amenity. At present, it is understood that there is a residential property on the second and third floors, however, there is a current application to create 9 residential units on the upper floors. It is not considered that a restaurant use at ground floor level would have any adverse impact on the existing or future residential occupiers subject to suitable extract ventilation systems being installed and also a control over the hours of opening, particularly in respect of late night activity.

Sustainability - This is a town centre location and there is a bus stop located 100m to the west on Palace Avenue.

Crime and Disorder - Potential issues associated with late night opening, but this can be controlled via a condition.

Disability Issues - Part M of the Building Regulations may apply.

Conclusions There are no external or internal changes proposed to the property and therefore the proposal will not have any adverse impact on the character of appearance of the Conservation Area. The premises has been vacant for over 18 months and in this location an A3 or A5 use that is close to the Palace Theatre could enhance the vitality and viability of the shopping frontage. Commercially, an A3 or A5 use will increase the marketability of the property and overcome the problem of a vacant frontage "blighting" the area. There are no current A3 or A5 uses immediately adjacent to the application site and therefore there are no concerns with regards to their being a cumulative detrimental impact on the viability and vitality of the shopping frontage as a result of the proposed non A1 use.

Recommendation: Conditional Approval

Condition(s):

01. The use hereby approved shall take place only between the hours of 8:00 a.m. and 11:00 p.m. unless with the prior written consent of the Local Planning Authority.

Reason: In the interests of the amenities of the area and to meet the criteria of Policy S8 of the Saved Adopted Torbay Local Plan 1995 to 2011.

02. Before the use hereby approved commences details of an extract ventilation system shall be submitted to and approved by the Local Planning Authority. The use shall not commence until this has been installed in accordance with the approved details.

Reason: In the interests of the amenities of the area an to meet the criteria of Policy EP3

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P/2011/0185/R4

Preston Ward

Parkfield House, Esplanade Road, Paignton

Demolish conservatory to entrance elevation; replace existing spiral staircase to rear elevation with new to British standard means of escape; install fire glazing internally to 2 windows adjacent to fire escape

Site Details

The application site relates to Parkfield which is a Grade II Listed Building. It is situated to the north of Esplanade Road and Lower Polsham Road, close to the sea front. There is an extensive garden area to the south of the site. 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 it is currently vacant and will be used as part of the My Place development which is currently under construction on the site. It will be used as a mixture of offices and consultation/ counselling rooms. In addition there will be staff accommodation and accommodation for young people.

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

2010/1308 revised siting of BMX track and omit proposed on site parking area due to discovered badger setts- current application.

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

Proposals

The application is to demolish a conservatory that is on the western side of the building, to replace an

existing spiral staircase on the north side of the building and to upgrade two windows at ground floor level to the rear of the building adjacent to the spiral staircase (for fire protection).

The submitted plan indicates that where the conservatory is removed the existing building will be made good and the render bands that have been damaged would be reinstated. The agent advises that the fire escape needs to be replaced to comply with building regulations to provide an acceptable means of fire escape. The two fire glazed windows are required because they are within 1.8m of the spiral fire escape stair. It is proposed to install the fire glazing in steel frames, on the internal side of the existing sash windows which will be fixed independently to the window reveal and not the existing window frame.

Consultations

Conservation officer: consultation awaited

English Heritage: consultation awaited

Representations

None received.

Key Issues/Material Considerations

The main issue is the impact of the proposed alterations on the architectural and historic character of the building.

The principle of the removal of the conservatory is considered to be acceptable. The agent advises that it is not an original part of the building and was added to the building in the late 1960s/early 1970s. It is currently in a poor state of repair and its removal would improve the appearance of the building subject to the appropriate repairs to the render being carried out.

The replacement of the spiral staircase would have little impact on the appearance of the building. The proposed staircase would be slightly wider than existing and would be finished in galvanised steel rather than painted black.

The proposed fire glazing would have no impact on the architectural character of the building provided the existing sash windows are retained intact.

Sustainability - The proposal would assist in effective use being made of an existing building. 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 proposal constitutes minor alterations to the building that would not have an adverse impact on the historical and architectural character of the building.

Recommendation

Subject to the receipt of satisfactory consultation responses; Conditional Approval.

Condition(s):

01. The fire glazing hereby approved shall be installed in accordance with the details contained in the agent's letter dated 16th February 2011 and retained as such at all times unless otherwise agreed in writing by the Local Planning Authority.

Reason; In the interests of the architectural and historical character of this Grade II Listed Building, in accordance with Policy BE6 of the Torbay Local Plan 1995-2011.

