



Wednesday, 22 June 2011

DEVELOPMENT MANAGEMENT COMMITTEE

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

Thursday, 30 June 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 McPhail (Chairwoman)

Councillor Addis
Councillor Baldrey
Councillor Barnby
Councillor Hill

Councillor Kingscote
Councillor Morey
Councillor Pentney

Our vision is for a cleaner, safer, prosperous Bay

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

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DEVELOPMENT MANAGEMENT COMMITTEE AGENDA

1. **Apologies for absence**
To receive apologies for absence, including notifications of any changes to the membership of the Committee.
2. **Minutes of the Development Management Committee 18 April 2011** (To Follow)
To confirm as a correct record the Minutes of the meeting of this Committee held on 18 April 2011.
3. **Minutes of the Development Management Committee 31 May 2011** (To Follow)
To confirm as a correct record the Minutes of the meeting of this Committee held on 31 May 2011.
4. **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.)
5. **Urgent Items**
To consider any other items that the Chairman decides are urgent.

6. **P/2010/1026/PA Walcot, Higher Furzeham Road, Brixham** (Pages 1 - 6)
Demolition of cottage and formation of residential development comprising 1 replacement dwelling with 3 bedrooms and a terrace of 5 dwellings with 3 bedrooms. Revised by plans received on 15th April 2011.
(Berryhead with Furzeham Ward)
7. **P/2011/0018/MPA Torbay Holiday Chalets, Fishcombe Road, Brixham** (Pages 7 - 14)
Formation of 40 self-catering units with associated leisure facilities.
(Berryhead with Furzeham Ward)
8. **P/2010/0289/MOA Land off Brixham Road, rear of Torbay Garden Centre Incorporating Yannons Farm, Adj to Little Preston, Short Preston and Woodlands, Paignton** (Pages 15 - 20)
Mixed use development to form approx 220 dwellings, approx 5,600 SQM gross of employment (B1) floorspace, local centre and public open space with roads and car parking (In Outline). This is a departure from the Torbay Local Plan.
(Blatchcombe Ward)
9. **P/2010/1302/PA Flat 4 Vista Apartments, 17 Alta Vista Road, Paignton** (Pages 21 - 24)
Change of use from a holiday home to a residential dwelling.
(Roundham with Hyde Ward)
10. **P/2011/0021/VC Goodrington Lodge, 23 Alta Vista Road, Paignton** (Pages 25 - 30)
Removal of condition 1 on application P/2008/1663/PA; condition 2 on application P/2008/1263/PA; condition 3 on application P/2008/0961/PA and condition 3 on application P/2008/0217/PA to allow permanent residential use along with holiday accommodation.
(Roundham with Hyde Ward)
11. **CN/2011/0039/CON Paignton Green, Esplanade Road, Paignton** (Pages 31 - 34)
Details pursuant to condition 1 (levels), condition 2 (boundary treatment), condition 3 (details of play equipment), and condition 4 (landscaping) in relation to approved application P/2009/1209 which granted consent for a childrens play park at Paignton Green, Esplanade Road, Paignton.
(Roundham with Hyde Ward)
12. **P/2011/0202/VC 9 Roundham Road, Paignton** (Pages 35 - 38)
Removal of condition 1 to application P/2000/1186 to allow permanent residential use.
(Roundham with Hyde Ward)
13. **P/2011/0214/PA Apartment 8 Belvedere, 37 Marine Drive, Paignton** (Pages 39 - 42)
Change of use from holiday let not being used as main dwelling to residential use.
(Preston Ward)

14. **P/2011/0215/PA Apartment 2, Sunhill Apartments, 19 Alta Vista Road, Paignton** (Pages 43 - 46)
Change use from holiday let to residential use.
(Roundham with Hyde Ward)
15. **P/2011/0271/PA Unit 11, Sunhill Apartments, 19 Alta Vista Road, Paignton** (Pages 47 - 50)
Change of use from holiday home to residential dwelling.
(Roundham with Hyde Ward)
16. **P/2011/0412/PA Lant at the Bard, Sleepy Lane, Paignton** (Pages 51 - 54)
New dwelling.
(Preston Ward)
17. **P/2011/0437/PA 3 Sunhill Apartments, 19 Alta Vista Road, Paignton** (Pages 55 - 58)
Change of use from holiday use to residential use.
(Roundham with Hyde Ward)
18. **P/2011/0427/PA Danby Lodge, Lincombe Drive, Torquay** (Pages 59 - 64)
Alterations and change of use from C3 to C2 Residential Care, including internal alterations and landscaping.
(Wellswood Ward)
19. **P/2011/0457/PA Torquay United Associated Football Club, Warbro Road, Torquay** (Pages 65 - 68)
General amendments to application P/2010/0911/MPA - new roof adjustment to 250mm higher and general roof design; relocation of new toilet block and elevational treatment fronting existing access lane and Westlands School.
(St Marychurch Ward)
20. **P/2011/0471/PA 7, 9 and 11 Havelock Road, Torquay** (Pages 69 - 72)
Demolition of disused vehicle repair centre and construction of 6 - 3 bed terraced houses and 1 - 2 bed maisonette with car parking spaces and pedestrian footway.
(St Marychurch Ward)
21. **P/2011/0505/MPA Fairlawns Hall, 27 St Michaels Road, Torquay** (Pages 73 - 80)
Extend time limit - formation of 3 storey block to form 14 two/three bedroom apartments - application P/2008/0356.
(Tormohun Ward)
22. **Appeal Decisions** (Pages 81 - 82)
To note the outcomes on recent planning appeal decisions.
23. **Public speaking**
If you wish to speak on any applications shown on this agenda, please contact Democratic Services on 207087 or email democratic.services@torbay.gov.uk before 11 am on the day of the meeting.

24. Site visits

If Members consider that site visits are required on any of the applications they are requested to let the Democratic Services Section know by 5.00 p.m. on Monday, 27 June 2011. Site visits will then take place prior to the meeting of the Committee at a time to be notified.

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P/2010/1026/PA

Berry Head With Furzeham Ward

Walcot, Higher Furzeham Road, Brixham

Demolition of cottage and formation of residential development comprising 1 replacement dwelling with 3 bedrooms and a terrace of 5 dwellings with 3 bedrooms. Revised by plans received on 15th April 2011

Site Details

The site is broadly rectangular in plan and is located on the western side of Higher Furzeham Road, just north-west of the junction with South Furzeham Road. The site is relatively level although the road slopes which gives a level of underbuild on the east elevation. The site currently accommodates a single storey dwelling in the south east corner of the site and a static caravan in the north-west corner of the site. The site is generally surrounded by residential development although there is a school to the west and a green to the north.

There are no specific land use allocations covering the site although the site is adjacent to the conservation area.

Relevant Planning History

None.

Relevant Policies

Saved Adopted Torbay Local Plan

HS	Housing Strategy
H2	New Housing on unidentified sites
H9	Layout design and community aspects
CF5	Community infrastructure contributions
CF7	Educational contributions
BES	Built Environment Strategy
BE1	Design of new development
BE2	Landscaping and design
T25	Car parking in new development
T26	Access from development on to the highway

Proposals

This application proposes the demolition of the existing property on the site and its replacement with a terrace of 5 dwellings with a further detached dwelling proposed for the northern end of the site. The terraced houses would be three storeys in height with flat sedum roofs. Each dwelling would step down slightly towards the road. The frontage of these dwellings would be angled to face the sea with Juliette balconies at first and second floor. Each of these properties would have three bedrooms. Living accommodation would be provided at first floor level and stepped access leads to the private gardens at the rear.

The single dwelling near the entrance to the site is divided in to two sections, one of which is single storey with a green roof. The two storey element has an oversailing section which provides a parking area and has a balcony at first floor level accessed via the living accommodation. Three bedrooms would be provided on the ground floor.

The existing access point would be widened in order to provide access to the site, a communal turning and parking area would be provided with space for 10 marked spaces in addition to those indicated adjacent to the detached house. A 2m wide planting screen is proposed along the common boundary with the adjacent school.

The proposal has been amended since its original submission, the main changes include:

- The omission of the pitched roof to the terraced properties.
- The omission of the additional vehicular access to the north of the site for the detached dwelling.
- The detached dwelling has been changed from 3 storeys to 2 and has an enlarged foot print.

Consultations

Conservation and Design: The changes in the design have been negotiated with the conservation officer who expressed concerns about the overall height and mass of the original scheme but is content with the amended scheme.

Brixham Town Council: Recommend refusal on grounds of privacy of Furzeham Primary School, traffic on a particularly dangerous junction and overdevelopment of a Greenfield site.

Highways: No objection provided visibility can be achieved. Request contribution towards pedestrian improvements at the school entrance.

Drainage: Additional drainage details are required to ensure that soakaways are capable of being used at this site

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

Arboricultural Officer: Little vegetation of merit exists, therefore it is important that the available opportunities for landscape enhancement are maximised. The landscaping scheme proposed is generally acceptable, subject to some minor amendments which can be secured by condition.

Representations

A number of objections have been received in response to both the initial consultation and the second consultation, upon receipt of revised plans. The issues raised can be summarised as follows:

- Overlooking of school
- Concern over highway safety – particularly in relation to school children
- Insufficient parking spaces
- Concern that proposal will result in less on street parking spaces
- Proposal is ‘garden grabbing’
- Concern about capacity of sewerage system
- Concern about stability of land
- Concern about planting plans both in terms of children’s safety and blocking out of light
- Design out of keeping with local area
- Overdevelopment

These have been reproduced and placed in the Members Room.

Key Issues/Material Considerations

The key issues in determining this application are considered to be (1) Principle, (2) Visual impact, (3) Neighbour amenity, (4) Highways, (5) trees and landscaping, (6) s.106 issues, (7) land conditions.

Principle

The application site is currently in residential use and it is proposed to retain it within this use but with a more intensive form of development. A number of objections have referred to the proposal as ‘garden grabbing’. Members may be aware that the coalition government have empowered local authorities to resist development in the grounds of existing dwellings. However this is more relevant in authorities where housing supply is an issue and authorities have felt obliged to approve such proposals. However in Torbay it has always been possible to resist development of this nature where it has been felt to be unacceptable. As such each case is treated on its own merits. Therefore there is no objection in principle to the proposal.

Visual Impact

As mentioned above the application site is adjacent to a conservation area, however not within it. The proposed dwellings are of a modern design however it is considered that the design reflects the character and appearance of the area, thereby providing a modern interpretation of the Brixham vernacular. The buildings have been lowered in height since the proposal was first submitted and the height is now considered to be appropriate. The materials and the breaks in the building line prevent the buildings from being overly bulky. The proposal results in the removal of a small section of the front boundary wall to facilitate the visibility splay, however this is not considered to be materially harmful to the character of the area.

Neighbour Amenity

The nearest residential property to the proposed terraced houses is 16m away (36 Ropewalk Hill), however this property is angled obliquely to it and has no windows on the side facing elevation. 1 Harbour view Close is the next nearest property, and is over 20m away. As such the proposal is unlikely to have a significant impact upon neighbour amenity. Concerns have been expressed about the relationship with the school. Privacy of schools is not protected by planning legislation, however in the interests of neighbourly relations the relationship will be assessed.

The nearest property to the school is the western house within the terrace of 5. It is located 10m from the school. There are two windows within the end elevation which are proposed to be glazed with obscure glass. The other windows within the terrace would afford only oblique views in the direction of the school. It is proposed to plant a screen along the edge of the boundary in order to soften the relationship.

The proposed single dwelling towards the north of the site would have two windows on the first floor of the rear elevation to a study and a kitchen. These are 6.5m from the boundary and 14m from the school building itself. They are not indicated as obscure glazed however if members considered it necessary this could be required by condition. Given the distances involved and the measures which have been put in place it is not considered that the proposal has an unacceptable impact upon neighbour amenity.

Highways

The highway officer has not raised any objections to the proposal and has confirmed that the revised scheme is an improvement as it removes the access on to the track leading to the school. The proposal therefore would now utilise the existing vehicular access, although it would be widened in order to accommodate the additional vehicular movements associated with more dwellings. A number of concerns have been raised in relation to the safety of school children. As stated the highways officer has not raised an objection on safety grounds. The proposal does attract sustainable transport contributions which can be used for any infrastructure which encourages sustainable modes of transport. Therefore if members felt it appropriate this could be diverted towards pedestrian improvements near the entrance to the school. In terms of the level of parking provided this is considered to be sufficient at 2 spaces per dwelling.

Trees and Landscaping

The Council's tree officer has advised that the only tree of any merit which existed on the site is a Monterey Cypress which has recently been removed following advice from the Council that it posed a risk to the school. It is proposed to landscape the site and the details which have been submitted indicate a 2m wide planting screen between the site and the school and additional screen planting along the eastern boundary and part of the northern boundary. The amount of landscaping is considered to be appropriate in order to soften the development however it is recommended that conditions are attached to achieve the following amendments:

- The planting densities along the western edge adjacent to the boundary of the school should be a double staggered row at 1.5m centres

- An alternative species should be used for the southern boundary as holly berries can be mildly toxic to children and thorn trees can become a nuisance
- A more hardy tree should be planted adjacent to the car park
- A maintenance regime should be agreed.

Subject to these conditions the impact upon trees and landscaping is considered to be acceptable.

S.106

The proposal will attract developer contributions in line with the Council's adopted Supplementary Planning Document as follows:

Waste Management	£ 300
Sustainable Transport	£17,160
Education	£ 7,860
Lifelong Learning	£ 2,520
Green Space	£14,220
TOTAL	£42,060

Mitigation will need to be applied to this amount to take account of the development already on site, however figures on the existing floor space have not yet been provided.

As mentioned above, members may consider that it is appropriate to use the sustainable transport contributions to improve pedestrian facilities in the vicinity of the school to ameliorate any perceived impact brought about by the intensification of the use of the access.

Site Conditions

A number of letters have raised issues concerns about subsidence. There is not known to be an issue in this area, however it would be the responsibility of the developer to ensure that neighbouring property is not damaged during the course of the development. Comments have also been made about the capacity of the sewers in the area, however no objections have been received from South West Water.

Economic Regeneration

The proposal is for a purely residential scheme and is therefore unlikely to result in long term economic benefits. However the construction process will clearly provide work for a number of individuals.

Sustainability – The proposal is in a relatively accessible location and results in efficient use of the land. However the information submitted with the application does not indicate that any particularly sustainable practices or technologies are to be employed.

Crime and Disorder – The proposal will result in the natural surveillance of the areas immediately adjoining the site and would not result in an increased risk of crime and disorder.

Disability Issues – Buildings Regulations will apply.

Conclusions

The proposal represents an appropriate form of development for this site which, although modern, is a high quality architectural response to its context. The impact upon the neighbouring properties, including the school, is considered to be acceptable, as is the impact on highway safety. As such the proposal is considered to be in line with local and national planning policy and is recommended for approval.

Recommendation

Site Visit; Conditional Approval; Subject to the signing of a S.106 legal agreement in terms acceptable to the Executive Head of Spatial Planning within 3 months of the date of this committee.

Condition(s):

01. Prior to the commencement of the development hereby approved details of all materials to be used externally in the development, including hard surfacing materials shall be submitted to and approved in writing by the Local Planning Authority. The development shall be completed using only the approved materials.

Reason: In the interests of the visual amenities of the area, in accordance with policy BE1 of the Saved Torbay Local Plan 1995 – 2011.

02. Prior to the commencement of the development hereby approved a revised landscaping plan shall be submitted which shall be amended to reflect the following points:

* The planting along the western boundary adjacent to the school should be a double staggered row at 1.5m centres

* Alternative specimens are required for the southern boundary to replace the holly and thorn trees proposed

* An alternative to the proposed Liquidambar is required

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

Reason: In the interests of the visual amenities of the area, in accordance with policies BE1 and BE2 of the Saved Torbay Local Plan 1995 – 2011.

03. Prior to the first use or occupation of the dwellings, details of how, and when the communal landscaping will be managed, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the landscaping shall be managed in strict accordance with the approved details, unless otherwise approved in writing by the Local Planning Authority.

Reason: To ensure that the approved landscaping is appropriately maintained, in accordance with policy BE2 of the Saved Torbay Local Plan 1995 – 2011.

04. Prior to the commencement of the development hereby approved details of proposed soakaways, in accordance with Building Research Establishment Digest 365, showing that the proposed soakaways have been designed to cater for the 1 in 100 year storm event plus an allowance for climate change shall be submitted to and approved in writing by the Local Planning. The development shall be completed in accordance with the approved details.

Reason: To ensure that surface water is adequately dealt with in accordance with PPS25.

05. Prior to the first use or occupation of the development hereby approved the access shall be widened in accordance with detailed drawings which shall first have been submitted to and approved in writing by the Local Planning Authority.

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

06. Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) (Amendment), (No.2) (England) Order 2008 (or any order revoking and re-enacting that order) no development of the types described in Schedule 2, Part 1 Classes A, B, C, D,

E, shall be carried out without the prior written consent of the Local Planning Authority.

Reason: The design of the development is such that uncontrolled additions could have a significantly detrimental impact upon the character of the area and residential amenity, policies BE1 _ H9 of the Saved Torbay Local Plan 1995 - 2011.

07. Prior to the first use or occupation of any of the dwellings hereby approved the parking areas shown on the approved plans shall be laid out in accordance with said plans and shall thereafter remain permanently available for the purposes of parking for residents of the approved development, unless otherwise approved in writing by the Local Planning Authority.

Reason: To ensure that adequate parking provision is made for the occupants in the interests of highway safety, in accordance with policy T25 of the Saved Torbay Local Plan 1995 – 2011.

P/2011/0018/MPA

Berry Head With Furzeham Ward

Torbay Holiday Chalets, Fishcombe Road, Brixham

Formation of 40 self-catering units with associated leisure facilities

Site Details

The plot contains a long established holiday complex that sits in a relatively small and secluded site off Fishcombe Road, Brixham, 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 that generally have a northerly coastal outlook over Fishcombe Cove. The existing development appears in poor repair, which is largely due to its age and the abandonment of the operation over the past few years. However more fundamentally it intrinsically displays a quite disjointed and somewhat poor level of architectural form, with an ad-hoc mix of pitched and flat roofed buildings. In regard to contextual matters the buildings overlook an extensive area of hardstanding and managed grassland, which in-turn gives way to a steeply sloping cliff face that continues to the northern site boundary where it meets the cove. In regard to access the sites vehicular entrance sits in the southeastern corner off Fishcombe Road, the local road that serves the small number of sites in the locality that includes the beach access lane, the Brixham Holiday Park and the public footpath leading towards The Grove woodland.

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

Relevant Planning History

- P/2006/0838 Six New Holiday Flats, New Clubhouse with managers flat above and guest facilities (In Outline) (Renewal Of Application P/2003/1221/OA) – Approved (previously considered and approved under 1993/0169, 1997/0975, 2000/0889 and 2003/1221).
- P/2000/1759 Erection of 18 residential and 18 holiday flats with car parking (in outline)(as revised by plan received 20 June 2001) - Refused
- P/1989/2744 Erection of clubhouse with owners accommodation over - Approved
- P/1988/2591 Erection of new chalet to replace existing chalet – Approved
- P/1985/1149 4 Holiday chalets
- P/1984/2468 8 Holiday chalets
- P/1984/2091 Clubhouse/owners accommodation – Approved
- 10.5.79.3578 Erection of clubhouse and 4 chalets – Approved
- 10.5.79.2501 Clubhouse and 6 chalet units - Refused

Relevant Policies

Saved Torbay Local Plan 1995–2011:

- LS Landscape Strategy
- L1 Areas of Outstanding Natural beauty
- L4 Countryside Zone
- L10 Major development and landscaping
- NCS Nature conservation strategy
- NC1 Protected sites – internationally important sites
- NC3 Protected sites – locally important sites
- NC5 Protected species
- EPS Environmental protection strategy
- EP6 Derelict or under-used land
- BES Built environment strategy

BE1	Design of new development
BE2	Landscaping and design
TUS	Tourism strategy
TU3	New Tourist facilities elsewhere
TU5	New holiday accommodation
TU7	Change of use or redevelopment of holiday accommodation outside Principal Holiday Accommodation Areas
TU9	Refurbishment and development of new holiday centres or parks
TU10	Change of use or redevelopment of holiday centres and parks
TS	Land use transportation strategy
T25	Car parking in new development; and
T26	Access from development on to the highway
R11	Footpaths
CFS	Sustainable communities strategy
CF6	Community infrastructure contributions
CF7	Education contributions
W7	Development and waste facilities

Proposals

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

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

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

The application includes aspirations to provide off-site enhancements by improving the access to The Grove woodland via America Lane, along with the desire to provide a new coastal footpath route that is set to the seaward side of the development. This will provide the option for walkers to remain immediately adjacent to the cliffs and afford a more direct link to Fishcombe Cove Beach.

