



Friday, 11 February 2011

DEVELOPMENT MANAGEMENT COMMITTEE

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

Monday, 21 February 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 Faulkner (A)
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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018203 2070162

Email: democratic.services@torbay.gov.uk



DEVELOPMENT MANAGEMENT COMMITTEE AGENDA

1. **Apologies for absence**

To receive apologies for absence, including notifications of any changes to the membership of the Committee.

2. **Minutes**

To confirm as a correct record the Minutes of the meeting of this Committee held on 24 January 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. **Applications for Planning Permission etc**

To consider the schedule of applications for planning permission etc.

(Pages 7 -
90)

Public Speaking: If you wish to speak for or against an application at this meeting please contact Democratic Services by telephoning 207012 or emailing democratic.services@torbay.gov.uk before 12 noon on the day of the meeting.

Site Visits: If Members consider that site visits are required on any of the

applications please contact Democratic Services by 5.00 p.m. on Wednesday, 16 February 2011. Site visits will then take place prior to the meeting of the Committee.

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Minutes of the Development Management Committee

24 January 2011

-: Present :-

Councillor Scouler (Chairwoman)

Councillors Addis, Amil, Carter (R), Faulkner (A), Manning, McPhail, Morey and Pentney

(Also in attendance: Councillor Hytche)

460. Minutes silence.

The Committee observed a minute's silence as a mark of respect in memory of the late Councillor Roger Kerlake (Vice-Chairman of the Committee) who passed away suddenly on 8 January 2011.

461. Committee Membership.

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

462. Appointment of Vice-Chairman.

Councillor McPhail was appointed as Vice-Chairman for the remainder of the 2010-11 Municipal Year.

463. Urgent Item.

The Committee considered the items in Minute 467, and not included on the agenda, the Chairman being of the opinion that it was urgent by reason of special circumstances i.e. the matter having arisen since the agenda was prepared and it was unreasonable to delay a decision until the next meeting.

464. Minutes.

The Minutes of the meetings of the Development Management Committee held on 20 and 21 December were confirmed as a correct record and signed by the Chairman.

465. Applications for Planning Permission etc.

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

Resolved:

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

A P P E N D I X 1

466. Claimed footpath from Innerbrook Road to Pilmuir Avenue in Torquay.

The Committee received Report 6/2011 on the current position regarding an application by a member of the public to modify the County Definitive Map and Statement under Schedule 14 of the Wildlife and Countryside Act 1981 by adding a footpath running from Innerbrook Road to Pilmuir Avenue, Torquay.

Resolved:

- (i) that the application to create a public right of way in respect of the footpath running from Innerbrook Road to Pilmuir Avenue, Torquay as shown on the Plan attached as Appendix 1 to Report 6/2011 be approved; and
- (ii) that an Order to modify the County Definitive Map and Statement under the Wildlife and Countryside Act 1981 be made.

467. 2010/1189/CA – 2 and 2A Fore Street, 2 Fore Street, Brixham.

At the adjourned meeting of the Development Management Committee held on 21 December 2010 members considered the above application. The Team Leader for Major Development advised the Committee that an amendment to condition 02 was required to the previous approval.

Resolved: that condition 02 be amended as follows:

‘Within 12 months of demolition, a contract for redevelopment for the carrying out of works on the site be put in place.’

Chairman

APPENDIX 1

to the Minutes of the Development Management Committee held on 24 January 2011

(Referred to in Minute 465/1/09)

Reference	Description and location	Decision	Site Visit	Representations
2010/0333/HA	Alterations, dormer roof extension to extend roof bedrooms, patio area, 9 Hawthorn Park Close, Torquay.	<p>Refused on the grounds that:</p> <p>(i) due to its close proximity to neighbouring properties, the size and mass of the proposed gable ended roof on the east elevation would be overbearing on the properties on Broadstone Park Road,</p> <p>(ii) the proposed window on the east elevation would result in a loss of privacy for the residents on Broadstone Park Road; and</p> <p>(iii) the roof extension would constitute the overdevelopment of a restricted site and would have a detrimental impact on the character of the area, being out of keeping with the prevailing context.</p>	Yes	Written and oral
2010/1098/HA	Single storey extension at rear and conservatory, 25 Hingston Road, Torquay.	Subject to the receipt of satisfactory revised plans to reflect a reduced roof height/ sloping roof at the end of the extension, approved.	Yes	Written and oral

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

Reference	Description and location	Decision	Site Visit	Representations
2010/1249/HA	Alterations to approved scheme (2009/0714/PA) installation of solar panels to roof and addition of slate detail, Ilsham House, Ilsham Marine Drive, Torquay.	Subject to the receipt of satisfactory revised plans to reflect a reduced height (down to a maximum of 800mm above roof height) and angle (down to 20 degrees) of the panels, approved with appropriate conditions to secure the implementation of the revised plans and the provision of the boxing around the panels.	Yes	Written and oral
2010/1326/PA	Formation of new detached house with vehicular and pedestrian access, land adjacent to Oversands, Livermead Hill, Torquay.	Approved with the conditions set out in the submitted schedule.	Yes	Written and oral
2010/1295/PA	Construction of timber storage building to store chipped timber, Occombe Farm, Preston Down Road, Paignton.	Approved with the condition and informative set out in the submitted schedule.	Yes	None
2010/1308/PA	Revised siting of BMX track and omit proposed on site parking area due to discovered badger setts, Parkfield House, Esplanade Road, Paignton.	Application withdrawn at the request of the applicant.	Yes	Written
2010/1259/PA	Alterations and change of use to restaurant and hot food take-away, 72-74 Fore Street, Brixham.	Subject to an amendment to condition 2 to reflect the extract ventilation system being approved before installation, approved with the conditions and informatives set out in the submitted schedule.	Yes	Written and oral

APPENDIX 1 (continued)

Reference	Description and location	Decision	Site Visit	Representations
2010/1386/AD	Non illuminated free standing Devon wagon with sign on canvas, field number 8165, adjacent to A3022 Dartmouth Road, (Strawberry Bends), Churston, Brixham.	Approved with the condition and informative set out in the submitted schedule and the imposition of additional conditions to limit advertising on the sign to Churston Farm Shop only and to clarify if the shop ceases trading the sign to be removed within two months of its closure.	Yes	None

(**Note:** Prior to consideration of application 2010/1386/AD, Councillor Morey declared a personal prejudicial interest and withdrew from the meeting room.)

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**DEVELOPMENT MANAGEMENT
COMMITTEE**

Schedule of Applications for Consideration on

21st February 2011

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**Spatial Planning
Torbay Council
2nd Floor Roebuck House,
Abbey Road, Torquay, Devon TQ2 5DP**

KEY:

STANDARD ABBREVIATIONS

AONB	Area of Outstanding Natural Beauty	PPS	Planning Policy Statements (ODPM)
AGLV	Area of Great Landscape Value	PTR	Principal Traffic Route
CA	Conservation Area	SC	01-54 See Standard Conditions Booklet
CPA	Coastal Preservation Area	TLP	Torbay Local Plan 1995-2011 (Adopted April 2004)
SSSI	Site Of Special Scientific Interest	TPO	Tree Preservation Order
CZ	Countryside Zone	PCAHSPH	Planning Contributions and Affordable Housing Supplementary Planning Document
DMPO	Development Management Procedure Order	UDGSPD	Urban Design Guide Supplementary Planning Document
DSP	Devon Structure Plan 2001-2016 (Adopted October 2004)	THAAP	Torquay Harbour Area Action Plan (Regulation 27)
GPDO	General Permitted Development Order		
GSSPD	Greenspace Strategy Supplementary Planning Document		
PPG	Planning Policy Guidance Note (DoE/DETR)		

APPLICATION TYPES

AD	Advertisement	MA	Minor Amendment
AG	Agricultural Determination	MOA	Major Outline Application
CA	Conservation Area Demolition	MPA	Major Planning Application
CD	Certificate of Appropriate Alternative Development	MRM	Major Reserved Matters
CE/CP	Certificate of Lawful Development	OA	Outline Application
CS	Telecommunications	PA	Planning Application
DEP	Do I Require Planning Permission? enquiry	PD	Permitted Development
DM	Demolition	RM	Reserved Matters
HS	Hazardous Substances	R3/R4	Local Authority Development
LB	Listed Building	14	Circular 14/90 (Power Lines)
		ZP	Pre-application enquiry

CONSULTEES

CE	Chief Executive	EHO	Environmental Health Officer
TCC	Torbay Care Trust	AS	Adult Services
EA	Environment Agency	PC	People Commissioner
EH	English Heritage	CSC	Corporate Support Commissioner
TDA	Torbay Development Agency		

NOTE:

Letters of representation and other documents are referred to at times, throughout the Development Management Committee agenda. To find these documents, look in the schedule for the item number reference at the bottom of each page.

**Listing of Schedule for
Development Management Committee**

Date: 21st February 2011

<u>Application No.</u>	<u>Item</u>
P/2008/0114/MPA	T.1
P/2010/0616/MPA	B.1
P/2010/1308/PA	P.1
P/2010/1350/PA	B.2
P/2010/1351/LB	B.3
P/2010/1361/HA	B.4
P/2010/1379/MPA	P.2
P/2010/1383/MPA	T.2
P/2010/1399/PA	P.3
P/2011/0012/MPA	T.3
P/2011/0013/CA	T.4
P/2011/0018/MPA	B.5
P/2011/0064/HA	P.4

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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 Brixham 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.

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 is the same application that was presented to Members at their meeting on 4th October 2010. Members resolved to approve the application, subject to conditions and subject to satisfactory further negotiations with Natural England (NE) and the Royal Society for the Protection of Birds (RSPB) and the imposition of any conditions these agencies deemed necessary. The permission was never issued, because it took some time to clear the phase 1 habitat survey (regarding wildlife) with Natural England. This has however now been

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achieved, and Natural England no longer object to the scheme, so long as all works are completed in accordance with the agreed habitat survey.

In the meantime, the applicant has proceeded to commence the works to implement the scheme without the benefit of a formal planning consent. In doing so the applicant also proceeded to alter the layout of the scheme and erect buildings on the site the details of which had not been submitted to and approved by the Local Planning Authority. Following further negotiations on site, revised plans being submitted to accurately reflect the revised layout of the site.

The application therefore seeks permission for a revised layout and approval of some of the details of the buildings on the site to compliment the change of use of the land into a combat games area. The method of gaming would be with the use of laser technology and not the more conventional paint-balling.

The land has had the benefit of permissions in the past for sport uses on this site (2003). Although that permission has lapsed unimplemented, it does establish the principle of a sporting use for the field. Furthermore, members have already resolved to approve the change of use, subject to satisfactory details.

The current proposal shows the land being sculpted to add trenches and bunkers and will include structures as part of the gaming experience. Whilst this always was the case, detailing of these structures and their revised positioning within the site is now submitted for consideration. Hedging and landscaping is 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 shared with the Cayman Golf Facility which is within the same ownership.

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 do not now raise any objection.

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

Highways Authority: Raise no objection.

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

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

Brixham Town Council: Recommends approval subject to environmental considerations.

Representations

Reproduced at Page B.200.

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Key issues/Material Considerations

Principle and Policy

The starting point for the reconsideration of this application is the fact that members 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. In terms of the principle of the use proposed, nothing has changed since Members previous considerations and as such it is a very material consideration that this use has been approved in the recent past.

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 and any required mitigation measures are carried out to minimise potential harm. One of those exceptions is development associated with outdoor sport and recreation.

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.

Traffic and Parking

It is noted that the Highway Authority have no objections, although Strategic Transportation do ask that the park and ride facility is not used by visitors to this facility and asked that this is guaranteed by way of a section 278 Agreement under the Highways Act. Additionally, Strategic Transportation asks for cycle parking and a staff travel plan. These can be dealt with by condition.

Primary Considerations

Therefore 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 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

B.1

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.

It is also important to recognise that all of the structures will be at least partially hidden by camouflage netting, which at the time of compiling this report is the subject of on-going negotiations between the applicant and officers. In addition, landscaping is proposed, which has been specifically sited to provide additional screening. However, there remains a concern that the structures will not be sufficiently recessive in the landscape and that the choice of colours and textures for the structures is not befitting of this rural setting. Officer's opinion is that, subject to further negotiations on the tree species and screen netting, and subject to changes to the colour and texture of the structures to make them more recessive, the proposal would be sufficiently screened and successfully assimilated into the landscape.

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. Nevertheless, subject to further negotiations on species, officers are of the opinion that the landscaping scheme will work and will provide the intended screening and assimilation into the natural environment.

Sustainability - This is currently 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 would still retain most of its open rural feel, it is not considered that there are any issues with sustainability that indicate that the application should be refused.

Crime and Disorder - Not an 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 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 have now withdrawn their objections.

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On the remaining landscaping and design issues, it is considered that subject to further negotiations on tree species and screen netting, and subject to changes to the colour and texture of the structures, the proposal is acceptable.

Recommendations:

Committee Site Visit; Conditional Approval.

Condition(s):

01. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out before the proposal hereby approved is first opened to the public, or at such other time as agreed by the Local Planning Authority in writing, and any trees, hedging or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: The site is located outside of the built environment of Paignton and Churston in highly visible open countryside, immediately adjacent to the Churston Conservation Area and opposite a designated 'Area of Great Landscape Value' as defined by the Saved Adopted Torbay Local Plan. All of these factors make it imperative that the proposal is appropriately screened and landscaped in order to prevent potentially damaging and visual insensitivity in the landscape and to ensure accordance with policies RS, R2, LS, L2, L4, L8, L9, L10, BE1 and BE2 of the Saved Adopted Torbay Local Plan.

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

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

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

Reason: The site is located outside of the built environment of Paignton and Churston in highly visible open countryside, immediately adjacent to the Churston Conservation Area and opposite a designated 'Area of Great Landscape Value' as defined by the Saved Adopted Torbay Local Plan. The site is also known to be used by species of wildlife protected in law. All of these factors make it imperative that the proposal is implemented entirely in accordance with the two specialist reports in the interests of wildlife, public amenity and to order to ensure accordance with policies RS, R2, LS, L2, L4, L8, L9, L10, NCS, NC5, BE1 and BE2 of the Saved Adopted Torbay Local Plan.

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P/2010/1350/PA

Berry Head With Furzeham Ward

Berry Head Hotel, Berry Head Road, Brixham

Formation of five self-catering holiday apartments, owners accommodation and rationalisation of parking layout including works to existing car park

Site Details

The application site relates to a Grade II Listed Hotel situated in a prominent location at the northern end of Berry Head Road. The hotel site itself comprises 1.65 hectares and the site which is the subject of this application extends to 0.44 hectares. The site comprises a brick structure rotunda which is the remains of a protective structure for an oil storage facility, a barn building currently used as a garage, and the existing hard-surfaced car parking area for the hotel.

To the west of the site there is residential use along Berry Head Road. To the east and south is the Berry Head Country Park.

In addition to the hotel being Grade II Listed there is a monument 30 metres west of the hotel that is Grade II listed and also a Grade II Listed lime kiln on the site. In the Torbay Local Plan 1995-2011 the site is shown as being within the AONB, within the Countryside Zone and within a locally important wildlife site. Land to the north of the hotel building is within the Coastal Protection Zone.

Adjacent to the application site is the boundary of the South West Coast Path, the internationally important Special Area of Conservation, the SSSI, Berry Head National Nature Reserve, Berry Head Country Park and scheduled monuments at Ashhole Cavern and Hardy's Head Battery.

There is an area TPO reference 1962.03A4.

Relevant Planning History

Extensive previous planning history. Most recent applications are:

2010/0388	Formation of new lift shaft approved 2.6.10
2010/0365	Formation of new lift shaft approved 20.5.10
2004/1568	Alterations and formation of lift shaft extension approved 9.11.2004
2004/1234	Alterations and formation of lift shaft extension (renewal of application 99.0755PA) approved 7.9.2004

Relevant Policies

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

H2	Promotes sustainable forms of new development
H9	Requires a high standard of design, taking into account characteristics of existing environment.
H10	Supports development at maximum densities
TU5	Supports development of holiday accommodation
L1	In AONBs conservation and enhancement of their natural beauty will be given priority over other considerations.
L3	Restricts development in coastal preservation areas

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- L4 Development will not be permitted where it would lead to loss of open countryside and creation of urban sprawl. Identifies forms of development that would be acceptable.
- L8 Protection of hedgerows, woodlands and other natural landscape features.
- L9 Development will only be permitted where trees will not be harmed.
- NCS Nature conservation strategy
- NC1 Development that would harm a SAC or conflicts with conservation objectives will not be permitted.
- NC2 Sets out criteria to be considered for development affecting an SSSI
- NC3 Protected sites - locally important sites
- NC5 Development which would harm a protected species will only be granted pp where there is an overriding need.
- EP1 Supports incorporating energy saving features into design and layout.
- EP5 Proposals should minimise light pollution.
- EP12 Sets out criteria for assessing proposals for development within the Coastal Protection Zone
- BES Requires new development to conserve or enhance the built environment.
- BE1 Requires design of new development to take account of the wider context.
- BE6 Requires development to have regard to preserving any listed building, its setting or features of interest.
- BE9 Archaeological assessment of development proposals
- BE10 Recording of archaeological remains
- TS Promotes a sustainable land use transportation system
- 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
- R9 Protection of country parks
- R11 Supports maintenance and improvement of strategic recreational footpath systems
- CF6 Requires appropriate contributions to provide social, physical or environmental infrastructure.

Proposals

The application is for the following:

- Formation of 5 self catering apartments within site of former oil storage facility.
- Conversion and extension to form detached unit of owners accommodation.
- Reorganisation of car park layout.
- Reinstatement of a disused footpath from the hotel site to the South West Coastal Path.

Consultations

Brixham Town Council: Recommend approval subject to clarification of parking.

English Heritage: No comments.

Senior Transport Planner: Requests a staff travel plan, secure lit and covered cycle storage and a sustainable transport contribution of £6440.

Highway Engineer: No objection.

Environment Agency: No objections.

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Arboricultural Officer: Consultation response awaited.

Natural England: Objects to the proposed development.

Archaeological Officer: Agrees with the Archaeological Assessment.

South Hams AONB Unit: No objection to proposal. The impact of the proposed works on the character and landscape of the AONB will not be significant.

Representations

Four letters of objection received and reproduced at Page B.201.