02. Within one month of the removal of the conservatory the existing render bands shall be reinstated to match the original rendered bands and all walls and fixings to the conservatory shall be removed, rendered over and made good unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of the appearance of the Grade II Listed Building, in accordance with Policy BE6 in the Torbay Local Plan 1995-2011.

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P/2011/0186/LB

Preston Ward

Parkfield House, Esplanade Road, Paignton

Demolish conservatory to entrance elevation; replace existing spiral staircase to rear elevation with new to British standard means of escape; install fire glazing internally to 2 windows adjacent to fire escape

Site Details

The application site relates to Parkfield which is a Grade II Listed Building. It is situated to the north of Esplanade Road and Lower Polsham Road, close to the sea front. There is an extensive garden area to the south of the property and a walled garden to the north. 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 it is currently vacant and will be used as part of the My Place development which is currently under construction on the site. It will be used as a mixture of offices and consultation/ counselling rooms. In addition there will be staff accommodation and accommodation for young people.

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
- 2010/1308 revised siting of BMX track and omit proposed on site parking area due to discovered badger setts- current application.

Relevant Policies

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

- 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

Proposals

The application is to demolish a conservatory that is on the western side of the building, to replace an

existing spiral staircase on the north side of the building and to upgrade two windows at ground floor level the rear of the building adjacent to the spiral staircase for fire protection.

The submitted plan indicates that where the conservatory is removed the existing building will be made good and the render bands that have been damaged would be reinstated. The agent advises that the fire escape needs to be replaced to comply with building regulations to provide an acceptable means of fire escape. The two fire glazed windows are required because they are within 1.8m of the spiral fire escape stair. It is proposed to install the fire glazing in steel frames, on the internal side of the existing sash windows which will be fixed independently to the window reveal and not the existing window frame.

Consultations

Conservation officer: consultation awaited

English Heritage: consultation awaited

Representations

None received.

Key Issues/Material Considerations

The main issue is the impact of the proposed alterations on the architectural and historic character of the building.

The principle of the removal of the conservatory is considered to be acceptable. The agent advises that it is not an original part of the building and was added to the building in the late 1960s/early 1970s. It is currently in a poor state of repair and its removal would improve the appearance of the building subject to the appropriate repairs to the render being carried out.

The replacement of the spiral staircase would have little impact on the appearance of the building. The proposed staircase would be slightly wider than existing and would be finished in galvanised steel rather than painted black.

The proposed fire glazing would have no impact on the architectural character of the building provided the existing sash windows are retained intact.

Sustainability - The proposal would assist in effective use being made of an existing building. 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 proposal constitutes minor alterations to the building that would not have adverse affect on the historical and architectural character of the building.

Recommendation

Subject to the receipt of satisfactory consultation responses; the application be forwarded to the National Planning Casework Unit with a recommendation that Listed Building consent be granted.

Condition(s):

01. Within one month of the removal of the conservatory the existing render bands shall be reinstated to match the original rendered bands and all walls and fixings to the conservatory shall be removed, rendered over and made good unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of the appearance of the Grade II Listed Building, in accordance with Policy BE6 in the Torbay Local Plan 1995-2011.

02. The fire glazing hereby approved shall be installed in accordance with the details contained in the agent's letter dated 16th February 2011 and retained as such at all times unless otherwise agreed in writing by the Local Planning Authority.

Reason; In the interests of the architectural and historical character of this Grade II Listed Building, in accordance with Policy BE6 of the Torbay Local Plan 1995-2011.

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P/2011/0273/PA

Preston Ward

Occombe Farm, Preston Down Road, Paignton

Installation of solar photovoltaic panels on the roofs of 5 agricultural barns

Site Details

Occombe Farm is located on the north side of Preston Down Road adjacent to the junction with Cockington Road. The site comprises agricultural fields and a complex of buildings including barns, farm shop, café and educational facilities. The farm is within a Countryside Zone and an Area of Great Landscape Value, a SSSI and Nature Reserve are located approximately 90m to the north of the site and a Flood Zone is approximately 180m away.

Relevant Planning History

1980's/90's Various applications

P/2001/0968 Construction of new farm buildings and visitor centre with associated servicing and parking, vehicular and pedestrian access – Approved

P/2004/1394 New farm shop/café/educational centre and temporary consent for mobile home for stockman – Approved

P/2005/0730 New farm shop/café/educational centre with under-build – Approved

P/2005/2003 Single storey extension to storage barn – Approved

P/2007/1797 Formation of education/visitor reception building – Approved

P/2009/0436 Formation of 2 new farm buildings - Approved

P/2010/1295 Construction of timber storage building to store chipped timber – Approved. 26.01.2011

Relevant Policies

Saved Adopted Torbay Local Plan 1995-2011:

LS Landscape Strategy

L2 Areas of Great Landscape Value

L4 Countryside Zone

BES Built Environment Strategy

BE1 Design of New Development

National

PPS7 – Sustainable Development in Rural Areas

PPS22 – Renewable Energy

Proposals

This application proposes the addition of photovoltaic (PV) panels to five of the agricultural barns. The panels will sit close to the roof slope and are to be fitted landscape rather than portrait; this means that they take up much of the roof slopes of these barns. Information has been requested from the applicants in relation to the specification of the PV panels and in particular the glare that they may create.