For clarity the proposal returns to committee seeking approval for 40 self-catering units with an acceptance that the units would be restricted to holiday use only. Notwithstanding this it is acknowledged that the applicant is currently investigating the lawful use of the units on the site and will be submitting a Certificate of Lawfulness, under the supposition that it may be possible to contend that the existing units are, in planning terms, unrestricted dwellings without any defined holiday use. The applicant has expressed that they wish to separate the issues in order to fit with time constraints over an option on the land that expires at the end of June 2011. As such the application is to be considered at the present time as including restrictions on occupancy.

Without prejudice the committee should be aware that these investigations may well provide a circumstance in the near future where it is proven and certified that the pre-existing use of the units is as unrestricted residential use. However, if this falls to be the case any discussion on the merits of an alternative scheme for part or whole unrestricted residential use would fall to be determined on its

individual merits.

Consultations

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

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

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

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

The Authority's Arboriculture Team: No arboricultural constraints will exist to the proposed development given the recently approved tree work application, and therefore there are no objections to the application on arboricultural merit.

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

Strategically a Transport Statement has been submitted to the satisfaction of the Authority's Senior Transport Planner and the application also includes an outline staff and visitor Travel Plan. The sustainable transportation team have requested that a s106 contribution inline with current guidance is sought to improve walking and cycling in the area.

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

Updated comments clarified that the AONB office consider that they must object to the proposals due to the proposed development that encroaches closer to the coast than currently exist. However, the office accepts that there are landscape benefits to the scheme (such as the improved experience landward around the Grove and America Lane and the creation of a seaward coastal footpath route that provides improved linkage to Fishcombe Cove) and hence there is a balance that needs to be struck in regards to the positives and negatives of the proposed development.

English Heritage: English Heritage do not wish to comment on the scheme.

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

Brixham Town Council: Support the scheme.

Representations

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

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

Objections appear to largely cite concerns in regards to the proposed access point part of the way down the beach access lane and the harm that could result from this upon pedestrians using the beach and the Brixham Battery Museum. Also raised is the more limited concern in regard to the positioning of the refuse/storage area near the museum and the impact of this in terms of odour and noise.

It should be noted that revised drawings have been submitted that show the access at its present location on the corner, which is a direct response to the number of highway concerns raised within public representation. It is hence important to note that none of the numerous highway related objections were a response to the present access scheme put forward.

Key Issues/Material Considerations

With the current withdrawal of the initial aspiration from the applicant for open residential use the key issues are the principle of the holiday redevelopment, along with the implications on the local landscape and ecology, the impact upon the highway network, and the possible implications upon the amenity afforded to neighbouring sites/occupiers.

The Principal of Development

Following the retraction of the desire for an unrestricted residential approval the scheme is a redevelopment proposal that provides a modern holiday development that would replace a defunct and derelict collection of chalets and service buildings. As the scheme looks to maintain a holiday provision within this established coastal site the general principle of the development is considered acceptable.

Visual Implications

The removal of the unsightly semi-derelict buildings that currently scar the site and the wider AONB is supported, and this view is shared with the South Hams AONB Team. In respect to the replacement scheme itself the proposal provides a radial pattern of development, which harks back to the historical development pattern on the site from the 1950s timber holiday chalets (as referred to and visually illustrated in the submitted Design and Access Statement). The terraced form seeks to utilise the natural drop in topography, minimising the apparent scale of the development when viewed from outside of the site (both from the sea and the land). The general pattern of the development is considered acceptable.

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

For contextual purposes it should be noted that the proposal has been through the Torbay Design Review Panel and the current submission has positively responded to the comments that were outlined by the panel. A copy of the panel's comments to the previous scheme has been supplied within the Design & Access Statement with the application and a copy will be provided within the representations bundle for members.

It is appreciated that the comments of the South Hams AONB Unit are mixed as they outline both the perceived benefit and potential harm of the proposal. On the one hand it is welcomed that the current buildings are to be removed, as they are considered harmful to the AONB. It is also recognised that

the provision of a modern functioning site would be beneficial for the general area, and that the boundary improvement works and off site works to America Lane, along with the revised coastal footpath route, would improve the experience of the AONB.

However on the other hand it is also iterated that development encroaching towards the coast, in terms of the extended footprint, is clearly not a philosophy that can be supported in principle. Officers consider it important to have regard to the comments of the South Hams AONB Unit Manager, however, it this is one of a multitude of issues to consider. On balance, given the positive enhancement set out in the overall design philosophy and given the investment opportunity and the intended leisure and tourist uses, it is considered that the wider benefits of the scheme outweigh concerns related to the extension of the built footprint in this instance. This is provided that an appropriate agreement can be reached in relation to the control of the use of the site for holiday and leisure purposes. It is important to note that the holiday nature of the development directly impacts upon its acceptability in planning terms and that an unrestricted residential permission would fall to be determined on its own individual merits.

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

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

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

Ecological Implications

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

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

Highway Issues

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

Amenity Issues

The scale and form of the proposal, in conjunction with the orientation and distances to surrounding sites and buildings, provides a scheme that is likely to have little impact upon the amenity afforded to neighbouring occupiers and businesses. The proposal is therefore considered acceptable on amenity grounds.

Planning Contributions and other legal clauses

Planning contributions

With the proposal returning to committee as a scheme for holiday units (rather than the unrestricted residential scheme previously mooted) the level of planning contributions are outlined below. Please note that the sums are mitigated to take into account the existing use and number of units, along with the extant approval for six further units.

Sustainable Transport Contributions: £3440 (expected towards improvements to America Lane and the Grove), which is based on a net of four additional units (55-74m² floor area).

It is also considered appropriate to consider that a monitoring contribution should be sought, inline with adopted guidance, which amounts to £2600. This would be payable in order to monitor the holiday use of the site in accordance with the proposed conditions and s106 obligations.

Legal clauses

In addition to planning contributions it is considered appropriate to include clauses within any forthcoming legal agreement in order to provide suitable parameters to ensure the holiday site is managed and maintained for holiday use. Draft clauses covering the following are considered reasonable within the context;

1. Holiday use directly outlined within the legal agreement,
2. Restricted leasehold arrangements for the holiday units,
3. Register of owners and their main UK addresses,
4. The maintenance of a visitors log for inspection,
5. Service charge arrangements for the repair / maintenance of the site via an overarching management company.

As the creation of a coastal path through the site is considered one of the integral benefits that should come forward, agreement on the provision and management of the path should also be engrained in the S106.

Sustainability -

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

Economic regeneration outcomes

The proposal will clearly provide for the regeneration of a derelict and now defunct holiday site, providing modern holiday accommodation fit for the 21st Century that strengthens the wider tourism package offered by Brixham. By bringing the camp back to life the scheme will provide additional jobs for the area and with the high level of supportive leisure facilities, the scheme will only increase the total number of jobs supplied by the operation.

Crime and Disorder -

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

Disability Issues -

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

Conclusions

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

The packaging of the scheme for restricted holiday occupancy overcomes previous concerns over the potential loss of a holiday park in the area. As the proposal is now to include restricted holiday occupancy this issue has effectively been overcome. Officers now consider that, on balance, given the positive benefits of the scheme in design terms, the regeneration benefits, the net uplift in the quality of the local holiday provision, the scheme is acceptable in planning terms. It is considered that the one remaining negative aspect, the extension of the built footprint within the AONB, is negated by these wider benefits and the general enhancements to the scheme in terms of its appearance within the AONB. The proposal is therefore considered acceptable.

It is noted that the investigations in respect to the lawful use of the existing development, i.e. whether the site could or could-not be classed as 30 residential units rather than holiday units, is a separate matter that should not directly influence the determination of this current application. If a residential use is subsequently established for the existing site and put forward as mitigation for future proposals (or amendments to the proposed holiday restrictions), this would be a matter to be considered on its own merits.

Recommendation:

Committee site visit; Conditional approval; subject to the signing of a s106 legal agreement in terms acceptable to the Executive Head of Spatial Planning, including clauses to ensure the appropriate holiday occupancy of the site, the s106 to be signed within 3 months of the date of this committee meeting. Conditions to include the schedule attached and any other conditions deemed necessary by the Executive Head of Spatial Planning.

Condition(s):

01. The holiday units hereby approved shall at all times be used for holiday purposes only and not for permanent residential occupation or occupied as a person's sole or main residence.

Reason: In order to ensure the continuance of the holiday provision and to guard against the introduction of potentially conflicting permanent occupancy use, within what is a restricted high-density site, in order to accord with policies TUS, TU3, TU7, TU9, TU10, HS, H6 and H9 of the saved adopted Torbay Local Plan 1995-2011.

02. A register of visitors and their main residential addresses shall be maintained at all times by the site manager, or other party as previously agreed by the Local Authority, the register shall be maintained and made available for inspection by the Local Planning Authority at all reasonable times.
Reason: To ensure that the holiday units are used for holiday purposes, in order to accord with policies TUS, TU3, TU7, TU9, TU10, HS, H6 and H9 of the saved adopted Torbay Local Plan 1995-2011.

03. The leisure facilities, including the spa, indoor and outdoor pool, restaurant and 'natural play' area indicated on the plans hereby approved shall be completed and made available for use, in full, prior to the first occupancy of the first unit.

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.

04. 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.

05. 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.

06. 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.

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

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

08. Prior to the first occupation of any unit the public right of way through the site, as indicated on the approved plans, shall be completed and made available for use, inline with details of levels and material finish that shall have previously been submitted to and approved by the Local Planning Authority.

Reason: To ensure a suitable development arrangement, inline with the aims and objectives of Policies L1 and R11 of the Saved Torbay Local Plan 1995-2011.

P/2010/0289/MOA

Blatchcombe Ward

Land Off Brixham Road, Rear Of Torbay Garden Centre Incorporating Yannons Farm, Adjacent To Little Preston, Short Preston And Woodlands, Paignton

Mixed use development to form approx 220 dwellings, approx 5,600 SQM gross of employment (B1) floorspace, local centre and public open space with roads and car parking (In Outline) THIS IS A DEPARTURE FROM THE TORBAY LOCAL PLAN

Site Details

The application site is land at Yannons Farm off the main Brixham Road (A3022) in Paignton. The site as a whole rises towards the south west with land beyond the ridge to the west being designated as an Area of Great Landscape Value (AGLV). To the north of the site is the existing Sainsbury's superstore on Brixham Road, and to the south of the site lies South Devon College and the former Nortel employment site. To the east, the site adjoins Parkbay Garden Centre and the former Holly Gruit campsite.

The application site itself is part of a wider employment land allocation (E1.16c) within the Saved Adopted Torbay Local Plan (1995-2011).

Relevant Planning History

P/2007/1421 Junction Improvements And Formation Of New Access To Facilitate Access To Land To The West (Resubmission Of P/2006/0678). Approved. 14.11.2008

Relevant history on adjacent site (Parkbay Garden Centre / Holly Gruit):

- P/1998/1919 Erection Of Buildings And Associated Works For Class B1 And B8 Use. Application For Approval Of Details In Part Pursuant To Condition 1; Details Of Access Road Off Brixham Road. Approved. 07.06.2000
- P/2001/0923 Erection Of 66,500 Sq Ft Non Food Retail Park A1 Use And 5000 Sq Ft Restaurant A1/A3 Use With Vehicular And Pedestrian Access (In Outline) This Is A Departure From The Local Plan. Refused. 08.01.2003
- P/2003/0059 Erection Of 61,800 Sq Ft Non Food Retail Park A1 Use And 5,000 Sq Ft Restaurant A1/A3 Use With Vehicle And Pedestrian Access (In Outline) This Is A Departure From The Local Plan. Refused. 28.08.2005. Appeal Withdrawn
- P/2005/0601 Change Of Use To Industrial Land (Class B1 & B8) (Renewal Of Application 98.1919.PA). Refused. 10.06.2005
- P/2005/1055 Certificate Of Lawfulness For The Implementation Of Planning Permission 1998/1919/PA dated 7 June 2000 And Demolition Of A Building Located In The Approximate Position Marked "X" On The Application Site Plan And More Particularly Delineated And Coloured Yellow On Drawing Number 05.05.14901 Rev A. Certificate Granted. 06.10.2005
- P/2009/0297 Retail development (bulky goods) with vehicle/pedestrian access. THIS IS A DEPARTURE FROM TORBAY LOCAL PLAN. Pending.
- P/2009/1287 Residential development to form approx 95 dwellings with associated vehicle/pedestrian access, roads; footpaths (In Outline) (THIS IS A DEPARTURE FROM THE ADOPTED DEVELOPMENT PLAN). Approved by members at the committee meeting of 19 April, subject to conditions and the signing of a s106 legal agreement.

Relevant Policies

National Planning Policy Statements

PPS1 Delivering sustainable development

PPS3 Housing

PPS4 Planning for sustainable economic growth
PPS25 Development and flood risk

Saved Adopted Torbay Local Plan (1995-2011)

ES Employment strategy
E1 New employment on identified sites
E1.16c Yalberton Road, Paignton
E6 Retention of employment land
HS Housing strategy
H2 New housing on unidentified sites
H6 Affordable housing on unidentified sites
H9 Layout, design and community aspects
H10 Housing densities
H11 Open space requirements for new housing
CF6 Community infrastructure contributions
CF7 Education contributions
BES Built Environment Strategy
BE1 Design of New Development
BE2 Landscaping and design
T1 Development accessibility
T2 Transport hierarchy
T25 Car parking in new development
T26 Access from development onto the highway
L8 Protection of hedgerows, woodlands and other natural landscape features
L9 Planting and retention of trees
L10 Major development and landscaping
EPS Environmental protection strategy
EP1 Energy efficient design

Adjacent land designations

L2 Area of Great Landscape Value (AGLV)
L4 Countryside Zone

Proposals

The proposal is an outline application for approximately 220 dwellings, approximately 5,600 sqm gross of employment (Class B1) floorspace, a local centre (0.29 ha) to include Class B1, A1, A2, C2 and D1 uses, a hill top park (1.2ha) and other ancillary areas of public open space and associated vehicular/pedestrian access. The access to the new housing development is proposed to be via the approved junction on Brixham Road (Ref: P/2007/1421).

This application was tabled at the committee meeting of 6 September 2010, where members resolved to approve the proposed development subject to the following:

- 1) The receipt of further information in respect of bat surveys and confirmation that Natural England no longer objects to the scheme on grounds of the potential impact on bats;
- 2) Subject to the signing of a Section 106 Legal Agreement in terms acceptable to the Executive Head of Spatial Planning including those set out in the submitted schedule and those terms agreed at the meeting held prior to the Committee meeting;
- 3) Referral to GOSW as a Departure from the Local Plan.

This application is being referred back to members in order to ensure that the terms of the draft s106 as negotiated are acceptable and in order to provide an update as to the progress made on the matters listed 1-3 above.

Consultations

The only consultation response of relevance to the consideration of the outstanding matters following the decision of the members on 6 September 2010 is that from Natural England. The statutory body still retain a holding objection at the present time on the grounds of the potential impact on the conservation status of the South Hams Special Area of Conservation (SAC) through a potential impact on habitat of value to the Greater Horseshoe Bats, whose habitat the SAC is designated to protect. It is hoped that a further update will be provided by Natural England ahead of the committee meeting.

Representations

All letters of representation that have been received in relation to this application have been reproduced for this committee meeting. The new representations that have come in following the committee meeting on 6th September 2010 assert that,

- a. at the 6 September 2010 meeting of the Development Management Committee, Members failed to take into account relevant considerations and/or took into account irrelevant considerations/mistakes of fact when reaching their decision on this matter,
- b. the s.106 as drafted does not accord with the committee resolution of 6 September 2010
- c. the effects and legality of the draft s106 legal agreement are potentially unlawful.

The primary concerns in relation to the drafted s106 agreement are:

1. The potential for the applicant, by virtue of the provisions of the s.106, to be able to prevent development of adjoining land, also within the E1.16c.policy area, regardless of the proposed use of that land.
2. The apparent lack of opportunity for third party land owners to make representation to the independent expert as part of the assessment of enabling infrastructure contributions and enhancement projects.
3. Contentions that the s106 as drafted will be contrary to Regulation 122 of the CIL (Community Infrastructure Levy) Regulations.
4. Concerns that the agreement would amount to indirect state aid.
5. Concerns that the agreement would fall foul of competition law.

It is clear from the representations made on behalf of the adjoining land owners that they may seek leave for Judicial Review of the decision of the Authority in this case, if their concerns are not resolved. As such it is important that the Council's decision is clear and that members consider all the facts before coming to a decision on the terms of the s106 agreement.

In addition to the representations setting out in detail the concerns of adjacent land owners, further representations from the applicants have also been received in respect of the ongoing negotiations on the s106 agreement.

All representations have been reproduced and placed in the Members Room.

Key Issues/Material Considerations

This proposed outline planning application was considered in full and in detail at the development management committee of 6th September 2010. As such officers are bringing back to the committee members only those matters that were not fully resolved at that committee meeting.

Referral to the Government office (formerly the Government Office for the South West (GOSW) now the National Planning Casework Unit (NPCU)

Following the meeting of 6th September 2010 it has been confirmed that, notwithstanding the fact that this application is a departure from the adopted Torbay Local Plan, in that the proposed development departs from the policy allocation for employment land only, there is no need to refer this application to the NPCU. This is due to the fact that the development does not meet the criteria for referral to the NPCU as set out within The Town and Country Planning (Consultation) (England) Direction 2009 (Circular 02/09). Accordingly, the Council has no further obligations to fulfil in this respect.

Impact on South Hams SAC / Greater Horseshoe Bat habitat

In the intervening period following the decision of members on 6th September 2010, the Council has instructed a consultant to carry out a Habitats Regulations Assessment of the likely impact of the development on the South Hams Special Area of Conservation (SAC). The consultant ecologist has resolved that, following changes to the scheme in the provision of a dark bat corridor and other appropriate mitigation, the scheme will not have a likely significant impact on the conservation status of the South Hams SAC.

Written confirmation has been sought from Natural England, now that it is understood that they concur with the findings of the Council's ecological consultant in respect of the scheme and it is envisaged that this confirmation will be provided at or before the committee meeting. In any event, officers are now confident that the scheme will not have a likely significant effect on the SAC. This is provided that appropriately worded conditions are added to the draft Decision Notice to secure the mitigation, as set out within the draft HRA screening opinion, a copy of which will be provided for members prior to the committee meeting.

Confirmation of heads of terms of s106

Members will be provided with a copy of the latest draft s106 agreement prior to the committee meeting, officers intend to ensure that this reflects the tenet and spirit of the agreed heads of terms set out in the document titled 'Yannons farm, Paignton (P/2010/0289): Summary of S.106 Terms – SUBJECT TO CONTRACT' and dated 6 September 2010. This is the document referred to in the committee minutes of 6 September 2010. Those heads of terms have been reproduced and placed in the Members Room.