The following issues are raised:

- Pressure on parking at the hotel when there is a function
- Roads are narrow
- Site is within AONB
- Loss of trees is unacceptable
- Overdevelopment in the grounds of a historical building
- Loss of parking area with development of holiday units
- Owners accommodation will be a large building adjacent to public footpath
- Problems caused by vehicles parking on the road outside the hotel will be made worse
- Noise
- Impact on wildlife
- Road is single track
- A previous application to develop the rotunda has been turned down
- A similar proposal to built self catering units on the old MOD site has been turned down.

Key Issues/Material Considerations

The main issues to be considered are the principle of the development, the design of the proposals, the impact of the proposal on the Listed Buildings, highways, trees, ecology, archaeology, and Section 106 contributions.

Principle of development

The Berry Head Hotel is an important tourist facility in Brixham due to its size and attractive location. Policy TU5 in the Torbay Local Plan 1995-2011 supports the principle of providing new holiday accommodation. The proposal would constitute an investment in improving the tourism product on the site. In the Torbay Local Plan 1995-2011 it is recognised that the holiday industry makes a significant contribution to the economy in Torbay. Therefore an investment in the tourism sector would be important to the future of the area.

However as detailed above there are a significant number of constraints relating to the site that need to be addressed in order to ensure that the resulting development would be a robust and sustainable development, that would be appropriate in this location.

Design

The design of the proposed development was considered by the Design Review Panel on 4th February. Their recommendations will be reported to Members at the committee meeting. In principle the appearance of the proposed buildings appears to be consistent with the objectives of Policies BES and BE1 of the Torbay Local Plan 1995-2011 which seek to ensure new development conserves or enhances the built environment.

B.2

The design of the owner's accommodation would extend and convert an existing barn, which is currently used as a garage. The proposal would utilise an existing stone wall and would follow the footprint of previous development on the site. The proposed accommodation would have a 'U' shaped footprint. The accommodation would be 1.5 storeys in height and would involve raising the height of the roof in comparison with the existing barn.

The proposed self catering units would be sited within the former protective structure of the oil reservoir. Their siting would reflect the circular form of the site. The architect advises that the proposal is to provide 5 high quality contemporary managed lodges to diversify the hotel accommodation. Ten parking spaces would be provided adjacent to the accommodation. There would be direct access to these units from Berry Head Road. All of the units would have two bedrooms, and one would be DDA compliant accessible. The roof would be grass in order to assimilate the proposal into the woodland character of the area. There would be some variations in height of the roof. The elevations would be brick at ground level with cedar shingles above. The glazing would be full height.

There are some design issues that the Design Review Panel has been asked to consider such as the domestic appearance of the owners accommodation derived from the conservatory and double garage, and the impact of the increased height of the roof on the visual amenity of the area. In respect of the self catering accommodation the panel has been asked to comment on the overall concept of the development in this location and the treatment of the roof of the building where it projects above the existing retaining wall.

Impact on the setting of the Listed Buildings

Policy BE6 in the Torbay Local Plan 1995-2011 requires new development to have special regard to the setting and features of a listed building. Both the owners accommodation and the self catering accommodation would be separated from the main hotel building. They would both be ancillary in scale to the hotel and would not compete with the main building on the site. As such the proposals would not have an adverse impact on the setting of the Listed buildings on the site.

Highways and parking

Local residents have raised concerns about the impact of the proposed development on the road network in the area due to an increased use of the hotel resulting from the proposal. It is noted that the existing overflow parking provision would be removed from the site by developing on the rotunda area.

To serve the 5 units of self contained accommodation 5 parking spaces are proposed, with an additional 5 overflow spaces for the hotel in this area. Three parking spaces are shown to serve the owners accommodation. There would be an additional self catering cottage formed within the hotel through the removal of the existing owner's accommodation. The proposal involves a reorganisation of the parking provision on the site, which would include some changes to existing landscaped areas. The proposed car park layout shows 48 spaces in the main car park, with an additional three disabled spaces with a further 3 grasscrete spaces and 10 spaces adjacent to the self contained accommodation. This would result in a total of 67 spaces on the site (including 3 for the owners accommodation).

It is not straightforward to provide a direct comparison with the number of existing spaces on the site as the current car park is not marked out and neither is the rotunda area. The proposed changes to the parking area would make the use of this space more efficient. The agent has advised that there are currently 55 parking spaces on the site without the rotunda

B.2

area that is used for occasional overflow parking. The proposed development would result in 57 space plus the 10 spaces proposed in the rotunda area. Consequently as a result of the proposal there would be a net loss of parking capacity on the site by about 9 spaces.

The overall increase in use of the premises as a result of this proposal would be 6 units of self contained accommodation. The highway engineer has not raised an objection to the proposal on highway grounds. It is also worthy of note that there is a Council car park at Shoalstone within easy walking distance of the hotel.

Trees and Landscape

The proposal includes the felling of 6 trees on the site. This would comprise two semi mature sycamores adjacent to the residential property and four small shrubs/trees within the car park. An arboricultural survey of all the trees on the site has been submitted. The architect suggests that the loss of these trees would be off set by proposed native tree and shrub planting elsewhere in the car park and the turf roof on the self catering accommodation. The arboricultural officer's advice on whether it would be acceptable to fell these trees is awaited.

The landscape dominated character of the site has influenced the design of the proposed development. The proposed turf roof over the self catering units would be planted with native hedgerow and woodland edge mix. In addition the varying roof heights are intended to enable the integration of the new roofs into the existing landscape. Soft landscape areas would be introduced into the car park. The proposal does include native tree and shrub planting within the car park.

The site falls within the South Hams AONB. Policy L1 in the Torbay Local Plan 1995-2011 requires new development not to damage the natural beauty of the area. The proposed development has been sensitively designed to minimise its impact on the character of the area. The self catering units would be sited on an existing hardstanding area and would be largely screened by the existing retaining wall. The owners accommodation would involve conversion and extension of an existing building on the site. The South Hams AONB Manager has advised that as the proposed development would be screened by surrounding woodland the impact of the proposal on the character and landscape of the AONB would not be significant.

The Arboricultural Officer's consultation report is awaited.

Ecology

An Ecological Impact Assessment has been submitted to address the Ecological issues on the site. The impact of the proposal on habitats and wildlife is addressed. It should be noted that the site is approximately 10 metres from the South Hams Special Area of Conservation (SAC) and is within the 'sustenance zone' and 'strategic flyway' of greater horseshoe bats. To the south and east of the site is woodland that is part of the South Hams SAC.

The proposal includes the introduction of a revised lighting scheme. The existing high level flood lighting would be removed and low level directional lighting is proposed which would result in an overall reduction in light pollution on the site. In the Ecological Impact Assessment it is suggested that the implementation of the lighting scheme would be likely to increase the suitability of the habitat within the adjacent site.

B.2

Natural England has advised that further information is required in support of the proposal in relation to impact assessment, lighting impacts, mitigation strategy and timing. This information has been requested from the applicant.

Archaeology

An Archaeological Assessment has been submitted in support of the application. This identifies the impact of the proposal to be low. The Archaeological Officer has advised that he has no reason to disagree with this conclusion.

Section 106 Obligations

In accordance with the SPD "Planning Contributions and Affordable Housing: Priorities and Delivery" and its update adopted in July 2010, the following contributions would be payable;

Sustainable Transport £5160
Monitoring £1200
Total £6360

It would be appropriate to tie the use of the self catering apartments and the owners accommodation to the hotel, in order to prevent them being used as separate units of accommodation in the Section 106 agreement.

Sustainability – The proposal would make effective use of a site already in a tourism use.

Crime and Disorder - The proposal would not increase the risk of crime in the area.

Disability Issues – Two the self catering units would be at ground floor level and would be accessible by disabled persons.

Conclusions

In conclusion, the principle of improving tourism facilities would be consistent with Policy TU5 in the Torbay Local Plan 1995-2011. The provision of new holiday accommodation would make a positive contribution to the economy in the local area. Further work is being carried out in respect of the design of the proposal and the impact on the ecology of the area. The recommendation is one of conditional approval; subject to this being satisfactorily resolved, subject to resolving Natural England's objections, and subject to the signing of a Section 106 agreement in terms acceptable to the Executive Head of Spatial Planning within 6 months of the date of this committee.

Recommendation:

Conditional Approval

Condition(s):

01. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of hard landscaping. This scheme shall include proposed finished levels, pedestrian access and circulation areas, hard surfacing materials, minor artefacts and structures (eg. Refuse or other storage units, signs etc), proposed and existing functional services above and below ground, (e.g. drainage, power, communication cables etc) indicating lines, manholes supports etc. The development shall then be carried out in accordance with the approved hard landscaping details.

B.2

Reason: In the interest of the amenities of the area, in accordance with Policy BE2 of the Torbay Local Plan 1995-2011.

02. 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. The development shall then incorporate the materials in accordance with the approved details.

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

03. The parking facilities for the self catering accommodation shown on the approved plan shall be provided before the use of the properties 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.

04. No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a plan indicating the position and details of cycle parking on the site. The cycle parking shall be made available before the use hereby permitted is commenced. Development shall be carried out in accordance with the approved details.

Reason: To encourage the use of a sustainable and environmentally acceptable mode of transport, in accordance with Policy T2 of the Torbay Local Plan 1995-2011.

05. Development of the site hereby approved shall not commence until a Travel Plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall include details of physical improvements to the site to encourage travel using non car modes by visitors and staff. Such a plan shall specify a time frame for implementation of the measures contained therein and shall be reviewed annually in liaison with the Local Planning Authority.

Reason: To ensure that the development incorporates sustainable development principles, in line with Policy TS of the Torbay Local Plan 1995-2011 and advice in PPG 13 Transport.

06. The new external lighting scheme shown on the approved plan, including the removal of the existing external lighting, shall be provided before the use of any part of the development hereby approved commences unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of minimising light pollution in accordance with Policy EP5 of the Torbay Local Plan 1995-2011.

07. 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

B.2

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.

08. 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.

09. No development or other operations shall commence on site until the existing trees and/or hedgerows to be retained have been protected in accordance with the details shown on plan reference 3158-101 dated 8.12.10. 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.

10. 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 along the southern boundary of the site. 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.

B.3

P/2010/1351/LB

Berry Head With Furzeham Ward

Berry Head Hotel, Berry Head Road, Brixham

Formation of five self-catering holiday apartments, owners accommodation and rationalisation of parking layout including works to existing car park

Site Details

The application site relates to a Grade II Listed Hotel situated in a prominent location at the northern end of Berry Head Road. The hotel site itself comprises 1.65 hectares and the site, which is the subject of this application, extends to 0.44 hectares. The application site comprises a brick structure rotunda which is the remains of a protective structure for an oil storage facility, a barn building currently used as a garage, and the existing largely hard-surfaced car parking area.

To the west of the site there are residential uses along Berry Head Road. To the east and south is the Berry Head Country Park.

In addition to the hotel being Grade II Listed there is a monument 30 metres west of the hotel that is Grade II listed and also a Grade II Listed lime kiln on the site. In the Torbay Local Plan 1995-2011 the site is shown as being within the AONB, within the Countryside Zone and within a locally important wildlife site. Land to the north of the hotel building is within the Coastal Protection Zone.

Adjacent to the application site is the boundary of the South West Coast Path, the internationally important Special Area of Conservation, the SSSI, Berry Head National Nature Reserve, Berry Head Country Park and scheduled monuments at Ashhole Cavern and Hardy's Head Battery.

There is an area TPO reference 1962.03A4

Relevant Planning History

Extensive previous planning history. Most recent applications are:

- | | |
|-----------|--|
| 2010/0388 | Formation of new lift shaft approved 2.6.10 |
| 2010/0365 | Formation of new lift shaft approved 20.5.10 |
| 2004/1568 | Alterations and formation of lift shaft extension approved 9.11.2004 |
| 2004/1234 | Alterations and formation of lift shaft extension (renewal of application 99.0755PA) approved 7.9.2004 |

Relevant Policies

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

- | | |
|------|--|
| BE6 | Requires development to have regard to preserving any listed building, its setting or features of interest |
| BE9 | Archaeological assessment of development proposals |
| BE10 | Recording of archaeological remains |

Proposals

The application is for Listed Building consent for the following:

- Formation of 5 self catering apartments within site of former oil storage facility.
- Conversion and extension to form detached unit of owners accommodation.
- Reorganisation of car park layout.

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- Reinstatement of a disused footpath from the hotel site to the South West Coastal Path.

Consultations

Brixham Town Council: Recommend approval subject to clarification of parking.

English Heritage: No comments.

Arboricultural Officer: Consultation response awaited.

Natural England: Objects to the proposed development.

Archaeological Officer: Agrees with the Archaeological Assessment.

South Hams AONB Unit: No objection to proposal. The impact of the proposed works on the character and landscape of the AONB will not be significant.

Representations

Four letters of objection received and reproduced at Page B.201.

The following issues are raised:

- Pressure on parking at the hotel when there is a function
- Roads are narrow
- Site is within AONB
- Loss of trees is unacceptable
- Overdevelopment in the grounds of a historical building
- Loss of parking area with development of holiday units
- Owners accommodation will be a large building adjacent to public footpath
- Problems caused by vehicles parking on the road outside the hotel will be made worse
- Noise
- Impact on wildlife
- Road is single track
- A previous application to develop the rotunda has been turned down
- A similar proposal to built self catering units on the old MOD site has been turned down.

Key Issues/Material Considerations

The main issue to be considered is the impact of the proposal on the Listed Buildings.

Policy BE6 in the Torbay Local Plan 1995-2011 requires new development to have special regard to the setting and features of a Listed Building. Both the owners accommodation and the self catering accommodation would be separated from the main hotel building. They would both be ancillary in scale to the hotel and would not compete with the main building on site. As such the proposals would not have an adverse impact on the setting of the Listed buildings on the site.

An Archaeological Assessment has been submitted in support of the application. This identifies the impact of the proposal to be low. The Archaeological Officer has advised that he has no reason to disagree with this conclusion.

B.3

Sustainability – The proposal would make effective use of a site already in a tourism use.

Crime and Disorder - The proposal would not increase the risk of crime in the area.

Disability Issues – Two the self catering units would be at ground floor level and would be accessible by disabled persons.

Conclusions

In conclusion, the proposed development would be sufficient distance from the Listed Buildings on the site and would not compete with their historic character. As such the proposal would be consistent with the objectives of Policy BE6 of the plan. Subject to the receipt of satisfactory revised design information as suggested by the Design Review Panel Listed Building consent should be granted.

Recommendation:

Conditional Approval.

Condition(s):

01. 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. The development shall then incorporate the materials in accordance with the approved details.

Reason: In the interests of visual amenity in accordance with Policies BE1 and BE6 of the Torbay Local Plan 1995-2011.

B.4

P/2010/1361/HA

St. Mary's With Summercombe Ward

14 Springdale Close, Brixham

Alterations, ground floor living room extension and first floor extension to form additional bedrooms, linen room and bathroom with velux windows and dormer roof extensions with glass balustrading

Site Details

The property is a detached bungalow with an under-build integral garage. Due to the slope of the land the property has a 2-storey appearance to the front and single storey to the rear. It is located at the end of a cul-de-sac and there is open land adjacent, to the rear (designated as within the Countryside Zone, an Area of Great Landscape Value (AGLV) and a Wildlife Site in the Local Plan). The land slopes up to the rear.

There is a variety of house designs in the vicinity but mainly comprising bungalows with two storey appearance/under-build garages to the front, some with box dormer roof extensions both to the front and rear elevations. The property immediately adjacent, No. 16 Springdale Close, has box dormer roof extensions to the front and rear elevations and a single storey flat-roofed extension to the side and rear, which is in close proximity to the boundary, but does not have any windows in it facing No. 14.

The property opposite or to the north side which fronts Upton Hill Road has rear box dormer windows facing No. 14.

There was a pre-application enquiry regarding this proposal (See History).

Relevant Planning History

Pre-application enquiry:

ZP/2010/0614 Extension. Permission advised 16/11/2010.

22 Springdale Close:

P/2008/0784 Front and rear dormer loft conversion. Permitted 11/07/2008.

Relevant Policies

Saved adopted Torbay Local Plan 1995-2011 -

H15 House extensions; seeks to ensure that extensions would not dominate or have any other adverse effect on the character and appearance of the original property or the street scene in general nor cause harm to the amenity of nearby properties e.g. through overlooking, overbearing impact, loss of light or privacy.

L2 Areas of Great Landscape Value; development which is likely to affect, directly or indirectly designated areas will only be permitted where it will maintain or enhance the special landscape character.

Proposals

Permission is sought to erect a part one and a half storey extension (with first floor accommodation in the roof space) set back to the eastern side of the property and part first floor/roof extension, over the rear part of the bungalow. The extension would be set back from the front elevation by approximately 5.5 metres. It would provide a new living room at ground floor level and two bedrooms and a bathroom at first floor level. The proposal includes full height pitched roofed dormer windows with glazed balustrades and velux roof lights. There would be French door access to the rear garden from the new living room. Materials are to match existing.

B.4

Consultations

None.

Representations

Letter of objection received from property opposite, fronting Upton Hill Road which has its rear garden/windows facing the application site as well as other properties in Upton Hill Road and from adjacent property in Springdale Close.

Summary of reasons for objection:

- 1) Impact on local area; size (scale and bulk) and design of extension inappropriate, intrusive and not in keeping with adjacent buildings and local area;
- 2) Overdevelopment of a building on a rural estate;
- 3) Design, appearance and layout is not subordinate to existing building;
- 3) Overlooking/loss of privacy/loss of sunlight; objectors property situated directly opposite already overlooked would be affected to a greater extent by proposed extension; would overlook ground floor living areas and cause considerable loss of sunlight on ground floor and garden particularly in Autumn and Winter.

Key Issues/Material Considerations

Impact on the character and appearance of the property, the street scene and the Area of Great Landscape Value (AGLV):

The proposed extension is substantial and would have a ridgeline higher than the existing ridgeline (by approximately 1.5 metres). However it is well setback to the rear part of the property (5.5 metres back from front elevation) and would not be as prominent or dominant as it appears on the north elevation plan, as the sense of depth/perspective is not apparent. The property is also located at the end of a cul-de-sac and as such the extension would not be particularly dominant or prominent in the immediate street scene.

The scale and design is considered to be acceptable with the addition of pitched roofed dormers to the new roof and is considered to be preferable to the addition of box dormer roof extensions, which appear in the vicinity. The character would also still essentially be that of a "bungalow" with well designed accommodation in the roof space. The existing property in any case has a two storey appearance to the front with an under-build garage, rather than that of a single storey bungalow.