Consultations

None

Representations

None received

Key Issues/Material Considerations

The key issues relate to the visual implications of the proposed panels upon the Countryside Zone and

the Area of Great Landscape Value (AGLV) along with the agricultural character of the barns.

Policy L2 states that within AGLVs development will only be permitted where it will maintain or enhance the special landscape character of the AGLV. Policy L4, regarding Countryside Zones, lists certain types of development which will be permitted provided that the rural character, wildlife habitats and historic features are not adversely affected. This includes development required for forestry, horticulture and agriculture.

PPS22 states that increased development of renewable energy resources is vital to facilitating the delivery of the Government's commitments on both climate change and renewable energy. The addition of the proposed PV panels would be concomitant to this vision. However PPS22 also states that in areas with special designations, planning permission for renewable energy projects should only be granted where it can be demonstrated that the objectives of the designation will not be compromised by the development. In addition, any significant adverse effects on the qualities for which the area has been designated would remain to be outweighed by the environmental, social and economic benefits.

This development could be seen as a flagship for renewable energy projects in Torbay, due to its prominent position and linked sustainability, therefore the appearance, glare and prominence of the proposal are extremely important aspects to consider.

The information submitted as part of the planning application shows that the roofs of the barns will largely be covered by panels. Although the barns were originally designed to have a rustic farm feel the addition of PV panels is likely to be something which will be more of an occurrence on commercial buildings in the future. However, notwithstanding the rural location, it is considered that provided their appearance can be minimised, by being positioned as close to the plane of the roof slope as possible and by using anti-glare panels, it is considered that their addition would be acceptable. The addition of the panels is also considered to be supplementary to, and coherent with, the overriding farm-based business and this runs alongside the recent approval for a new barn to store chipped timber for use in biomass boilers. Overall, provided the specification of the panels is acceptable, it is considered that this would be an appropriate type of development within the Countryside Zone.

The proposed panels, due to their location on the roofs of the barns in a prominent position, will be visible within the landscape and from Preston Down Road & Cockington Road but will not largely be visible from Hellevoetsluis Way (A380) (which is over 200 metres away and well shielded by a change in level and boundary foliage). Their impact on the rural character of the area will be acceptable provided the measures previously mentioned (i.e. anti-glare panels which are as close to the plane of the roof as possible) are implemented.

Sustainability – The proposal looks to facilitate the supply of energy in a sustainable fashion.

Crime and Disorder – No issues

Disability Issues – No issues

Conclusions

Subject to the submission of the detailed specification of the panels and details of suitable anti-glare measures, the proposal is acceptable in terms of the visual impact on the Area of Great Landscape Value. It is considered that a suitable balance between the production of sustainable energy and the visual character of the area has been created. As such the proposal is compatible with the local and national planning policy framework including policies LS – Landscape Strategy, L2 – Areas of Great Landscape Value, L4 – Countryside Zone, BES – Built Environment Strategy, BE1 – Design of New Development, PPS7 – Sustainable Development in Rural Areas & PPS22 – Renewable Energy.

Recommendation: Approval; subject to the receipt of satisfactory specification of the panels and details of suitable anti-glare measures.

Recommendation:
Approval

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P/2011/0062/PA

Wellswood Ward

Daleside Court, Lincombe Drive, Torquay

Demolition of the existing building (arranged as 5 flats) and formation of 7 new apartments with vehicular and pedestrian access

Site Details

The site holds a relatively substantial former dwelling house, built in the 1950s, which has a lawful use as five flats. The building is set within a fairly generous plot, the front of which is largely given up to provide a winding and steeply sloping driveway access. The rear of the plot is open garden, which rises to the southern boundary (where the land is higher than the ridge of the existing building).

Due to the sloping local topography the building is set above and is prominent from both Lincombe Drive and the immediate hinterland. Contextually the site is located immediately adjacent to the Lincombes Conservation Area and the site is affected by a Tree Preservation Order (Order number 1973.09). In respect to the latter few trees remain on the site following unauthorised felling three years ago. Further to this there have been complaints in the recent past about unauthorised engineering works on land within Channel View in addition to tree felling and the movement of boundaries and the erection of a range of timber fences.