It is contended by the third party adjacent land owners that the previous committee report misled members in respect of the effect of the suggested s106 heads of terms on the deliverability of the employment land allocation (E1.16c). As such, notwithstanding officers' views to the contrary, it is important that members are accurately and correctly advised of the circumstances of this case.

Specifically, what effect will the drafted s106 have in relation to the delivery of employment and what is the view of legal advisors within the Authority in respect of the legality of the proposed s106 clauses?

The s106 agreement, as currently drafted, includes the provision of the access / spine road through the site to within 30m of the boundary within 30 months of the commencement of the development. This ensures the provision of a substantial portion of the infrastructure required to support the provision of employment uses both on the application site and on neighbouring land. Without the provision of this infrastructure it will not be possible for an employment development to come forward on the remaining land within the employment policy area (E1.16c).

In addition to this, the s106 agreement provides a formula under which the ransom paid by neighbouring land owners for access to their land for employment and associated enabling uses is regulated. Ransom for non-employment/enabling uses would be ransomed on normal commercial terms. The s106 as drafted currently provides for the applicant to have a form of control over the opportunity for the neighbouring land owner to bring forward development and will have control in the future over the uses to which that land may be put.

In actuality, the effect of the s.106 will be to restrict a ransom situation that would otherwise have been unrestricted in this case. Because of the unusual infrastructure costs that the applicant is incurring in building the new junction with Brixham Road your officers consider that it would not be reasonable to demand that the applicant build the distributor road up to the boundary of the rest of the allocation area and allow unfettered access through its site to the adjoining land (if for no other reason that if such a demand were made, it is unlikely that the applicant would proceed with its project and none of the E1.16c allocation area would be developed). The s.106 should ensure that the applicant is not unfairly burdened with infrastructure costs that others then benefit from while at the same time ensuring that the applicant is not able to stifle delivery of the remainder of the allocation area by refusing to allow access to neighbouring land,.

In order to ensure that the s.106 meets the Council's aims the Council's solicitors are liaising with the applicant's solicitors and considering the wording of the draft s106 agreement further in respect to the ransom situation. An update on the appropriateness of the relevant provisions of the s.106 will be reported verbally at the committee meeting.

Legality of the decision

Legal advice has also been sought in relation to the contentions of the third party adjoining land owner that the s106 agreement will be contrary to Regulation 122 of the CIL (Community Infrastructure Levy) Regulations, and that the agreement would amount to indirect state aid, and that the agreement would fall foul of competition law.

The legal advice on these matters will be provided for members at the committee meeting. It will be important for members to consider the issue of the terms of the s106 afresh and on its merits having regard to the legal advice at the forthcoming committee meeting.

Social economic impacts

As was confirmed at the committee meeting on 6th September, the proposed development will provide for 5,600sqm of serviced employment land, will deliver at least 600sqm of completed modern purpose-built employment space. The scheme will open up the E1.16c allocation area and provide infrastructure necessary to service further employment land across the allocation area. The development will also deliver over 200 family homes, of which 15% will be affordable along with a hill top park, green spaces, mitigation and enhancement for wildlife habitat and a local centre.

This scheme is a vital part of the delivery of the E1.16c land and the necessary infrastructure to support and service the wider land allocation.

Conclusions

The proposal is an outline application for approximately 220 dwellings, approximately 5,600 sqm gross of employment floorspace, a local centre, a hill top park (1.2ha) and other ancillary areas of public open space and associated vehicular/pedestrian access. The scheme represents a form of enabling development to facilitate the delivery of employment land both on the site and within the remainder of the E1.16c policy area.

The proposed s106 legal agreement provides for a restricted ransom situation and will enable the delivery of the key parts of the development in a timely manner so as to open up the allocated land and drive forward its future development.

Recommendation: Subject to the further views of the Council's legal services; that the Council sign the s106 legal agreement and issue the decision.

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P/2010/1302/PA

Roundham With Hyde Ward

Flat 4 Vista Apartments, 17 Alta Vista Road, Paignton

Change of use from a holiday home to a residential dwelling

Site Details

Block of holiday flats on the southern side of Alta Vista Road with good views at the rear across Youngs Park and Goodrington Sands. The property was formerly an hotel (The Ebor Towers Hotel) and was converted to Holiday Flats in 2004.

Relevant Planning History

P/2003/1605 Conversion of hotel to form 12 2-bed and 1 single bed apartments. Approved 18 November 2003

P/2005/0245 Change of use from holiday flat to residential use at flat 1 - refused 2 June 2005 for the following reason "The site lies within a Principal Holiday Accommodation Area as defined by the Torbay Local Plan 1995-2011 (as adopted in April 2004). The proposal to provide one residential unit in lieu of one of the approved holiday accommodation units is therefore contrary to Policy TU6 of the adopted Torbay Local Plan in as much as the change of use would be to the detriment of the character and function of the principal holiday accommodation area and the applicant has failed to demonstrate that the proposed use would meet any of the criteria listed as being acceptable exceptions to the policy."

P/2005/1641 Alterations and extensions in roof space to form additional holiday unit. Approved 15 December 2005.

P/2010/1245 Change of use from holiday to residential at unit 5. Approved 13 April 2011.

P/2010/1364 Change of use from holiday to residential at unit 15. Approved 13 April 2011.

Other similar applications seeking residential use of holiday properties at the following addresses are also on this agenda:-

1 at Belvedere, Marine Drive,

3 at Sunhill Apartments, Alta Vista Road (next door to this application site),

1 at Carlton Manor, Roundham Road,

1 application (10 units) at Goodrington Lodge, Alta Vista Road.

Relevant Policies

Saved Adopted Torbay Local Plan

relevant policies

TU6 PHAA

CF6 Community Infrastructure Contributions

CF7 Education contributions

Also relevant are:-

Revised guidance on PHAA's adopted by the Council in March 2010 (Report no. 73/2010), and LDD6 (Planning contributions and affordable housing) adopted April 2008, and the subsequent update (mitigation and clarification) paper of March 2011.

Proposals

Permission is sought for a change of use at flat 4 to allow residential occupation in what is currently a holiday flat controlled by condition on the original approval. The conditions states that the 'the occupation of the holiday units hereby approved shall be restricted to bona fide holiday makers for individual periods not exceeding 4 weeks in total in any consecutive period of 13 weeks. A register of holiday makers shall be kept and made available to inspection by an authorised Officer of the Council at all reasonable times. Reason: The site is situated within a Principal Holiday Accommodation Area

and in order to preserve the character of the area it is important that the units are retained strictly for holiday letting purposes.' Allowing the change of use would allow residential occupation but by virtue of the Use Classes Order would also allow holiday use (as a permitted change).

Consultations

None.

Representations

None received.

Key Issues/Material Considerations

The property is a medium sized block of holiday flats situated within a Principle Holiday Accommodation Area, as defined by policy TU6.12 of the Saved Adopted Torbay Local Plan. The purpose of this policy is to resist changes of use away from holiday accommodation where that change would be detrimental to the character and function of the Principal Holiday Accommodation Area. This usually results in refusal to grant planning permissions to change of uses from holiday accommodation to permanent residential occupation.

Recent changes in holiday trends has led the Council to re-examine and re-interpret the policy in order to ensure that it is up to date, clear and gives a degree of flexibility in the current economic climate. The Council's adopted Tourism Strategy (2009) recommends a reduction in small and marginally located accommodation and the promotion of the best areas as Core Tourism Development Areas. Last year, the Council adopted a revised interpretation of the PHAA policy. Although the Revised Guidance does not form part of the LDF or Local Plan, it is capable of constituting a material consideration although would not carry as much weight as the Saved Adopted Torbay Local Plan.

Following consideration of 7 holiday apartments within the Belvedere complex off Marine Drive at April's meeting of the Development Management Committee, it is now clear that applications involving the loss of holiday accommodation first need to be tested against policy TU6. This policy states clearly that applications involving the loss of holiday accommodation within an identified P.H.A.A. should be tested against 4 key criteria and that they may be permitted where the following criteria apply:-

- a) the premises lack an appropriate basic range of facilities and do not offer scope or potential for improvement, thereby failing to meet the reasonable requirements of the tourist;
- b) the premises have restricted bedspace capacity, having a limited number of bedrooms (if serviced) or apartments (if self-catering);
- c) the loss of the premises would not be to the detriment of the holiday character of the particular locality, nor set an unacceptable precedent in relation to the concentration and role of nearby premises; and
- d) the proposed new use or development is compatible with the surrounding tourism related uses and does not harm the holiday character and atmosphere of the PHAA.

The Vista Apartments holiday properties were specifically formed by conversion of the Ebor Towers Hotel and therefore have been converted recently and to a high standard. The prevailing context of Alta Vista Road is of a strong holiday character and with many properties along the road being in holiday use. For these reasons it is not considered that the Vista Apartments would meet all of the above referenced tests.

If Members were minded to approve this application consideration should be given to the need for a planning obligation under s106 of the Town and Country Planning Act to offset the costs that would arise from this proposal. It had previously been Council policy not to charge for such contributions where the amount would have been less than £5000. However, this has now been amended by Full Council at its meeting on 24th March 2011, such that smaller developments must now also contribute to any adverse impacts they may generate, with no minimum threshold for contributions. However, Council also resolved that any such contributions should not be sought retrospectively in relation to live applications such as this one. This current application was validated before 24th March and so no Community Infrastructure Contribution would be due for this proposal.

It is not clear what the exact nature of the parking provision is for the Vista Apartments as a whole, but Members will be aware that any approval to allow residential occupation should ensure that two off-street parking spaces are provided for each residential unit. The applicant has indicated that flat 4 does have two such spaces, and therefore there would not be any parking reason for refusal, subject to seeing the two spaces clearly indicated on a plan. The Vista Apartments holiday properties were specifically formed by conversion of the Ebor Towers Hotel and therefore have been converted recently and to a high standard. The prevailing context of Alta Vista Road is of a strong holiday character and with many properties along the road being in holiday use. For these reasons it is not considered that the Vista Apartments would meet all of the above referenced tests.

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

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

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

Conclusions

When this proposal is tested against the relevant policies of the Saved Adopted Local Plan it fails. This is consistent with other decisions relating to holiday properties within P.H.A.A.'s, although some have been allowed under a different interpretation of the policy, including two in this complex. On balance, it is considered that the L.P.A. should not continue with decisions that are now thought to be a wrong interpretation of the policy even though that might lead to inconsistencies in the decision making process. It is now clear that proposals which fail to meet the tests of TU6 should be refused on policy grounds. The Vista Apartments holiday properties were specifically formed by conversion of the Ebor Towers Hotel and therefore have been converted recently and to a high standard. The prevailing context of Alta Vista Road is of a strong holiday character and with many properties along the road being in holiday use. For these reasons it is not considered that the Vista Apartments would meet all of the above referenced tests.

Recommendation

The application should be refused on the basis of failing to meet all of the tests imposed by policy TU6.

Condition(s):

01. The proposal to change the use of flat 4 Vista Apartments from a holiday home to a residential dwelling is contrary to policy TU6 of the Saved Adopted Torbay Local Plan which seeks to prevent such changes of use within identified Principal Holiday Accommodation Areas (PHAAs) where that change would be to the detriment of the character and function of the PHAA. The Vista Apartments at 17 Alta Vista Road, is a purposely converted block of holiday flats within the Roundham Road West Paignton PHAA as defined by policy TU6.12. The paper adopted by the Council in March 2010 provides guidance which interprets and clarifies the policy in the light of recent trends and changes to the holiday industry, however, it does not supersede or nullify the primacy of policy TU6. The Council having regard to the revised guidance on PHAA's, consider that the proposal would fail to meet tests (a) to (d) set out in policy TU6, and there are not any other change in circumstance that would justify a breach of the adopted policy.

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P/2011/0021/VC

Roundham With Hyde Ward

Goodrington Lodge, 23 Alta Vista Road, Paignton

Removal of condition 1 on application P/2008/1663/PA; condition 2 on application P/2008/1263/PA; condition 3 on application P/2008/0961/PA and condition 3 on application P/2008/0217/PA to allow permanent residential use along with holiday accommodation

Site Details

Former hotel, now converted into a block of holiday flats at the junction of Alta Vista Road and Braeside Road with good views across Youngs Park and Goodrington Sands.

Relevant Planning History

P/2008/0217/PA Alterations and conversion from hotel to 6 holiday flats, approved 14 April 2008.
P/2008/0961/PA Change of use of rear part of building to provide 3 holiday flats, approved 14 August 2008.
P/2008/1263/PA Alterations and change of use of front part of building to form 5 holiday flats, approved 7 November 2008.
P/2008/1663/PA Extension and amended layout to flat 5, approved 5 February 2009.

Other similar applications seeking residential use of holiday properties at the following addresses are also on this agenda:-

1 at Belvedere, Marine Drive,
3 at Sunhill Apartments, Alta Vista Road,
1 at Carlton Manor, Roundham Road,
1 at Vista Apartments, Alta Vista Road,

Relevant Policies

Saved Adopted Torbay Local Plan
relevant policies

TU6 Principle Holiday Accommodation Areas - PHAA
CF6 Community Infrastructure Contributions
CF7 Education contributions
T25 Parking standards

Also relevant are:-

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

Proposals

Permission has been sought to vary the original planning conditions that restricted occupancy. The conditions state that the accommodation approved shall be used for the purpose of holiday accommodation only and not as a UK main residence, with a register to be kept of all occupiers and their main addresses. The reason given for the conditions was to maintain the holiday character of the area, which is designated as a PHAA. Lifting the relevant conditions would effectively allow permanent residential accommodation, but by virtue of the Use Classes Order would also have allowed holiday use (as a permitted change) on those units that wished to do so. The application sought the lifting of this condition for each of the flats within this complex.

However, because of a change in emphasis in the interpretation of the Council's policy on PHAAs, applications such as this one were held in abeyance pending a review of the PHAA policy and the revised guidance of March 2010. In the meantime, the applicant in this case has stated his intentions to appeal against non-determination, as is his right to do so after the prescribed 8 week time period for

determination.

Once it has been confirmed that an appeal against non-determination has been lodged, this has the effect of removing the right of the LPA to formally determine the application, as this decision would now be taken by the Planning Inspectorate. However, as part of the appeal process, the Council will have to make clear what its resolution would have been had it been in a position to determine the application. Therefore Members are requested to consider this application as if it were to be determined.

Consultations

None.

Representations

None received.

Key Issues/Material Considerations

Principle/policy

The property is a medium sized block of holiday flats situated within the *Roundham Road West, Paignton* Principle Holiday Accommodation Area, as defined by policy TU6.12 of the Saved Adopted Torbay Local Plan. The purpose of this policy is to resist changes of use away from holiday accommodation where that change would be detrimental to the character and function of the Principal Holiday Accommodation Area.

Recent changes in holiday trends has led the Council to re-examine and re-interpret the policy in order to ensure that it is up to date, clear and gives a degree of flexibility in the current economic climate. The Council's adopted Tourism Strategy (2009) recommends a reduction in small and marginally located accommodation and the promotion of the best areas as Core Tourism Development Areas. As a consequence of the findings of the Tourism Strategy, the Council adopted, in March 2010, a revised interpretation of the PHAA policy. Although the Revised Guidance does not form part of the LDF or Saved Adopted Local Plan, it is capable of constituting a material consideration.

Following consideration of 7 other holiday apartments within the Belvedere complex on Marine Drive at April's meeting of the Development Management Committee, it has been clarified that applications involving the loss of holiday accommodation first need to be tested against policy TU6. This policy states clearly that applications involving the loss of holiday accommodation within an identified PHAA should be tested against 4 key criteria and that they will only be permitted where the following criteria apply:-

- a) the premises lack an appropriate basic range of facilities and do not offer scope or potential for improvement, thereby failing to meet the reasonable requirements of the tourist;
- b) the premises have restricted bedspace capacity, having a limited number of bedrooms (if serviced) or apartments (if self-catering);
- c) the loss of the premises would not be to the detriment of the holiday character of the particular locality, nor set an unacceptable precedent in relation to the concentration and role of nearby premises; and
- d) the proposed new use or development is compatible with the surrounding tourism related uses and does not harm the holiday character and atmosphere of the PHAA.

The Goodrington Lodge holiday properties were specifically formed by conversion of the previous hotel. The holiday flats are modern, purpose built and of high quality, they do not lack a basic range of facilities and do contribute positively to the PHAA. As such, it is not considered that Goodrington Lodge would meet the above referenced criteria. The prevailing context of Alta Vista Road is of a strong holiday character and with many properties along the road being in holiday use.

As such, notwithstanding the material consideration of the revised guidance on this part of the PHAA, which designates this as a green area, it is considered that the site makes a positive contribution to the holiday character of the PHAA and Officers consider that its loss should be resisted in accordance with policy TU6.

Planning obligations

If Members were minded to approve this application consideration should be given to the need for a planning obligation under s106 of the Town and Country Planning Act to offset the costs that would arise from this proposal. The Council has now re-examined and re-interpreted its original Adopted Supplementary Planning Document LDD6 ('Planning Contributions and Affordable housing: Priorities and Delivery'). The 'Planning contributions and affordable housing supplementary document, update 3', was adopted by the Council in March of this year (2011). The amount of the required 'developer contribution' for the current application should therefore be evaluated in line with this adopted revision to the policy.

According to this document, contributions due for residential proposals are now based on floorspace to be created. The document splits contributions up into 5 categories according to size. On this basis, the contributions due for the current proposal would work out as follows. The owner's accommodation is given as already being residential and so has not been included in the calculations.

The smallest flat within the Goodrington Lodge complex is 40 sq. m. which is technically below the minimum standards suggested by the English Partnerships (now part of the Homes and Community Agency) in their document 'Quality Standards: Delivering quality places', revised edition published in November 2007. They suggest a minimum internal floor area of 51 sq. m. for a one bedroom/2 person flat. This could indicate that this particular flat would be too small to justify residential accommodation.

It should also be noted that Torbay has an over-supply of one-bed flats and therefore what is required in the Torbay housing market is two-bed flats, for which the suggested internal floor area starts at 66 sq. m. This is reflected in the guidance given in the Adopted Supplementary Planning Document: LDD6 ('Planning contributions and affordable housing: priorities and delivery') which was adopted in April 2008 and forms part of the Torbay Local Development Framework (2005 - 2026). However it would make little sense to keep only one of the units as a holiday flat and therefore it is included in the calculations for the Planning Obligation as a category 1 unit (the smallest recognised unit).

Category 1 (45 - 54 Sq. M.)

Municipal waste and recycling	£ 50
Sustainable transportation	£1260
Education (primary only)	£ 0
Lifelong learning	£ 160
Green space and recreation	£ 550

TOTAL **£2020 x 1 unit = £2020**

Category 2 (55 - 74 Sq. M.)

Municipal waste and recycling	£ 50
Sustainable transportation	£1720
Education (primary only)	£ 410
Lifelong learning	£ 220
Green space and recreation	£1120

TOTAL **£3520 x 3 units = £10560**

Category 3 (75 - 94 Sq. M.)

Municipal waste and recycling	£ 50
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Sustainable transportation	£2350
Education (primary only)	£ 830
Lifelong learning	£ 300
Green space and recreation	£2050
TOTAL	£5580 x 3 units = £16740

Category 4 (95 - 119 Sq. M.)	
Municipal waste and recycling	£ 50
Sustainable transportation	£ 610
Education (primary only)	£1660
Lifelong learning	£ 470
Green space and recreation	£2370
TOTAL	£8160 x 2 units = £16320

This gives a total contribution due of (£ 2020 + £10560 + £16740 + £16320) = **£45,640**.