Whilst the site is in on the edge of the built up area of Brixham with open land to the rear, which is in the countryside zone and an Area of Great Landscape Value (AGLV), the extension would be read in the context of the existing property/built up area and should not be significantly detrimental to the character of the adjacent countryside zone or the AGLV.

It is considered that there would be insufficient adverse impact on the character and appearance of the property, the street scene or the adjacent AGLV to warrant a refusal.

Impact on neighbouring residential amenity:

The extension is set back towards the rear part of the property and whilst there has been an objection from a property opposite fronting Upton Hill Road (No. 6), (as well as other properties set further off in Upton Hill Road), on the grounds of overlooking, loss of privacy and sunlight, the proposed extension and new windows (to a living room on the ground floor and a bedroom on the first floor) would be set well off the rear elevation of this property by some 22 metres and as such any overlooking or overshadowing would not be significant.

B.4

In any case the application site has existing windows in the front elevation, to the lounge and kitchen, which look towards the rear of the Upton Hill Road properties and which are in closer proximity to their rear gardens/windows than the proposed windows. Also No. 6 Upton Hill Road also has rear dormer windows looking towards the application site, so mutual overlooking already exists.

The extension to the eastern side would be adjacent to and offset at an angle to a neighbouring flat-roofed single storey wraparound extension, which is in close proximity to the boundary (at No. 16 Springdale Close). However, this extension does not have any windows facing the application site and the proposed extension would be quite well set off, set back from and at an angle to the rear garden and the rear windows of this property. No windows are proposed in the side elevation of the extension facing No. 16, apart from a roof light.

It is considered that there would be insufficient detrimental impact on neighbouring residential amenity in terms of overbearing impact, loss of light, outlook or privacy to warrant a refusal.

Sustainability - The use of the property is not changed. The proposal makes good use of the site to provide enlarged living accommodation. A suitable soakaways/SUDS condition should be added if the application is approved as the discharge of surface water is not specified.

Crime and Disorder - No significant impact provided appropriate quality and standards of door and window security etc. is taken into account.

Disability Issues - No significant impact; the front access and parking arrangement is not changed.

Conclusions

The proposal is considered to be an acceptable form of extending the property and consistent with the objectives of the relevant Torbay Local Plan policies H15 and L2. However in view of the objections from neighbouring occupiers it is considered to be appropriate for Members to visit the site.

Recommendations:

Site Visit and Conditional Approval.

Condition(s):

01. 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.

B.4

Informatives:

01. The proposal has been designed to ensure that it would protect the character of the local townscape and landscape and would not have an adverse effect on the character and appearance of the property or the street scene. It has also taken account of neighbouring residential amenities and the proposal would not materially harm the residential amenity of nearby properties by reason of overbearing impact, overlooking, loss of privacy or natural light (Policy H15 and L2 of the saved adopted Torbay Local Plan 1995-2011).

B.5

P/2011/0018/MPA

Berry Head With Furzeham Ward

Torbay Holiday Chalets, Fishcombe Road, Brixham

Formation of 40 self-catering units with associated leisure facilities

Site Details

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

The existing development, in addition to being in general poor repair, shows a mixed form of pitched and flat buildings, which provide a grouping that does not contribute positively to the quality of the local area. The buildings overlook an area of hardstanding and managed grassland, which in-turn gives way to a steeply sloping cliff face that continues to the northern site boundary where it meets the sea. The site is accessed via a winding road that serves the small number of sites in the locality, although this road does combine with a beach access lane and a public footpath on towards The Grove woodland.

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

Relevant Planning History

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

Relevant Policies

Saved Torbay Local Plan 1995–2011:

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

B.5

TU7	Change of use or redevelopment of holiday accommodation outside Principal Holiday Accommodation Areas
TU9	Refurbishment and development of new holiday centres or parks
TU10	Change of use or redevelopment of holiday centres and parks
TS	Land use transportation strategy
T25	Car parking in new development; and
T26	Access from development on to the highway
CFS	Sustainable communities strategy
CF6	Community infrastructure contributions
HS	Housing strategy
H2	New housing on unidentified sites
H6	Affordable housing on unidentified sites
H9	Layout, design and community aspects
W7	Development and waste facilities

Proposals

The proposal is a redevelopment scheme to clear the site of the current buildings in order to supply 40 self-catering units with associated leisure facilities, which include a spa, restaurant and pool, along with a 'natural' play area. The proposed units are a mix of one and two storey buildings, which incorporate outdoor terraces and light glass-box detailing within the upper floor (in order to react to the orientation and viewpoints). The units are laid out in curved terraces with 'green' roofs, which layer down the site with the natural topography. The associated leisure facilities that are proposed are set towards the east of the site close to the proposed entrance. Revised access arrangements show a refined corner entrance, with parking shared between a small number of greeting spaces and groupings of spaces dotted amongst the upper areas of the development within a 'home zone' design scheme. In regard to landscaping the proposal shows the retention of a green fringe towards the coast, albeit reduced due to the extent of built footprint proposed. This is supplemented to a degree by green roofing and landscaping works within the built area, which is stated as providing an overall net gain of greenscape across the site.

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

Consultations

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

Consultation responses received

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

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

It is also noted that the proposals put forward by EAD Ltd and Section 4 of the Ecological Impact Assessment (JAN 2011) should be conditioned as part of any potential permission by the Authority.

B.5

The Authority's Conservation & Design Team: No objections, the scheme has responded positively to the Design Review Panel comments.

The Authority's Arboriculture Team: No arboricultural constraints will exist to the proposed development given the recently approved tree work application, and therefore approval for the application on arboricultural merit is recommended.

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

Strategically the Transport Statement proposes acceptable arrangements and the application also includes an outline staff and visitor Travel Plan. Requests a s106 contribution to improve walking and cycling in the area, which should be paid prior to the 1st occupancy on site.

Consultation responses still pending:

South Hams AONB Unit: (Landscape issues)

English Heritage: (Battery Gardens SAM implications)

The Authority's Affordable Housing Team:

The Authority's Drainage Department:

Representations

As of the 7th February 3 identical representations were received that expressed the following concerns;

- The impact of the revised vehicular entrance upon the footpath leading to Fishcombe Cove
- The impact of the revised vehicular entrance, notably the resulting two-way traffic passing past the entrance, upon the operation of the Brixham Battery Museum
- The impact of increased vehicular traffic upon the safety of walkers/ road users
- The unsuitability of the gradient of Fishcombe Beach footpath as a vehicular route given previous knowledge of stranded cars/vans in wet or icy conditions.

The public consultation period is open until 11th February and hence there is the possibility of further representation being received, any further representations that are received will be copied for members within the late representations bundle.

Key Issues/Material Considerations

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

The Principal of Residential Development

The proposal sets out the aspirations to provide up-market holiday accommodation that is not provided through restricted holiday use but through an open residential consent for reasons of viability. On paper the proposal is therefore for the loss of a holiday site (albeit derelict) for residential and leisure buildings, but with the indication that the aspiration is for the delivery of holiday-based occupancy.

B.5

The ethos that supports the development is the philosophy that design influences use and that therefore, through layout, design and scale, along with the provision of engrained leisure facilities and the location of the site, it will provide an arrangement and set of influences that will present a natural steer towards holiday occupancy over permanent occupancy.

The key questions are therefore whether the Authority is satisfied with the assertion that design will indeed influence use, and if so how this could be bolstered through other measures such as the S106 Legal Agreement. On the other hand if there is considered to be some conjecture over the future use, do the wider benefits of the redevelopment provide an acceptable package for the site to be allowed to move to residential, in light of improved buildings, facilities, jobs etc, along with the suitable level of planning contributions.

In regard to the philosophy that design influences use and that this will remain a bona fide holiday site, the applicant has inferred that the philosophy has successfully provided holiday units within a number of other South Devon sites and has outlined that he will be submitting further information to support this statement. At the time of writing the report this information was still pending, however, it is expected prior to the committee.

Visual Implications

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

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

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

It should be noted that the proposal has been through the Torbay Design Review Panel and the current submission has been packaged as a responsive solution that has carefully considered the comments that were outlined. A copy of the panel's comments has been supplied within the Design & Access Statement with the application and a copy will be provided within the representations bundle for members.

The comments of the South Hams AONB Unit are pending and due weight should be given to their response and any perceived implications upon the AONB. Similarly English Heritage's comments are still pending and due weight should be given to their response and any perceived implications upon the adjacent Scheduled Ancient Monument.

Key issues for members to consider in relation to design and visual impact are:

B.5

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

Ecological Implications

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

Natural England has not identified specific concern in regard to any particular issue, however they have indicated that the mitigating measures identified within the submitted Ecological Impact Assessment should be conditioned as part of any planning approval. Deferring to this advice the proposal is considered acceptable in respect of the ecological implications.

Highway Issues

The proposal provides a 1:1 parking ratio with the access amended to Beach lane. The Authority's Highways Department considers the proposals acceptable on highways grounds as the established use largely mitigates the implications of the redevelopment scheme of 40 units. There is no stated objection.

Amenity Issues

The scale and form of the proposal, in conjunction with the orientation and distances to surrounding sites and buildings, provides a scheme that appears to have little impact upon the amenity afforded neighbouring occupiers or businesses. The proposal is therefore considered acceptable on amenity grounds. However, it is noted that the scheme may intrude on the views afforded to the commercial business behind the site at Brixham Holiday Park, further information in relation to the visual impact from this side of the development has been sought.

Planning Contributions

As the proposal is for the provision of 40 open residential units, the scheme should attract affordable housing and sustainable development contributions inline with the Authority's adopted policy, unless mitigation for current use or viability demonstrates otherwise.

Sustainability - The scheme will bring back to life a brownfield semi-derelict tourism site that sits within a sustainable location near to supporting holiday facilities and transport infrastructure.

Crime and Disorder - It could be supposed that an operational site would increase activity and natural surveillance in and around the area and remove the likelihood of trespass or antisocial or unlawful behaviour on a semi-derelict site.

Disability Issues - The land is steeply sloping and it is not clear how the applicant intends to provide the necessary level platforms in order to meet with Part M of the Building Regulations and the D.D.A. However, it is more appropriate in any event to sort this out at the detailed design stage.

B.5

Conclusions

The scheme provides an innovative redevelopment proposal of a brownfield site that is currently detrimental to the visual qualities of the area and does not contribute to the wider holiday package offered by Brixham. The packaging of the scheme as a residential development provides a degree of complexity to a scheme on a holiday accommodation site. However, notwithstanding that issue, wider net benefits include of this scheme the provision of improved buildings, facilities and jobs.

The application has come to committee early for direction with regards to the basic principal of a holiday scheme packaged within an open residential use. In addition, direction is sought on the proposal in relation to the approach taken on design and on the visual impact of the scheme.

Recommendations:

Committee site visit; Report further information in relation to s106 matters and the use of the site and further information on the visual impact; and report the observations from English Heritage and the South Hams AONB Unit Manager

Condition(s):

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

Reason: To ensure that adequate off-street parking and access thereto is provided and kept permanently available for use, in accordance with policy T25 and T26 of the Saved Torbay Local Plan, 1995 - 2011 (as adopted in April 2004), in the interests of highway safety, and in order to protect the amenities of the neighbourhood.

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

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

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

B.5

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

04. The leisure facilities detailed within the plans hereby approved shall be completed and made available for use, in full, prior to the first occupancy of the 10th unit, unless otherwise submitted to and approved in writing.

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

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

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

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P/2010/1308/PA

Preston Ward

Parkfield House, Esplanade Road, Paignton

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

Site Details

The application site relates to the curtilage of Parkfield which is a Grade II Listed Building. It is situated to the north of Esplanade Road and Lower Polsham Road. The railway line runs along the western boundary of the site. The site is situated close to the sea front. The southern part has significant mature tree cover. Most of the trees are the subject of TPOs. The walls and gate piers on the site and a garden house to the north of Parkfield (known as the folly) are also listed. Parkfield was most recently used as Council offices. The My Place development is currently under construction on the site.

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

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

Relevant Planning History

- 2009/0983/R4 Demolish nursery buildings. Replace with new build 'My Place' building containing indoor sports hall, associated changing and toilet facilities, cafe/internet areas, recording and sensory rooms. Outdoor facilities to include BMX and skate board tracks, on site car parking and landscaping. Renovation and change of use to Parkfield House from Council offices to 30 bed youth hostel for new 'My Place' building. Landscaping to existing grounds. Approved 26/11/2009.
- 2010/0155R4 Change of use of existing folly from garden storage to skate park kiosk and first floor office. Adjustment and widening of exit pillars onto Lower Polsham Road from approved site approved 10.5.10
- 2010/0156 Change of use of existing folly from garden storage to skatepark kiosk and first floor office, adjustment and widening of exit pillars onto Lower Polsham Road from approved site approved 14.6.10

Relevant Policies

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

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

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L9 Protection of trees

Proposals

This proposal is to relocate the BMX track that has previously been approved, moving it 7 metres to the south of its approved location, closer to the boundary of the site with Lower Polsham Road. The area to the north of the site, originally allocated for parking for 50 vehicles, four of which were disabled spaces, is to be retained as grass.

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

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

Consultations

Highways: No objection

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

Arboricultural officer: Consultation response awaited.

Representations

Two letters of representation received and reproduced at Page P.202. Citing the following key concerns:

- Grave concerns about height and proximity of bank in relation to Lower Polsham Road.
- Suggests height of bank would be twice the height of the railway bridge.

Key Issues/Material Considerations

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

Car parking

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

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Trees

The proposal would necessitate the felling of a grade C sycamore tree (originally surveyed as tree number 140) and a Portugal Laurel which was not included in the original tree survey due to the species type. The arboricultural officer's consultation response is awaited in relation to these changes.

Ground levels

The ground levels drop at the southern end of the site and therefore the proposed re-siting of the BMX track will necessitate increasing the ground levels by several metres. The submitted plan shows that a Tensar Tech green slope retaining structure will be used to form a bank. Sections through the site have now been received and these illustrate how the ground levels will be changed. The applicant has been requested to place markers on site to show the proposed changes in levels. It is suggested that Members visit the site to assess the visual impact of this part of the proposals.

Noise impact

As a result of the proposal the BMX track would be sited closer to residential properties in Lower Polsham Road. In the Acoustic Impact Assessment submitted with the original planning application (2009/0983) it advised that the National Playing Fields Association's guidelines contained in its publication "Planning and Design in Open Spaces" recommends that there should be a buffer zone between play and recreation activities and residential properties. It is suggested that wheeled activities should be situated a minimum of 30 metres from the residents boundary. The submitted plan shows that the revised location of the BMX track would be 27 metres from Lower Polsham Road. The applicant has submitted a plan showing the closest part of the BMX track would be 54 metres from the nearest residential property 2 Oldenburg Park.

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

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

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

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

Conclusions

In conclusion the changes to the ground levels to form the BMX track will make the track more visible from Lower Polsham Road. An important consideration is the impact of the development on the visual amenity of the area. The alterations to the ground levels on site will be set out by the applicant and this will be beneficial in assessing the impact of the

P.1

proposal. The views of the arboricultural officer are awaited on whether the removal of the trees would be acceptable.

Recommendation:

Report further information in respect of the loss of the trees, the changes to ground levels and the provision of adequate parking.

P.2

P/2010/1379/MPA

Blatchcombe Ward

Land At Long Road South, Off Brixham Road, Long Road And Waddeton Road, White Rock, Paignton

Formation of 61 bed hotel (C1) and pub/restaurant (A3)/(A4) with associated car parking and landscaping

Site Details

Area of land to the south of the junction of Brixham Road with Long Road. The site has had industrial/commercial uses upon it in the past, but has been vacant for some time now. The site benefits from improved highways and drainage infrastructure as a result of previous permissions.

Relevant Planning History

- White Rock Planning Brief (Nov, 2004) established the basic principle of developing this land with a hotel.
- The Saved Adopted Torbay Local Plan embodies the principle of employment uses in the area in policy E1.19 (which identifies the development of a prestige business park at Long Road South (11.8 hectares).
- Planning application reference P/2004/1621/MOA gave permission (in outline) for the erection of a business park totalling not more than 55,740 sq. m. of accommodation, comprising a hotel/conference facility, crèche, restaurant and/or public house, health and fitness centre and small scale retail units, with associated infrastructure and engineering works to facilitate access, parking, landscape and drainage requirements - (approved).
- Reserved Matters application (reference P/2007/0970) provided details pursuant to conditions relating to roads, sewers, attenuation tanks, and landscaping (not all of the conditions), but only relating to the development of Phase 1 land.
- All other matters as required and as reserved by conditions on the outline consent have never been the subject of submissions. On this basis, the relevant applications are now deemed to be null and void because the outline consent has lapsed as not all of the Reserved Matters were submitted in time.
- The issues approved under the 2007 Reserved Matters planning approval have been carried out, but the deed of Variation to the Section 106 agreement explicitly excluded them from constituting development which would have triggered some of the obligations of the Section 106 agreement. Accordingly, the s106 Planning Obligation has been deemed not to be relevant any more.

Relevant Policies

Saved Adopted Torbay Local Plan, relevant policies:

- E1.19 (Long Road South, Paignton) - The development of a business park (11.8 hectares) is proposed.
- E9 Layout, design and sustainability of applications for commercial and industrial development
- CF6 Community infrastructure contributions
- INS Infrastructure for new development in Torbay should be implemented in a sustainable manner
- L9 Planting and retention of trees
- L10 Major development and landscaping
- EPS Environmental protection strategy
- EP1 Energy efficient design
- BES Built environment strategy

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BE1	Design of new development
BE2	Landscaping and design
T1	Development accessibility
T2	Transport hierarchy
T22	Western Corridor
T25	Car parking in new development
T26	Access from development on to the highway
T27	Servicing.

Also relevant are:-

- The Urban Design Guide, adopted in May 2007 and published as LDD7 forming part of the Torbay Local Development Framework, particularly relevant are the urban design objectives.
- "Planning contributions and affordable housing: priorities and delivery", supplementary planning document forming part of the Torbay Local Development Framework, adopted April 2008, as updated by 'Update 2: Economic recovery measures' adopted June 2010. These documents are relevant in identifying and calculating the amount of community infrastructure contributions that will be due under policy CF6 (see above).