Relevant Planning History

Applications:

- P/2003/1699 Certificate of Lawfulness for use as 4 self contained flats and self contained owners' flat - Approved
- P/1989/0322 Erection of 31 flats - Refused
- P/1989/1066 Erection of 18 flats - Refused. Subsequent appeal dismissed
- P/2008/0695 Demolition of existing building and erection of 7 flats - Withdrawn
- P/2009/0522 Demolition of existing building and erection of 7 flats; formation of vehicular and pedestrian access - Refused

Pre-Application Enquiries:

- ZP/2009/0670 Erection of 7 flats – Split decision
- ZP/2010/0187 7 flats – Split decision
- ZP/2010/0600 Demolition and rebuild to provide 7 flats – Split decision

Relevant Policies

National Guidance:

- PPS1 Delivering Sustainable Development
- PPS3 Housing
- PPS5 Planning for the Historic Environment

Local Guidance:

Torbay Local Plan 1995-2011:

- HS Housing strategy
- H2 New housing on unidentified sites
- H9 Layout, design and community aspects
- H10 Housing densities
- H11 Open space for new housing
- CF6 Community infrastructure contributions
- CF7 Educational contributions
- L8 Protection of hedgerows and woodlands
- L9 Planting and retention of trees
- EP1 Energy efficient design
- W7 Development and waste recycling facilities

BES	Built environment strategy
BE1	Design of new development
BE2	Policy in conservation areas
T1	Development accessibility
T25	Parking
T26	Access from the development onto the highway

Proposals

Demolition of the existing building and erection of a block containing 7 flats, with revised vehicular access via the adjacent drive serving "Hillsborough". The proposal details a largely rendered building sat on a stone plinth, with habitable space also provided within the roof. These arrangements provide living space over four floors with under-croft parking. The proposal includes details to remove and then landscape the existing access, which supplements wider landscape enhancements throughout the plot.

Consultations

Highways: Pending comment on the current proposal.

Arboriculturalist The scheme is acceptable for approval on arboricultural merit with appropriate conditions, as laid out in memo dated 10th March 2011.

Conservation Officer: Pending comments on the current proposal.

Representations

A number of letters both in objection and support to the scheme have been received.

Generally the concerns are:-

- i) overdevelopment;
- ii) increase in size, bulk, domination of plot;
- iii) adverse impact on character and appearance of Conservation Area;
- iv) traffic/ highway implications;
- v) felling of trees, excavation, erection of timber fences, blocking of access, impact on landscape character;
- vi) alterations to boundaries/curtilages.

The positive comments received cited the following:-

- i) the proposal is a better, more attractive, building than what exists
- ii) enhances the visual quality of the area
- iii) provides for much need housing

All letters have been reproduced at page T.200.

Key Issues/Material Considerations

The key issues are considered to be:

- i) Visual implications, revolving around the scale, size, bulk and appearance of the proposed development and its impact on the character and amenity of the area, on adjacent properties and on the wider conservation area;
- ii) Highway matters: Adequacy of the access and parking;
- iii) Landscape and arboricultural issues.

Each of these will be addressed in turn:

Visual implications:

Firstly in respect to the building's context it is noted that the site is immediately adjacent to the boundary of the Lincombes Conservation Area and as such any development on this prominent site has the potential to affect the character of that area. In addition the adjacent pair of semi-detached Victorian Villas, "Hillsborough" and "Windrift", are defined in the Conservation Area Appraisal document as key buildings of merit and it is therefore considered appropriate that any new proposal is sympathetic to the scale, form, grain and architectural quality of these buildings.

This latest proposal is for a block of 7 flats in a building that has 4 floors. There is a basement level set within a stone plinth, two traditional storeys set within rendered elevations, and accommodation in the roof. It is considered that the proposal has responded to previous concerns over the massing and scale not being comparable to the dominant local form of two-storey hillside development. This comes from understanding that the provision of two stories in render, supplemented by habitation within the roof and the provision of a stone plinth, attempts to break down the mass of the building to that of the established scale. The stone treatment of the basement level grounds the building within the plot, reducing its perceived bulk, and is a direct response to previous advice given.

It is noted however that there is little detail in respect to how the window and door treatment within this part of the building reinforces this and it had previously been articulated that openings here should feature a heavily recessed fenestration in order to help reduce the habitable appearance of this part of the building. This would reinforce its link to the garden more so than the rendered part of the building and hence reducing its overall perceived bulk. The application does not currently explicitly detail this extent of reveal.