The applicant would need to be asked to confirm that they would be prepared to enter into an agreement to make and sign this Planning Obligation. Members should be aware that failure to agree the Planning Obligation should be considered as being contrary to policies CF6 and CF7 (Community Infrastructure and Educational Contributions) of the Saved Adopted Torbay Local Plan. As this consideration seeks a resolution from Members as to what they would have decided had they been in a position to do so, it is logical to add the lack of an agreed, signed, sealed and delivered Planning Obligation as one of the recommended reasons for refusal.

Parking

The plans approved show the accommodation at the property to comprise 1 cottage, 8 apartments and owners accommodation. As holiday properties, plus owners accommodation the site should provide parking for 10 or 11 off street spaces. Although the site is not clearly designated, the agent states that the site could take 10 or 12 cars off street. However, any proposal for residential use should be accompanied with provision for 15/16 off street spaces. This has not been included as part of the proposal and indeed could not be accommodated on site. Therefore it would be appropriate for Members to consider including lack of parking provision as a reason in any decision to refuse the proposal.

Sustainability - The proposal is a sustainable one in as much as it creates residential accommodation on an existing brownfield site. However, the provision of additional housing in a sustainable location does not in this case override the policy considerations in relation to the protection of the Principle Holiday Accommodation Area.

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

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

Conclusions

When this proposal is tested against the relevant policies of the Saved Adopted Local Plan it fails. The proposal does not meet the tests of TU6, CF6, CF7 nor of T25 and so the application should be refused on policy, lack of a planning obligation and parking grounds. This is consistent with other decisions relating to holiday properties within PHAA's.

Recommendation

It is recommended that Members agree that, had they been in a position to determine this proposal, they would have resolved to refuse the application. The recommended reasons for this decision would be as follows.

Condition(s):

01. The Council considers that had it been in a position to determine this proposal it would have resolved to refuse the application. There would have been three reasons for refusal:-

The proposal to remove conditions on various planning consents so as to allow residential use of the property, is contrary to policy TU6 of the Saved Adopted Torbay Local Plan which seeks to prevent such changes of use within identified Principal Holiday Accommodation Areas (PHAAs) where that change would be to the detriment of the character and function of the PHAA. Goodrington Lodge has recently been purposely converted into holiday flats from a hotel and is situated within a designated PHAA as defined by policy TU6.12. The paper adopted by the Council in March 2010 provides guidance which interprets and clarifies the policy in the light of recent trends and changes to the holiday industry, however, it does not supersede or nullify the primacy of policy TU6. The Council having regard to the revised guidance on PHAA's, consider that the proposal would fail to meet tests (a) - (d) set out in policy TU6, and there are not any other change in circumstance that would justify a breach of the adopted policy.

02. The applicant has failed to provide or legally agree to, any contributions in order to offset the costs involved in supporting essential community facilities such as transport services, education facilities, the provision of open space and to maintain infrastructure stemming directly from development that would arise to the Local Authority and the tax payer as a result of this proposal. This makes the proposal contrary to policies CF6 and CF7 of the Saved Adopted Torbay Local Plan (1995 - 2011) and to the subsequent adopted policy position of the Adopted Supplementary Planning Document LDD6 ('Planning Contributions and Affordable housing: Priorities and Delivery', adopted in May 2008) and the more recent update the 'Planning contributions and affordable housing supplementary document, update 3', (adopted by the Council in March 2011.)

03. The proposal to remove conditions on various planning consents so as to allow residential use of the property, is contrary to policy TU25 of the Saved Adopted Torbay Local Plan which clearly stipulates that residential flats should have 1 off street parking space per unit plus 1 space per 2 units for visitors (1.5 spaces per flat). Goodrington Lodge has recently been purposely converted into holiday flats and is provided with 1 space per unit only in accordance with the adopted standards for holiday flats. To allow residential use of the flats without any extra provision of off-street parking would therefore be contrary to the adopted policy and be likely to lead to parking on the public highway in an area which only has restricted on-street parking and can get very busy and congested particularly during the summer season. This would be likely to add to congestion and problems with the free flow of traffic, and the accumulative impact of all of the flats within the Goodrington Lodge Complex adding to this would have an unacceptable impact on the local highway network.

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CN/2011/0039/CON

Roundham With Hyde Ward

Paignton Green, Esplanade Road, Paignton

Details pursuant to condition 1 (levels), condition 2 (boundary treatment), condition 3 (details of play equipment), and condition 4 (landscaping) in relation to approved application P/2009/1209 which granted consent for a childrens play park at Paignton Green, Esplanade Road, Paignton

Site Details

The application site relates to a part of Paignton Green that measures approximately 0.7 hectares and is situated between the Flagship restaurant on Esplanade Road and the main access road to the Pier that runs at right angles to Esplanade Road towards Eastern Esplanade. The site is currently grassed and forms part of the wider public open space at Paignton Green.

In the Saved Adopted Torbay Local Plan the site is allocated as an Urban Landscape Protection Area and as being within the Coastal Protection Zone. The site falls partly within Flood Risk Zone 3.

Relevant Planning History

- P/2002/0065 Use of public open space for exhibition and event use (max 28 days), charitable events (max 56 days) funfair with fairground operators caravans (max 42 days) and gallopers funfair ride with 2 other traditional rides between Friday spring bank holiday to Monday August holiday each year. Approved 15/3/2002.
- P/2006/1142 Formation Of New Adventure Golf Course With 6ft Perimeter Fence, Props And Hut. Approved 29/09/2006.
- P/2008/1673 Change of use to playground with play equipment for children aged 0 to 18 years with mounding, landscaping, footpaths. Approved 12/10/2009.
- P/2008/1672 Change of use to playground with play equipment for children aged 0 to 18 years with mounding, landscaping, footpaths. Approved 12/10/2009
- P/2009/1209 Formation of children's play park, conditional approved 7/01/2010.

Relevant Policies

Saved Adopted Torbay Local Plan 1995-2011:

- L5 Urban Landscape Protection Area (Development not permitted if it would harm the value of the area and the quality of the urban environment).
- RS Recreation and leisure Strategy (Supports the provision of new recreation, leisure, entertainment and cultural facilities).
- R2 Outdoor recreation Developments (Proposals permitted if there would be no significant harm caused to residential or other amenities, if the development must be acceptable in terms of transportation, access and highways safety, and so long as there would not be any harmful impact on nature conservation, landscape protection or agricultural land).
- R5 Protection of POS and playing fields (The loss of public open space, playing fields and sports pitches will only be permitted where the development enhances existing sports or recreation facilities or meets other community needs).
- R6 Urban Play Parks (Promotes the retention of and development of new Urban Play Parks).
- TU3 New tourist facilities (will be permitted supported).
- EPS Environmental Protection Strategy (supports sustainable development that respects environmental limits).
- EP12 Coastal Protection Zone.

Also relevant is a the 'Greenspace Strategy' a Supplementary Planning Document adopted as part of the Local Development Framework.

Proposals

At the meeting of 21st December 2009, Members approved a proposal for a children's play area on Paignton Green in between the pier and the cinema complex. This authorised the development of a play park celebrating Torbay's status as a Geopark and aimed at children aged between 2 and 13. It is intended to complement the recent approval of provision for older children and young people at Parkfield.

This 'parent' consent allows the proposal to be taken forward secure in the knowledge that the principles have been established and are lawful in planning terms. However, the approval was subject to a number of conditions, which will need to be satisfied before the proposal can be implemented. The conditions are as follows:

Standard time constraint (3 years for implementation)

- Condition 1 Requires details of existing and proposed ground levels indicating any alterations proposed.
- Condition 2 Requires details of all boundary treatment
- Condition 3 Requires detailed plans and specifications for all proposed play equipment incl. height, design, location, colour and materials.
- Condition 4 Landscaping scheme.
- Condition 5 Temporal trigger and maintenance plans for landscaping scheme.
- Condition 6 Desktop survey of archaeological implications.
- Condition 7 Requires a detailed surface water drainage scheme.
- Condition 8 No development over the Victorian culvert except the footpath indicated.
- Condition 9 Requires demonstration of adherence to the principles of 'Secure by design'.
- Informative 1 Advises that Flood Defence Consent will be required from the E.A.
- Informative 2 Advises that the proposal accords with the relevant policies and considerations of the Saved Adopted Torbay Local Plan.

On this basis, permission is now sought to discharge the relevant conditions, namely 1, 2, 3, 4, 7 and 9.

Consultations

Drainage: Obs. awaited.

Landscaping and Arboricultural Officers Obs Awaited.

Police Architectural Liaison Officer: States that he is satisfied that adequate steps have been taken to minimise the opportunity for crime and Anti Social Behaviour at this location. However he recognises that the main contributing factor to this conclusion will be the management practices that will have to be implemented by the owners once the project is completed.

Representations

Received and reproduced at page P.202.

Key Issues/Material Considerations

It is important for Members to appreciate that the permission for a children's play park at this location has already been established in planning law, is still capable of implementation and is still in time. The basic permission cannot therefore be re-visited as part of this application, because that is not the purpose of this application. This proposal asks the L.P.A. to consider the detail required by the conditions on the 'parent' consent.

Condition 1

Existing and proposed ground levels are shown on submitted drawing no. SQ208060-01-01 rev. B. The figures given relate to height above Ordnance Datum. The plan shows that the highest portion of

the site would be 4.30 m. O.D. at the point of the Balance Pods (E14), the stilts (E15) and the Gaul Play Unit (E16), all of which are clustered together in the Teen Play area on the seaward side in the northern half of the site. Most of the play units are below 1.5 m. above the ground level. In terms of the cross-section and fall of the land, the site is generally shown as being built up at the edges to give some definition and demarcation to the boundary. It is generally shown higher on the seaward side to provide protection from prevailing winds. The proposed gradient would however be gently sloping from the seaward side to the landward side with an average difference of approximately 1.5 m.

Condition 2

The boundaries to the site are open with no specific fencing or hedging indicated. However, the land is shown built up at the edges so that the total play area is effectively in a bowl.

Condition 3

Full details of each individual item of play equipment have been submitted. The items include the following. Toddler/Devonian area - a spinner bowl, ladybird springer, snake springer, ocean seesaw, double swing, tree castle, hexagonal net; Junior play/carboniferous area - rotating spicas, large two mast spacenet, birds nest swing; Teen play/Quaternary area - balance pods, robinia stilts, play hut, robinia pyramid, Kaise Kuhne Dutch disc, robina cableway (30 m.), platform for cableway, large play system. climbing tree, hammock, 6-way swing; Sand and water play/Permian area - sand play unit, water pump with sand gutter, waterpump, watertable, starfish, double spiral and sandtable, rotating table

Condition 4

A large variety of herbaceous plants, ornamental grasses, shrub planting and ornamental specimen planting are proposed. This is shown on drawing no. SQ208060-01-05 (Planting Plan). The planting is shown located mainly surrounding the individual play areas. The existing trees on the edge of the site adjacent to the Esplanade are shown to remain. The council's Urban Design and Landscaping Officer is currently assessing the scheme to ascertain the appropriateness of the proposed plant coverage, the suitability of the species in a marine environment (salty air, windy and relatively wet atmosphere) and appropriateness in respect of child safety. The matter has also been referred to the Principle Natural Environment who will be the Council Officer responsible for maintenance of the scheme. Their views are that the proposal is broadly acceptable, but further assessment still needs to be made on the details. Their views will be reported to Members at the meeting.

Condition 7

A surface water drainage statement was submitted and approved as part of the original 'parent' consent. It concluded that run-off could be attenuated on site through a number of methods to ensure that the risk of the site increasing storm water run-off can be mitigated. However, further information was requested by condition 7 in the knowledge that greater detail would be required and the details of the scheme and treatment had not been agreed at that stage (also reserved by condition). Officers are currently negotiating on this issue, the results of which will be reported to members at their meeting.

Condition 9

The Police Architectural Liaison Officer comments that he is satisfied that adequate steps have been taken to minimise the opportunity for crime and Anti Social Behaviour at this location. However he recognises that the main contributing factor to this conclusion will be the management practices that will have to be implemented by the owners once the project is completed.

Sustainability - The proposal site is very accessible from the bus network and is within short walking distance of the town centre. The site is ideally located for the use proposed, being close to the beach and other attractions and located centrally both in Paignton and Torbay as a whole. This was accepted with the parent consent and is not really an issue for consideration here.

Crime and Disorder The proposal would attract additional people to the area and crime prevention measures may need to be considered, at this stage there are no proposals for lighting the play park

and the park is to be open and accessible to all. The views of the Police Architectural Liaison Officer in terms of crime and disorder will be reported at the committee meeting.

Disability Issues The site would remain accessible for all with level and ramped access, although certain equipment and access routes may not be suitable for use by the disabled.

Conclusions

The location and effect of the proposed development in general terms on the character of this part of Paignton Green was a consideration made and resolved when the parent consent was granted permission in 2009. In terms of the details now provided these are considered to be acceptable and in conformity with the understanding of the scheme as considered when the parent scheme was considered and approved. The equipment will be visible and have a presence, with some items being quite large and tall. However this was always understood to be the situation. The provision of landscaping helps assimilate the scheme into the site. The Police are happy with security and safety issues involved with this proposal. Further details are still required in respect of drainage.

Recommendations:

The details required to satisfy conditions 1, 2, 3 and 9 are acceptable and sufficient to discharge the requirements of the conditions. Officers will report further information in respect of the views of the Council's Urban Design and Landscaping Officer and the Principal Natural Environment regarding landscaping (condition 4) and the long term maintenance of the park, together with the views of the Council's Manager (Drainage and structures) in relation to condition 7.

P/2011/0202/VC

Roundham With Hyde Ward

9 Roundham Road, Paignton

Removal of condition 1 to application P/2000/1186 to allow permanent residential use

Site Details

Block of holiday flats on the eastern side of Roundham Road set in an elevated position from the road frontage. The property was formerly an hotel (The Charlton Lodge Hotel) and was granted planning approval for conversion into holiday flats in 2000.

Relevant Planning History

P/2000/1186 Change of Use from Hotel to 8 Holiday Flats and owners accommodation. Conditional Approval 13 December 2000

ZP/2010/0718 Pre Application Enquiry Conversion from holiday occupation to residential. Likely to be approved

Other similar applications seeking residential use of holiday properties at the following addresses are also on this agenda:-

1 at Belvedere, Marine Drive,

Nos 2, 3 and 11 at Sunhill Apartments, Alta Vista Road

1 at Carlton Manor, Roundham Road,

1 application (10 units) at Goodrington Lodge, Alta Vista Road.

1 application (11 units) at 5 Colin Road

Relevant Policies

Saved Adopted Torbay Local Plan, relevant policies

TU6 (PHAA)

CF6 (Community Infrastructure Contributions)

CF7 (Education contributions)

Also relevant are:-

Revised guidance on PHAA's adopted by the Council in March 2010 (Report no. 73/2010), and

LDD6 (Planning contributions and affordable housing) adopted April 2008, and the subsequent update (mitigation and clarification) paper of June 2010.

Proposals

Permission is sought to remove a restrictive condition to allow residential occupation at Flat 1 which is currently a holiday flat controlled by condition on the original approval. The condition states that 'The accommodation hereby approved shall be used for short-term holiday letting purposes only, and not for permanent residential occupation.' Reason: To ensure that the flats are used for holiday purposes only.

Consultations

Observations Awaited from Carolyn Custerson Chief Executive Residents and Visitors Services

Representations

2 letters of objection (from the freeholder), reproduced at Page P.200.

Key Issues/Material Considerations

The property is a medium sized block of holiday flats situated within a Principle Holiday Accommodation Area, as defined by policy TU6.12 of the Saved Adopted Torbay Local Plan. The purpose of this policy is to resist changes of use away from holiday accommodation where that change would be detrimental to the character and function of the Principal Holiday Accommodation Area. This usually results in refusal to grant planning permissions to change of uses from holiday accommodation to permanent residential occupation.

Recent changes in holiday trends has led the Council to re-examine and re-interpret the policy in order to ensure that it is up to date, clear and gives a degree of flexibility in the current economic climate. The Council's adopted Tourism Strategy (2009) recommends a reduction in small and marginally located accommodation and the promotion of the best areas as Core Tourism Development Areas. Last year, the Council adopted a revised interpretation of the PHAA policy. Although the Revised Guidance does not form part of the LDF or Local Plan, it is capable of constituting a material consideration although would not carry as much weight as the Saved Adopted Torbay Local Plan.

Following consideration of 7 holiday apartments within the Belvedere complex off Marine Drive at April's meeting of the Development Management Committee, it is now clear that applications involving the loss of holiday accommodation first need to be tested against policy TU6. This policy states clearly that applications involving the loss of holiday accommodation within an identified P.H.A.A. should be tested against 4 key criteria and that they may be permitted where the following criteria apply:-

- a) the premises lack an appropriate basic range of facilities and do not offer scope or potential for improvement, thereby failing to meet the reasonable requirements of the tourist;
- b) the premises have restricted bedspace capacity, having a limited number of bedrooms (if serviced) or apartments (if self-catering);
- c) the loss of the premises would not be to the detriment of the holiday character of the particular locality, nor set an unacceptable precedent in relation to the concentration and role of nearby premises; and
- d) the proposed new use or development is compatible with the surrounding tourism related uses and does not harm the holiday character and atmosphere of the PHAA.

The Carlton Manor holiday properties were specifically formed by conversion of the Charlton Lodge Hotel and therefore have been converted recently and to a high standard. The prevailing context of this part of Roundham Road is of a strong holiday character and with many properties in the immediate vicinity being in holiday use. For these reasons it is not considered that the Carlton Manor Apartments would meet all of the above referenced tests.

If Members were minded to approve this application consideration should be given to the need for a planning obligation under s106 of the Town and Country Planning Act to offset the costs that would arise from this proposal. It had previously been Council policy not to charge for such contributions where the amount would have been less than £5000. However, this has now been amended by Full Council at its meeting on 24th March 2011, such that smaller developments must now also contribute to any adverse impacts they may generate, with no minimum threshold for contributions. However, Council also resolved that any such contributions should not be sought retrospectively in relation to live applications such as this one. This current application was received before 24th March and so no Community Infrastructure Contribution would be due for this proposal.

In terms of on site car parking provision the original planning approval for the conversion to holiday flats indicated 10 spaces to the front of the property (controlled by condition). This level of provision is considered to be appropriate for permanent residential occupancy.

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

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

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

Conclusions

When this proposal is tested against the relevant policies of the Saved Adopted Local Plan it fails. This is consistent with other decisions relating to holiday properties within P.H.A.A.'s, although some

have been allowed under a different interpretation of the policy, including two in complex next door. On balance, it is considered that the L.P.A. should not continue with decisions that are now thought to be a wrong interpretation of the policy even though that might lead to inconsistencies in the decision making process. It is now clear that proposals which fail to meet the tests of TU6 should be refused on policy grounds. The Carlton Manor Holiday Apartments were specifically formed by conversion of the Charlton Lodge Hotel and therefore have been converted recently and to a high standard. The prevailing context of this part of Roundham Road is of a strong holiday character and with many properties in the immediate vicinity in holiday use. For these reasons it is not considered that the Carlton Manor Apartments would meet all of the above referenced tests.

Recommendation

The application should be refused on the basis of failing to meet all of the tests imposed by policy TU6.

Condition(s):

01. The proposal to change the use of flat 1 at Carlton Manor Apartments from a holiday home to a residential dwelling is contrary to policy TU6 of the Saved Adopted Torbay Local Plan which seeks to prevent such changes of use within identified Principal Holiday Accommodation Areas (PHAAs) where that change would be to the detriment of the character and function of the PHAA. The Carlton Manor at 9 Roundham Road, is a purposely converted block of holiday flats within the Roundham Road West Paignton PHAA as defined by policy TU6.12. The paper adopted by the Council in March 2010 provides guidance which interprets and clarifies the policy in the light of recent trends and changes to the holiday industry, however, it does not supersede or nullify the primacy of policy TU6. The Council having regard to the revised guidance on PHAA's, consider that the proposal would fail to meet tests (a) to (d) set out in policy TU6, and there are no other change in circumstance that would justify a breach of the adopted policy.