Proposals

Permission is sought for a 61 bed Premier Inn and an associated Restaurant, together with parking for 114 cars on the vacant site at the junction of Brixham Road with Long Road and Waddeton Road. The site of approximately 0.66 hectares is in effect a gateway site to the land behind which has been identified for business development, but is likely to come forward as a mixed-use development in view of the changing economic circumstances. The periphery of the site has already been landscaped as part of the wider development but will be complimented with additional landscaping as part of this proposal.

The two proposed buildings are separate but inter-related; however the restaurant would be open to non-residents and would cater for 220 covers. It is proposed as a 'Table-Table' restaurant, which is the top of the range establishment operated by Whitbread's. The hotel is shown with a range of heights up to a maximum of 4 storeys, whilst the restaurant is approximately 2 storeys (equivalent) in height. The buildings are designed in a contemporary style with a range of materials. The hotel includes white and cream coloured render finishes, panelling, curtain walling and aluminium triple glazed windows to the hotel. The restaurant is shown as render finish with horizontal timber cladding, light grey panels and slate grey roof tiles. Vehicular access is provided to the rear of the site off Waddeton Road via a roundabout on Long Road. Parking, access and facilities for the disabled are also shown.

Consultations

Torbay Design Review Panel: The panel were consulted as part of the pre-application process and the advice was used to inform the formal application. The main points raised are as follows:

- The panel was not convinced that the adoption of the 'contemporary-vernacular' style was resulting in a distinctive piece of architecture reflecting the quality that a site such as this demands.
- The panel urged a braver approach on the design which was seen as being neither traditional nor contemporary in style but an uncomfortable hybrid. A more restricted range of materials invariably leads to greater elegance and stronger identity and the panel would urge some rationalisation around a few good quality materials.

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- The orientation of the buildings to create a presence on the road side was causing confusion between fronts and backs.
- The territory between the hotel and the restaurant could be a very pleasant landscaped space providing a welcome to both buildings.
- A reduction in the footprint of the hotel building would potentially release some space for a stronger framework of soft landscaping in the car parking area. Tree planting included within the centre of the site could help to reduce the impact of the cars and introduce some solar shading in the summer months.
- The layout generally was seen to be very dominated by the car parking which takes up the southern aspect of the site.
- The panel also suggested that the pedestrian access the Brixham Road needed better resolution and legibility. Creating a good experience of approach and entry for pedestrians should be the first priority of the layout.

Highways Officer: No objection, but request a Section 106 contribution to go towards the Western Corridor scheme.

Strategic Transportation: No major issues with either the Transport Statement or the Staff Travel Plan, but needs a few minor modifications which are the subject of on going negotiations. This site requires a sustainable transport contribution, some of which would be used towards Tweenaway Cross. The rest would be split between improvements to the 'Western corridor' route and improved bus facilities in the vicinity.

Arboricultural Officer: Notes that earlier works within the area have incorporated significant landscaping including tree planting and bank creation, all of which have a commonality in reflecting the themes of the wider landscape. Few trees of any great arboricultural significance are located within the site. However, those that are on the site include 5 cedars, which now present a significant presence to the local landscape. The cedar at the end of the group nearest Long Road has the potential to be integrated into any proposal and would be a significant focal point for the scheme. The need to provide exceptional quality landscaping to integrate the proposals into the wider master plan for the White Rock scheme should be a matter of priority with particular attention being paid to road frontages, public viewpoints into the site from local and far reaching aspects, and consideration to utilising the emerging cedars.

Royal Society for the Protection of Birds (RSPB): Have identified the site as lying within an area important for Cirl buntings. The RSPB's concern is to ensure that any permission does not result in a net loss of habitat suitable for the species and does not involve removal of potential breeding habitat during the nesting season. RSPB suggests that any permission should ensure that construction works and subsequent landscaping and management safeguard Cirl buntings and any habitats and features they could use on the site. The RSPB therefore recommends conditions to ensure no harm to breeding Cirl buntings and to retain habitats of importance at the site.

Natural England: Observations, particularly in relation bats, are awaited and will be reported to Members.

Representations

A number of representations have been received and are reproduced at Page P.200.

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Consultation period

The Council has recently become aware that the original advertisement and notification process was not as extensive as it should have been. On this basis, interested parties/households in the neighbourhood are being notified again of the proposal to ensure all who wish to make views known have the opportunity to do so. The lapse in time means that members of the public have now been given until 28th February to make representations. On this basis, the recommendation will have to be subject to no new comments being received during the consultation period following Members consideration.

Key Issues/Material Considerations

The principle of the development is considered to have been established in policy terms via the previous 'White Rock Development Brief' and through the previous permissions. There is evidently demand for additional high quality bed spaces in hotels, not only for tourism purposes but for business travel as well.

Given this, the key issues are considered to be:-

- Site layout and design of buildings,
- Parking provision,
- Sustainable construction,
- Pedestrian linkages with surrounding communities,
- Section 106 requirements.

Site layout and design

This is a highly visible, prominent, prime site, located on a principal spine road (the ring road), and it will act as a 'gateway' site to the land it is envisaged will be opened up for development beyond. The design and appearance of the two proposed structures has significantly improved since that originally considered at pre-application stage and by the Torbay Design Review Panel. Officers are continuing to negotiate on the detailed design of the proposed buildings. This is unlikely to fundamentally change the format and position of the buildings. A further update will be provided at the committee, but it is recommended that delegated approval be given to the Executive Head Spatial Planning to resolve outstanding design issues.

Parking and servicing

The building has been designed to accommodate an additional 20 bedrooms if required in the future. The Applicant considers it prudent to provide sufficient car parking at this stage to accommodate a potential 81 bedrooms. As such 114 parking spaces are provided. The car parking area is largely screened from Brixham Road and Long Road, but would be evident from the estate road to the north-east of the site. Consequently additional landscaping around and within the car park is required, not least to break up the quite large expanse of hard surfacing. In addition opportunity for sharing parking spaces will be sought when a development scheme for the wider area comes forward. As most visitors to the site are likely to arrive by car, it is considered that the proposed level of parking provision is satisfactory.

Sustainable construction

The Council is currently negotiating on this and Whitbread has confirmed its willingness to improve the performance of the hotel and restaurant. It is anticipated that the buildings will in the future be connected to the use of a 'Combined Heat and Power' system for the wider White Rock development area.

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Pedestrian Linkages with surrounding communities

There is a pedestrian phase now introduced into the newly re-designed Brixham Road/Long Road/Goodrington Road traffic light controlled junction and this is probably sufficient to ensure proper pedestrian access between the proposed uses and the residential areas on the other side of Brixham Road. Additional pedestrian access to the site is being proposed and further points of pedestrian/cycle crossing are highly likely to be introduced in the proposal for the wider development of White Rock.

Section 106 Community Infrastructure Contributions

The proposal does meet the requirements for a Planning Obligation under s106 of the Town and Country Planning Act. Contributions should be sought for Sustainable Transportation and Green Space/Recreation. This will need to be formalised in a legal agreement. Officer's have already begun this process.

Crime and Disorder - Premier Inn are long established in this market, and have other successful operations in Torbay. It is not expected that the proposal would lead to any undue issues of crime or disorder.

Disability Issues - Level access can be achieved from the car parking area to the main entrance reception. The building will need lift access for the upper levels of the hotel. Disabled parking spaces are provided immediately adjacent to the entrances to the hotel and restaurant. All aspects of the design can (and will need to) comply with Part M of the Building Regulations. 3 universal access bedrooms are proposed for the hotel.

Conclusions

The basic principle of the proposed use has already been established in policy and in the earlier brief for the development of the site. Although the previous outline planning consent has now lapsed, the use proposed will still be required to service existing business/college premises and the business/industrial uses that are being considered in the wider White Rock context, and to serve Torbay as a whole. There are no objections on the substantive policy arguments. However, officers are pursuing minor amendments to the design and detailing in order to improve the overall appearance of the scheme. Subject to a successful conclusion to these negotiations, Officers consider that the proposal can be recommended for approval.

Recommendations:

Subject to no new comments being received during the consultation period following Members consideration, subject to revised plans to resolve outstanding detailed design issues, subject to the views of Natural England and, subject to the signing of a s106 agreement in terms acceptable to the Executive Head of Spatial Planning within 6 months of the committee meeting, conditional approval.

Condition(s):

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

Reason: In order to ensure the proper setting and screening for the hotel and restaurant, in the interests of the amenities of the area and to ensure accordance with policies L8, L9, L10 and BE2 of the Saved Adopted Torbay Local Plan.

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

Reason: In order to ensure the proper setting and screening for the hotel and restaurant, in the interests of the amenities of the area and to ensure accordance with policies L8, L9, L10 and BE2 of the Saved Adopted Torbay Local Plan.

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

Reason: To allow the Local Planning Authority to assess this element of the proposal and ensure that the development does not prejudice the character and setting of the existing building, and the area in general, in accordance with policies BES and BE1 of the Saved Adopted Torbay Local Plan.

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

Reason: To allow the Local Planning Authority to assess this element of the proposal and ensure that the development does not prejudice the character and setting of the existing building, and the area in general, in accordance with policies BES and BE1 of the Saved Adopted Torbay Local Plan.

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

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

06. 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.

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

Informative

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

07. No vegetation clearance that involves removal of habitats such as scrub or hedges, including bramble patches, shall occur during the bird breeding season. Cirl buntings can breed from the beginning of April to mid September. Other species, such as robins and blackbirds that can nest in similar habitats, start breeding earlier so good conservation practice would be to avoid removing such vegetation from 1 March.

Reason: This will avoid damaging any birds nests which would cause potential conflict with the Wildlife and Countryside Act 1981, and will ensure accordance with policy NC5 of the Saved Adopted Torbay Local Plan.

Informatives:

01. New landscaping associated with the development as required by condition of this approval, shall be created using native, locally occurring species suitable for Cirl buntings (e.g., Devon hedges rather than fences or non-native feature tree or shrub planting), and its subsequent management should be appropriate for retaining its value for Cirl buntings. Any existing habitat of value to Cirl buntings such as hedges, bramble, scrub and rough grassland shall be retained where possible and this shall be built into the landscaping proposals.

Reason: This will avoid damaging any birds nests which would cause potential conflict with the Wildlife and Countryside Act 1981, and will ensure accordance with policy NC5 of the Saved Adopted Torbay Local Plan.

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P/2010/1399/PA

Preston Ward

31 Marine Drive, Paignton

Demolition of building and reconstruction of a semi detached building to include 7 residential apartments

Site Details

The application site relates to a three storey semi detached property situated on the west side of Marine Drive. Marine Gardens runs along the northern boundary of the site. Marine Drive is a one way road at this point. The property is currently divided into 5 flats, of which 4 are used as holiday accommodation and 1 as owner's accommodation. The property is clearly visible in the street scene. There is off street parking within the curtilage that is accessed from Marine Gardens.

The surrounding area is in a variety of uses. There is a recent development of holiday flats to the north at the Belvedere. The adjoining half of this pair of buildings (29 Marine Drive) is in use as residential flats. In the Torbay Local Plan 1995-2011 the site is shown as being within the Principal Holiday Accommodation Area (PHAA). The boundary of the Coastal Protection Zone runs across the front curtilage. The site is within Flood Zone 3.

Relevant Planning History

2004/0535	Installation of replacement upvc windows and doors approved 19.5.04
2004/0534	Alterations to existing dormer window to enlarge and form balconies approved 21.5.04
2003/2045	Alterations to existing dormer windows to enlarge and form balconies refused 9.2.04
2003/1903	Alterations and 2 storey extension to form owners accommodation approved 29.1.04
2003/1263	Alterations and extension at first floor to form 4 holiday apartments (from 5) refused 10.9.03
1985/0383	Use 6 holiday flats/owners flat approved 1.4.85

There are a number of planning applications relating to the adjoining property the Belvedere for a change of use from holiday use to permanent residential use.

Relevant Policies

PPS25 Development and Flood Risk

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

H2	Promotes sustainable forms of new development
H9	Requires a high standard of design, taking into account characteristics of existing environment.
H10	Supports development at maximum densities
TU6	Changes of use that are detrimental to the character and function of the PHAA will not be permitted.
EP1	Supports incorporating energy saving features into design and layout.
EP12	Sets out criteria for assessing proposals for development within the Coastal Protection Zone
BES	Requires new development to conserve or enhance the built environment.
BE1	Requires design of new development to take account of the wider context.
CF6	Requires appropriate contributions to provide social, physical or environmental infrastructure.

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T25 Maximum car parking standards are set out in the schedule.

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.

SPD Urban design Guide

Proposals

The application is to demolish the semi detached building and to construct 7 apartments on the site for permanent residential use. The proposed development would be four storeys and would comprise two apartments each at ground, first and second floor levels with a 4 bedroom apartment on the third floor level.

Seven off street parking spaces would be provided accessed from Marine Gardens. The ridge height of the proposal would be higher than the adjoining half of the semi detached building. The front building line would also be stepped forward of the adjoining property. The front elevation would have a dominant gable that would be predominantly glazed. Other proposed materials would include use of brick at ground floor level, with timber cladding and rendered panels above and a zinc style roof.

Consultations

Senior Transport Planner: Requests a Section 106 contribution towards sustainable transport and cycle parking for each unit.

Environment Agency: No objection to the proposal but advise that the site could still be at risk during an extreme event. Suggests a condition requiring a flood plan prior to the occupation of the buildings.

Highways: No objection to proposal. Requests a kerbed line at the boundary between the development and the highway to properly demark the different areas. Also requests a Section 106 contribution to go towards the proposed Preston seafront to Paignton seafront cycle link.

Representations

Four letters of objection received and reproduced at Page P.201. The following issues are raised:

- Proposal is too large
- Loss of light
- Impact on stability of adjoining property
- Intervisibility between windows
- 29 and 31 Marine Drive should be redeveloped at the same time
- Impact on local area
- Not in keeping with local area
- Overdevelopment
- Sets precedent
- Insufficient parking provision
- Where is bin storage?

Key Issues/Material Considerations

The main issues are the principle of demolition of the existing building, the principle of the loss of holiday accommodation on the site, the appearance, siting and scale of the building, highways, flood risk, and Section 106 contributions.

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The existing property is not a Listed Building and is not in a Conservation Area. It is not of sufficient architectural merit to warrant its retention. Although in terms of considering a redevelopment proposal for the site it would be preferable to see both halves of the semi detached building demolished to allow greater scope for development there would be no specific reason to insist on its retention. The architect has advised that discussions have been held with the owners of the adjoining half of the building and it has not been possible to reach an agreement in respect of total redevelopment of both semi detached properties.

The application site is within a Principal Holiday Accommodation Area (PHAA). Policy TU6 in the Torbay Local Plan 1995-2011 seeks to retain holiday accommodation within these areas. Revised guidance on the interpretation of this Policy was adopted in March 2010. In this guidance the site is within a 'green' area and the guidance states "conditions on occupancy likely to be removed". In this case it is considered that the loss of a holiday use on this site would not result in the loss of tourist facilities that make a significant contribution to the tourist character of the Bay. The size of the site would not lead to the loss of a significant holiday use. In addition, there is a mixture of uses in the vicinity and the holiday character is already significantly affected by existing residential uses. Therefore the principle of the loss of a holiday use in this location would be acceptable.

The size of the proposed new development would be larger in terms of scale of building than the existing building currently on the site. The front building line would be brought forward, the height of the building would be increased and the size of the building would be larger on the side elevation fronting Marine Gardens. An assessment of the design and appearance of the proposal falls to be considered against Policies BES and BE1 in the Torbay Local Plan 1995-2011. These Policies require new development to protect the integrity of local character and distinctiveness and to enhance the built environment. In the context of the site four-storey redevelopment has been carried out on the adjoining Belvedere site and also on the nearby development of flats on the other side of Manor Road at Tembani Court. Reference is made to these in the Design and Access statement. However, it is considered that the immediate context of the site in terms of the adjoining half of the semi detached building is important and the redevelopment of the site needs to respect this context.

There is concern that the proposal would be overly dominant in relation to 29 Marine Drive and would result in a discordant relationship of buildings and as such would detract from the appearance and character of the area. The combination of increasing the height of the roof, bringing the building line forward and the scale of the gable on the front elevation would result in a visually prominent form of development that would overwhelm the adjoining property, and would be disruptive to the street scene.

The proposal would provide seven parking spaces to serve the proposed flats, which would be an acceptable level of parking in this location. Cycle parking is also shown on the site. The highways engineer has not raised an objection to the proposal. Section 106 contributions have been requested towards the provision of sustainable transport.

The application site falls within flood zone 3. A flood risk assessment is submitted in support of the proposal, which contains a number of recommendations to reduce the consequences of flooding and facilitate recovery from the effects of flooding. The Environment Agency has raised no objection to the proposal providing an evacuation plan is produced by the developer. This matter can be addressed by condition.

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In accordance with the Council's SPD "Planning Contributions and Affordable Housing: Priorities and Delivery" the following contributions would be payable:

Waste management £175

Sustainable transport £9530

Education £3720

Lifelong learning £1830

Greenspace £8040

Total £23,295

Sustainability – The proposal would make effective use of an existing site.

Crime and Disorder - The proposal would not increase the risk of crime in the area.

Disability Issues – Two apartments on the ground floor would be accessible by disabled persons.

Conclusions

In conclusion, there would be no objection to the principle of demolition of the property and the proposed change of use from holiday use to permanent residential use. The proposal would constitute an investment in an existing building which would upgrade the standard of accommodation on the site. However this economic benefit needs to be balanced against the impact of the proposed redevelopment on the appearance and character of the area. There is concern that the proposal would constitute overdevelopment of the site that would result in a building that would be out of scale and character with its setting and would fail to enhance the appearance of the area. For this reason it is considered that the proposal would constitute an inappropriate form of development on the site that would fail to meet the objectives of Policies BES and BE1 in the Torbay Local Plan 1995-2011.

Recommendation:

Refusal

Condition(s):

01. The proposed development by reason of its scale, height and massing would have an overbearing and over dominant impact on the adjoining semi-detached property at No. 29 Marine Drive. The combination of increasing the height of the roof, bringing the building line forward and the scale of the gable on the front elevation would result in a visually prominent form of development that would overwhelm the adjoining property, and would therefore be incongruous in the street scene. The resultant development would provide for a discordant relationship of buildings and as such would detract from the appearance and character of the area. As such the proposed development would be contrary to Policies BES and BE1 of the saved Torbay Local Plan 1995-2011 which seeks to ensure that new development protects the integrity of local character and distinctiveness and enhances the built environment.
02. In the absence of a signed Section 106 Legal Agreement, the proposal fails to mitigate against the impact of the development upon physical and social infrastructure in the area. As such the proposal is contrary to policy CF6 of the Saved Torbay Local Plan 1995-2011, advice contained in the Planning Contributions and Affordable Housing Supplementary Planning Document and advice contained in Circular 05/2005.