In terms of general appearance an attempt has been made to reproduce the Victorian form of the properties adjacent, however certain areas, such as the domestically scaled proportion of some of the openings within the corner detail, do not appear to translate sympathetically onto a building of this size. In addition the continued retention of the endeavour to introduce a number of balconies produces a rather cluttered appearance as opposed to the simple elegance of the adjacent villas. Further to this there is little detail on the proposed fenestration throughout the building, which causes some concern on how the finished building will articulate itself and be truly respectful of the adjacent building that it cites as its architectural reference.

Although the general form appears supportable it would appear that further negotiations in regard to the elevation detail would be beneficial in order to gain some visual enhancement to the scheme.

Highways/traffic:

As with the previous proposals in 2009, the existing access point will be closed off and landscaped, with a revised access to be provided off of the access that currently serves "Hillsborough". This remodelled access will provide pedestrian and vehicular access to the building and the undercroft parking that provides 8 spaces. Although this provides a less steep access this means that the proposed joint access will be more intensively used. Highways comments are awaited in regard to the suitability of the proposed access arrangements.

Landscape and arboricultural issues:

The site features one tree of arboricultural merit, which is a large Fir to north east of the main property. This tree is highly prominent and is considered of local importance and should therefore be maintained. The remainder of the trees on site are not considered a constraint to development.

The landscape plan is considered broadly acceptable in terms of intentions to integrate the proposals into the landscape, but it does require more detail in terms of quantities, size and maintenance.

Planning Contributions:

The proposal will intensify the level of residential occupation on the site and hence is likely to increase the burden on social and physical infrastructure. On the information provided it is likely that contributions would be required inline with the Council's adopted SPD. As matters stand the existing and proposed floor areas have not been submitted, however, it is expected that the uplift from 5 units to 7 units will trigger the need for appropriate contributions in regard to Sustainable Transport, Greenspace and Recreation, Lifelong Learning and Waste and Recycling.

The applicant has pre-emptively stated that due to the addition being of only two units, this should not warrant the levying of any contributions, due to the increase in build quality, improved accessibility, improved greenspace etc.

Notwithstanding the applicants stance there appears sound reasoning to seek contributions inline with the adopted SPD, due to the additional impact on community infrastructure generated by the addition of 2 flats on this site.

Sustainability - The proposal seeks the efficient use of urban land for residential redevelopment

Crime and Disorder - No observations received.

Disability Issues - Level access achieved and lift to upper levels.

Conclusion

Although there are no objections to the principle of redevelopment, this is a prominent hillside site and it is essential that the scale and detail of the replacement building is right within its context.

Attempts have been made to try and negotiate an acceptable solution and although the scale and general form of the building appears acceptable there remains uncertainty over particular aspects of the form and the elevation detail.

As it currently stands the application is recommended for approval, but this is subject to the resolution of the design concerns, the receipt of further consultee comments and the signing of a s106 legal agreement.

Recommendations:

Site Visit; Conditional Approval; subject to highway comments; subject to 1) no adverse comments being received from highways, 2) further negotiations on detailed aspects of the design, 3) the signing of a s106 legal agreement in terms acceptable to the Executive Head of Spatial Planning within 6 months of the date of this committee, and 4) any further conditions as deemed appropriate following further design discussions to be delegated to the Executive Head of Spatial Planning. Conditional Approval.

Condition(s):

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

Reason: In the interest of the amenities of the area and in accordance with Policy L9 of the Saved Torbay Local Plan 1995-2011.

02. No site clearance, preparatory work or development shall take place until all appropriate tree and rooting zone protective fencing has been installed in accordance with BS5837 (Trees in Relation to Construction - Recommendations), which shall at all times thereafter be managed as previously approved.

Reason: In the interest of the amenities of the area and in accordance with Policy L9 of the Saved Torbay Local Plan 1995-2011.

03. Retained tree T0643 shall not be cut down, uprooted, destroyed, pruned or damaged in any manner without the written consent of the Local Planning Authority for a period of no less than 10 years from the date of the first occupation of the first dwelling, other than in accordance with tree work application substantiated by supporting arboricultural evidence.

Reason: In the interest of the amenities of the area and in accordance with Policy L9 of the Saved Torbay Local Plan 1995-2011.

04. If a tree is cut down, uprooted or destroyed or dies another tree shall be planted at the same place and the tree shall be of a size and species and planted at such a time as may be specified in writing by the Local Planning Authority.

Reason: In the interest of the amenities of the area and in accordance with Policy L9 of the Saved Torbay Local Plan 1995-2011.

05. All trees shall be planted in accordance with the approved landscaping scheme and in accordance with British Standard (BS4043-Transplanting Root-balled Trees)(BS4428-Code of Practice for General Landscape Operations (excluding hard surfaces)).