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P/2011/0214/PA

Preston Ward

Apartment 8 Belvedere, 37 Marine Drive, Paignton

Change of use from holiday let not being used as main dwelling to residential use

Site Details

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

Relevant Planning History

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

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

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

7 identical applications within the Belvedere apartment block seeking the removal of a condition restricting occupancy to holiday use only were all refused by the Development Management Committee by Members of the Development Management Committee at their meeting in April of this year. Two reasons were given, as follows –

1 - "The proposal to remove condition 4 of planning application P/2000/1231 and allow residential use of the property, is contrary to policy TU6 of the Saved Adopted Torbay Local Plan which seeks to prevent such changes of use within identified Principal Holiday Accommodation Areas (PHAAs) where that change would be to the detriment of the character and function of the PHAA. The Belvedere complex at 37 Marine Drive, Preston, is a purpose built block of holiday flats within the Preston Seafront PHAA as defined by policy TU6.9 and the primacy of this policy in respect of the Belvedere Holiday complex has already been tested and successfully upheld on appeal by Inspector's decision dated 9th May 2002 (reference APP/X1165/A/01/1080318). The paper adopted by the Council in March 2010 provides guidance which interprets and clarifies the policy in the light of recent trends and changes to the holiday industry, however, it does not supersede or nullify the primacy of policy TU6. The Council having regard to the revised guidance on PHAA's, consider that the proposal would fail to meet tests (a) - (d) set out in policy TU6, and there are not any other change in circumstance that would justify a breach of the adopted policy.

2 - The proposal to remove condition 4 of planning application P/2000/1231 and allow residential use of the property, is contrary to policy TU25 of the Saved Adopted Torbay Local Plan which clearly stipulates that residential flats should have 1 off street parking space per unit plus 1 space per 2 units for visitors (1.5 spaces per flat). The Belvedere Holiday Complex at 37 Marine Drive, Preston is a purpose built block of holiday flats which is provided with 1 space per unit only in accordance with the adopted standards for holiday flats. To allow residential use of the flats without any extra provision of off-street parking would therefore be contrary to the adopted policy and be likely to lead to parking on the public highway in an area which only has restricted on-street parking and can get very busy and congested particularly during the summer season. This would be likely to add to congestion and problems with the free flow of traffic, and the accumulative impact of many or all of the flats within the Belvedere Complex adding to this would have an unacceptable impact on the local highway network.

Other similar applications seeking residential use of holiday properties at the following addresses are also on this agenda:-

3 at Sunhill Apartments, Alta Vista Road,

1 at Carlton Manor, Roundham Road,

1 at Vista Apartments, Alta Vista Road,

1 application (10 units) at Goodrington Lodge, Alta Vista Road.

Relevant Policies

Saved Adopted Torbay Local Plan
relevant policies

TU6 PHAA
CF6 Community Infrastructure Contributions
CF7 Education contributions
T25 Parking standards

Also relevant are:-

Revised guidance on PHAA's adopted by the Council in March of this year (Report no. 73/2010), and LDD6 (Planning contributions and affordable housing) adopted April 2008, and the subsequent update (mitigation and clarification) paper of March 2011.

Proposals

The applicant has applied for a change of use to his flat (no. 8) from holiday use to permanent residential. In fact the application should more correctly have been submitted as an application seeking to vary the original planning condition that restricted occupancy. However, the considerations and the resolution that will be eventually reached would be the same. Condition 4 of permission 2000/1231 states that "The accommodation hereby approved shall be used for the purpose of holiday accommodation only and not as a UK main residence without the express permission of the Local Planning Authority. Reason: To ensure that the flats are used for holiday purposes only." The removal of this condition would allow permanent residential occupancy of the relevant flats.

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

Consultations

None.

Representations

None received against this particular application.

Key Issues/Material Considerations

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

Recent changes in holiday trends has led the Council to re-examin and re-interpret the policy in order to ensure that it is up to date, clear and gives a degree of flexibility in the current economic climate. The Council's adopted Tourism Strategy (2009) recommends a reduction in small and marginally located accommodation and the promotion of the best areas as Core Tourism Development Areas. Last year, the Council adopted a revised interpretation of the PHAA policy. Although the Revised Guidance does not form part of the LDF or Local Plan, it is capable of constituting a material

consideration although would not carry as much weight as the Saved Adopted Torbay Local Plan.

Paragraph 4:17 of report no. 73/2010 (Revised guidance on Principal Holiday Accommodation Areas in response to the Adopted Torbay Tourism Strategy) makes clear that when dealing with applications for the conversion of holiday accommodation to residential use, developer contributions will be sought on the basis of the Adopted Supplementary Planning Document LDD6 ('Planning Contributions and Affordable housing: Priorities and Delivery'). This was originally adopted in May 2008, but has now been examined again and re-interpreted in the light of the current severe economic problems faced by this country, in order to ensure that it is up to date, clear and gives a degree of flexibility in the current economic climate. The 'Planning contributions and affordable housing SPD update 3' was adopted in March 2011.

Following consideration of 7 other apartments within the Belvedere complex at April's meeting of the Development Management Committee, it is now clear that applications involving the loss of holiday accommodation first need to be tested against policy TU6. This policy states clearly that applications involving the loss of holiday accommodation within an identified P.H.A.A. should be tested against 4 key criteria and that they may be permitted where the following criteria apply:-

- a) the premises lack an appropriate basic range of facilities and do not offer scope or potential for improvement, thereby failing to meet the reasonable requirements of the tourist;
- b) the premises have restricted bedspace capacity, having a limited number of bedrooms (if serviced) or apartments (if self-catering);
- c) the loss of the premises would not be to the detriment of the holiday character of the particular locality, nor set an unacceptable precedent in relation to the concentration and role of nearby premises; and
- d) the proposed new use or development is compatible with the surrounding tourism related uses and does not harm the holiday character and atmosphere of the PHAA.

It is not considered that any of the above really apply in the case of the Belvedere complex, and it is for this reason primarily that Members resolved to refuse the 7 similar applications at April's meeting.

If Members were minded to refuse this application then consideration should be given to the need for adequate car parking facilities at the site. Whilst holiday accommodation requires parking at a ratio of 1 space per unit, residential would require 1.5 spaces per unit. This could not be achieved at this site where no additional space can be provided for additional off-street parking. Members considered this a significant factor in their reasoning when considering the 7 other applications at April's meeting. Nothing has changed in this regard since that decision was made.

If Members were minded to approve this application consideration should be given to the need for a planning obligation under s106 of the Town and Country Planning Act to offset the costs that would arise from this proposal. It had previously been Council policy not to charge for such contributions where the amount would have been less than £5000. However, this has now been amended by Full Council at its meeting on 24th March 2011, such that smaller developments must now also contribute to any adverse impacts they may generate, with no minimum threshold for contributions. However, Council also resolved that any such contributions should not be sought retrospectively in relation to live applications such as this one. This current application was validated before 24th March and so no Community Infrastructure Contribution would be due for this proposal.

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

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

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

Conclusions

When this proposal is tested against the relevant policy of the Saved Adopted Local Plan it fails. The proposal does not meet the tests of TU6 nor of T25 and so the application should be refused on policy and parking grounds. This is consistent with other decisions at this holiday complex.

Recommendation

Refusal.

Condition(s):

01. The proposal to remove condition 4 of planning application P/2000/1231 and allow residential use of the property, is contrary to policy TU6 of the Saved Adopted Torbay Local Plan which seeks to prevent such changes of use within identified Principal Holiday Accommodation Areas (PHAAs) where that change would be to the detriment of the character and function of the PHAA. The Belvedere complex at 37 Marine Drive, Preston, is a purpose built block of holiday flats within the Preston Seafront PHAA as defined by policy TU6.9 and the primacy of this policy in respect of the Belvedere Holiday complex has already been tested and successfully upheld on appeal by Inspector's decision dated 9th May 2002 (reference APP/X1165/A/01/1080318). The paper adopted by the Council in March 2010 provides guidance which interprets and clarifies the policy in the light of recent trends and changes to the holiday industry, however, it does not supersede or nullify the primacy of policy TU6. The Council having regard to the revised guidance on PHAA's, consider that the proposal would fail to meet tests (a) - (d) set out in policy TU6, and there are not any other change in circumstance that would justify a breach of the adopted policy.

02. The proposal to remove condition 4 of planning application P/2000/1231 and allow residential use of the property, is contrary to policy TU25 of the Saved Adopted Torbay Local Plan which clearly stipulates that residential flats should have 1 off street parking space per unit plus 1 space per 2 units for visitors (1.5 spaces per flat). The Belvedere Holiday Complex at 37 Marine Drive, Preston is a purpose built block of holiday flats which is provided with 1 space per unit only in accordance with the adopted standards for holiday flats. To allow residential use of the flats without any extra provision of off-street parking would therefore be contrary to the adopted policy and be likely to lead to parking on the public highway in an area which only has restricted on-street parking and can get very busy and congested particularly during the summer season. This would be likely to add to congestion and problems with the free flow of traffic, and the accumulative impact of many or all of the flats within the Belvedere Complex adding to this would have an unacceptable impact on the local highway network.

P/2011/0215/PA

Roundham With Hyde Ward

Apartment 2, Sunhill Apartments, 19 Alta Vista Road, Paignton

Change use from holiday let to residential use

Site Details

Block of holiday flats on the southern side of Alta Vista Road with good views at the rear across Youngs Park and Goodrington Sands. The property was formerly an hotel (The Sunhill Hotel) and was granted planning approval for conversion into holiday flats in two phases in 2003 and 2004.

Relevant Planning History

P/2003/0571 Alterations and Conversion of Part Of Hotel to Form 6 Holiday Units (Phase 1)
Approved 16th July 2003

P/2004/0038 Alterations an Conversion of Part of Hotel to Form 6 Holiday Units (Phase 2) Approved
25th February 2004

P/2010/1245 Change of use from holiday to residential at unit 5 Vista Apartments. (Next Door to this
Application) Approved 13 April 2011.

P/2010/1364 Change of use from holiday to residential at unit 15 Vista Apartments. (Next Door to this
Application) Approved 13 April 2011.

ZP/2010/0322 Pre Application Enquiry 11 Sunhill Apartments Holiday Use to Permanent Residential.
Likely to receive favourable consideration
10 August 2010

Other similar applications seeking residential use of holiday properties at the following addresses are also on this agenda:-

1 at Belvedere, Marine Drive,

Nos 3 and 11 at Sunhill Apartments, Alta Vista Road

1 at Carlton Manor, Roundham Road,

1 application (10 units) at Goodrington Lodge, Alta Vista Road.

1 application (11 units) at 5 Colin Road

Relevant Policies

Saved Adopted Torbay Local Plan

relevant policies

TU6 PHAA

CF6 Community Infrastructure Contributions

CF7 Education contributions

Also relevant are:-

Revised guidance on PHAA's adopted by the Council in March 2010 (Report no. 73/2010), and

LDD6 (Planning contributions and affordable housing) adopted April 2008, and the subsequent update (mitigation and clarification) paper of June 2010.

Proposals

Permission is sought for a change of use at flat 2 to allow residential occupation in what is currently a holiday flat controlled by condition on the original approval. The condition states that the 'the occupation of the holiday units hereby approved shall be restricted to bona fide holiday makers for individual periods not exceeding 4 weeks in total in any consecutive period of 13 weeks. A register of holiday makers shall be kept and made available to inspection by an authorised Officer of the Council at all reasonable times. Reason: The site is situated within a Principal Holiday Accommodation Area and in order to preserve the character of the area it is important that the units are retained strictly for holiday letting purposes.' Allowing the change of use would allow residential occupation but by virtue of the Use Classes Order would also permit holiday use.

Consultations

Observations Awaited from Carolyn Custerson Chief Executive Residents and Visitors Services.

Representations

None received.

Key Issues/Material Considerations

The property is a medium sized block of holiday flats situated within a Principle Holiday Accommodation Area, as defined by policy TU6.12 of the Saved Adopted Torbay Local Plan. The purpose of this policy is to resist changes of use away from holiday accommodation where that change would be detrimental to the character and function of the Principal Holiday Accommodation Area. This usually results in refusal to grant planning permissions to change of uses from holiday accommodation to permanent residential occupation.

Recent changes in holiday trends has led the Council to re-examine and re-interpret the policy in order to ensure that it is up to date, clear and gives a degree of flexibility in the current economic climate. The Council's adopted Tourism Strategy (2009) recommends a reduction in small and marginally located accommodation and the promotion of the best areas as Core Tourism Development Areas. Last year, the Council adopted a revised interpretation of the PHAA policy. Although the Revised Guidance does not form part of the LDF or Local Plan, it is capable of constituting a material consideration although would not carry as much weight as the Saved Adopted Torbay Local Plan.

Following consideration of 7 holiday apartments within the Belvedere complex off Marine Drive at April's meeting of the Development Management Committee, it is now clear that applications involving the loss of holiday accommodation first need to be tested against policy TU6. This policy states clearly that applications involving the loss of holiday accommodation within an identified P.H.A.A. should be tested against 4 key criteria and that they may be permitted where the following criteria apply:-

- a) the premises lack an appropriate basic range of facilities and do not offer scope or potential for improvement, thereby failing to meet the reasonable requirements of the tourist;
- b) the premises have restricted bedspace capacity, having a limited number of bedrooms (if serviced) or apartments (if self-catering);
- c) the loss of the premises would not be to the detriment of the holiday character of the particular locality, nor set an unacceptable precedent in relation to the concentration and role of nearby premises; and
- d) the proposed new use or development is compatible with the surrounding tourism related uses and does not harm the holiday character and atmosphere of the PHAA.

The Sunhill Apartments holiday properties were specifically formed by conversion of the Sunhill Hotel and therefore have been converted recently and to a high standard. The prevailing context of Alta Vista Road is of a strong holiday character and with many properties along the road being in holiday use. For these reasons it is not considered that the Sunhill Apartments would meet all of the above referenced tests.

If Members were minded to approve this application consideration should be given to the need for a planning obligation under s106 of the Town and Country Planning Act to offset the costs that would arise from this proposal. It had previously been Council policy not to charge for such contributions where the amount would have been less than £5000. However, this has now been amended by Full Council at its meeting on 24th March 2011, such that smaller developments must now also contribute to any adverse impacts they may generate, with no minimum threshold for contributions. However, Council also resolved that any such contributions should not be sought retrospectively in relation to live applications such as this one. This current application was received before 24th March and so no Community Infrastructure Contribution would be due for this proposal.

In terms of on site car parking provision the original planning approvals for the conversions to holiday flats indicated 24 spaces to the front and rear of the property (controlled by condition). This level of provision is considered to be appropriate for permanent residential occupancy.

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

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

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

Conclusions

When this proposal is tested against the relevant policies of the Saved Adopted Local Plan it fails. This is consistent with other decisions relating to holiday properties within P.H.A.A.'s, although some have been allowed under a different interpretation of the policy, including two in complex next door. On balance, it is considered that the L.P.A. should not continue with decisions that are now thought to be a wrong interpretation of the policy even though that might lead to inconsistencies in the decision making process. It is now clear that proposals which fail to meet the tests of TU6 should be refused on policy grounds. The Sunhill Holiday Apartments were specifically formed by conversion of the Sunhill Hotel and therefore have been converted recently and to a high standard. The prevailing context of Alta Vista Road is of a strong holiday character and with many properties along the road being in holiday use. For these reasons it is not considered that the Sunhill Apartments would meet all of the above referenced tests.

Recommendation

The application should be refused on the basis of failing to meet all of the tests imposed by policy TU6.

Condition(s):

01. The proposal to change the use of flat 2 Sunhill Apartments from a holiday home to a residential dwelling is contrary to policy TU6 of the Saved Adopted Torbay Local Plan which seeks to prevent such changes of use within identified Principal Holiday Accommodation Areas (PHAAs) where that change would be to the detriment of the character and function of the PHAA. The Sunhill Apartments at 19 Alta Vista Road, is a purposely converted block of holiday flats within the Roundham Road West Paignton PHAA as defined by policy TU6.12. The paper adopted by the Council in March 2010 provides guidance which interprets and clarifies the policy in the light of recent trends and changes to the holiday industry, however, it does not supersede or nullify the primacy of policy TU6. The Council having regard to the revised guidance on PHAA's, consider that the proposal would fail to meet tests (a) to (d) set out in policy TU6, and there are no other change in circumstance that would justify a breach of the adopted policy.

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P/2011/0271/PA

Roundham With Hyde Ward

Unit 11, Sunhill Apartments, 19 Alta Vista Road, Paignton

Change of use from holiday home to residential dwelling

Site Details

Block of holiday flats on the southern side of Alta Vista Road with good views at the rear across Youngs Park and Goodrington Sands. The property was formerly an hotel (The Sunhill Hotel) and was granted planning approval for conversion into holiday flats in two phases in 2003 and 2004.

Relevant Planning History

P/2003/0571 Alterations and Conversion of Part Of Hotel to Form 6 Holiday Units (Phase 1)
Approved 16th July 2003

P/2004/0038 Alterations an Conversion of Part of Hotel to Form 6 Holiday Units (Phase 2) Approved
25th February 2004

P/2010/1245 Change of use from holiday to residential at unit 5 Vista Apartments. (Next Door to this
Application) Approved 13 April 2011.

P/2010/1364 Change of use from holiday to residential at unit 15 Vista Apartments. (Next Door to this
Application) Approved 13 April 2011.

ZP/2010/0322 Pre Application Enquiry 11 Sunhill Apartments Holiday Use to Permanent Residential.
Likely to receive favourable consideration

Other similar applications seeking residential use of holiday properties at the following addresses are also on this agenda:-

1 at Belvedere, Marine Drive,

Nos 2 and 3 at Sunhill Apartments, Alta Vista Road

1 at Carlton Manor, Roundham Road,

1 application (10 units) at Goodrington Lodge, Alta Vista Road.

1 application (11 units) at 5 Colin Road

Relevant Policies

Saved Adopted Torbay Local Plan

relevant policies

TU6 PHAA

CF6 Community Infrastructure Contributions

CF7 Education contributions

Also relevant are:-

Revised guidance on PHAA's adopted by the Council in March 2010 (Report no. 73/2010), and

LDD6 (Planning contributions and affordable housing) adopted April 2008, and the subsequent update (mitigation and clarification) paper of June 2010.

Proposals

Permission is sought for a change of use at flat 11 to allow residential occupation in what is currently a holiday flat controlled by condition on the original approval. The condition states that the 'the occupation of the holiday units hereby approved shall be restricted to bona fide holiday makers for individual periods not exceeding 4 weeks in total in any consecutive period of 13 weeks. A register of holiday makers shall be kept and made available to inspection by an authorised Officer of the Council at all reasonable times. Reason: The site is situated within a Principal Holiday Accommodation Area and in order to preserve the character of the area it is important that the units are retained strictly for holiday letting purposes.' Allowing the change of use would allow residential occupation but by virtue of the Use Classes Order would also permit holiday use.

Consultations

Observations Awaited from Carolyn Custerson Chief Executive Residents and Visitors Services.

Representations

None received.

Key Issues/Material Considerations

The property is a medium sized block of holiday flats situated within a Principle Holiday Accommodation Area, as defined by policy TU6.12 of the Saved Adopted Torbay Local Plan. The purpose of this policy is to resist changes of use away from holiday accommodation where that change would be detrimental to the character and function of the Principal Holiday Accommodation Area. This usually results in refusal to grant planning permissions to change of uses from holiday accommodation to permanent residential occupation.