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P/2011/0064/HA

Preston Ward

10 Hutton Road, Paignton

Retention of windows installed in dormer extension (amendment to previous approval P/2009/0939)

Site Details

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

Relevant Planning History

None.

Relevant Policies

Saved Adopted Torbay Local Plan 1995-2011 -

BES Built environment strategy

BE1 Design of new development

H15 House extension

Proposals

The proposal is to construct a flat roofed dormer on the side elevation of the property which faces 8 Hutton Road. The application also includes the addition of one Velux window to the roof elevation facing 8 Hutton Road and two to the elevation facing 12 Hutton Road. The proposed dormer is to protrude by approximately 3m be 5.5m long and 2m high. The dormer will consist of five windows which are to be clear glazed and can be opened in addition to the proposed Velux roof light. A development of this type would have been permitted development until the introduction of the amended Town and Country Planning (General Permitted Development) Order which came into affect in October 2008 and which does not allow clear glazed opening windows on side elevations above ground level.

Consultations

None.

Representations

Mr & Mrs Ellis – 8 Hutton Road: Object to the proposal on the grounds that the dormer, by reason of its size and siting overlooks their lounge window and garden resulting in a loss of privacy and will have an overbearing affect on their property.

This application has been put to the Development Management Committee as the applicant is an employee of the council.

Key Issues/Material Considerations

The main issues in relation to this application for a flat roofed dormer and three Velux roof lights is the impact the development may have on the street scene and the potential detrimental impact on the amenity of neighbouring properties

It is considered that the proposed flat roofed dormer is unlikely to have a significant impact on the character and appearance of the street scene due to its size and siting.

In terms of the impact the proposal would have on the neighbouring property it is deemed that due to the slight difference in level between the properties, 10 Hutton Road being slightly

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higher, and the fact that the immediate outlook from the dormer would be onto the pitched roof of 8 Hutton Road, the proposal would not result in a loss of privacy or amenity to the level that would cause the application to warrant a refusal.

It is therefore considered that the proposed development complies with the relevant policies; BES, BE1 and H15 of the saved adopted Torbay Local Plan 1995-2011.

Sustainability – No special issues.

Crime and Disorder - No special issues.

Disability Issues – No special issues.

Conclusions

The proposal is appropriate for planning approval, having regard to all national and local planning policies and all other relevant material.

Recommendation:

Approval

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P/2008/0114/MPA

Cockington With Chelston Ward

Hollicombe Gas Works, Torbay Road, Torquay

Construction of 185 residential apartments with associated vehicular and pedestrian access, parking, infrastructure and landscaping works; THIS IS A DEPARTURE FROM THE TORBAY LOCAL PLAN - outstanding matters of access, decontamination and Section 106 Legal Agreement

Site Details

The site is a 3 acre parcel of previously developed land, which is a former gas works site that sits in a valley between the residential suburbs of Livermead and Preston. The linear boundaries to the East and West are relatively steep wood and scrub borders, which give way to residential roads in the vicinity, with the shorter borders to the North and South abutting highways, with the Old Paignton Road to the North and the Torbay Road to the South. The latter of the above roads is a classified A road and part of the locally designated Major Road Network.

Contextually there is a local school on higher ground to the northeast (Preston Primary School), residential dwellings adjacent to the southwest and there are linkages to a wider green corridor to the north (Scadson Woods) off Old Paignton Road and Hollicombe Park to the southeast across the Torbay Road. There is a culverted watercourse that runs through the site from the valley to the north and discharges to the sea to the other side of Hollicombe Park.

The site was previously used as a gas works with gas holding tanks and ancillary works, buildings and infrastructure. Although gas production ceased in the late 1960s the site remains in-part a functioning facility holding pipe infrastructure and a gas governor.

With respect to planning designation, the site is locally designated as a Countryside Zone and sits adjacent to the Coastal Protection Zone to the South and a local wildlife site to the East. However, it is of significant pertinence to note that the site is allocated in the Saved Adopted Torbay Local Plan 1995-2011 for residential development for circa 50 dwellings.

Relevant Planning History

Application history;

The application was deferred by the Development Management Planning Committee at the December 2010 committee, with a specific request for the applicant to provide a Detailed Quantitative Risk Assessment (DQRA) for off-site receptors during the remediation process.

The application was originally considered by the Development Control Committee in April 2008, where it was resolved to approve the application subject to the resolution of three outstanding matters, these being in respect to i) decontamination, ii) highways and access arrangements, and iii) Section 106 (in conjunction with appropriate planning conditions). As such, notwithstanding that the application has not been determined, the resolution to grant consent subject to those three outstanding matters is a very material consideration and as such those three matters will represent the focus for this report.

Further history for the site:

P/2004/2119 Redevelopment to create 50 dwellings and parking and new access onto Torbay Road and Old Paignton Road. Refused 07/03/2005.

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- P/2004/1511 Redevelopment to create 148 dwellings, new landscape water feature, parking and new access onto Torbay Road and Old Paignton Road (in outline). Refused 30/11/2004. Appeal submitted and subsequently withdrawn.
- P/2004/0772 Change of use to unspoilt parkland for use as public open space. Refused. Appeal dismissed.

Relevant Policies

Relevant planning policies for the three outstanding matters are:

Saved Torbay Local Plan 1995-2011 policies:

Relating to Highways:

- TS Land use transportation strategy
- T1 Development accessibility
- T2 Transport hierarchy
- T3 Cycling
- T18 Major Road Network
- T26 Access from development on to the highway
- T27 Servicing
- RS Recreation and leisure strategy
- R11 Footpaths

Relating to Remediation:

- EPS Environmental protection strategy
- EP3 Control of pollution
- EP6 Derelict and under-use land
- EP7 Contaminated Land

Relating to Section 106:

- CFS Sustainable communities strategy
- CF6 Community infrastructure contributions
- CF7 Education contributions
- LDD6 Planning Contributions and Affordable Housing: Priorities and Delivery

Relevant wider national policies:

- PPS1 Delivering Sustainable Development
- PPS3 Housing
- PPS23 Planning and Pollution Control
- PPG13 Transport
- Circular 05/2005: Planning Obligations
- South West Regional Spatial Strategy

Relevant policies for the previously resolved issues are:

- HS Housing Strategy
- H1 New Housing on Identified Sites
- H6 Affordable housing on Unidentified Sites
- H9 Layout, Design & Community Aspects
- H10 Housing Densities
- H11 Open Space Requirements For New Housing
- INS Infrastructure Strategy
- IN1 Water, Drainage & Sewerage Infrastructure
- W7 Development & Waste Recycling Facilities

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LS	Landscape Strategy
L4	Countryside Zone
L8	Protection of Hedgerows, Woodlands & Other Natural Landscape Features
L9	Planting & Retention of Trees
L10	Major Development & Landscaping
NC3	Protected Sites – Locally Important Sites
NC5	Protected Species
EP1	Energy Efficient Design
EP2	Renewable Energy
EP4	Noise
EP5	Light Pollution
EP11	Flood Control
EP12	Coastal Protection Zone
BES	Built Environment Strategy
BE1	Design of New Development
BE2	Landscaping & Design
T25	Car Parking in New Development

Proposals

Construction of 185 residential apartments together with a substantial area of public open space in a landscaped corridor, which has aspirations to link with Scadson Woods to the north and Hollicombe Park to the south. In order to maximise the area of open space and maintain a green corridor through the site the residential units have been designed as a series of linked apartments. The proposal seeks to include a mix of one, two and three bedroom apartments with access to balconies, terraces and semi-private communal gardens.

Incorporated within the 185 units it is proposed to provide 44 affordable units (Block D), which would be a mix of rented and shared equity. Parking is to be provided underneath the apartments with a proposal for 237 spaces and 21 additional 'on-street' spaces within the site. This is a ratio of 1.45 spaces per dwelling. Secure cycle storage is also to be provided with one space per unit. The parking beneath the buildings is a design solution to ensure that cars do not dominate the street scene and are designed into the scheme.

Consultations

Environmental & Health Protection Team

The Community Safety Business Unit has no objection in principal to the application being approved, subject to conditions. Full observations copied have been for members.

Environment Agency

The most recent consultation response, dated 22nd November 2010, confirms that the Environment Agency is satisfied that the remediation at the site will address potential impacts upon controlled waters. As parts of the site have not been fully investigated due to access issues, the Environment Agency has requested conditions be attached to any forthcoming approval to ensure that the site is fully investigated w to protect controlled waters.

The Environment Agency asserts that the development can take place with appropriate measures to ensure the protection of the water environment in accordance with the requirements of Planning Policy Statement 23 (Planning and Pollution Control).

Previous comments from the Environment Agency have also referred to the need to reduce the risk of flooding to an acceptable level, through carrying out works to improve the culvert

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trash screen upstream of the site. It has been confirmed that these works must be carried out prior to commencement of the development along with those measures identified within the Flood Risk Assessment. These works are to fall within the remit of the Section 106 agreement and to be carried out by the developer with permission from Torbay Council as landowner of the relevant parcel of land.

Highways Team

The previous comments outlined that there were no highway or transportation reasons to refuse the scheme, with advice focusing on the most suitable solution for the local context.

Following the initial Committee resolution the highway and access proposals have evolved in order to ensure the best possible scheme is brought forward. As matters stand the highway solutions for both the Torbay Road and the Old Paignton Road are considered acceptable and meet with the approval of the highways department. There are certain minor amendments to negotiate, however it is acceptable to consider that these minor details can be resolved within any forthcoming Section 278 Highway Agreement.

The highways department have also explored a request for a Zebra Crossing to be incorporated within the existing highway improvements on Old Paignton Road. It has, however, been clarified by the Highways Engineer that the relative traffic and pedestrian movements within the vicinity of the site lead to the conclusion that a Zebra Crossing would not be appropriate in the location proposed (adjacent to Preston Primary School).

This is principally due to the fact that the crossing would experience sporadic use outside of the busy school times, which combined with the vehicle movements and speeds along this route, would provide a set of circumstances where it would be less safe to have a controlled crossing as opposed to an uncontrolled crossing. This is because pedestrians would assume relative safety on a controlled crossing, whilst at the same time drivers would assume the crossing would not be in use outside of school times. The scheme submitted, in the absence of a controlled crossing, is therefore considered the most appropriate and safe and is fully supported by the Authority's Highways Department.

Affordable Housing Team

The affordable housing offer for the Hollicombe Gas works development equates to 24% affordable housing (44 units) of which 50% would be for social rent and 50% would be for shared ownership. In addition, included within these numbers one of the units will be suitable for a wheelchair user. When allocating the affordable homes preference will go to households over the age of 55 to encourage existing tenants to downsize out of existing larger family accommodation within Torbay.

While the overall affordable housing provision is less than 30% of the total site and the tenure has altered from the policy position of 75% social rent and 25% shared ownership, an independent viability report has been carried out and has confirmed that due to the high costs associated with removing the contamination on the site this is the maximum level of affordable housing that can be provided without making the development unviable.

The decision to locate all of the affordable dwellings together and not "pepper pot" the units throughout the development has been taken for the following reasons:

1. The concept of older persons accommodation requires the accommodation to be grouped together to reduce social isolation and improve internal support networks.

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2. Applicants looking to downsize out of their larger family accommodation will get priority for the affordable rented homes. This will free up family accommodation for other households on the waiting list.
3. Due to its location the affordable block will be built first ensuring that these homes are available much sooner than if the homes were delivered over all four blocks.
4. Grouping the affordable homes within one block ensures that the service charges are kept to an absolute minimum, making the properties more affordable and it will assist with the management of the block as a whole.
5. A single block enables all of the affordable dwellings to be designed and constructed to suit specific design requirements and space standards. The affordable block will meet Level 3 of the Code for Sustainable Homes.

Housing Services has considered all of the information provided and accept the findings of the viability report and support the current proposal subject to the applicant entering into a satisfactory Section 106 agreement which includes a deferred contributions clause to safeguard against the prospect of the development becoming more viable over time.

Strategic Transport:

The car parking and cycle parking is to be provided to an acceptable level and there are wider benefits to cycling within the area through the provision of the new cycling route through the site.

Arboriculture Team:

Previous comments confirmed that the proposed development would not have any significant impact on any important trees within or immediately adjacent to the site. It was noted that the site has been redundant for many years, which has resulted in scrub and natural regeneration growth appearing in some places. This can give the appearance of dense tree cover, however the long term condition and management requirements have been assessed and the areas shown for removal due to the development have little long term value and the impact of the development can be significantly improved and mitigated by new planting.

Public Consultations

The Authority has engaged with a number of interested parties via public and stakeholder meetings, with an ongoing dialogue with bordering Community Partnerships, representatives of Preston Primary School, and the group entitled 'Preston Residents Against Toxic Dust'. This engagement has resulted in the following outcomes:

- Highlighted the strength of concern in respect to the implications on human health for local residents and children attending the adjacent school, which has secured the submission of further information in respect to remediation strategies in order to attempt to address concerns
- Highlighted the community's desire for Atkins to undertake a secondary independent peer review, which has now been undertaken
- Raised opportunities to tailor the proposed access and highway arrangements to suit local aspirations, which has provided the opportunity to secure traffic calming measures and highways improvements locally.

In addition to the above, the applicant has held their own public consultation process, which has stretched over a number of years through the pre-application stage, the initial submission, and following the submission of further information in 2010.

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Recent public consultation, since the submission of further information to resolve the three outstanding matters, has included initial information sent to key stakeholders in June 2010 followed by a two day public exhibition, held at the Grand Hotel in July 2010. The event was attended by over 160 people and a further newsletter was sent to attendees that sought to respond to questions raised during the process. A brief summary of comments returned following the public event outlined that 17% supported the application, 20% supported with comment, 35% were non committal, and 28% objected.

A detailed summary of the more recent public consultation is available within the 'statement of community involvement' produced on behalf of Midas by Remarkable.

Representations

The submission of details in respect to the three outstanding matters has raised a large number of representations. As a summary, the following points have been raised:

Concerns raised:

- The potential for toxins to pose a risk to the community
- That extensive areas of the site have not been investigated, which means that the health risks have not been addressed by the remediation process
- The remediation strategy fails to address the control of noise and dust, in relation to the possibility of detrimental effect on local residents and children attending the school
- Conditions set out by the planning committee of the 7th April 2008 have not been met
- Increased strain on the local infrastructure
- Concern that the necessary payments to support local infrastructure is not to be met
- The 'additional information' does not answer the concerns outlined in the Atkins peer review
- The revised data and highway plans have not been put to community consultation
- General comment on the implications of the decontamination of the site and the health and safety of local residents
- Basic objection to any form of development due to the resultant need to disturb the contaminated land.

Supportive comments:

- The natural potential of the site to be a green space/ recreation area
- Road calming on the Old Paignton Road and around the school gateway is positive
- Appreciation of the need for more housing
- Provides much needed affordable housing

Letters also touched on issues relating to the scheme as a whole, citing the implications upon:

- Traffic flow/congestion, both short and long term
- Noise levels resulting from increased activity
- Overdevelopment
- Design and character of the buildings
- Impact upon watercourses/ flood plain/ the sea
- Implications on wildlife
- Closes the gap between towns

More recently local representatives have raised issue in respect to the safety off site receptors, i.e. people working or living adjacent to the site, and have championed for a

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Detailed Quantitative Risk Assessment to be undertaken by the applicant.

All letters have been reproduced and placed in the Members' Room along with copies of the objections that were received originally in relation to the first submission in 2008.

Key Issues/Material Considerations

The key considerations are outlined within two sub-areas, outstanding issues and previously resolved matters.

The Three outstanding matters:

1. Land Contamination and Remediation

Government guidance, outlined in PPS23 (Planning and Pollution Control), explains that the overall aim of planning and pollution control is to ensure the sustainable and beneficial use of land where adverse affects are minimised and contained within acceptable limits.

PPS23 also states that opportunities should be taken wherever possible to use development to encourage the remediation of land already affected by contamination. This direction to the planning system to encourage remediation of land affected by contamination is reiterated within advice from DEFRA (Department for Environment, food and Rural Affairs) where the Government's policy for "voluntary" funded remediation is reiterated (Guidance on the Legal Definition of Contaminated Land, 2008).

PPS23 also states that, in relation to development control, the planning system should focus on whether the development itself is an acceptable use of the land and the impacts of those uses, rather than the control of processes or emissions themselves. It also states that planning authorities should work on the assumption that the relevant pollution control regimes will be properly applied and enforced, acting to complement but not to duplicate other legislation.

The planning application previously went to the Development Control Committee in 2008, supported by detail from Yeandle Geotechnical Ltd in respect to ground investigations. This information attempted to express and comprehend the level and mix of contaminants on what was a known site of contaminated land. This information was then reviewed by an independent third party, Atkins Design Environment & Engineering (who are a specialist in the field of contamination).

As a summary of this 2008 independent review Atkins recommended that a number of further works should be undertaken in order to provide more robust methodologies and to fill information gaps. Notwithstanding this, with consideration of the site-specific context and relevant statute, the recommendation to the subsequent Development Control Committee in 2008 outlined that a suitable remediation process could be dealt with under planning condition, with draft condition 19 detailing the blueprint for this. It was however agreed at the committee meeting that satisfactory further information in respect to this matter should be submitted.

Following the 2008 committee decision further information in respect to this matter was submitted to the Local Planning Authority in April 2010. This information was subsequently supplemented through revisions and further documentation that responded to issues raised through various representations and stakeholder meetings on the matter.

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In respect to due consideration of the matter of remediation it was ascertained that the Local Planning Authority should be in a position to appropriately response to the following objectives;

1) Be satisfied that contamination present and any risks arising from development are properly assessed and that the development incorporates necessary remediation and subsequent management measures to deal with unacceptable risks, which pertain to both human health and the wider environment, and

2) Judge that the remediation of land affected by contamination through the granting of planning permission should secure the removal of unacceptable risk and make the site suitable for its use, with the land not being capable of being determined as contaminated land (under Part IIA of the EPA 1990).