Reason: In the interest of the amenities of the area and in accordance with Policy L9 of the Saved Torbay Local Plan 1995-2011.

06. If within a period of 5 years from the date of planting the tree (or any tree planted in replacement for it) it is removed, uprooted, destroyed or dies, or becomes, in the opinion of the Local Planning Authority, seriously damaged or defective, another tree of the same size and species as that originally planted shall be planted in the same place within the first planting season thereafter, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interest of the amenities of the area and in accordance with Policy L9 of the Saved Torbay Local Plan 1995-2011.

07. Prior to commencement of works a detailed scheme for the provision of on site parking and cycling facilities shall be approved by the Local Planning Authority, and any approved scheme shall subsequently be implemented in full prior to the first occupation of the first unit, and maintained as such at all times thereafter, unless agreed in writing by the Local Planning Authority.

Reasons: To provide a suitable form of development in accordance with Policies TS, T2 and T25 of the Saved Torbay Local Plan 1995-2011.

08. Prior to the commencement of works a detailed scheme for the provision of waste and recycling facilities and storage shall be approved in writing by the Local Planning Authority, and any approved scheme shall subsequently be implemented in full prior to the first occupation of the first unit, and maintained as such at all times thereafter, unless agreed in writing by the Local Planning Authority.

Reasons: To provide a suitable form of development in accordance with Policies W7 of the Saved Torbay Local Plan 1995-2011.

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P/2011/0082/PA

Wellswood Ward

White Lodge, Ilsham Marine Drive, Torquay

Extend time limit - demolition of house and construction of 5 flats- application

P/2007/1106/PA

Site Details

Detached property with an attached annexe on the north side of Ilsham Marine Drive. The property has an unused vehicular access from Ilsham Marine Drive, access to the property is gained from the back access which leads off Thatcher Avenue. The site is covered by an area TPO and is adjacent to a Coastal Protection Zone, an Area of Great Landscape Value, a Coastal Preservation Area and is on the recreational footpath system.

Relevant Planning History

Various applications were approved throughout the 1980s for extensions and alterations to the property including annexe, tennis court and swimming pool.

P/2007/0786 Demolition of existing house and granny flat, construction of 5 flats with parking.
Withdrawn.

P/2007/1106 Demolition Of House And Granny Flat; Erection Of 5 Flats With Car Parking Below.
Approved. 11/02/2008

Relevant Policies

HS Housing Strategy
H2 New Housing on unidentified sites
H9 Layout, design and community aspects
H10 Housing Densities
CF7 Educational Contributions
LS Landscape Strategy
L3 Coastal Preservation Areas
L9 Planting and Retention of Trees
EP12 Coastal Preservation Areas
BES Built Environment Strategy
BE1 Design of new development
BE2 Landscaping and design
TS Land Use Transportation Strategy
T2 Transport hierarchy
T3 Cycling
T25 Car Parking in new development
T26 Access from development on to the highway

Proposals

This application proposes the renewal of an application for 5 flats which has an extant consent.

The application approved the demolition of the existing property and its replacement with a building containing 5 flats. The footprint of the building would be set further from the western boundary by approximately 2m, yet closer to the eastern boundary by approximately 0.35m. The proposed building would be four storeys high with car parking accommodated on the lower ground floor accessed from Ilsham Marine Drive. Accommodation is to comprise 2 x 3 bedroom flats on the ground floor, 2 x 3 bedroom flats on the first floor and a 4 bedroom penthouse on the second floor. The proposed building adopts a 'marine' style with a flat roof, large areas of glazing and projecting balconies.

Consultations

None

Representations

4 objections have been received which relate to the following issues:

- Overdevelopment
- Surface water run-off
- There has been a change in circumstances since the previous decision in that 2 houses have now been built adjacent
- Design is detrimental to the area
- Traffic Issues
- Privacy Issues
- Concerns about trees and wildlife
- Too many flats in area

A Site Review Meeting was held with Cllr McPhail on 18th March 2011, however it was decided that the application should be determined at committee. These representations are re-produced at page T.203.

Key Issues/Material Considerations

As this is an application to extend the time limit for an extant consent the key issue in determining this application is whether there has been any change in circumstances which might lead the Council to come to a different decision.

The policy context is largely unchanged. National policy has been updated and Supplementary Planning Documents have been issued in relation to local plan policy. However, none of these changes are directly relevant to this application. The planning contributions and affordable housing SPD has resulted in differing amounts being required in a new s.106, which are now as follows:

- Sustainable Transport	£14,440
- Waste Management	£ 200
- Lifelong Learning	£ 1,880
- Greenspace & Recreation	£ 9,480
- TOTAL	£26,000

This application was approved at the same time as a very similar scheme was also approved at Ilsham House, the adjacent site. Subsequently an application was approved for two dwellings at Ilsham House and these have now been constructed.