Recent changes in holiday trends has led the Council to re-examine and re-interpret the policy in order to ensure that it is up to date, clear and gives a degree of flexibility in the current economic climate. The Council's adopted Tourism Strategy (2009) recommends a reduction in small and marginally located accommodation and the promotion of the best areas as Core Tourism Development Areas. Last year, the Council adopted a revised interpretation of the PHAA policy. Although the Revised Guidance does not form part of the LDF or Local Plan, it is capable of constituting a material consideration although would not carry as much weight as the Saved Adopted Torbay Local Plan.

Following consideration of 7 holiday apartments within the Belvedere complex off Marine Drive at April's meeting of the Development Management Committee, it is now clear that applications involving the loss of holiday accommodation first need to be tested against policy TU6. This policy states clearly that applications involving the loss of holiday accommodation within an identified P.H.A.A. should be tested against 4 key criteria and that they may be permitted where the following criteria apply:-

- a) the premises lack an appropriate basic range of facilities and do not offer scope or potential for improvement, thereby failing to meet the reasonable requirements of the tourist;
- b) the premises have restricted bedspace capacity, having a limited number of bedrooms (if serviced) or apartments (if self-catering);
- c) the loss of the premises would not be to the detriment of the holiday character of the particular locality, nor set an unacceptable precedent in relation to the concentration and role of nearby premises; and
- d) the proposed new use or development is compatible with the surrounding tourism related uses and does not harm the holiday character and atmosphere of the PHAA.

The Sunhill Apartments holiday properties were specifically formed by conversion of the Sunhill Hotel and therefore have been converted recently and to a high standard. The prevailing context of Alta Vista Road is of a strong holiday character and with many properties along the road being in holiday use. For these reasons it is not considered that the Sunhill Apartments would meet all of the above referenced tests.

If Members were minded to approve this application consideration should be given to the need for a planning obligation under s106 of the Town and Country Planning Act to offset the costs that would arise from this proposal. It had previously been Council policy not to charge for such contributions where the amount would have been less than £5000. However, this has now been amended by Full Council at its meeting on 24th March 2011, such that smaller developments must now also contribute to any adverse impacts they may generate, with no minimum threshold for contributions. However, Council also resolved that any such contributions should not be sought retrospectively in relation to live applications such as this one. This current application was received before 24th March and so no Community Infrastructure Contribution would be due for this proposal.

In terms of on site car parking provision the original planning approvals for the conversions to holiday flats indicated 24 spaces to the front and rear of the property (controlled by condition). This level of provision is considered to be appropriate for permanent residential occupancy.

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

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

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

Conclusions

When this proposal is tested against the relevant policies of the Saved Adopted Local Plan it fails. This is consistent with other decisions relating to holiday properties within P.H.A.A.'s, although some have been allowed under a different interpretation of the policy, including two in complex next door. On balance, it is considered that the L.P.A. should not continue with decisions that are now thought to be a wrong interpretation of the policy even though that might lead to inconsistencies in the decision making process. It is now clear that proposals which fail to meet the tests of TU6 should be refused on policy grounds. The Sunhill Holiday Apartments were specifically formed by conversion of the Sunhill Hotel and therefore have been converted recently and to a high standard. The prevailing context of Alta Vista Road is of a strong holiday character and with many properties along the road being in holiday use. For these reasons it is not considered that the Sunhill Apartments would meet all of the above referenced tests.

Recommendation

The application should be refused on the basis of failing to meet all of the tests imposed by policy TU6.

Condition(s):

01. The proposal to change the use of flat 11 Sunhill Apartments from a holiday home to a residential dwelling is contrary to policy TU6 of the Saved Adopted Torbay Local Plan which seeks to prevent such changes of use within identified Principal Holiday Accommodation Areas (PHAAs) where that change would be to the detriment of the character and function of the PHAA. The Sunhill Apartments at 19 Alta Vista Road, is a purposely converted block of holiday flats within the Roundham Road West Paignton PHAA as defined by policy TU6.12. The paper adopted by the Council in March 2010 provides guidance which interprets and clarifies the policy in the light of recent trends and changes to the holiday industry, however, it does not supersede or nullify the primacy of policy TU6. The Council having regard to the revised guidance on PHAA's, consider that the proposal would fail to meet tests (a) to (d) set out in policy TU6, and there are no other change in circumstance that would justify a breach of the adopted policy.

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P/2011/0412/PA
Preston Ward
Land At The Barn, Sleepy Lane, Paignton
New dwelling

Site Details

The site, The Barn, Sleepy Lane, Paignton, is a residential property located midway down Sleepy Lane. The site is within the Shorton Conservation Area and is also within an area covered by a tree preservation order.

Relevant Planning History

P/2010/1342 - Change of use of land to a garden and retention of parking area (Retrospective. Application approved 22.02.2011

ZP/2010/0131 – Provided that the proposed development would not be highly visible in the conservation area then application would be likely to be acceptable.

Relevant Policies

Saved Adopted Torbay Local Plan 1995-2011

BES Built Environment Strategy
BE1 Design of New Development
BE5 Policy in Conservation Areas
H9 Layout, design and community aspect
T25 Car parking in new developments

National Policy

PPS3 - Housing: Amended 9th June 2010 by excluding private residential gardens from the definition of previously developed land in Annex B and deleting the national indicative minimum density of 30 dwellings per ha

Proposals

The application seeks permission for the construction of a mainly subterranean 5 bed dwelling within the curtilage of The Barn, Sleepy Lane towards the South corner of the site. A central courtyard area at the middle of the building will allow light into the underground living areas of the proposed dwelling. The house is divided into 2 main sections one to the North where the kitchen, dining and sitting room are proposed with the bedrooms to the South. These can be accessed across the courtyard and via a covered walkway. A balustrade of some 1m from the original ground level is proposed around the perimeter of the property for safety reasons.

The dwelling has been designed to meet the standards of PassiveHaus or the equivalent of level 4 of the code for sustainable homes. The materials used in the construction of the proposed dwelling will have a high insulation value, PV panels are proposed to the balustrade on the South elevation. Natural light via the open aspect of the courtyard will help to light the dwelling as will the light resulting from the entrance tunnel and sunlights. The roof is to be grass with much of the excavated material used cover the roof.

Improved landscaping is proposed to the boundary to enhance the existing and to add to the conservation area.

The parking area previously approved (P/2010/1342) is to be used for the new dwelling.

The application has been assessed against the Council's policy in respect of planning contributions. A contribution will be required in this case, calculated as follows:

On the basis that the new accommodation will comprise of a residential unit with over 120sq metres of gross internal floor area:

Contribution for a 5 bed dwelling:

Waste Management	£ 50.00
Sustainable Transport	£ 3,610.00
Education	£ 1,660.00
Lifelong Learning	£ 470.00
Greenspace and Recreation	£ 2,370.00

TOTAL FOR DEVELOPMENT £ 8,160.00

Consultations

Highways: Due to the substandard access highways would require a suitable turning area to ensure all vehicles enter and exit the site in a forward gear. If this can be achieved and demonstrated on a scaled drawing highways would raise no objection.

Arboricultural officer : Acceptable for approval on arboricultural merit however a tree protection and landscaping plan would need to be produced. This must be approved prior to any commencement.

Conservation Officer: No objection.

Representations

A total of 17 representations have been received in relation to this application, 10 of which support the application and 7 which object.

Letters of objection relate to issues including..,

- Impact on local area
- Over development
- Traffic
- Trees and wildlife
- Overlooking

Letters of support include..,

- No adverse impact on surroundings
- Area is in need of improvement
- Application will enhance the Conservation Area
- The building addresses design issues

These letter are re-produced at Page. P.203.

Key Issues/Material Considerations

The key considerations in relation to this application are whether the proposed additional dwelling would have a harmful impact on the Conservation Area or have an impact on the amenity of residential properties.

It is not considered that the proposed development would have a detrimental impact on the character of the Conservation Area as it would not be highly visible due to it being underground and hidden by the grass roof. The most visible part of the development would be the balustrade around the courtyard; at 1m high this is not deemed to be significantly detrimental to the character of the Conservation Area. Due to the improved landscaping and the subterranean nature of the proposal it will not be highly visible from Lammas Lane or Sleepy Lane. This proposal would therefore have the potential to sit quite comfortably within the Conservation Area and is considered to maintain its character; as such it is considered to comply with policy BE5 of the saved adopted Torbay Local Plan.

As the dwelling is to be underground it is not considered that there would be any impact on the privacy or amenity of neighbouring properties.

On 9th June 2010 the Government implemented the commitment made in the Coalition Agreement to decentralise the planning system by giving Local Authorities the opportunity to prevent overdevelopment of neighbourhoods and 'garden grabbing'. Planning Policy Statement 3: Housing (PPS3) was thus amended as follows:

- private residential gardens are now excluded from the definition of previously developed land in Annex B

- the national indicative minimum density of 30 dwellings per hectare is deleted from paragraph 47

Although the Coalition Government has recently taken residential garden-land out from the definition of brownfield land it has also abolished the minimum density levels at which such land should be developed. There is therefore no reason to conclude that the proposal is contrary to the provisions of PPG3 (as amended) particularly as the proposal is of a suitable design, with adequate garden sizes for existing and proposed properties, suitable parking and no significant overlooking issues.

Sustainability – The property is to be built to PassiveHaus standards or the equivalent of Level 4 of the Code for Sustainable Homes.

Crime and Disorder - No special issues

Disability Issues – No special issues

Conclusions

The proposed dwelling is considered to be appropriate for planning approval, subject to the receipt of an upfront payment or signed section 106 agreement and having regard to all national and local planning policies and all other relevant material considerations.

Recommendation:

Approval

Conditions

No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include provision for landscape planting and the retention and protection of existing trees

Reason: In the interests of the amenities of the area and to comply with Policy BE5 of the Saved Adopted Torbay Local Plan 1995-2011.

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

Reason: In the interests of the amenities of the area and to comply with Policy BE2 of the Saved Adopted Torbay Local Plan 1995-2011.

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2008 (or any order revoking and re-enacting that Order with or without modification), no form of development within Parts 1 & 2 shall be undertaken without first obtaining planning permission from the local planning authority.

Reason: In the interests of the amenities of the area and in accordance with the requirements of policies BES, BE1 & BE5 of the saved adopted Torbay Local Plan 1995-2011.

Before the first occupation of the building hereby permitted, the balustrade around the courtyard shall be fitted. The windows shall be permanently retained in that condition thereafter.

Reason: To protect residential amenity and the privacy of neighbouring properties; and in accordance with the requirements of policies BES & BE1 of the saved adopted Torbay Local Plan 1995-2011.

Before the development hereby permitted begins a scheme indicating a suitable turning area to ensure all vehicles enter and exit the site in a forward gear shall have been submitted to and approved in writing by the local planning authority. The agreed scheme shall be implemented before the development hereby permitted is brought into use.

Reason: In the interests of highway safety and in compliance with policy T25 of the saved adopted Torbay Local Plan 1995-2011.

P/2011/0437/PA

Roundham With Hyde Ward

3 Sunhill Apartments, 19 Alta Vista Road, Paignton

Change of use from holiday use to residential use

Site Details

Block of holiday flats on the southern side of Alta Vista Road with good views at the rear across Youngs Park and Goodrington Sands. The property was formerly an hotel (The Sunhill Hotel) and was granted planning approval for conversion into holiday flats in two phases in 2003 and 2004.

Relevant Planning History

P/2003/0571 Alterations and Conversion of Part Of Hotel to Form 6 Holiday Units (Phase 1)
Approved 16th July 2003

P/2004/0038 Alterations an Conversion of Part of Hotel to Form 6 Holiday Units (Phase 2) Approved
25th February 2004

P/2010/1245 Change of use from holiday to residential at unit 5 Vista Apartments. (Next Door to this
Application) Approved 13 April 2011.

P/2010/1364 Change of use from holiday to residential at unit 15 Vista Apartments. (Next Door to this
Application) Approved 13 April 2011.

ZP/2010/0322 Pre Application Enquiry 11 Sunhill Apartments Holiday Use to Permanent Residential.
Likely to receive favourable consideration

Other similar applications seeking residential use of holiday properties at the following addresses are also on this agenda:-

1 at Belvedere, Marine Drive,

Nos 2 and 11 at Sunhill Apartments, Alta Vista Road

1 at Carlton Manor, Roundham Road,

1 application (10 units) at Goodrington Lodge, Alta Vista Road.

1 application (11 units) at 5 Colin Road

Relevant Policies

Saved Adopted Torbay Local Plan

relevant policies

TU6 PHAA

CF6 Community Infrastructure Contributions

CF7 Education contributions

Also relevant are:-

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

Proposals

Permission is sought for a change of use at flat 3 to allow residential occupation in what is currently a holiday flat controlled by condition on the original approval. The condition states that the 'the occupation of the holiday units hereby approved shall be restricted to bona fide holiday makers for individual periods not exceeding 4 weeks in total in any consecutive period of 13 weeks. A register of holiday makers shall be kept and made available to inspection by an authorised Officer of the Council at all reasonable times. Reason: The site is situated within a Principal Holiday Accommodation Area and in order to preserve the character of the area it is important that the units are retained strictly for holiday letting purposes.' Allowing the change of use would allow residential occupation but by virtue of the Use Classes Order would also permit holiday use.

Consultations

Observations Awaited from Carolyn Custerson Chief Executive Residents and Visitors Services

Representations

One letter received and re-produced at Page P.201.

Key Issues/Material Considerations

The property is a medium sized block of holiday flats situated within a Principle Holiday Accommodation Area, as defined by policy TU6.12 of the Saved Adopted Torbay Local Plan. The purpose of this policy is to resist changes of use away from holiday accommodation where that change would be detrimental to the character and function of the Principal Holiday Accommodation Area. This usually results in refusal to grant planning permissions to change of uses from holiday accommodation to permanent residential occupation.

Recent changes in holiday trends has led the Council to re-examine and re-interpret the policy in order to ensure that it is up to date, clear and gives a degree of flexibility in the current economic climate. The Council's adopted Tourism Strategy (2009) recommends a reduction in small and marginally located accommodation and the promotion of the best areas as Core Tourism Development Areas. Last year, the Council adopted a revised interpretation of the PHAA policy. Although the Revised Guidance does not form part of the LDF or Local Plan, it is capable of constituting a material consideration although would not carry as much weight as the Saved Adopted Torbay Local Plan.

Following consideration of 7 holiday apartments within the Belvedere complex off Marine Drive at April's meeting of the Development Management Committee, it is now clear that applications involving the loss of holiday accommodation first need to be tested against policy TU6. This policy states clearly that applications involving the loss of holiday accommodation within an identified P.H.A.A. should be tested against 4 key criteria and that they may be permitted where the following criteria apply:-

- a) the premises lack an appropriate basic range of facilities and do not offer scope or potential for improvement, thereby failing to meet the reasonable requirements of the tourist;
- b) the premises have restricted bedspace capacity, having a limited number of bedrooms (if serviced) or apartments (if self-catering);
- c) the loss of the premises would not be to the detriment of the holiday character of the particular locality, nor set an unacceptable precedent in relation to the concentration and role of nearby premises; and
- d) the proposed new use or development is compatible with the surrounding tourism related uses and does not harm the holiday character and atmosphere of the PHAA.

The Sunhill Apartments holiday properties were specifically formed by conversion of the Sunhill Hotel and therefore have been converted recently and to a high standard. The prevailing context of Alta Vista Road is of a strong holiday character and with many properties along the road being in holiday use. For these reasons it is not considered that the Sunhill Apartments would meet all of the above referenced tests.

If Members were minded to approve this application consideration should be given to the need for a planning obligation under s106 of the Town and Country Planning Act to offset the costs that would arise from this proposal. It had previously been Council policy not to charge for such contributions where the amount would have been less than £5000. However, this has now been amended by Full Council at its meeting on 24th March 2011, such that smaller developments must now also contribute to any adverse impacts they may generate, with no minimum threshold for contributions. This application was received after this date therefore a developer contribution is applicable as follows :

Category 2 (55-74 sq m)	
Municipal waste and recycling	£ 50
Sustainable transportation	£860 (50% residential rate)
Education (primary only)	£410
Lifelong learning	£220

Green space and recreation £1120

TOTAL PAYMENT £2660

In terms of on site car parking provision the original planning approvals for the conversions to holiday flats indicated 24 spaces to the front and rear of the property (controlled by condition). This level of provision is considered to be appropriate for permanent residential occupancy.

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

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

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

Conclusions

When this proposal is tested against the relevant policies of the Saved Adopted Local Plan it fails. This is consistent with other decisions relating to holiday properties within P.H.A.A.'s, although some have been allowed under a different interpretation of the policy, including two in complex next door. On balance, it is considered that the L.P.A. should not continue with decisions that are now thought to be a wrong interpretation of the policy even though that might lead to inconsistencies in the decision making process. It is now clear that proposals which fail to meet the tests of TU6 should be refused on policy grounds. The Sunhill Holiday Apartments were specifically formed by conversion of the Sunhill Hotel and therefore have been converted recently and to a high standard. The prevailing context of Alta Vista Road is of a strong holiday character and with many properties along the road being in holiday use. For these reasons it is not considered that the Sunhill Apartments would meet all of the above referenced tests.

Recommendation

The application should be refused on the basis of failing to meet all of the tests imposed by policy TU6.

Condition(s):

01. The applicant has failed to provide or legally agree to, any contributions in order to offset the costs involved in supporting essential community facilities such as transport services, education facilities, the provision of open space and to maintain infrastructure stemming directly from development that would arise to the Local Authority and the tax payer as a result of this proposal. This makes the proposal contrary to policies CF6 and CF7 of the Saved Adopted Torbay Local Plan (1995 – 2011) and to the subsequent adopted policy position of the Adopted Supplementary Planning Document LDD6 (“Planning Contributions and Affordable housing: Priorities and Delivery”, adopted in May 2008) and the more recent update the ‘Planning contributions and affordable housing supplementary document, update 2: Economic Recovery Measures’, (adopted by the Council in June 2010.)

02. The proposal to change the use of flat 3 Sunhill Apartments from a holiday home to a residential dwelling is contrary to policy TU6 of the Saved Adopted Torbay Local Plan which seeks to prevent such changes of use within identified Principal Holiday Accommodation Areas (PHAAs) where that change would be to the detriment of the character and function of the PHAA. The Sunhill Apartments at 19 Alta Vista Road, is a purposely converted block of holiday flats within the Roundham Road West Paignton PHAA as defined by policy TU6.12. The paper adopted by the Council in March 2010 provides guidance which interprets and clarifies the policy in the light of recent trends and changes to the holiday industry, however, it does not supersede or nullify the primacy of policy TU6. The Council having regard to the revised guidance on PHAA's, consider that the proposal would fail to

meet tests (a) to (d) set out in policy TU6, and there are no other change in circumstance that would justify a breach of the adopted policy.

P/2011/0427/PA

Wellswood Ward

Danby Lodge, Lincombe Drive, Torquay

Alterations and change of use from C3 to C2 Residential Care, including internal alterations and landscaping

Site Details

Comprises a detached late Victorian building on a prominent slope overlooking the sea, which was formally Danby Lodge Hotel but has more recently been established as a single residential dwelling through a recent planning application. It is in a poor condition and is virtually derelict. To the north of the site are the modern post-War properties along Oxlea Road, to the west are modern town houses, to the east is Castle Tor and its associated Grade II Listed garden. There is a TPO (Order No. 1972.10) that protects trees on the lower garden slope.

Vehicular access is from Lincombe Drive and via Danby Heights Close, a road constructed to serve the town house development adjacent to Danby Lodge.

Relevant Planning History

P/2009/0425 - Alterations, extensions and conversion to form link between main house/bungalow/boiler room to form 1 dwelling with conservatory, double garage and gym, revised terracing and solar roof panels

Outline planning permission was granted for demolition of the building and its replacement with 9 flats, P/2001/1152. Reserved Matters approval was refused, P/2003/0030, and the consent has now lapsed.