Following the submission of the further information in April 2010 stakeholder discussions with community partnerships and public representation highlighted the weight of concern with respect to the human health implications of the proposed development. In particular comments have raised concerns at the perceived inadequacies with the data and methods.

As a result of public concern the Authority agreed to the request to again commission Atkins to review the proposals in order to provide independent professional advice on whether the remediation proposed is fit for purpose. Atkins were asked to review the proposals in light of the two central statutory requirements, in respect to satisfying that there are appropriate management measures in respect to unacceptable risk (to human health and the wider environment) and whether the site would be fit for its future use and could not be classed as contaminated land following the remediation. The subsequent conclusions of the report summarised the following;

Objective 1: Whether the remediation strategy, risk assessment, method statements and monitoring proposals are suitable to protect local residents and members of the school from harm during the remediation

Atkins' summarised conclusion to Objective 1: Atkins considers that the remediation strategy will be appropriate to mitigate potential risks presented to identified human health receptors, including local residents and members of the school, from contamination currently present at the site during the remediation process. Atkins considers that certain remaining items relating to the remediation strategy could be adequately controlled under conditioned planning approval.

Objective 2: Whether the remediation strategy satisfies that requirements under planning legislation and ensure that on completion the site would not be considered 'contaminated land' under part 2a of the Environmental Protection Act, 1990.

Atkins' summarised conclusion to Objective 2: Generally the observations identified within the original review have been thoroughly and appropriately addressed, and Midas have provided an appropriate strategy to address the remaining items as the scheme develops. These items could be adequately controlled under conditioned planning approval. It is therefore concluded that the scheme satisfies the requirements under planning legislation and ensures that on completion the site would not be considered contaminated.

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Notwithstanding the above, the application was deferred at the December 2010 Development Management Committee with concerns in regard to understanding of the risk to human health resulting from the remediation process, which resulted in the committee requesting a Detailed Quantitative Risk Assessment (DQRA) for off site receptors during the process.

Following the decision to defer, the applicant has reviewed the framework for remediation and has subsequently submitted a further explanatory document. This submission clarifies the established parameters for the remediation and provides further information in respect of relative risks, which is a response to local requests that perceive a need for a specific off-site risk assessment.

The review, which was undertaken by Merebrook (Environmental Consultants), iterated that the previous body of work relating to human health risk is robust and well conceived. It also confirmed that the review has included reasonable worst case assessments of the possible health risk to parties outside of the boundaries of the site by airborne movement of contamination and, given the measures proposed, concludes that there is no reasonable possibility of the site presenting a health risk to off-site receptors.

The Merebrook review also expressed that the contaminants of concern are commonly found in nature and in food and that the health risks associated with them should be taken into context. Three notable contaminants were cited and it was expressed that in regard to arsenic large area of the South West have natural soil concentrations significantly in excess of anything measured on the site, that cyanide is found in concentrations equivalent to those found in foodstuffs such as marzipan, and that the consumption of a well done steak would result in benzo-a-pyrene ingestion greater than what would be predicted by the reasonable daily exposure pathways from the proposed works.

In addition to the above, the peer reviewers (Atkins) responded to the challenge that the process is flawed due to the lack of a DQRA for off-site receptors. This response, which was presented at the last committee, summarised that the model procedures cited by objectors (CLR11) had been followed and reiterated that it was judged that applicant had provided information to allow the application to be considered. The response also explained that the model procedures are solely guidance and is not intended to present rigid technical requirements. It was further expressed that there is flexibility to move from an initial risk assessment step into options appraisal and implementation without recourse to a detailed quantitative risk assessment. This is what effectively has been expressed, i.e. that on accepting that, if uncontrolled, dust might leave the site during excavation and remediation works, the developer has put forward control measures to mitigate on the site (i.e. the damping down of working surfaces).

In addition to this latter Merebrook review it is reiterated that the professional peer review of Atkins endorsed the risk assessment process undertaken and the subsequent processes that have been put forward to respond to those risks.

Considering this more-recent submission, along with previous professional advice from the Authority's Environmental Health & Protection Team, Atkins Consultants and The Environment Agency, it is officers' opinion that the LPA can be satisfied that the works can be carried out in such a way that risk to both the community and eventual occupiers of the site is kept to a minimum. It is also officers' opinion that the developer is capable of implementing the works in the prescribed manner. As such the duty of the Local Planning

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Authority on this matter can be fully discharged with reliance on the information submitted and the peer review of the process.

In conclusion, the development proposed is considered appropriate for the land, and with regard to the information currently available in regard to contamination and remediation, it is concluded that the LPA is in a position to grant planning permission, subject to the appropriate planning conditions set out by the Authority's Environmental Protection Department.

In order to provide further understanding of the key principles and processes, it is advised that the core submission documents have outlined the following;

- Remediation Options Appraisal

This is a progressive document that has the strategic goal of identifying the best practicable techniques for the remediation of all of the identified significant pollutants. This document aims to provide the building blocks to draw out a suitable detailed remediation design strategy.

The proposed methodology incorporates a phased approach and combined techniques, which together are designed to meet what are described as strict remedial targets within a relatively short time frame. The parameters that informed this process included consideration for external environmental impacts, including the potential adverse affects of dust.

- Remediation Strategy Report

This document outlines the actual strategy for remediation and expands and responds to the Remediation Options Appraisal. The key aim of this report is to propose solutions for the remediation that avoid unacceptable health and safety risks and environmental impacts.

The proposed methodology outlines a phased approach utilising several combined techniques. The basic strategy for remediation is as follows;

- Where suitable, contaminated soil will be excavation and treated on site utilising engineered biopiles. This is a method for encouraging the natural microbial breakdown of hydrocarbons in soil by optimising the conditions. The process is ultimately to clean the soil in situ for on-site reuse.
- Where contaminated soil cannot be treated and cleaned through the biopile process it will be removed from site and sent to land fill.
- In respect to contaminated water, it is proposed to excavate and treat groundwater affected by contamination via an on-site 'pump and treat' system. This process aims to clean affected water on site by extracting through created wells via an enclosed pumping system. The water is then passed through a series of filters or gravity separators in order to remove contaminants. Clean water is then held and then discharged back into the controlled water system with consent from the Environment Agency.
- The soil and water treatments above will subsequently be supported by a cover system across the site comprising of a layer of clean hardcore and a layer of imported clean soil. The rationale behind the process is to limit the level of soil excavation and to

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provide an extra measure of security and limit the potential upward migration aided by earthworms, mammals etc.

- The report also outlines the procedure for the investigation of areas not currently accessible or previously tested.
- The report also provides the methodology to ensure the site is safe for its intended use and for future users.

- Site Specific Remediation Specification and Method Statements

This detailed document outlines the contractor's specific methodologies and specifications to undertake the remediation. The document provides comprehensive detail in respect to the following, which is often provided much later in the planning process under conditions;

- Site management
- Removal of existing structures
- The Bio-remediation process
- Air Quality monitoring
- Groundwater monitoring
- Dust and Odour Suppression
- Validation and future on site monitoring

All of the above documents have been subject to peer review and Atkins have confirmed their acceptance of the strategies and methodologies involved, subject to suitable planning conditions.

2. Access Proposals

The proposal outlines two access points into the site, with three blocks being served off Torbay Road to the south and one block being served off old Paignton Road to the north. The outstanding matter following the committee resolution in 2008 was to resolve the best possible design solutions for the two access points. The broader principles over the general layout and capacity of the road network were not in question, as these details were established and considered acceptable.

Firstly, in regard to the Torbay Road access it was left unresolved as to whether the proposals should incorporate a shared surface scheme, which would provide space designed for people and cars. This scheme was mooted as a possible solution in order to maximise the potential linkages through the site to the wider strategic recreational corridor from the coast inland. The second option was a more traditional engineered right-hand turn and Toucan crossing.

As a result of ongoing negotiations the proposed highway solution for the Torbay Road entrance features a compromise scheme that presents a plaza 'feel' but maintains an engineered highway and formalised (but uncontrolled) crossing points for pedestrians. The scheme has been devised to combine the attributes of both options for the overall benefit of the scheme. In brief terms the Torbay Road access solution provides the following:

- Maintains a designated carriageway for the existing main road past the entrance to the site
- Provides a designated right hand turn set within a central refuge area to give access from the Paignton-bound carriageway

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- Provides two designated pedestrian crossing areas with central refuge points
- Provides localised improvements to the cycle and foot paths
- The absence of controlled turnings and crossings permit a less intrusive pattern of road treatments, which provides the potential for the road layout outside of the site to sit more comfortably with the adjacent pedestrian plaza area that extends around the site entrance.

In regard to the access solution proposed for the Old Paignton Road the scheme provides:

- A traditional T-junction to service Block D of the scheme, set within a raised table to help reduce local speeds
- Gateway enhancement works to the east and west of the site in order to help reduce local speeds
- Improvements around the school entrance to provide designated parking bays, reduce unsuitable car movements around the entrance to the school, and improve crossing arrangements
- Further pedestrian crossing points to improve linkages across the road to Scadson Woods corridor.

The highway solution has evolved following a number of stakeholder meetings with the school and community members, which has drawn out local aspirations that could be incorporated within the scheme. As matters stand there remains one issue of clear contention in respect to the provision of a zebra crossing adjacent to the school entrance in place of the currently proposed built-out uncontrolled crossing point.

The Highways Department has looked at the request, however, considering the type and frequency of use they advise that it would be more suitable to provide uncontrolled crossing improvements in this area which may be supported by school crossing patrols. As there remains community objection to this professional advice a site meeting has been arranged in order to further discuss the implications of both options. An update on this matter will be reported to members at the committee meeting.

3. Section 106 Legal Agreement

In respect of current guidance the Council's adopted SPD on Section 106 contributions would trigger the following contributions:

- 30% Affordable housing (which equates to 56 units)
- Education £32,000*
- Greenspace £167,083
- Sustainable Transport £258,028
- Street Wardens £18,916
- Learning Skills £44,569
- Waste & recycling £7,752

** The figure for the education contribution factors in current guidance that dictates that the Authority does not seek contributions for either secondary or primary places for Torquay proposals, and that only primary school places are sought for Paignton proposals. As the site straddles the border, the calculation seeks contributions for half of the eligible units.*

In respect to the above referenced planning contributions the adopted SPD prioritises affordable housing over the following six 'sustainable development' contributions. The SPD also states that development viability is a material consideration in the determination of a

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planning application and should be taken into account when deciding the level of planning contributions and affordable housing that a proposed scheme should be required to provide.

The applicant has proposed that due to mitigating factors, largely the extensive cost to remediate the site in order to make it fit for development, it is unviable to provide the full suite of contributions. The applicant's reduced offer takes into account the Council's priority in relation to affordable housing and proposes the following:

The full compliment of 'inner circle' contributions required from the scheme, which include:

1. The provision of on-site public open space and ecological enhancements, including amenity space, landscaping, and the recreational corridor between Scadson Woods and Hollicombe Park - estimated cost £113,000.
2. Off-site highway improvement works comprising front of site traffic gateway, traffic calming, pedestrian crossing, bus stop & cycleway (circa £307,000) and rear of site - traffic calming and school-based traffic measures totalling circa £48,000.
3. Off site flood alleviation works – estimated cost around £50,000.
4. Remediation of the site and removal of unnecessary gas plant - estimated cost circa £1,300,000.

In addition to the above the applicant proposes a reduced 'middle circle' contribution of 44 affordable units, which equates to 24% affordable housing, on a 50:50 social rent/intermediate basis. This falls below the 56 units that 30% affordable housing would provide.

In respect to 'outer circle' sustainable development contributions the applicant's offer excludes these on viability grounds, inline with the prioritisation arrangements within the SPD. There is hence no suggested payment for contributions in respect to education, greenspace, sustainable transport, waste & recycling, lifelong learning and street wardens.

It is however observed that although the offer excludes all outer ring contributions there are social benefits from the scheme that may be argued as a degree of mitigation were funds available. Notably the scheme will itself provide a public park managed in perpetuity by the applicant and the scheme will also provide improved pedestrian and cycle facilities in the area. These would be likely to be mitigated against the required greenspace and sustainable transport contributions were these financially viable.

In consideration of the reduced Section 106 offer, the Council has commissioned an independent review of the applicant's viability study by Belvedere Vantage Ltd. This review included a meeting between the Council, the Applicant, Savills and Belvedere Vantage on the 28th September to discuss the background to the scheme and was followed by a detailed analysis of the applicant's viability study, backed up by conversations and correspondence with the Council, the Applicant and Savills. The Review was also informed by independent research and financial modelling.

The Belvedere Vantage Review finds that the methodology and assumptions used within the applicant's viability study are reasonable and that the financial modelling within the viability study is generally optimistic. Accordingly, the Belvedere Vantage Review concludes that this

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is a good offer from the applicant taking into account the risk of embarking on a scheme of this nature in the current climate.

The Review recommends that suitable delivery arrangements should be agreed, together with a mechanism to review viability at later stages of the scheme in order to ensure that the community does not lose out in the event of an uplift in profit.

The Review itself is confidential since it includes commercially sensitive information relating to the Applicant and the Application Site. However, a non-confidential summary of the Review has been prepared and is attached to this report for information.

Previously resolved matters

Principle:

The principle of the redevelopment of this site has been accepted following the resolution of the committee meeting in 2008. In addition, the site is allocated for residential development in the saved adopted Torbay Local Plan.

The Local Plan allocation is for 50 dwellings on the site and the application significantly exceeds this number. However, there is a need to consider the housing needs (and more specifically affordable housing needs) in Torbay, which are significant. In addition, the evidence base for the RSS (Regional Spatial Strategy) is a consideration, notwithstanding the fact that it is potentially material that the RSS is likely to be revoked by the Coalition Government in the not too distant future. It is not considered that the proposed changes to the planning system and the removal of the RSS can be given sufficient material weight at this time to lead members to make a different decision than that taken in April 2008 in relation to the principle of this quantum of residential development on this site.

In any event, in this case it is recognised that in the current market and with the costs associated with remediation across the site, there is a need for a higher density of development in order to delivery sufficient viability to build the site out. In addition, this form and density of development provides for a publicly accessible park and a number of other community benefits, which is a material consideration.

Design and Appearance:

Prior to the initial submission in 2008 the proposal was presented to the South West Design Review Panel, which provided some constructive comments, but was generally in support of the scheme. In summary, the panel supported the height and linear form of development, although it advocated the joining of the blocks, the creation of more twists within the form, and that the green corridor should be less tailored and refer more towards a natural valley solution. It also detailed comment on the palette of materials. In response to the comments from the panel amendments were made to the scheme, with the development being repositioned to improve the definition between Paignton and Torquay, and with blocks partially joined, but retaining separation at higher levels to avoid the creation of a monotonous block.

In terms of scale the scheme attempts to provide a balance of height and mass set against the parkland and adjacent valley slopes, with a robust scale of building embracing the industrial heritage of the site.

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In respect to materials, the proposed detail has been chosen to reflect the surrounding landscape. Permian sandstone has been selected for the main park elevations to reflect the rock formations of Hollicombe Head and the roof tiles of neighbouring properties. Zinc cladding is proposed to frame the living spaces and to reflect sunlight into the park. Western Red Cedar would be incorporated onto the buildings closest to Scadson Woods to give a softer, more organic appearance. The rear elevation facing Preston would be white polymer render to reflect the rendered walls of properties in Great Headland Crescent, Hollicombe Lane and Tarroway Road.

The car park areas will be screened from the park through the use of Torquay grey limestone in gabion baskets and cedar boarding, blocking views in but still allowing natural ventilation and further reinforcing the distinction between public and private spaces. This provides a sensible solution to reduce the dominance of cars and the associated visual implications.

It is concluded that there has been little change in design guidance and policy since the previous resolution on this matter and hence the scale and form is considered to remain acceptable.

Ecological issues:

The submitted ecological report stated that as a whole, the site is considered unlikely to be important in terms of biodiversity, with the limited site area not being associated with good levels of botanical, habitat or structural diversity. In addition no animal or plant species considered to be uncommon, either nationally or locally, are likely to be found on the site.

Notwithstanding the above a number of nesting bird species were recorded on site, namely Blackbird, Blue Tit, Robin, Greenfinch, Goldfinch, Wren, Dunnock and Blackcap and it is an offence to damage or destroy the nest of a wild bird or to disturb birds whilst nesting. Therefore it is concluded that clearance of vegetation or tree felling should only be undertaken outside of the bird nesting season, between mid August and late February. As a point of note the site does not lie within the known breeding range of the Cirl Bunting.

No habitat suitable for dormice has been found on site and previous surveys indicated this species is unlikely to be found on site.

Previous surveys indicated that the site is of limited value to bats but have recognised it is used for feeding by Pipistrelle bats. Individual trees were assessed for bat roosts and most were deemed to be of negligible potential to support bat roosts, however one dead tree would be of moderate/low potential. With cross-reference to the Arboricultural Implications Study, this tree is proposed to be felled, and it is therefore recommended that prior to any felling work, contractors should carry out a limb by limb inspection to identify potential bat roosting features. As the proposed development is retaining significant open space, it is recommended that bat boxes are erected, especially where new tree planting is proposed.

A previous survey found a small population of slow worms. Ambios Ecology subsequently undertook a capture and removal programme during September/October 2007. A total of 25 individuals have been translocated to suitable habitat in the local area. The applicant has detailed that this process has been repeated in a subsequent year and no slow worms were found.

No populations of specially protected invertebrates have been identified. The report notes that a Deaths' Head Hawk Moth was found on site in 2007 but this is of no ecological

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significance. The species is not native to the UK, but is a summer/autumn migrant from Southern Europe. It is not protected by law in the UK and therefore no special measures are required prior to site development.

No evidence of badger activity was found on site but if a sett was to be located, works must cease to allow for further investigation.

No evidence of invasive species such as knotweed has been identified, but if it is suspected to be present, further advice would need to be obtained.

In summary, the site does not hold any specific ecological significance that would restrict its redevelopment, however in light of the likelihood of nesting birds or roosting bats, or the existence of slow worms or badgers, any forthcoming development should be managed by appropriate planning condition to ensure measures are in place to identify and safely remove protected species and / or provide suitable potential habitat for use of the site and surrounding.

Trees:

Previously it has been outlined that the trees are divided into the following tree categories:–

R – The value would be lost within 10 yrs and should be removed (93 trees in this category).

A – High quality and make a substantial contribution (40 years or more)(61 in this category).

B – Moderate quality and value and make significant contribution of 20 years or more (119 in this category).