Therefore there has been a material change in circumstances in that the appearance of the neighbouring site has now changed. However the relationship with the approved scheme at White Lodge was taken into account when considering the revised proposals at Ilsham House and was considered to be acceptable. Both developments are of a similar 'marine' style and are considered to be of an appropriate size and scale. Therefore the application is considered to be acceptable.

Sustainability – The proposal results in additional dwellings on previously developed land and in this sense is sustainable.

Crime and Disorder – No issues.

Disability Issues – No issues.

Conclusions

The proposal is to extend the time limit for implementation of an existing consent and therefore must be considered in relation to any change in circumstances which may have occurred. Although there have been minor changes in circumstances it is not considered that these should result in a different

decision in this case.

Recommendations:

Conditional Approval; subject to the signing of a s.106 agreement in terms acceptable to the Executive Head of Spatial Planning within 6 months of the date of this committee meeting. Conditional Approval.

Condition(s):

01. No development shall be commenced until details of the proposed external construction materials including any hard surfacing has been submitted to and approved by the Local Planning Authority.

Reason: To ensure a satisfactory form of development, in accordance with policies BES and BE1 of the Torbay Local Plan 1995 - 2011.

02. The development hereby approved shall not be commenced until details of all proposed boundary walls and fences have been submitted to and approved by the Local Planning Authority. The dwelling(s) shall not be occupied until these have been provided in accordance with the approved details.

Reason: In the interests of the amenities of the area, in accordance with policies BES and BE1 of the Torbay Local Plan 1995 - 2011.

03. Prior to the first use of the development hereby approved an area for the parking of cycles shall be provided, in accordance with a scheme which shall first be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that adequate provision is made for the parking of cycles in accordance with policy T3 of the Torbay Local Plan 1995 - 2011.

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

Reason: In the interest of the amenities of the area in accordance with policies LS and L9 of the Torbay Local Plan 1995 - 2011.

05. The development hereby approved shall not commence until sections and elevations to a scale of not less than 1:5, 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 building 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 BES and BE1 of the Torbay Local Plan 1995 - 2011.

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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 understood to not be 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: require 1.5 parking spaces per dwelling, widening of the access with the footway crossing also being widened and a S106 contribution.

Drainage and Structures: Consultation response awaited

Arboricultural Officer: requests further detail of how the development will be managed around the oak

tree.

Conservation Officer: Consultation response awaited.

English Heritage: The application should be determined in accordance with national and local policy guidance and on the basis of your specialist conservation advice.

Drainage and Structures: requests further information relating to drainage of surface water.

Representations

One letter of objection received and reproduced at T.204. The following points are raised;

- * Loss of fine views
- * Impact on local area
- * Loss of light
- * overdevelopment

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.

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 has requested the access to be widened with the footway crossing being widened to improve accessibility and a Section 106 contribution.

Trees

There is a mature Turkey Oak tree on the site that is shown as being retained. The arboricultural officer has requested the submission of further information to clarify the relationship between the tree and the proposed Pavilion building. The applicant needs to demonstrate that the proposal wont result in future pressure to fell the tree because of its proximity to the proposed building and the affect of the tree on the residential amenity of the occupiers. He has also requested clarification of the sequence of building in the area around the tree, the finished material around the tree, details of drainage around the tree, a tree protection plan and suggested that timber posts be installed at the end of the adjacent parking area to prevent vehicle manoeuvring in the vicinity of the tree.

A condition will be needed to ensure that the tree is protected in accordance with the agreed details 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.

UPDATE

This application was considered at the meeting of the Development Management Committee on 21st March 2011. Members decided to approve the application subject to the Executive Head of Spatial Planning resolving issues relating to consultation responses, trees, design, schedule of works and S106 agreement.

The application was included on the agenda for the 21st March meeting although the consultation period did not expire until 1st April. A letter of objection has been received since the previous meeting and the points raised should be considered by Members. In addition following a meeting with the applicant it has become apparent that the works of improvement to the main building will not be carried out until all the new development is completed. It was originally requested that these works be carried out before the new development commenced, as the new development constitutes 'enabling' development which will allow investment in and improvement of the original villa. The applicant has explained that the income from the new development will be needed in the first instance to provide capital to invest in the original villa. In order to ensure that the investment in the building does occur this will need to be addressed in the S106 agreement. In a similar case at the Palace Hotel in Paignton a joint bank account was set up between the developer and the Council. This is likely to be an appropriate solution in this case, subject to advice from the Council's solicitor.