Relevant Policies

Saved Torbay Local Plan 1995-2011:

- CFS Sustainable communities strategy
- CF6 Community infrastructure contributions
- CF15 Accommodation for people in need of care
- TS Land use transportation strategy
- T3 Cycling
- T25 Car parking in new development
- T26 Access from development on to the highway
- H8 Change of use from housing to other uses
- L8 Protection hedgerows, woodlands and other natural features
- L9 Planting and retention of trees
- BES Built Environment Strategy
- BE1 Design of New Development

Proposals

Change of use from single dwelling (Use Class C3) to residential care home (Use Class C2), including internal alterations and landscaping.

In regard to the character of the business the development will seek to home both able and disabled residents under the umbrella of care, but where maximum independence is encouraged and the principle of a household predominates. The building is expected to be staffed at all times by 2-4 full-time employees, but not with live-in staff, and more widely create 10-12 full time posts and some part-time posts.

Consultations

Highways Department - No objection.

Sustainable Transport Team - Apply SPD.S106 for covered, secure parking for 3 staff bikes (if using garage, bike must be accessible with car inside). 2 Sheffield cycle stands at main visitor entrance. No on road parking, contribution towards improving local public transport services / infrastructure which operate in the local area.

Representations

A small number of representations have been received from adjacent occupants, which raise the following concerns;

1. Vehicular access off the private road is unsuitable and will cause parking, manoeuvring and maintenance issues
2. Inadequate parking facilities to support the commercial operation
3. The proposal would increase the pressure on a residential drainage system and it should be tested to ensure it is capable to support the use
4. Support the previous scheme for a single dwelling but not a commercial venture
5. Impact on the amenity of the neighbouring occupiers, through noise etc.

These are re-produced at Page T.201.

Key Issues/Material Considerations

Policy CF15 of the Local Plan states that proposals for the provision of accommodation for the elderly or other people in need of care should;

- i) provide premises that are well related to the local residential community and public transport, and within walking distance of local shops and other amenities,
- ii) not conflict with landscape or nature conservation policies,
- iii) have adequate amenity space within the grounds to permit appropriate landscaping and attractive surroundings for residents,
- iv) provide appropriate parking and access inline with local plan policies,
- v) not supply an over-concentration of uses within the area and not be detrimental to the character or amenities of the neighbourhood, and
- vi) supply appropriate accommodation for staff whether on site or with direct communication with residents, to ensure that there is proper care and management of the facility.

Appropriateness of the use in context

The proposal sits adjacent to residential properties on the coastal edge of suburban Torquay, approximately 1km away from the Wellswood Local Centre. Although Lincombe Drive is not served by buses, public transport can be picked up approximately 250m away on Higher Lincombe Road via interconnecting public steps adjacent to the entrance to Danby Heights Road. Although the context is almost peripheral it is considered to be suitably integrated within the local residential community and positioned close enough to shops and public transport to enable the satisfactory integration of the proposed use into the community.

Landscape and nature conservation

In respect to landscape and nature conservation policies the proposal details a limited degree of actual physical change to either the established footprint or the bulk of the building already established. It is not considered that the proposal is likely to conflict with either category of policy. It is however pertinent to require a greater degree of detail on the management of tree specimens on the site, certainly in light of further issues noted directly below.

Amenity space

The site is relatively restricted in terms of the associated outdoor amenity space with some of this space of limited value due to the sloping topography of the site and the existing high level of scrub and tree growth. As such a suitable landscaping scheme and a tree/woodland management scheme should be submitted prior to commencement in order to maintain and enhance the amenity value of the

site for the new residents.

Parking / Access

Local Plan parking policy suggests the supply of one space per eight residents, with parking for disabled supplied in addition to this. The proposal provides two spaces with an additional two disabled spaces, which accords with policy guidance.

The access is to be provided through separate pedestrian and vehicular accesses on to the adjacent private drive that serves the plot and a small number of adjacent residences (Danby Heights). The parking and access arrangements have been passed by the Authority's Highways Department and are hence considered acceptable on planning merit. It should be noted that the Authority's Sustainable Transport Team have impressed the need for adequate on site cycle parking to serve residents and employees, and as the scheme put forward does not any ambition on this front it is considered suitable to condition a suitable supply of secure covered parking.

Impact on neighbouring living conditions

The proposed development is relatively peripheral and would not result in a high concentration of such uses in the area. It is accepted that there could be a degree of additional movement to and from the site and possibly a degree of additional noise generated by the proposed use. However, given the size and nature of the proposed use, the degree of these potential impacts is likely to be relatively insignificant. It is also pertinent to recognise that the proposed care use is compatible with residential environments and it is openly suggested in policy that such uses should be integrated in such areas.

It is also noted that the building has previously operated as a hotel and within the past 10 years, planning has been granted for 9 flats on the site, those uses would be likely to result in more problematic relationships with neighbouring occupiers than the use now proposed. Having considered the relationship with neighbouring occupiers and the relevant planning policy the scheme is considered acceptable in terms of neighbour amenity.

In respect to the management proposals the applicant has confirmed that there will be no live-in staff but that the building would be staffed at all times by 2-4 employees. With schemes where there is a change or an intensification of occupancy with shared facilities and/care there is the potential for personal conflict or issues of noise or other forms of nuisance, both to direct occupants of neighbouring occupiers. It is therefore considered essential that the proposal is supported by suitable on-site management and supervision.

Planning Contributions

The proposal will provide a use of the site that would result in greater pressure upon the local physical and social infrastructure. With regard to the Authority's adopted guidance on the matter it is concluded that it is reasonable to seek sustainable transport contributions in regard to sustainable transportation for the C2 care use, whilst mitigating such contributions appropriately for the current lawful use as a hotel.

The figure sought per 100m² is therefore considered to be £13,020 (C2 use) less that of a hotel (C1 use) classed as being peripheral to the built up area, which is detailed as being £7,190. This equates to a mitigated sum of £5,830 per 100m² that ultimately triggers a total planning obligation of **£33,406**.

Economic/regeneration

The application seeks to bring back into use a defunct site that makes no commercial contribution to the social and economic well-being of the area. The investment will restore this part of the built environment and, importantly will provide a number of full and part-time jobs (approx 2-4 FTEs) along with additional direct and indirect jobs associated with the use of the building.

Sustainability - Retention and refurbishment of an existing building is a highly sustainable approach and the proposed use will fall within a sustainable location, albeit on the edge of the urban

environment.

Crime and Disorder - Neutral issues

Disability Issues - The scheme will provide care for able and disabled residents and will be required meet the relevant regulations for the provision of a safe environment for the residents.

Conclusions

The proposal is considered to be inline with planning policy in respect to the provision of accommodation for people in need of care, and with a number of planning conditions in order to secure a suitable form of development and use, the proposal is considered acceptable.

Recommendation

Site Visit; Conditional Approval; subject to the signing of a section 106 legal agreement in terms acceptable to the Executive Head of Spatial Planning within three months of the committee resolution. Conditions to include the schedule attached and any other conditions deemed necessary by the Executive Head of Spatial Planning.

Condition(s):

01. At all times the proposed operation shall be directly supervised and supported by a 24 hour on-site owner/manager or other suitably qualified person/s, unless otherwise approved in writing by the Local Planning Authority.

Reason: To ensure that appropriate management measures are in place to provide a suitable form of occupancy and protect against potential harmful amenity implications, in accordance with Policy CF15 of the Saved Torbay Local Plan 11995-2011.

02. Prior to the commencement of the development a strategic landscaping scheme, including a woodland management plan for the lower garden slope which contains protected trees, shall be submitted to and approved in writing by the Local Planning Authority. The woodland management plan shall be strictly adhered to unless otherwise agreed in writing by the Local Planning Authority.

Reason: To provide a satisfactory amenity space to support the level of occupation and to ensure that trees which are subject to a tree preservation order are properly managed in the interests of local amenity, in accordance with Policies CF15, L8 and L9 of the Saved Torbay Local Plan 1995-2011.

03. Prior to the commencement of any works on site, including demolition of site clearance, an Arboricultural Method Statement shall be submitted to and approved in writing by the Local Planning Authority.

This shall include:

a) Tree protection measures for the boundary planting. Once approved, these shall be put in place and retained for the duration of the works unless otherwise agreed in writing by the Local Planning Authority.

b) details of the site compound, storage areas, and site hut. Once approved, all works on site shall be confined to these areas unless otherwise agreed in writing by the Local Planning Authority.

c) Measures to protect the TPO trees on the lower garden slope from harm during construction on site. These shall be put in place when approved and retained on site for the duration of the works unless otherwise agreed in writing by the Local Planning Authority.

Reason : To ensure that trees which are subject to a tree preservation order are protected during

construction and to accord with policies L8/L9 of the saved adopted Torbay Local Plan 1995-2011.

04. The boundary detail and improvements shown to the existing entrance extension as indicated on Plan no. 853.04 and 864.02, which include the installation of matching fenestration and the cut back of the excessive eaves overhang shall be implemented in full prior to occupation of the dwelling.

Reason : To ensure that this public face of the building is suitably improved and to accord with Policy BES and BE1 of the saved adopted Torbay Local Plan 1995-2011.

05. The basement level garage elevation that faces Danby Heights Close, as shown on Plan No. 864.02, shall be faced in natural stone prior to the first occupation of any room.

Reason: To provide a suitably recessive appearance and form of development, to accord with Policies BES and BE1 of the Saved Torbay Local Plan 1995-2011.

06. The replacement terrace adjacent to the boundary with Castle Tor shall not extend any further than the existing hard surfaced area.

Reason : To help protect boundary planting and to ensure that the new development does not extend to the boundary with the adjacent Listed Gardens, to comply with Policies L8, L9 and BE8 of the saved adopted Torbay Local Plan 1995 - 2011.

07. Prior to the first occupation of the first room of the proposed operation the car parking provision, as detailed on the approved plans, shall be completed in full and made available for use, and maintained as such at all times from that time unless otherwise approved in writing by the Local Planning Authority.

Reason: To provide suitable parking arrangements inline with Policy T25 of the Saved Torbay Local Plan 1995-2011.

08. Prior to commencement of development a scheme for the provision of 3 covered and secure cycle parking stands shall be submitted and approved by the Local Planning Authority.

Reason: To provide adequate cycle facilities to serve the development, in accordance with Policy T3 of the Saved Torbay Local Plan 1995-2011.

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

Reason: In the interests of the amenities of the area and to ensure that the development complies with policies L8, L9 and BE2 of the saved adopted Torbay Local Plan (1995-2011).

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P/2011/0457/PA

St Marychurch Ward

Torquay United Associated Football Club, Warbro Road, Torquay

General amendments to application P/2010/0911/MPA - new roof adjustment to 250mm higher and general roof design; relocation of new toilet block and elevational treatment fronting existing access lane and Westlands School

Site Details

The application site relates to the eastern stand and the area adjacent to it at Torquay United football ground. The football ground is located between Warbro Road to the north, School Lane to the east, Westlands Lane to the south and Marnham Road to the west. It is situated adjacent to Westlands School. Surrounding the site are residential properties. Plainmoor swimming pool is situated to the south, to the west there is an Indoor Bowling Club. Westlands School is to the east of the site. There are a number of access routes to the football ground. There are limited parking facilities on the site. The surrounding residential roads are subject to parking restrictions.

In the Torbay Local Plan 1995-2011 the site is indicated as a Community facility.

Relevant Planning History

Extensive previous planning history. Most recent applications are;

2010/1212NMA	non material amendment – repositioning of toilet block and exit gates- application 2010/0911MPA approved 30.11.10
2010/0911MPA	Demolish timber grandstand and replace with new modular grandstand seating with associated accommodation on ground floor beneath stand. Accommodation comprising new changing rooms, media and IT suites, and fitness suites: external hard and soft landscaping to adjoining access road; vehicular and pedestrian access (Change to width and route of public right of way) approved 22.10.10
2005/1924	2 storey extensions to provide plant room space for filtration unit and heat exchanger (revised scheme) approved 3.1.06

Relevant Policies

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

RS	Supports the provision of new recreation, leisure, entertainment and cultural facilities.
R2	Proposals for outdoor recreation developments will be permitted subject to a number of criteria.
CFS	Sustainable communities strategy
CF1	Provision of new and improved community facilities
CF5	Refurbishment and community use of Torquay United Football Club
CF10	Supports improvement of educational facilities subject to a number of considerations.
BES	Requires new development to conserve or enhance the built environment.
BE1	Requires design of new development to take account of the wider context.
T1	Non residential development will only be permitted where more than 50% of users can gain access by foot, cycle or public transport.
T2	Sets out a transport hierarchy for all new development.

Proposals

The application is for the following revisions to application reference 2010/0911 which related to the provision of a new east stand;

* Increase in height of roof by 250mm

* Revision of roof design to incorporate upstands projecting above the roofline which will link the roof to the steel frame system.

* Revised siting of toilet block

* Revised elevational treatment to the east elevation facing Westlands School.

* Number of turnstiles at northern end of the site increased from 2 to 3 and provision of disabled access gate.

* Width of footpath between the site and Westlands school at narrowest point increased from 2.5m to 2.7m

The new stand will provide additional seating capacity of 50 seats on the site. It will update the appearance of the east stand and will include new accommodation at ground floor level for use by the football club, Westlands school and the community.

The applicant has been asked to provide a brief explanation of why the design of the roof has been changed and the internal accommodation revised, in order to gain a clearer understanding of the reason for this application.

Consultations

None.

Representations

None received.

Key Issues/Material Considerations

The main issues are the impact on the visual amenity of the area and the impact on amenity of adjoining occupiers.

Impact on visual amenity

The proposed alterations to the roof of the stand would alter the appearance of the building. There would be an increase in its prominence because the upstands would increase the overall height of the building. As the upstands do not form a solid mass the overall scale of the building would still largely appear as previously approved. The submitted elevations show that the height of the proposed building would be similar to the adjoining buildings at Westlands School. It is considered that the revisions would not change the character of the proposal to such an extent that it would harm the appearance and character of the area. Although the proposal would constitute a large building its scale and appearance would be appropriate to its use as a football ground and the setting adjacent to Westlands School.

The proposed revisions to the east elevation would result in a weaker east elevation to the building than previously proposed in terms of visual amenity. There would be a loss of extensive areas of glazing that added to the character of the building and provided surveillance over the public footpath. The proposed elevation has an appearance of the 'back' of the building due to the small windows which would be a less satisfactory solution. The architect has been asked to review this and to consider whether the appearance of this elevation could be improved.

Impact on residential amenity

The proposal also includes moving the location of a freestanding toilet building. This would be located adjacent to the rear curtilage of properties in Warbro Road. It would measure 4.2m by 7.8 metres. By reason of its fairly modest size it would not have an overbearing relationship with the adjoining dwellings. Its use would be predominantly during football matches and therefore it would be unlikely to detract from residential amenity. The architect has been requested to submit elevations of the proposed building.

The other revisions to the east stand are not considered to significantly alter the relationship with the adjacent occupiers and as such are not considered to result in harm to neighbouring amenity.

Sustainability

The original proposal included a detailed travel plan and match day access strategy to ensure that a sustainable approach to travel is adopted. A Travel Plan Co-Ordinator will be appointed and will

undertake an annual review of the Travel Plan.

Crime and Disorder

Subject to the implementation of appropriate prevention measures the proposal would not increase the risk of crime in the area.

Disability Issues

The proposal includes the provision of disabled seating with ramped access. Two disabled parking spaces are provided.

Economic Regeneration Outcomes

The proposal represents a significant investment in an existing community/recreation/education facility. The existing stand is in a poor state of repair and the proposed new stand will improve the visual amenity of the area through new investment in up to date facilities. The proposal would also provide new educational facilities for Westlands School. Both Torquay United and Westlands School are high profile locations visited by a substantial number of people. The proposal would represent inward investment that will be seen by and used by a significant number of people.

Conclusions

The proposal would result in an improvement of facilities for the football club and provide additional facilities which would be used by Westlands School. It would accord with the objectives of Policies CF5, R2 and CF1 and therefore would constitute an appropriate form of development in this location.

Recommendation:

Conditional Approval

Condition(s):

01. The conditions of application reference 2010/0911MPA remain applicable to this proposal.

Reason: For the avoidance of doubt.

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P/2011/0471/PA

St Marychurch Ward

7,9 And 11 Havelock Road, Torquay

Demolition of disused vehicle repair centre and construction of 6 - 3 bed terraced houses and 1 - 2 bed maisonette with car parking spaces and pedestrian footway

Site Details

The application site comprises a stone built former car repair premises, now vacant, in a dilapidated condition and located within the St Marychurch Conservation Area. The site also includes part of the domestic garden of 46 Trumlands Road which borders the site to the east. The surrounding area is primarily residential in character and whilst there are more spacious plots to the south and south west of the site the character of the area is essentially fine grained terraced development set at the back edge of pavement. Havelock Road is narrow and well used by traffic.

Relevant Planning History

P/2006/0547: Erection of 7 dwellings: Approved 21.09.06

P/2006/0746 Erection of 1 dwelling in connection with P/2006/0547: Approved 21.09.06

P/2006/1799: Additional dwelling in association with P/2006/0547: Approved 17.01.07

P/2009/0777: Discharge of S106 obligations to provide for sustainable transport contributions only.

P/2009/0053: Variation of condition to allow scheme to be constructed in 2 phases: Approved 12.03.09.

Relevant Policies

PPS3 Housing

PPS1 Delivering Sustainable Development

PPS5 Planning for the Historic Environment

Saved Adopted Torbay Local Plan 1995-2011

HS Housing Strategy

H2 New housing on unidentified sites

H9 Layout, design, community aspects

H10 Housing densities

E6 Retention of Employment land

CF6 Community Infrastructure contributions

W7 Waste and recycling facilities

BES Built environment strategy

BE1 Design of new development

BE5 Policy in Conservation areas

T1 Development accessibility

T2 Transport hierarchy

T25 Car parking

T26 Access from development onto the highway

Proposals

This is a detailed application for the construction of 6, 3 bed terraced dwellings and 1, 2 bed maisonette (to be built over an access to 6 car parking spaces at the rear of the site). The buildings are to be finished in render and it is indicated that windows would be UPVC. The roof will be natural slate.

Consultations

Conservation Officer: Plans acceptable subject resolution of final design details and use of aluminium windows rather than UPVC.

Highways: Obs awaited but did not raise any concerns in relation to pre app discussions.

Strategic Transport: Request that SPD contribution in respect of sustainable transport be incorporated to improve local linkages particularly with schools. Wish to see covered secure cycle storage and no

on road parking.

Representations

One letter signed by 3 households to the rear of the site concerned about privacy and overlooking arising from the inclusion of accommodation in the roof and also about matters of a civil nature such as electric cables, party walls and the relationship of the existing building on the site with existing properties.

A further letter raises concerns about overdevelopment, increase in traffic movement, increase in parking and congestion and concerns about access for emergency vehicles. It also considers the scheme too tightly packed, imposing and out of character.

These letters are appended as T.202.

Key Issues/Material Considerations

The key issues are the scale of development on site, the relationship to the character of the Conservation Area, impact on amenity and impact on highways arising from congestion and parking. Each will be addressed in turn.

It is important in considering this application to be aware of the previous use of the site as a car repair garage and of the currently extant permission for the construction of a new building containing 9 dwellings.

Scale of development on site

This scheme will provide for 6, 3 bed dwellings and 1, 2 bed maisonette. The building envelope is essentially 2 stories with bedroom accommodation in the roof. The extant permission provided for 9 2 bed dwellings but in a building that attained a greater height overall as it did not step up the street in the manner of the existing scheme, but adopted a consistent height across the entire plot. Whilst the scheme has limited amenity space and is 'tight' it is not inconsistent with the character of surrounding buildings. In terms of density of occupation and scale of the new building this proposal will be of less impact than that which could be built under the extant consent.