C – Low quality, 10 years contribution or stem of less than 150 mm diameter (58 in this category).

There are no Tree Preservation Orders on any trees within the site. In summary 41 trees and 1 group of dead elms require removal for reasons of sound arboricultural management. Six are located off-site to the North East (Round Hill) as their failure would have safety implications for the site. A further 42 trees require removal to facilitate development in that they lie in the building footprint or would be damaged during construction.

The report has concluded that the layout is arboriculturally acceptable. The impact on trees is acknowledged and the majority of the trees on the valley sides on and off-site are to be retained. There is an opportunity to enhance the amenity of the area through extensive replanting and arboricultural management. This is also recognised with the Planning Statement accompanying the application.

There are no new material considerations in respect to arboricultural issues.

Drainage:

South West Water has previously advised that foul drainage will need to be connected into the existing foul sewer at the junction of Torbay Road and Hollicombe Lane. As it is at a higher level than the site, pumping will be required. The Pumping Station would be sited adjacent to the new gas governor housing near Torbay Road. There are no new drainage issues.

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Flood Risk:

The Planning Statement submitted recognises that at the time of the Local Plan Inquiry the Environment Agency did not raise an objection to the allocation of the site for housing. During the submission of the two previous applications for redevelopment of the site, no objections were raised by the Environment Agency in relation to either application.

The site lies in a Zone 3a flood risk area which is assessed as having a 1 in 100 or greater probability of river flooding or a 1 in 200 or greater probability of flooding from the sea in any year.

An assessment of the required 100 year flood event has been carried out and predicted events have been increased to allow for possible climate change. A natural stream enters the site via a culvert from Old Paignton Road. The stream then passes through approximately 250m of 1.2m diameter culvert before emerging into an open stream at the mid-point of the site. The stream is then channelled through a concrete walled section and into a downstream inlet for the remainder of site, under the A3022 and the railway line before entering into the sea.

It is proposed to upgrade the culvert through the site. It was found that the proposed culvert is within capacity except for the lowest two sections for the highest 100 year estimate. It is recommended that the existing trash screen upstream of the site (where the culvert passes under Old Paignton Road) is upgraded to reduce the likelihood of blockage.

The developer recognises that due to the inadequacies of the culverts on either side of the site, surface water flooding in the vicinity of the site does occur but the site itself does not flood and does not cause flooding of land downstream. There is, however, an above ground flood flow pathway across the site carrying flood water from other sites in the locality.

The proposed development is seeking to reduce flood risk. The impermeable area on the site is to be reduced by approximately 80%. Other improvement works will include enclosing the open channel section of culvert to improve flow capacity and to construct a swale ditch to allow any flood flows that may occur in an extreme event to pass safely through the site.

The residential building has been designed to be at a higher level than the flood flow path with ground floor parking raising the residential floors beyond flood levels. It is also proposed to have a Sedum roof, which will again serve to reduce run-off and to absorb rain water naturally.

In terms of access to the site, two access points are proposed onto Old Paignton Road and Torbay Road. Ponding can occur to both roads in extreme rainfall events so the access points have therefore been situated away from any potential ponding or flood flow paths.

There are no new issues in relation to flood risk and the Environment Agency does not object to the development.

Archaeology:

A desk based assessment was undertaken. The site is not listed in the Sites and Monuments record although Hollicombe Park opposite the site is. There is no direct evidence of any archaeological deposits on the site. Overall, it is considered that the archaeological potential of the site is low and the report recommends that no further archaeological investigation is required. There are no new issues in relation to this issue.

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Sustainability – No new issues. Previously it was outlined that a combined heat and power plant has been designed to heat the whole development rather than individual boilers. This is outlined to be gas powered but provision has been made for a wood store and for part of the system to be concerned to a biomass boiler in the future.

Crime and Disorder – No new issues. Previously it was outlined that the site is presently overgrown and contaminated. This scheme would provide residential and part uses with public areas being highly visible and overlooked.

Disability Issues – No New issues. Previously it was outlined that all levels of the building will be accessible through the provision of lifts in each section. It is also proposed to provide two specifically designed flats for disabled persons within the Affordable Housing allocation.

Conclusions

The previously resolved matters in respect to the scheme are considered to be substantially unchanged in terms of detail and pertinent planning policy. It is again therefore concluded that the scheme remains acceptable on planning merit and will result in the remediation of contaminated land, provide much needed new dwellings, and a platform for the creation of a new area of public open space, which would link to a wider recreational corridor.

In respect to the three outstanding matters:

In regard to decontamination, professional peer advice and appraisal by external bodies corroborates the developer's contentions that the remediation of the site is acceptable in relation to both human health and the environment. The processes also pertain to provide a safe and clean site for future users and residents on the site. With suitable planning conditions to manage outstanding matters the remediation process is considered appropriate.

The access solutions and highway works proposed are considered to provide suitable solutions that knit together the needs of all road users whilst providing the most visually attractive design. In addition the enhancement works proposed as part of the scheme are considered the most favourable solution for all road users.

In light of the viability issues surrounding this contaminated site the Section 106 arrangements are considered to provide contributions inline with corporate priorities and ensures wider benefits are secured through remediation of land, the provision of a new public park, and enhancements to walking and cycling within a wider strategic recreational corridor.

It is again concluded that the scheme should be subject to various planning conditions and the completion of a suitable Section 106 Legal Agreement in respect to highways works, public open space and its maintenance, off site flood alleviation measures, ecological enhancements and affordable housing provision.

Recommendation

Site Visit; Conditional Approval, subject to comments received from the Government Office for the South West and the signing of a Section 106 Legal Agreement in terms acceptable to the Executive Head of Spatial Planning

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Condition(s):

01. Prior to the commencement of development on the site, a phasing plan shall be submitted to and agreed in writing by the Local Planning Authority to achieve a phased implementation of the scheme in relation to an agreed timetable of works. This shall secure the obligation to enter into a Section 278 Agreement to deliver the highway works detailed in the letter and plans received ??????. The phasing plan shall secure the implementation of all highway, parking, traffic calming and drainage infrastructure relevant to each phase prior to occupation of any dwelling or building that forms part of that phase. It shall also secure hard and soft landscaping works including all boundaries and park areas. The affordable housing units relevant to each phase shall be completed and made available for occupation prior to the commencement of each subsequent phase.

Reason: To ensure that the scheme is implemented within an agreed timetable and that essential elements of the scheme are delivered at an appropriate stage and to comply with policies HS, H1, H6, H9, H10, H11, L10, BE2, TS, T1, T2, T25, T26 and T27 of the saved adopted Torbay Local Plan 1995-2011.

02. Prior to the commencement of the development hereby approved, details of the proposed street lighting shall be submitted to and agreed in writing with the Local Planning Authority including their specification, location and type of fittings.

Reason: To ensure that the details are acceptable in terms of their appearance and function and to accord with Policies BES, BE1, BE2 and EP5 of the Torbay Local Plan 1995-2011.

03. A management agreement shall be entered into prior to the occupation of any of the dwellings, hereby approved, to ensure (a) that an agreed maintenance strategy in respect of all buildings and non-adopted areas of open space on the site is in place, including the new park land (b) that an agreed maintenance strategy for the underground culvert is in place, and (c) that there is an agreed refuse disposal strategy. This shall be agreed in writing by the Local Planning Authority and implemented prior to the occupation of any of the dwellings on the site.

Reason: To ensure the development is properly serviced and maintained in accordance with Policies H9, H11, CF2, W6, W7 and L10 of the Torbay Local Plan 1995-2011.

04. Any works of clearance on the site shall only take place outside the bird breeding season (i.e. no clearance to take place between April and September). If any tree identified in the Wildlife Report is to be felled it should be checked by a licensed bat worker prior to felling. If bats, reptiles or evidence of badgers and badger setts are discovered during the implementation of the development, work should cease in the vicinity until Natural England have been notified and have advised on the appropriate action to take.

Reason: To ensure the development does not have a detrimental impact on wildlife that may exist on site and that any appropriate mitigation measures are put in place, to accord with Policies NCS and NC5 of the Torbay Local Plan 1995-2011.

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05. Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order, 1995 (or any order revoking and re-enacting that order) no development of the types described in Schedule 2, Parts 1 and 2 shall be carried out without the prior written consent of the Local Planning Authority.

Reason: To ensure that any subsequent proposals maintain the appearance and character of the original development and to protect residential amenities, in accordance with Policies H9, BES and BE1 of the Torbay Local Plan 1995-2011.

06. Prior to the clearance of any buildings on the site a Method Statement for demolition and a Building Agreement shall be negotiated with the Local Planning Authority to secure appropriate hours of operation, site access routes, disposal of all building waste and routes for construction traffic to ensure that disturbance to local residents is minimised.

Reason: To ensure that the amenities of local residents are protected and to accord with policies H9, ES, E9, EPS and EP4 of the Torbay Local Plan 1995-2011.

07. Prior to the commencement of the development hereby approved, details of all proposed boundary walls, fences or hedges forming part of the development, shall be submitted to, and approved in writing by the Local Plan Authority. The approved boundary structures shall be constructed in accordance with the agreed details prior to the first occupation of the dwellings for which the boundary provision is made and shall be retained at all times thereafter.

Reason: In the interests of the visual amenity of the area and in accordance with Policies BES, BE1 H9 and L10 of the Torbay Local Plan 1995-2011.

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

Reason: To ensure a satisfactory form of development in accordance with Policies BES, BE1, H9 and L10 of the Torbay Local Plan 1995-2011.

09. Prior to the occupation of the dwellings hereby approved, details of the provision of external bat boxes shall be submitted to, and approved in writing by the Local Planning Authority.

Reason: To protect endangered species in accordance with Policy NC5 of the saved adopted Torbay Local Plan 1995-2011.

10. The development shall not be used/occupied until the vehicle parking areas shown on the approved detailed plans have been provided and made available for use. The areas shall be kept permanently available for parking purposes to serve the development.

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

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11. The waste and recycling materials storage facilities shown on the approved plans shall be completed and made available for use prior to the first occupation of any of the residential units hereby approved and shall be so retained for the duration of any residential occupation of the buildings.

Reason: To secure appropriate service facilities for the development, in accordance with the terms and objectives of Policy W7 of the Torbay Local Plan 1995-2011.

12. Prior to the occupation of any of the residential units hereby approved, the allocated cycle parking provision shown on the approved plans shall be completed and made available for use, and shall be so retained for the duration of the residential occupation of the flats for which the provision is made.

Reason: To secure the appropriate provision of cycle parking facilities to serve the development and to promote and enable the use of sustainable methods of transportation, in accordance with Policies TS, T1, T2 and T25 of the Torbay Local Plan 1995-2011.

13. At the point of occupation of each of the residential units a Welcome Travel Pack shall be provided for the occupants, which shall include information on sustainable transportation facilities including cycling routes and bus timetables within the locality.

Reason: To encourage and facilitate the adoption of sustainable transportation practices by the residents of and visitors to the development in accordance with Policies T1 and T2 of the Torbay Local Plan 1995-2011.

14. The development, hereby approved, shall be constructed from the palette of materials submitted to the Local Planning Authority unless otherwise agreed in writing:

Western Red Cedar horizontal boarding
Natural Red-pink Permian sandstone
K-rend silicone white
Blue-grey Zinc

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

15. The Velfac window system with dark grey exterior paint as submitted to the Local Planning Authority on 12 March 2008 is hereby approved as the glazing for the development unless otherwise agreed in writing with 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.

16. 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.

i) These details shall include proposed finished levels or contours; means of enclosure; car parking layouts; other vehicle and pedestrian access and circulation areas; hard surfacing materials; minor artefacts and structures (e.g.

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furniture, play equipment, refuse or other storage units, signs, lighting etc.); proposed and existing functional services above and below ground (e.g. drainage power, communications cables, pipelines etc. indicating lines, manholes, supports etc.); retained historic landscape features and proposals for restoration, where relevant.

- ii) 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.
- iii) The landscape works established as part of the development shall be managed in accordance with an approved Landscape Management Plan/Schedule for a period of 10 years from the first occupation of the site.
- iv) The landscape management plan which shall include long term design objectives, management responsibilities and maintenance schedules for all landscaped areas, other than the small, privately owned gardens, shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development. The landscape management plan shall be carried out as approved.

Reason: In the interests of visual amenity and in accordance with the requirements of Section 197 of the Town and Country Planning Act 1990, and Policies LS, L4, L8, L9, L10, BES, BE1 and BE2 of the Torbay Local Plan 1995-2011.

17. No works or development shall be carried out until the Local Planning Authority has approved in writing the full details of which trees and shrubs are to be retained, by reference to a plan showing the location of every tree which has a stem with a diameter of over 75 millimetres (measured over the bark at a point 1.5 metres above ground level), and either:
- (a) is on the application site; or
 - (b) is on adjacent or nearby land and is located so that the application site includes land within the outermost limit of its crown spread or any land at a distance from the tree equal to half its height.

Reason: To ensure the preservation and protection of existing and new trees on the site in accordance with Policies LS, L4, L8, L9, L10, BES, BE1 and BE2 of the Torbay Local Plan 1995-2011.

18. The protection of any existing tree to be retained in accordance with the approved plans and particulars as identified with the submitted arboricultural report numbered CBA6543 and dated January 2008 shall be achieved as follows:
- (a) no equipment, machinery or material shall be brought onto the site for the purpose of development until fencing has been erected in accordance with and the arboricultural report;
 - (b) if that fencing is broken or removed during the course of carrying out the development, it shall be promptly repaired or replaced to the satisfaction of

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the Council;

- (c) the fencing shall be maintained in position to the satisfaction of the Council, until all equipment, machinery and surplus materials have been moved from the site; and
- (d) within any area fenced in accordance with this condition, nothing shall be stored, placed or disposed of on above or below the ground, the ground level shall not be altered, no excavations shall be made, nor shall any fires be lit, without the prior written consent of the Council.

Reason: To ensure the preservation and protection of existing trees on the site and in accordance with Policies L8, L9 and L10 of the Torbay Local Plan 1995-2011.

19. Prior to the commencement of the work hereby approved, a site meeting shall be arranged by the applicant, the person carrying out the work and a person appointed by the Local Planning Authority to agree the arboricultural processes. No work shall be carried out other than that which is agreed in writing.

Reason: To ensure that all parties are familiar with the details of the site regarding the protection of trees and in accordance with Policies L8, L9 and L10 of the Torbay Local Plan 1995-2011.

20. 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) soffits;
- (v) mouldings;
- (vi) 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, BE1 and H9 of the Torbay Local Plan 1995-2011.

21. During the construction of the development, hereby approved, the site shall only be open between 07:30 and 18:00 on Monday to Friday and construction works shall only be allowed to take place between 08:00 and 18:00. The site shall only be open and operational between 09:00 and 13:00 on Saturday with no working on Sundays or Bank Holidays, unless previously agreed in writing with the planning authority.

Reason: In order to protect the residential amenities of the neighbouring occupiers in accordance with policy EP4 of the saved adopted Torbay Local Plan (1995-2011).

22. A revised method statement relating to air, vapour, dust monitoring and control, with

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due consideration to the baseline monitoring (incorporating the points raised in the review by Atkins, dated 05 November 2010) shall be submitted to the Local Planning Authority and approved in writing prior to any work being carried out on site. The agreed methods shall be implemented in full throughout the remediation and construction process.

Reason: In order to ensure that appropriate methods are put in place to control pollution and protect sensitive receptors in accordance with policy EP3 of the saved adopted Torbay Local Plan (1995-2011).

23. A site specific assessment criterion for the soil used in the cover system shall be submitted to the Local Planning Authority and agreed in writing prior to the commencement of the development. The assessment shall take into account up to date guidance including the Environment Agency Guidance on soil from 2009. All subsequent remediation target criteria (for example for TPH, PAH and hexavalent chromium) shall be produced in accordance with the up to date human health risk assessment guidance (currently CLEA 2009). The remediation works shall be implemented in strict accordance with the agreed criterion.

Reason: In order to ensure that appropriate methods are put in place to control pollution and to protect sensitive receptors in accordance with policy EP3 of the saved adopted Torbay Local Plan (1995-2011).

24. The results of the ground gas monitoring and assessment shall be submitted to the Local Planning Authority and agreed in writing prior to the installation of any required ground gas protection measures. Full design specification and installation details for any gas and vapour protection membranes which will be employed to mitigate human health risks on site shall be submitted to the Local Planning Authority and agreed in writing prior to their installation. For the avoidance of doubt and in addition to any other gases or vapours, the design must take into account hydrogen cyanide. The gas and vapour membrane shall be incorporated into the building design in strict accordance with the agreed details.

Reason: In order to ensure that appropriate methods are put in place to control pollution and to protect sensitive receptors in accordance with policy EP3 of the saved adopted Torbay Local Plan (1995-2011).

25. Specific details of the proposed site preparation and ground engineering details, such as earthworks, cut and fill and capping details, drainage mechanisms, protection of services (including water supply pipes) and layout and building foundation design shall be submitted to the local planning authority and agreed in writing prior to the commencement of the development.

Reason: In order to ensure that the development is progressed in accordance with agreed detailed plans and to control pollution in accordance with policy EP3 of the saved adopted Torbay Local Plan (1995-2011).

26. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted to the Local Planning Authority an amended investigation and risk assessment and, where

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necessary, an amended remediation strategy and verification plan detailing how this unsuspected contamination shall be dealt with. The amended investigation and assessment documentation shall be agreed in writing by the Local Planning Authority prior to the continuation of the works and the works shall continue in strict accordance with the agreed revised methodology.

Reason: In order to ensure that appropriate methods are put in place to control pollution and to protect sensitive receptors in accordance with policy EP3 of the saved adopted Torbay Local Plan (1995-2011).

27. The results of any additional sampling at the site shall be submitted to and agreed in writing by the Local Planning Authority and if necessary the developer shall submit and obtain written approval from the Local Planning Authority for an amended investigation and risk assessment and, where necessary, an amended remediation strategy and verification plan detailing how this contamination shall be dealt with. Any revised strategy shall be implemented in strict accordance with the agreed details.

Reason: In order to ensure that appropriate methods are put in place to control pollution and to protect sensitive receptors in accordance with policy EP3 of the saved adopted Torbay Local Plan (1995-2011).

28. Following completion of the measures identified in the approved remediation scheme including any revised measures agreed during the sampling, monitoring and remediation process, and prior to the occupation of any of the dwellings hereby approved, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out shall be submitted to and approved in writing by the Local Planning Authority. The validation report shall be in accordance with CLR11 and the Environment Agency verification of remediation of land contamination documents.