It appears that the property is not currently trading as a hotel and is in use as a House in Multiple Occupation (HIMO). The applicant has submitted an application for a HIMO licence to the Council in which it is stated that there are 24 letting units in the property and there are 27 people living there. The lawful use of the property is as a hotel and no planning permission has been granted for use as a HIMO. If the use continues as a HIMO for a continuous period in excess of 10 years without the Council serving an enforcement notice it could become the lawful use. There is a concern that a HIMO on this scale in this location would be inappropriate because of the impact that it would have on the appearance and character of the area. Therefore, officers recommend that an enforcement notice is served to require the use of the property as a HIMO to cease.

The applicant has also been requested to make a number of minor alterations to the design of the proposed development. Revised plans are awaited.

At the last meeting of the Development Management Committee Members were requested to agree that the S106 agreement should be signed by 23rd May in order that the decision notice could be issued within the 13 week target date. It is likely that, given the complexity of the agreement, further time will be required to execute it. As such, it is suggested that this date should be extended to 6 months from the date of this committee meeting.

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 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.

Recommendation

1. Subject to the receipt of satisfactory further information and subject to the signing of a s106 legal agreement in terms acceptable to the Executive Head of Spatial Planning within 6 months of the date of this committee; Conditional Approval.
2. That an enforcement notice be served to cease the use of the property as a HIMO.

Conditional Approval

Condition(s):

01. The boundary wall to Shedden Hill shall be reinstated to a stone wall with cock and hen capping and any repairs shall be carried out in natural stone laid with a lime mortar as shown on plan reference 2074s/133A dated 21st February 2011 prior to the occupation of the dwellings in the existing building hereby approved unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of the visual amenity of the area in accordance with Policies BES, BE1 and BE5 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 shall be carried out 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. 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.

08. 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.

09. 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.

10. 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.

11. 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.

12. 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.

13. 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.

14. 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 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.

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Report to Development Management Committee on Recent Planning Appeal

Decisions

18 April 2011

In the year 2009 -2010 a total of 49 appeals were determined. Of those 49 appeals, 34 were dismissed and 15 were allowed. The % of appeals allowed was therefore 31% .This outcome was slightly better than the national average of 33%.

In the following analysis of the figures for the 4 Quarters of 2010/11 it should be pointed out that because the numbers determined in each Quarter are small, little weight can be attached to the % allowed in each Quarter.

Quarter 1 2010/11

Planning Appeals 2 appeals were determined : 50 % (1) were allowed .

Householder Appeals 3 appeals were determined 67% (2) were allowed.

Advertisement Consent Appeals 1 appeal was determined 0% (0) were allowed.

Lawful Development Certificate Appeals 1 appeal was determined 0%(0) were allowed.

Quarter 2 2010/11

Planning Appeals 3 appeals were determined 33% (1) were allowed.

Householder Appeals 3 appeals were determined 33% (1) were allowed.

Enforcement Appeals 2 appeals were determined 50% (1) was quashed on legal grounds, that is to say planning permission was not granted.

Quarter 3 2010/2011

Planning Appeals 6 were determined 33% (2) were allowed .

Householder Appeals 1 was determined 100%(1) were allowed .

Listed Buildings/Conservation Area Consent Appeals 1 was determined 100% (1) were allowed .

Quarter 4 2010/2011

Planning Appeals 1 was determined 0% were allowed

Householder Appeals 3 were determined 0% were allowed

In the year 2010/2011 the total number of appeals determined was 27 of those 18 were dismissed and 9 allowed .

The % allowed in the year 2010/2011 was therefore 33% which is in line with the national average . Performance has therefore been maintained on a year on year basis . Where Householder Appeals form a significant element in the overall number of appeals it is observable that the % allowed is slightly above the overall average . This does not necessarily reflect the accelerated nature of the process (No further statement of case is allowed) rather it may reflect the use of either contract or less experienced Inspectors as well as a somewhat more relaxed attitude to what is considered reasonable householder development .

Because of changes to the way in which appeals were processed, moving from a system of a dedicated Appeals Officer to Case Officers processing their own appeals, this is the first Appeals report for some time . Given the fact that it is intended to resume reporting appeals on a quarterly basis and that the next report would therefore fall due in the June committee cycle ,it is proposed to ask the new post election Committee for instructions on whether the report should be in this format ,or if a more in depth analysis should be

provided . This could take the format of the previous reports which identified the site; the development ; the decision (whether Committee or Officer Delegated Powers) and a very brief description of the issues .

It is intended as a separate item to provide, on an “as and when necessary” basis, feedback on trends in Inspectors decision making where this impacts on how Torbay determines applications and where changes in interpretation may be necessary.