Relationship to the character of the conservation area

This scheme adopts a terraced format which is generally typical of the locality. It steps up the hill following the topography. It is consistent with neighbouring buildings in terms of height and scale. It is fine grained and will sit comfortably as part of a typical block which is characteristic of the urban form of the locality.

In terms of materials and design details it will have a contemporary feel but still fit with its sensitive surroundings and not look out of place. The existing building, whilst partly constructed of limestone is in a poor state and does nothing to enhance the area. It is considered that this scheme is, subject to clarification in respect of design details and materials, more sympathetic in terms of the character of the area than either the extant consent or retention/conversion of the existing building.

Impact on Amenity

The main area of concern arises from the inclusion of a large dormer window to the rear which overlooks properties on Park Road. It is thought that the impact of this can be ameliorated by design and the applicant has undertaken to look at this. Progress will be reported verbally.

Impact on Highways/Congestion/Parking

Highways observations are awaited. The 6 car parking spaces are located to the rear of the site accessed from beneath the maisonette. The spaces are cramped and there is a question over their practicality with one of the spaces being of limited value. However, it has to borne in mind that the site was previously used as a car repair garage and had the potential to generate a significant level of traffic movement, congestion and on street car parking. It is recognised that Havelock Road is narrow

and busy but it is likely that the impact of 7 dwellings with 6 off street car spaces would be far less than that which could be generated by the continuation of the existing use. A refusal of planning permission on the grounds of adverse impact on the highway would be difficult to defend in the circumstances. The observations of the highways department in respect of this scheme are awaited and will be reported at the meeting.

Developer S106 Contributions

The scheme should deliver the following in community infrastructure contributions:

Waste	£ 350
Sustainable Transport	£15,820
Lifelong learning	£ 2,020
Greenspace	£13,420

TOTAL **£31610**

Sustainability – The development would make efficient use of a brownfield site within the urban area and provide additional residential accommodation in a sustainable location.

Crime and Disorder – No Obs received

Disability Issues – Level site, should meet Part M of the Building regs

Conclusions

The scheme for 7 units in a stepped terraced form is compatible in design terms with the character of the conservation area. In terms of the scale of development on site and density of occupation it is not inconsistent with neighbouring buildings. In terms of amenity concerns, issues in relation to overlooking can be mitigated through design. Whilst Havelock Road is narrow and busy, this scheme will have less impact on highway safety than a continuation of the existing use as a car repair garage or construction of the extant scheme for 9 dwellings.

Recommendation

Site Visit; Conditional Approval; subject to the receipt of amended plans resolving design matters and mitigation of overlooking and subject to the conclusion, at the applicants expense of a S106 Agreement, in terms acceptable to the Executive Head of Spatial Planning within 3 months of the date of this meeting to secure community infrastructure contributions.

Conditions

1:20 Details
Samples of materials
Boundary treatments
Implementation and retention of car parking
Bin storage
Bike Storage
Implementation of footway
Removal of PD Rights

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P/2011/0505/MPA

Tormohun Ward

Fairlawns Hall, 27 St Michaels Road, Torquay

Extend time limit - formation Of 3 storey block to form 14 two/three bedroom apartments - application P/2008/0356

Site Details

The application site relates to a large detached Victorian Villa situated on the east side of St Michaels Road, located within a large plot of 0.37 hectares. It has most recently been in use as holiday flats. The property is set back from the road and is at a higher level than St Michaels Road. It comprises three elements being the main villa, an extension to the eastern side of the property and the converted stables at the rear. There is an extensive stone wall along the boundary with St Michaels Road. The ground levels along St Michaels Road slope steeply in a northerly direction. There are a number of mature trees on the site.

The surrounding area is in residential use. Properties in Barton Road and Rooklands Avenue back onto the site. There is a footpath from the site that extends onto Barton Road. In the Torbay Local Plan 1995-2011 there is no specific designation relating to the site. It is noted that the site is not within a conservation area or within a Principal Holiday Accommodation Area.

Relevant Planning History

2008/0356MPA Formation of 2/3 storey block to form 14 no. 2 and 3 bedroom apartments approved 6.6.08

P/1983/1223 Change of use from residential and holiday flats to all residential flats. Approved 18/7/1983.

P/1981/2639 Conversion of outbuilding into a holiday flat. Approved 3/11/1981.

The following application relating to a property at the rear is also considered relevant; 2009/1170 Detached dwelling, 46 Barton Road, approved 22.2.10

Relevant Policies

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

- BES Requires new development to conserve or enhance the built environment.
- BE1 Requires design of new development to take account of the wider context.
- BE2 Proposals for new buildings should incorporate landscaping as an integral part of the design.
- 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
- H11 Open space requirements for new housing
- CF2 Encourages development proposals to address the need to reduce crime without unduly affecting amenities.
- CF6 Requires appropriate contributions to provide social, physical or environmental infrastructure.
- CF7 Educational contributions
- TS Promotes a sustainable land use transportation system
- T1 Non residential development will only be permitted where more than 50% of users can gain access by foot, cycle or public transport.
- T2 Sets out a transport hierarchy for all new development.
- T3 Needs of cyclists should be taken into account
- T25 Maximum car parking standards are set out in the schedule.
- T26 Requires a safe standard of access
- TU7 Sets out criteria for change of use of hotels/guest houses and holiday apartments outside PHAAs

- LS Landscape Strategy- development of sites within areas of landscape importance only permitted where there is no harm to local character or distinctiveness.
- L8 Protection of hedgerows, woodlands and other natural landscape features.
- L9 Development will only be permitted where trees will not be harmed.
- L10 Major development and landscaping

Proposals

This application is to renew the planning permission granted under application reference 2008/0356MPA. This permission was to demolish the existing property and to construct a three storey building, with the second floor accommodation within the roof space, comprising 14 two and three bed roomed apartments with amenity space, car parking and cycle storage. The proposed building would be sited in a similar position to the existing building. Twenty six car parking would be provided to the east of the main building on a similar site to the existing parking provision. (A revised plan showing the provision of 22 spaces on the site was submitted during processing the application, however the layout with 26 spaces was the approved plan). A separate cycle store would also be provided at the north of the site. It is noted that under application reference 2008/0356 the agent agreed that the proposed position of the cycle store could be moved further from the boundary with the adjoining property. This was addressed by condition 4 on the grant of planning permission.

The proposed building would be between 0.3m and 1 metre higher than the existing building. In the design and access statement it is advised that the design is based on a classic Georgian building. This would incorporate large windows to ground floor and smaller windows above. The use of hipped roofs and chimneys are typical of Georgian features. The architect notes that there is no common form of development in the surrounding area. Materials would be white render walls with rainwater goods finished in black. Windows would be grey aluminium with slate style tiles on the roof and rolled lead to flat roofed areas and dormers will be used.

An arboricultural appraisal was submitted in support of the application. This proposes that six trees on the site are felled. All of these trees are classified in the 'C' poor category.

Consultations

Arboricultural Officer: requires an updated tree survey and tree constraints plan.

Highways Officer: consultation response awaited

Strategic Transport Officer: consultation response awaited

Representations

Three letters of objection received and reproduced at T.200.

The following issues are raised;

- * As trees will be reduced in height neighbouring properties will have a view of the apartments.
- * Not clear where boundaries of site are
- * Adequate on site parking should be provided
- * Increase in noise
- * Where would play equipment be sited?
- * It was previously agreed that the cycle shed would be re sited
- * Site area includes land in the adjoining occupiers registered title and a right of way is affected.
- * Conditions should be imposed to restrict further development of the site.
- * Cycle store should be relocated
- * There is an anti social problem with the access to Barton Road
- * Loss of sea views
- * Restrictions should be placed on the height of new tree planting

Key Issues/Material Considerations

This application is a renewal of application reference 2008/0356MPA. As such the Authority needs to

consider whether there have been any changes in material circumstance since the previous decision was made. In this case there has been a material change following the granting of consent for a dwelling to the rear of the site within the grounds of 46 Barton Road. Notwithstanding, that the consent at 46 Barton Road was granted after the original grant of consent that this application is seeking to extend.

The proposed development raises the following issues; loss of holiday accommodation, design, size and height of proposal, highways, impact on residential amenity, trees, and S106 contributions.

Loss of holiday accommodation

Since the previous decision the Council has issued 'Revised guidance on the interpretation of Policies TU6 (PHAAs) and TU7 (Holiday Accommodation elsewhere)'. As the site is not within a PHAA this guidance would not materially affect the decision that the loss of holiday accommodation would be appropriate in this location and would accord with Policy TU7. The proposal accords with the objectives of Policy TU7 because the site is within a residential area and some distance from holiday facilities. There is no distinct holiday character in the area. The loss of 14 holiday flats in this location would not have a significant impact on the tourism industry due to the scale of the existing use. The proposed residential use of the site would be compatible with the character and other uses in the area.

As the principle of the loss of holiday accommodation on the site has previously been agreed by the Council there would need to be very strong case to change this decision, which does not appear to be the case in this instance.

Demolition of building

The principle of the demolition of the building has previously been accepted on the basis that it is not within a Conservation Area and is not of significant architectural merit to warrant listing. This has not changed and the loss of the building is considered to be acceptable.

Design of building

The scale, height and design of the proposed building has previously been agreed by the Council, and is considered to be acceptable in this location. The footprint of the proposal would be similar to the existing property. The existing floorspace measures 1692 sq m and the proposed floorspace would be 1815sqm which is an increase of 123sqm. There would be a reasonable sized area on the site for amenity space. The height of the building would be appropriate in this location, and would be marginally higher than the existing building. The design and appearance would to an extent reflect the appearance of the existing building. The principle of a building based on a Georgian design is not necessarily characteristic of Torquay which has a strong Victorian character. However the design is not unattractive and would comply with the objectives of Policies BES and BE1 in the Torbay Local Plan 1995-2011.

Highways

The highways officer's consultation response is awaited. The proposal would provide 26 off street parking spaces which would provide a proportionally high level of on site parking provision. In addition a covered cycle store is also proposed on the site. A neighbour has raised an issue about the location of the cycle store. A condition on the previous grant of planning permission required this to be resited in comparison with the submitted plan. This condition can again be imposed on any grant of permission in respect of the current application.

Impact on residential amenity

The closest neighbouring property is 46 Barton Road. This is at a higher level than the application site.

The proposed building would be sited slightly further away than the existing building on the site. The proposed development adjacent to this property would be higher than the existing building on this part of the site and would result in a number of windows and a balcony facing directly towards the property at the rear. It is also noted that planning permission has been granted for a detached dwelling within the curtilage of 46 Barton Road which will directly face the proposed development. There is concern about the relationship of buildings, the impact on the residential amenity of the occupier of 46 Barton

Road and the quality of the resulting residential environment of occupiers of both properties.

Trees

There are a number of mature trees on the site the majority of which will be retained under the proposal. The Council's arboricultural officer has requested an update to the Arboricultural Appraisal submitted under application reference 2008/0356MPA and this is awaited.

S106 Contributions

Under application reference 2008/0356PA the S106 agreement required contributions of £75,349.28 to offset the impact of the development on local infrastructure. In accordance with the SPD "Planning Contributions and Affordable Housing: Priorities and Delivery" the following contributions are required;

Waste management	£ 700
Sustainable Transport	£23500
Stronger Communities	£ 2800
Lifelong Learning	£ 6340
Greenspace	£16590

TOTAL **£49,930**

Clearly this total is lower than that previously agreed. It does accord with the Council's current guidance which is intended to reflect the current economic climate.

As the proposal is for 14 flats it falls below the threshold for affordable housing which is applicable for developments of 15 or more units. Due to the proximity of residential properties around the site and the steep access it would be appropriate to develop the site with 14 units rather than to seek additional units on the site. In addition the proposal is consistent with the objective to provide good quality housing stock rather than large numbers of smaller units. In order to ensure that in the future the flats are not subdivided and additional units provided on site without payment of an affordable housing contribution an appropriate control can be included in the S106 agreement.

Sustainability - The site is brownfield and located within walking distance of public transport.

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

Disability Issues - There are 5 apartments proposed at ground floor level which could provide disabled access.

Economic regeneration outcomes - The proposal would result in the loss of 14 holiday flats. The applicant advises that they were only used for holiday purposes between July and September and are let on a short term basis at other times. The site is in a peripheral location in relation to the main tourism area. The character of the surrounding area is residential and the loss of a holiday use would not affect the holiday character of the area. The proposal would represent an investment in the provision of good sized residential accommodation in a sustainable location.

Conclusions

In conclusion the proposal in principle constitutes an appropriate form of the development in this location. However there is concern about the height of the rear part of the building and it would be preferable to see this reduced from three storeys to two storeys.

Recommendations:

Subject to satisfactory consultation responses, revision of the height of the rear part of the buildings, reducing the size of the balcony and the signing of a S106 Legal Agreement in terms acceptable to the Executive Head of Spatial Planning, within 3 months of the date of this committee meeting, conditional approval.

Condition(s):

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

Reason: In the interests of visual amenity, in accordance with Policy BE1 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:

- a) reveals to window/door openings;
- b) glazing bars;
- c) sub-cills;
- d) eaves overhang.

The building shall not be occupied in accordance with these details.

Reason: To ensure that the architectural detailing of development is completed to a satisfactory standard in accordance with Policies BES, BE1 and H9 of the Torbay Local Plan 1995-2011.

03. Prior to the commencement of any works of demolition associated with the development hereby approved, details of the measures to minimise and mitigate the effects of waste material production from the development on the site shall be submitted to and approved in writing by the Local Planning Authority, and the development hereby permitted shall be effected in strict accordance with these details, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To secure the implementation of an appropriate regime of sustainable waste management for the site, in accordance of the terms and objectives of W6 and W7 of the Torbay Local Plan 1995-2011.

04. Notwithstanding the location of the cycle store shown on plan reference 100-7689 prior to the occupation of any of the residential units hereby approved, detailed plans showing the location, size and design of a secure allocated cycle parking store shall be submitted to and approved by the Local Planning Authority and completed and made available for use. The cycle store shall then be 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, to promote and enable the use of sustainable methods of transportation, in accordance with the terms and objectives of Policies TS, T1, T2 and T25 of the Torbay Local Plan 1995-2011.

05. 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 area 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.

06. The waste and recycling materials storage facility 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 permitted, and shall be so retained for the duration of any residential occupation of the building.

Reason: To secure appropriate serve facilities for the development, in accordance with the terms and

objectives of Policy W7 of the Torbay Local Plan 1995-2011.

07. No development or other operations shall commence on the site until the existing trees and/or hedgerows to be retained have been pollarded and protected in accordance with the arboricultural appraisal dated March 2008 and reference BRS1573. All works of demolition shall be carried out strictly in accordance with these details. This provides for the erection of fencing for the protection of any retained tree or hedge before any equipment or machinery or materials are brought onto the site for the purposes of development or other operations. The fencing shall be retained intact for the full duration of the development until all equipment, materials and surface materials have been removed from the site. If the fencing is damaged all operations shall cease until this 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.

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

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

09. 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 and the subsequent management of the trees including restrictions on their height.

Reason: In the interest of the amenities of the area and to ensure that the trees and other planting do not have a significant adverse effect on adjoining residents. (The applicant is reminded that the Development Control Committee have requested that in preparing the landscaping proposals due regard is taken in respect of maintaining views through the site currently enjoyed by adjoining occupiers.)

10. 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.

11. Prior to the development being occupied, or at such other time as may be agreed by the Local Planning Authority in writing, a sustainable drainage solution such as a soakaway, designed and constructed in accordance with Building Research Establishment Digest 365; or a sustainable urban drainage system, in accordance with construction industry research and information association document 522 for surface water disposal, (clean surface and roof water should be kept separate from the foul drainage system) shall be installed and the system should be maintained effect at all times

thereafter, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order to reduce surface water run-off and to accord with the requirement of PPS25 "Development and Flood Risk" in respect of sustainable drainage.

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

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

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Report to Development Management Committee on Recent Planning Appeal

Decisions

30th June 2011

Since the 1st April 2011 there have been 9 appeal decisions made. All of these were dealt with by the Written Representation method. The appeal cases concern mainly householder/residential proposals, and were all made under Section 78 of the Town and Country Planning Act 1990. All 9 of the appeals were lodged against a refusal to grant planning permission by Torbay Council. One of the appeals sought planning permission for an extension without complying with a condition attached to a previous grant of planning approval. Of the 9 appeal decisions reported here, 7 were dismissed and 2 were allowed.

There now follows a brief summary of the appeals dismissed, followed by the details of those appeals allowed. If Members require any greater detail on any specific appeal case, then they should contact the appropriate planning officer.

Appeals Dismissed (7)

Site:- Chelston House, Chelston Road, Torquay

Ward:- Cockington With Chelston

Proposals:- An additional floor over the existing rear extension to provide 2 additional flats.

Council's decision:- Delegated Refusal.

Issues:- The effect of the proposed development on the character and appearance of the Chelston Conservation Area.

Site:- 25 Dartmouth Road, Paignton

Ward:- Roundham With Hyde

Proposals:- Change of use of garage and store to living accommodation and extra floor on garage to form living accommodation.

Council's decision:- Delegated Refusal.

Issues:- The main issue in this appeal is whether or not the proposed development would preserve or enhance the character or appearance of the Old Paignton Conservation Area.

Site:- 3 Wheatlands Road, Paignton

Ward:- Goodrington With Roselands

Proposals:- The erection of a conservatory on an existing terrace at ground floor level over existing lower ground floor bedroom.

Council's decision:- Delegated Refusal.

Issues:- The effect of the proposal on the living conditions of neighbouring residential occupiers.

Site:- 5 Wheatlands Road, Paignton

Ward:- Goodrington With Roselands

Proposals:- The erection of a conservatory on an existing terrace at ground floor level over existing lower ground floor bedroom.

Council's decision:- Delegated Refusal.

Issues:- The effect of the proposal on the living conditions of neighbouring residential occupiers.

Site:- 14 Hollywater Close, Torquay

Ward:- Wellswood

Proposals:- Side extension on three levels to provide ancillary living accommodation.

Council's decision:- Delegated Refusal.

Issues:- Two main issues – 1. the effect of the proposal on the character of the area, and 2. the effect of the development on the living conditions of neighbouring residential occupiers.

Site:- Imperial Court, Parkhill Road, Torquay

Ward:- Wellswood

Proposals:- Formation of car parking spaces.

Council's decision:- Delegated Refusal.

Issues:- The effect of the proposed development on the character and appearance of the Torquay Harbour Conservation Area.

Site:- 25 Luscombe Crescent, Paignton

Ward:- Blatchcombe

Proposals:- Erection of a single storey extension and alterations to the existing extension.

Council's decision:- Delegated Refusal.

Issues:- Two main issues – 1. the effect of the extension on the character and appearance of the building and of the local street scene, and 2. the impact on the living conditions of neighbours with regard to outlook and loss of light.

Appeals Allowed (2)

Site:- 11A York Gardens, Paignton

Ward:- Goodrington With Roselands

Proposals:- Planning permission was sought for an extension to form a granny flat without complying with a condition attached to an earlier planning permission. The condition (Condition no. 2) was one of Torbay's standard conditions restricting the accommodation approved to be used as a granny annexe or ancillary accommodation only.

Council's decision:- Delegated Refusal.

Issues:- The principal issue was deemed to be the effect on highway safety resulting from the proposed varying of the disputed condition.

Site:- 1 The Mount, Great Hill Road, Torquay

Ward:- Watcombe

Proposals:- Construction of decking to the inclined rear garden.

Council's decision:- Application was recommended for approval by officers, but refused by Members at their meeting on the 20th December 2010.

Issues:- The effect of the proposed decking on the character and appearance of the area and on the living conditions of neighbours, with particular regard to outlook and loss of privacy.