Reason: In order to ensure that appropriate methods are put in place to control pollution and to protect sensitive receptors in accordance with policy EP3 of the saved adopted Torbay Local Plan (1995-2011).

29. Any changes to the submitted document "Outline Method Statement: Validation Of Soil And Groundwater Remediation, dated 28 October 2010, hereby approved, shall be submitted to and approved in writing by the Local Planning Authority. Any changes or revisions to the document shall be implemented in strict accordance with the agreed details.

Reason: In order to ensure that appropriate methods are put in place to control pollution and to protect sensitive receptors in accordance with policy EP3 of the saved adopted Torbay Local Plan (1995-2011).

30. Prior to the commencement of any works on the site, asbestos must be added to the suite of contaminants being tested for under section 2.2 of the submitted "Outline Method Statement: Validation Of Soil And Groundwater Remediation, dated 28 October 2010.

Reason: In order to ensure that appropriate methods are put in place to control

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pollution and to protect sensitive receptors in accordance with policy EP3 of the saved adopted Torbay Local Plan (1995-2011).

31. Prior to any remediation works commencing on site, a plan showing the exact position of the air quality monitoring stations shall be submitted to and agreed in writing by the Local Planning Authority. The air quality monitoring stations shall then be provided in the locations agreed prior to any remediation works on the site and shall remain in place until the completion of the works.

Reason: In order to ensure that appropriate methods are put in place to control pollution and to protect sensitive receptors in accordance with policy EP3 of the saved adopted Torbay Local Plan (1995-2011).

32. Prior to the commencement of any works on the site, a detailed action plan (including timescales for action) to address all outstanding issues raised in the Atkins report (dated 05 November 2010) shall be submitted to and agreed in writing by the Local Planning Authority.

Reason: In order to ensure that appropriate methods are put in place to control pollution and to protect sensitive receptors in accordance with policy EP3 of the saved adopted Torbay Local Plan (1995-2011).

33. Prior to the commencement of any works on the site, the emergency procedures for the school shall have been discussed and agreed with the school authorities. Confirmation of the agreed emergency procedures shall be submitted to and agreed in writing by the Local Planning Authority.

Reason: In order to ensure that appropriate methods are put in place to control pollution and to protect sensitive receptors in accordance with policy EP3 of the saved adopted Torbay Local Plan (1995-2011).

34. Prior to the commencement of any works on the site, a plan and details confirming the proposed site access and egress routes during construction shall be submitted to and agreed by the Local Planning Authority

Reason: In order to ensure that appropriate methods are put in place to control pollution and to protect the amenities of the neighbouring school and residents in accordance with policies EP3 and EP4 of the saved adopted Torbay Local Plan (1995-2011).

Informatives:

01. It is recommended that an out of hours emergency contact number for the remediation contractors be displayed on the emergency information board at the entrance to the site.

T.2

P/2010/1383/MPA

St. Marychurch Ward

1 Warbro Road, Torquay

Extend time limit - demolition of building and new build 11 flats, remove section 106 requirement to application P/2007/1949/PA

Site Details

1 Warbro Road is a roughly triangular shaped building located on a corner site at the junction of Manor Road and Warbro Road. The existing building is currently in use as a printers and frame-making business. Two storey terraced houses adjoin to the south east and north east of the site. Opposite the site is a three storey block of flats with a pitched roof which wraps around the corner of Warbro Road and St Marychurch Road. The conservation area boundary adjoins the site to the north and east.

Relevant Planning History

P/1992/1264 Alterations to form new entrance and windows to front elevation of showroom.
Approval 10/11/1992.

P/2007/1949 Demolition of building and new build for 11 flats. Approval 25/2/08.

Relevant Policies

PPS1 "Delivering Sustainable Development"

PPS3 "Housing"

PPG13 "Transport"

HS	Housing Strategy
H2	New Housing on unidentified sites
H9	Layout, and design and community aspects
H10	Housing Densities
ES	Employment and local economy strategy
E6	Retention of employment Land
CFS	Sustainable Communities Strategy
CF6	Community Infrastructure Contributions
CF7	Educational Contributions
BES	Built Environment Strategy
BE1	Design of new Development
TS	Land Use Transportation Strategy
T1	Development accessibility
T2	Transport Hierarchy
T3	Cycling
T25	Car Parking in New Development
T26	Access from development on to the highway

Proposals

This application seeks to extend the time limit of the 2007 approval. The 2007 application was for the demolition of the existing building, with the retention of the rear walls. The building would then be replaced with a new building containing 11 flats, 3 x 2 bed flats on the ground, first and second floor with 2 x 2 bed flats within a third floor penthouse. The ground and first floors are built within the existing walls at the rear with a 3 x 3m light well. Above the existing walls the building would be set in further and high level windows are proposed on the rear facing elevation. The building has been designed with a rotunda feature on the corner and balconies fronting the road. The application does not include any off street parking.

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This application also seeks to remove the Section 106 obligation which was signed in relation to the previous application.

Consultations

None

Representations

No representations were received at the time of writing. The report was written before the end of the consultation period therefore any representations received will be circulated with the late representations or reported at committee.

Key Issues/Material Considerations

The application proposes an extension of the time limit of the extant consent. As such the key issue is whether there has been any material change in circumstances since the time of the original application which might lead the Council to come to a different conclusion.

The Principle was considered to be acceptable, and a residential use of the site was considered to be appropriate. It is not considered that this aspect of the scheme has changed. The scale and design of the building and its relationship with neighbouring properties was considered to be acceptable and this is unchanged. The scheme has no off street parking however this was considered to be acceptable given the sustainable location.

The key issue which has changed since the consideration of the previous scheme is the policy in relation to Section 106 agreements and the fact that the applicant is asking that the Section 106 requirements be removed from any new consent.

The amounts secured by the approved application were £17,000 towards education and £13,000 towards sustainable transport (Total of £30,000). Since the time of the earlier application the Council has produced a Supplementary Planning Document (SPD) "Planning Contributions and Affordable Housing: Priorities and Delivery". A further update paper was issued in response to the changing economic climate. Under the SPD, an education contribution would no longer be required, however contributions towards other types of physical and social infrastructure would be required. The current policy applies mitigation to take account of the existing uses sites. Under the new arrangements the required contributions would now be:

Waste Management - £550
Sustainable Transport - £8,920
Stronger Communities - £1,230
Lifelong Learning - £2,120
Greenspace - £9,470

TOTAL - £22,290

Given the revised figure, the applicant has now stated that he would be in a better position to make this payment. However, he has requested that the contribution be phased through staged payments. This is being negotiated with officers with a view to securing the full payment in 2 phases.

Sustainability – The proposal involves the creation of 11 units of accommodation on a brownfield site, within an urban context. As such the proposal is sustainable.

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Crime and Disorder – No issues.

Disability Issues – No issues.

Conclusions

This application is to renew the extant consent. On the whole the circumstances are unchanged. The recommendation is one of conditional approval; subject to the signing of a s106 agreement in terms acceptable to the Executive Head of Spatial Planning by 11 April 2011. The terms to include the agreement of full payment of the required contributions through staged payments.

Recommendation:

Conditional Approval

Condition(s):

01. The high level window(s) indicated on the plans hereby approved shall be retained as such at all times. No further windows or openings shall be inserted in any elevation of the building hereby approved unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of privacy in accordance with policy H2 of the Torbay Local Plan 1995 – 2011.

02. 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:

- eaves overhang;
- rain water goods;
- reveals to window/door openings;
- sub cills;
- 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 policy BE1 of the Torbay Local Plan 1995 - 2011.

03. No development shall be commenced until a sample of the proposed external materials have been submitted to and approved by the Local Planning Authority.

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

04. 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.

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Reason: In the interests of the amenities of the area in accordance with policy BE1 of the Torbay Local Plan 1995 - 2011.

05. Prior to the commencement of the development hereby approved a sample of the glazing to be used in the development and information regarding its reflectivity shall be submitted to, and approved in writing, by the Local Planning Authority. The development shall be completed in accordance with the approved details.

Reason: In the interests of the visual amenities of the area and to ensure that the proposed material does not result in dazzling of motorists, in accordance with policies BES, BE1 and Ts of the Torbay Local Plan 1995 – 2011.

T.3

P/2011/0012/MPA

Tormohun Ward

42 Warren Road, Torquay

Demolition of building (arranged as 2 flats) and formation of 12 new apartments with vehicular and pedestrian access

Site Details

The site comprises a detached dwelling which is currently in use as two flats. It is located on the east side of Warren Road where the land falls steeply to the east. The existing building presents two storeys to Warren Road and is rendered with a slate roof.

The existing building is within the Abbey Road conservation area, however the southern part of the site is within the Torquay Harbour conservation area.

Relevant Planning History

P/1981/0584 Extension to form store – PER – 2/4/81

P/1984/0490 Extension – 16/5/84

P/1984/1080 Form car park for 4 cars

P/1988/1896 Conservatory and extension to owners accommodation – PER – 12/10/88

P/2001/1146 Change of use from hotel to dwelling house with separate flat – PER – 8/10/01

P/2008//1540 Subdivision to form 2 additional flats – 3 in total and 1 maisonette – WDN – 12/1/09

Relevant Policies

- HS Housing Strategy
- H2 New Housing on unidentified sites
- H9 Layout, Design and Community Aspects
- CF6 Community Infrastructure Contributions
- BES Built Environment Strategy
- BE1 Design of New Development
- BE5 Policy in Conservation Areas
- TS Land Use Transportation Strategy
- T1 Development Accessibility

Proposals

This application proposes the demolition of the existing building and its replacement with a new building containing 12 flats. This would present 4 storeys to the Warren Road elevation and 6 storeys to the rear. The ground floor provides a storey of parking which provides 12 spaces, cycle store, bin store and plant room. The two floors below this are identical in layout, each providing 2 x 2 bedroom apartments. On the first floor 3 flats are proposed (1 x 1 bed, 2 x 2 bed[one with study]), each of these has a balcony. The second floor layout is the same as the first floor but with smaller balconies. The third floor provides 2 x 2 bed apartments, one of this has access to a roof terrace. The lower three storeys are stone with the upper three storeys being rendered, there are also sections of timber panelling.

Consultations

Strategic Transportation: Request Sustainable Transport Contribution in line with SPD. To be spent on cycle and footway improvements in the area and to allow greater access to bus waiting facilities.

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Conservation and Design: Object to the principle of demolishing the building and to the replacement

Highways: Comments Awaited.

Representations

2 letters of representation have been received, one of which is from the Residents of the Hill Community Group, as well as a letter of representation signed by 6 individuals. The issues raised are as follows:

- Increased demand for on street parking
- Loss of light and detrimental effect on living conditions
- Overlooking
- Overdevelopment
- Disruption due to construction works
- Supportive of efforts to regenerate area and investors coming into area
- Proposal is aesthetically pleasing and enhances the skyline

Key Issues/Material Considerations

The key issues in determining this application are considered to be (1) the principle, (2) the design, (3) the impact on neighbour, (4) highways, (5) Section 106 issues.

Principle

The application entails the demolition of an existing building within the conservation area. Within the Abbey Road Conservation Area Character Appraisal the building is identified as being a key building which makes a significant contribution to the townscape. The front wall is identified as a prominent wall and the open view point adjacent to the dwelling is identified as an important feature of the conservation area. The proposal would result in the loss of the building, the wall and the loss of a significant proportion of the view from Warren Road.

The case for the demolition of the existing building is not considered to have been adequately made in the information submitted with the application. The analysis included in the Design and Access Statement suggests that this building, which is lower than its immediate neighbours, with more space around it is a negative anomaly within the conservation area. However it is considered that this creates a visual break adjacent to a prominent terrace of houses on the hill site. As such it is considered that the argument that this anomaly needs to be corrected is flawed. The principle of demolishing this building is not considered to be acceptable.

Design

In any event, it is necessary to assess the merits of the building which it is proposed to construct. The building has a very poor relationship with the street. It presents a blank elevation to Warren Road with the car parking behind. The large sections of steel security grille would have a very negative effect on the street scene within this part of the conservation area. The proportions of the building and the design features do not appear to have stemmed from a thorough understanding of the characteristics of the conservation area.

Although the rear elevation has sought to pick up on features of its neighbours by providing a heavier plinth and arched stone details this is not considered to be successful. The plinth section is three storeys rather than the neighbouring two and the proportions do not accord with the surroundings, the compressed floor to ceiling heights result in cramped and busy

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elevations which are not in keeping with the conservation area. The visual impact in terms of scale and articulation of the building when viewed from across the valley is overwhelming. For these reasons the design is considered to be very poor and harmful to the conservation area. As such, even if the case for the demolition had been adequately made, it is not considered that the proposal is an appropriate replacement.

Impact on neighbours

The building is larger than the existing building and therefore will be more visible to neighbouring properties, in particular those on the opposite side of Warren Road. However this is a normal neighbour relationship. The lower part of the building has a deeper plan than the existing dwelling and the upper part is narrower. There are a number of sideways facing windows and areas of terrace and balconies, however, having analysed the relationships of these with the neighbouring properties it is not considered that this will result in an unacceptable relationship.

Highways

The comments of the highways officer are awaited and this matter will be updated. The proposal provides 1:1 parking which is considered to be sufficient given the location.

Section 106

The proposal will result in a net increase of 10 dwellings on the site. The people who would be living in these units would result in pressure upon local infrastructure and services. Therefore it is reasonable to expect the developer to contribute towards meeting the additional demand. The amounts required to do so are outlined in the Council's Planning Contributions and Affordable Housing SPD and calculate as follows:

Waste Management - £500
Sustainable Transport - £17,200
Stronger Communities - £1,300
Lifelong Learning - £2,200
Greenspace - £11,200
TOTAL - £32,400

Given that the recommendation is one of refusal a signed S.106 has not been actively pursued. Nevertheless these contributions have not been secured and as such it is recommended that the application is refused on these grounds.

Sustainability – The proposal results in increased density on this site, however this would be to the detriment of the character and appearance of the conservation area.

Crime and Disorder – No issues

Disability Issues - Building Regulations only.

Conclusions

The proposal would result in the loss of a building which contributes positively to the conservation area. The proposed building would result in a negative impact upon the character and appearance of the conservation area. No signed Section 106 obligation has been received.

Recommendation:

Refusal

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Condition(s):

01. The existing historic building and the space around it contribute positively to the Conservation Area. The proposal would result in the loss of this and therefore fails to preserve or enhance the character and appearance of the area. As such the application is contrary to policy BE5 of the Saved Torbay Local Plan and advice contained in PPS5 "Planning for the historic environment".
02. In the absence of a signed S.106 agreement securing developer contributions, the proposal fails to mitigate against its impact upon the physical and social infrastructure, associated with the increased occupation. As such the proposal is contrary to policy CF6 of the Saved Torbay Local Plan 1995 – 2011.
03. The proposed building exhibits a poor standard of design which would have a negative impact on both the street scene and wider views of this part of the conservation area. The proportions, design and features of the proposed building do not respect the context of the site and therefore fail to preserve or enhance the character and appearance of the conservation area. As such the proposal is contrary to policies BES, BE1 and BE5 of the Saved Torbay Local Plan 1995 – 2011.

T.4

P/2011/0013/CA
Tormohun Ward
42 Warren Road, Torquay
Demolition of building (arranged as 2 flats)

Site Details

The site comprises a detached dwelling which is currently in use as two flats. It is located on the east side of Warren Road where the land falls steeply to the east. The existing building presents two storeys to Warren Road and is rendered with a slate roof.

The existing building is within the Abbey Road Conservation Area, however the southern part of the site is within the Torquay Harbour conservation area.

Relevant Planning History

P/1981/0584 Extension to form store – PER – 2/4/81
P/1984/0490 Extension – 16/5/84
P/1984/1080 Form car park for 4 cars
P/1988/1896 Conservatory and extension to owners accommodation – PER – 12/10/88
P/2001/1146 Change of use from hotel to dwelling house with separate flat – PER – 8/10/01
P/2008//1540 Subdivision to form 2 additional flats – 3 in total and 1 maisonette – WDN – 12/1/09

Relevant Policies

BES Built Environment Strategy
BE1 Design of New Development
BE5 Policy in Conservation Areas

Proposals

This application proposes the demolition of the existing building associated with its replacement with a new building containing 12 flats.

Consultations

Conservation and Design: Object to the principle of demolishing the building and to the replacement

Representations

The following representations have been received in relation to the associated planning application:

2 letters of representation have been received, one of which is from the Residents of the Hill Community Group, as well as a letter of representation signed by 6 individuals. The issues raised are as follows:

- Increased demand for on street parking
- Loss of light and detrimental effect on living conditions
- Overlooking
- Overdevelopment
- Disruption due to construction works
- Supportive of efforts to regenerate area and investors coming into area
- Proposal is aesthetically pleasing and enhances the skyline

T.4

Key Issues/Material Considerations

The application entails the demolition of an existing building within the conservation area. Within the Abbey Road Conservation Area Character Appraisal the building is identified as being a key building which makes a significant contribution to the townscape. The front wall is identified as a prominent wall and the open view point adjacent to the dwelling is identified as an important feature of the conservation area. The proposal would result in the loss of the building, the wall and the loss of a significant proportion of the view from Warren Road. The case for the demolition of the existing building is not considered to have been adequately made in the information submitted with the application. The analysis included in the Design and Access Statement suggests that this building, which is lower than its immediate neighbours, with more space around it, is a negative anomaly within the conservation area. However it is considered that this creates a visual break adjacent to a prominent terrace of houses on the hill side. As such it is considered that the argument that this anomaly needs to be corrected is flawed. The principle of demolishing this important building is not considered to be acceptable.

Furthermore the proposed replacement building is considered to be inappropriate as a replacement – see P/2011/0012 for further discussion on the merits of the replacement building.

Sustainability – No issues.

Crime and Disorder – No issues .

Disability Issues – Building Regulations only.

Conclusions

The proposal would result in the loss of a building which contributes positively to the conservation area.

Recommendation:

Refusal

Condition(s):

01. The existing historic building and the space around it contribute positively to the Conservation Area. The proposal would result in the loss of this and therefore fails to preserve or enhance the character and appearance of the area. As such the application is contrary to policy BE5 of the Saved Torbay Local Plan and advice contained in PPS5 “Planning for the historic environment”.